

1 **NOTE: ITEMS HIGHLIGHTED IN GREEN HAVE BEEN MODIFIED**

2 **ITEMS HIGHLIGHTED IN YELLOW HAVE BEEN ADDED**

3 **ITEMS HIGHLIGHTED IN RED WILL BE DELETED**

4 DRAFT 7/30/2012

5 NATIONAL HISTORIC PRESERVATION ACT SECTION 106

6 PROGRAMMATIC AGREEMENT

7 AMONG THE

8 DEPARTMENT OF TRANSPORTATION
9 FEDERAL HIGHWAY ADMINISTRATION;

10 U.S. ARMY GARRISON, FORT BELVOIR;

11 COUNTY OF FAIRFAX, VA;

12 COMMONWEALTH OF VIRGINIA
13 VIRGINIA DEPARTMENT OF TRANSPORTATION;

14 CATAWBA INDIAN NATION;

15 **NATIONAL TRUST FOR HISTORIC PRESERVATION;**

16 **ADVISORY COUNCIL ON HISTORIC PRESERVATION;**

17 And

18 VIRGINIA STATE HISTORIC PRESERVATION OFFICER

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

22 DHR File No. 2001-0007

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RECITALS

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

- 7. **WHEREAS**, the proposed alternative minimizes public road right-of-way use of lands currently designated as a National Historic Landmark (herein “NHL”) and properties listed, or eligible for listing, on the National Register of Historic Places (herein “NR”) in accordance with Section 4(f) of the the U.S. Department of Transportation Act, and these minimization strategies include the relocation of Route 1 farther away from Woodlawn NHL, the Woodlawn Friends Meetinghouse and Cemetery, and the Woodlawn Baptist Church Cemetery ; and
- 8. **WHEREAS**, the *Fairfax County Transportation Plan (2011)*, and the *Final Environmental Impact Statement for Implementation of 2005 Base Realignment*

121 *and Closure (BRAC) Recommendations and Related Army Actions at Fort*
122 *Belvoir, Virginia (June, 2007) provide background information to this Agreement;*
123 *and*

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125 9. **WHEREAS**, the Area of Potential Effects (herein “APE”) has been established in
126 consultation with the SHPO and other Signatories and consulting parties for the
127 Undertaking; and separate APEs were established for archaeological and
128 architectural resources, and are defined in **Attachment C**; and

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130 10. **WHEREAS**, FHWA has compiled a listing of previously recorded historic
131 properties within the APE based on SHPO, County and Army records; and
132 FHWA has conducted additional archaeological and architectural survey
133 [*Archaeological Survey of Proposed Area of Potential Effects Route 1*
134 *Improvements at Fort Belvoir (Telegraph Road to Mount Vernon Memorial*
135 *Highway), Fairfax County, Virginia; Architectural Survey of Proposed Area of*
136 *Potential Effects Route 1 Improvements at Fort Belvoir (Telegraph Road to*
137 *Mount Vernon Memorial Highway), Fairfax County, Virginia)] within the APE to
138 supplement previous surveys and identify properties eligible, or potentially
139 eligible, for listing on the NR; and*

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141 11. **WHEREAS**, FHWA, in consultation with the SHPO and other consulting parties,
142 has determined, and the SHPO concurs, that the sites listed in Attachment H Part
143 A are architectural properties within the APE that are listed on the NR, and that
144 the sites listed in Attachment H Part B are architectural properties within the APE
145 eligible for listing on the NR; and

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147 12. **WHEREAS**, FHWA, in consultation with the SHPO and other consulting parties,
148 has determined, and the SHPO concurs, that the sites listed in Attachment I Part A
149 are archaeological sites within the APE that are listed on the NR, and that the sites
150 listed in Attachment I Part B are archaeological sites within the APE that are
151 potentially eligible for listing in the NR; and

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153 13. **WHEREAS**, FHWA, in consultation with the SHPO and other consulting parties,
154 has determined, and the SHPO concurs, that the Undertaking will have an
155 Adverse Effect under NHPA Section 106 on the following properties:

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157 a) Fort Belvoir Military Railroad bed (029-5648); the portion of the railroad bed
158 within the limits of construction will be physically altered and destroyed;

159 b) Facility No. 1433, Railroad bridge (029-5424); the bridge will be removed
160 from its current location, and may be permanently destroyed if a suitable
161 recipient cannot be identified;

162 c) Woodlawn **National Register Eligible** Historic District (029-5181); adverse
163 effects include: alteration of the viewshed; **visual and auditory impacts**;
164 changes in relationship among the contributing properties; **modification of the**
165 **historic landscape, including construction of a realigned roadway, and**
166 **relocation of the two non-historic Woodlawn Stables structures to another**

- 167 location within the Historic District; physical relocation of Otis T. Mason
168 House (029-5181-0006) and changes in land use and circulation patterns;
169 d) Sharpe Stable Complex (029-5181-005), including the individually NR
170 eligible Bank Barn; adverse effects include: changes in land use that will
171 impact the historic setting; and visual and auditory impacts; and
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174 **14. WHEREAS**, FHWA, in consultation with the SHPO and other consulting parties,
175 has determined, and the SHPO concurs, that the Undertaking will have an
176 Adverse Effect under NHPA Section 106 on Woodlawn Plantation (029-0056) a
177 NHL owned by the National Trust for Historic Preservation (herein “the Trust”);
178 and these adverse effects include: taking of Woodlawn Plantation property;
179 physical destruction of a portion of the historic landscape for a road and
180 stormwater management infrastructure; changes in land use and access between
181 different parts of the property; alteration of the viewshed; noise impacts; and
182 cumulative impacts from the combination of the proposed project and the
183 widening of Old Mill Road in connection with the Mulligan Road construction
184 project; and
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186 **15. WHEREAS**, FHWA, in accordance with 36 CFR § 800.10(a) and in consultation
187 with the parties to the Agreement, has ensured that, to the maximum extent
188 possible, planning and actions to minimize harm to Woodlawn Plantation have
189 taken place, including an analysis of alternatives considered to avoid, minimize,
190 and /or mitigate adverse effects to the NHL; and
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192 **16. WHEREAS**, FHWA, in consultation with the SHPO and other consulting parties,
193 has conditionally determined, and the SHPO concurs, that the undertaking will
194 have no adverse effect on King’s Highway/Old Colchester Road (029-0953) if the
195 final project plans maintain existing curb lines adjacent to Pohick Church and
196 minimize realignment of Route 1 south of the Inlet Cove community ; and
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198 **17. WHEREAS**, a determination of effect that the Undertaking will have on Pohick
199 Episcopal Church (029-0046) and the archaeological deposits associated with
200 Woodlawn Plantation (44FX1146) cannot be made at this time and will be
201 deferred until the processes stipulated in sections IV -VII of the Agreement
202 support such determinations; and
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204 **18. WHEREAS**, the following archaeological sites have been identified, but
205 additional survey will be required to evaluate their significance and potential
206 impacts resulting from the Undertaking:
207 a) 44FX1810
208 b) 44FX1936; and,
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210 **19. WHEREAS**, FHWA acknowledges that additional historic properties may be
211 adversely affected by the Undertaking once the final design is known and any

- 212 further identification and evaluation efforts are complete as stipulated in Sections
213 V and VII of the Agreement; and
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- 215 20. **WHEREAS**, FHWA has invited, in accordance with 36 CFR § 800.6(a)(1), the
216 Advisory Council on Historic Preservation (herein ACHP) to participate in
217 consultation and the ACHP has agreed to participate (letter dated June 18, 2012);
218 and
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- 220 21. **WHEREAS**, the Trust has requested to participate in consultation as a signatory
221 to the Agreement (letter dated June 8, 2012) and FHWA has agreed to the request
222 based on the significant level of involvement, oversight, and management that
223 will be required in order for the Trust to ensure fulfillment of mitigation
224 requirements stipulated through the execution of the Agreement; and
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- 226 22. **WHEREAS**, FHWA has invited, in accordance with 36 CFR § 800.10(c), the
227 Secretary of the Interior (herein “Secretary”) through the National Park Service
228 (herein “NPS”) to participate in consultation on the Undertaking, and FHWA has
229 received no response indicating the Secretary’s willingness to participate in
230 consultation; and
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- 232 23. **WHEREAS**, pursuant to 36 CFR § 800.2(c)(2), and in recognition of the
233 obligation conferred upon FHWA by the American Indian Religious Freedom Act
234 (42 U.S.C. § 1996; herein “AIRFA”), and Section 3(c) of the Native American
235 Graves Protection and Repatriation Act (25 USC § 3002(c); herein “NAGPRA”),
236 FHWA has determined that invited the Catawba Indian Nation, the Eastern Band
237 of Cherokee Indians, the United Keetoowah Band of Cherokees, and the
238 Tuscarora Nation have traditional cultural interests within the boundaries of
239 Virginia and FHWA has invited these four tribes to participate in the consultation
240 process; and
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- 242 24. **WHEREAS**, the Tribal Historic Preservation Officer representing the Catawba
243 Indian Nation (herein “CIN-THPO) agreed to participate in consultation as an
244 invited signatory to the Agreement (email dated May 4, 2012); and
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- 246 25. **WHEREAS**, the Eastern Band of Cherokee Indians (herein “EBCI”) (during a
247 telephone conversation, in which EBCI stated that the Undertaking is not located
248 within its area of interest; see Attachment G) and the United Keetoowah Band of
249 Cherokees (email dated April 10, 2012) deferred consultation, and no response
250 was received from the Tuscarora Nation; and
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- 252 26. **WHEREAS**, VDOT has significant obligations related to implementing and
253 overseeing the stipulations of the Agreement and has agreed to participate in
254 consultation as a signatory to the Agreement; and
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- 256 27. **WHEREAS**, Fairfax County, through its Department of Transportation, has
257 significant obligations related to implementing and overseeing the stipulations of

258 the Agreement and has agreed to participate in consultation as a signatory to the
259 Agreement; and

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261 **28. WHEREAS**, the Army is obligated to mitigate or compensate for any
262 encroachments into the open space buffer zone stipulated in previous management
263 plans and agreements; and

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265 **29. WHEREAS**, FHWA has invited, in accordance with 36 CFR § 800.2(c)(5), the
266 following parties have been invited by FHWA to participate in the process, and
267 the following parties have participated as Consulting Parties:

- 268 a) Woodlawn Baptist Church
- 269 b) Alexandria Monthly Meeting of the Religious Society of Friends (herein
270 “Friends”)
- 271 c) Pohick Episcopal Church
- 272 d) Fairfax County Architectural Review Board (now component of Fairfax
273 Co. signatory group)
- 274 e) Historical Society of Fairfax County (removed due to lack of
275 participation)
- 276 f) Fairfax County History Commission(now component of Fairfax Co.
277 signatory group)
- 278 g) National Trust for Historic Preservation (Now a signatory)
- 279 h) National Park Service – Potomac Heritage National Scenic Trail
- 280 i) National Park Service – Washington-Rochambeau Trail
- 281 j) Fairfax County Department of Planning and Zoning (now component of
282 Fairfax Co. signatory group)
- 283 k) Fairfax County Park Authority (now component of Fairfax Co. signatory
284 group)
- 285 l) Inlet Cove Home Owners Association
- 286 m) Save Woodlawn Stables
- 287 n) Mount Vernon Ladies Association

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289 **30. WHEREAS**, FHWA has invited, in accordance with 36 CFR § 800.2(c)(5), the
290 following parties have been invited by FHWA to participate in the process, and
291 the following parties have not participated:

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- 293 a) Virginia Council on Indians
- 294 b) Gum Springs Historical Society
- 295 c) Mount Vernon Ladies Association
- 296 d) National Park Service – George Washington Memorial Parkway
- 297 e) Historical Society of Fairfax County
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299 **31. WHEREAS**, FHWA, in accordance with 36 CFR § 800.2(d), has provided the
300 public an opportunity to comment on this Undertaking through combined
301 NEPA/NHPA notifications related to the three public meetings held on December
302 10, 2010, October 19, 2011, and June 5, 2012;

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304 **NOW, THEREFORE**, FHWA, the Army, the County, VDOT, **the Catawba Indian**
305 **Nation, the Trust, ACHP** and the SHPO agree that this undertaking shall be implemented
306 in accordance with the following stipulations in order to take into account the effects of
307 the undertaking on historic properties.
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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 including the Dairy, Corncrib, Stable and individually NR eligible Bank Barn (029-5181-0005); Grand View (029-0062); Woodlawn Quaker Meetinghouse (029-0172) and cemetery (44FX1211); Woodlawn Baptist Church cemetery (44FX1212); the George Washington’s Distillery and Grist Mill (029-0330); Otis Tufton Mason House (029-5181-0006); and Pope-Leighey House (029-0058). Mitigation specific to the NHL is contained in Stipulation II.

a) WOODLAWN HISTORIC DISTRICT DESIGN WORKSHOPS

FHWA shall facilitate two (2) design workshops among VDOT, the County, the Army, the SHPO, the Trust, Woodlawn Baptist Church, and Friends to evaluate alternative designs for proposed mitigation of adverse effects to specific contributing properties and to the District as a whole. The first design workshop shall take place within three (3) months of execution of this Agreement. The date and location of the second workshop shall occur at a mutually agreeable time and place among the 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 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 may schedule additional workshops.

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

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- i. The shared-use driveway providing access to the Trust, Woodlawn Baptist Church, and Woodlawn Quaker meeting house, including ownership and maintenance issues.
- ii. A signalized intersection at Woodlawn Road, which will be constructed to provide safe access to Woodlawn Baptist Church, Woodlawn Quaker Meetinghouse, and the Trust properties within the District.
- iii. Landscaping needed to rehabilitate the setting and maintain viewsheds, to the greatest extent possible, for all Woodlawn Historic District properties, including plantings within and outside of the Rt. 1 Right-of-Way. Any landscaping proposed within the Rt. 1 Right-of-Way would be subject to VDOT regulations and approval. Land owner permission would be required for any proposed plantings. FHWA shall be responsible for the installation of all approved landscaping. The landscaping will be covered by a one-year warrantee.
- iv. Circulation patterns within the District, including vehicular, pedestrian and equestrian access, including portions of the PHNST, W3R, and the abandoned section of Rt. 1.
- v. Interpretive signage related to the District and its contributing properties will be developed, including the proposal of two (2) Virginia Historical Highway Markers, the replacement of two (2) interpretive signs manufactured as part of the Mulligan Road project using updated maps of the new roadway and District configuration, and the development of two (2) new interpretive signs similar in format to the Mulligan Road interpretive signs. Installation of the Virginia Historical Highway Markers is contingent upon the approval of suitable locations by VDOT and the approval of text by SHPO Board of Historic Resources.
- vi. Reducing the impacts of the new road construction and determining future usage of the section of the existing Route 1 corridor that will be abandoned.
- vii. Re-establishment of appropriately designed fencing on Trust property.
- viii. Location and design of storm water management structures within the boundaries and viewshed of the District so as to minimize adverse effects.
- ix. Design of gateways into the Woodlawn Historic District, including, but not limited to any lighting, and the size and location of sidewalks, trails, fences, and signs.
- x. Proposals for the relocation of the Otis Mason House and Woodlawn Stables.

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.

b) WOODLAWN BAPTIST CHURCH AND CEMETERY

- i. Within six (6) months of execution of this Agreement the Army shall initiate the granting of an easement with related conditions to the church

401 allowing limited usage of the land on Fort Belvoir located adjacent to the
402 Woodlawn Baptist Church property and bounded by the realigned Route 1
403 and new access road. The limited usage would allow the area to be used
404 by the Baptists for recreation, occasional parking, and other temporary,
405 low impact activities. Granting of the easement and related conditions is
406 subject to Department of the Army (DA) approval.

407 ii. FHWA shall include in its design and implement the removal of pavement
408 from the church's existing driveway in order to restore the historic
409 character of the landscape. Driveway modifications shall conform to
410 Secretary of the Interior's Standards for the Treatment of Historic
411 Properties as they relate to the Guidelines for the Treatment of Cultural
412 Landscapes.

413 iii. FHWA shall include in its design and implement landscaping that will
414 replace vegetation removed due to the Undertaking. Any landscaping
415 proposed within the Rt. 1 Right-of-Way would be subject to VDOT
416 regulations and approval.

417 iv. FHWA contracted the services of archaeologists with specialized mortuary
418 experience to document the cemetery (FHWA 2012c), including a grave
419 location survey and the cataloging of gravestone data. The survey used
420 minimally invasive techniques, such as Ground Penetrating Radar, to
421 determine the locations of graves. The survey included areas within the
422 known boundaries of the cemetery, and extended beyond the known
423 boundaries to areas that may have contained associated graves. A
424 searchable database of gravestone information includes inscriptions,
425 descriptions of the stones, photographs, and other data. The survey was
426 intended as mitigation, but was implemented in advance to assist in the
427 design and project impact analysis process. FHWA shall provide final
428 copies of all materials resulting from Stipulation I(b)(iv) to the Woodlawn
429 Baptist Church, SHPO, Historical Society of Fairfax County, and Fairfax
430 County Historical Commission.

431 v. Additional activities impacting the Woodlawn Baptist Church, including
432 the relocation of church signs, relocation/replacement of utilities, noise
433 abatement and other details will be determined separately from this
434 Agreement by FHWA, the Woodlawn Baptist Church, and other parties,
435 as appropriate to the specific activity.

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437 c) OTIS TUFTON MASON HOUSE

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439 FHWA shall relocate the Otis Tufton Mason House according to the following
440 procedures:

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442 i. FHWA shall relocate the structure building to a permanent site selected by
443 the Trust, nearby and on Trust property, as a means of recreating the
444 historic setting, association, and general feel of the Otis Tufton Mason
445 House to the extent possible. Consulting Parties will have the opportunity

- 446 to provide input regarding the proposed relocation site during the design
447 workshops described in Stipulation I.
- 448 ii. FHWA shall contract a professional building mover to undertake the
449 relocation of the Otis Tufton Mason House. FHWA shall provide the
450 SHPO and the Trust with the name of the mover. The SHPO and the Trust
451 will review and approve the experience and professional qualifications of
452 the mover prior to FHWA entering into a contract.
- 453 iii. FHWA shall develop a stabilization and moving plan for the Otis Tufton
454 Mason House, in conformance with *Moving Historic Buildings* (Curtis,
455 1979), before relocation of the house or any part thereof. Said plan shall
456 be developed in consultation with and shall receive the concurrence of the
457 Trust and the SHPO. At a minimum, the plan will consist of the following
458 elements: recordation of significant architectural features of the Otis
459 Tufton Mason House, documentation of the history of the building
460 (through research in state and local archival depositories), documentation
461 of missing architectural features of the Otis Tufton Mason House,
462 identification of features that require stabilization prior to relocation, the
463 method of moving the building, the route which the building will take
464 from its existing site to its new site, and the method of securing and
465 stabilizing the Otis Tufton Mason House after relocation.
- 466 iv. FHWA shall ensure that the Otis Tufton Mason House, once relocated on
467 its new site, is in a habitable condition and receives a certificate of
468 occupancy from the appropriate local government agency. This will
469 include, at minimum, connecting utilities to the house in order to provide
470 the building electrical, water, and sewer service. Access and parking will
471 also be provided.
- 472 v. Within one hundred and eighty (180) days of the move, FHWA shall
473 demonstrate to the satisfaction of the Trust and the SHPO that the
474 relocation occurred according to the previously approved stabilization and
475 moving plan.
- 476 vi. FHWA shall be responsible for the following costs as may be necessary to
477 satisfy the terms of this PA: architectural and engineering services, legal
478 fees, stabilization of the Otis Tufton Mason House prior to relocation,
479 moving the Otis Tufton Mason House, the construction of a new
480 foundation that replicates the existing in material and appearance, securing
481 the building on the new site, installation of utilities consistent with
482 Stipulation I(c)(iv), and maintenance of the building on the new site,
483 including protection of the Otis Tufton Mason House from vandalism and
484 the elements. These measures shall remain in effect for the period of the
485 PA this Agreement.
- 486 vii. FHWA shall ensure that prior to the construction of the new foundation
487 the proposed relocation site is adequately surveyed for archaeological
488 deposits according to the processes outlined in Stipulations V – VII.
- 489 viii. FHWA shall ensure that archaeological monitors are present when the
490 existing foundation and/or associated builder's trench are disturbed and

491 that an archaeological monitoring report is prepared and submitted to the
492 SHPO and other consulting parties, in accordance with Stipulation X.

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494 d) FHWA shall prepare a Virginia Landmarks Register (VLR) nomination for the
495 Woodlawn Historic District. The nomination will be developed in consultation
496 with the SHPO and other consulting parties. Development of the supporting
497 documentation will commence after the completion of Stipulation I.A, V and VI.
498 The final VLR nomination will be submitted to SHPO and reviewed for listing on
499 the VLR. If approved and listed on the VLR, SHPO will transmit the nomination
500 to the National Park Service to be reviewed for NR eligibility.

501 e) Within six (6) months of execution of this Agreement, FHWA shall initiate
502 Historic American Building Survey (HABS) SHPO Intensive Level Survey for all
503 properties contributing to the District for which such documentation does not
504 already exist, and shall update the SHPO Intensive Level Survey forms for all
505 properties contributing to the District for which such documentation already
506 exists. The forms shall also be entered electronically into the Virginia Department
507 of Historic Resources Data Sharing System. The SHPO Intensive Level Survey
508 will also include adequate documentation of the historic landscape throughout the
509 district, including the pastures in the vicinity of the Sharpe Stables complex.

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511 f) The Department of the Army shall provide a permanent ingress/egress easement
512 to the National Trust, Woodlawn Quaker Meetinghouse, and Woodlawn Baptist
513 Church for a shared use driveway to ensure access to Route 1.

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515 g) VDOT, through the Commissioner of Highways, shall submit an application to
516 the Commonwealth Transportation Board requesting the abandonment of any
517 unneeded portions of Route 1 through the Woodlawn Historic District resulting
518 from the selected alignment in accordance with applicable regulations. Any
519 abandoned roadway sections would be offered to the nearest landowner at the
520 assessed value. The value of any abandoned portions of the roadway may be
521 deducted from or funded through money transferred by the Commonwealth of
522 Virginia due to the condemnation of land elsewhere in the project area.

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524 II. Treatment for Woodlawn National Historic Landmark

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526 a) FHWA shall oversee a monetary fund in the amount of \$500,000 intended to
527 mitigate for impacts to the NHL. These funds can be applied to any structure
528 within the NHL boundaries including the Woodlawn Plantation, Grand View, and
529 Pope-Leighey House. The following is a list of mitigation measures that will be
530 funded, in prioritized order, until the fund is exhausted

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532 i. Installation of public water service sufficient to serve the Woodlawn
533 property, including service that is adequate to install fire hydrants for
534 suppression purposes.

535 ii. Installation of sanitary sewer service sufficient to serve the Woodlawn
536 property.

- 537 iii. Installation of natural gas service.
- 538 iv. Installation of improvements, such as drives and trails, to improve internal
- 539 access within the property.
- 540 v. Installation of landscape buffers to reduce visual impacts.
- 541 vi. Creation and installation of interpretive and wayfinding signage (moved to
- 542 HD mitigation)
- 543 vii. Installation of three-phase electrical service
- 544

545 b) FHWA shall ensure that the areas for proposed location of water and sewer lines,
546 landscaping and other ground disturbing activity resulting from these mitigation
547 measures are adequately surveyed for archaeological deposits according to the
548 processes outlined in Stipulations V – VII.

549
550 c) FHWA shall develop and submit design plans for review and comment by the
551 Trust and the SHPO. The Trust and the SHPO shall provide comments on
552 preliminary design plans within thirty (30) calendar days of receipt. If no
553 comments are received from the Trust or the SHPO, FHWA may assume that the
554 non-responding party has no comments. FHWA shall amend and submit revised
555 design plans within thirty (30) days after the end of a comment period. Plan
556 review and submittal deadlines may be changed with the agreement of all parties.

557
558 **III. Documentation and Treatment for Fort Belvoir Military Railroad Bed and**
559 **Bridge**

560
561 A. Prior to its removal FHWA shall conduct Historic American Engineering Record
562 (HAER) Level I documentation of the Bridge and portions of the Railroad Bed
563 within the APE. The documentation will include large-format photography, a
564 narrative history of the structures, and measured drawings. Upon completion of
565 the HAER documentation, FHWA shall provide final copies to the Army,
566 Historical Society of Fairfax County, Fairfax County Historical Commission, and
567 the SHPO in a form that is acceptable to each party.

568
569 B. In consultation with the Army and the SHPO, FHWA shall develop within six (6)
570 months of execution of this Agreement a marketing plan for determining if there
571 is a capable party willing to relocate and assume ownership of Railroad Bridge
572 Facility No. 1433. The marketing plan shall identify parties to whom FHWA shall
573 send direct solicitations for expressions of interest as well as the media outlets
574 through which the availability of the bridge will be advertised to the general
575 public. FHWA shall provide the marketing plan to the Army and the SHPO for
576 review and approval.

577
578 C. Once the marketing plan has been approved by the Army and the SHPO, FHWA
579 shall follow the process outlined below to identify a capable party to relocate and
580 assume ownership of Railroad Bridge Facility No. 1433:
581

- 582 1. FHWA shall implement the marketing plan developed pursuant to Stipulation
583 **III.B**. Interested parties shall have until 5:00 pm on the thirtieth (30th) calendar
584 day following receipt of a direct solicitation from FHWA or following initial
585 publication notice of the bridge's availability to submit to FHWA a detailed
586 proposal for the relocation and preservation of the bridge.
587
- 588 2. Proposals must describe in detail:
589 a) the individual, organization, or government agency that will assume
590 ownership;
591 b) the prospective use of the bridge and a plan for implementing that
592 use;
593 c) a plan and schedule for moving the bridge in accordance with a
594 construction schedule specified by FHWA;
595 d) the financial and technical capabilities of the recipient to move and
596 maintain the bridge; and
597 e) the ability of the recipient to indemnify the Army from all future
598 liability and claims.
599
- 600 3. Proposals must include a map showing the location of the proposed new site
601 for the existing structure, maps or drawings depicting any areas of the new site
602 where the ground surface will be disturbed by the reconstruction activities,
603 and a plan to identify any archaeological sites that might be present at the new
604 site and for avoiding harm to any archaeological sites eligible for the NR.
605
- 606 4. Proposals must certify that the recipient will:
607
- 608 a) assume responsibility for conducting all work associated with the
609 bridge relocation, including complying with all applicable
610 environmental regulations and laws, obtaining all appropriate
611 environmental clearances and permits, conducting any necessary
612 archaeological studies, and moving, dismantling, and reconstructing
613 the bridge according to *The Secretary of the Interior's Standards for*
614 *the Treatment of Historic Properties* (36 CFR 68);
615 b) assume all liability associated with the bridge and will indemnify the
616 Army from any further responsibility; and
617 c) consent to offer the donation of a preservation easement on the bridge
618 to the Board of Historic Resources, to be administered by the Virginia
619 Department of Historic Resources (*Code of Virginia* 10.1-2204), or to
620 another party selected in consultation with the SHPO and other
621 consulting parties. The Board of Historic Resources or another
622 selected party is not obligated to accept a preservation easement
623 offered pursuant to this Agreement. If no entity is found that will
624 accept an easement on the bridge, the parties to this Agreement shall
625 consult in order to decide upon a mutually acceptable alternative.
626

- 627 5. FHWA shall consider only those proposals submitted in accordance with the
628 established schedule. If FHWA receives no expressions of interest in
629 acquiring the bridge by the close of the thirty-five (35)-calendar day period
630 following receipt of a direction solicitation from FHWA or following initial
631 publication of any notice of the bridge's availability, FHWA shall so notify
632 the Army and the SHPO. After fulfilling the additional requirements of
633 Stipulation III.g) of this Agreement, FHWA may proceed to demolish the
634 bridge.
635
- 636 6. In consultation with the Army and the SHPO, FHWA shall review any
637 proposal received in accordance with the established schedule for submission,
638 but FHWA reserves the exclusive right to accept or reject any or all proposals.
639
- 640 7. FHWA shall reject any proposal that fails:
641
- 642 a) to include the information or certifications requested;
 - 643 b) to preserve the historic significance of Railroad Bridge Facility No.
644 1433 by using the entire bridge at another location within either the
645 District or a location nearby;
 - 646 c) to demonstrate that the prospective recipient has the financial and
647 technical capabilities to move and maintain the bridge;
 - 648 d) to ensure that the bridge will be moved in accordance with FHWA's
649 specified construction schedule; or
 - 650 e) to include appropriate and adequate measures for avoiding harm to
651 archaeological sites eligible for the NR that may be present at the new
652 site for the bridge.
653
- 654 8. In reviewing the proposals FHWA shall also consider:
655
- 656 a) the degree to which each proposal conforms to the *Secretary of the*
657 *Interior's Standards for the Treatment of Historic Properties* (36 CFR
658 68); and
 - 659 b) any comments received from the Army or the SHPO within thirty (30)
660 calendar days of receipt of the proposals from FHWA.
661
- 662 D. FHWA shall inform the Army and the SHPO of its final decision to accept or
663 reject any proposals received for relocating and assuming ownership and
664 responsibility for maintenance and preservation of Railroad Bridge Facility No.
665 1433. If an acceptable proposal is identified and the bridge is subsequently
666 relocated, FHWA shall submit to the Army and the SHPO both black and white
667 and color 35 mm photographs of the bridge at its new location within thirty (30)
668 calendar days of completion of the relocation and installation.
669
- 670 E. After fulfilling the requirements of both Stipulation III.a) - III.e) and Stipulation
671 III.g) of this Agreement, FHWA may demolish Railroad Bridge Facility No. 1433
672 if (a) FHWA identifies no willing party or acceptable proposal for moving and

673 assuming ownership and responsibility for maintenance and preservation of the
674 bridge, or (b) FHWA accepts such a proposal from a willing party but the selected
675 party fails to execute an agreement with FHWA for ownership, removal, and
676 maintenance and preservation of the bridge within forty-five (45) calendar days of
677 acceptance of its proposal or fails to remove the bridge in accordance with the
678 construction schedule specified by FHWA.

679
680 F. FHWA shall offer as an incentive to ownership a one-time monetary payment up
681 to an amount not to exceed the cost of demolition (approximately \$50,000, as
682 estimated and approved for reimbursement by the FHWA) to be used by a new
683 owner for implementing a plan, approved by the Army, the SHPO and FHWA, for
684 the relocation and preservation of the Railroad Bridge Facility No. 1433. FHWA
685 shall provide this payment only on a reimbursement basis for funds already
686 expended by the new owner on the relocation and preservation plan.

687
688 G. Prior to demolishing the existing bridge, and in addition to the documentation
689 required by Stipulation III(a), FHWA shall prepare black and white 35 mm
690 photographic documentation of the bridge consistent with the guidance found in
691 "Photographic Documentation for National Park Service (NPS) Register
692 Nominations and Virginia Department of Historic Resources (DHR) Basic
693 Survey" (updated June 10, 2009) and complete a SHPO Intensive Level Survey
694 Form for the structures in the SHPO's Data Sharing System (DSS). FHWA shall
695 submit the bridge documentation to the Army and the SHPO for review and
696 approval.

697
698 H. The portions of the FBMRR track bed north of Telegraph Road have suffered
699 erosion damage due severe weather in 2011. FHWA will repair and stabilize the
700 damaged sections of the track bed. Repairs shall meet all necessary storm water
701 regulations and the Secretary of the Interior's Standards for the Treatment of
702 Historic Properties.

703
704 I. FHWA and the Army shall develop and install six (6) historic markers at key
705 locations along the route of the Fort Belvoir Military Railroad (FBMRR) which
706 will interpret the history of the route. The markers will conform to the style of the
707 existing Fort Belvoir historical sign program using upright cast metal markers.
708 Marker locations shall include the crossings at Telegraph Road, John J. Kingman
709 Road, Pohick Road, 21st Street, Rail Bridge 1433, which will be demolished as a
710 part of the widening, and Rail Bridge 2298, which crosses over Beulah Road in
711 Accotink Village. Fort Belvoir will provide FHWA with a copy of the FBMRR
712 Multi-Property National Register Nomination to assist FHWA in the development
713 of the signage. FHWA shall submit a draft historic marker development plan to
714 the VA SHPO and Fort Belvoir for review and comment. This plan will include,
715 but is not limited to, design graphics, draft language, and site plans for marker
716 location. This mitigation will be implemented within 24 months of this
717 agreement.

718

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

720
721 **A. VIBRATION MONITORING**

722
723 1) Prior to beginning construction, FHWA shall contract the services of a qualified
724 individual to conduct a Pre-Construction Survey of Pohick Episcopal Church.
725 The contractor must be trained in Historic Architecture, or a closely related
726 field, and have at least five (5) years of professional experience as a Building
727 Conservation Specialist. The contractor will have successfully completed at
728 least three (3) building conservation projects where he/she has taken into
729 account the effects of different levels of vibration on historic masonry and
730 frame buildings.

731
732 2) The Pre-Construction Survey shall establish baseline conditions for monitoring
733 vibration impacts during construction, and shall:

- 734 a) Establish an area of vibration impact;
735 b) Establish existing vibration levels unrelated to construction activity from the
736 Undertaking;
737 c) Provide details about fragility of building materials;
738 d) Specify environmental conditions in the area of impact that would affect the
739 transmission of vibrations;
740 e) Recommend appropriate vibration thresholds for monitoring during
741 construction to prevent damage to historic buildings within the area of
742 vibration impact; and
743 f) Recommend appropriate vibration mitigation strategies that may be
744 incorporated into the Vibration Monitoring Plan (herein "VMP").

745
746 3) Prior to beginning construction, FHWA shall prepare a VMP based on the
747 findings from the Pre-Construction Survey. The VMP shall include the
748 following:

- 749
750 a) Construction activities that require monitoring;
751 b) General timeframes for monitoring; and
752 c) Thresholds of vibration levels that will be maintained during construction.

753
754 4) FHWA shall submit the VMP to the SHPO and Pohick Episcopal Church for
755 review and comment prior to beginning construction. The SHPO and Pohick
756 Episcopal Church shall have fifteen (15) days for review and comment. If the
757 SHPO and Pohick Episcopal Church do not respond within fifteen (15) days,
758 FHWA shall assume acceptance by both parties and proceed with the
759 Undertaking pursuant to the stipulations of this Agreement.

760 FHWA shall submit any modifications to the VMP to the SHPO and Pohick
761 Episcopal church for review and comment. The SHPO and Pohick Episcopal
762 Church shall have five (5) days for review and comment. If the SHPO and
763 Pohick Episcopal Church do not respond within five (5) days, FHWA shall
764 assume acceptance by both parties and proceed with the Undertaking pursuant to
765 the stipulations of this Agreement.

766 5) If vibrations are found to exceed the thresholds established for this project, the
767 work causing that vibration will cease and corrective action will be taken to
768 return the vibration level to acceptable thresholds.

769
770 6) The contractor shall be responsible for repair to damage resulting from the
771 Undertaking to historic properties within the vibration monitoring area, in
772 accordance with The Secretary of the Interior's *Standards for Rehabilitation*
773 *and Guidelines for Rehabilitating Historic Buildings* (1994). Before initiating
774 repairs, FHWA shall, in consultation with Pohick Episcopal church, develop
775 specifications for rehabilitation work. FHWA shall submit rehabilitation plans
776 to the SHPO, for a period not to exceed thirty (30) calendar days, for review
777 and comment. If no comments are received from the SHPO with thirty (30)
778 days, FHWA can assume concurrence.

779

780 B. TELEGRAPH ROAD INTERSECTION DESIGN WORKSHOPS

781

782 FHWA shall facilitate a minimum of two (2) design workshops among VDOT,
783 the County, the SHPO, the Army, Pohick Episcopal Church and representatives of
784 the Inlet Cove Board of Directors or Home Owners Association to evaluate
785 alternative designs for proposed mitigation of adverse effects to properties at the
786 intersection of Telegraph Road and Route 1. The first design workshop shall take
787 place within three (3) months of execution of this Agreement. The date and
788 location of the second workshop shall occur at a mutually agreeable time and
789 place among the workshop participants, and shall occur no later than six (6)
790 months after the first workshop. Other consulting parties may participate in the
791 design workshops.

792

793 FHWA and the County, in consultation with consulting parties participating in the
794 design workshops (herein "workshop participants"), shall develop and submit
795 design plans for review and comment by workshop participants. Designs may be
796 distributed to workshop participants electronically, by mail, or at workshop
797 meetings, as determined appropriate by workshop participants. Workshop
798 participants shall provide comments on preliminary design plans within thirty (30)
799 calendar days of receipt. If no comments are received from the workshop
800 participants, FHWA may assume that the non-responding party has no comments.
801 FHWA and the County shall amend and submit revised design plans within thirty

802 (30) days after the end of a comment period. Plan review and submittal deadlines
803 may be changed with the agreement of all workshop participants **but in no event**
804 **shall any comment period be less than two (2) weeks after receipt.** If the relevant
805 issues cannot be resolved after two design workshops have been conducted,
806 FHWA **may** schedule additional workshops.

807
808 If conflicts arise that cannot be resolved to the satisfaction of all parties, they will
809 be addressed through the dispute resolution process outlined in Stipulation XII.

810

811 **V. Additional Testing of Archaeological Properties**

812

813 A. FHWA acknowledges that identification **surveys have** not been conducted in all
814 portions of the APE, **including** the vicinity of Accotink Village and near Telegraph
815 Road. All areas within the archaeological APE shall be surveyed prior to
816 construction in accordance with the stipulations of this agreement.

817

818 B. An archaeological survey of the entire Trust property was conducted by the
819 Chicora Foundation in 1999; however the survey recommendations and results did
820 not receive SHPO concurrence. Within six (6) months of the execution of this
821 agreement, FHWA shall review and update the Chicora survey, as necessary, to
822 identify and evaluate archaeological sites throughout the entire Trust property.
823 This will help guide the design of mitigation measures so that impacts to any
824 significant deposits can be avoided or minimized, including the archaeological
825 deposits associated with the NHL (44FX1146).

826

827 C. FHWA shall evaluate sites 44FX1810 and 44FX1936 for NR eligibility. FHWA
828 shall consult with the Signatories, and other consulting parties, regarding the NR
829 eligibility of the sites, and seek concurrence and development of avoidance,
830 minimization, or mitigation measures.

831

832 D. If activities related to the implementation of the Undertaking, and having the
833 potential to impact archaeological resources, are to occur outside the previously
834 identified APE, FHWA shall identify and evaluate archaeological properties prior
835 to initiation of any land disturbing construction activities. If, as a result of testing,
836 archaeological sites are identified that are eligible for listing in the NR, a plan for
837 their treatment will be developed as described under Stipulation VII.

838

839

840 E. FHWA shall ensure that archaeological properties occurring within the APE that
841 are to be impacted by activities related to the implementation of the Undertaking
842 (including, but not limited to, construction of stormwater management measures,
843 borrow and staging areas, or tree removal and revegetation) are evaluated for NR
844 eligibility by FHWA in consultation with SHPO. Evaluation shall be accomplished
845 prior to initiation of land disturbing activities. FHWA shall consult with the
846 Signatories, and other consulting parties, regarding the NR eligibility of

847 archaeological properties evaluated, and seek concurrence and development of
848 avoidance, minimization, or mitigation measures.

849

850

851 **VI. Eligibility Determination and Determinations of Effect for Archaeological**
852 **Properties**

853

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

859

860 1. If FHWA determines the criteria are not met, and the SHPO and CIN-THPO
861 agrees, the property shall be considered not eligible. Such sites shall typically
862 require no further review or consideration under this Agreement. If FHWA
863 and the SHPO or CIN-THPO do not agree, or if ACHP or the Secretary so
864 request, FHWA shall obtain a determination of eligibility from the Secretary
865 pursuant to 36 CFR § 63.

866

867 2. If FHWA determines any of the NR criteria are met and the SHPO or CIN-
868 THPO agree, the property shall be considered eligible for listing in the NR for
869 purposes of this Agreement, and shall be included in the Archeological
870 Property Treatment Plan (herein "Treatment Plan") described in Stipulation
871 VII if such property would be adversely affected by the Project.

872

873 3. Note, Stipulations VI(A)(3) and VI(A)(4) have been combined with VI(A)(1)
874 and VI(A)(2)

875

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

882

883 **VII. Archaeological Property Treatment Plan**

884

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

889

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

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

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

- E. Where physical disturbance is unavoidable, and data recovery is agreed to be the appropriate option, all data recovery plans prepared under the terms of this Agreement shall include the following elements:
 - 1. Information on the archeological property or properties where data recovery is to be carried out and the context in which such properties are eligible for the NR;
 - 2. Information on any properties, or portions of properties that will be destroyed without data recovery;
 - 3. Discussion of the research questions to be addressed through the data recovery with an explanation/ justification of their relevance and importance;
 - 4. Description of the recovery methods to be used, with an explanation of techniques of analysis, data management and dissemination of data;
 - 5. Information on arrangements for any regular progress reports or meetings to keep the signatory and consulting parties up to date on the course of the work. The plan shall contain the expected timetable for excavation, analysis and preparation of the final report.
 - 6. Proposed methods for disseminating results for the work to the interested public; and
 - 7. If Native American human remains or associated funerary objects are expected to be encountered, information on consultation with the CIN THPO, and/or the appropriate state-recognized tribe(s) regarding final treatment and disposition of the materials, including a Plan of Action pursuant to NAGPRA , if appropriate.

939 8. The disposition of recovered materials and records shall be in accordance with
940 Stipulation X.C of this Agreement regarding curation, dependent upon
941 whether material/and or records are found on Federal, Commonwealth or
942 private lands.
943
944

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

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

- 947
948
- 949 A. In the event that previously unidentified archaeological properties are discovered
950 during ground disturbing activities, the contractor shall immediately halt all
951 construction work involving subsurface disturbance in the area of the property
952 and in the surrounding area, and immediately notify FHWA. FHWA shall notify
953 the SHPO, Signatories, and other consulting parties of the discovery within two
954 (2) business days.
955
- 956 B. Using a qualified archaeologist meeting the Secretary's *Professional*
957 *Qualifications Standards for Archaeology*, FHWA and Signatories shall
958 immediately inspect the work site and determine the area and nature of the
959 affected archaeological property. Construction work may then continue in the area
960 outside the archaeological property as defined by FHWA and the SHPO, or their
961 designated representative.
962
- 963 C. Within five (5) business days of the original notification of discovery, FHWA, in
964 consultation with the Signatories and other consulting parties, shall determine the
965 NR eligibility of the property and provide the eligibility determination to SHPO
966 for concurrence.
967
- 968 D. If the property is determined eligible for the NR, or contains human burials,
969 FHWA shall prepare a plan for its avoidance, protection, or recovery of
970 information. The plan shall be submitted to the Signatories and other consulting
971 parties for review and approval prior to its implementation. If comments are not
972 received within five (5) business days following receipt, it shall be presumed that
973 the party has no objection and the plan may be implemented.
974
- 975 E. Work in the affected area shall not proceed until either:
976 1. The development and implementation of appropriate data recovery or other
977 recommended mitigation procedures is completed, or
978 2. The determination is made that the located properties are not eligible for
979 inclusion on the NR.
980
- 981 F. Any disputes over the evaluation or treatment of previously unidentified
982 properties shall be resolved as provided in the section of this Agreement entitled
983 Dispute Resolution (Stipulation XII).
984

IX. Discovery of Human Remains or Funerary Objects

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

A. HUMAN REMAINS ON FEDERAL LANDS

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

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*, as provided in Attachment F.

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.

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.,

- 1031 Virginia Antiquities Act) and the *Catawba Indian Nation THPO Burial Policy*
1032 *and Procedures*, as applicable, provided in Attachment F. FHWA shall obtain
1033 a permit from the SHPO for the removal of human remains in accordance with
1034 the regulations stated above.
- 1035
- 1036 2. FHWA shall notify **the appropriate state-recognized tribe(s)** and CIN-THPO
1037 when burials, human skeletal remains, or funerary objects are encountered on
1038 the Project, prior to any analysis or recovery.
- 1039
- 1040 3. FHWA shall ensure that the general public is excluded from viewing any
1041 Native American burial sites, human remains, or associated funerary objects.
1042 The Signatories, and the consulting parties to this Agreement, shall not release
1043 any photographs of any American Indian burial site or associated funerary
1044 objects to the press or the general public.
- 1045
- 1046 4. Any Native American human remains and associated funerary objects
1047 recovered pursuant to this agreement shall be re-interred in consultation with
1048 the CIN THPO and **the appropriate state-recognized tribe(s)**. The **appropriate**
1049 **state-recognized tribe(s)** or CIN THPO shall consult with the SHPO to
1050 determine the party or parties that shall assume responsibility for planning and
1051 executing the re-interment. FHWA shall deliver these remains and objects to
1052 the party or parties designated by the CIN THPO and **the appropriate state-**
1053 **recognized tribe(s)** and shall be responsible for the costs of re-interment. The
1054 disposition of any other human skeletal remains and associated funerary
1055 objects shall be governed as specified in any permit issued by the SHPO or
1056 any order of the local court authorizing their removal.

1057

1058

1059 X. Standards

1060 A. PRESERVATION STANDARDS AND PROFESSIONAL QUALIFICATIONS

- 1061
- 1062
- 1063
- 1064 1. All work carried out pursuant to this agreement shall be conducted by or
1065 under the direct supervision of an individual or individuals who meet, at a
1066 minimum, **the Secretary of the Interior professional qualification standards for**
1067 **history, archaeology, or architecture, as appropriate to the specific property,**
1068 **and as defined in 36 CFR Part 61.**
- 1069
- 1070 2. All archaeological investigations on Federal land shall be performed under an
1071 appropriate ARPA Cultural Resource Use Permit issued by the Army. FHWA
1072 shall ensure that all contract documents contain procedures for obtaining the
1073 permit.
- 1074

1075 3. A Department of Historic Resources permit (under Code of Virginia § 10.1-
1076 2302) and a VDOT Land Use Permit (under 24VAC30-150-20) are required
1077 for archaeological investigation on Commonwealth highway right of way.
1078

1079 B. DOCUMENTATION STANDARDS
1080

1081 1. All archaeological reports, including data recovery plans included in
1082 Treatment Plans, shall be consistent with the Secretary's *Standards for*
1083 *Archaeological Documentation* (48 FR 44734-37, September 29, 1983) and
1084 the professional standards set forth in SHPO's *Guidelines for Conducting*
1085 *Historic Resources Survey in Virginia* (October 2011), and shall take into
1086 account the ACHP's publications, *Recommended Approach for Consultation*
1087 *on Recovery of Significant Information from Archeological Sites* (1999) and
1088 *Section 106 Archaeology Guidance* (June 2007).
1089

1090 2. All historical and architectural reports and survey documentation shall be
1091 consistent with pertinent standards and guidelines of the Secretary, including
1092 as applicable the *Standards for Historical Documentation* (48 FR 44728-30),
1093 the Secretary of the Interior's *Standards for Architectural and Engineering*
1094 *Documentation* (48 FR 44730-34, September 29, 1983), and the SHPO's
1095 *Guidelines for Conducting Historic Resources Survey in Virginia* (October
1096 2011).
1097

1098 C. CURATION AND CURATION STANDARDS
1099

1100 1. The material remains and associated records resulting from the actions within
1101 the APE shall be curated in accordance with 36 CFR Part 79, with the
1102 exception of human skeletal remains and associated funerary objects.
1103 2. The curator of artifacts potentially discovered as a result of the Undertaking
1104 shall be dependent upon the owner of the lands where the artifacts are found.
1105 3. On Federal lands, material and records obtained from the Army shall be
1106 curated at a curation center or another depository as specified in the Cultural
1107 Resource Use Permit issued by the Army. Currently, an agreement is in place
1108 with the County to curate artifacts at the Cultural Resource curation facility at
1109 the James Lee Center in Falls Church, VA.
1110 4. Pursuant to the Code of Virginia §10.1-2302 all material remains (with the
1111 exception of materials found on Army property, human skeletal remains and
1112 associated funerary artifacts) resulting from the actions cited in this
1113 Agreement, and recovered from lands controlled by the Commonwealth,
1114 including highway right of way, are the property of the Commonwealth.
1115 Artifacts found on Commonwealth land or within Commonwealth
1116 owned/maintained right of way shall also be curated by the County, pursuant
1117 to Federal regulation at 36 CFR § 79. If the County should ever close the
1118 curatorial facility, or terminate the agreement, the County shall notify the
1119 SHPO and arrange for the transfer of any curated materials.
1120

1121 5. Any private landowner shall have claim to artifacts found on its land as a
1122 result of this undertaking, as prescribed by the laws of the Commonwealth.
1123

1124 **XI. Continuing Review Process**
1125

1126 A. The SHPO and the concurring parties to this Agreement agree to provide
1127 comments to FHWA on all plans, technical materials, findings and other
1128 documentation arising from this Agreement within thirty (30) calendar days of
1129 their receipt. If no comments are received from the SHPO or the concurring
1130 parties to this Agreement, FHWA may assume that the non-responding party has
1131 no comment. FHWA shall take into consideration all comments received in
1132 writing from the SHPO and the concurring parties to this Agreement within the
1133 thirty (30) calendar day review period.

1134 B. All roadway design, signage, landscaping, and other mitigation measures
1135 proposed as part of this agreement that will be accepted into the state highway
1136 system must meet VDOT standards and requirements, and are subject to VDOT
1137 approval.
1138

1139 **XII. Dispute Resolution**
1140

1141 A. OBJECTIONS BY SIGNATORY PARTIES
1142

1143 Should any signatory to this agreement object in writing to FHWA regarding any
1144 action carried out or proposed with respect to the undertaking or implementation of
1145 this agreement, FHWA shall consult with the objecting Signatory to resolve the
1146 objection. If after initiating such consultation FHWA determines that the objection
1147 cannot be resolved through consultation, the agency shall forward all documentation
1148 relevant to the objection to the ACHP, including the agency's proposed response to
1149 the objection. Within thirty (30) days after receipt of all pertinent documentation, the
1150 ACHP shall exercise one of the following options: FHWA shall take any comments
1151 from the ACHP into account in reaching a final decision regarding FHWA's response
1152 to the objection.

- 1153
- 1154 1. Advise the FHWA that the ACHP concurs in the agency's proposed response to
1155 the objection, whereupon the agency will respond to the objection accordingly; or
1156
- 1157 2. Provide the FHWA with recommendations, which the agency shall take into
1158 account in reaching a final decision regarding its response to the objection; or
1159
- 1160 3. Notify the FHWA that the objection will be referred for comment pursuant to 36
1161 CFR Part 800.7(a)(4), and proceed to refer the objection and comment. The
1162 agency shall take the resulting comment into account in accordance with 36 CFR
1163 Part 800.7(c)(4).

1164

1165 Should the ACHP not exercise one of the above options within 30 days after receipt
1166 of all pertinent documentation, the FHWA may assume the Council's concurrence in
1167 its proposed response to the objection.

1168

1169 The FHWA shall take into account any ACHP recommendation or comment provided
1170 in accordance with this stipulation with reference only to the subject of the objection;
1171 the agency's responsibility to carry out all actions under this agreement that are not
1172 the subjects of the objection shall remain unchanged.

1173

1174 B. CONSULTING PARTY COMMENTS AND DISPUTE RESOLUTION

1175

1176 Should any consulting party to this Agreement object in writing to the FHWA
1177 regarding any action carried out or proposed with respect to the undertaking or
1178 implementation of this Agreement, the FHWA, in conjunction with all other
1179 Signatories to this Agreement, will consult with the objector regarding such
1180 objections.

1181

1182 The Signatories shall consult with the objecting consulting party within thirty (30)
1183 days after receipt of written comments. If the Signatories and the consulting party
1184 cannot resolve the matter with respect to the project, the FHWA shall notify SHPO
1185 and provide copies of the objection. SHPO, as appropriate, shall advise the FHWA of
1186 measures, if any, that could resolve the matter.

1188 If the Signatories, in consultation with SHPO, cannot resolve the matter with respect
1189 to the project, and the Signatories consider the issue of sufficient importance, the
1190 Signatories shall proceed as set forth in Stipulation XII.A. above.

1191
1192 A Consulting Party may object in writing to FHWA, with copies to the other
1193 Signatories and Consulting Parties, regarding any action proposed to be carried out
1194 with respect to the Undertaking or implementation of this PA. FHWA shall take such
1195 an objection into account and may consult about it with the objecting party, other
1196 Consulting Parties and Signatories as it deems appropriate. FHWA shall then respond
1197 to the objecting party in writing, with copies to the Signatories. If FHWA
1198 subsequently determines that the objection cannot be resolved through consultation,
1199 FHWA shall notify the objecting party and the SHPO which of the following options
1200 it shall exercise:

- 1201
1202 a. Seek the assistance of the ACHP in resolving the objection, pursuant to
1203 Stipulation XII.A. above; or
1204 b. Provide a formal written response to the objection within thirty (30) days of
1205 notice to the objecting party, with copies to the Signatories and Consulting
1206 Parties.

1207
1208 **XIII. Amendment and Termination**

- 1209
1210 A. Any signatory to this Agreement may propose to FHWA that the Agreement be
1211 amended, whereupon FHWA shall consult with the other signatories to consider
1212 such an amendment. 36 CFR § 800.6(c)(7) shall govern the execution of any such
1213 amendment. Any signatory to this Agreement may terminate it in accordance with
1214 the provisions of 36 CFR § 800.6(c)(8).
1215 B. If FHWA and VDOT decide they will not proceed with the Undertaking, they
1216 may so notify the signatories and concurring parties and then this Agreement shall
1217 become null and void.
1218 C. In the event that this Agreement is terminated or rendered null and void, FHWA
1219 shall submit to the SHPO a technical report on the results of any archaeological
1220 investigations conducted prior to and including the date of termination, and shall
1221 ensure that any associated collections and records recovered are curated in
1222 accordance with Stipulation X.C. of this Agreement.
1223 D. In the event of termination, FHWA shall either execute a Section 106 agreement
1224 pursuant to 36 CFR § 800.6(c)(1) or request the comments of the ACHP under 36
1225 CFR § 800.7(a).
1226

1227 **XIV. Duration**

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1229

A. Unless this Agreement is terminated pursuant to Stipulation XIII or superseded by another Agreement executed for the Undertaking, or the Undertaking has been terminated, this Agreement shall remain in effect for a period of **ten (10)** years from the date of signature.

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

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

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FEDERAL HIGHWAY ADMINISTRATION

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

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VIRGINIA STATE HISTORIC PRESERVATION OFFICER

1267
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1271

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

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1274

VIRGINIA DEPARTMENT OF TRANSPORTATION

1275
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By: _____ Date: _____
Earl T. Robb, Environmental Division Administrator

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COUNTY OF FAIRFAX, VIRGINIA

1282
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By: _____ Date: _____
Edward L. Long, Jr., Fairfax County Executive

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U.S. ARMY GARRISON, FORT BELVOIR

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

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CATAWBA INDIAN NATION

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

NATIONAL TRUST FOR HISTORIC PRESERVATION

By: _____ Date: _____

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____ Date: _____

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

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By: _____ Date: _____

HISTORICAL SOCIETY OF FAIRFAX COUNTY

By: _____ Date: _____

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: _____

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FAIRFAX COUNTY PARK AUTHORITY

By: _____ Date: _____

INLET COVE HOME OWNERS ASSOCIATION

By: _____ Date: _____

SAVE WOODLAWN STABLES

By: _____ Date: _____

MOUNT VERNON LADIES ASSOCIATION

By: _____ Date: _____

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

Attachment H: Architectural Properties Listed or Eligible for Listing on the National Register

Attachment I: Archaeological Sites Listed or Eligible for Listing on the National Register

1462 **REFERENCES CITED**

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