

1 **DRAFT 7/30/2012**

2 **NATIONAL HISTORIC PRESERVATION ACT SECTION 106**

3 **PROGRAMMATIC AGREEMENT**

4 **AMONG THE**

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

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

9 **COUNTY OF FAIRFAX, VA;**

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

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13 **CATAWBA INDIAN NATION;**

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15 **NATIONAL TRUST FOR HISTORIC PRESERVATION;**

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17 **ADVISORY COUNCIL ON HISTORIC PRESERVATION;**

18 **And**

19 **VIRGINIA STATE HISTORIC PRESERVATION OFFICER**

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

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24 **DHR File No. 2001-0007**  
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**RECITALS**

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

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

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

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

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

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

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

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

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

159           c) Woodlawn Historic District (029-5181); adverse effects include: alteration of  
160           the viewshed; visual and auditory impacts; changes in relationship among the  
161           contributing properties; modification of the historic landscape, including  
162           construction of a realigned roadway, and relocation of the two non-historic  
163           Woodlawn Stables structures to another location within the Historic District;

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

- 209 further identification and evaluation efforts are complete as stipulated in Sections  
210 V and VII of the Agreement; and  
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- 212 20. **WHEREAS**, FHWA has invited, in accordance with 36 CFR § 800.6(a)(1), the  
213 Advisory Council on Historic Preservation (herein ACHP) to participate in  
214 consultation and the ACHP has agreed to participate (letter dated June 18, 2012);  
215 and  
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- 217 21. **WHEREAS**, the Trust has requested to participate in consultation as a signatory  
218 to the Agreement (letter dated June 8, 2012) and FHWA has agreed to the request  
219 based on the significant level of involvement, oversight, and management that  
220 will be required in order for the Trust to ensure fulfillment of mitigation  
221 requirements stipulated through the execution of the Agreement; and  
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- 223 22. **WHEREAS**, FHWA has invited, in accordance with 36 CFR § 800.10(c), the  
224 Secretary of the Interior (herein “Secretary”) through the National Park Service  
225 (herein “NPS”) to participate in consultation on the Undertaking, and FHWA has  
226 received no response indicating the Secretary’s willingness to participate in  
227 consultation; and  
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- 229 23. **WHEREAS**, pursuant to 36 CFR § 800.2(c)(2), and in recognition of the  
230 obligation conferred upon FHWA by the American Indian Religious Freedom Act  
231 (42 U.S.C. § 1996; herein “AIRFA”), and Section 3(c) of the Native American  
232 Graves Protection and Repatriation Act (25 USC § 3002(c); herein “NAGPRA”),  
233 FHWA has invited the Catawba Indian Nation, the Eastern Band of Cherokee  
234 Indians, the United Keetoowah Band of Cherokees, and the Tuscarora Nation to  
235 participate in the consultation process; and  
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- 237 24. **WHEREAS**, the Tribal Historic Preservation Officer representing the Catawba  
238 Indian Nation (herein “CIN-THPO) agreed to participate in consultation as an  
239 invited signatory to the Agreement (email dated May 4, 2012); and  
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- 241 25. **WHEREAS**, the Eastern Band of Cherokee Indians (herein “EBCI”) (during a  
242 telephone conversation, in which EBCI stated that the Undertaking is not located  
243 within its area of interest; see Attachment G) and the United Keetoowah Band of  
244 Cherokees (email dated April 10, 2012) deferred consultation, and no response  
245 was received from the Tuscarora Nation; and  
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- 247 26. **WHEREAS**, VDOT has significant obligations related to implementing and  
248 overseeing the stipulations of the Agreement and has agreed to participate in  
249 consultation as a signatory to the Agreement; and  
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- 251 27. **WHEREAS**, Fairfax County, through its Department of Transportation, has  
252 significant obligations related to implementing and overseeing the stipulations of  
253 the Agreement and has agreed to participate in consultation as a signatory to the  
254 Agreement; and

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

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

- a) Woodlawn Baptist Church
- b) Alexandria Monthly Meeting of the Religious Society of Friends (herein “Friends”)
- c) Pohick Episcopal Church
- d) National Park Service – Potomac Heritage National Scenic Trail
- e) National Park Service – Washington-Rochambeau Trail
- f) Inlet Cove Home Owners Association
- g) Save Woodlawn Stables
- h) Mount Vernon Ladies Association

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

- a) Virginia Council on Indians
- b) Gum Springs Historical Society
- c) National Park Service – George Washington Memorial Parkway
- d) Historical Society of Fairfax County

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

**NOW, THEREFORE**, FHWA, the Army, the County, VDOT, the Catawba Indian Nation, the Trust, ACHP 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 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 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:



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

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

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378 **b) WOODLAWN BAPTIST CHURCH AND CEMETERY**

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380 i. Within six (6) months of execution of this Agreement the Army shall  
381 initiate the granting of an easement with related conditions to the church  
382 allowing limited usage of the land on Fort Belvoir located adjacent to the

- 383 Woodlawn Baptist Church property and bounded by the realigned Route 1  
384 and new access road. The limited usage would allow the area to be used  
385 by the Baptists for recreation, occasional parking, and other temporary,  
386 low impact activities. Granting of the easement and related conditions is  
387 subject to Department of the Army (DA) approval.
- 388 ii. FHWA shall include in its design and implement the removal of pavement  
389 from the church's existing driveway in order to restore the historic  
390 character of the landscape. Driveway modifications shall conform to  
391 Secretary of the Interior's Standards for the Treatment of Historic  
392 Properties as they relate to the Guidelines for the Treatment of Cultural  
393 Landscapes.
- 394 iii. FHWA shall include in its design and implement landscaping that will  
395 replace vegetation removed due to the Undertaking. Any landscaping  
396 proposed within the Rt. 1 Right-of-Way would be subject to VDOT  
397 regulations and approval.
- 398 iv. FHWA contracted the services of archaeologists with specialized mortuary  
399 experience to document the cemetery (FHWA 2012c), including a grave  
400 location survey and the cataloging of gravestone data. The survey used  
401 minimally invasive techniques, such as Ground Penetrating Radar, to  
402 determine the locations of graves. The survey included areas within the  
403 known boundaries of the cemetery, and extended beyond the known  
404 boundaries to areas that may have contained associated graves. A  
405 searchable database of gravestone information includes inscriptions,  
406 descriptions of the stones, photographs, and other data. The survey was  
407 intended as mitigation, but was implemented in advance to assist in the  
408 design and project impact analysis process. FHWA shall provide final  
409 copies of all materials resulting from Stipulation I(b)(iv) to the Woodlawn  
410 Baptist Church, SHPO, Historical Society of Fairfax County, and Fairfax  
411 County Historical Commission.
- 412 v. Additional activities impacting the Woodlawn Baptist Church, including  
413 the relocation of church signs, relocation/replacement of utilities, noise  
414 abatement and other details will be determined separately from this  
415 Agreement by FHWA, the Woodlawn Baptist Church, and other parties,  
416 as appropriate to the specific activity.

417  
418 c) OTIS TUFTON MASON HOUSE

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420 FHWA shall relocate the Otis Tufton Mason House according to the following  
421 procedures:

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423 i. FHWA shall relocate the building to a permanent site selected by the  
424 Trust, nearby and on Trust property, as a means of recreating the historic  
425 setting, association, and general feel of the Otis Tufton Mason House to  
426 the extent possible. Consulting Parties will have the opportunity to  
427 provide input regarding the proposed relocation site during the design  
428 workshops described in Stipulation I.

PROGRAMMATIC AGREEMENT

Rt. 1 Improvements Project, Fairfax County, VA

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- 429           ii.       FHWA shall contract a professional building mover to undertake the  
430 relocation of the Otis Tufton Mason House. The SHPO and the Trust will  
431 review and approve the experience and professional qualifications of the  
432 mover prior to FHWA entering into a contract.
- 433           iii.       FHWA shall develop a stabilization and moving plan for the Otis Tufton  
434 Mason House, in conformance with *Moving Historic Buildings* (Curtis,  
435 1979), before relocation of the house or any part thereof. Said plan shall  
436 be developed in consultation with and shall receive the concurrence of the  
437 Trust and the SHPO. At a minimum, the plan will consist of the following  
438 elements: recordation of significant architectural features of the Otis  
439 Tufton Mason House, documentation of the history of the building  
440 (through research in state and local archival depositories), documentation  
441 of missing architectural features of the Otis Tufton Mason House,  
442 identification of features that require stabilization prior to relocation, the  
443 method of moving the building, the route which the building will take  
444 from its existing site to its new site, and the method of securing and  
445 stabilizing the Otis Tufton Mason House after relocation.
- 446           iv.       FHWA shall ensure that the Otis Tufton Mason House, once relocated on  
447 its new site, is in a habitable condition and receives a certificate of  
448 occupancy from the appropriate local government agency. This will  
449 include, at minimum, connecting utilities to the house in order to provide  
450 the building electrical, water, and sewer service. Access and parking will  
451 also be provided.
- 452           v.       Within one hundred and eighty (180) days of the move, FHWA shall  
453 demonstrate to the satisfaction of the Trust and the SHPO that the  
454 relocation occurred according to the previously approved stabilization and  
455 moving plan.
- 456           vi.       FHWA shall be responsible for the following costs as may be necessary to  
457 satisfy the terms of this PA: architectural and engineering services, legal  
458 fees, stabilization of the Otis Tufton Mason House prior to relocation,  
459 moving the Otis Tufton Mason House, the construction of a new  
460 foundation that replicates the existing in material and appearance, securing  
461 the building on the new site, installation of utilities consistent with  
462 Stipulation I(c)(iv), and maintenance of the building on the new site,  
463 including protection of the Otis Tufton Mason House from vandalism and  
464 the elements. These measures shall remain in effect for the period of this  
465 Agreement.
- 466           vii.       FHWA shall ensure that prior to the construction of the new foundation  
467 the proposed relocation site is adequately surveyed for archaeological  
468 deposits according to the processes outlined in Stipulations V – VII.
- 469           viii.       FHWA shall ensure that archaeological monitors are present when the  
470 existing foundation and/or associated builder’s trench are disturbed and  
471 that an archaeological monitoring report is prepared and submitted to the  
472 SHPO and other consulting parties, in accordance with Stipulation X.  
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- 474 d) FHWA shall prepare a Virginia Landmarks Register (VLR) nomination for the  
475 Woodlawn Historic District. The nomination will be developed in consultation  
476 with the SHPO and other consulting parties. Development of the supporting  
477 documentation will commence after the completion of Stipulation I.A, V and VI.  
478 The final VLR nomination will be submitted to SHPO and reviewed for listing on  
479 the VLR. If approved and listed on the VLR, SHPO will transmit the nomination  
480 to the National Park Service to be reviewed for NR eligibility.
- 481 e) Within six (6) months of execution of this Agreement, FHWA shall initiate SHPO  
482 Intensive Level Survey for all properties contributing to the District for which  
483 such documentation does not already exist, and shall update the SHPO Intensive  
484 Level Survey forms for all properties contributing to the District for which such  
485 documentation already exists. The forms shall also be entered electronically into  
486 the Virginia Department of Historic Resources Data Sharing System. The SHPO  
487 Intensive Level Survey will also include adequate documentation of the historic  
488 landscape throughout the district, including the pastures in the vicinity of the  
489 Sharpe Stables complex.
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- 491 f) The Department of the Army shall provide a permanent ingress/egress easement  
492 to the National Trust, Woodlawn Quaker Meetinghouse, and Woodlawn Baptist  
493 Church for a shared use driveway to ensure access to Route 1.
- 494
- 495 g) VDOT, through the Commissioner of Highways, shall submit an application to  
496 the Commonwealth Transportation Board requesting the abandonment of any  
497 unneeded portions of Route 1 through the Woodlawn Historic District resulting  
498 from the selected alignment in accordance with applicable regulations. Any  
499 abandoned roadway sections would be offered to the nearest landowner at the  
500 assessed value. The value of any abandoned portions of the roadway may be  
501 deducted from or funded through money transferred by the Commonwealth of  
502 Virginia due to the condemnation of land elsewhere in the project area.

503  
504 **II. Treatment for Woodlawn National Historic Landmark**

- 505
- 506 a) FHWA shall oversee a monetary fund in the amount of \$500,000 intended to  
507 mitigate for impacts to the NHL. These funds can be applied to any structure  
508 within the NHL boundaries including the Woodlawn Plantation, Grand View, and  
509 Pope-Leighey House. The following is a list of mitigation measures that will be  
510 funded, in prioritized order, until the fund is exhausted
- 511
- 512 i. Installation of public water service sufficient to serve the Woodlawn  
513 property, including service that is adequate to install fire hydrants for  
514 suppression purposes.
- 515 ii. Installation of sanitary sewer service sufficient to serve the Woodlawn  
516 property.
- 517 iii. Installation of natural gas service.
- 518 iv. Installation of improvements, such as drives and trails, to improve internal  
519 access within the property.

- 520 v. Installation of landscape buffers to reduce visual impacts.  
521  
522 b) FHWA shall ensure that the areas for proposed location of water and sewer lines,  
523 landscaping and other ground disturbing activity resulting from these mitigation  
524 measures are adequately surveyed for archaeological deposits according to the  
525 processes outlined in Stipulations V – VII.  
526  
527 c) FHWA shall develop and submit design plans for review and comment by the  
528 Trust and the SHPO. The Trust and the SHPO shall provide comments on  
529 preliminary design plans within thirty (30) calendar days of receipt. If no  
530 comments are received from the Trust or the SHPO, FHWA may assume that the  
531 non-responding party has no comments. FHWA shall amend and submit revised  
532 design plans within thirty (30) days after the end of a comment period. Plan  
533 review and submittal deadlines may be changed with the agreement of all parties.  
534

535 **III. Documentation and Treatment for Fort Belvoir Military Railroad Bed and**  
536 **Bridge**  
537

- 538 A. Prior to its removal FHWA shall conduct Historic American Engineering Record  
539 (HAER) Level I documentation of the Bridge and portions of the Railroad Bed  
540 within the APE. The documentation will include large-format photography, a  
541 narrative history of the structures, and measured drawings. Upon completion of  
542 the HAER documentation, FHWA shall provide final copies to the Army,  
543 Historical Society of Fairfax County, Fairfax County Historical Commission, and  
544 the SHPO in a form that is acceptable to each party.  
545  
546 B. In consultation with the Army and the SHPO, FHWA shall develop within six (6)  
547 months of execution of this Agreement a marketing plan for determining if there  
548 is a capable party willing to relocate and assume ownership of Railroad Bridge  
549 Facility No. 1433. The marketing plan shall identify parties to whom FHWA shall  
550 send direct solicitations for expressions of interest as well as the media outlets  
551 through which the availability of the bridge will be advertised to the general  
552 public. FHWA shall provide the marketing plan to the Army and the SHPO for  
553 review and approval.  
554  
555 C. Once the marketing plan has been approved by the Army and the SHPO, FHWA  
556 shall follow the process outlined below to identify a capable party to relocate and  
557 assume ownership of Railroad Bridge Facility No. 1433:  
558  
559 1. FHWA shall implement the marketing plan developed pursuant to Stipulation  
560 III.B. Interested parties shall have until 5:00 pm on the thirtieth (30<sup>th</sup>) calendar  
561 day following receipt of a direct solicitation from FHWA or following initial  
562 publication notice of the bridge's availability to submit to FHWA a detailed  
563 proposal for the relocation and preservation of the bridge.  
564  
565 2. Proposals must describe in detail:

- 566 a) the individual, organization, or government agency that will assume  
567 ownership;
- 568 b) the prospective use of the bridge and a plan for implementing that  
569 use;
- 570 c) a plan and schedule for moving the bridge in accordance with a  
571 construction schedule specified by FHWA;
- 572 d) the financial and technical capabilities of the recipient to move and  
573 maintain the bridge; and
- 574 e) the ability of the recipient to indemnify the Army from all future  
575 liability and claims.  
576
- 577 3. Proposals must include a map showing the location of the proposed new site  
578 for the existing structure, maps or drawings depicting any areas of the new site  
579 where the ground surface will be disturbed by the reconstruction activities,  
580 and a plan to identify any archaeological sites that might be present at the new  
581 site and for avoiding harm to any archaeological sites eligible for the NR.  
582
- 583 4. Proposals must certify that the recipient will:  
584
- 585 a) assume responsibility for conducting all work associated with the  
586 bridge relocation, including complying with all applicable  
587 environmental regulations and laws, obtaining all appropriate  
588 environmental clearances and permits, conducting any necessary  
589 archaeological studies, and moving, dismantling, and reconstructing  
590 the bridge according to *The Secretary of the Interior's Standards for*  
591 *the Treatment of Historic Properties* (36 CFR 68);
- 592 b) assume all liability associated with the bridge and will indemnify the  
593 Army from any further responsibility; and
- 594 c) consent to offer the donation of a preservation easement on the bridge  
595 to the Board of Historic Resources, to be administered by the Virginia  
596 Department of Historic Resources (*Code of Virginia* 10.1-2204), or to  
597 another party selected in consultation with the SHPO and other  
598 consulting parties. The Board of Historic Resources or another  
599 selected party is not obligated to accept a preservation easement  
600 offered pursuant to this Agreement. If no entity is found that will  
601 accept an easement on the bridge, the parties to this Agreement shall  
602 consult in order to decide upon a mutually acceptable alternative.  
603
- 604 5. FHWA shall consider only those proposals submitted in accordance with the  
605 established schedule. If FHWA receives no expressions of interest in  
606 acquiring the bridge by the close of the thirty-five (35)-calendar day period  
607 following receipt of a direction solicitation from FHWA or following initial  
608 publication of any notice of the bridge's availability, FHWA shall so notify  
609 the Army and the SHPO. After fulfilling the additional requirements of  
610 Stipulation III.g) of this Agreement, FHWA may proceed to demolish the  
611 bridge.

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

7. FHWA shall reject any proposal that fails:

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

8. In reviewing the proposals FHWA shall also consider:

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

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

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

- 657 F. FHWA shall offer as an incentive to ownership a one-time monetary payment up  
658 to an amount not to exceed the cost of demolition (approximately \$50,000, as  
659 estimated and approved for reimbursement by the FHWA) to be used by a new  
660 owner for implementing a plan, approved by the Army, the SHPO and FHWA, for  
661 the relocation and preservation of the Railroad Bridge Facility No. 1433. FHWA  
662 shall provide this payment only on a reimbursement basis for funds already  
663 expended by the new owner on the relocation and preservation plan.  
664
- 665 G. The portions of the FBMRR track bed north of Telegraph Road have suffered  
666 erosion damage due severe weather in 2011. FHWA will repair and stabilize the  
667 damaged sections of the track bed. Repairs shall meet all necessary storm water  
668 regulations and the Secretary of the Interior's Standards for the Treatment of  
669 Historic Properties.  
670
- 671 H. FHWA and the Army shall develop and install six (6) historic markers at key  
672 locations along the route of the Fort Belvoir Military Railroad (FBMRR) which  
673 will interpret the history of the route. The markers will conform to the style of the  
674 existing Fort Belvoir historical sign program using upright cast metal markers.  
675 Marker locations shall include the crossings at Telegraph Road, John J. Kingman  
676 Road, Pohick Road, 21st Street, Rail Bridge 1433, which will be demolished as a  
677 part of the widening, and Rail Bridge 2298, which crosses over Beulah Road in  
678 Accotink Village. Fort Belvoir will provide FHWA with a copy of the FBMRR  
679 Multi-Property National Register Nomination to assist FHWA in the development  
680 of the signage. FHWA shall submit a draft historic marker development plan to  
681 the VA SHPO and Fort Belvoir for review and comment. This plan will include,  
682 but is not limited to, design graphics, draft language, and site plans for marker  
683 location. This mitigation will be implemented within 24 months of this  
684 agreement.  
685

#### 686 **IV. Protective Measures for Pohick Episcopal Church**

##### 687 **A. VIBRATION MONITORING**

- 688
- 689
- 690 1) Prior to beginning construction, FHWA shall contract the services of a qualified  
691 individual to conduct a Pre-Construction Survey of Pohick Episcopal Church.  
692 The contractor must be trained in Historic Architecture, or a closely related  
693 field, and have at least five (5) years of professional experience as a Building  
694 Conservation Specialist. The contractor will have successfully completed at  
695 least three (3) building conservation projects where he/she has taken into  
696 account the effects of different levels of vibration on historic masonry and  
697 frame buildings.  
698
- 699 2) The Pre-Construction Survey shall establish baseline conditions for monitoring  
700 vibration impacts during construction, and shall:



- 701 a) Establish an area of vibration impact;
- 702 b) Establish existing vibration levels unrelated to construction activity from the
- 703 Undertaking;
- 704 c) Provide details about fragility of building materials;
- 705 d) Specify environmental conditions in the area of impact that would affect the
- 706 transmission of vibrations;
- 707 e) Recommend appropriate vibration thresholds for monitoring during
- 708 construction to prevent damage to historic buildings within the area of
- 709 vibration impact; and
- 710 f) Recommend appropriate vibration mitigation strategies that may be
- 711 incorporated into the Vibration Monitoring Plan (herein “VMP”).
- 712
- 713 3) Prior to beginning construction, FHWA shall prepare a VMP based on the
- 714 findings from the Pre-Construction Survey. The VMP shall include the
- 715 following:
- 716
- 717 a) Construction activities that require monitoring;
- 718 b) General timeframes for monitoring; and
- 719 c) Thresholds of vibration levels that will be maintained during construction.
- 720
- 721 4) FHWA shall submit the VMP to the SHPO and Pohick Episcopal Church for
- 722 review and comment prior to beginning construction. The SHPO and Pohick
- 723 Episcopal Church shall have fifteen (15) days for review and comment. If the
- 724 SHPO and Pohick Episcopal Church do not respond within fifteen (15) days,
- 725 FHWA shall assume acceptance by both parties and proceed with the
- 726 Undertaking pursuant to the stipulations of this Agreement.
- 727 FHWA shall submit any modifications to the VMP to the SHPO and Pohick
- 728 Episcopal church for review and comment. The SHPO and Pohick Episcopal
- 729 Church shall have five (5) days for review and comment. If the SHPO and
- 730 Pohick Episcopal Church do not respond within five (5) days, FHWA shall
- 731 assume acceptance by both parties and proceed with the Undertaking pursuant to
- 732 the stipulations of this Agreement.
- 733 5) If vibrations are found to exceed the thresholds established for this project, the
- 734 work causing that vibration will cease and corrective action will be taken to
- 735 return the vibration level to acceptable thresholds.
- 736
- 737 6) The contractor shall be responsible for repair to damage resulting from the
- 738 Undertaking to historic properties within the vibration monitoring area, in
- 739 accordance with The Secretary of the Interior’s *Standards for Rehabilitation*
- 740 *and Guidelines for Rehabilitating Historic Buildings* (1994). Before initiating

741 repairs, FHWA shall, in consultation with Pohick Episcopal church, develop  
742 specifications for rehabilitation work. FHWA shall submit rehabilitation plans  
743 to the SHPO, for a period not to exceed thirty (30) calendar days, for review  
744 and comment. If no comments are received from the SHPO with thirty (30)  
745 days, FHWA can assume concurrence.

746

747 **B. TELEGRAPH ROAD INTERSECTION DESIGN WORKSHOPS**

748

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

758

759 FHWA and the County, in consultation with workshop participants, shall develop  
760 and submit design plans for review and comment by workshop participants.  
761 Designs may be distributed to workshop participants electronically, by mail, or at  
762 workshop meetings, as determined appropriate by workshop participants.  
763 Workshop participants shall provide comments on preliminary design plans  
764 within thirty (30) calendar days of receipt. If no comments are received from the  
765 workshop participants, FHWA may assume that the non-responding party has no  
766 comments. FHWA and the County shall amend and submit revised design plans  
767 within thirty (30) days after the end of a comment period. Plan review and  
768 submittal deadlines may be changed with the agreement of all workshop  
769 participants but in no event shall any comment period be less than two (2) weeks  
770 after receipt. If the relevant issues cannot be resolved after two design workshops  
771 have been conducted, FHWA may schedule additional workshops.

772

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

775

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

777

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

782

783 B. An archaeological survey of the entire Trust property was conducted by the  
784 Chicora Foundation in 1999; however the survey recommendations and results did

785 not receive SHPO concurrence. Within six (6) months of the execution of this  
786 agreement, FHWA shall review and update the Chicora survey, as necessary, to  
787 identify and evaluate archaeological sites throughout the entire Trust property.  
788 This will help guide the design of mitigation measures so that impacts to any  
789 significant deposits can be avoided or minimized, including the archaeological  
790 deposits associated with the NHL (44FX1146).

791  
792 C. FHWA shall evaluate sites 44FX1810 and 44FX1936 for NR eligibility. FHWA  
793 shall consult with the Signatories, and other consulting parties, regarding the NR  
794 eligibility of the sites, and seek concurrence and development of avoidance,  
795 minimization, or mitigation measures.

796  
797 D. If activities related to the implementation of the Undertaking, and having the  
798 potential to impact archaeological resources, are to occur outside the previously  
799 identified APE, FHWA shall identify and evaluate archaeological properties prior  
800 to initiation of any land disturbing construction activities. If, as a result of testing,  
801 archaeological sites are identified that are eligible for listing in the NR, a plan for  
802 their treatment will be developed as described under Stipulation VII.

803  
804  
805 E. FHWA shall ensure that archaeological properties occurring within the APE that  
806 are to be impacted by activities related to the implementation of the Undertaking  
807 (including, but not limited to, construction of stormwater management measures,  
808 borrow and staging areas, or tree removal and revegetation) are evaluated for NR  
809 eligibility by FHWA in consultation with SHPO. Evaluation shall be accomplished  
810 prior to initiation of land disturbing activities. FHWA shall consult with the  
811 Signatories, and other consulting parties, regarding the NR eligibility of  
812 archaeological properties evaluated, and seek concurrence and development of  
813 avoidance, minimization, or mitigation measures.

814  
815  
816 **VI. Eligibility Determination and Determinations of Effect for Archaeological**  
817 **Properties**

818  
819 A. FHWA shall submit its findings regarding archaeological Phase I and II testing in a  
820 report to the SHPO with a formal request for concurrence. FHWA shall apply the  
821 NR criteria for eligibility to surveyed archeological sites in consultation with the  
822 SHPO, CIN-THPO, Signatories, and other consulting parties, to reach one of the  
823 following conclusions:

824  
825 1. If FHWA determines the criteria are not met, and the SHPO and CIN-THPO  
826 agrees, the property shall be considered not eligible. Such sites shall typically  
827 require no further review or consideration under this Agreement. If FHWA  
828 and the SHPO or CIN-THPO do not agree, or if ACHP or the Secretary so  
829 request, FHWA shall obtain a determination of eligibility from the Secretary  
830 pursuant to 36 CFR § 63.

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

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

**VII. Archaeological Property Treatment Plan**

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

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

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;

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

**VIII. Late Discoveries of Archaeological Properties**

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

- A. In the event that previously unidentified archaeological properties are discovered during ground disturbing activities, the contractor shall immediately halt all construction work involving subsurface disturbance in the area of the property and in the surrounding area, and immediately notify FHWA. FHWA shall notify the SHPO, Signatories, and other consulting parties of the discovery within two (2) business days.
- B. Using a qualified archaeologist meeting the Secretary’s *Professional Qualifications Standards for Archaeology*, FHWA and Signatories shall immediately inspect the work site and determine the area and nature of the affected archaeological property. Construction work may then continue in the area

922 outside the archaeological property as defined by FHWA and the SHPO, or their  
923 designated representative.

924

925 C. Within five (5) business days of the original notification of discovery, FHWA, in  
926 consultation with the Signatories and other consulting parties, shall determine the  
927 NR eligibility of the property and provide the eligibility determination to SHPO  
928 for concurrence.

929

930 D. If the property is determined eligible for the NR, or contains human burials,  
931 FHWA shall prepare a plan for its avoidance, protection, or recovery of  
932 information. The plan shall be submitted to the Signatories and other consulting  
933 parties for review and approval prior to its implementation. If comments are not  
934 received within five (5) business days following receipt, it shall be presumed that  
935 the party has no objection and the plan may be implemented.

936

937 E. Work in the affected area shall not proceed until either:

938 1. The development and implementation of appropriate data recovery or other  
939 recommended mitigation procedures is completed, or

940 2. The determination is made that the located properties are not eligible for  
941 inclusion on the NR.

942

943 F. Any disputes over the evaluation or treatment of previously unidentified  
944 properties shall be resolved as provided in the section of this Agreement entitled  
945 Dispute Resolution (Stipulation XII).

946

## 947 **IX. Discovery of Human Remains or Funerary Objects**

948

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

961

### 962 **A. HUMAN REMAINS ON FEDERAL LANDS**

963

964 If Native American human remains and cultural items, as defined by NAGPRA,  
965 are encountered on Federal lands during inventory, testing, data recovery or any  
966 construction-related activities, work within 200 feet of the discovery shall cease.  
967 FHWA shall immediately notify the SHPO, CIN-THPO and all other Signatories

968 and consulting parties, of the discovery. The Army, as the Federal land-  
969 management agency, shall comply with the requirements of NAGPRA (43 CFR §  
970 10) shall take into account and if applicable, the *Catawba Indian Nation THPO*  
971 *Burial Policy* and Procedures, provided as Attachment F.

972  
973 B. HUMAN REMAINS ON COMMONWEALTH OR PRIVATE LANDS

974  
975 The treatment of any human skeletal remains and associated funerary objects  
976 recovered from non-Federal lands, including those controlled by the  
977 Commonwealth, shall be in accordance with the terms of the burial permit issued  
978 by the Director of the SHPO governing the removal of such remains, and if  
979 applicable, the *Catawba Indian Nation THPO Burial Policy and Procedures*, as  
980 provided in Attachment F.

981  
982 C. PERMITS

983  
984 A permit for the archaeological removal of human remains on Commonwealth and  
985 private lands is required under Virginia Code 10.1-2305(A), together with  
986 assurances that any such remains shall be treated with dignity and respect.

- 987  
988 1. FHWA shall ensure that human skeletal remains and associated funerary  
989 objects encountered during the course of actions taken as a result of this  
990 agreement shall be treated in accordance with the Regulations Governing  
991 Permits for the Archaeological Removal of Human Remains (Virginia  
992 Register 390-01-02) found in the Code of Virginia (10.1-2305, et seq.,  
993 Virginia Antiquities Act) and the *Catawba Indian Nation THPO Burial Policy*  
994 *and Procedures*, as applicable, provided in Attachment F. FHWA shall obtain  
995 a permit from the SHPO for the removal of human remains in accordance with  
996 the regulations stated above.
- 997  
998 2. FHWA shall notify the appropriate state-recognized tribe(s) and CIN-THPO  
999 when burials, human skeletal remains, or funerary objects are encountered on  
1000 the Project, prior to any analysis or recovery.
- 1001  
1002 3. FHWA shall ensure that the general public is excluded from viewing any  
1003 Native American burial sites, human remains, or associated funerary objects.  
1004 The Signatories, and the consulting parties to this Agreement, shall not release  
1005 any photographs of any American Indian burial site or associated funerary  
1006 objects to the press or the general public.
- 1007  
1008 4. Any Native American human remains and associated funerary objects  
1009 recovered pursuant to this agreement shall be re-interred in consultation with  
1010 the CIN THPO and the appropriate state-recognized tribe(s). The appropriate  
1011 state-recognized tribe(s) or CIN THPO shall consult with the SHPO to  
1012 determine the party or parties that shall assume responsibility for planning and  
1013 executing the re-interment. FHWA shall deliver these remains and objects to

1014 the party or parties designated by the CIN THPO and the appropriate state-  
1015 recognized tribe(s) and shall be responsible for the costs of re-interment. The  
1016 disposition of any other human skeletal remains and associated funerary  
1017 objects shall be governed as specified in any permit issued by the SHPO or  
1018 any order of the local court authorizing their removal.  
1019  
1020

1021 **X. Standards**

1022  
1023 A. PRESERVATION STANDARDS AND PROFESSIONAL QUALIFICATIONS  
1024

- 1025  
1026 1. All work carried out pursuant to this agreement shall be conducted by or  
1027 under the direct supervision of an individual or individuals who meet, at a  
1028 minimum, the Secretary of the Interior professional qualification standards for  
1029 history, archaeology, or architecture, as appropriate to the specific property,  
1030 and as defined in 36 CFR Part 61.  
1031  
1032 2. All archaeological investigations on Federal land shall be performed under an  
1033 appropriate ARPA Cultural Resource Use Permit issued by the Army. FHWA  
1034 shall ensure that all contract documents contain procedures for obtaining the  
1035 permit.  
1036  
1037 3. A Department of Historic Resources permit (under Code of Virginia § 10.1-  
1038 2302) and a VDOT Land Use Permit (under 24VAC30-150-20) are required  
1039 for archaeological investigation on Commonwealth highway right of way.  
1040

1041 B. DOCUMENTATION STANDARDS  
1042

- 1043 1. All archaeological reports, including data recovery plans included in  
1044 Treatment Plans, shall be consistent with the Secretary's *Standards for*  
1045 *Archaeological Documentation* (48 FR 44734-37, September 29, 1983) and  
1046 the professional standards set forth in SHPO's *Guidelines for Conducting*  
1047 *Historic Resources Survey in Virginia* (October 2011), and shall take into  
1048 account the ACHP's publications, *Recommended Approach for Consultation*  
1049 *on Recovery of Significant Information from Archeological Sites* (1999) and  
1050 *Section 106 Archaeology Guidance* (June 2007).  
1051  
1052 2. All historical and architectural reports and survey documentation shall be  
1053 consistent with pertinent standards and guidelines of the Secretary, including  
1054 as applicable the *Standards for Historical Documentation* (48 FR 44728-30),  
1055 the Secretary of the Interior's *Standards for Architectural and Engineering*  
1056 *Documentation* (48 FR 44730-34, September 29, 1983), and the SHPO's  
1057 *Guidelines for Conducting Historic Resources Survey in Virginia* (October  
1058 2011).  
1059



1060 C. CURATION AND CURATION STANDARDS

- 1061
- 1062 1. The material remains and associated records resulting from the actions within
- 1063 the APE shall be curated in accordance with 36 CFR Part 79, with the
- 1064 exception of human skeletal remains and associated funerary objects.
- 1065 2. The curator of artifacts potentially discovered as a result of the Undertaking
- 1066 shall be dependent upon the owner of the lands where the artifacts are found.
- 1067 3. On Federal lands, material and records obtained from the Army shall be
- 1068 curated at a curation center or another depository as specified in the Cultural
- 1069 Resource Use Permit issued by the Army. Currently, an agreement is in place
- 1070 with the County to curate artifacts at the Cultural Resource curation facility at
- 1071 the James Lee Center in Falls Church, VA.
- 1072 4. Pursuant to the Code of Virginia §10.1-2302 all material remains (with the
- 1073 exception of materials found on Army property, human skeletal remains and
- 1074 associated funerary artifacts) resulting from the actions cited in this
- 1075 Agreement, and recovered from lands controlled by the Commonwealth,
- 1076 including highway right of way, are the property of the Commonwealth.
- 1077 Artifacts found on Commonwealth land or within Commonwealth
- 1078 owned/maintained right of way shall also be curated by the County, pursuant
- 1079 to Federal regulation at 36 CFR § 79. If the County should ever close the
- 1080 curatorial facility, or terminate the agreement, the County shall notify the
- 1081 SHPO and arrange for the transfer of any curated materials.
- 1082
- 1083 5. Any private landowner shall have claim to artifacts found on its land as a
- 1084 result of this undertaking, as prescribed by the laws of the Commonwealth.
- 1085

1086 **XI. Continuing Review Process**

- 1087
- 1088 A. The SHPO and the concurring parties to this Agreement agree to provide
- 1089 comments to FHWA on all plans, technical materials, findings and other
- 1090 documentation arising from this Agreement within thirty (30) calendar days of
- 1091 their receipt. If no comments are received from the SHPO or the concurring
- 1092 parties to this Agreement, FHWA may assume that the non-responding party has
- 1093 no comment. FHWA shall take into consideration all comments received in
- 1094 writing from the SHPO and the concurring parties to this Agreement within the
- 1095 thirty (30) calendar day review period.
- 1096 B. All roadway design, signage, landscaping, and other mitigation measures
- 1097 proposed as part of this agreement that will be accepted into the state highway
- 1098 system must meet VDOT standards and requirements, and are subject to VDOT
- 1099 approval.
- 1100

1101 **XII. Dispute Resolution**

- 1102
- 1103 A. OBJECTIONS BY SIGNATORY PARTIES
- 1104

1105 Should any signatory to this agreement object in writing to FHWA regarding any  
1106 action carried out or proposed with respect to the undertaking or implementation of  
1107 this agreement, FHWA shall consult with the objecting Signatory to resolve the  
1108 objection. If after initiating such consultation FHWA determines that the objection  
1109 cannot be resolved through consultation, the agency shall forward all documentation  
1110 relevant to the objection to the ACHP, including the agency's proposed response to  
1111 the objection. Within thirty (30) days after receipt of all pertinent documentation, the  
1112 ACHP shall exercise one of the following options:

- 1114 1. Advise the FHWA that the ACHP concurs in the agency's proposed response to  
1115 the objection, whereupon the agency will respond to the objection accordingly; or  
1116
- 1117 2. Provide the FHWA with recommendations, which the agency shall take into  
1118 account in reaching a final decision regarding its response to the objection; or  
1119
- 1120 3. Notify the FHWA that the objection will be referred for comment pursuant to 36  
1121 CFR Part 800.7(a)(4), and proceed to refer the objection and comment. The  
1122 agency shall take the resulting comment into account in accordance with 36 CFR  
1123 Part 800.7(c)(4).  
1124

1125 Should the ACHP not exercise one of the above options within 30 days after receipt  
1126 of all pertinent documentation, the FHWA may assume the Council's concurrence in  
1127 its proposed response to the objection.  
1128

1129 The FHWA shall take into account any ACHP recommendation or comment provided  
1130 in accordance with this stipulation with reference only to the subject of the objection;  
1131 the agency's responsibility to carry out all actions under this agreement that are not  
1132 the subjects of the objection shall remain unchanged.  
1133

#### 1134 B. CONSULTING PARTY COMMENTS AND DISPUTE RESOLUTION 1135

1136 Should any consulting party to this Agreement object in writing to the FHWA  
1137 regarding any action carried out or proposed with respect to the undertaking or  
1138 implementation of this Agreement, the FHWA, in conjunction with all other  
1139 Signatories to this Agreement, will consult with the objector regarding such  
1140 objections.  
1141

1142 The Signatories shall consult with the objecting consulting party within thirty (30)  
1143 days after receipt of written comments. If the Signatories and the consulting party  
1144 cannot resolve the matter with respect to the project, the FHWA shall notify SHPO  
1145 and provide copies of the objection. SHPO, as appropriate, shall advise the FHWA of  
1146 measures, if any, that could resolve the matter.  
1147

1148 If the Signatories, in consultation with SHPO, cannot resolve the matter with respect  
1149 to the project, and the Signatories consider the issue of sufficient importance, the  
1150 Signatories shall proceed as set forth in Stipulation XII.A. above.

1151

1152 **XIII. Amendment and Termination**

1153

- 1154 A. Any signatory to this Agreement may propose to FHWA that the Agreement be  
1155 amended, whereupon FHWA shall consult with the other signatories to consider  
1156 such an amendment. 36 CFR § 800.6(c)(7) shall govern the execution of any such  
1157 amendment. Any signatory to this Agreement may terminate it in accordance with  
1158 the provisions of 36 CFR § 800.6(c)(8).
- 1159 B. If FHWA and VDOT decide they will not proceed with the Undertaking, they  
1160 may so notify the signatories and concurring parties and then this Agreement shall  
1161 become null and void.
- 1162 C. In the event that this Agreement is terminated or rendered null and void, FHWA  
1163 shall submit to the SHPO a technical report on the results of any archaeological  
1164 investigations conducted prior to and including the date of termination, and shall  
1165 ensure that any associated collections and records recovered are curated in  
1166 accordance with Stipulation X.C. of this Agreement.
- 1167 D. In the event of termination, FHWA shall either execute a Section 106 agreement  
1168 pursuant to 36 CFR § 800.6(c)(1) or request the comments of the ACHP under 36  
1169 CFR § 800.7(a).

1170

1171 **XIV. Duration**

1172

- 1173 A. Unless this Agreement is terminated pursuant to Stipulation XIII or superseded by  
1174 another Agreement executed for the Undertaking, or the Undertaking has been  
1175 terminated, this Agreement shall remain in effect for a period of ten (10) years  
1176 from the date of signature.
- 1177
- 1178 B. Upon a determination by FHWA that construction of all aspects of the  
1179 Undertaking have been completed and that all terms of this Agreement have been  
1180 fulfilled in a satisfactory manner, FHWA shall notify the other Signatories and  
1181 consulting parties of that determination in writing, whereupon this Agreement  
1182 shall no longer have any effect.
- 1183
- 1184 C. At any time during the six-(6) month period prior to expiration of the Agreement,  
1185 the Signatories may agree to extend this Agreement with or without amendments.  
1186 If FHWA or VDOT decides it will not proceed with the Undertaking, it will so  
1187 notify the Signatories and consulting parties and this agreement shall become null  
1188 and void.

1189

**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**

1204  
1205  
1206  
1207  
1208  
1209

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

1210  
1211  
1212

**VIRGINIA STATE HISTORIC PRESERVATION OFFICER**

1213  
1214  
1215  
1216

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

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1218  
1219

**VIRGINIA DEPARTMENT OF TRANSPORTATION**

1220  
1221  
1222  
1223

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Earl T. Robb, Environmental Division Administrator

1224  
1225  
1226

**COUNTY OF FAIRFAX, VIRGINIA**

1227  
1228  
1229  
1230

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

1231  
1232  
1233

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

1234  
1235

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: \_\_\_\_\_

1281 **NATIONAL PARK SERVICE – POTOMAC HERITAGE NATIONAL SCENIC**  
1282 **TRAIL**

1283  
1284  
1285

1286 By: \_\_\_\_\_ Date: \_\_\_\_\_

1287  
1288

1289 **NATIONAL PARK SERVICE – WASHINGTON-ROCHAMBEAU TRAIL**

1290  
1291  
1292

1293 By: \_\_\_\_\_ Date: \_\_\_\_\_

1294  
1295

1296  
1297 **INLET COVE HOME OWNERS ASSOCIATION**

1298  
1299  
1300

1301 By: \_\_\_\_\_ Date: \_\_\_\_\_

1302  
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1305 **SAVE WOODLAWN STABLES**

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1309 By: \_\_\_\_\_ Date: \_\_\_\_\_

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1312 **MOUNT VERNON LADIES ASSOCIATION**

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1315 By: \_\_\_\_\_ Date: \_\_\_\_\_

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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**
- 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**

**REFERENCES CITED**

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