

**PROGRAMMATIC AGREEMENT
AMONG
THE TOWN OF BROOKNEAL,
THE VIRGINIA STATE HISTORIC PRESERVATION OFFICE,
AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION
FOR THE
MATTOX/CLAYTOR STREET AREA REVITALIZATION PROJECT**

WHEREAS, the Town of Brookneal (“Town”) in Campbell County, Virginia has applied for and will receive a Community Development Block Grant (“CDBG”) to address critical housing needs; and

WHEREAS, the 1981 Congressional amendment to the Housing and Community Development Act of 1974 (“HCD Act”) gives each State the opportunity to administer CDBG funds for non-entitlement areas and delegates environmental compliance responsibilities to the recipients of CDBG funds; and

WHEREAS, for the purposes of compliance with Section 106 of the National Historic Preservation Act (“NHPA”) and this Agreement, the Town will serve as a Responsible Entity; and

WHEREAS, CDBG funds will be used for the Mattox/Claytor Street Area Revitalization Project, which includes housing rehabilitation, roadway resurfacing and drainage improvements, installation of streetlights, construction of water lines and gravity sewer lines, and demolition (“Undertaking”); and

WHEREAS, the Town, in consultation with the Virginia Department of Historic Resources, which serves as the State Historic Preservation Office (“SHPO”) in Virginia, has established the Undertaking’s Area of Potential Effect (“APE”) as shown in Appendix 1; and

WHEREAS, the Town has provided notification to the Advisory Council on Historic Preservation (“ACHP”) per 36 CFR Part 800.6(a)(1) and the ACHP has elected to participate in this Agreement.

NOW THEREFORE, the Town, the SHPO, and the ACHP agree that the Undertaking will be implemented in accordance with the following stipulations in order to take into account its potential effects on historic properties.

STIPULATIONS

The Town will ensure that the following measures are carried out:

I. IDENTIFICATION

- A. The Town has provided to the SHPO photographs of the following properties proposed for rehabilitation and the SHPO has concurred with the Town that none of the following structures are individually eligible for listing in the National Register of Historic Places (“National Register”):
 - 1. 107 West End Street
 - 2. 108 West End Street
 - 3. 110 Mattox Street
 - 4. 114 Mattox Street
 - 5. 218 Mattox Street
 - 6. Mattox Street (no house number; DHR ID #179-5003)
 - 7. 112 Green Spring
 - 8. 128 Claytor Road
 - 9. Claytor Road (no house number, P.O. Box 10; directly east of the Brookneal School)
- B. The Town, in consultation with the SHPO, has determined that no historic district eligible for listing in the National Register is contained within the APE.
- C. The Town has provided to the SHPO photographs of the Brookneal School in the Claytor Road neighborhood and has determined in consultation with the SHPO that the school is individually eligible for listing in the National Register. The Town will therefore treat the Brookneal School as an historic property for the purposes of Section 106 and this Agreement.
- D. If any property that is fifty (50) years of age or older will be impacted by this Undertaking and that property has not previously been submitted to the SHPO for review, the Town will provide photographs of the subject property to the SHPO for review.
- E. The Town, in consultation with the SHPO, has determined that no recorded archeological sites exist within the APE and that no additional archeological identification is necessary.

II. TREATMENT

- A. The Town may proceed with work on all properties identified in Stipulation I.A. which the Town has determined in consultation with the SHPO are not eligible for listing in the National Register.
- B. The Town will consult with the SHPO and other interested parties on any proposed rehabilitation or demolition of a property determined eligible for the National Register and will submit to the SHPO for review and approval a detailed scope of work before taking any action on the subject property.

- C. The Town, in consultation with the SHPO and other interested parties, will explore alternatives to demolition for the Brookneal School. The Town will consider, at a minimum, the following options:
 - 1. Rehabilitation in place as a heritage tourism property.
 - 2. Rehabilitation in place as a dwelling.
 - 3. Moving the school to another location for rehabilitation.
 - 4. Mothballing the school in place.
 - 5. Moving and mothballing the school.
 - 6. Selling the school to another individual or organization with the condition that they rehabilitate the school.
- D. If after consultation with the SHPO and other interested parties the Town determines that there is no practical or feasible alternative to the demolition of an historic property, such as the Brookneal School, or that the rehabilitation of an historic property cannot meet *The Secretary of the Interior's Standards for Rehabilitation* ("Standards"), the Town must complete and submit to the SHPO for review and approval the following before taking any action on the subject property:
 - 1. A compiled list of options explored and a written justification as to why the proposed action is the only reasonable alternative.
 - 2. A DHR Intensive Level Survey Form for each historic property entered into the SHPO's Data Sharing System (DSS).
 - 3. Floor plan for each historic property.
 - 4. A set of 3-inch by 5-inch black and white archival photographs of the exterior elevations and significant interior architectural features.
 - 5. A site plan for each historic property.

III. PROFESSIONAL QUALIFICATIONS

All documentation of buildings or structures carried out pursuant to this agreement will be conducted by or under the direct supervision of an individual or individuals who meet, at a minimum, the qualifications for architectural historians set forth in *The Secretary of Interior's Professional Qualifications Standards* (48 FR 44738-9).

IV. PUBLIC PARTICIPATION AND CONSULTATION

- A. The Town will solicit public comment regarding the effects of the Undertaking on historic properties at all of its regular meetings, and will give public notice announcing the date, time, location, and agenda of such meetings. The public notice will also advise the public that the Undertaking will have effects upon properties included in or eligible for inclusion in the National Register. The Town will distribute the public notice directly to concerned individuals and organizations.
- B. In conjunction with its National Environmental Policy Act compliance, the Town will annually advertise the Section 106 review activity covered by this Agreement and invite public comment.

V. UNANTICIPATED DISCOVERIES

- A. In the event that a previously unidentified archeological resource is discovered during ground disturbing activities, the Town will immediately notify the SHPO. All construction work involving subsurface disturbance will be halted only in the area of the resource and in the surrounding area where further subsurface remains can reasonably be expected to occur. Construction work may continue in the project area outside the site area. The Town and the SHPO, or an archeologist meeting *The Secretary of the Interior's Professional Qualifications Standards* (48 FR 44738-9), immediately will inspect the work site and determine the area and the nature of the affected archeological property. Within two (2) working days of the original notification of discovery, the Town in consultation with the SHPO will determine the National Register eligibility of the resource.
- B. The Town will consult with the SHPO to determine the National Register eligibility of the previously unidentified resource. The SHPO will respond within two (2) business days of its receipt of the documentation. The documentation may be submitted electronically. Potentially eligible historic properties will be evaluated using the National Register criteria in accordance with 36 CFR Part 800.4(c). If the Town determines that the resource meets the National Register Criteria for Evaluation (36 CFR Part 60.6), the Town will ensure compliance with Section 800.13(b)(3) of the ACHP's Regulations. The SHPO will provide comments on any treatment plan submitted within two (2) business days of its receipt of the treatment plan. If the SHPO fails to comment, the Town may assume the SHPO's concurrence and may then implement the plan. Work in the affected area will not proceed until either the development and implementation of an appropriate treatment plan; or the determination is made that the located resource is not eligible for inclusion in the National Register.

VI. HUMAN REMAINS

- A. Human remains and associated funerary objects encountered during the course of activities covered under this Agreement will be treated in the manner consistent with the provisions of the Virginia Antiquities Act, Section 10.1-2305 of the *Code of Virginia*, and with the final regulations adopted by the Virginia Board of Historic Resources and published in the Virginia Register of July 15, 1991.
- B. In the event that the human remains encountered are likely to be of Native American origin, whether prehistoric or historic, the City will immediately notify the Virginia Council on Indians ("VCI"). The treatment of Native American human remains and associated funerary objects will be determined in consultation with the VCI. All reasonable efforts will be made to avoid disturbing Native American gravesites and associated artifacts. To the extent possible, the Town will ensure that the general public is excluded from viewing any Native American gravesites and associated artifacts. No photographs of any Native American gravesites and/or associated funerary objects will be released to the press or to the general public.

- C. The Town may obtain a permit from the SHPO for the removal of human remains in accordance with the regulations stated above. In reviewing a permit involving removal of Native American human remains, the SHPO will notify and consult with the VCI as required by the regulations stated above.

DISPUTE RESOLUTION

- A. Should any party to this Agreement object in writing to the Town regarding any activity carried out or proposed with respect to the Undertaking or implementation of this Agreement, the Town will consult with the objecting party to resolve the objection. If after initiating such consultation the Town determines that the objection cannot be resolved through consultation, the Town will forward all documentation relevant to the objection to the ACHP, including the Town's proposed response to the objection. Within thirty (30) days after receipt of all pertinent documentation, the ACHP will exercise one of the following options:
 - 1. Advise the Town that the ACHP concurs with the Town's proposed response to the objection, whereupon the Town will respond to the objection accordingly;
 - 2. Provide the Town with recommendations, which the Town will take into account in reaching a final decision regarding its response to the objection; or
 - 3. Notify the Town that the objection will be referred for comment pursuant to 36 CFR Part 800.7(a)(4), and proceed to refer the objection and comment. The Town will take the resulting comment into account in accordance with 36 CFR Part 800.7(c)(4) and Section 110(l) of NHPA.
- B. Should the ACHP not exercise one of the above options within thirty (30) days after receipt of all pertinent documentation, the Town may assume the ACHP's concurrence in its proposed response to the objection.
- C. The Town will take into account any ACHP recommendation or comment provided in accordance with this stipulation with reference only to the subject of the objection; the Town's responsibility to carry out all other measures covered under this Agreement that are not the subjects of the objection will remain unchanged.
- D. At any time during implementation of the activities covered in this Agreement, should an objection pertaining to this Agreement or the effect of any activity on historic properties be raised by a member of the public, the Town will notify the parties to this Agreement and take the objection into account, consulting with the objector and, should the objector so request, with any of the parties to this Agreement to resolve the objection.

AMENDMENT

- A. Any party to this Agreement may request that it be amended by providing a written request for such amendment to the other signatories whereupon all parties will consult in accordance with 36 CFR 800.13 to consider such an amendment
- B. Any resulting amendments shall be developed in writing as an attachment to this document and shall be executed immediately upon consensus.

IX. TERMINATION


- A. If the Town determines that it cannot implement the terms of this Agreement, or if the SHPO or ACHP determines that the Agreement is not being properly implemented, the Town, the SHPO or the ACHP may propose to the other parties that it be terminated.
- B. Termination shall include the submission of any outstanding documentation on any work done up to and including the date of termination.
- C. A party proposing to terminate this Agreement shall so notify all parties to the Agreement, explaining the reasons for termination and affording them at least thirty (30) days to consult and seek alternatives to termination.
- D. Should such consultation fail and the Agreement be terminated, the Town shall comply with 36 CFR Parts 800.3 through 800.6 with regard to the activities covered by this Agreement.

X. DURATION OF THE AGREEMENT

This Agreement will continue in full force and effect until five years after the date of the last signature. At any time in the sixth-month period prior to such date, the Town may request the SHPO and the ACHP to consider an extension or modification of this Agreement. No extension or modification will be effective unless all parties to the Agreement have agreed with it in writing.

Execution of this Programmatic Agreement and implementation of its terms evidence that the Town has afforded the ACHP an opportunity to comment on the project and its effects on historic properties, and that the Town has taken into account the effects of the Undertaking on historic properties.


TOWN OF BROOKNEAL

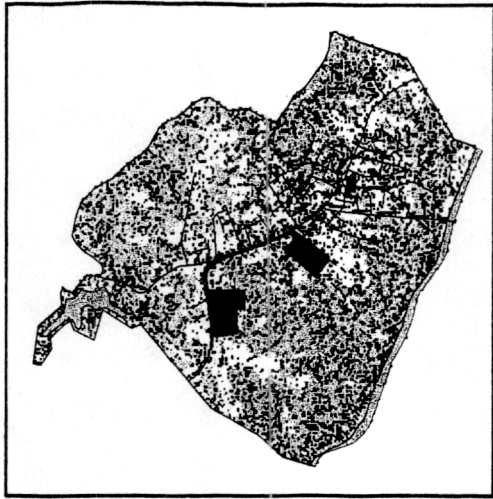
BY:  DATE 03-21-05
PHYLLIS S. CAMPBELL
Mayor, Town of Brookneal

VIRGINIA STATE HISTORIC PRESERVATION OFFICER

BY:  DATE 3/25/05
KATHLEEN S. KILPATRICK
Director and State Historic Preservation Officer

ADVISORY COUNCIL ON HISTORIC PRESERVATION

BY:  DATE: 4/7/05
JOHN M. FOWLER
Executive Director

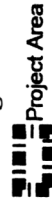


Clayton Inseton Project

**TOWN OF BROOKNEAL, VA
USGS MAP**

BROOKNEAL QUADRANGLE: 37078-A8

Legend



Project Area

MARCH 2004

PREPARED BY

REGION 2000 REGIONAL COMMISSION

SOURCE: THE GIS CENTER AT

RADFORD UNIVERSITY

