

US Route 1 Improvements at Fort Belvoir

Summary of Comments and Responses related to May 14, 2012 Section 106 Consulting Parties Meeting and Handouts

Name	Organization	Comment	Response
Laurie Turkawski and Linda Blank	Fairfax County (Dept. of Planning & Zoning)	<p><u>Follow up comments to the May 14 consulting parties meeting</u> As raised at the May 14, 2012 meeting please, look at an amended scope of work for the undertaking due to the Woodlawn Plantation as a National Historic Landmark and the numerous contributing resources within the National Register-eligible Woodlawn Historic District for limited improvements to Route 1 along the section that runs through the historic district.</p>	See related comment from SHPO and FHWA response. In order to meet the purpose and need for the project, the improvements must include additional lanes, a reserved median for transit, and pedestrian/bicycle facilities. These components are endorsed by Fairfax County.
Laurie Turkawski and Linda Blank	Fairfax County (Dept. of Planning & Zoning)	<p><u>Follow up comments to the May 14 consulting parties meeting</u> As raised at the May 14, 2012 meeting is it possibility of having lanes of traffic that could be reversed to carry north or southbound traffic to accommodate heavy travel times. You indicated this had not been considered. Is this a viable option? Has the idea of a tunnel through the historic district been considered?</p>	Reversible lanes do not conform to the Fairfax County Comprehensive Plan, and could not be implemented in conjunction with a central transit median. Any tunnel or bridge intended to avoid impacts to the historic district would not be possible due to engineering constraints. Entrance portals on the north and south ends would need to be placed well outside the district, and all at-grade intersections (Mulligan Road, Mount Vernon, the access roads for NTHP/Quakers/Baptists, the new Army ACP, etc.) would also require tunnels or frontage roads. Temporary roads needed to bypass the tunneling operation portals would also have a large impact.
Laurie Turkawski and Linda Blank	Fairfax County (Dept. of Planning & Zoning)	<p><u>Follow up comments to the May 14 consulting parties meeting</u> Reconstructing Route 1 to provide six through travel lanes between Telegraph Road and Mount Vernon Highway with the same proposed 148' ROW and wider at turn lands as stated at the meeting, on p. 3 of the draft PA and shown in Attachment A of the draft PA presumes similar character and conditions along that section. The Woodlawn Plantation National Historic Landmark and the numerous contributing resources within the National Register-eligible Woodlawn Historic District present a circumstance that requires consideration of alternative road improvements under a limited improvements option.</p>	Limited improvements are not supported by the project partners and do not meet the purpose and need of the project.
Laurie	Fairfax County (Dept. of Planning &	<u>Comments on PA draft dated May 10, 2012</u>	Verbal definitions will be added

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Turkawski and Linda Blank	Zoning)	Page 3, Whereas 8. Attachment C does not provide a verbal definition of the APE. This needs to be added.	
Laurie Turkawski and Linda Blank	Fairfax County (Dept. of Planning & Zoning)	<u>Comments on PA draft dated May 10, 2012</u> Page 4, Whereas 12. States that planning and actions have already taken place. Isn't some of this going to happen in the design workshops later?	Whereas Clause 12 states that planning has occurred to the extent possible. Additional planning will occur as outlined in the PA.
Laurie Turkawski and Linda Blank	Fairfax County (Dept. of Planning & Zoning)	<u>Comments on PA draft dated May 10, 2012</u> Page 5, Whereas 14. This is vague. Please define how/when this will be determined.	A reference to the relevant sections has been added to the Whereas #14
Laurie Turkawski and Linda Blank	Fairfax County (Dept. of Planning & Zoning)	<u>Comments on PA draft dated May 10, 2012</u> Page 4, Whereas 16. How are further identification and evaluation efforts complete on additional historic properties if they are unknown?	<ul style="list-style-type: none"> - Further activities are not complete, as stipulated in Section V - A reference to the relevant sections has been added to Whereas #16
Laurie Turkawski and Linda Blank	Fairfax County (Dept. of Planning & Zoning)	<u>Comments on PA draft dated May 10, 2012</u> Page 6, Whereas 22. All county agencies are included under County of Fairfax, VA as signatory. Please remove j) and k).	Fairfax County DPZ and Park Authority will no longer be individual Consulting Parties. All future Fairfax County comments should be compiled and submitted by an individual designated by the County. The Fairfax County Architectural Review Board will also be deleted and grouped with Fairfax County as a signatory.
Laurie Turkawski and Linda Blank	Fairfax County (Dept. of Planning & Zoning)	<u>Comments on PA draft dated May 10, 2012</u> Page 6, Whereas 22. e) Historical Society of Fairfax County should be moved to Whereas 23 since they are not participating.	Historical Society of Fairfax County will be removed as a consulting party.
Laurie Turkawski and Linda Blank	Fairfax County (Dept. of Planning & Zoning)	<u>Comments on PA draft dated May 10, 2012</u> Page 7, Stipulation I. Remove "site" from George Washington's Distillery and Grist Mill.	Comment has been incorporated
Laurie	Fairfax County	<u>Comments on PA draft dated May 10, 2012</u>	This language has been modified to accurately

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Turkawski and Linda Blank	(Dept. of Planning & Zoning)	Page 10, Stipulation I. d). First sentence should be changed to begin "FHWA will prepare <i>and submit a National Register</i> nomination..." Remove the word "draft" and indicate it will actually be submitted for consideration. Add a completion date for submission, prior to end of PA? April 13 comment stands: A commitment needs to be made to take the nomination through the process. Perhaps VDHR has wording to reflect this. Nomination submission completed within 2 years of the signing of the PA.	reflect the process: FHWA will submit a Virginia Landmarks Register nomination package to SHPO. If approved, the nomination package will be forwarded by SHPO to NPS for NR consideration. No time restriction has been added.
Laurie Turkawski and Linda Blank	Fairfax County (Dept. of Planning & Zoning)	<u>Comments on PA draft dated May 10, 2012</u> Page 14, Stipulation IV. B. First paragraph, states that consulting parties will be evaluating effects to <i>their</i> properties. Some of the parties do not own properties. Suggest rewording this, perhaps eliminating the word "their"?	Language has been modified
Laurie Turkawski and Linda Blank	Fairfax County (Dept. of Planning & Zoning)	<u>Comments on PA draft dated May 10, 2012</u> Page 15, VI. A. Numbering is off.	Numbering revised
Laurie Turkawski and Linda Blank	Fairfax County (Dept. of Planning & Zoning)	<u>Comments on PA draft dated May 10, 2012</u> Page 16, VI. B. Attachment C does not provide a verbal definition of the APE. This needs to be added.	Language has been added
Laurie Turkawski and Linda Blank	Fairfax County (Dept. of Planning & Zoning)	<u>Comments on PA draft dated May 10, 2012</u> Page 20, X. Please add professional qualifications for architectural historian. FHWA previously indicated this was done, but it is still missing.	Language has been modified
Laurie Turkawski and Linda Blank	Fairfax County (Dept. of Planning & Zoning)	<u>Comments on PA draft dated May 10, 2012</u> Attachment A. Sheet 1. Proposed construction limits and easements need to be added for the area west of Telegraph Road (RTL depicted). FHWA previously indicated this was being done,	The most current data will be used

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		but it is still missing.	
Laurie Turkawski and Linda Blank	Fairfax County (Dept. of Planning & Zoning)	<u>Comments on PA draft dated May 10, 2012</u> Attachment C. Verbal definition of APE is needed.	Defiinition added
Laurie Turkawski and Linda Blank	Fairfax County (Dept. of Planning & Zoning)	<u>Comments on Architectural Survey Report</u> Page 1-6, Figure 1.1-4. Wondering why all properties on the east side of Backlick Road in Accotink were not recorded?	- Comment will be forwarded to CCR for consideration in revised architectural report
Laurie Turkawski and Linda Blank	Fairfax County (Dept. of Planning & Zoning)	<u>Comments on Architectural Survey Report</u> Page 1-9. The paragraph under the lettered list indicates significance was evaluated at local, state and/or national level. Concerned that resources in Accotink were only evaluated at the national level. Strongly suggest adding language stating that more studies are needed for Accotink in determining state and local eligibility for NR.	- Comment will be forwarded to CCR for consideration in revised architectural report
Laurie Turkawski and Linda Blank	Fairfax County (Dept. of Planning & Zoning)	<u>Comments on Architectural Survey Report</u> Page 1-9, last paragraph. Elizabeth Crowell and John Rutherford are with the Fairfax County Park Authority.	- Comment will be forwarded to CCR for correction
Laurie Turkawski and Linda Blank	Fairfax County (Dept. of Planning & Zoning)	<u>Comments on Architectural Survey Report</u> Page 2-3, second to last sentence of first paragraph. This sentence doesn't make sense. It reads "Finally, VDHR # 029-5608...has been previously recommended both not individually eligible and part of a local historic overlay for the Woodlawn area." Clarification is needed.	- Comment will be forwarded to CCR for correction
Laurie	Fairfax County (Dept. of Planning &	<u>Comments on Architectural Survey Report</u>	Comment will be forwarded to CCR for correction

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Turkawski and Linda Blank	Zoning)	Page 2-9, second paragraph, first sentence. The Meeting House <i>is</i> considered a contributing resource.	
Elizabeth A. Crowell, Ph.D.	Fairfax County (Cultural Resource Management Protection Branch)	<ul style="list-style-type: none"> Cultural Resource Management and Protection Branch (Cultural Resources) appreciates your acknowledgement of the need to conduct archaeology under the pavement and any buildings built on slab at Accotink Village, as deep features may still be present. 	- Comment noted
Elizabeth A. Crowell, Ph.D.	Fairfax County (Cultural Resource Management Protection Branch)	<ul style="list-style-type: none"> Cultural Resources would appreciate your sharing a copy of the previously conducted Chicora survey of Woodlawn. When Chicora conducts additional Phase I and II investigations, staff would like to have the opportunity to review the document. 	- Prior to conducting additional work, a copy of the original survey will be provided to Fairfax County. A draft copy of the revised report will be made available for CP review when available.
Elizabeth A. Crowell, Ph.D.	Fairfax County (Cultural Resource Management Protection Branch)	<ul style="list-style-type: none"> The Historic Landscape has not been evaluated. It would be useful to have a Cultural Landscape study within the Historic District. 	- This will occur prior to construction
Elizabeth A. Crowell, Ph.D.	Fairfax County (Cultural Resource Management Protection Branch)	<ul style="list-style-type: none"> It was indicated that a remote sensing survey was done of the Woodlawn Baptist Cemetery. You indicated that there were 179 gravemarkers and 177 graves. How far beyond the area of marked burials did the remote sensing occur? How did you deal with any paved areas? Was there any ground truthing done with the remote sensing? I have done and overseen many similar studies in the County, the Commonwealth, and the region. More often than not there are unmarked burials beyond the area of the marked burials. I am deeply concerned that there were not more unmarked burials discovered. We would like to have a copy of the report to review. 	- The draft report has been posted online: http://www.epl.fhwa.dot.gov/files/projects/environment/US-Rt-1/Woodlawn-Report.pdf The survey did extend beyond the known boundaries of the cemetery (see report for exact locations)
Elizabeth A. Crowell,	Fairfax County (Cultural Resource	<ul style="list-style-type: none"> For stormwater management, it might be more aesthetically pleasing if there were a series of smaller 	- Current plans reflect this opinion

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Ph.D.	Management Protection Branch)	ponds rather than one large one. A single large pond could potentially cause a visual impact.	
Elizabeth A. Crowell, Ph.D.	Fairfax County (Cultural Resource Management Protection Branch)	<ul style="list-style-type: none"> When the idea of limited improvement in the historic district was proposed, I asked about the possibility of having lanes of traffic that could be reversed to carry north or southbound traffic to accommodate heavy travel times. You indicated this had not been considered. Is this a viable option? Has the idea of a tunnel through the historic district been considered? 	Only the three Alternatives presented at the Public Meeting and contained in the Draft Environmental Assessment, and variations of those alternatives, are currently under consideration. Reversible lanes do not conform to the Fairfax County Comprehensive Plan, and could not be implemented in conjunction with a central transit median. Any tunnel or bridge intended to avoid impacts to the historic district would not be possible due to engineering constraints. Entrance portals on the north and south ends would need to be placed well outside the district, and all at-grade intersections (Mulligan Road, Mount Vernon, the access roads for NTHP/Quakers/Baptists, the new Army ACP, etc.) would also require tunnels or frontage roads. Temporary roads needed to bypass the tunneling operation portals would also have a large impact.
Elizabeth A. Crowell, Ph.D.	Fairfax County (Cultural Resource Management Protection Branch)	<ul style="list-style-type: none"> We need guidance as to how we engage state-recognized tribes in the process with VCI being eliminated as of July 1 	Any guidance provided to us by the Governor's Office prior to the execution of the agreement will be incorporated.
NTHP		The National Trust continues to review the alternatives proposed by the FHWA for the widening of Route 1. Of particular concern to the National Trust is the FHWA's inadequate explanation for how the proposed 148-foot-wide typical section proposed for Route 1 satisfies the obligations of Section 4(f) of the Department of Transportation Act and Section 110(f) of the National Historic Preservation Act to avoid and minimize harm to historic properties.	The EA and 4(f) statements have been distributed; additional clarification will be contained in a supplement to the EA
NTHP		In addition, materials produced currently by the FHWA do not adequately illustrate or describe how storm water management will impact the National Trust's property, specifically the Woodlawn National Historic Landmark and	These issues have been addressed to the extent possible; further refinement is ongoing, which includes efforts to avoid/minimize/mitigate impacts

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		<p>the Woodlawn Historic District. These materials also do not depict the range and scope of new or additional utility easements or drainage easements that may be needed for either alignment option. These issues must be considered and disclosed by the FHWA in its evaluation of impacts and alternatives to minimize harm.</p>	
NTHP		<p>Objections to Proposed Determinations of No Adverse Effect The National Trust objects to the proposed determination that the Pope-Leighey House will not be adversely affected by the undertaking. The FHWA's position regarding the Pope-Leighey House directly contradicts the agency's position in connection with the Richmond Highway-Telegraph Road Connector project, where the FHWA determined there would be adverse effects to the Pope-Leighey House. The basis for that determination was not limited to whether the architectural integrity of the house would be adversely affected; instead, there was a determination that there would be adverse visual impacts to the house. The FHWA should consider noise impacts on the Pope-Leighey House and how those indirect impacts might adversely impact the site and visitor experience. In addition, the FHWA is required to evaluate the cumulative impacts of both road projects on the Pope-Leighey House, pursuant to 36 C.F.R. 800.5(a)(1).</p>	<p>The adverse affect determination for Mulligan Road was based on significant widening of the road towards Pope-Leighey, and the removal of trees that provided screening. These factors resulted in auditory and visual impacts compared to the previous conditions.</p> <p>In this case, most of the roadway would be moved farther away from Pope-Leighey, and existing vegetation near the house would be preserved. Visual and auditory impacts resulting from this project are not considered by FHWA to be adverse, and have the potential to improve the existing conditions.</p> <p>Cumulatively, the adverse impacts of the Mulligan Road project, which are being mitigated to the satisfaction of NTHP, combined with the impacts resulting from this project- which could reduce current auditory and visual impacts, do not result in an adverse impact for the current undertaking.</p> <p>Although NTHP and FHWA are not able to reach an agreement on this determination, NTHP will still have the opportunity to address their perceived impacts through the design charette and other mitigation proposals (utility upgrades).</p>
NTHP		<p>With regard to the FHWA's determination of adverse effects on National Register and National Register Eligible properties, the FHWA should include consideration of the</p>	<p>FHWA will acknowledge adverse effects caused by auditory and visual impacts to the NHL, HD, and Sharpes Stable complex as part of a revised</p>

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		<p>auditory and cumulative impacts on the Woodlawn National Historic Landmark, the Woodlawn National Register Eligible Historic District, and the Sharpe Stables Complex as potential adverse effects.</p>	<p>determination of effect that will be transmitted to SHPO. FHWA will acknowledge adverse effects to the Sharpes Stables complex as a whole in the revised determination of effect. This includes visual/auditory impacts and the relocation of the Otis Mason House. Impacts will be somewhat reduced by the removal of the non-historic Woodlawn Stables structures which currently diminish the historic setting of the complex.</p>
NTHP		<p>Comments on the May 10, 2012 Draft Programmatic Agreement We call to the FHWA's attention to the following items, which are missing from the PA or are not adequately addressed:</p> <ol style="list-style-type: none"> 1) A commitment from the Department of the Army to provide a permanent ingress/egress easement to the National Trust, Woodlawn Quaker Meetinghouse, and Woodlawn Baptist Church for a shared use driveway to ensure access to Route 1; 2) A commitment from VDOT to submit an application to the Commonwealth Transportation Board requesting the abandonment of any unneeded portions of Route 1 through the Woodlawn Historic District, in connection with the bypass alternative; 3) Inclusion of the following features in the Woodlawn Historic District Workshops: <ul style="list-style-type: none"> - The design of storm water management structures; and - The design of historic district gateways; 4) A commitment from the FHWA and VDOT to use quiet pavement technologies; 5) Vibration monitoring is not adequately addressed, and it is unclear why only the Pohick Episcopal Church would be monitored. 	<ol style="list-style-type: none"> 1) Language added to PA. Stipulation I.f 2) Language added to PA, Stipulation I.g 3) Language added to PA, Stipulation I.a 4) Language not added to PA; results of pilot program and associated guidance are not yet available. 5) Pohick Church is a 18th century brick structure and is vulnerable to vibration impacts. Other structures, including those in the Sharpes Stables Complex, are not considered to be at risk.

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NTHP		Finally, the National Trust requests that it be an invited signatory to the PA due to the nature of this project, its direct impact on our property, and because the National Trust will have a significant obligation to work on and approve mitigation measures with the FHWA throughout the project's duration.	- NTHP has been added as signatory
NTHP		Numerous comments and edits were submitted by NTHP. Each comment was considered and incorporated into the revised PA as appropriate (see NTHP PA markup)	See revised PA
VDHR		Numerous comments and edits were submitted by VDHR. Each comment was considered and incorporated into the revised PA as appropriate (see VDHR PA markup)	See revised PA
VDHR		See VDHR letter dated 5/21/2012	See FHWA response dated 6/11/2012
VDHR		See VDHR letter dated 7/9/2012	See FHWA response dated 7/20/2012

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Rebecca Ballo	Save Woodlawn Stables	<p><u>Letter to SHPO Dated 5/11/12</u></p> <p>There is not enough information to determine that the project will not significantly alter the setting or viewshed of the George Washington's Distillery and Grist Mill (029-0330). How has this been determined? The visual impact studies of the Bypass were not conducted from this site. Was other research conducted? How has FHWA come to the conclusion that this site will not be adversely impacted? In addition, has the Mount Vernon Ladies' Association been made specifically aware of the new Bypass alignment since first contact was made in the Consulting Parties process?</p>	<p>Additional viewshed studies have been conducted to confirm the determination. (See line of site cross section #6 from public meeting materials).</p> <p>The Mount Vernon Ladies Association contact (Dennis Pogue) has been CC'ed on all CP communications, An additional contact, Barton Groh, has recently asked to be CC'ed on all CP communications.</p>
Rebecca Ballo	Save Woodlawn Stables	<p><u>Letter to SHPO Dated 5/11/12</u></p> <p>Disagree about the determination that the Bypass will not adversely affect the Woodlawn Baptist Church Cemetery (44FX1212). Though the cemetery will be largely preserved, there is little analysis aside from the viewshed study that explores the impact this project will have on the larger setting and integrity of this site.</p>	<p>SWS concerns about impacts to the Woodlawn Baptist Church Cemetery as a result of the Southern Bypass are noted. FHWA finds that the southern bypass will preserve the site and improve the current setting of the cemetery.</p>
Rebecca Ballo	Save Woodlawn Stables	<p><u>Letter to SHPO Dated 5/11/12</u></p> <p>Did the recent remote sensing study that found 179 gravemarkers and 177 graves occur within the limits of disturbance for the Bypass?</p>	<p>No, the remote sensing survey occurred within and adjacent to the cemetery. However, the limits of disturbance for the bypass through the Baptist property were subjected to archaeological survey and the results are documented in the archaeological report compiled by CCR.</p>
Rebecca Ballo	Save Woodlawn Stables	<p><u>Letter to SHPO Dated 5/11/12</u></p> <p>The proposed physical relocation of the Otis Mason House and the changes in the relationship between the contributing properties in the NR District are significantly harmful to the integrity of the larger NR District. The changes in the land use and circulation patterns are still not fully understood (since the SMP location and design</p>	<p>- Comment noted; also see design charette information in Programmatic Agreement which is intended to address these variables. Storm Water Management strategies are being refined to the extent possible.</p>

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		are in flux) and are not adequately mitigated in the Draft PA.	
Rebecca Ballo	Save Woodlawn Stables	<u>Letter to SHPO Dated 5/11/12</u> Same comment as above for the Sharpe Stable Complex.	- Comment noted; also see design charette information in Programmatic Agreement which is intended to address these variables. Storm Water Management strategies are being refined to the extent possible.
Rebecca Ballo	Save Woodlawn Stables	<u>Letter to SHPO Dated 5/11/12</u> Why is there no determination of effect on the Pohick Episcopal Church and the Woodlawn Plantation archaeological deposits? If further archaeological work needs to be done, it should be completed prior to the execution of the PA.	- The determinations have been deferred. The additional archaeological work does not need to be completed prior to the execution of the PA provided that the terms for the completion of such work are accounted for in the document.
Rebecca Ballo	Save Woodlawn Stables	<u>Programmatic Agreement Draft Dated 5/10/12</u> Recitals: General Comment. Save Woodlawn Stables thanks the FHWA for responding affirmatively to our request to be included as a consulting party. We believe; however, that it is a violation of the letter and spirit of the Section 106 review process that Scanlin Farms, Inc., the long-term leaseholder at Woodlawn Stables was not invited to be a CP. The importance of the Stables to the community was documented in the two subsequent public meetings, and once the nature of the Bypass option and its tremendous impact to the integrity and use of the Stables property was identified, Scanlin Farms should have been invited to join the process. <ul style="list-style-type: none"> Subsection §800.2.c.5 and §800.2.d.1 of 36CFR800 apply in this case. <i>Nature of involvement: The views of the public are essential to informed Federal decision making in the section 106 process. The agency official</i>	- Opinion noted;

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		<i>shall seek and consider the views of the public in a manner that reflects the nature and complexity of the undertaking and its effects on historic properties, the likely interest of the public in the effects on historic properties. . .</i>	
Rebecca Ballo	Save Woodlawn Stables	<p><u>Programmatic Agreement Draft Dated 5/10/12</u></p> <p>Stipulations. Subsection I.a. All design workshops that involve changes to the locally designated Woodlawn Historic District should be heard concurrently in front of the Fairfax County Architectural Review Board. Understanding that their approval is not required as part of this federal undertaking, the ARB as a whole and the public should have the opportunity to review and comment on this proposal which will have a substantial and permanent impact on the setting, integrity, circulation and land use patterns of the district. Having Fairfax County ARB staff and an ARB member as CPs is insufficient</p>	- Opinion noted; the public has been invited to provide comments on the proposal through the public involvement process; The role of ARB will be determined by FHWA and Fairfax County.
Rebecca Ballo	Save Woodlawn Stables	<p><u>Programmatic Agreement Draft Dated 5/10/12</u></p> <p>Subsection I.a.iii. It is not possible to mitigate the landscaping needed to maintain the viewsheds without an accurate understanding of the impacts of the proposed bypass to the landscape. Renderings and other studies must be completed to aid in this effort. In addition, more information about the design and construction of proposed stormwater management ponds and possible noise barriers need to be included.</p>	- This is the intention of the design charette process; Noise abatement and storm water measures are currently being analyzed.
Rebecca Ballo	Save Woodlawn Stables	<p><u>Programmatic Agreement Draft Dated 5/10/12</u></p> <p>Subsection I.a.iv-vi. Equestrian access is mentioned on par with other types of access, but it requires particular design considerations related to livestock and safety that are different than, and at times may compete with</p>	-Comment noted

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		<p>human access. The issues of design, access, and use of the entire Stables Complex under the Bypass proposal is poorly understood. If the Bypass option is chosen, more analysis should be completed prior to execution of the PA to examine these issues as they may result in options that would be more visually detrimental to other features of the historic district.</p> <p>a) General Comment: The elements of the district are being treated as discrete and somewhat unrelated pieces of the whole. We understand the purpose of the design workshops is to tie these elements together, but the entire undertaking lacks a cohesive understanding of how the buildings, structures, landscape, and setting contribute to the integrity of the NHL and the larger NR-eligible district.</p> <p>b) General Comment: There needs to be a detailed analysis, using the viewshed studies, renderings, archaeological evidence, maps, and other written information on both the NHL and the NR that shows <u>why and how</u> this Bypass will be less detrimental to the historic properties in the districts. Absent this comprehensive analysis, it does not seem possible to justify a preferred option at this time.</p> <p>c) General Comment: Related to the prior comment, the viewshed studies seem to show that the Bypass option may be more visible from the NHL than the widening in place options. How does this relate to the determination that this is the preferred option in terms of protecting the NHL, given that the views from Woodlawn are crucial to the existence and siting of the mansion in the first place?</p>	<p>a) Comment noted</p> <p>b) Comment noted; also see draft 4(f) statement and draft EA</p> <p>c) Comment noted; also see draft 4(f) statement</p>

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Rebecca Ballo	Save Woodlawn Stables	<p><u>Programmatic Agreement Draft Dated 5/10/12</u> Subsection I.b.iv. The GPR work should be done prior to choosing a preferred option. It may be that there are more unmarked graves in the Bypass area.</p>	<p>The portions of the Baptist property within the southern bypass have been subjected to archaeological testing. No archaeological or documentary evidence suggests that the Baptist Church had two different cemeteries or burial locations on their property.</p>
Rebecca Ballo	Save Woodlawn Stables	<p><u>Programmatic Agreement Draft Dated 5/10/12</u> Subsection I.c.i-viii. General Comment. SWS objects to the planned moving of the Otis Mason House. We believe there is an inadequate assessment of adverse effects under 36CFR800 Subsection §800.5 and Subsection §800.11.</p> <p>a) It is not possible under the terms of the PA to recreate the “setting, association, and general feel” of the Otis Mason House. Historic houses were sited to take full advantage of the qualities of the surrounding landscape, i.e. access to light, water, surrounding shade. FHWA has proposed moving this house to an area where there are available water and sewer hookups. This does not correlate to the goal stated above, and seems to be incompatible with it. Further, the relationship of this structure to the Stables Complex, the road, and the church cannot be recreated under the Bypass option as the surrounding landscape and the association of the house to this landscape and adjoining structures will be fundamentally altered.</p> <p>b) The Fairfax County ARB should be involved in this process, along with NTHP and FHWA. This house is a contributing resource to the local Historic District, and ARB review and concurrence with any plans should be required prior to moving the structure.</p>	<p>a) The house would be relocated in coordination with the SHPO, NTHP, and other CPs in an effort to mitigate for adverse effects to the maximum extent possible.</p> <p>b) The role of ARB will be determined by FHWA and the County.</p> <p>c) The need for specific permits will be determined by FHWA and our partners, including Fairfax County.</p> <p>d) Details for the new foundation will be agreed upon by FHWA, NTHP, SHPO, and the County with input considered from other CPs. If you have any specific suggestions, feel free to submit them.</p> <p>e) Suggestion noted; see PA section X</p>

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		<p>c) Clarify “livable condition” of the house. Moving the house, constructing a new foundation, and hooking up to existing utilities should require building permits from Fairfax County. As this is not federal land, the undertaking is not exempt from these requirements.</p> <p>d) Clarify what “construction of a new foundation that replicates the existing in material and appearance” means. Will this be a concrete block foundation faced with another material? The ultimate goal of reusing the house may dictate a different approach and must be explored prior to executing the agreement.</p> <p>e) Language should be added that the individual tasked with assessing the appropriateness of this mitigation should meet the Secretary of the Interior’s Professional Standards for Historian or Architectural Historian per 36 CFR Part 61.</p>	
Rebecca Ballo	Save Woodlawn Stables	<p><u>Programmatic Agreement Draft Dated 5/10/12</u> Subsection I.e. FHWA should also undertake a Historic American Landscape Survey (HALS) survey of the NHL and NR-eligible district.</p>	This will be incorporated into the next revision of the PA
Rebecca Ballo	Save Woodlawn Stables	<p><u>Programmatic Agreement Draft Dated 5/10/12</u> Subsection I.e. Specify level of HABS drawings.</p>	This will be incorporated into the next revision of the PA
Rebecca Ballo	Save Woodlawn Stables	<p><u>Programmatic Agreement Draft Dated 5/10/12</u> Subsection II. Mitigation funds should also be allocated to cover improvements to Grand View, the Stables property and the Otis Mason House.</p> <ul style="list-style-type: none"> • Creation and installation of signage, if visible from the roadway, should be coordinated with Fairfax County Zoning and ARB. 	- Comment noted

US Route 1 Improvements at Fort Belvoir

Summary of Comments and Responses related to May 14, 2012 Section 106 Consulting Parties Meeting and Handouts

Name	Organization	Comment	Response
Rebecca Ballo	Save Woodlawn Stables	<p><u>Programmatic Agreement Draft Dated 5/10/12</u> Subsection V. The Chicora Foundation 1999 survey should be updated prior to execution of the PA, not 6 months after. Since the purpose of the work is to design mitigation measures for the resources, the scope of these resources and an assessment of their significance must be completed first.</p> <ul style="list-style-type: none"> • What are the STP intervals for the Chicora study and do they correspond to State BMPs? • Will a copy (redacted if necessary) be made available for CP review? 	<ul style="list-style-type: none"> - The Chicora survey will not be updated prior to execution of the PA - The survey used 25 foot shovel test pit intervals along transects spaced 100 feet apart. This results in more shovel test pits per acre than required by VDHR, but does not conform to DHR recommendations in terms of spacing. - A draft copy of the revised report will be made available for CP review when available.
Rebecca Ballo	Save Woodlawn Stables	<p><u>Programmatic Agreement Draft Dated 5/10/12</u> Subsection VII.e.7. How can the Plan of Action be pursuant to NAGPRA if this is not federal land? Is there a Virginia Statute to cite instead?</p>	<p>The section currently reads “subject to NAGPRA, if appropriate.” NAGPRA would be appropriate for areas on Fort Belvoir. Otherwise, the rest of the section would apply. No equivalent Virginia statute has been specifically proposed for inclusion.</p>
Rebecca Ballo	Save Woodlawn Stables	<p><u>Programmatic Agreement Draft Dated 5/10/12</u> Subsection VIII.B. Cite 36CFR61 as the reference for professional qualifications.</p>	<ul style="list-style-type: none"> - Professional qualifications will be clarified in section X
Rebecca Ballo	Save Woodlawn Stables	<p><u>Programmatic Agreement Draft Dated 5/10/12</u> Subsection VIII.D Does the 5 business days response time conform to the standards of applicable State law?</p>	<ul style="list-style-type: none"> - There is no applicable state law addressing this deadline.
Rebecca Ballo	Save Woodlawn Stables	<p><u>Programmatic Agreement Draft Dated 5/10/12</u></p> <p>Signatures: Even though the National Park Service has not participated in the process, we suggest they be included as a concurring party and their signature should be sought because of the involvement of the National Historic Landmark.</p>	<ul style="list-style-type: none"> - Comment noted
Rebecca Ballo	Save Woodlawn Stables	<p><u>Architectural Survey, dated April 2012, prepared by Coastal Carolina Research</u> The documentation and assessment of the Dairy and the</p>	<ul style="list-style-type: none"> - Comment noted; comment will be forwarded to CCR for consideration.

US Route 1 Improvements at Fort Belvoir

Summary of Comments and Responses related to May 14, 2012 Section 106 Consulting Parties Meeting and Handouts

Name	Organization	Comment	Response
		<p>Corncrib are inadequate and, in places, contradictory. The written assessments on pages 4-1 to 4-7 and the DSS forms note that all three resources (Dairy, Bank Barn, and Corncrib) retain a fair to high level of integrity, with the Dairy being the most altered. However, these alterations are not adequately documented for either the Dairy or the Corncrib. This sentence makes no sense: "The corncrib retains a higher level of integrity, but also has been slightly altered and is therefore also not recommended as individually eligible for the NRHP under Criteria A, B, C, or D". The report does not document these alterations that would render the corncrib ineligible. Furthermore, it seems that a main contributor to the significance of the bank barn is the fact that it may be the oldest structure of this type extant in Fairfax County. Was similar research done for the corn crib and the dairy? Might they not meet Criterion C if they were also found to be the oldest or the only survivors of their type in the County? The determinations also do not take into account the importance of the buildings in relation to one another. Again: Is there another complex of agricultural outbuildings of this vintage anywhere else in Fairfax County? It is rare to have this grouping extant, and this should be noted, and perhaps used to elevate all three buildings to be individually eligible under Criterion C, even if they have been slightly or even significantly altered.</p>	
Rebecca Ballo	Save Woodlawn Stables	<p><u>General Comments</u> At the 10/19/11 Public Meeting, the Southern Bypass option was not presented. It was not until the 11/3/11 Consulting Parties Meeting that the Southern Bypass was presented to the larger group. A Southern Bypass was not suggested by CPs as mitigation, and not developed in order to avoid the NHL, as it was originally called the Church Avoidance Option and the Scenic Bypass. On</p>	<p>- The Southern Bypass was proposed by FHWA and our partners in response to various comments received from the CPs and the results of research, surveys, public comments, and other information.</p>

US Route 1 Improvements at Fort Belvoir

Summary of Comments and Responses related to May 14, 2012 Section 106 Consulting Parties Meeting and Handouts

Name	Organization	Comment	Response
		<p>11/9/11 the Southern Bypass sent to engineering consultants for scoping. Was this option being studied by FHWA when the public meeting was held in October? Why was it developed in the first place, the record is unclear.</p>	
Rebecca Ballo	Save Woodlawn Stables	<p><u>General Comments</u> There is a restriction on the Stables property that it be used 'solely for equestrian purposes in perpetuity'. How do the Bypass plans take this restriction into account?</p>	<p>Based on deed and title research, the existence of any such restriction has not been confirmed. However, the bypass and all other options do not preclude this type of usage. Please submit any legal documents that support your comment as soon as possible.</p>

June 8, 2012

SENT VIA EMAIL TO
JACK.VANDOP@DOT.GOV

**NATIONAL
TRUST
FOR
HISTORIC
PRESERVATION®**

Law Division

Mr. Jack Van Dop
Federal Highway Administration
Eastern Federal Lands Highway Division
21400 Ridgetop Circle
Sterling, VA 20166

RE: May 14, 2012 - US Route 1 Improvements at Fort Belvoir, Section 106 Consulting Parties Meeting

Dear Mr. Van Dop:

The National Trust for Historic Preservation would like to provide the Federal Highway Administration (FHWA) with our comments on the US Route 1 Improvements at Fort Belvoir road project from the May 14, 2012 consultation meeting.

General Comments

The National Trust continues to review the alternatives proposed by the FHWA for the widening of Route 1. Of particular concern to the National Trust is the FHWA's inadequate explanation for how the proposed 148-foot-wide typical section proposed for Route 1 satisfies the obligations of Section 4(f) of the Department of Transportation Act and Section 110(f) of the National Historic Preservation Act to avoid and minimize harm to historic properties.

In addition, materials produced currently by the FHWA do not adequately illustrate or describe how storm water management will impact the National Trust's property, specifically the Woodlawn National Historic Landmark and the Woodlawn Historic District. These materials also do not depict the range and scope of new or additional utility easements or drainage easements that may be needed for either alignment option. These issues must be considered and disclosed by the FHWA in its evaluation of impacts and alternatives to minimize harm.

Objections to Proposed Determinations of No Adverse Effect

The National Trust objects to the proposed determination that the Pope-Leighey House will not be adversely affected by the undertaking. The FHWA's position regarding the Pope-Leighey House directly contradicts the agency's position in connection with the Richmond Highway-Telegraph Road Connector project, where the FHWA determined there would be adverse effects to the Pope-Leighey House. The basis for that determination was not limited to whether the architectural integrity of the house would be adversely affected; instead, there was a determination that there would be adverse visual impacts to the house. The FHWA should consider noise impacts on the Pope-Leighey

House and how those indirect impacts might adversely impact the site and visitor experience. In addition, the FHWA is required to evaluate the cumulative impacts of both road projects on the Pope-Leighey House, pursuant to 36 C.F.R. 800.5(a)(1).

With regard to the FHWA's determination of adverse effects on National Register and National Register Eligible properties, the FHWA should include consideration of the auditory and cumulative impacts on the Woodlawn National Historic Landmark, the Woodlawn National Register Eligible Historic District, and the Sharpe Stables Complex as potential adverse effects.

Comments on the May 10, 2012 Draft Programmatic Agreement

The Draft Programmatic Agreement (PA) is enclosed and contains comments and edits. We call to the FHWA's attention to the following items, which are missing from the PA or are not adequately addressed:

- A commitment from the Department of the Army to provide a permanent ingress/egress easement to the National Trust, Woodlawn Quaker Meetinghouse, and Woodlawn Baptist Church for a shared use driveway to ensure access to Route 1;
- A commitment from VDOT to submit an application to the Commonwealth Transportation Board requesting the abandonment of any unneeded portions of Route 1 through the Woodlawn Historic District, in connection with the bypass alternative;
- Inclusion of the following features in the Woodlawn Historic District Workshops:
 - The design of storm water management structures; and
 - The design of historic district gateways;
- A commitment from the FHWA and VDOT to use quiet pavement technologies;¹

¹ The National Trust was informed by the FHWA that quiet pavement technologies were not acceptable to VDOT. We point the FHWA and VDOT to VDOT's own website where VDOT indicates that the Virginia General Assembly instructed VDOT to expedite the development of quiet pavement technologies and that all contract solicitations for asphalt paving beginning in the 2013 paving season in cases where sound mitigation is a consideration should include specifications for quiet pavement. (http://www.virginiadot.org/projects/hamptonroads/quiet_pavement_technologies_pilot_project.asp) In addition, we direct the FHWA and VDOT to the following section of the Code of Virginia:

§ 33.1-223.2:21 Noise abatement practices and technologies:

A. Whenever the Commonwealth Transportation Board or the Department plan for or undertake any highway construction or improvement project and such project includes or may include the requirement for the mitigation of traffic noise impacts, first consideration should be given to the use of noise reducing design and low noise pavement materials and techniques in lieu of construction of noise walls or sound barriers. Vegetative screening, such as the planting of appropriate conifers, in such a design would be utilized to act as a visual screen if visual screening is required.

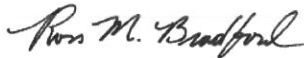
B. The Department shall expedite the development of quiet pavement technology such that applicable contract solicitations for paving shall include specifications for quiet pavement technology and other sound mitigation alternatives in any case in which sound mitigation is a consideration. To that end, the Department

- Vibration monitoring is not adequately addressed, and it is unclear why only the Pohick Episcopal Church would be monitored.

Finally, the National Trust requests that it be an invited signatory to the PA due to the nature of this project, its direct impact on our property, and because the National Trust will have a significant obligation to work on and approve mitigation measures with the FHWA throughout the project's duration.

Thank you for your consideration of the National Trust's comments. If you have any questions regarding this letter, please feel free to contact me via email at rbradford@savingplaces.org or via telephone at 202-588-6252.

Sincerely,



Ross M. Bradford
Associate General Counsel

Enclosure

cc: Mr. Marc Holma, Virginia Department of Historic Resources
Ms. Jane Rosenbaum, Fairfax County DOT
Ms. Laura Miller, Fairfax County DOT
Mr. Surbhi Ashton, Parsons Transportation Group
Mr. Stuart Tyler, Parson Transportation Group
Mr. Christopher Landgraf, Fort Belvoir DPW-MP, U.S. Army
Mr. Christopher Daniel, Fort Belvoir DPW-ENRD, U.S. Army
Ms. Susan Hellman, National Trust for Historic Preservation
Ms. Elizabeth Merritt, National Trust for Historic Preservation
Mr. Brian Russell, Inlet Cove Board of Directors,
Ms. Martha Claire Catlin, Woodlawn Quaker Meetinghouse
Ms. Judy Riggan, Woodlawn Quaker Meetinghouse
Ms. Linda Blank, Fairfax County DPZ
Ms. Helen Ross, Virginia DOT
Ms. Michele Aubry, Fairfax County ARB
Mr. Justin Coleman, Legal Counsel, Woodlawn Baptist Church
Mr. Travis Hilton, Woodlawn Baptist Church
Mr. Don Briggs, Potomac Heritage Natural Scenic Trail, NPS
Ms. Elizabeth Crowell, Fairfax County Park Authority
Mr. Christopher Sperling, Fairfax County Park Authority
Mr. Michael Elston, Legal Counsel, Pohick Episcopal Church

shall construct demonstration projects sufficient in number and scope to assess applicable technologies. The assessment shall include evaluation of the functionality and public safety of these technologies in Virginia's climate and shall be evaluated over two full winters. The Department shall provide an interim report to the Governor and the General Assembly by June 30, 2012, and a final report by June 30, 2013. The report shall include results of demonstration projects in Virginia, results of the use of quiet pavement in other states, a plan for routine implementation of quiet pavement, and any safety, cost, or performance issues that have been identified by the demonstration projects.

DRAFT 5/10/2012

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NATIONAL HISTORIC PRESERVATION ACT SECTION 106

PROGRAMMATIC AGREEMENT

AMONG THE

**DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION;**

U.S. ARMY GARRISON, FORT BELVOIR;

COUNTY OF FAIRFAX, VA;

**COMMONWEALTH OF VIRGINIA
VIRGINIA DEPARTMENT OF TRANSPORTATION;**

CATAWBA INDIAN NATION;

And

VIRGINIA STATE HISTORIC PRESERVATION OFFICER

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

DHR File No. 2001-0007

Comment [E1]: Why is this tribe headquartered in South Carolina an invited signatory while the National Trust is not?

RECITALS

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25 1. **WHEREAS**, the Federal Highway Administration, Eastern Federal Lands
26 Highway Division (herein “FHWA”), serves as the lead Federal agency for the
27 National Environmental Policy Act (herein “NEPA”) and for National Historic
28 Preservation Act (16 U.S.C. § 470; herein “NHPA”) Section 106 compliance for
29 the construction of proposed improvements to the Richmond Highway (U.S.
30 Route 1) corridor between Telegraph Road (Route 611) and Mount Vernon
31 Memorial Highway (Route 235) (herein “Undertaking”) in Fairfax County,
32 Virginia; and
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- 34 2. **WHEREAS**, FHWA, the U.S. Army Garrison Fort Belvoir (herein “the Army”),
35 the County of Fairfax, Virginia (herein “the County”) and the Virginia
36 Department of Transportation (herein “VDOT”), as Signatories to this
37 Programmatic Agreement (herein “Agreement”), have also drafted the separate
38 Project MOA (Attachment B) detailing the obligations and responsibilities of each
39 party in relation to the funding, preliminary engineering, land acquisition,
40 construction and maintenance of the Undertaking; and
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- 42 3. **WHEREAS**, the Army has NEPA and NHPA Section 106 co-lead agency
43 responsibility and the Army has designated FHWA as the lead Federal agency to
44 fulfill its Federal responsibilities under NHPA Section 106 for the Undertaking
45 (letter dated June 23, 2011); however, the determination of eligibility for any
46 future discoveries on Army property will be made by the Army; and
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- 48 4. **WHEREAS**, pursuant to Section 10 and/or Section 404 of the Clean Water Act
49 (33 U.S.C. § 1251 et seq.), a Department of the Army (herein “DA”) permit will
50 likely be required from the Norfolk District of the U.S. Army Corps of Engineers
51 (herein “the Norfolk District”) for this Undertaking, and the Norfolk District has
52 designated FHWA as the lead federal agency to fulfill federal responsibilities
53 under Section 106 (letter dated June 21, 2011); and
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- 55 5. **WHEREAS**, the National Trails System Act of 2009 (P.L. 90-453, as amended
56 through P.L. 111-11, March 30, 2009) authorized the establishment of the
57 Potomac Heritage National Scenic Trail (herein “PHNST”) and the Washington-
58 Rochambeau Revolutionary Route National Historic Trail (herein “W3R”), a
59 portion of which may be sited within the footprint of the Undertaking; and the
60 *Virginia Outdoors Plan: Charting a Course for Virginia’s Outdoors* (2007) and
61 the Fairfax County Trails Plan, a component of the Fairfax County
62 Comprehensive Plan, recognize the PHNST as a regional, state and national
63 resource; however FHWA is not the lead federal agency for NEPA/NHPA
64 compliance on behalf of PHNST/W3R; and
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- 66 6. **WHEREAS**, the proposed improvements to Route 1 include:
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NTHP COMMENTS SUBMITTED 6/08/2012

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- i. Reconstructing Route 1 to provide six through travel lanes between Telegraph Road and Mount Vernon Memorial Highway;
 - ii. Realignment of Route 1 between Belvoir Road and Mount Vernon Memorial Highway south of the existing roadway, as depicted in Attachment A;
 - iii. **Telegraph Road Intersection** – Modifying the northbound approach to include a third left-turn lane. The roadway would be widened to the north, and the existing Route 1 curb-line that abuts the historic Pohick Episcopal Church property would remain unchanged. The southbound approach would provide for one left-turn lane and one right-turn lane at Telegraph Road;
 - iv. **Cook Inlet Drive Intersection** – Providing for one left-turn lane in the northbound direction, and one right-turn lane in the southbound direction;
 - v. **Fairfax County Parkway Intersection** – Reconstruction of the intersection to provide for two left-turn lanes in the northbound direction, and two right-turn lanes and one right-turn bay in the southbound direction;
 - vi. **Pohick/Backlick Roads Intersection** – Reconstruction of the intersection to provide one left-turn lane and two right-turn lanes in the northbound direction, and one right-turn lane and one left-turn lane in the southbound direction;
 - vii. **Belvoir Road Intersection** – Reconstruction of the intersection to provide two left-turn lanes (to the new Lieber Gate ACP) and one right-turn lane in the northbound direction, and two left-turn lanes and one right-turn lane in the southbound direction;
 - viii. **Woodlawn Road Intersection** – Reconstruction of the intersection to provide one left-turn lane in the northbound direction (existing Woodlawn Road would be extended to connect the with realigned Route 1 roadway, just to the west of Woodlawn Baptist Church), and one right-turn lane in the southbound direction.
 - ix. **Mount Vernon Memorial Highway Intersection** – Reconstruction of the intersection to provide two left-turn lanes and one right-turn lane in the northbound direction; and

Comment [R2]: A reference to retaining the stoplight at this intersection should be included.

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7. **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
8. **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 C**; and

NTHP COMMENTS SUBMITTED 6/08/2012

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9. **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 survey [*Archaeological Survey of Proposed Area of Potential Effects Route 1 Improvements at Fort Belvoir (Telegraph Road to Mount Vernon Memorial Highway; Architectural Survey of Proposed Area of Potential Effects Route 1 Improvements at Fort Belvoir (Telegraph Road to Mount Vernon Memorial Highway), Fairfax County, Virginia, Fairfax County, Virginia*] within the APE to supplement previous surveys and identify properties eligible, or potentially eligible, for listing on the National Register of Historic Places (herein "NR"); and
10. **WHEREAS**, FHWA, in consultation with the SHPO and other consulting parties, has determined, and the SHPO concurs, that the Undertaking will have an Adverse Effect under NHPA Section 106 on the following properties:
- a) Fort Belvoir Military Railroad bed (029-5648); the portion of the railroad bed within the limits of construction will be physically altered and destroyed;
 - b) Facility No. 1433, Railroad bridge (029-5424); the bridge will be removed from its current location, and may be permanently destroyed if a suitable recipient cannot be identified;
 - c) Woodlawn National Register Eligible Historic District (029-5181); adverse effects include: physical alteration and destruction of a portion of the landscape; alteration of the viewshed; changes in relationship among the contributing properties; physical relocation of Otis T. Mason House; and changes in land use and circulation patterns;
 - d) Sharpe Stable Complex Bank Barn (029-5181-0005); changes in land use will impact the historic setting of the barn; and
11. **WHEREAS**, FHWA, in consultation with the SHPO and other consulting parties, has determined, and the SHPO concurs, that the Undertaking will have an Adverse Effect under NHPA Section 106 on Woodlawn Plantation (029-0056) a National Historic Landmark (herein "NHL") owned by the National Trust for Historic Preservation (herein "the Trust"); and these adverse effects include: taking of Woodlawn Plantation property, physical destruction of a portion of the historic landscape for construction of a road and stormwater management infrastructure, changes in land use and access between different parts of the property, and alteration of the viewshed, noise impacts, and cumulative impacts from the combination of the proposed project and the widening of Old Mill Road in connection with the Mulligan Road construction project; and
12. **WHEREAS**, FHWA, in accordance with 36 CFR § 800.10(a) and in consultation with the Trust, has ensured that, to the maximum extent possible, planning and actions to minimize harm to Woodlawn Plantation have taken place, including an

Comment [R3]: Need dates and references to these surveys.

Comment [IT4]: Shouldn't there be a reference to moving the barn?

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Comment [R5]: Why aren't noise impacts listed? Why aren't cumulative impacts of the road included (i.e., the cumulative impact of more cars by the NHL and the impact of two major road projects on the NHL (Route 1/Mulligan Road).

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NTHP COMMENTS SUBMITTED 6/08/2012

- 160 analysis of alternatives considered to avoid, minimize, and /or mitigate adverse
161 effects to the NHL; and
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- 163 13. **WHEREAS**, FHWA, in consultation with the SHPO and other consulting parties,
164 has conditionally determined, and the SHPO concurs, that the undertaking will
165 have no adverse effect on King’s Highway/Old Colchester Road (029-0953) if the
166 protective measures stipulated herein are implemented; and
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- 168 14. **WHEREAS**, a determination of effect that the Undertaking will have on Pohick
169 Episcopal Church (029-0046) and the archaeological deposits associated with
170 Woodlawn Plantation (44FX1146) cannot be made at this time and will be
171 deferred until the processes stipulated in this agreement support such
172 determinations; and
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- 174 15. **WHEREAS**, the following archaeological sites have been identified, but
175 additional survey will be required to evaluate their significance and potential
176 impacts resulting from the Undertaking:
177 a) 44FX1810
178 b) 44FX1936; and,
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- 180 16. **WHEREAS**, FHWA acknowledges that additional historic properties may be
181 adversely affected by the Undertaking once the final design is known and any
182 further identification and evaluation efforts are complete; and
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- 184 17. **WHEREAS**, FHWA has invited the Advisory Council on Historic Preservation
185 (herein ACHP) to participate in consultation and the ACHP has declined to
186 participate (letter dated June 9, 2011); and
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- 188 18. **WHEREAS**, in accordance with 36 CFR § 800.10(c), FHWA has invited the
189 Secretary of the Interior (herein “Secretary”) through the National Park Service
190 (herein “NPS”) to participate in consultation on the Undertaking, and FHWA has
191 received no response indicating the Secretary’s willingness to participate in
192 consultation; and
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- 194 19. **WHEREAS**, pursuant to 36 CFR § 800.3(c), and in recognition of the obligation
195 conferred upon FHWA by the American Indian Religious Freedom Act (42
196 U.S.C. § 1996; herein “AIRFA”), and Section 3(c) of the Native American Graves
197 Protection and Repatriation Act (25 USC § 3002(c); herein “NAGPRA”), FHWA
198 has determined that the Catawba Indian Nation, the Eastern Band of Cherokee
199 Indians, the United Keetoowah Band of Cherokees, and the Tuscarora Nation
200 have traditional cultural interests within the boundaries of Virginia and FHWA
201 has invited these four tribes to participate in the consultation process; and
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NTHP COMMENTS SUBMITTED 6/08/2012

- 204 20. **WHEREAS**, the Tribal Historic Preservation Officer representing the Catawba
205 Indian Nation (herein "CIN-THPO) agreed to participate in consultation as an
206 invited signatory to the Agreement (email dated May 4, 2012); and
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- 208 21. **WHEREAS**, the Eastern Band of Cherokee Indians (herein "EBCI") (during a
209 telephone conversation, in which EBCI stated that the Undertaking is not located
210 within its area of interest; see Attachment G) and the United Keetoowah Band of
211 Cherokees (email dated April 10, 2012) deferred consultation, and no response
212 was received from the Tuscarora Nation; and
213
- 214 22. **WHEREAS**, the following parties have been invited by FHWA to participate in
215 the process, and have participated as Consulting Parties:
216 a) Woodlawn Baptist Church
217 b) Alexandria Monthly Meeting of the Religious Society of Friends (herein
218 "Friends")
219 c) Pohick Episcopal Church
220 d) Fairfax County Architectural Review Board
221 e) Historical Society of Fairfax County
222 f) Fairfax County History Commission
223 g) National Trust for Historic Preservation
224 h) National Park Service – Potomac Heritage National Scenic Trail
225 i) National Park Service – Washington-Rochambeau Trail
226 j) Fairfax County Department of Planning and Zoning
227 k) Fairfax County Park Authority
228 l) Inlet Cove Home Owners Association
229 m) Save Woodlawn Stables
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- 231 23. **WHEREAS**, the following parties have been invited by FHWA to participate in
232 the process, and have not participated:
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- 234 a) Virginia Council on Indians
235 b) Gum Springs Historical Society
236 c) Mount Vernon Ladies Association
237 d) National Park Service – George Washington Memorial Parkway
238
- 239 24. **WHEREAS**, FHWA has provided the public an opportunity to comment on this
240 Undertaking pursuant to 36 CFR § 800.3(e);
241
- 242 **NOW, THEREFORE**, FHWA, the Army, the County, VDOT and the SHPO agree that
243 this undertaking shall be implemented in accordance with the following stipulations in
244 order to take into account the effects of the undertaking on historic properties.
245

Comment [E6]: Why is this tribe headquartered in South Carolina an invited signatory when the National Trust is not?

Comment [R7]: Can't Whereas 21 and 19 be combined?

NTHP COMMENTS SUBMITTED 6/08/2012

STIPULATIONS

FHWA shall ensure that the following stipulations are implemented:

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

This stipulation will describe measures to minimize and mitigate adverse impacts to the District as a whole, and its contributing elements, Woodlawn Plantation NHL (029-0056); Sharpe Stables Complex (029-5181) 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 site (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.

Deleted: for

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 mitigation of adverse effects to their properties and the District. The first design workshop shall take place within three (3) months of execution of this Agreement. Other consulting parties not specified above are welcome to participate in the design workshops.

Comment [R8]: In the draft letter to the SHPO, the FHWA indicated that the Pope-Leighey House (PLH) would not be adversely affected by the undertaking; however, PLH is listed as a resource impacted by the undertaking and mitigation is provided for the District as a whole. The National Trust agrees that PLH will be adversely impacted and the FHWA should reflect this in its Determinations of Effect letter to the SHPO.

Comment [R9]: The use of Quiet Pavement Technologies through the Historic District should be included as mitigation.

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Comment [R10]: The National Trust was informed that this was a design-build contract. In order to ensure that design input is collected early, the first design workshop should take place within 3 months from execution if not sooner.

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

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

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- 294 i. The shared-use driveway providing access to the Trust, Woodlawn Baptist
295 Church, and Woodlawn Quaker meeting house, including ownership and
296 maintenance issues.
- 297 ii. A signalized intersection at Woodlawn Road, which will be constructed to
298 provide safe access to Woodlawn Baptist Church, Woodlawn Quaker
299 Meetinghouse, and the Trust properties within the District.
- 300 iii. Landscaping needed to rehabilitate the setting of and maintain viewsheds
301 for all Woodlawn Historic District properties, including plantings within
302 and outside of the Rt. 1 Right-of-Way. Any landscaping proposed within
303 the Rt. 1 Right-of-Way would be subject to VDOT regulations and
304 approval.
- 305 iv. Circulation patterns within the District, including vehicular, pedestrian and
306 equestrian access, including portions of the PHNST, W3R, and the
307 abandoned section of Rt. 1.
- 308 v. Interpretive signage.
- 309 vi. Reducing the footprint of the new road construction and determining
310 future usage of the section of the existing Route 1 corridor that will be
311 abandoned.
- 312 vii. Re-establishment of appropriately designed fencing on Trust property.
- 313 viii. Location and design of storm water management structures within
314 Woodlawn Historic District so as to minimize adverse effects.
- 315 ix. Design of gateways into the Woodlawn Historic District, including but not
316 limited to any lighting and the size and location of sidewalks, trails, and
317 fences.

Comment [RB11]: There is no commitment from the Army to provide access through Fort Belvoir for a shared used driveway.

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

321
322 b) WOODLAWN BAPTIST CHURCH AND CEMETERY

- 323
324 i. Within six (6) months of execution of this Agreement FHWA shall
325 facilitate discussions related to the granting of an easement from the Army
326 to the church allowing limited usage of the land on Fort Belvoir located
327 adjacent to the Woodlawn Baptist Church property and bounded by the
328 realigned Route 1 and new access road. The limited usage would allow
329 the area to be used by the Baptists for recreation, occasional parking, and
330 other temporary, low impact activities. Granting of the easement and
331 related conditions is subject to DA approval.
- 332 ii. FHWA shall include in its design and implement the removal of pavement
333 from the church's existing driveway in order to restore the historic
334 character of the landscape.
- 335 iii. FHWA shall include in its design and implement landscaping that will
336 replace vegetation removed due to the Undertaking. Any landscaping
337 proposed within the Rt. 1 Right-of-Way would be subject to VDOT
338 regulations and approval.

Comment [R12]: There should be a more affirmative commitment to providing this easement to the church. Without any commitment from the Army in the PA these discussions are pointless.

Comment [R13]: Reference should be made to the Secretary of the Interior's Standards for the Treatment of Historic Properties (Guidelines for the Treatment of Cultural Landscapes) and to restoring the cemetery's cultural landscape.

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340 iv. FHWA shall contract the services of archaeologists with specialized
341 mortuary experience to document the cemetery, including a grave location
342 survey and the cataloging of gravestone data. The survey will use
343 minimally invasive techniques, such as Ground Penetrating Radar, to
344 determine the locations of graves. The survey will include areas within the
345 known boundaries of the cemetery, and extend beyond the known
346 boundaries to areas that may contain associated graves. A searchable
347 database of gravestone information will include inscriptions, descriptions
348 of the stones, photographs, and other data.

Comment [E14]: This has already taken place.

349
350 c) OTIS TUFTON MASON HOUSE

351
352 FHWA will relocate the Otis Tufton Mason House according to the following
353 procedures:

- 354
- 355 i. FHWA shall relocate the structure to a permanent site selected by the
356 Trust, nearby and on Trust property, as a means of recreating the historic
357 setting, association, and general feel of the Otis Tufton Mason House.
 - 358 ii. FHWA will contract a professional building mover to undertake the
359 relocation of the Otis Tufton Mason House. The SHPO and the Trust will
360 review and approve the experience and professional qualifications of the
361 mover prior to FHWA entering into a contract.
 - 362 iii. FHWA shall develop a stabilization and moving plan for the Otis Tufton
363 Mason House, in conformance with *Moving Historic Buildings* (Curtis,
364 1979), before relocation of the house or any part thereof. Said plan shall
365 be developed in consultation with and shall receive the concurrence of the
366 Trust and the SHPO. At a minimum, the plan will consist of the following
367 elements: recordation of significant architectural features of the Otis
368 Tufton Mason House, documentation of the history of the building
369 (through research in state and local archival depositories), documentation
370 of missing architectural features of the Otis Tufton Mason House,
371 identification of features that require stabilization prior to relocation, the
372 method of moving the building, the route which the building will take
373 from its existing site to its new site, and the method of securing and
374 stabilizing the Otis Tufton Mason House after relocation.
 - 375 iv. FHWA will ensure that the Otis Tufton Mason House, once relocated on
376 its new site, is in a habitable condition and receives a certificate of
377 occupancy from the appropriate local government agency, which will
378 include, but not be limited to connecting utilities to the house in order to
379 provide the building with electrical, water, and sewer service.
 - 380 v. Within one hundred and eighty (180) days of the move, FHWA will
381 demonstrate to the satisfaction of the Trust and the SHPO that the
382 relocation occurred according to the previously approved stabilization and
383 moving plan.

Comment [E15]: This seems unnecessary, given the next sentence.

Deleted: FHWA will provide the SHPO and the Trust with the name of the mover.

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- 393 vi. FHWA will be responsible for the following costs as may be necessary to
394 satisfy the terms of this PA: architectural and engineering services, legal
395 fees, stabilization of the Otis Tufton Mason House prior to relocation,
396 moving the Otis Tufton Mason House, the construction of a new
397 foundation that replicates the existing in material and appearance, securing
398 the building on the new site, installation of utilities (consistent with
399 Stipulation I.(c).iv.) above), and maintenance of the building on the new
400 site, including protection of the Otis Tufton Mason House from vandalism
401 and the elements. These measures shall remain in effect for the period of
402 the PA.
- 403 vii. FHWA shall ensure that the proposed relocation site is adequately
404 surveyed for archaeological deposits prior to the foundation construction.
- 405 viii. FHWA shall ensure that archaeological monitors are present when the
406 existing foundation or associated builder's trench are disturbed.

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- 407
- 408 d) FHWA will prepare a draft NR nomination for the Woodlawn Historic District.
409 The nomination will be developed in consultation with the SHPO and other
410 consulting parties. Development of the supporting documentation will commence
411 after the completion of Stipulation I(a) and Stipulation V.
- 412 e) Within six (6) months of execution of this Agreement, FHWA shall begin
413 Historic American Building Survey (HABS) Level I documentation of all NR
414 eligible structures within the District.

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II. Treatment for Woodlawn National Historic Landmark

- 416
- 417
- 418 a) FHWA shall oversee a monetary fund in the amount of \$500,000 intended to
419 mitigate for impacts to the NHL. The following is a list of mitigation measures
420 that will be funded, in prioritized order, until the fund is exhausted.
- 421
- 422 i. Installation of public water service sufficient to serve the Woodlawn
423 property, including service that is adequate to install fire hydrants for fire
424 suppression purposes.
- 425 ii. Installation of sanitary sewer service sufficient to serve the Woodlawn
426 property.
- 427 iii. Installation of natural gas service
- 428 iv. Installation of improvements, such as drives and trails, to improve internal
429 access within the property
- 430 v. Installation of landscape buffers to reduce visual impacts
- 431 vi. Creation and installation of interpretive and wayfinding signage.
- 432
- 433 b) FHWA shall ensure that the areas for proposed location of water and sewer lines,
434 landscaping and other ground disturbing activity resulting from these mitigation
435 measures are adequately surveyed for archaeological deposits according to the
436 processes outlined in Stipulations V – VII.

Comment [E16]: Redundant with next line

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Deleted: regular operations and safety

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Comment [R17]: We have determined that three-phase electrical service is not necessary.

Comment [R18]: This should be moved to treatment for the historic district.

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Installation of three-phase electrical service

Deleted: <#>Installation of natural gas service¶

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455 | c) FHWA shall develop and submit design plans for review and comment by the
456 | Trust. The Trust shall provide comments on preliminary design plans within thirty
457 | (30) calendar days of receipt. If no comments are received from the Trust, FHWA
458 | may assume that the Trust has no comments. FHWA shall amend and submit
459 | revised design plans within thirty (30) days after the end of a comment period.
460 | Plan review and submittal deadlines may be changed with the agreement of both
461 | parties.

462 | d) VDOT, through the Commissioner of Highways, shall submit an application to
463 | the Commonwealth Transportation Board to abandon that section of Route 1
464 | going through the Trust's property that is no longer being used as a result of the
465 | alignment selected by FHWA. [See VA CODE § 33.1-145. (Abandonment of
466 | road or crossing: procedure), and outline the process and responsibilities of each
467 | party – for example: The county, FHWA, SHPO, etc will write a letter supporting
468 | the abandonment of the road]

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469 | **III. Documentation and Treatment for Fort Belvoir Military Railroad Bed and**
470 | **Bridge**

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- 471 |
- 472 | a) FHWA shall conduct Historic American Engineering Record (HAER) Level I
473 | documentation of the Bridge and portions of the Railroad Bed within the APE.
474 | The documentation will include large-format photography, a narrative history of
475 | the structures, and measured drawings.
- 476 | b) FHWA shall offer as an incentive to ownership a one-time monetary payment up
477 | to an amount not to exceed the cost of demolition (approximately \$50,000, as
478 | estimated and approved for reimbursement by the FHWA) to be used by a new
479 | owner for implementing a plan, approved by the Army, the SHPO and FHWA, for
480 | the relocation and preservation of the Railroad Bridge Facility No. 1433. FHWA
481 | shall provide this payment only on a reimbursement basis for funds already
482 | expended by the new owner on the relocation and preservation plan.
- 483 | c) In consultation with the Army and the SHPO, FHWA shall develop within six (6)
484 | months of execution of this Agreement a marketing plan for determining if there
485 | is a capable party willing to relocate and assume ownership of Railroad Bridge
486 | Facility No. 1433. The marketing plan shall identify parties to whom FHWA shall
487 | send direct solicitations for expressions of interest as well as the media outlets
488 | through which the availability of the bridge will be advertised to the general
489 | public. FHWA shall provide the marketing plan to the Army and the SHPO for
490 | review and approval.
- 491 | d) Once the marketing plan has been approved by the Army and the SHPO, FHWA
492 | shall follow the process outlined below to identify a capable party to relocate and
493 | assume ownership of Railroad Bridge Facility No. 1433:

494 |

495 | a) FHWA shall implement the marketing plan developed pursuant to
496 | Stipulation IV.c). Interested parties shall have until 5:00 pm on the
497 | thirtieth (30th) calendar day following receipt of a direct solicitation from
498 | FHWA or following initial publication notice of the bridge's availability

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502 to submit to FHWA a detailed proposal for the relocation and preservation
503 of the bridge.

504
505 b) Proposals must describe in detail:

- 506 (1) the individual, organization, or government agency that will assume
507 ownership;
508 (2) the prospective use of the bridge and a plan for implementing that
509 use;
510 (3) a plan and schedule for moving the bridge in accordance with a
511 construction schedule specified by FHWA;
512 (4) the financial and technical capabilities of the recipient to move and
513 maintain the bridge; and
514 (5) the ability of the recipient to indemnify the Army from all future
515 liability and claims.

516
517 Proposals must include a map showing the location of the proposed
518 new site for the existing structure, maps or drawings depicting any
519 areas of the new site where the ground surface will be disturbed by the
520 reconstruction activities, and a plan to identify any archaeological sites
521 that might be present at the new site and for avoiding harm to any
522 archaeological sites eligible for the NR.

523
524 Proposals must certify that the recipient will:

- 525
526 (1) assume responsibility for conducting all work associated with the
527 bridge relocation, including complying with all applicable
528 environmental regulations and laws, obtaining all appropriate
529 environmental clearances and permits, conducting any necessary
530 archaeological studies, and moving, dismantling, and reconstructing
531 the bridge according to *The Secretary of the Interior's Standards for*
532 *the Treatment of Historic Properties* (36 CFR 68);
533 (2) assume all liability associated with the bridge and will indemnify the
534 Army from any further responsibility; and
535 (3) consent to offer the donation of a preservation easement on the bridge
536 to the Board of Historic Resources, to be administered by the Virginia
537 Department of Historic Resources (*Code of Virginia* 10.1-2204), or to
538 another party selected in consultation with the SHPO and other
539 consulting parties. The Board of Historic Resources or another
540 selected party is not obligated to accept a preservation easement
541 offered pursuant to this Agreement. If no entity is found that will
542 accept an easement on the bridge, the parties to this Agreement shall
543 consult in order to decide upon a mutually acceptable alternative.

544
545 (c) FHWA shall consider only those proposals submitted in
546 accordance with the established schedule. If FHWA receives no

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547 expressions of interest in acquiring the bridge by the close of the
548 thirty-five (35)-calendar day period following receipt of a direction
549 solicitation from FHWA or following initial publication of any notice
550 of the bridge's availability, FHWA shall so notify the Army and the
551 SHPO. After fulfilling the additional requirements of Stipulation III.g)
552 of this Agreement, FHWA may proceed to demolish the bridge.

553
554 (d) In consultation with the Army and the SHPO, FHWA shall review
555 any proposal received in accordance with the established schedule for
556 submission, but FHWA reserves the exclusive right to accept or reject
557 any or all proposals.

558
559 FHWA shall reject any proposal that fails:

- 560
561 (1) to include the information or certifications requested;
562 (2) to preserve the historic significance of Railroad Bridge Facility No.
563 1433 by using the entire bridge at another location within either the
564 District or a location nearby;
565 (3) to demonstrate that the prospective recipient has the financial and
566 technical capabilities to move and maintain the bridge;
567 (4) to ensure that the bridge will be moved in accordance with FHWA's
568 specified construction schedule; or
569 (5) to include appropriate and adequate measures for avoiding harm to
570 archaeological sites eligible for the NR that may be present at the new
571 site for the bridge.

572
573 In reviewing the proposals FHWA shall also consider:

- 574
575 (1) the degree to which each proposal conforms to the *Secretary of the*
576 *Interior's Standards for the Treatment of Historic Properties* (36 CFR
577 68); and
578 (2) any comments received from the Army or the SHPO within thirty (30)
579 calendar days of receipt of the proposals from FHWA.

580
581 e) FHWA shall inform the Army and the SHPO of its final decision to accept or
582 reject any proposals received for relocating and assuming ownership and
583 responsibility for maintenance and preservation of Railroad Bridge Facility No.
584 1433. If an acceptable proposal is identified and the bridge is subsequently
585 relocated, FHWA shall submit to the Army and the SHPO both black and white
586 and color 35 mm photographs of the bridge at its new location within thirty (30)
587 calendar days of completion of the relocation and installation.

588 f) After fulfilling the requirements of both Stipulation III.a) - III.e) and Stipulation
589 III.g) of this Agreement, FHWA may demolish Railroad Bridge Facility No. 1433
590 if (a) FHWA identifies no willing party or acceptable proposal for moving and
591 assuming ownership and responsibility for maintenance and preservation of the

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592 bridge, or (b) FHWA accepts such a proposal from a willing party but the selected
593 party fails to execute an agreement with FHWA for ownership, removal, and
594 maintenance and preservation of the bridge within forty-five (45) calendar days of
595 acceptance of its proposal or fails to remove the bridge in accordance with the
596 construction schedule specified by FHWA.

597 g) Prior to demolishing the existing bridge, and in addition to the documentation
598 required by Stipulation III.a), FHWA shall prepare black and white 35 mm
599 photographic documentation of the bridge consistent with the guidance found in
600 "Photographic Documentation for National Park Service (NPS) Register
601 Nominations and Virginia Department of Historic Resources (DHR) Basic
602 Survey" (updated June 10, 2009) and complete a SHPO Intensive Level Survey
603 Form for the structures in the SHPO's Data Sharing System (DSS). FHWA shall
604 submit the bridge documentation to the Army and the SHPO for review and
605 approval.

607 **IV. Protective Measures for Pohick Episcopal Church**

608
609 A. VIBRATION MONITORING

610
611 Prior to construction the contractor will hire a qualified individual whose
612 qualifications are specified below to conduct a preconstruction survey. This
613 survey will establish the area of vibration impact, provide details about the
614 fragility of building materials, and specify the environmental conditions in the
615 area of impact that would affect transmission of vibrations. This preconstruction
616 survey will establish the baseline conditions for monitoring during construction,
617 the construction activities that require monitoring, the general timeframes for
618 monitoring, and the thresholds of vibration levels that will be maintained during
619 construction. These elements will be placed in a Vibration Monitoring Plan. The
620 SHPO will be provided fourteen days in which to comment on the Vibration
621 Monitoring Plan prior to its finalization prior to the beginning of construction.
622 The SHPO will also be afforded five days to review any modifications to the
623 Vibration Monitoring Plan made during construction. While it is noted that the
624 national standard for vibration threshold is established at 0.2 inches per second for
625 historic properties, the vibration limit for this project will be based on the findings
626 of the preconstruction survey. Vibration will remain within safe levels for the
627 Pohick Episcopal Church and associated structures that lie adjacent to the project
628 area. If vibrations are found to exceed the thresholds established for this project,
629 the work causing that vibration will cease and corrective action will be taken to
630 return the vibration level to acceptable thresholds. The vibration monitoring for
631 these particular structures will be incorporated into the design build "Request for
632 Proposals" for the requirements of the contract. If damage should occur to
633 buildings within the area of vibration impact, then the contractor will be
634 responsible for repairing the damage in accordance with the Secretary of the
635 Interior's Standards for Rehabilitation and Guidelines for the Rehabilitation of
636 Historic Buildings.

Deleted: Prior to construction, FHWA shall assess existing levels of ambient vibration at the church, the rate of attenuation of near surface ground vibration waves, and the sensitivity of the structure. This will serve as a basis for evaluating the potential for vibration-induced damage and recommending avoidance actions as necessary.¶

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When developing the vibration thresholds and preparing the Vibration Monitoring Plan, the contractor will contract with an individual trained in Historic Architecture or closely related field. The individual will have five years of professional experience as a Building Conservation Specialist and will have successfully completed three building conservation projects where he/she has taken into account the effects of different levels of vibration on historic masonry and frame buildings.

Comment [R19]: Why is vibration monitoring only taking place for Pohick Episcopal Church? It would seem that the Sharpe Stables complex would be eligible for monitoring as well.

Comment [IT20]: And Grand View if the road is widened on its current alignment.

Comment [R21]: Additional Language addressing vibration is needed.

Deleted: This will also serve as baseline data so that monitors can be installed in and around the church building to determine whether there are increases in vibration resulting from construction activity related to this Undertaking.

Comment [R22]: Why is vibration monitoring only taking place for Pohick Episcopal Church? It would seem that the Sharpe Stables complex would be eligible for monitoring as well.

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B. TELEGRAPH ROAD INTERSECTION DESIGN WORKSHOPS

FHWA shall facilitate a minimum of two (2) design workshops among VDOT, the County, the SHPO, Pohick Episcopal Church and representatives of the Inlet Cove Board of Directors or Home Owners Association to evaluate alternative designs for proposed mitigation of adverse effects to their properties at the intersection of Telegraph Road and Route 1. The first design workshop shall take place within three (3) months of execution of this Agreement. Other consulting parties may participate in the design workshops.

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

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

V. Additional Testing of Archaeological Properties

A. FHWA acknowledges that identification surveys have not been conducted in all portions of the APE, specifically in 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.

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- 697 B. An archaeological survey of the entire Trust property was conducted by the
698 Chicora Foundation in 1999; however the survey recommendations and results did
699 not receive SHPO concurrence. Within six (6) months of the execution of this
700 agreement, FHWA shall review and update the Chicora survey, as necessary, to
701 identify and evaluate archaeological sites throughout the entire Trust property.
702 This will help guide the design of mitigation measures so that impacts to any
703 significant deposits can be avoided or minimized, including the archaeological
704 deposits associated with the NHL (44FX1146).
705
- 706 C. FHWA shall evaluate sites 44FX1810 and 44FX1936 for NR eligibility. FHWA
707 shall consult with the Signatories, and other consulting parties, regarding the NR
708 eligibility of the sites, and seek concurrence and development of avoidance,
709 minimization, or mitigation measures.
710
- 711 D. FHWA shall ensure that archaeological properties occurring within the APE that
712 are to be impacted by activities related to the implementation of the Undertaking
713 (including, but not limited to, construction of stormwater management measures,
714 borrow and staging areas, or tree removal and re-vegetation) are evaluated for NR
715 eligibility by FHWA in consultation with SHPO. Evaluation shall be accomplished
716 prior to initiation of land disturbing activities. FHWA shall consult with the
717 Signatories, and other consulting parties, regarding the NR eligibility of
718 archaeological properties evaluated, and seek concurrence and development of
719 avoidance, minimization, or mitigation measures.
720
- 721 E. If activities related to the implementation of the Undertaking, and having the
722 potential to impact archaeological resources, are to occur outside the previously
723 identified APE, FHWA shall identify and evaluate archaeological properties prior
724 to initiation of any land disturbing construction activities. If, as a result of testing,
725 archaeological sites are identified that are eligible for listing in the NR, a plan for
726 their treatment will be developed as described under Stipulation VII.
727
- 728 **VI. Eligibility Determination and Determinations of Effect for Archaeological**
729 **Properties**
730
- 731 A. FHWA shall submit its findings regarding archaeological Phase I and II testing in a
732 report to the SHPO with a formal request for concurrence. FHWA shall apply the
733 NR criteria for eligibility to surveyed archeological sites in consultation with the
734 SHPO, CIN-THPO, Signatories, and other consulting parties, to reach one of the
735 following conclusions:
736
- 737 1. If the NR criteria are not met, the site shall be considered not eligible for
738 listing on the NR. Such sites shall typically require no further review or
739 consideration under this Agreement.
740

Comment [R23]: Numbering is off in this section.

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- 741 2. If one or more of the sites meets NR significance criteria, the site shall be
742 considered eligible for listing in the NR for purposes of this Agreement, and
743 shall be included in the Archeological Property Treatment Plan (herein
744 “Treatment Plan”) described in Stipulation VII if such property would be
745 adversely affected by the Project.
746
- 747 1. If FHWA determines any of the NR criteria are met and the SHPO or CIN-
748 THPO agree, the property shall be considered eligible for the NR for Section
749 106 purposes. If FHWA determines the criteria are not met, and the SHPO
750 and CIN-THPO agrees, the property shall be considered not eligible. If
751 FHWA and the SHPO or CIN-THPO do not agree, or if ACHP or the
752 Secretary so request, FHWA shall obtain a determination of eligibility from
753 the Secretary pursuant to 36 CFR § 63.
754
- 755 2. If a Federally-recognized Indian tribe or Indian organization that attaches
756 religious and cultural significance to a property off tribal lands does not agree
757 with an FHWA determination regarding eligibility, it may ask the ACHP to
758 request FHWA to obtain a determination of eligibility.
759
- 760 B. For those archaeological properties identified subsequent to the signing of this
761 Agreement, FHWA shall oversee the Determination of Effects, which shall be
762 based on the APEs for the Project (see Attachment C), preliminary engineering
763 data, the Determinations of Eligibility (Stipulation VI.A.), and consultation with
764 the Signatories and consulting parties. This determination shall be in accordance
765 with procedures outlined in 36 CFR § 800.5.
766
- 767 **VII. Archaeological Property Treatment Plan**
768
- 769 A. If, as a result of the testing program, archaeological sites are identified that are
770 eligible for listing in the NR, a plan to avoid, minimize, or mitigate adverse effects
771 shall be developed by FHWA in consultation with the Signatories, and other
772 consulting parties; and approved by the SHPO prior to implementation.
773
- 774 B. When adverse effects to archaeological properties cannot be avoided, a Treatment
775 Plan shall provide specific treatment measures that could include, but shall not
776 necessarily be limited to, data recovery or other documentation.
777
- 778 C. Wherever feasible, the Treatment Plan shall provide for the preservation of
779 archaeological sites in place, with as little change as possible, and include
780 provisions for long term management. Where necessary to preserve such sites, the
781 plan shall provide for such management actions as physical stabilization, planting,
782 and fencing where applicable and appropriate.
783
- 784 D. With respect to archaeological sites associated with Native American occupation
785 and use of the area, regardless of age, the Treatment Plan shall be developed in full

Comment [E24]: This process needs to be combined with the first #1 above. Otherwise, these properties will already be off the table pursuant to that provision, which purports to authorize a unilateral determination with no further discussion.

Comment [E25]: Who would this be, other than CIN-THPO, since the other tribal groups have declined to participate? Isn't this already covered by the preceding language applicable to CIN-THPO?

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787 consultation with the CIN THPO and the VCI to the extent the CIN THPO and
788 VCI are willing to participate. To the maximum extent prudent and feasible, the
789 plan shall give deference to their wishes for treatment of archaeological sites
790 and/or objects of cultural significance.

Comment [E26]: Has not been defined yet

791
792 E. Where physical disturbance is unavoidable, and data recovery is agreed to be the
793 appropriate option, all data recovery plans prepared under the terms of this
794 Agreement shall include the following elements:

- 795 1. Information on the archeological property or properties where data recovery is
796 to be carried out and the context in which such properties are eligible for the
797 NR;
- 798 2. Information on any properties, or portions of properties that will be destroyed
799 without data recovery;
- 800 3. Discussion of the research questions to be addressed through the data recovery
801 with an explanation/ justification of their relevance and importance;
- 802 4. Description of the recovery methods to be used, with an explanation of
803 techniques of analysis, data management and dissemination of data;
- 804 5. Information on arrangements for any regular progress reports or meetings to
805 keep the signatory and consulting parties up to date on the course of the work.
806 The plan shall contain the expected timetable for excavation, analysis and
807 preparation of the final report.
- 808 6. Proposed methods for disseminating results for the work to the interested
809 public; and
- 810 7. If Native American human remains or associated funerary objects are
811 expected to be encountered, information on consultation with the CIN THPO,
812 and/or VCI regarding final treatment and disposition of the materials,
813 including a Plan of Action pursuant to NAGPRA , if appropriate.
- 814 8. The disposition of recovered materials and records shall be in accordance with
815 Stipulation X.C of this Agreement regarding curation, dependent upon
816 whether material/and or records are found on Federal, Commonwealth or
817 private lands.

818 **VIII. Late Discoveries of Archaeological Properties**

819
820 FHWA shall ensure that all contract documents contain the following provisions:
821

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- 832 A. In the event that previously unidentified archaeological properties are discovered
833 during ground disturbing activities, the contractor shall immediately halt all
834 construction work involving subsurface disturbance in the area of the property
835 and in the surrounding area, and immediately notify FHWA. FHWA shall notify
836 the SHPO, Signatories, and other consulting parties of the discovery within two
837 (2) business days.
- 838
- 839 B. Using a qualified archaeologist meeting the Secretary's Professional
840 Qualifications Standards for Archaeology, FHWA and Signatories shall
841 immediately inspect the work site and determine the area and nature of the
842 affected archaeological property. Construction work may then continue in the area
843 outside the archaeological property as defined by FHWA and the SHPO, or their
844 designated representative.
- 845
- 846 C. Within five (5) business days of the original notification of discovery, FHWA, in
847 consultation with the Signatories and other consulting parties, shall determine the
848 NR eligibility of the property and provide the eligibility determination to SHPO
849 for concurrence.
- 850
- 851 D. If the property is determined eligible for the NR, or contains human burials,
852 FHWA shall prepare a plan for its avoidance, protection, or recovery of
853 information. The plan shall be submitted to the Signatories and other consulting
854 parties for review and approval prior to its implementation. If comments are not
855 received within five (5) business days following receipt, it shall be presumed that
856 the party has no objection and the plan may be implemented.
- 857
- 858 E. Work in the affected area shall not proceed until either:
859 1. The development and implementation of appropriate data recovery or other
860 recommended mitigation procedures is completed, or
861 2. The determination is made that the located properties are not eligible for
862 inclusion on the NR.
- 863
- 864 F. Any disputes over the evaluation or treatment of previously unidentified
865 properties shall be resolved as provided in the section of this Agreement entitled
866 Dispute Resolution (Stipulation XII).
- 867

868 **IX. Discovery of Human Remains or Funerary Objects**

869

870 If human remains are identified during construction, FHWA shall require that
871 construction be halted immediately at the location of the remains. The County Police
872 Department or Army Military Police, as appropriate, shall be immediately contacted by
873 the on-site FHWA engineer to determine if the discovery is a crime scene. FHWA shall
874 ensure that further construction does not occur within 200 feet in any direction of the
875 discovery until a qualified archeologist arrives to assess the discovery. FHWA shall
876 secure the area of the apparent human remains to ensure no further disturbance or

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877 removal of those remains and associated material occurs. FHWA shall also ensure that
878 vehicular traffic across the area is restricted to a location removed from the discovery.
879 After arrival at the site, FHWA shall ensure that a qualified cultural resource specialist
880 shall evaluate the discovery. If it does consist of human remains, the cultural resource
881 specialist shall follow the procedures as follows:

882
883 A. Human Remains on Federal Lands

884
885 If Native American human remains and cultural items, as defined by NAGPRA,
886 are encountered on Federal lands during inventory, testing, data recovery or any
887 construction-related activities, work within 200 feet of the discovery shall cease.
888 FHWA shall immediately notify the SHPO, CIN-THPO and all other Signatories
889 and consulting parties, of the discovery. The Army, as the Federal land-
890 management agency, shall comply with the requirements of NAGPRA (43 CFR §
891 10) shall take into account and if applicable, the *Catawba Indian Nation THPO*
892 *Burial Policy* and Procedures, provided as Attachment F.

893
894 B. Human Remains on Commonwealth or Private Lands

895
896 The treatment of any human skeletal remains and associated funerary objects
897 recovered from non-Federal lands, including those controlled by the
898 Commonwealth, shall be in accordance with the terms of the burial permit issued
899 by the Director of the SHPO governing the removal of such remains, and if
900 applicable, the *Catawba Indian Nation THPO Burial Policy and Procedures*, as
901 **provided in** Attachment F.

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902
903 C. Permits

904
905 A permit for the archaeological removal of human remains on Commonwealth and
906 private lands is required under Virginia Code 10.1-2305(A), together with
907 assurances that any such remains shall be treated with dignity and respect.

- 908
909 1. FHWA shall ensure that human skeletal remains and associated funerary
910 objects encountered during the course of actions taken as a result of this
911 agreement shall be treated in accordance with the Regulations Governing
912 Permits for the Archaeological Removal of Human Remains (Virginia
913 Register 390-01-02) found in the Code of Virginia (10.1-2305, et seq.,
914 Virginia Antiquities Act) and the *Catawba Indian Nation THPO Burial Policy*
915 *and Procedures*, as applicable, provided **in** Attachment F. FHWA shall obtain
916 a permit from the SHPO for the removal of human remains in accordance with
917 the regulations stated above.

Deleted: as

- 918
919 2. FHWA shall notify the **VCI** and CIN-THPO when burials, human skeletal
920 remains, or funerary objects are encountered on the Project, prior to any
921 analysis or recovery.

Comment [E27]: Move this up to p.18?

Deleted: Virginia Council on Indians (

Deleted:)

NTHP COMMENTS SUBMITTED 6/08/2012

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3. FHWA shall ensure that the general public is excluded from viewing any Native American burial sites, human remains, or associated funerary objects. The Signatories, and the consulting parties to this Agreement, shall not release any photographs of any American Indian burial site or associated funerary objects to the press or the general public.
4. Any Native American human remains and associated funerary objects recovered pursuant to this agreement shall be re-interred in consultation with the CIN THPO and VCI. The VCI or CIN THPO shall consult with the SHPO to determine the party or parties that shall assume responsibility for planning and executing the re-interment. FHWA shall deliver these remains and objects to the party or parties designated by the CIN THPO and VCI and shall be responsible for the costs of re-interment. The disposition of any other human skeletal remains and associated funerary objects shall be governed as specified in any permit issued by the SHPO or any order of the local court authorizing their removal.

X. Standards

A. Preservation Standards and Professional Qualifications

1. All work carried out pursuant to this agreement shall be conducted by or under the direct supervision of an individual or individuals who meet, at a minimum, the proposed revisions to the *Secretary's Professional Qualifications Standards for Historic Landscape, Architecture, or Archeology* as appropriate to the specific property (48 FR 44738-9, September 29, 1983) or 62 Fed. Reg. 33707 ([June 20, 1997](#)).
2. All archaeological investigations on Federal land shall be performed under an appropriate ARPA Cultural Resource Use Permit issued by the Army. FHWA shall ensure that all contract documents contain procedures for obtaining the permit.
3. A Department of Historic Resources permit (under Code of Virginia § 10.1-2302) and a VDOT Land Use Permit (under 24VAC30-150-20) are required for archaeological investigation on Commonwealth highway right of way.

B. Documentation Standards

3. All archaeological reports, including data recovery plans included in Treatment Plans, shall be consistent with the Secretary's *Standards for Archaeological Documentation* (48 FR 44734-37, September 29, 1983) and

PROGRAMMATIC AGREEMENT

Rt. 1 Improvements Project, Fairfax County, VA

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NTHP COMMENTS SUBMITTED 6/08/2012

972 the professional standards set forth in SHPO's *Guidelines for Conducting*
973 *Cultural Resource Survey in Virginia* (October 2011), and shall take into
974 account the ACHP's publications, *Recommended Approach for Consultation*
975 *on Recovery of Significant Information from Archeological Sites* (1999) and
976 *Section 106 Archaeology Guidance* (June 2007).
977

978 4. All historical and architectural reports and survey documentation shall be
979 consistent with pertinent standards and guidelines of the Secretary, including
980 as applicable the *Standards for Historical Documentation* (48 FR 44728-30),
981 the Secretary of the Interior's *Standards for Architectural and Engineering*
982 *Documentation* (48 FR 44730-34, September 29, 1983), and the SHPO's
983 *Guidelines for Conducting Historic Resources Survey in Virginia* (October
984 2011).
985

986 C. Curation and Curation Standards

- 987
- 988 1. The material remains and associated records resulting from the actions within
989 the APE shall be curated in accordance with 36 CFR [Part 79](#), with the
990 exception of human skeletal remains and associated funerary objects.
 - 991 2. The curator of artifacts potentially discovered as a result of the Undertaking
992 shall be dependent upon the owner of the lands where the artifacts are found.
 - 993 3. On Federal lands, material and records obtained from the Army shall be
994 curated at a curation center or another depository as specified in the Cultural
995 Resource Use Permit issued by the Army. Currently, an agreement is in place
996 with the County to curate artifacts at the Cultural Resource curation facility at
997 the James Lee Center in Falls Church, VA.
 - 998 4. Pursuant to the Code of Virginia §10.1-2302 all material remains (with the
999 exception of materials found on Army property, human skeletal remains and
1000 associated funerary artifacts) resulting from the actions cited in this
1001 Agreement, and recovered from lands controlled by the Commonwealth,
1002 including highway right of way, are the property of the Commonwealth.
1003 Artifacts found on Commonwealth land or within Commonwealth
1004 owned/maintained right of way shall also be curated by the County, pursuant
1005 to Federal regulation at 36 CFR § 79. If the County should ever close the
1006 curatorial facility, or terminate the agreement, the County shall notify the
1007 SHPO and arrange for the transfer of any curated materials.
 - 1008
 - 1009 5. Any private landowner shall have claim to artifacts found on its land as a
1010 result of this undertaking, as prescribed by the laws of the Commonwealth.
1011

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1012 **XI. Continuing Review Process**

1013
1014 The SHPO and the concurring parties to this Agreement agree to provide comments to
1015 FHWA on all plans, technical materials, findings and other documentation arising from
1016 this Agreement within thirty (30) calendar days of their receipt. If no comments are

NTHP COMMENTS SUBMITTED 6/08/2012

1018 received from the SHPO or the concurring parties to this Agreement, FHWA may assume
1019 that the non-responding party has no comment. FHWA shall take into consideration all
1020 comments received in writing from the SHPO and the concurring parties to this
1021 Agreement within the thirty (30) calendar day review period.

1022

1023 All roadway design, signage, landscaping, and other mitigation measures proposed as
1024 part of this agreement that will be accepted into the state highway system must meet
1025 VDOT standards and requirements, and are subject to VDOT approval.

1026

1027 **XII. Dispute Resolution**

1028

1029 A. OBJECTIONS BY SIGNATORY PARTIES

1030

1031 Should any signatory to this agreement object in writing to FHWA regarding any
1032 action carried out or proposed with respect to the undertaking or implementation of
1033 this agreement, FHWA shall consult with the Signatories to resolve the objection.

1034

1035 If after initiating such consultation FHWA determines that the objection cannot be
1036 resolved through consultation, the agency shall forward all documentation relevant to
1037 the objection to the ACHP, including the agency's proposed response to the
1038 objection. FHWA shall take any comments from the ACHP into account in reaching
1039 a final decision regarding FHWA's response to the objection.

1040

1041 B. CONSULTING PARTY COMMENTS AND DISPUTE RESOLUTION

1042

1043 A Consulting Party may object in writing to FHWA, with copies to the other
1044 Signatories and Consulting Parties, regarding any action proposed to be carried out
1045 with respect to the Undertaking or implementation of this PA. FHWA shall take such
1046 an objection into account and may consult about it with the objecting party, other
1047 Consulting Parties and Signatories as it deems appropriate. FHWA shall then respond
1048 to the objecting party in writing, with copies to the Signatories. If FHWA
1049 subsequently determines that the objection cannot be resolved through consultation,
1050 FHWA shall notify the objecting party and the SHPO which of the following options
1051 it shall exercise:

1052

- 1053 a. Seek the assistance of the ACHP in resolving the objection, pursuant to
1054 Stipulation XII.A. above; or
1055 b. Provide a formal written response to the objection within thirty (30) days of
1056 notice to the objecting party, with copies to the Signatories and Consulting
1057 Parties.

1058

1059 **XIII. Amendment and Termination**

1060

- 1061 A. Any signatory to this Agreement may propose to FHWA that the Agreement be
1062 amended, whereupon FHWA shall consult with the other signatories to consider

NTHP COMMENTS SUBMITTED 6/08/2012

- 1063 such an amendment. 36 CFR § 800.6(c)(7) shall govern the execution of any such
1064 amendment. Any signatory to this Agreement may terminate it in accordance with
1065 the provisions of 36 CFR § 800.6(c)(8).
- 1066 B. If FHWA and VDOT decide they will not proceed with the Undertaking, they
1067 may so notify the signatories and concurring parties and then this Agreement shall
1068 become null and void.
- 1069 C. In the event that this Agreement is terminated or rendered null and void, FHWA
1070 shall submit to the SHPO a technical report on the results of any archaeological
1071 investigations conducted prior to and including the date of termination, and shall
1072 ensure that any associated collections and records recovered are curated in
1073 accordance with Stipulation X.C. of this Agreement.
- 1074 D. In the event of termination, FHWA shall either execute a Section 106 agreement
1075 pursuant to 36 CFR § 800.6(c)(1) or request the comments of the ACHP under 36
1076 CFR § 800.7(a).

1077
1078 **XIV. Duration**

- 1079
1080 1. Unless this Agreement is terminated pursuant to Stipulation XIII or superseded by
1081 another Agreement executed for the Undertaking, or the Undertaking has been
1082 terminated, this Agreement shall remain in effect for a period of ~~ten (10)~~ years
1083 from the date of signature.
- 1084
1085 2. Upon a determination by FHWA that construction of all aspects of the
1086 Undertaking have been completed and that all terms of this Agreement have been
1087 fulfilled in a satisfactory manner, FHWA shall notify the other Signatories and
1088 consulting parties of that determination in writing, whereupon this Agreement
1089 shall no longer have any effect.
- 1090
1091 3. At any time during the six-month period prior to expiration of the Agreement, the
1092 Signatories may agree to extend this Agreement with or without amendments. If
1093 FHWA or VDOT decides it will not proceed with the Undertaking, it will so
1094 notify the Signatories and consulting parties and this agreement shall become null
1095 and void.
- 1096

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EXECUTION

1100 **Execution of this Agreement** by the Signatories, and its submission to ACHP in
1101 accordance with 36 CFR § 800.6(b)(1)(iv), shall, pursuant to 36 CFR § 800.6(c), be
1102 considered to be an agreement with ACHP for the purposes of Section 110(1) of the
1103 NHPA. Execution and submission of this agreement, and implementation of its terms,
1104 evidence that FHWA has afforded ACHP an opportunity to comment on the proposed
1105 Undertaking and its effect on historic properties, and that FHWA has taken into account
1106 the effect of the Undertaking on historic properties in accordance with NHPA Section
1107 106.

1108

1109 **FEDERAL HIGHWAY ADMINISTRATION**

1110

1111

1112 By: _____ Date: _____
1113 Karen A. Schmidt, Director of Program Administration
1114 Federal Highway Administration
1115 Eastern Federal Lands Highway Division

1116

1117

1118 **VIRGINIA STATE HISTORIC PRESERVATION OFFICER**

1119

1120

1121 By: _____ Date: _____
1122 Kathleen S. Kilpatrick, Director
1123 Department of Historic Resources

1124

1125

1126 **VIRGINIA DEPARTMENT OF TRANSPORTATION**

1127

1128

1129 By: _____ Date: _____
1130 Earl T. Robb, Environmental Division Administrator

1131

1132

1133 **COUNTY OF FAIRFAX, VIRGINIA**

1134

1135

1136 By: _____ Date: _____
1137 Edward L. Long, Jr., Fairfax County Executive

1138

1139 **U.S. ARMY GARRISON, FORT BELVOIR**

1140

1141

1142 By: _____ Date: _____

NTHP COMMENTS SUBMITTED 6/08/2012

1143 Colonel John J. Strycula, Garrison Commander

1144

1145 **CATAWBA INDIAN NATION**

1146

1147

1148 By: _____ Date: _____

1149 Wenonah G. Haire, Tribal Historic Preservation Officer

1150

1151

1152

1153 **CONCURRING PARTY**

1154

1155

1156 **WOODLAWN BAPTIST CHURCH**

1157

1158

1159 By: _____ Date: _____

1160

1161

1162 **ALEXANDRIA MONTHLY MEETING OF THE RELIGIOUS SOCIETY OF**

1163 **FRIENDS**

1164

1165

1166

1167 By: _____ Date: _____

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1169

1170 **POHICK EPISCOPAL CHURCH**

1171

1172

1173

1174 By: _____ Date: _____

1175

1176

1177 **FAIRFAX COUNTY ARCHITECTURAL REVIEW BOARD**

1178

1179

1180

1181 By: _____ Date: _____

1182

1183

1184 **HISTORICAL SOCIETY OF FAIRFAX COUNTY**

1185

1186

1187

NTHP COMMENTS SUBMITTED 6/08/2012

1188 By: _____ Date: _____

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1191 **FAIRFAX COUNTY HISTORY COMMISSION**

1192

1193

1194

1195 By: _____ Date: _____

1196

1197

1198 **NATIONAL TRUST FOR HISTORIC PRESERVATION**

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1200

1201

1202 By: _____ Date: _____

1203

1204

1205 **NATIONAL PARK SERVICE – POTOMAC HERITAGE NATIONAL SCENIC**
1206 **TRAIL**

1207

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1209

1210 By: _____ Date: _____

1211

1212

1213 **NATIONAL PARK SERVICE – WASHINGTON-ROCHAMBEAU TRAIL**

1214

1215

1216

1217 By: _____ Date: _____

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1220 **FAIRFAX COUNTY DEPARTMENT OF PLANNING AND ZONING**

1221

1222

1223

1224 By: _____ Date: _____

1225

1226

1227 **FAIRFAX COUNTY PARK AUTHORITY**

1228

1229

1230

1231 By: _____ Date: _____

1232

Comment [R28]: The National Trust requests that it be an invited signatory to the PA due to the nature of this project, its direct impact on our property, and because the National Trust will have a significant obligation to work on and approve mitigation measures with the FHWA throughout the project's duration.

NTHP COMMENTS SUBMITTED 6/08/2012

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INLET COVE HOME OWNERS ASSOCIATION

By: _____ Date: _____

SAVE WOODLAWN STABLES

By: _____ Date: _____

ATTACHMENTS

- 1252
- 1253
- 1254 **Attachment A: Proposed New Alignment for Route 1**
- 1255
- 1256 **Attachment B: Draft Route 1 Improvements Project Memorandum of Agreement**
- 1257
- 1258 **Attachment C: Area of Potential Effect**
- 1259
- 1260 **Attachment D: Woodlawn Historic District Boundaries**
- 1261
- 1262 **Attachment E: Correspondence**
- 1263
- 1264 **Attachment F: Catawba Indian Nation THPO Burial Policy and Procedures**
- 1265
- 1266 **Attachment G: Eastern Band of Cherokee Indians Aboriginal Territory Map**
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1299 Advisory Council on Historic Preservation
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1301 *Information from Archeological Sites*. Advisory Council on Historic
1302 Preservation, Washington D.C.
1303
1304 Chicora Foundation, Inc.
1305 2000 *Archaeological Survey of Woodlawn Plantation, Fairfax County, Virginia*.
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1307
1308 County of Fairfax, Virginia
1309 2011 *Fairfax County Transportation Plan*. County of Fairfax, VA.
1310
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1313 Conservation and Recreation Service, Technical Preservation Services Division;
1314 For sale by the Supt. Of Docs., U.S. Govt. Print. Off., Washington
1315
1316 Federal Highway Administration
1317 2012 *Archaeological Survey of Proposed Area of Potential Effects Route 1*
1318 *Improvements at Fort Belvoir (Telegraph Road to Mount Vernon Memorial*
1319 *Highway), Fairfax County, Virginia*. The Federal Highway Administration,
1320 Sterling, VA.
1321
1322 2012 *Architectural Survey of Proposed Area of Potential Effects Route 1*
1323 *Improvements at Fort Belvoir (Telegraph Road to Mount Vernon Memorial*
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1329 *Realignment and Closure (BRAC) Recommendations and Related Army Actions*
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1331
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1333 2004 *Federal Register* Vol. 69, No.50. Government Printing Office, Washington D.C.
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1335 Virginia Department of Historic Resources
1336 1992 *Guidelines for Preparing Identification and Evaluation Reports for Submission*
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1338 *Environmental Impact Reports of State Agencies, Virginia Appropriation Act,*
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- 1341
1342 1996 *Guidelines for Archaeological Investigations in Virginia*. Virginia Department
1343 of Historic Resources, Richmond VA.
1344
1345 Virginia Department of Transportation
1346 2002 *Road and Bridge Specifications*. Virginia Department of Transportation,
1347 Richmond VA.



COMMONWEALTH of VIRGINIA

Department of Historic Resources

2801 Kensington Avenue, Richmond, Virginia 23221

Douglas W. Domenech
Secretary of Natural Resources

Kathleen S. Kilpatrick
Director

Tel (804) 367-2323
Fax (804) 367-2391
TDD: (804) 367-2386
www.dhr.virginia.gov

21 May 2012

Mr. Jack Van Dop
Federal Highway Administration
Eastern Federal Lands Highway Division
21400 Ridgetop Circle
Sterling, Virginia 20166-6511


RE: U.S. Route 1 Improvements at Fort Belvoir
Fairfax County
VDHR File No. 2001-0007

Dear Mr. Van Dop:

This letter is a follow up to the 14 May 2012 consulting parties meeting regarding the above referenced project. During that meeting it was asked, and some discussion generated, about the possibility for an amended scope of work for the undertaking. The suggestion was made that due to the status of Woodlawn Plantation as a National Historic Landmark (NHL) and the significant effects that the "bypass" option will have to resources within the National Register of Historic Places-eligible Woodlawn Historic District that it may be preferable for Federal Highway Administration (FHWA) to conduct limited improvements to Route 1 along the section of roadway that runs through the historic district and in front of Woodlawn Plantation. This option may include such construction activities as shoulder improvements, lane widening, and new turn lanes at the intersection of Route 1 and Mulligan Road, but these relatively minor actions would have much less impact on the NHL property and the historic district as a whole than the preferred bypass option.

The Department of Historic Resources (DHR) understands that the suggested modified improvements to Route 1 must meet the purpose and need for the undertaking established by FHWA. With that understanding in mind, DHR believes it a worthwhile exercise for FHWA to consider limited construction through the Woodlawn Historic District and to explore if such an option meets the project's purpose and need. Please respond to DHR and the other consulting parties with your findings.

If you have any questions about our comments, please contact me at (804) 482-6090.

Sincerely,

Marc Holma, Architectural Historian
Office of Review and Compliance

Administrative Services
10 Courthouse Ave
Petersburg, VA 23803
Tel: (804) 862-6416
Fax: (804) 862-6196

Capital Region Office
2801 Kensington Office
Richmond, VA 23221
Tel: (804) 367-2323
Fax: (804) 367-2391

Tidewater Region Office
14415 Old Courthouse Way 2nd
Floor
Newport News, VA 23608
Tel: (757) 886-2807
Fax: (757) 886-2808

Western Region Office
962 Kime Lane
Salem, VA 24153
Tel: (540) 387-5428
Fax: (540) 387-5446

Northern Region Office
5357 Main Street
PO Box 519
Stephens City, VA 22655
Tel: (540) 868-7031
Fax: (540) 868-7033



U.S. Department
of Transportation
**Federal Highway
Administration**

Eastern Federal Lands
Highway Division

21400 Ridgetop Circle
Sterling, VA 20166-6511

JUN 11 2012 In Reply Refer to: HFPP-15

Mr. Marc Holma
Virginia Department of Historic Resources
2801 Kensington Avenue
Richmond, VA 23221

Subject: Route 1 Improvements at Fort Belvoir, Fairfax County
VDHR File No. 2001-0007

Dear Mr. Holma:

The Federal Highway Administration (FHWA) has reviewed the correspondence transmitted by your office on May 21, 2012. The letter requested consideration of a revised project scope within the National Register of Historic Places-eligible Woodlawn Historic District to include limited improvements such as shoulder modifications, lane widening, and new turn lanes near Mulligan Road. The correspondence also stated these limited improvements would have much less impact on the Woodlawn National Historic Landmark, and the historic district as a whole than the FHWA preferred "Southern Bypass" option.

Although FHWA agrees with your assessment that this reduced project scope would result in fewer impacts to the adjacent historic properties, this suggestion would not satisfy the purpose and need of the project. An essential component of the FHWA proposal is the median that will be reserved for future transit and will be an invaluable asset for future citizens. Adequate facilities for pedestrians and bicyclists are also a crucial element of the proposal. FHWA and its partners cannot support a reduced scope of work that precludes these features.

FHWA is committed to minimizing impacts to historic properties, and other culturally valuable resources throughout the project area. For that reason, FHWA has identified the "Southern Bypass" as the preferred alternative. The bypass would avoid impacts to the Woodlawn National Historic Landmark to the greatest extent possible, and avoid adverse impacts to several other historic sites, including the Woodlawn Baptist Church Cemetery. Although it is unfortunate that the bypass will require the relocation of the Otis Mason House, FHWA is committed to mitigating for the impact in coordination with your office and the other consulting parties. FHWA is also preparing plans for the reconfiguration of the Sharpe Stables Complex/Woodlawn Stables to ensure the continued viability of that portion of the project area for use by the National Trust of Historic Preservation and their current or future tenants.

Based on this information, FHWA looks forward to receiving responses to our previous submittals and requests within the next 30 days. Please feel free to contact me at (703) 404-6282 or jack.vandop@dot.gov with any questions regarding this project.

Sincerely,



Jack VanDop
Senior Technical Specialist



COMMONWEALTH of VIRGINIA

Department of Historic Resources

2801 Kensington Avenue, Richmond, Virginia 23221

Douglas W. Domenech
Secretary of Natural Resources

Kathleen S. Kilpatrick
Director

Tel (804) 367-2323
Fax (804) 367-2391
TDD (804) 367-2386
www.dhr.virginia.gov

9 July 2012

Mr. Jack Van Dop
Federal Highway Administration
Eastern Federal Lands, Highway Division
21400 Ridgetop Circle
Sterling, Virginia 20166-6511

Re: Draft Environmental Assessment/Draft Section 4(f) Evaluation for improvements to Rt.1
Fairfax County, Virginia
DHR File # 2001-0007

Dear Mr. Van Dop:

The Department of Historic Resources (DHR) has received for our review and comment the draft Environmental Assessment (EA) and draft Section 4(f) evaluation for the above referenced project. As you are aware, the Federal Highway Administration (FHWA) has been consulting with DHR, as the State Historic Preservation Office (SHPO) in Virginia, on the proposed improvements to Route 1 in Fairfax County since 2001 pursuant to Section 106 of the National Historic Preservation Act, as amended, and its implementing regulation 36 CFR Part 800. As part of the Section 106 consultation FHWA has convened numerous consulting party meetings over the years in order to explain the undertaking and its components, to impart and accumulate information from the consulting parties regarding historic properties within the area of potential effects (APE), and to discuss the potential for the planned improvements along Route 1 to affect these significant resources. The DHR has been an attendee at these meetings and has previously expressed our views, verbally and in writing, on the various and complex aspects of this undertaking. We appreciate the opportunity to do so again now.

Draft EA

The draft environmental document identifies three project alternatives to include a No-Build Alternative, which is referenced as Alternative A. The other two alternatives carried forward in the draft EA are "the Southern Bypass Alignment" (build Alternative B) and widening along the entire existing alignment (build Alternative C).

Administrative Services
10 Courthouse Ave.
Petersburg, VA 23803
Tel: (804) 862-6416
Fax: (804) 862-6196

Capital Region Office
2801 Kensington Office
Richmond, VA 23221
Tel: (804) 367-2323
Fax: (804) 367-2391

Tidewater Region Office
14415 Old Courthouse Way 2nd
Floor
Newport News, VA 23608
Tel: (757) 886-2807
Fax: (757) 886-2808

Western Region Office
962 Kime Lane
Salem, VA 24153
Tel: (540) 387-5428
Fax: (540) 387-5446

Northern Region Office
5357 Main Street
PO Box 519
Stephens City, VA 22655
Tel: (540) 868-7031
Fax: (540) 868-7033

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9 July 2012
Mr. Jack Van Dop

Alternative A (No-Build): We understand that this alternative does not meet the project's stated purpose and need. However, in an altered form allowing for limited improvements along the existing corridor of Route 1 in front of Woodlawn Plantation Alternative A (modified) may be an appropriate response. More discussion on this prospect is included below.

Alternative B ("Southern Bypass"): This build alternative is FHWA's preferred alternative and involves expanding Route 1 to six through travel lanes between Telegraph Road and Mount Vernon Memorial Highway/Mulligan Road. All intersections with other roads would remain at-grade with the addition of appropriate turn lanes. From approximately Belvoir Road the project leaves existing alignment and swings around Woodlawn Baptist Church, crosses the open field owned by the National Trust for Historic Preservation (Trust) east of existing Route 1 and Woodlawn Plantation, and connects with the intersection of existing Route 1 and Mount Vernon Memorial Highway/Mulligan Road. This alternative and its "Southern Bypass" are intended to avoid significant impacts to several historic properties including the Woodlawn Quaker Meetinghouse, Woodlawn Baptist Church cemetery, and Woodlawn Plantation. By swinging behind the Baptist church and across the open field, however, Alternative B does bisect the National Register of Historic Places (NRHP)-eligible Woodlawn Historic District and would require the relocation of the Otis Tufton Mason House, a contributing resource to the historic district. Both represent adverse effects to these historic properties. Adverse effects of varying degrees will also likely occur to Woodlawn Plantation, Fort Belvoir Facility No. 1433 (railroad bridge), Fort Belvoir Military Railroad Bed, and the Sharpe Stable Complex Bank Barn. Although Alternative B results in adverse effects to several historic properties, those adverse effects are likely to be less dramatic than what would occur in Alternative C.

Alternative C (Widen on existing location): This build alternative is similar to Alternative B except that it does not have the "Southern Bypass"; all improvements are constructed along the existing alignment of Route 1. This would require the removal and relocation of possibly hundreds of burials from the historic Woodlawn Baptist cemetery, considerable land acquisitions from the Woodlawn Friends Meetinghouse (NRHP-listed) and Woodlawn Plantation (National Historic Landmark), and demolition of the Sharpe Stable Complex Bank Barn. For all of these reasons DHR considers Alternative C unacceptable.

A number of other alternatives are identified in Section 2.6 as being considered but rejected. At the last consulting parties meeting a suggestion was made that FHWA should pursue a limited improvements option along Route 1 from Belvoir Road to Mount Vernon Memorial Highway/Mulligan Road. The rationale for this approach is to acknowledge the overriding significance of those historic properties, especially Woodlawn Plantation, along this stretch of Route 1 and to limit, to the greatest extent possible, impacts to them. Certain improvements can occur such as adding extra turn lanes, widening existing lanes, and upgrading the road shoulders.

Page 3
9 July 2012
Mr. Jack Van Dop


but the intention would be to subjugate the transportation needs along this small section of Route 1 to the historical issues. In a letter dated 11 June 2012 responding to this idea, FHWA stated that "an essential component of the FHWA proposal is the median that will be reserved for future transit and will be an invaluable asset for future citizens." We have no doubt that such a transit system will be an asset if it is ever constructed. As you are aware, the current economic conditions have constrained funding at the local, state, and federal levels. This situation is not likely to improve in the short term, thereby pushing the "future" farther and farther off. The DHR would like to remind FHWA that Woodlawn Plantation, the Woodlawn Friends Meetinghouse, the Woodlawn Baptist Church cemetery, and the Woodlawn Historic District are also invaluable assets that exist for the enjoyment, use, and education of future citizens. We do not want FHWA and Fairfax County to cause irrevocable damage to our shared irreplaceable cultural heritage in the anticipation of a transit system that may never materialize. If someday funding does become available for the transit system then it can be dealt with at that time. In the interim DHR wants to ensure that no unnecessary damage comes to these important properties. Additionally, by examining the possibility for conducting limited improvements along the most preservation sensitive section of Route 1 FHWA will be fulfilling its responsibility under 36 CFR §800.6(a) to "develop and evaluate alternatives or modifications to the undertaking that could avoid, minimize or mitigate adverse effects to historic properties."

Section 4(f) Evaluation

At this time DHR is not prepared to concur with FHWA's Section 4(f) evaluation of this undertaking. As can be gathered from our comments above, DHR does not believe that FHWA has demonstrated that there are no feasible and prudent alternatives to the use of the land from the Section 4(f) properties; nor do we believe that FHWA has conducted all possible planning to minimize harm to these properties resulting from such use. We again request that FHWA carefully consider the practicability for limited improvements along Route 1 from Belvoir Road to Mount Vernon Memorial Highway/Mulligan Road.

If you have any questions regarding our comments, please contact me at (804) 482-6090.

Sincerely,



Marc Holma, Architectural Historian
Office of Review and Compliance



U.S. Department
of Transportation
**Federal Highway
Administration**

Eastern Federal Lands
Highway Division

21400 Ridgetop Circle
Sterling, VA 20166-6511

SENT VIA ELECTRONIC CORRESPONDENCE

JUL 20 2012

In Reply Refer to: HFPP-15

Mr. Marc Holma
Virginia Department of Historic Resources
2801 Kensington Avenue
Richmond, VA 23221

Subject: Environmental Assessment/Section 4(f) Evaluation for Improvements to Rt. 1,
Fairfax County, Virginia; VDHR File No. 2001-0007

Dear Mr. Holma:

The Federal Highway Administration (FHWA) has reviewed the comments transmitted by the Virginia Department of Historic Resources (VDHR) on July 9, 2012, related to the subject documents. The comments support some of the determinations issued by FHWA but include a recommendation to consider limited improvements within the National Register of Historic Places-eligible Woodlawn Historic District (Historic District). The letter concludes with a request for FHWA to conduct all possible planning, including the consideration of limited improvements, in order to "develop and evaluate alternatives or modifications to the undertaking that could avoid, minimize or mitigate adverse effects to historic properties" in accordance with 36 CFR § 800.6(a).

The Environmental Assessment (EA) contains detailed analysis of three project alternatives referred to as Alternative A (no-build), Alternative B (southern bypass), and Alternative C (widen on existing location). A number of other alternatives contained in Section 2.3 of the draft EA were considered but dismissed prior to detailed analysis. VDHR acknowledges that Alternative A, as proposed, does not meet the purpose and need of the project. VDHR also states that Alternative B, FHWA's preferred alternative, results in adverse effects to several historic properties; however, "those adverse effects are likely to be less dramatic than what would occur in Alternative C." VDHR considers Alternative C unacceptable.

VDHR provides justification for the consideration of an additional alternative, referred to as Alternative A (modified), which would allow limited improvements within the Historic District such as adding extra turn lanes, widening existing lanes, and upgrading the road shoulders. This reduced project scope has been suggested at various times during the development and evaluation of project alternatives as well as at the last consulting parties meeting. FHWA acknowledges that several other suggestions made at the meeting were evaluated and can be documented in more detail in the EA, including consideration of one-way pairs (reversible direction lanes), and the construction of a tunnel beneath the historic district. The EA will be

supplemented as appropriate to include documentation regarding consideration of these other alternatives.

VDHR's proposed Alternative A (modified) most closely matches the Transportation System Management (TSM) Alternative discussed in Section IV (Avoidance Alternatives) of the Draft Section 4(f) Evaluation, and Section 2.6 of the EA as an alternative that was considered but dismissed. TSM is described as the "implementation of relatively low-cost actions to improve the efficiency of existing transportation systems". This would include some of the suggestions made by VDHR and other consulting parties, such as additional turning lanes and the use of one-way pairs within the existing roadway alignment. TSM was dismissed from further analysis after it was determined that "such actions are important elements in the overall transportation plan for any urbanized area; however, none alone or in combination would provide the additional capacity needed to serve traffic demand and to safely accommodate the forecasted traffic." As with TSM, the proposed Alternative A (modified) would not meet the project purpose and need for the same reasons.

In addition to providing increased vehicular capacity, the purpose and need specifies that the project should "implement facilities for pedestrian and bicycle travel, and provide space for future transit services pursuant to Fairfax County's Comprehensive Plan." Ultimately, the addition of pedestrian, bicycle, and transit facilities cannot be accomplished without significantly widening the right of way and roadway cross section. VDHR has expressed skepticism about the short-term likelihood of funding a transit system; however, FHWA and our partners are committed to planning for that eventuality. Although funding for the implementation of transit may or may not materialize in the short-term, we are obligated to include a transit median to accommodate Fairfax County's longer-term planning objectives. Deferring allowances for transit would result in a piecemeal approach that could cumulatively increase impacts to the Historic District in the long-term.

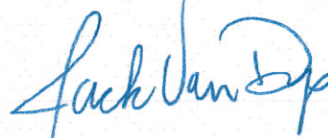
VDHR has acknowledged that widening the existing roadway alignment to accommodate increased vehicular, pedestrian, bicycle, and transit components within the Historic District would be unacceptable. Since each of the components is a crucial aspect of continued transportation viability, we must begin the process of minimizing long-term impacts to the Historic District by implementing a project alternative that will prevent the unacceptable effects that widening in place would cause. As one compares the benefits and impacts of each of the two build alternatives any minimization of the roadway cross section for one of the build alternatives would also be applicable to the other build alternative. Therefore the rational and justification for selection by FHWA of alternative B over Alternative C would not change.

As documented in the EA and Draft Section 4(f) Statement, FHWA has conducted analysis, including the consideration of limited improvements, and other avoidance options, to determine whether a prudent and feasible alternative to the use of 4(f) properties exists. In regard to implementing all planning to minimize harm to 4(f) (historic) properties, FHWA, VDOT and Fairfax County have agreed to reduce the current county comprehensive plan requirements for Route 1 from a designated 176 feet wide right of way and 58 feet wide median to 148 feet wide right of way with a 32 feet wide median. It is important to note that Alternative B was developed as a minimization alternative to Alternative C (minimization of impact to historic property). Alternative B ultimately uses significantly less historic district property for public roadways,

avoids relocation of a large number of graves, and locates Route 1 farther away from the National Historic Landmark and Quaker Meeting House, as compared to Alternative C.

We will continue to identify ways to minimize and mitigate project impacts as the project moves into the design build phase. Review of more detailed design issues and possible roadway, storm water management and traffic control design exceptions/waivers can be most appropriately considered during initial development of design build plans. An electronic copy of this correspondence will be provided to all of the consulting parties. If you have any additional comments or questions, please do not hesitate to contact me at (703)-404-6282, or Jack.VanDop@dot.gov.

Sincerely yours,



Jack VanDop
Senior Technical Specialist

DRAFT 5/10/2012

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NATIONAL HISTORIC PRESERVATION ACT SECTION 106

PROGRAMMATIC AGREEMENT

AMONG THE

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION;

U.S. ARMY GARRISON, FORT BELVOIR;

COUNTY OF FAIRFAX, VA;

COMMONWEALTH OF VIRGINIA
VIRGINIA DEPARTMENT OF TRANSPORTATION;

CATAWBA INDIAN NATION;

And

VIRGINIA STATE HISTORIC PRESERVATION OFFICER

REGARDING CONSTRUCTION OF
ROUTE 1 IMPROVEMENTS PROJECT
IN FAIRFAX COUNTY, VIRGINIA

DHR File No. 2001-0007

RECITALS

- 23
24
25 1. **WHEREAS**, the Federal Highway Administration, Eastern Federal Lands
26 Highway Division (herein “FHWA”), serves as the lead Federal agency for the
27 National Environmental Policy Act (herein “NEPA”) and for National Historic
28 Preservation Act (16 U.S.C. § 470; herein “NHPA”) Section 106 compliance for
29 the construction of proposed improvements to the Richmond Highway (U.S.
30 Route 1) corridor between Telegraph Road (Route 611) and Mount Vernon
31 Memorial Highway (Route 235) (herein “Undertaking”) in Fairfax County,
32 Virginia; and
33
- 34 2. **WHEREAS**, FHWA, the U.S. Army Garrison Fort Belvoir (herein “the Army”),
35 the County of Fairfax, Virginia (herein “the County”) and the Virginia
36 Department of Transportation (herein “VDOT”), as Signatories to this
37 Programmatic Agreement (herein “Agreement”), have also drafted the separate
38 Project MOA (Attachment B) detailing the obligations and responsibilities of each
39 party in relation to the funding, preliminary engineering, land acquisition,
40 construction and maintenance of the Undertaking; and
41
- 42 3. **WHEREAS**, the Army has NEPA and NHPA Section 106 co-lead agency
43 responsibility and the Army has designated FHWA as the lead Federal agency to
44 fulfill its Federal responsibilities under NHPA Section 106 for the Undertaking
45 (letter dated June 23, 2011); however, the determination of eligibility for any
46 future discoveries on Army property will be made by the Army; and
47
- 48 4. **WHEREAS**, pursuant to Section 10 and/or Section 404 of the Clean Water Act
49 (33 U.S.C. § 1251 et seq.), a Department of the Army (herein “DA”) permit will
50 likely be required from the Norfolk District of the U.S. Army Corps of Engineers
51 (herein “the Norfolk District”) for this Undertaking, and the Norfolk District has
52 designated FHWA as the lead federal agency to fulfill federal responsibilities
53 under Section 106 (letter dated June 21, 2011); and
54
- 55 5. **WHEREAS**, the National Trails System Act of 2009 (P.L. 90-453, as amended
56 through P.L. 111-11, March 30, 2009) authorized the establishment of the
57 Potomac Heritage National Scenic Trail (herein “PHNST”) and the Washington-
58 Rochambeau Revolutionary Route National Historic Trail (herein “W3R”), a
59 portion of which may be sited within the footprint of the Undertaking; and the
60 *Virginia Outdoors Plan: Charting a Course for Virginia’s Outdoors* (2007) and
61 the Fairfax County Trails Plan, a component of the Fairfax County
62 Comprehensive Plan, recognize the PHNST as a regional, state and national
63 resource; however FHWA is not the lead federal agency for NEPA/NHPA
64 compliance on behalf of PHNST/W3R; and
65
- 66 6. **WHEREAS**, the proposed improvements to Route 1 include:
67
68

- 69 a) Reconstructing Route 1 to provide six through travel lanes between Telegraph
70 Road and Mount Vernon Memorial Highway;
- 71 b) Realignment of Route 1 between Belvoir Road and Mount Vernon Memorial
72 Highway south of the existing roadway, as depicted in Attachment A;
- 73 c) **Telegraph Road Intersection** – Modifying the northbound approach to
74 include a third left-turn lane. The roadway would be widened to the north, and
75 the existing Route 1 curb-line that abuts the historic Pohick Episcopal Church
76 property would remain unchanged. The southbound approach would provide
77 for one left-turn lane and one right-turn lane at Telegraph Road;
- 78 d) **Cook Inlet Drive Intersection** – Providing for one left-turn lane in the
79 northbound direction, and one right-turn lane in the southbound direction;
- 80 e) **Fairfax County Parkway Intersection** – Reconstruction of the intersection
81 to provide for two left-turn lanes in the northbound direction, and two right-
82 turn lanes and one right-turn bay in the southbound direction;
- 83 f) **Pohick/Backlick Roads Intersection** – Reconstruction of the intersection to
84 provide one left-turn lane and two right-turn lanes in the northbound direction,
85 and one right-turn lane and one left-turn lane in the southbound direction;
- 86 g) **Belvoir Road Intersection** – Reconstruction of the intersection to provide
87 two left-turn lanes (to the new Lieber Gate ACP) and one right-turn lane in the
88 northbound direction, and two left-turn lanes and one right-turn lane in the
89 southbound direction;
- 90 h) **Woodlawn Road Intersection** – Reconstruction of the intersection to provide
91 one left-turn lane in the northbound direction (existing Woodlawn Road
92 would be extended to connect the with realigned Route 1 roadway, just to the
93 west of Woodlawn Baptist Church), and one right-turn lane in the southbound
94 direction.
- 95 i) **Mount Vernon Memorial Highway Intersection** – Reconstruction of the
96 intersection to provide two left-turn lanes and one right-turn lane in the
97 northbound direction; and
98
- 99 7. **WHEREAS**, the *Fairfax County Transportation Plan (2011)*, and the *Final*
100 *Environmental Impact Statement for Implementation of 2005 Base Realignment*
101 *and Closure (BRAC) Recommendations and Related Army Actions at Fort*
102 *Belvoir, Virginia* (June, 2007) provide background information to this Agreement;
103 and
104
- 105 8. **WHEREAS**, the Area of Potential Effects (herein “APE”) has been established in
106 consultation with the SHPO and other Signatories and consulting parties for the
107 Undertaking; and separate APEs were established for archaeological and
108 architectural resources, and are defined in **Attachment C**; and
109
- 110 9. **WHEREAS**, FHWA has compiled a listing of previously recorded historic
111 properties within the APE based on SHPO, County and Army records; and
112 FHWA has conducted additional archaeological and architectural survey
113 [*Archaeological Survey of Proposed Area of Potential Effects Route 1*
114 *Improvements at Fort Belvoir (Telegraph Road to Mount Vernon Memorial*

115 Highway; Architectural Survey of Proposed Area of Potential Effects Route 1
116 Improvements at Fort Belvoir (Telegraph Road to Mount Vernon Memorial
117 Highway), Fairfax County, Virginia), Fairfax County, Virginia] within the APE to
118 supplement previous surveys and identify properties eligible, or potentially
119 eligible, for listing on the National Register of Historic Places (herein "NR"); and
120

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121 10. WHEREAS, FHWA, in consultation with the SHPO and other consulting parties,
122 has determined, and the SHPO concurs, that X, XX, and XXX are architectural
123 properties that are listed in the NR; and that Y, YY, and YYY are architectural
124 properties eligible for listing in the NR; and—[Be sure to provide SHPO survey
125 numbers and under what criteria the properties are eligible. Also call out
126 Woodlawn Plantation as an NHL.]
127

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128 9.11. WHEREAS, FHWA, in consultation with the SHPO and other consulting
129 parties has determined, and the SHPO concurs, that archaeological sites X, XX,
130 and XXX are listed in the NR; and that sites Y, YY, and YYY are eligible for
131 listing in the NR; and
132

133 10.12. WHEREAS, FHWA, in consultation with the SHPO and other consulting
134 parties, has determined, and the SHPO concurs, that the Undertaking will have an
135 Adverse Effect under NHPA Section 106 on the following properties:
136

- 137 a) Fort Belvoir Military Railroad bed (029-5648); the portion of the railroad bed
138 within the limits of construction will be physically altered and destroyed;
- 139 b) Facility No. 1433, Railroad bridge (029-5424); the bridge will be removed
140 from its current location, and may be permanently destroyed if a suitable
141 recipient cannot be identified;
- 142 c) Woodlawn National Register Eligible Historic District (029-5181); adverse
143 effects include: alteration of the viewshed; changes in relationship among the
144 contributing properties; physical relocation of Otis T. Mason House (029-
145 5181-0006); and changes in land use and circulation patterns; and
- 146 d) Sharpe Stable Complex Bank Barn (029-5181-0005); changes in land use will
147 impact the historic setting of the barn.; and
148

149
150 11.13. WHEREAS, FHWA, in consultation with the SHPO and other consulting
151 parties, has determined, and the SHPO concurs, that the Undertaking will have an
152 Adverse Effect under NHPA Section 106 on Woodlawn Plantation (029-0056) a
153 National Historic Landmark (herein "NHL") owned by the National Trust for
154 Historic Preservation (herein "the Trust"); and these adverse effects include:
155 taking of Woodlawn PlantationiPlantation property, changes in land use and
156 access between different parts of the property, and alteration of the viewshed; and
157

158 12.14. WHEREAS, FHWA, in accordance with 37 CFR § 800.10(a) and in
159 consultation with the Trust, has ensured that, to the maximum extent possible,
160 planning and actions to minimize harm to Woodlawn Plantation have taken place,

- 161 including an analysis of alternatives considered to avoid, minimize, and /or
162 mitigate adverse effects to the NHL; and
163
- 164 13.15. **WHEREAS**, FHWA, in consultation with the SHPO and other consulting
165 parties, has conditionally determined, and the SHPO concurs, that the undertaking
166 will have no adverse effect on King’s Highway/Old Colchester Road (029-0953)
167 if the protective measures stipulated herein are implemented; and
168
- 169 14.16. **WHEREAS**, a determination of effect that the Undertaking will have on
170 Pohick Episcopal Church (029-0046) and the archaeological deposits associated
171 with Woodlawn Plantation (44FX1146) cannot be made at this time and will be
172 deferred until the processes stipulated in this agreement support such
173 determinations; and
174
- 175 17. **WHEREAS**, the following archaeological sites have been identified, but
176 additional survey will be required to evaluate their significance and potential
177 impacts resulting from the Undertaking;
178
- 179 a) 44FX1810; and
 - 180 b) 44FX1936; and,.
- 181
- 182 15.18. **WHEREAS**, FHWA acknowledges that additional historic properties may be
183 adversely affected by the Undertaking once the final design is known and any
184 further identification and evaluation efforts are complete; and
185
- 186 16.19. **WHEREAS**, FHWA has invited, in accordance with 36 CFR § 800.6(a)(1),
187 the Advisory Council on Historic Preservation (herein ACHP) to participate in
188 consultation and the ACHP has declined to participate (letter dated June 9, 2011);
189 and
190
- 191 17.20. **WHEREAS**, FHWA has invited, in accordance with 36 CFR § 800.10(c),
192 FHWA has invited the Secretary of the Interior (herein “Secretary”) through the
193 National Park Service (herein “NPS”) to participate in consultation on the
194 Undertaking, and FHWA has received no response indicating the Secretary’s
195 willingness to participate in consultation; and
196
- 197 18.21. **WHEREAS**, pursuant to 36 CFR § 800.23(c)(2), and in recognition of the
198 obligation conferred upon FHWA by the American Indian Religious Freedom Act
199 (42 U.S.C. § 1996; herein “AIRFA”), and Section 3(c) of the Native American
200 Graves Protection and Repatriation Act (25 USC § 3002(c); herein “NAGPRA”),
201 FHWA has determined that invited the Catawba Indian Nation, the Eastern Band
202 of Cherokee Indians, the United Keetoowah Band of Cherokees, and the
203 Tuscarora Nation have traditional cultural interests within the boundaries of
204 Virginia and FHWA has invited these four tribes to participate in the consultation
205 process ; and
206

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- 207 19.22. **WHEREAS**, the Tribal Historic Preservation Officer representing the
208 Catawba Indian Nation (herein "CIN-THPO) agreed to participate in consultation
209 as a signatory to the Agreement (email dated May 4, 2012); and
210
- 211 23. **WHEREAS**, the Eastern Band of Cherokee Indians (herein "EBCI") (during a
212 telephone conversation, in which EBCI stated that the Undertaking is not located
213 within its area of interest; see Attachment G) and the United Keetoowah Band of
214 Cherokees (email dated April 10, 2012) deferred consultation, and no response
215 was received from the Tuscarora Nation; and
216
- 217 24. **WHEREAS**, need to include clause establishing role of VDOT as signatory party
218
- 219 20.25. **WHEREAS**, need to include clause establishing Fairfax County, through its
220 DOT, as signatory
221
- 222 26. **WHEREAS**, FHWA has invited, in accordance with 36 CFR § 800.2(c)(5) the
223 following parties have been invited by FHWA to participate in the process, and
224 have participated as Consulting Parties:
225
- 226 a) Woodlawn Baptist Church
 - 227 b) Alexandria Monthly Meeting of the Religious Society of Friends (herein
228 "Friends")
 - 229 c) Pohick Episcopal Church
 - 230 d) Fairfax County Architectural Review Board
 - 231 e) Historical Society of Fairfax County
 - 232 f) Fairfax County History Commission
 - 233 g) National Trust for Historic Preservation
 - 234 h) National Park Service – Potomac Heritage National Scenic Trail
 - 235 i) National Park Service – Washington-Rochambeau Trail
 - 236 j) Fairfax County Department of Planning and Zoning
 - 237 k) Fairfax County Park Authority
 - 238 l) Inlet Cove Home Owners Association
 - 239 m) Save Woodlawn Stables
240
- 241 21.27. **WHEREAS**, FHWA has invited, in accordance with 36 CFR § 800.2(c)(5)
242 the following parties have been invited by FHWA to participate in the process,
243 and have not participated:
244
- 245 a) Virginia Council on Indians
 - 246 b) Gum Springs Historical Society
 - 247 c) Mount Vernon Ladies Association
 - 248 d) National Park Service – George Washington Memorial Parkway
249
- 250 22.28. **WHEREAS**, FHWA , in accordance with 36 CFR § 800.2(d), has provided
251 the public an opportunity to comment on this Undertaking pursuant to 36 CFR §
252 800.3(e)[How? NEPA/public meetings? Describe and give dates.]

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

STIPULATIONS

FHWA shall ensure that the following stipulations are implemented:

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

This stipulation will mitigate for impacts to the District as a whole, and its contributing elements, Woodlawn Plantation NHL (029-0056); Sharpe Stables Complex (029-5181) 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 site (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 mitigation of adverse effects to their specific contributing properties and to the District as a whole. The first design workshop shall take place within six (6) 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 consulting parties participating in the design workshops (herein “workshop participants”, and shall occur no later than six (6) months after the first workshop. Other consulting parties not specified above are welcome to participate in the design workshops.

FHWA and the County, in consultation with consulting parties participating in the design workshops (herein “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. 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. FHWA and the County shall amend and submit revised design plans within thirty (30) days after the end of a comment period. Plan review and submittal deadlines may be changed with the agreement of all workshop participants. If the relevant issues cannot be resolved after two design workshops have been conducted, FHWA will schedule additional workshops.

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

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- 305 1. The shared-use driveway providing access to the Trust, Woodlawn Baptist
306 Church, and Woodlawn Quaker meeting house, including ownership and
307 maintenance issues.
- 308 2. A signalized intersection, which will be constructed to provide safe access to
309 Woodlawn Baptist Church, Woodlawn Quaker Meetinghouse, and the Trust
310 properties within the District.
- 311 3. Landscaping needed to maintain viewsheds for all Woodlawn Historic District
312 properties, including plantings within and outside [This may require additional
313 signatories] of the Rt. 1 Right-of-Way. Any landscaping proposed within the
314 Rt. 1 Right-of-Way would be subject to VDOT regulations and approval.
- 315 4. Circulation patterns within the District, including vehicular, pedestrian and
316 equestrian access, including portions of the PHNST, W3R, and the abandoned
317 section of Rt. 1.
- 318 5. Interpretive signage; to include number, text, and location
- 319 6. Reducing the footprint and determining future usage of the section of the
320 existing Route 1 corridor that will be abandoned.
- 321 7. Re-establishment of fencing on Trust property.

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

324
325
326 B. WOODLAWN BAPTIST CHURCH AND CEMETERY

- 327
328 1. Within six (6) months of execution of this Agreement FHWA shall facilitate
329 discussions related to the granting of an easement from the Army to the
330 church allowing limited usage of the land on Fort Belvoir located adjacent to
331 the Woodlawn Baptist Church property and bounded by the realigned Route 1
332 and new access road. The limited usage would allow the area to be used by
333 the Baptists for recreation, occasional parking, and other temporary, low
334 impact activities. Granting of the easement and related conditions is subject
335 to Department of the Army (DA) approval.
- 336 2. FHWA shall include in its design and implement the removal of pavement
337 from the church's existing driveway in order to restore historic character.
- 338 3. FHWA shall include in its design and implement landscaping that will replace
339 vegetation removed due to the Undertaking. Any landscaping proposed within
340 the Rt. 1 Right-of-Way would be subject to VDOT regulations and approval.
- 341 4. Within X months of execution of this Agreement FHWA shall contract the
342 services of archaeologists with specialized mortuary experience to document
343 the cemetery, including a grave location survey and the cataloging of
344 gravestone data. The survey will use minimally invasive techniques, such as
345 Ground Penetrating Radar, to determine the locations of graves. The survey
346 will include areas within the known boundaries of the cemetery, and extend
347 beyond the known boundaries to areas that may contain associated graves. A
348 searchable database of gravestone information will include inscriptions,
349 descriptions of the stones, photographs, and other data. Upon completion,
350 FHWA shall provide final copies of all materials resulting from Stipulation

351 I.b) iv. to the Woodlawn Baptist Church, the SHPO, Historical Society of
352 Fairfax County, Fairfax County Historical Commission, and the SHPO in a
353 form that is acceptable to each party.

354 4. **What happened to the noise abatement and church sign relocation provisions**
355 **that were included in the first draft of the PA?**

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357
358 C. OTIS TUFTON MASON HOUSE

359
360 FHWA will shall relocate the Otis Tufton Mason House according to the
361 following procedures:

- 362
- 363 1. FHWA shall relocate the structure building to a permanent site selected by
364 the Trust, nearby and on Trust property, as a means of recreating the historic
365 setting, association, and general feel of the Otis Tufton Mason House.
 - 366 2. FHWA will shall contract a professional building mover to undertake the
367 relocation of the Otis Tufton Mason House. FHWA will shall provide the
368 SHPO and the Trust with the name of the mover. The SHPO and the Trust
369 will review and approve the experience and professional qualifications of the
370 mover prior to FHWA entering into a contract.
 - 371 3. FHWA shall develop a stabilization and moving plan for the Otis Tufton
372 Mason House, in conformance with *Moving Historic Buildings* (Curtis, 1979),
373 before relocation of the house or any part thereof. Said plan shall be
374 developed in consultation with and shall receive the concurrence of the Trust
375 and the SHPO. At a minimum, the plan will consist of the following elements:
376
 - 377 a. recordation of significant architectural features of the Otis Tufton Mason
378 House;
 - 379 b. documentation of the history of the building (through research in local
380 archival depositories);
 - 381 c. documentation of missing architectural features of the Otis Tufton Mason
382 House;
 - 383 d. identification of features that require stabilization prior to relocation;
 - 384 e. the method of moving the building;
 - 385 f. the route which the building will take from its existing site to its new site;
386 and
 - 387 g. the method of securing and stabilizing the Otis Tufton Mason House after
388 relocation.
 - 389 3.4.FHWA will shall ensure that the Otis Tufton Mason House, once relocated on
390 its new site, is in a livable condition. This involves hooking up to existing
391 utilities so as to provide the property with electrical, water, and plumbing in a
392 manner and form consistent with existing conditions.
 - 393 4.5. Within one hundred and eighty (180) days of the move, FHWA will shall
394 demonstrate to the satisfaction of the Trust and the SHPO that the relocation
395 occurred according to the previously approved stabilization and moving plan.
396

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- 397 5.6.FHWA will shall be responsible for the following costs as may be necessary
398 to satisfy the terms of this PA: architectural and engineering services, legal
399 fees, stabilization of the Otis Tufton Mason House prior to relocation, moving
400 the Otis Tufton Mason House, the construction of a new foundation that
401 replicates the existing in material and appearance, securing the building on the
402 new site, installation of utilities (consistent with Stipulation I.c)iv, above) and
403 maintenance of the building on the new site, including protection of the Otis
404 Tufton Mason House from vandalism and the elements. These measures shall
405 remain in effect for the period of the PA this Agreement.
- 406 6.7.FHWA shall ensure that prior to the construction of the new foundation the
407 proposed relocation site is adequately surveyed for archaeological deposits
408 according to the processes outlined in Stipulations V – VII. prior to the
409 foundation construction.
- 410 7.8.FHWA shall ensure that archaeological monitors are present when the existing
411 foundation and/or associated builder’s trench are disturbed and that an
412 archaeological monitoring report is prepared and submitted to the SHPO and
413 other consultation parties, in accordance with Stipulation X.

414
415 D. FHWA will shall prepare a draft NR nomination for the Woodlawn Historic
416 District. The nomination will be developed in consultation with the SHPO and
417 other consulting parties. Development of the supporting documentation will
418 commence after the completion of Stipulation I.A(a) and Stipulation V.

419
420 E. Within six (6) months of execution of this Agreement, FHWA shall begin
421 Historic American Building Survey (HABS) survey of all NR eligible structures
422 within the District.—This level of documentation appears excessive, especially
423 for those properties that are only eligible as contributing to the District.
424 Woodlawn Plantation, I’m sure, has already undergone HABS documentation.
425 The Friends Meetinghouse was recently listed to the NR so I doubt if further
426 documentation will add to our knowledge of the property. I suggest here that
427 FHWA commit to completing SHPO Intensive Level Survey forms for all
428 properties contributing to the District that have not already had one done and
429 update those that have. The forms must also be entered electronically into DSS.

430
431 **II. Treatment for Woodlawn National Historic Landmark**

432
433 A. FHWA shall oversee a monetary fund in the amount of \$500,000 intended to
434 mitigate for impacts to the NHL. The following is a prioritized list of mitigation
435 measures that will be funded, in prioritized order, until the fund is exhausted.

- 436
437 1. Water service sufficient to serve the Woodlawn property for regular
438 operations and safety
439 2. Sewer service sufficient to serve the Woodlawn property for regular
440 operations
441 3. Improvements to internal access within the property
442 4. Landscape buffers to reduce visual impacts

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- 443 5. Creation and installation of interpretive and wayfinding signage
444 6. Installation of three-phase electrical service
445 7. Installation of natural gas service
446
447 B. FHWA shall ensure that the areas for proposed location of water and sewer lines,
448 landscaping and other ground disturbing activity resulting from these mitigation
449 measures are adequately surveyed for archaeological deposits according to the
450 processes outlined in Stipulations V – VII.
451
452 C. FHWA shall develop and submit design plans for review and comment by the
453 Trust and the SHPO. The Trust and the SHPO shall provide comments on
454 preliminary design plans within thirty (30) calendar days of receipt. If no
455 comments are received from the Trust or the SHPO, FHWA may assume that the
456 Trust non-responding party has no comments. FHWA shall amend and submit
457 revised design plans within thirty (30) days after the end of a comment period.
458 Plan review and submittal deadlines may be changed with the agreement of both
459 all parties.
460

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461 **III. Documentation and Treatment for Fort Belvoir Military Railroad Bed and**
462 **Bridge**

- 463
464 A. Prior to its removal FHWA shall conduct Historic American Engineering Record
465 (HAER) Level I documentation of the Bridge and portions of the Railroad Bed
466 within the APE. The documentation will include large-format photography, a
467 narrative history of the structures, and measured drawings. Upon completion of
468 the HAER documentation, FHWA shall provide final copies to the
469 Army, the SHPO, Historical Society of Fairfax County, Fairfax County Historical
470 Commission, and the SHPO in a form that is acceptable to each party.
471 B. ~~FHWA shall offer as an incentive to ownership a one-time monetary payment up~~
472 ~~to an amount not to exceed the cost of demolition (approximately \$50,000, as~~
473 ~~estimated and approved for reimbursement by the FHWA) to be used by a new~~
474 ~~owner for implementing a plan, approved by the Army, the SHPO and FHWA, for~~
475 ~~the relocation and preservation of the Railroad Bridge Facility No. 1433. FHWA~~
476 ~~shall provide this payment only on a reimbursement basis for funds already~~
477 ~~expended by the new owner on the relocation and preservation plan.~~
478
479 C.B. In consultation with the Army and the SHPO, FHWA shall develop within six
480 (6) months of execution of this Agreement a marketing plan for determining if
481 there is a capable party willing to relocate and assume ownership of Railroad
482 Bridge Facility No. 1433. The marketing plan shall identify parties to whom
483 FHWA shall send direct solicitations for expressions of interest as well as the
484 media outlets through which the availability of the bridge will be advertised to the
485 general public. FHWA shall provide the marketing plan to the Army and the
486 SHPO for review and approval.
487

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

491
492 1. FHWA shall implement the marketing plan developed pursuant to Stipulation
493 III.BV.c). Interested parties shall have until 5:00 pm on the thirtieth (30th)
494 calendar day following receipt of a direct solicitation from FHWA or
495 following initial publication notice of the bridge's availability to submit to
496 FHWA a detailed proposal for the relocation and preservation of the bridge.

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497
498 2. Proposals must describe in detail:

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- 499
500 a) the individual, organization, or government agency that will assume
501 ownership;
502 b) the prospective use of the bridge and a plan for implementing that use;
503 c) a plan and schedule for moving the bridge in accordance with a
504 construction schedule specified by FHWA;
505 d) the financial and technical capabilities of the recipient to move and
506 maintain the bridge; and
507 e) the ability of the recipient to indemnify the Army from all future liability
508 and claims.

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509
510 3. Proposals must include a map showing the location of the proposed new site
511 for the existing structure, maps or drawings depicting any areas of the new site
512 where the ground surface will be disturbed by the reconstruction activities,
513 and a plan to identify any archaeological sites that might be present at the new
514 site and for avoiding harm to any archaeological sites eligible for the NR.

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515
516 4. Proposals must certify that the recipient will:

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- 517
518 a) assume responsibility for conducting all work associated with the bridge
519 relocation, including complying with all applicable environmental
520 regulations and laws, obtaining all appropriate environmental clearances
521 and permits, conducting any necessary archaeological studies, and
522 moving, dismantling, and reconstructing the bridge according to *The*
523 *Secretary of the Interior's Standards for the Treatment of Historic*
524 *Properties* (36 CFR 68);
525 b) assume all liability associate with the bridge and will indemnify the Army
526 from any further responsibility; and
527 c) consent to offer the donation of a preservation easement on the bridge to
528 the Board of Historic Resources, to be administered by the Virginia
529 Department of Historic Resources (*Code of Virginia* 10.1-2204), or to
530 another party selected in consultation with the SHPO and other consulting
531 parties. The Board of Historic Resources or another selected party is not
532 obligated to accept a preservation easement offered pursuant to this
533 Agreement. If no entity is found that will accept an easement on the

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534 bridge, the parties to this Agreement shall consult in order to decide upon
535 a mutually acceptable alternative.

536
537 5. FHWA shall consider only those proposals submitted in accordance with the
538 established schedule. If FHWA receives no expressions of interest in
539 acquiring the bridge by the close of the thirty-five (35)-calendar day period
540 following receipt of a direction solicitation from FHWA or following initial
541 publication of any notice of the bridge's availability, FHWA shall so notify
542 the Army and the SHPO. After fulfilling the additional requirements of
543 Stipulation III.g) of this Agreement, FHWA may proceed to demolish the
544 bridge.

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545
546 6. In consultation with the Army and the SHPO, FHWA shall review any
547 proposal received in accordance with the established schedule for submission,
548 but FHWA reserves the exclusive right to accept or reject any or all proposals.

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549
550 7. FHWA shall reject any proposal that fails:

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- 551 a) to include the information or certifications requested;
- 552 b) to preserve the historic significance of Railroad Bridge Facility No. 1433
- 553 by using the entire bridge at another location within either the District or a
- 554 location nearby;
- 555 c) to demonstrate that the prospective recipient has the financial and
- 556 technical capabilities to move and maintain the bridge;
- 557 d) to ensure that the bridge will be moved in accordance with FHWA's
- 558 specified construction schedule; or
- 559 e) to include appropriate and adequate measures for avoiding harm to
- 560 archaeological sites eligible for the NR that may be present at the new site
- 561 for the bridge.
- 562

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563
564 8. In reviewing the proposals FHWA shall also consider:

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- 565 a) the degree to which each proposal conforms to the *Secretary of the*
- 566 *Interior's Standards for the Treatment of Historic Properties* (36 CFR 68);
- 567 and
- 568 b) any comments received from the Army or the SHPO within thirty (30)
- 569 calendar days of receipt of the proposals from FHWA.
- 570

571
572 E.D. FHWA shall inform the Army and the SHPO of its final decision to accept or
573 reject any proposals received for relocating and assuming ownership and
574 responsibility for maintenance and preservation of Railroad Bridge Facility No.
575 1433. If an acceptable proposal is identified and the bridge is subsequently
576 relocated, FHWA shall submit to the Army and the SHPO both black and white
577 and color 35 mm photographs of the bridge at its new location within thirty (30)
578 calendar days of completion of the relocation and installation.

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580 E. After fulfilling the requirements of both Stipulation III.a) - III.e) and Stipulation
581 III.g) of this Agreement, FHWA may demolish Railroad Bridge Facility No. 1433
582 if (a) FHWA identifies no willing party or acceptable proposal for moving and
583 assuming ownership and responsibility for maintenance and preservation of the
584 bridge, or (b) FHWA accepts such a proposal from a willing party but the selected
585 party fails to execute an agreement with FHWA for ownership, removal, and
586 maintenance and preservation of the bridge within forty-five (45) calendar days of
587 acceptance of its proposal or fails to remove the bridge in accordance with the
588 construction schedule specified by FHWA.

590 F. FHWA shall offer as an incentive to ownership a one-time monetary payment up
591 to an amount not to exceed the cost of demolition (approximately \$50,000, as
592 estimated and approved for reimbursement by the FHWA) to be used by a new
593 owner for implementing a plan, approved by the Army, the SHPO and FHWA, for
594 the relocation and preservation of the Railroad Bridge Facility No. 1433. FHWA
595 shall provide this payment only on a reimbursement basis for funds already
596 expended by the new owner on the relocation and preservation plan.

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597 G.
598 H. Prior to demolishing the existing bridge, FHWA shall prepare black and white 35
599 mm photographic documentation of the bridge consistent with the guidance found
600 in "Photographic Documentation for National Park Service (NPS) Register
601 Nominations and Virginia Department of Historic Resources (DHR) Basic
602 Survey" (updated June 10, 2009) and complete a SHPO Intensive Level Survey
603 Form for the structures in the SHPO's Data Sharing System (DSS). FHWA shall
604 submit the bridge documentation to the Army and the SHPO for review and
605 approval.

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607 IV. Protective Measures for Pohick Episcopal Church

609 A. VIBRATION MONITORING [DHR WILL PROVIDE LANGUAGE THAT WE HAVE USED IN 610 OTHER AGREEMENTS FOR THIS SECTION.]

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612 Prior to construction, FHWA shall assess existing levels of ambient vibration at
613 the church, the rate of attenuation of near surface ground vibration waves, and the
614 sensitivity of the structure. This will serve as a basis for evaluating the potential
615 for vibration-induced damage and recommending avoidance actions as necessary.
616 This will also serve as baseline data so that monitors can be installed in and
617 around the church building to determine whether there are increases in vibration
618 resulting from construction activity related to this Undertaking.

620 B. TELEGRAPH ROAD INTERSECTION DESIGN WORKSHOPS

621 FHWA shall facilitate a minimum of two (2) design workshops among VDOT,
622 the County, the SHPO, Pohick Episcopal Church and representatives of the Inlet
623 Cove Board of Directors or Home Owners Association to evaluate alternative
624 designs for proposed mitigation of adverse effects to their properties at the
625

626 intersection of Telegraph Road and Route 1. The first design workshop shall take
627 place within six (6) months of execution of this Agreement. The date and location
628 of the second workshop shall occur at a mutually agreeable time and place among
629 the consulting parties participating in the design workshops (herein “workshop
630 participants”, and shall occur no later than six (6) months after the first workshop.
631 Other consulting parties may participate in the design workshops.
632

633 FHWA and the County, in consultation with consulting parties participating in the
634 design workshops (herein “the workshop participants”) shall develop and submit
635 design plans for review and comment by workshop participants. Designs may be
636 distributed to workshop participants electronically, by mail, or at workshop
637 meetings, as determined appropriate by workshop participants. Workshop
638 participants shall provide comments on preliminary design plans within thirty (30)
639 calendar days of receipt. If no comments are received from the workshop
640 participants, FHWA may assume that the non-responding party has no comments.
641 FHWA and the County shall amend and submit revised design plans within thirty
642 (30) days after the end of a comment period. Plan review and submittal deadlines
643 may be changed with the agreement of all workshop participants. If the relevant
644 issues cannot be resolved after two design workshops have been conducted,
645 FHWA **will may** schedule additional workshops.
646

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647 If conflicts arise that cannot be resolved to the satisfaction of all parties, they will
648 be addressed through the dispute resolution process outlined in Stipulation XII.
649

650 V. Additional Testing of Archaeological Properties

- 651
- 652 A. FHWA acknowledges that identification survey has not been conducted in all
653 portions of the APE, specifically in the vicinity of Accotink Village and near
654 Telegraph Road. All areas within the archaeological APE shall be surveyed prior
655 to construction in accordance with the stipulations of this agreement.
656
- 657 B. An archaeological survey of the entire Trust property was conducted by the
658 Chicora Foundation in 1999; however the survey recommendations and results
659 did not receive SHPO concurrence. Within six (6) months of the execution of this
660 agreement, FHWA shall review and update the Chicora survey, as necessary, to
661 identify and evaluate archaeological sites throughout the entire Trust property.
662 This will help guide the design of mitigation measures so that impacts to any
663 significant deposits can be avoided or minimized, including the archaeological
664 deposits associated with the NHL (44FX1146).
665
- 666 C. FHWA shall evaluate sites 44FX1810 and 44FX1936 for NR eligibility. FHWA
667 shall consult with the Signatories, and other consulting parties, regarding the NR
668 eligibility of the sites, and seek concurrence and development of avoidance,
669 minimization, or mitigation measures.
670

- 671 D. FHWA shall ensure that archaeological properties occurring within the APE that
672 are to be impacted by activities related to the implementation of the Undertaking
673 (including, but not limited to, construction of stormwater management measures,
674 borrow and staging areas, or tree removal and revegetation) are evaluated for NR
675 eligibility by FHWA in consultation with SHPO. Evaluation shall be
676 accomplished prior to initiation of land disturbing activities. FHWA shall consult
677 with the Signatories, and other consulting parties, regarding the NR eligibility of
678 archaeological properties evaluated, and seek concurrence and development of
679 avoidance, minimization, or mitigation measures.
680
- 681 E. If activities related to the implementation of the Undertaking, and having the
682 potential to impact archaeological resources, are to occur outside the previously
683 identified APE, FHWA shall identify and evaluate archaeological properties prior
684 to initiation of any land disturbing construction activities. If, as a result of testing,
685 archaeological sites are identified that are eligible for listing in the NR, a plan for
686 their treatment will be developed as described under Stipulation VII.
687

688 **VI. Eligibility Determination and Determinations of Effect for Archaeological**
689 **Properties**
690

- 691 A. FHWA shall submit its findings regarding archaeological Phase I and II testing in
692 a report to the SHPO with a formal request for concurrence. FHWA shall apply
693 the NR criteria for eligibility to surveyed archeological sites in consultation with
694 the SHPO, CIN-THPO, Signatories, and other consulting parties, to reach one of
695 the following conclusions:
696
- 697 1. If the NR criteria are not met, the site shall be considered not eligible for
698 listing on the NR. Such sites shall typically require no further review or
699 consideration under this Agreement.
700
 - 701 2. If one or more of the sites meets NR significance criteria, the site shall be
702 considered eligible for listing in the NR for purposes of this Agreement, and
703 shall be included in the Archeological Property Treatment Plan (herein
704 "Treatment Plan") described in Stipulation VII if such property would be
705 adversely affected by the Project
706
 - 707 3. If FHWA determines any of the NR criteria are met and the SHPO or CIN-
708 THPO agree, the property shall be considered eligible for the NR for Section
709 106 purposes. If FHWA determines the criteria are not met, and the SHPO
710 and CIN-THPO agrees, the property shall be considered not eligible. If
711 FHWA and the SHPO or CIN-THPO do not agree, or if ACHP or the
712 Secretary so request, FHWA shall obtain a determination of eligibility from
713 the Secretary pursuant to 36 CFR § 63.
714
 - 715 4. If a Federally-recognized Indian tribe or Indian organization that attaches
716 religious and cultural significance to a property off tribal lands does not agree

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717 with an FHWA determination regarding eligibility, it may ask the ACHP to
718 request FHWA to obtain a determination of eligibility.
719

- 720 B. For those archaeological properties identified subsequent to the signing of this
721 Agreement, FHWA shall oversee the Determination of Effects, which shall be
722 based on the APEs for the Project (see Attachment C), preliminary engineering
723 data, the Determinations of Eligibility (Stipulation VI.A.), and consultation with
724 the Signatories, and consulting parties. This determination shall be in accordance
725 with procedures outlined in 36 CFR § 800.5.
726

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727 **VII. Archaeological Property Treatment Plan**
728

- 729 A. If, as a result of the testing program, archaeological sites are identified that are
730 eligible for listing in the NR, a plan to avoid, minimize, or mitigate adverse
731 effects shall be developed by FHWA in consultation with the Signatories, and
732 other consulting parties; and approved by the SHPO prior to implementation.
733
- 734 B. When adverse effects to archaeological properties cannot be avoided, a Treatment
735 Plan shall provide specific treatment measures that could include, but shall not
736 necessarily be limited to, data recovery or other documentation.
737
- 738 C. Wherever feasible, the Treatment Plan shall provide for the preservation of
739 archaeological sites in place, with as little change as possible, and include
740 provisions for long term management. Where necessary to preserve such sites,
741 the plan shall provide for such management actions as physical stabilization,
742 planting, and fencing where applicable and appropriate.
743
- 744 D. With respect to archaeological sites associated with Native American occupation
745 and use of the area, regardless of age, the Treatment Plan shall be developed in
746 full consultation with the CIN THPO and the VCI appropriate state recognized
747 tribe(s) to the extent the CIN THPO and appropriate state recognized tribe(s) VCI
748 are willing to participate. To the maximum extent prudent and feasible, the plan
749 shall give deference to their wishes for treatment of archaeological sites and/or
750 objects of cultural significance.
751
- 752 E. Where physical disturbance is unavoidable, and data recovery is agreed to be the
753 appropriate option, all data recovery plans prepared under the terms of this
754 Agreement shall include the following elements:
755
- 756 1. Information on the archeological property or properties where data recovery is
757 to be carried out and the context in which such properties are eligible for the
758 NR;
 - 759 2. Information on any properties, or portions of properties that will be destroyed
760 without data recovery;
761
762

- 763 3. Discussion of the research questions to be addressed through the data recovery
764 with an explanation/ justification of their relevance and importance;
765
766 4. Description of the recovery methods to be used, with an explanation of
767 techniques of analysis, data management and dissemination of data;
768
769 5. Information on arrangements for any regular progress reports or meetings to
770 keep the signatory and consulting parties up to date on the course of the work.
771 The plan shall contain the expected timetable for excavation, analysis and
772 preparation of the final report.
773
774 6. Proposed methods for disseminating results for the work to the interested
775 public; and
776
777 7. If Native American human remains or associated funerary objects are
778 expected to be encountered, information on consultation with the CIN THPO,
779 and/or appropriate state recognized tribe(s) VCI regarding final treatment and
780 disposition of the materials, including a Plan of Action pursuant to NAGPRA ,
781 if appropriate.
782
783 8. The disposition of recovered materials and records shall be in accordance with
784 Stipulation X.C of this Agreement regarding curation, dependent upon
785 whether material/and or records are found on Federal, Commonwealth or
786 private lands.
787
788

789 **VIII. Late Discoveries of Archaeological Properties**

790 FHWA shall ensure that all contract documents contain the following provisions:

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792
793 A. In the event that previously unidentified archaeological properties are discovered
794 during ground disturbing activities, the contractor shall immediately halt all
795 construction work involving subsurface disturbance in the area of the property
796 and in the surrounding area, and immediately notify FHWA. FHWA shall notify
797 the SHPO, Signatories, and other consulting parties of the discovery within two
798 (2) business days.
799
800 B. Using a qualified archaeologist meeting the Secretary's *Professional*
801 *Qualifications Standards for Archaeology*, FHWA and Signatories shall
802 immediately inspect the work site and determine the area and nature of the
803 affected archaeological property. Construction work may then continue in the area
804 outside the archaeological property as defined by FHWA and the SHPO, or their
805 designated representative.
806
807 C. Within five (5) business days of the original notification of discovery, FHWA, in
808 consultation with the Signatories and other consulting parties, shall determine the

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- 809 NR eligibility of the property and provide the eligibility determination to SHPO
810 for concurrence.
811
- 812 D. If the property is determined eligible for the NR, or contains human burials,
813 FHWA shall prepare a plan for its avoidance, protection, or recovery of
814 information. The plan shall be submitted to the Signatories and other consulting
815 parties for review and approval prior to its implementation. If comments are not
816 received within five (5) business days following receipt, it shall be presumed that
817 the party has no objection and the plan may be implemented.
818
- 819 E. Work in the affected area shall not proceed until either:
820
- 821 1. The development and implementation of appropriate data recovery or other
822 recommended mitigation procedures is completed, or
 - 823 2. The determination is made that the located properties are not eligible for
824 inclusion on the NR.
825
- 826 F. Any disputes over the evaluation or treatment of previously unidentified
827 properties shall be resolved as provided in the section of this Agreement entitled
828 Dispute Resolution (Stipulation XII).
829

830 **IX. Discovery of Human Remains or Funerary Objects**

831 If human remains are identified during construction, FHWA shall require that
832 construction be halted immediately at the location of the remains. The County Police
833 Department or Army Military Police, as appropriate, shall be immediately contacted
834 by the on-site FHWA engineer to determine if the discovery is a crime scene. FHWA
835 shall ensure that further construction does not occur within 200 feet in any direction
836 of the discovery until a qualified archeologist arrives to assess the discovery. FHWA
837 shall secure the area of the apparent human remains to ensure no further disturbance
838 or removal of those remains and associated material occurs. FHWA shall also ensure
839 that vehicular traffic across the area is restricted to a location removed from the
840 discovery. After arrival at the site, FHWA shall ensure that a qualified cultural
841 resource specialist shall evaluate the discovery. If it does consist of human remains,
842 the cultural resource specialist shall follow the procedures as follows:
843

844

845 **A. HUMAN REMAINS ON FEDERAL LANDS**

846 If Native American human remains and cultural items, as defined by NAGPRA,
847 are encountered on Federal lands during inventory, testing, data recovery or any
848 construction-related activities, work within 200 feet of the discovery shall cease.
849 FHWA shall immediately notify the SHPO, CIN-THPO and all other Signatories
850 and consulting parties, of the discovery. The Army, as the Federal land-
851 management agency, shall comply with the requirements of NAGPRA (43 CFR §
852 10) shall take into account and if applicable, the *Catawba Indian Nation THPO*
853 *Burial Policy* and Procedures, provided as Attachment F.
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B. HUMAN REMAINS ON COMMONWEALTH OR PRIVATE LANDS

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

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C. PERMITS

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

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1. FHWA shall ensure that human skeletal remains and associated funerary objects encountered during the course of actions taken as a result of this agreement shall be treated in accordance with the Regulations Governing Permits for the Archaeological Removal of Human Remains (Virginia Register 390-01-02) found in the Code of Virginia (10.1-2305, et seq., Virginia Antiquities Act) and the *Catawba Indian Nation THPO Burial Policy and Procedures*, as applicable, provided as Attachment F. FHWA shall obtain a permit from the SHPO for the removal of human remains in accordance with the regulations stated above.
2. FHWA shall notify the appropriate state recognized tribe(s) Virginia Council on Indians (VCI) and CIN-THPO when burials, human skeletal remains, or funerary objects are encountered on the Project, prior to any analysis or recovery.
3. FHWA shall ensure that the general public is excluded from viewing any Native American burial sites, human remains, or associated funerary objects. The Signatories, and the consulting parties to this Agreement, shall not release any photographs of any American Indian burial site or associated funerary objects to the press or the general public.
4. Any Native American human remains and associated funerary objects recovered pursuant to this agreement shall be re-interred in consultation with the CIN THPO and appropriate state recognized tribe(s)VCI. The appropriate state recognized tribe(s) VCI or CIN THPO shall consult with the SHPO to determine the party or parties that shall assume responsibility for planning and executing the re-interment. FHWA shall deliver these remains and objects to the party or parties designated by the CIN THPO and VCI and shall be responsible for the costs of re-interment. The disposition of any other human skeletal remains and associated funerary objects shall be governed as specified

901 in any permit issued by the SHPO or any order of the local court authorizing
902 their removal.

903
904
905 **X. Standards**

906
907 **A. PRESERVATION STANDARDS AND PROFESSIONAL QUALIFICATIONS**

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- 908
909 1. All work carried out pursuant to this agreement shall be conducted by or
910 under the direct supervision of an individual or individuals who meet, at a
911 minimum, the proposed revisions to the *Secretary's Professional*
912 *Qualifications Standards for Historic Landscape Architecture or Archeology*
913 as appropriate to the specific property (48 FR 44738-9, September 29, 1983)
914 or 62 Fed. Reg. 33707 (1997).
915
916 2. All archaeological investigations on Federal land shall be performed under an
917 appropriate ARPA Cultural Resource Use Permit issued by the Army. FHWA
918 shall ensure that all contract documents contain procedures for obtaining the
919 permit.
920
921 3. A Department of Historic Resources permit (under Code of Virginia § 10.1-
922 2302) and a VDOT Land Use Permit (under 24VAC30-150-20) are required
923 for archaeological investigation on Commonwealth highway right of way.
924

925 **B. DOCUMENTATION STANDARDS**

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- 926
927 1. All archaeological reports, including data recovery plans included in
928 Treatment Plans, shall be consistent with the Secretary's *Standards for*
929 *Archaeological Documentation* (48 FR 44734-37, September 29, 1983) and
930 the professional standards set forth in SHPO's *Guidelines for Conducting*
931 *Cultural Historic Resources Survey in Virginia* (October 2011), and shall take
932 into account the ACHP's publications, *Recommended Approach for*
933 *Consultation on Recovery of Significant Information from Archeological Sites*
934 (1999) and *Section 106 Archaeology Guidance* (June 2007).
935
936 2. All historical and architectural reports and survey documentation shall be
937 consistent with pertinent standards and guidelines of the Secretary, including
938 as applicable the *Standards for Historical Documentation* (48 FR 44728-30),
939 the Secretary of the Interior's *Standards for Architectural and Engineering*
940 *Documentation* (48 FR 44730-34, September 29, 1983), and the SHPO's
941 *Guidelines for Conducting Historic Resources Survey in Virginia* (October
942 2011).
943

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944 **C. CURATION AND CURATION STANDARDS**

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- 946 1. The material remains and associated records resulting from the actions within
947 the APE shall be curated in accordance with 36 CFR § 79, with the exception
948 of human skeletal remains and associated funerary objects.
949
- 950 2. The curator of artifacts potentially discovered as a result of the Undertaking
951 shall be dependent upon the owner of the lands where the artifacts are found.
952
- 953 3. On Federal lands, material and records obtained from the Army shall be
954 curated at a curation center or another depository as specified in the Cultural
955 Resource Use Permit issued by the Army. Currently, an agreement is in place
956 with the County to curate artifacts at the Cultural Resource curation facility at
957 the James Lee Center in Falls Church, VA.
958
- 959 4. Pursuant to the Code of Virginia §10.1-2302 all material remains (with the
960 exception of materials found on Army property, human skeletal remains and
961 associated funerary artifacts) resulting from the actions cited in this
962 Agreement, and recovered from lands controlled by the Commonwealth,
963 including highway right of way, are the property of the Commonwealth.
964 Artifacts found on Commonwealth land or within Commonwealth
965 owned/maintained right of way shall also be curated by the County, pursuant
966 to Federal regulation at 36 CFR § 79. If the County should ever close the
967 curatorial facility, or terminate the agreement, the County shall notify the
968 SHPO and arrange for the transfer of any curated materials.
969
- 970 5. Any private landowner shall have claim to artifacts found on its land as a
971 result of this undertaking, as prescribed by the laws of the Commonwealth.
972

973 XI. Continuing Review Process

- 974
- 975 A. The SHPO and the concurring parties to this Agreement agree to provide
976 comments to FHWA on all plans, technical materials, findings and other
977 documentation arising from this Agreement within thirty (30) calendar days of
978 their receipt. If no comments are received from the SHPO or the concurring
979 parties to this Agreement, FHWA may assume that the non-responding party has
980 no comment. FHWA shall take into consideration all comments received in
981 writing from the SHPO and the concurring parties to this Agreement within the
982 thirty (30) calendar day review period.
983
- 984 B. All roadway design, signage, landscaping, and other mitigation measures
985 proposed as part of this agreement that will be accepted into the state highway
986 system must meet VDOT standards and requirements, and are subject to VDOT
987 approval.
988

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XII. Dispute Resolution [DHR prefers the language for this section that we supplied to you rather than what is here now. Please use the language you provided in our review of the first draft.]

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A. OBJECTIONS BY SIGNATORY PARTIES

Should any signatory to this agreement object in writing to FHWA regarding any action carried out or proposed with respect to the undertaking or implementation of this agreement, FHWA shall consult with the Signatories to resolve the objection.

If after initiating such consultation FHWA determines that the objection cannot be resolved through consultation, the agency shall forward all documentation relevant to the objection to the ACHP, including the agency's proposed response to the objection. FHWA shall take any comments from the ACHP into account in reaching a final decision regarding FHWA's response to the objection.

B. CONSULTING PARTY COMMENTS AND DISPUTE RESOLUTION

A Consulting Party may object in writing to FHWA, with copies to the other Signatories and Consulting Parties, regarding any action proposed to be carried out with respect to the Undertaking or implementation of this PA. FHWA shall take such an objection into account and may consult about it with the objecting party, other Consulting Parties and Signatories as it deems appropriate. FHWA shall then respond to the objecting party in writing, with copies to the Signatories. If FHWA subsequently determines that the objection cannot be resolved through consultation, FHWA shall notify the objecting party and the SHPO which of the following options it shall exercise:

1. Seek the assistance of the ACHP in resolving the objection, pursuant to Stipulation XII.A. above; or
2. Provide a formal written response to the objection within thirty (30) days of notice to the objecting party, with copies to the Signatories and Consulting Parties.

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).

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B. If FHWA and VDOT decide 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.

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1035 C. In the event that this Agreement is terminated or rendered null and void, FHWA
1036 shall submit to the SHPO a technical report on the results of any archaeological
1037 investigations conducted prior to and including the date of termination, and shall
1038 ensure that any associated collections and records recovered are curated in
1039 accordance with Stipulation X.C. of this Agreement.

1041 D. In the event of termination, FHWA shall either execute a Section 106 agreement
1042 pursuant to 36 CFR § 800.6(c)(1) or request the comments of the ACHP under 36
1043 CFR § 800.7(a).

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1045 **XIV. Duration**

1046
1047 A. Unless this Agreement is terminated pursuant to Stipulation XIII or superseded by
1048 another Agreement executed for the Undertaking, or the Undertaking has been
1049 terminated, this Agreement shall remain in effect for a period of five (5) years
1050 from the date of signature.

1051
1052 B. Upon a determination by FHWA that construction of all aspects of the
1053 Undertaking have been completed and that all terms of this Agreement have been
1054 fulfilled in a satisfactory manner, FHWA shall notify the other Signatories and
1055 consulting parties of that determination in writing, whereupon this Agreement
1056 shall no longer have any effect.

1057
1058 C. At any time during the six (6)-month period prior to expiration of the Agreement,
1059 the Signatories may agree to extend this Agreement with or without amendments.
1060 If FHWA or VDOT decides it will not proceed with the Undertaking, it will so
1061 notify the Signatories and consulting parties and this agreement shall become null
1062 and void.

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EXECUTION

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Execution of this Agreement by the Signatories, and its submission to ACHP in accordance with 36 CFR § 800.6(b)(1)(iv), shall, pursuant to 36 CFR § 800.6(c), be considered to be an agreement with ACHP for the purposes of Section 110(1) of the NHPA. Execution and submission of this agreement, and implementation of its terms, evidence that FHWA has afforded ACHP an opportunity to comment on the proposed Undertaking and its effect on historic properties, and that FHWA has taken into account the effect of the Undertaking on historic properties in accordance with NHPA Section 106.

FEDERAL HIGHWAY ADMINISTRATION

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

VIRGINIA STATE HISTORIC PRESERVATION OFFICER

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

VIRGINIA DEPARTMENT OF TRANSPORTATION

By: _____ Date: _____
Earl T. Robb, Environmental Division Administrator

COUNTY OF FAIRFAX, VIRGINIA

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

U.S. ARMY GARRISON, FORT BELVOIR

By: _____ Date: _____
Colonel John J. Strycula, Garrison Commander

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CATAWBA INDIAN NATION

By: _____ Date: _____
Wenonah G. Haire, Tribal Historic Preservation Officer

CONCURRING PARTY

WOODLAWN BAPTIST CHURCH

By: _____ Date: _____

ALEXANDRIA MONTHLY MEETING OF THE RELIGIOUS SOCIETY OF FRIENDS

By: _____ Date: _____

POHICK EPISCOPAL CHURCH

By: _____ Date: _____

FAIRFAX COUNTY ARCHITECTURAL REVIEW BOARD

By: _____ Date: _____

HISTORICAL SOCIETY OF FAIRFAX COUNTY

By: _____ Date: _____

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FAIRFAX COUNTY HISTORY COMMISSION

By: _____ Date: _____

NATIONAL TRUST FOR HISTORIC PRESERVATION

By: _____ Date: _____

NATIONAL PARK SERVICE – POTOMAC HERITAGE NATIONAL SCENIC TRAIL

By: _____ Date: _____

NATIONAL PARK SERVICE – WASHINGTON-ROCHAMBEAU TRAIL

By: _____ Date: _____

FAIRFAX COUNTY DEPARTMENT OF PLANNING AND ZONING

By: _____ Date: _____

FAIRFAX COUNTY PARK AUTHORITY

By: _____ Date: _____

1202 **INLET COVE HOME OWNERS ASSOCIATION**

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1206 By: _____ Date: _____

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1210 **SAVE WOODLAWN STABLES**

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ATTACHMENTS

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Attachment A: Proposed New Alignment for Route 1

Attachment B: Draft Route 1 Improvements Project Memorandum of Agreement

Attachment C: Area of Potential Effect

Attachment D: Woodlawn Historic District Boundaries

Attachment E: Correspondence

Attachment F: Catawba Indian Nation THPO Burial Policy and Procedures

Attachment G: Eastern Band of Cherokee Indians Aboriginal Territory Map

REFERENCES CITED

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