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7 **3RD DRAFT August 9, 2013**
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9 **NATIONAL HISTORIC PRESERVATION ACT, SECTION 106**
10 **PROGRAMMATIC AGREEMENT**

11
12 **AMONG**

13
14 **THE DEPARTMENT OF TRANSPORTATION**
15 **FEDERAL HIGHWAY ADMINISTRATION, VIRGINIA DIVISION;**

16
17 **THE VIRGINIA STATE HISTORIC PRESERVATION OFFICER;**

18
19 **THE ADVISORY COUNCIL ON HISTORIC PRESERVATION;**

20
21 **THE COMMONWEALTH OF VIRGINIA,**
22 **VIRGINIA DEPARTMENT OF TRANSPORTATION;**

23
24 **AND**

25
26 **THE DEPARTMENT OF THE INTERIOR,**
27 **NATIONAL PARK SERVICE**

28
29 **REGARDING IMPLEMENTATION OF THE BI-COUNTY PARKWAY,**
30 **PRINCE WILLIAM AND LOUDOUN COUNTIES, VIRGINIA**

31
32 **VDOT Project No. R000-96A-102, P101 (UPC 52405); DHR File No. 2003-0042**
33

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RECITALS

84 **WHEREAS**, the Virginia Department of Transportation (VDOT) proposes to construct a
85 highway, the Bi-County Parkway (BCP) (previously known as the “Tri-County
86 Parkway”), on new location from the intersection of Interstate 66 and Route 234 in Prince
87 William County and extending north to Route 50 in Loudoun County (hereinafter
88 referred to as the Undertaking) (VDOT Project No. R000-96A-102, P101, UPC 52405;
89 DHR File No. 2003-0042) (Attachment 1); and

90 **WHEREAS**, the VDOT anticipates receiving federal financial assistance for the BCP
91 from the Federal Highway Administration, Virginia Division (FHWA); and

92 **WHEREAS**, the FHWA has determined that the provision of financial assistance for the
93 BCP is an undertaking as defined in 36 CFR Part 800.16(y); and

94 **WHEREAS**, pursuant to Section 10 of the Rivers and Harbors Appropriations Act of
95 1899 (33 U.S.C. 401 and 403) and Section 404 of the Clean Water Act of 1973 (33
96 U.S.C. 1344), a Department of the Army permit will likely be required from the Corps of
97 Engineers (Corps); such permit would constitute an undertaking as defined in 36 CFR
98 Part 800.16(y); and the Corps has designated the FHWA as the lead federal agency to
99 fulfill federal responsibilities under Section 106 of the National Historic Preservation Act
100 (NHPA) (16 U.S.C. 470f); and

101 **WHEREAS**, the need to develop a new highway which would address a lack of adequate
102 north-south transportation facilities linking the I-66 corridor with the Dulles area was first
103 identified in the comprehensive plans for Prince William, Fairfax, and Loudon counties
104 (Prince William County Comprehensive Plan, 1998; Fairfax County Comprehensive
105 Plan, 2000; Loudon County Countywide Transportation Plan, 2001); and

106

107 **WHEREAS**, the FHWA and the VDOT studied a No-build Alternative and three
108 Candidate Build Alternatives for the location of the BCP in a Draft Environmental
109 Impact Statement approved by the FHWA March 16, 2005, and the Commonwealth
110 Transportation Board (CTB) approved the location of the BCP on Candidate Build
111 Alternative West Two by resolution dated November 17, 2005, and titled, *Location*
112 *Approval for the Tri-County Parkway*; and

113 **WHEREAS**, in response to comments from the Signatories and Consulting Parties, the
114 VDOT studied a package of additional alternatives to determine if it constituted a
115 reasonable, feasible, and prudent alternative for achieving the Undertaking’s purpose and
116 need, the results of which are presented in the report titled *Memorandum: Analysis of the*
117 *Substitute Vision Provided by SELC et al. as an Alternative to the Tri-County Parkway*
118 *(June 2013)*; and

119

120 **WHEREAS**, in the CTB’s resolution titled, *Northern Virginia North-South Corridor*
121 *Master Plan Study Recognition of Completion* (approved on June 19, 2013), the CTB
122 indicated its intention that the BCP will not be a tolled highway, nor will HOV (High-
123 Occupancy Vehicles) lanes be installed on the BCP; and

124 **WHEREAS**, the BCP corridor overlaps with the Manassas National Battlefield Park
125 Bypass (MNBP Bypass) corridor in the vicinity of Manassas National Battlefield Park
126 (MNBP) and Manassas Battlefield Historic District, from I-66, to US 29 and Pageland
127 Lane, to the intersection with Route 234 at Catharpin. The FHWA and the NPS studied a
128 No-build Alternative and five Candidate Build Alternatives for the location of the MNBP
129 Bypass in a Draft Environmental Impact Statement approved for public review by the
130 FHWA and NPS January 28, 2005. The CTB approved the location of the MNBP
131 Bypass on Candidate Build Alternative D by resolution dated June 15, 2006, and in
132 response to public comment on the Draft Environment Impact Statement, the NPS
133 subsequently developed Modified Candidate Build Alternative D; and
134

135 **WHEREAS**, as an undertaking separate from the BCP, the NPS is re-initiating NEPA
136 and Section 106 of the NHPA for the MNBP Bypass. The purpose of the MNBP Bypass
137 study is to develop alternatives that would allow for the closure of the portions of US
138 Route 29 and VA Route 234, which currently transect the MNBP and provide alternatives
139 for traffic currently traveling through the MNBP; and
140

141 **WHEREAS**, in Public Law 96-442, October 13, 1980, Section 2c Congress directed that,
142 “if the Virginia Department of Highways and Transportation [VDOT] determines that the
143 proposed Route 234 bypass should be properly located between the Virginia Electric
144 Power Company powerline easement and Route 705, the Secretary [of the Interior] shall
145 make available the land necessary for such bypass, subject to such revisions, terms, and
146 conditions as the Secretary deems are necessary [and] appropriate to assure that such
147 bypass is located, constructed, operated, and maintained in a manner consistent with the
148 administration of the park [MNBP].”; and
149

150 **WHEREAS**, the construction, operations, and maintenance of the section of the MNBP
151 Bypass that will be co-located within the BCP alignment from I-66 north to Route 234 at
152 Catharpin will be administered by the VDOT; and

153 **WHEREAS**, in Public Law 100-647, November 10, 1988, Section 10004a Congress
154 directed that “The Secretary of the Interior (hereafter in this section referred to as the
155 “Secretary”), in consultation and consensus with the Commonwealth of Virginia, the
156 Federal Highway Administration, and Prince William County, shall conduct a study
157 regarding the relocation of highways (known as routes 29 and 234) in, and in the vicinity
158 of, the Manassas National Battlefield Park (hereinafter in this section referred to as the
159 “park”). The study shall include an assessment of the available alternatives, together with
160 cost estimates and recommendations regarding preferred options. The study shall
161 specifically consider and develop plans for the closing of those public highways (known
162 as routes 29 and 234) that transect the park and shall include analysis of the timing and
163 method of such closures and of means to provide alternative routes for traffic now
164 transecting the park. The Secretary shall provide for extensive public involvement in the
165 preparation of the study;” and

166 **WHEREAS**, the CTB resolution titled, *Modification of the June 15, 2006, Location*
167 *Approval for the Manassas National Battlefield Park Bypass* (approved February 20,

168 2013) declared that (i) portions of Route 234 transecting MNBP may be abandoned as
169 part of the BCP prior to “the completion of the Bypass or any other necessary regional
170 transportation system improvements, mitigation, and other conditions” and (ii) “the
171 abandonment action may commence upon the completion and opening to traffic [of] that
172 portion of the TCP between Route 66 and the proposed intersection with existing Route
173 234 near Catharpin;” and
174

175 **WHEREAS**, the CTB resolution titled, *Modification of the November 17, 2005, Location*
176 *Approval for the Tri-County Parkway Project in Prince William and Loudoun Counties*
177 *and Recognition of the Intent to Abandon Portions of Route 234 Transecting the*
178 *Manassas National Battlefield Park as a part of the Tri-County Parkway Project*
179 (approved February 20, 2013) declared that the CTB (i) “shall take whatever action is
180 required for the abandonment of portions of Route 234 transecting the MNBP as part of
181 the TCP project and that such abandonment will occur upon the completion and opening
182 to traffic [of] that portion of the TCP between Route 66 and the proposed intersection
183 with existing Route 234 near Catharpin,” and (ii) “recognizes that the Commissioner
184 intends to enter into an agreement to declare certain portions of Route 234 transecting the
185 MNBP abandoned upon completion of the portion of the TCP described above, pursuant
186 to his authority granted by § 33.1-148 of the Code of Virginia, and in accordance with
187 that same agreement, to convey the existing Route 234 real property interest in the
188 abandoned sections to the National Park Service;” and
189

190 **WHEREAS**, the FHWA has authorized the VDOT to conduct consultation with the
191 Virginia State Historic Preservation Officer (SHPO) for the Undertaking on its behalf
192 pursuant to Section 106 of the NHPA, including the initiation of the Section 106 process,
193 identification of historic properties, and assessment of adverse effects, but remains
194 legally responsible for all required findings and determinations reached pursuant to 36
195 CFR Part 800; and
196

197 **WHEREAS**, the VDOT, in consultation with the SHPO and other Consulting Parties,
198 has defined the Area of Potential Effects (APE) for Candidate Build Alternative West
199 Two (Attachment 2) for the BCP in accordance with 36 CFR 800.4(a)(1). The portion of
200 the APE for direct effects is a 600-foot-wide corridor that includes the proposed highway
201 right of way and any related temporary or permanent easements where direct impacts
202 from construction of the proposed highway may occur. The portion of the APE for
203 indirect effects (such as visual and auditory) is a 1000-foot-wide corridor plus any above-
204 ground resources adjacent to or visible from the corridor. Secondary effects have the
205 potential to occur within and beyond this 1000-foot-wide corridor, particularly adjacent
206 to proposed intersection areas and in other rural land areas near the corridor, where there
207 is the potential for new development and other changes in land use induced by the
208 Undertaking; and
209

210 **WHEREAS**, the VDOT, in consultation with the SHPO and other Consulting Parties,
211 has completed studies to identify within the Undertaking’s APE any buildings, structures,
212 non-archaeological districts, and objects meeting the criteria for listing on the National

213 Register of Historic Places (NRHP) (Attachment 3), and has coordinated its findings
214 with the SHPO and other Consulting Parties (Attachment 4); and

215
216 **WHEREAS**, the VDOT, in consultation with the SHPO and other Consulting Parties,
217 has initiated the studies necessary to identify within the BCP's APE any archaeological
218 sites or districts meeting the criteria for listing on the NRHP (Attachment 3); coordinated
219 the findings of its studies with the SHPO and other Consulting Parties (Attachment 4);
220 and, under the terms of this Programmatic Agreement (Agreement), will be completing
221 any remaining actions needed to identify archaeological sites and districts by studying the
222 estimated 3.8 acres of proposed highway right of way that will be acquired from along
223 the east side of Pageland Lane (Route 705) within MNBP and the estimated 17.0 acres of
224 proposed highway right of way that will be acquired from along the east side of Pageland
225 Lane (Route 705) within the NRHP-listed boundary of Manassas Battlefield Historic
226 District and the American Battlefield Protection Program's Potential National Register
227 boundary for the Manassas II battlefield, beyond the boundary of MNBP, as well as
228 additional areas that will be impacted by proposed mitigation activities; and

229
230 **WHEREAS**, the VDOT, in consultation with the SHPO and other Consulting Parties,
231 has determined that the Undertaking will have an adverse effect on historic properties
232 listed in or eligible for the NRHP. As described by VDOT in its letter of July 10, 2012,
233 to the SHPO, properties potentially adversely affected include (i) the Manassas National
234 Battlefield Park (MNBP) (DHR Inventory No. 076-0271, listed on the NRHP in October
235 1966) and a contributing element, the unfinished Independent Line of the Manassas Gap
236 Railroad ("Unfinished Railroad") (44PW0580/44PW0299), and other contributing lands
237 within the park; (ii) Manassas Battlefield Historic District (076-0271, amended NRHP
238 nomination and boundary expansion January 2006) and the contributing elements
239 Pageland I (076-0138), Pageland II (076-0137), the Dunklin Monument (076-0271-0062,
240 44PW0579), and the "Unfinished Railroad," and other contributing lands within the
241 district; and (iii) the Putnam-Patton House/Deseret (076-0179); and

242
243 **WHEREAS**, MNBP, comprised of 5,074 acres, was established in 1940 to preserve the
244 landscape of the Battle of First Manassas (July 1861) and the Battle of Second Manassas
245 (August 1862); and Manassas Battlefield Historic District, comprised of approximately
246 6,470 acres, encompasses MNBP and additional surrounding properties linked together
247 through their association with the First and Second Battles of Manassas; and the 2006
248 NRHP form for the Manassas Battlefield Historic District boundary increase states "The
249 battlefield retains integrity of location, setting, feeling, and association with the historic
250 events that occurred on the property during the Civil War. With reference to man-made
251 resources, such as the dwellings, military embattlements, and the Unfinished Railroad,
252 Manassas Battlefield has integrity of design, workmanship, and material" and is listed on
253 the NRHP under Criteria A, B, C, and D; and

254
255 **WHEREAS**, the NPS's American Battlefield Protection Program (ABPP), in its July
256 2009 update for the Commonwealth of Virginia of the 1993 *Civil War Sites Advisory*
257 *Commission Report on the Nation's Civil War Battlefields*, identified 8,006 acres
258 associated with the ABPP's "Manassas II battlefield (VA026)" (otherwise known as

259 Battle of Second Manassas) as potentially eligible for the NRHP, and these acres
260 encompass the boundary of MNBP, the majority of the land included in the boundary of
261 Manassas Battlefield Historic District, as the latter is defined in the 2006 NRHP-listed
262 Manassas Battlefield Historic District boundary expansion, and 2,793 additional acres not
263 included in either the MNBP or Manassas Battlefield Historic District (Attachment 5);
264 and

265

266 **WHEREAS**, for the purposes of the application of Section 106 of the NHPA to the
267 Undertaking, the VDOT, in consultation with the SHPO and the Consulting Parties, has
268 determined to assume that the 2,793 additional acres associated with the ABPP's
269 "Manassas II battlefield" are eligible for the NRHP and to treat this acreage as an historic
270 property as defined at 36 CFR 800.16(l); and

271

272 **WHEREAS**, for the purposes of this Agreement, the acreage listed on the NRHP in 2006
273 as "Manassas Battlefield Historic District" and the acreage associated with the ABPP's
274 "Manassas II battlefield (VA026)" and identified by the ABPP in 1993 as potentially
275 eligible for the NRHP, shall hereinafter in this Agreement be referred to collectively as
276 "MBHD" (Attachment 5); and

277

278 **WHEREAS**, the 4-acre Putnam-Patton House/Deseret property is historically significant
279 under NRHP Criterion C for the main house, constructed ca. 1869, which embodies the
280 distinctive characteristics of the Italianate style and displays a high degree of integrity;
281 and

282

283 **WHEREAS**, based on a maximum right of way width of 150 (one hundred fifty) feet, the
284 BCP will convert an estimated 3.8 acres within MNBP and 64.7 acres within MBHD,
285 beyond the boundary of MNBP, into a transportation facility, introduce into the landscape
286 and historic setting of the MNBP and MBHD, and their contributing properties and lands,
287 transportation infrastructure that would alter and potentially obscure significant
288 battlefield viewsheds, result in an increase in traffic-generated noise within the battlefield
289 landscape, and potentially induce changes in land use within MBHD and its historic
290 setting; and these factors would result in the diminishment of the integrity of setting,
291 feeling, and association of MNBP and MBHD; and

292

293 **WHEREAS**, for the purpose of avoiding direct effects on the Putnam-Patton
294 House/Deseret, the VDOT has modified the alignment of the BCP within the corridor for
295 Candidate Build Alternative West Two to a position approximately 800 feet west of this
296 historic property, but the Undertaking retains the potential to introduce noise and visual
297 elements that may diminish the integrity of the property's historic setting; and

298

299 **WHEREAS**, the FHWA, with the assistance of VDOT, has consulted with the SHPO
300 and the other Consulting Parties to resolve the potential adverse effects of the BCP on
301 historic properties in accordance with Section 106 of the NHPA (16 U.S.C. 470f), and its
302 implementing regulations, 36 CFR Part 800; and

303

304 **WHEREAS**, the Undertaking requires lands from the MNBP and the MBHD, and
305 FHWA's use of land from the two historic properties is contingent on compliance with
306 Section 4(f) of the Department of Transportation Act, 23 U.S.C. 138 and 49 U.S.C. 303
307 (Section 4(f)); and

308
309 **WHEREAS**, pursuant to 36 CFR 800.6(a)(1), the FHWA has notified the Advisory
310 Council on Historic Preservation (ACHP) of the consultation to develop this Agreement
311 by letters dated October 11, 2007, and July 10, 2012, and the ACHP has chosen to
312 participate in consultation as stated in their letter to FHWA of August 24, 2012; and

313
314 **WHEREAS**, the VDOT has participated in the Section 106 consultation for the
315 Undertaking pursuant to 36 CFR Part 800.2(c)(4), and the FHWA has asked the VDOT to
316 be an Invited Signatory to this Agreement pursuant to 36 CFR Part 800.6(c)(2)(iii); and

317
318 **WHEREAS**, the NPS, the federal Agency with jurisdiction over the MNBP and which
319 manages the park as a unit of the National Park System, has participated in the Section
320 106 consultation for the Undertaking pursuant to 36 CFR Part 800.2(c)(5), and the
321 FHWA has asked the NPS to be an Invited Signatory to this Agreement pursuant to 36
322 CFR Part 800.6(c)(2)(iii); and

323
324 **WHEREAS**, by letter dated July 25, 2012, the FHWA has provided the Eastern Shawnee
325 Tribe of Oklahoma the opportunity to participate in the Section 106 process for the
326 Undertaking as a Consulting Party pursuant to 36 CFR Part 800.2(c)(2)(ii), and, by not
327 responding to the FHWA's letter, the Eastern Shawnee Tribe of Oklahoma has chosen
328 not to participate in consultation; and

329
330 **WHEREAS**, Loudoun and Prince William counties have participated in the Section 106
331 process for the Undertaking as Consulting Parties pursuant to 36 CFR Part 800.2(c)(3),
332 and the FHWA has invited each county to concur in this Agreement pursuant to 36 CFR
333 Part 800.6(c)(3); and

334
335 **WHEREAS**, the FHWA has recognized the American Battlefield Protection Program,
336 the Bull Run Civil War Roundtable, the Civil War Trust, the Coalition for Smarter
337 Growth, the Friends of Manassas National Battlefield Park (this organization no longer
338 exists), the General Trimbles Community Association, the National Parks Conservation
339 Association, the National Trust for Historic Preservation, the Piedmont Environmental
340 Council, the Southern Environmental Law Center, the Sudley Springs Catharpin Civic
341 Association, Sudley United Methodist Church, the Washington Airports Task Force, and
342 property owners Mr. John Bradshaw, Ms. Denise Costley (owner of the Putnam-
343 Patton/Deseret property), Ms. Patricia Ferguson, Ms. Mary Ann Ghadban (owner of land
344 within MBHD), Ms. Philomena Hefter, Mr. Shawn Moler, Ms. Page Snyder (owner of
345 the Pageland II property within MBHD), and Mr. Keith Webster as Consulting Parties to
346 the Section 106 process for the Undertaking pursuant to 36 CFR Part 800.2(c)(5), and has
347 invited each of these parties to concur in this Agreement pursuant to 36 CFR Part
348 800.6(c)(3); and

349

350 **WHEREAS**, the FHWA may identify additional Consulting Parties to the Section 106
351 process for the Undertaking in the future; and

352

353 **WHEREAS**, under contract to the VDOT the Federal Highway Administration's Eastern
354 Federal Lands Highway Division (EFLHD) will assist the VDOT in implementing
355 Stipulation III.G of this Agreement, and the FHWA has invited EFLHD to concur in this
356 Agreement; and

357

358 **WHEREAS**, the VDOT held Location Public Hearings for the BCP in Fairfax, Prince
359 William, and Loudoun counties on May 9, 10, and 11, 2005, and a Citizens Information
360 Meeting on June 3, 2013 in Prince William County, for the purpose of providing the
361 public the opportunity to comment on the Undertaking;

362

363 **NOW, THEREFORE**, the FHWA, the SHPO, the ACHP, the VDOT, and the NPS
364 (hereinafter referred to collectively as the "Signatories") agree that this Undertaking shall
365 be implemented in accordance with the following stipulations in order to take into
366 account the effects of the Undertaking on historic properties.

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368

STIPULATIONS

369 The FHWA, in coordination with VDOT, shall ensure that the following stipulations are
370 carried out:

371 I. General Design Parameters of the BCP within Approved Corridor

372 A. Alignment of BCP

373
374 The VDOT shall design the BCP in the vicinity of MNBP and MBHD so that the
375 alignment of the BCP within the 600-foot corridor studied for Candidate Build
376 Alternative West Two coincides with the corridor for Modified Candidate Build
377 Alternative D for the MNBP Bypass (Attachment 6). South of Route 29, the BCP
378 alignment will run west of the Dunklin Monument and shall avoid direct impacts
379 to this property. As the BCP proceeds north from Route 29, the alignment will
380 run west of Pageland Lane (Route 705) to a point north of the “Unfinished
381 Railroad,” where the alignment will cross to the east of Pageland Lane onto
382 MNBP property. In developing the portion of the alignment on the east side of
383 Pageland, the VDOT shall avoid or minimize impacts to the “Unfinished
384 Railroad,” the quarry associated with the railroad, and any other archaeological
385 properties identified pursuant to Stipulation IV of this Agreement located within
386 the boundaries of MNBP and MBHD and considered to contribute to the
387 significance of the battlefield properties. The Signatories, in consultation with
388 EFLHD, shall determine the location of this portion of the alignment by mutual
389 agreement. The alignment of the BCP shall not encroach into the already
390 established Dominion Virginia Power easement near the western boundary of
391 MNBP.

392 B. Right of Way and Typical Section

393
394 The VDOT shall design the section of the BCP between I-66 and the northern
395 boundary of the MBHD along Pageland Lane to VDOT’s geometric design
396 standards for a four (4)- lane, limited access, rural principal arterial highway, with
397 a design speed not to exceed 65 mile per hour, as described in VDOT’s *Road*
398 *Design Manual* (2005, or any subsequent revisions or replacements thereto) (see
399 Appendix A, type GS-1, Page A-7; [http://www.extranet.vdot.state.va.us/locdes/
400 Electronic%20Pubs/2005%20RDM/RoadDesignCoverVol.1.pdf](http://www.extranet.vdot.state.va.us/locdes/Electronic%20Pubs/2005%20RDM/RoadDesignCoverVol.1.pdf)) and with no
401 more than two (2) through lanes in each direction, including all lanes associated
402 with the MNBP Bypass. Pursuant to these standards and criteria, the typical
403 section of this portion of the BCP shall consist of the following components: a
404 grassed median, four (4) travel lanes, two (2) interior paved shoulders, two (2)
405 exterior paved shoulders, and two (2) exterior ditches. Within the section of the
406 BCP between I-66 and the northern boundary of MBHD along Pageland Lane the
407 VDOT shall build these components of the highway within a right of way no
408 wider than 150 (one hundred fifty) feet.

409 C. Accommodation of Design Features Desirable for Mitigating Visual and
410 Auditory Effects
411

412 The VDOT may require additional right of way beyond the 150 (one hundred
413 fifty) feet in width between I-66 and the northern boundary of MBHD on
414 Pageland Lane to accommodate certain types of features (i.e., depression of the
415 roadway below existing grade or the use of berms or vegetative screens) that
416 VDOT might incorporate into the design of the BCP for the purposes of
417 minimizing the visual or auditory effects of the BCP on historic properties
418 pursuant to Stipulation III.A of this Agreement. The VDOT shall consult with the
419 EFLHD and coordinate to come to mutual agreement with the Signatories over
420 the use or acquisition of additional right of way for these purposes up to, but not
421 to exceed, 200 (two hundred) feet in width.

422 D. Storm Water Management Facilities
423

424 The VDOT shall design the storm water management (SWM) facilities in the
425 section of the BCP between I-66 and the northern limits of MBHD along
426 Pageland Lane in a manner that minimizes their physical impacts and visual
427 effects on the historic properties. VDOT also shall design the SWM facilities in
428 this section of the BCP within the 150 (one hundred fifty)-foot right of way
429 described in Paragraph B of this Stipulation. If local terrain and topography
430 prevent VDOT from accommodating SWM facilities necessary to meet
431 environmental regulations within the 150 (one hundred fifty)-foot right of way,
432 the VDOT shall consult with the EFLHD and coordinate and come to mutual
433 agreement with the Signatories over the use or acquisition of additional right of
434 way for these purposes up to, but not to exceed 200 (two hundred) feet in width.

435 E. Bicycle and Pedestrian Facilities
436

437 Pursuant to the CTB's resolution dated November 17, 2005, and titled, *Location*
438 *Approval for the Tri-County Parkway*, bicycle and pedestrian facilities will be
439 provided in the design of the BCP in accordance with VDOT's *Policy for*
440 *Integrating Bicycle and Pedestrian Accommodations*
441 (http://www.virginiadot.org/programs/resources/bike_ped_policy.pdf). In
442 designing these facilities within the MNBP and MBHD, the VDOT shall make
443 achieving the most economical and least damaging use of the land its major
444 purpose and shall ensure that the facilities follow existing terrain. Achieving this
445 objective may require that such facilities are shared between VDOT and NPS,
446 using both Commonwealth right of way associated with the BCP and MNBP
447 property; however, the VDOT shall fund the design and construction of the bicycle
448 and pedestrian facilities. If VDOT finds it necessary or desirable to place any
449 portion of these facilities beyond the 150 (one hundred fifty)-foot right of way, the
450 VDOT shall consult with the EFLHD and coordinate and reach mutual agreement
451 with the Signatories over the acquisition of additional right of way for these

452 purposes within the MNBPD or MBHD or over the use of any NPS lands for the
453 facilities.

454 F. Access to Properties

455
456 The VDOT shall keep Pageland Lane (Route 705) open to through traffic after
457 completion of the BCP and, to the greatest extent possible, shall utilize existing
458 road infrastructure in meeting any of its remaining obligations associated with
459 implementation of the BCP to provide access to a state maintained and operated
460 public road to those properties accessed from Pageland Lane within MBHD. The
461 VDOT shall consult with the Signatories, EFLHD, Consulting Parties, and the
462 local community to develop a design for local access to properties that is sensitive
463 to the historic contexts of MNBPD and MBHD. The VDOT shall come to mutual
464 agreement with the Signatories over the final design for access roads within the
465 MBHD and for the VDOT's use or acquisition of additional right of way beyond
466 150 (one hundred fifty) feet within MBHD for the provision of access.

467 G. Route 29 Crossing

468
469 The VDOT shall design and construct the BCP at the Route 29 crossing to be
470 grade-separated. In order to minimize traffic impacts to MNBPD, the manner in
471 which vehicles will connect will be limited. To that end, the VDOT agrees that the
472 design and construction of the grade-separated interchange will only include
473 vehicular movements and connections for: southbound BCP (Route 234) to
474 southbound Route 29; northbound BCP (Route 234) to southbound Route 29;
475 northbound Route 29 to southbound BCP (Route 234); and northbound Route 29
476 to northbound BCP (Route 234). No other movements or connections will be
477 designed or constructed at the Route 29/BCP (Route 234) grade-separated
478 interchange as part of the Undertaking. VDOT shall use vertical construction at
479 the crossing for the purpose of remaining within the 150 (one hundred fifty)-foot
480 right of way described in Stipulation I.B of this Agreement, and shall consult with
481 the EFLHD and coordinate and come to mutual agreement with the Signatories
482 over the use or acquisition of additional right of way within MBHD for these
483 purposes up to but not to exceed 200 (two hundred) feet along the BCP alignment.
484 In designing the crossing, VDOT shall minimize its height for the purpose of
485 minimizing the crossing's visual effects on MNBPD and MBHD, while also
486 addressing other factors, including appropriate clearance, safety, and cost.

487 H. Limited Access

488
489 In its resolution titled, *Location Approval for the Tri-County Parkway*, approved
490 November 17, 2005, the CTB designated the BCP as a "limited access" highway,
491 as defined in § 33.1-57 of the Code of Virginia and as described in the Draft
492 Environmental Impact Statement and presented at the Location Public Hearings.
493 In accordance with this designation, in the vicinity of MNBPD and MBHD,
494 between I-66 and Route 234 (Sudley Road), direct access to and from the BCP is

495 limited to three public roads -- I-66, Route 29, and Route 234 (Sudley Road) – and
496 does not include direct access to private driveways. North of Route 234 direct
497 access is limited to two additional public roads: Route 620 (Braddock Road) and
498 Route 50. Pursuant to 24VAC30-401-10, changes in limited access control require
499 CTB approval, and the CTB will not consider a change without the written
500 determination of the VDOT Chief Engineer. In regard to the BCP, the VDOT
501 Chief Engineer shall not propose to the CTB the approval of any future additional
502 connections south of Route 234 (Sudley Road).

503 I. Application of Flexibility in Established Design Standards

504
505 VDOT commits to use best efforts, and shall ensure that its contractors and
506 partners use best efforts, to thoroughly explore opportunities during the Design
507 Phase of the Undertaking to further minimize the highway footprint to the extent
508 practicable and will consider any reasonable measures identified pursuant to the
509 processes described in Stipulation I.K of this Agreement. These efforts shall
510 include considerations of practicable and innovative approaches to use of the
511 flexibility inherent within VDOT’s established design standards. Decisions on
512 specific applications of flexibility in the standards shall rest with the VDOT’s
513 Chief Engineer after careful consideration of input from the Signatories and
514 Consulting Parties. In evaluating any input the Chief Engineer shall take into
515 account social and environmental factors, including the location and impact of the
516 BCP in relation to MNBP and MBHD, and the purpose, need, and viability of the
517 Undertaking as a full service highway that shall also effectively remove traffic
518 from the core and approaches of the MNBP in order to preserve better the historic
519 park and enhance unrestricted access to park users.

520 J. Context-Sensitive Design

521
522 The VDOT shall incorporate into the design of the BCP, at the boundaries of and
523 within MBHD, “gateway” features and elements that create a context-sensitive
524 setting that is compatible with the historic characteristics of MNBP and MBHD.
525 Gateway features and elements appropriate to this purpose shall be identified by
526 the VDOT in consultation with the Signatories, Consulting Parties, and EFLHD
527 pursuant to the process described in Stipulation I.K of this Agreement. Such
528 features and elements may include landscaping, lighting, signage, and specified
529 treatments for guardrails, overpasses or underpasses, and other components of the
530 highway streetscape (e.g., treatment of the façades of structures, color, materials).

531 K. Consultation on Further Design

532 1. The VDOT shall develop the design of the Undertaking in
533 consultation with the Signatories, Consulting Parties, and EFLHD.

534 a) After approval of the Final Environmental Impact
535 Statement and the FHWA's issuance of a ROD, and prior to
536 initiating the design phase of the BCP, the VDOT shall conduct a
537 workshop with the Signatories, Consulting Parties, and EFLHD,
538 the purpose of which shall be to provide these parties an early
539 opportunity to offer comments on the design of the Undertaking.
540 The VDOT may hold additional design workshops at its discretion.

541 b) Pursuant to the terms of Stipulation VIII.B of this
542 Agreement, the VDOT shall provide the Signatories, Consulting
543 Parties, and EFLHD the opportunity to review and comment on the
544 plans for the Undertaking, in relation to its effects on historic
545 properties, at thirty percent (30%) development, sixty percent
546 (60%) development, and at final design prior to the VDOT's
547 internal design approval. In association with a copy of the
548 highway plans that VDOT shall distribute at each of these stages of
549 project development, the VDOT shall also provide a written
550 summary of all major decisions contributing to those plans reached
551 in consultation with the Signatories in relation to the design
552 components addressed in Stipulations I.A, I.C, I.D, and I.E, I.F,
553 and I.G of this Agreement.

554 c) These opportunities to participate in the development of the
555 project design that VDOT shall provide the Signatories and
556 Consulting Parties shall be in addition to any workshops, citizen
557 information meetings, and/or public hearings related to the design
558 of the BCP that VDOT will hold for the local community and
559 general public.

560 2. After consideration of all comments received, as well as the
561 constructability and cost effectiveness of the proposed design, and the
562 effectiveness of the design in minimizing effects on historic properties and
563 meeting the purpose and need of the Undertaking, the FHWA and VDOT
564 shall make final decisions as outlined under Stipulation I.K of this
565 Agreement on the design of the Undertaking. Prior to advertising the BCP
566 for construction, the VDOT shall provide the Signatories, Consulting
567 Parties, and EFLHD a written summary demonstrating how it has taken
568 into consideration comments on the final design received from these
569 parties.
570

571 **II. VDOT and NPS Communications Plan**

572

573 Recognizing (i) the NPS's role as the federal Agency with jurisdiction over MNBP, one
574 of the affected historic properties, and the agency which manages the park as a unit of the
575 National Park System, and (ii) the potential effect VDOT's design, construction
576 operations, and construction schedule for the Undertaking may have on the NPS's day-to-
577 day operations and management and long-term planning for the MNBP, the VDOT and
578 the NPS shall develop a process and schedule for the frequent exchange of information
579 related to the Undertaking and discussion of issues of mutual interest or concern. The
580 VDOT shall contact the NPS to initiate development of this communications plan within
581 three (3) months of execution of this Agreement.

582 **III. Additional Avoidance, Minimization, and Mitigation Measures**

583

584 The VDOT shall take the following actions to address the adverse effects to historic
585 properties associated with the Undertaking:

586 A. Minimization of Potential Auditory and Visual Effects

587

588 In consultation with the Signatories, Consulting Parties, and EFLHD pursuant to
589 the terms of Stipulations I.K and VIII.B of this Agreement, the VDOT shall
590 identify and explore features that VDOT could incorporate into the design of the
591 section of the BCP adjacent to or within MNBP and MBHD that would minimize
592 the potential auditory and visual effects of the undertaking on MNBP and MBHD,
593 including effects on the viewsheds from MNBP toward areas of MBHD west of
594 Pageland Lane and from MNBP and MBHD toward the Bull Run Mountains.
595 VDOT's consideration of these features will be guided by the general principles
596 that an effective and practicable design for depressing the roadway below existing
597 grade in a manner that also minimizes the width of the highway right of way is the
598 most desirable means to reduce both auditory and visual effects, while berms are
599 the least desirable means because of the particular manner in which berms would
600 modify the battlefield landscape. Potential noise reduction features to which
601 VDOT will give consideration include, but are not limited to, in order of
602 preference, the depression of the roadway below existing grade; quiet pavement;
603 the use of a 60 mph design speed; the use a posted speed limit of 55 mph and,
604 depending on ultimate adjacent speed limits south of Route 29, a speed limit of 50
605 mph in the section of the BCP near Route 29; and berms. Potential features that
606 VDOT will consider for minimizing visual effects include, but are not limited to,
607 in order of preference, the depression of the roadway below existing grade,
608 vegetative screens or other landscaping, and berms. After consideration of all
609 comments received from the Signatories, Consulting Parties, and EFLHD, the
610 VDOT, with the mutual agreement of the Signatories, shall determine what types
611 of features that would reduce the auditory and/or visual effects of the Undertaking
612 are appropriate to use, with consideration given to a proposed measure's
613 constructability, demonstrated effectiveness in reducing traffic noise and/or visual

614 effects, ability to meet structural and safety requirements, durability, aesthetics,
615 compatibility with the historic setting of MNBP and MBHD, and overall cost
616 effectiveness. The VDOT shall provide the Signatories, Consulting Parties, and
617 EFLHD a written summary describing how the comments of these parties have
618 been taken into consideration in making the final decision on the features that will
619 be incorporated into the final design of the BCP to minimize auditory and visual
620 effects.

621 B. Access to Brawner Farm

622
623 Pursuant to the terms of Stipulation I.F of this Agreement, the VDOT shall keep
624 Pageland Lane open to through traffic after completion of the BCP. If desired and
625 requested by NPS during the design phase for the BCP, the VDOT shall either (1)
626 design and construct any reasonable improvements NPS desires to the connection
627 between Pageland Lane and the NPS's existing access road to the Brawner Farm
628 parking area (076-0168), a significant feature of MNBP, or (2) design and
629 construct a new access road to Brawner Farm from Route 29 on MNBP property.
630 The new access road would run north from Route 29 along the east side of a
631 hedgerow just east of the Swart Cemetery, or follow another alignment mutually
632 agreed upon by the VDOT and NPS. Pursuant to the requirements of Stipulation
633 IV the VDOT, in coordination with the Signatories and Consulting Parties, shall
634 complete archeological studies to assess the potential impacts of the improvement
635 chosen by the NPS. The VDOT shall complete construction of either
636 improvement chosen by the NPS prior to the commencement of construction of
637 the BCP, or on a different schedule mutually agreed upon by the VDOT and NPS.

638 C. Access to Stuart's Hill Center

639
640 Construction of the BCP on its alignment where it intersects Route 29 will require
641 that the NPS's existing access road to the Stuart's Hill Center from Pageland Lane
642 (Route 705) be closed. For the purpose of mitigating the effect of the road
643 closure, the VDOT, in coordination with the Signatories and Consulting Parties,
644 shall complete archaeological studies to assess impacts of a new access road to
645 Stuart's Hill Center from Route 29 pursuant to the requirements of Stipulation IV
646 of this Agreement and design the new access road. The VDOT shall construct
647 this new road prior to the commencement of construction of the BCP. The new
648 access road to Stuart's Hill Center from Route 29 shall be on an alignment
649 mutually agreed upon by the VDOT and NPS.

650
651

652 D. Traffic Calming on Route 29, Groveton Road (Route 622), and
653 Featherbed Lane (Route 622) within MNBP

654 1. The VDOT shall fund and implement the design and construction
655 of traffic calming measures along Route 29 within MNBP for the purpose
656 controlling the speed of traffic on Route 29 through the MNBP, while
657 preserving the historic character of the MNBP, until the MNBP Bypass
658 has been constructed and the road can then be closed to through traffic.
659 The maximum amount that VDOT shall be obligated to provide for the
660 design and construction of the traffic calming measures on Route 29 shall
661 be \$300,000 (Three hundred thousand dollars). Pursuant to the terms of
662 Stipulation VIII.B, the VDOT shall consult with the Signatories, Prince
663 William County, and Consulting Parties in developing the design of the
664 traffic calming measures. VDOT will not employ the following types of
665 traffic calming measures on Route 29 through MNBP as part of this effort:
666 speed humps, speed tables, raised intersections, traffic circles, and
667 roundabouts. The VDOT shall complete the construction of these traffic
668 calming measures no later than six (6) months prior to the projected
669 opening of the BCP to traffic.

670 2. Within one (1) year following the VDOT's abandonment and the
671 NPS's implementation of restrictions on through-traffic on any section of
672 Route 234 described in Stipulation III.F.2.a of this Agreement, the VDOT
673 shall conduct a traffic study for the purpose of determining whether traffic
674 volume rises on Groveton Road and Featherbed Lane as a result of these
675 actions. The VDOT shall provide the results of this study to the
676 Signatories, Prince William County, and Consulting Parties for review and
677 comment pursuant to the requirements of Stipulation VIII.B of this
678 Agreement.

679 3. Should the VDOT determine in the course of consultation with the
680 Signatories, Prince William County, and Consulting Parties that (1)
681 additional traffic calming measures on Route 29 through MNBP, beyond
682 those that can be designed and constructed within the VDOT's funding
683 limit of \$300,000 (Three hundred thousand dollars), are desirable, or (2)
684 traffic calming measures are warranted to mitigate higher volumes of
685 traffic on Groveton Road or Featherbed Lane within MNBP resulting from
686 abandonment of any section of Route 234 within MNBP, the VDOT shall
687 explore obtaining additional, third-party funding (e.g., grant funding) to
688 cover the cost of implementing these additional measures. The VDOT
689 shall ensure that the traffic calming measures are consistent with the
690 standards of the NPS, Prince William County, and the VDOT and with the
691 *Secretary of the Interior's Standards for the Treatment of Historic*
692 *Properties with Guidelines for the Treatment of Cultural Landscapes*
693 (1996)
694 (http://www.nps.gov/history/history/online_books/hps/contents.htm) (or
695 any revision or replacement to that document), and are compatible with
696 the historic character of the MNBP.

697 E. Mitigation of Potential Effects on Putnam-Patton House/Deseret (DHR
698 Inventory No. 076-0179)

699 1. Once preliminary engineering of the BCP is sufficiently advanced
700 so that the typical section and elevation of the portion of the highway in
701 the vicinity of the Putnam-Patton House/Deseret is more clearly
702 understood, the VDOT shall assess the visual and auditory effects of the
703 BCP on the historic property in consultation with the SHPO, other
704 Signatories, and Consulting Parties, and with the property owner, in
705 accordance with 36 CFR Part 800.5.

706 2. If the FHWA determines, and the SHPO concurs, that the BCP will
707 have an adverse visual or auditory effect on the Putnam-Patton
708 House/Deseret, the VDOT shall seek the permission of the owner of the
709 historic property to design and install a landscape plan on the private
710 property that would obscure the view of the highway or minimize the
711 noise.

712 3. If the owner of the historic property so agrees, the VDOT shall
713 install a landscape design approved by the SHPO and the property owner.
714 Pursuant to the terms of Stipulation VIII.B of this Agreement, the VDOT
715 shall provide the SHPO and the property owner the opportunity to review
716 and approve the draft landscape plan, and shall provide the draft landscape
717 plan to the other Signatories and Consulting Parties for review and
718 comment. The VDOT shall install the landscape plan prior to the
719 completion of BCP construction, and shall maintain any plantings for an
720 establishment period of three (3) years after installation.
721

722 F. Abandonment and Restriction of Through-Traffic on Route 234 within
723 MNBP
724

725 The VDOT, with the cooperation of the NPS, shall pursue the abandonment of
726 Route 234 within MNBP, and the NPS shall restrict through-traffic on such
727 abandoned sections of Route 234 within MNBP by working through the following
728 processes for the segment of existing Route 234 that transects MNBP, from the
729 north side of the Northern Virginia Community College, Manassas Campus,
730 entrance road northward to the south side of Featherbed Lane (Route 622).

731 1. CTB Resolution

732 In furtherance of the objective to abandon Route 234 upon the completion
733 of the BCP, the CTB has already considered and acted on two resolutions.
734 The CTB resolution titled *Modification of the June 15, 2006, Location*
735 *Approval for the Manassas National Battlefield Park Bypass* (approved
736 February 20, 2013) declared that (i) portions of Route 234 transecting
737 MNBP may be abandoned as part of the BCP prior to “the completion of
738 the [MNBP] Bypass or any other necessary regional transportation system
739 improvements, mitigation, and other conditions” and (ii) “the
740 abandonment action may commence upon the completion and opening to
741 traffic [of] that portion of the [BCP] between Route 66 and the proposed
742 intersection with existing Route 234 near Catharpin.” The CTB resolution
743 titled *Modification of the November 17, 2005, Location Approval for the*
744 *Tri-County Parkway Project in Prince William and Loudoun Counties and*
745 *Recognition of the Intent to Abandon Portions of Route 234 Transecting*
746 *the Manassas National Battlefield Park as part of the Tri-County Parkway*
747 *Project* (approved February 20, 2013) declared that the CTB (i) “shall take
748 whatever action is required for the abandonment of portions of Route 234
749 transecting the MNBP as part of the [BCP] project and that such
750 abandonment will occur upon the completion and opening to traffic [of]
751 that portion of the [BCP] between Route 66 and the proposed intersection
752 with existing Route 234 near Catharpin,” and (ii) “recognizes that the
753 Commissioner intends to enter into an agreement to declare certain
754 portions of Route 234 transecting the MNBP abandoned upon completion
755 of the portion of the [BCP] described above, pursuant to his authority
756 granted by § 33.1-148 of the Code of Virginia, and in accordance with that
757 same agreement, to convey the existing Route 234 real property interest in
758 the abandoned sections to the National Park Service.”
759

- 760 2. Abandonment of Road
- 761 a) For the purposes of this Agreement, four sections of the
762 segment of existing Route 234 that transects MNBP, from the
763 north side of the Northern Virginia Community College, Manassas
764 Campus, entrance road northward to the south side of Featherbed
765 Lane (Route 622), have been defined as follows (Attachment 7):
- 766 (i) Section A is that portion of existing Route 234 from the
767 north side of the Northern Virginia Community College,
768 Manassas Campus, entrance road to existing Route 29
769 having no private property ownership, and to which NPS
770 owns the underlying property interests and presently grants
771 to VDOT, under a permit agreement, the permission to
772 operate and maintain existing Route 234;
- 773 (ii) Section B is that portion of existing Route 234 from
774 existing Route 29 to a point approximately 0.9 miles north
775 of existing Route 29 having no private property ownership;
- 776 (iii) Section C is that portion of existing Route 234 from
777 approximately 0.9 miles north of existing Route 29 to the
778 south side of Poplar Ford Trail; and
- 779 (iv) Section D is that portion of existing Route 234 from
780 the south side of Poplar Ford Trail to the south side of
781 Featherbed Lane.
- 782
- 783 b) The VDOT and the NPS hereby agree and determine that
784 VDOT shall abandon Section A and Section B of Route 234
785 immediately upon the opening and acceptance of the BCP
786 replacement project, as further defined herein, into the State
787 System of Highways, in accordance with the authority granted to
788 VDOT under law.
789

790 c) No later than six (6) months prior to the anticipated
791 completion of the construction and opening of that portion of the
792 BCP between Route 66 and the proposed intersection with existing
793 Route 234, near Catharpin, the VDOT and NPS will initiate a
794 process to determine property owners that have access to their
795 property from Section C or Section D of Route 234. The VDOT
796 and NPS shall prepare and agree upon a draft memorandum of
797 agreement, in a form that can be recorded and run with the land
798 records, whereby these property owners may agree to ingress and
799 egress their property through a NPS-controlled roadway. The
800 VDOT and NPS shall notify these property owners of the pending
801 highway system change and their continuing legal right to access a
802 State maintained and operated public road for purposes of gaining
803 ingress and egress to their property, and shall provide each
804 property owner the opportunity to execute a memorandum of
805 agreement with NPS accepting the NPS assumption, control, and
806 maintenance of former Route 234 as his or her alternative access to
807 the State public road in Sections C and D and releasing VDOT
808 from its obligations to the property owner. The memorandum of
809 agreement shall require that NPS shall provide for maintenance
810 and continued access for purposes of gaining ingress and egress to
811 properties within the boundary of MNBP accessed from Sections C
812 and D of Route 234, as appropriate. Under the memorandum of
813 agreement, the NPS shall also provide for continued access for
814 members of and visitors to Sudley United Methodist Church for
815 purposes of gaining ingress and egress to the church property,
816 including the church cemetery. The FHWA and the VDOT shall
817 not have any obligation or duty to enforce the property owner's
818 rights against the NPS.

819 d) To the extent that such agreements are reached between the
820 NPS and the property owners that have access to their property
821 from Section C or Section D of Route 234, the VDOT will
822 determine which of these sections of Route 234 can be abandoned
823 and which sections must remain in the system of state highways.
824 The VDOT shall abandon Section C if the NPS obtains the
825 agreement described above from the property owner located within
826 the limits of that section of existing Route 234. The VDOT shall
827 abandon Section D if the NPS obtains the agreements described
828 above from all property owners located within the limits of both
829 Section C and Section D of existing Route 234.

830 In accordance with the above determinations, the Commissioner,
831 pursuant to §33.1-148 of the Code of Virginia, shall abandon
832 Sections A and B of existing Route 234 immediately upon opening
833 and acceptance of the BCP replacement project, as further defined
834 herein, into the State System of Highways, from I-66 to Route 234
835 at Catharpin, and, if eligible for abandonment as described above,
836 shall also abandon Sections C and/or D of existing Route 234, as
837 applicable. The Commissioner shall enter all such abandonments
838 upon the records of the VDOT.

839 e) The entry by the Commissioner of the abandonment of any
840 section of Route 234 upon the records of the VDOT shall
841 constitute the action required by 16 U.S.C. §429b1(d) that allows
842 the Secretary of the Interior to close or restrict the abandoned
843 section to through traffic.

844 3. Agreement for Subsequent Administration of Route 234

845 Immediately upon the completion of any abandonment process, the VDOT
846 and the NPS shall enter into an agreement providing NPS with the right to
847 administer the previously abandoned section of Route 234. No agreement
848 between VDOT and NPS is necessary for the NPS's administration of
849 abandoned Section A because the NPS owns property interests underlying
850 all of that section of Route 234.

851 4. Conveyance of Right of Way

852 Upon completion of any abandonment process, if the NPS so requests, the
853 Commissioner shall initiate a process for the execution of a quitclaim deed
854 conveying to NPS whatever property interest the Commonwealth has in
855 the abandoned roadway right of way associated with the abandoned
856 section of existing Route 234. The VDOT's conveyance will be executed
857 through donation of the Commonwealth's highway property interest to the
858 NPS, as acknowledgement of the land being made available within the
859 boundary of MNBP for the Commonwealth's construction of the BCP and
860 related facilities (such as SWM, bicycle, or pedestrian facilities, or traffic
861 calming on Route 29). The exact amount of Federal land administered by
862 the NPS that will be needed for the BCP corridor segment approved by the
863 CTB within MNBP will be determined as the design and plans are
864 developed for the BCP to a point that the final right of way requirements
865 are established.
866

867 5. NPS Administration of Abandoned Route 234

868 Upon execution of an agreement between the VDOT and the NPS
869 authorizing the NPS's administration of abandoned sections of Route 234,
870 or upon the VDOT's conveyance of the Commonwealth's property
871 interests in abandoned sections of Route 234 to the NPS, the NPS will
872 administer the abandoned highway right-of-way for park purposes
873 consistent with any agreements the NPS has executed with property
874 owners pursuant to Stipulation III.F.2.c of this Agreement. The NPS will
875 immediately adopt restrictions on through-traffic on the abandoned
876 sections including restrictions that prohibit traffic from using Route 234 to
877 access Route 29. The FHWA and the VDOT shall not have any obligation
878 or duty to enforce such requirements against the NPS.

879 G. Preliminary Engineering and Design for MNBP Bypass

880 1. To mitigate further for the effects of the Undertaking on MNBP,
881 the VDOT shall provide the following support to the NPS in their efforts
882 to remove through-traffic on Route 29 within the park. The VDOT shall,
883 on behalf of the NPS and after completion of the Final Environmental
884 Impact Statements and issuance of Records of Decision for both the BCP
885 and the MNBP Bypass, contract with the EFLHD to complete the
886 preliminary engineering and design of the MNBP Bypass. The VDOT
887 shall enter into a Memorandum of Agreement with NPS and EFLHD to
888 outline the process for preliminary engineering and design of the MNBP
889 Bypass and the use and disbursement of Four million dollars
890 (\$4,000,000.00) that VDOT shall provide to fund the contract with
891 EFLHD.

892 2. Within six (6) months of completion of the preliminary
893 engineering and design work funded pursuant to this provision, NPS shall
894 take all steps within its authority to obtain full funding for the MNBP
895 Bypass. The VDOT agrees to support this request.

896 3. If so requested by NPS after completion of the Final
897 Environmental Impact Statements and issuance of Records of Decision for
898 both the BCP and MNBP Bypass, the VDOT may apply a portion of the
899 Four million dollars (\$4,000,000.00) it shall allocate for the preliminary
900 engineering and design of the MNBP Bypass, not to exceed One million
901 dollars (\$1,000,000.00), to the purchase of right of way for the MNBP
902 Bypass in furtherance of the NPS's preservation goals to close Route 29
903 through the MNBP, provided NPS has secured any necessary
904 authorization from the Federal Highway Administration for right of way
905 acquisition for the MNBP Bypass.

906 4. The EFLHD and the NPS shall consult on the MNBP Bypass as a
907 separate undertaking pursuant to 36 CFR Part 800.

908 H. Preservation of Land Associated with MNBP and MBHD

909 1. The VDOT shall partner with a land conservation organization,
910 approved by a majority of the Signatories, to achieve the permanent
911 preservation of land located adjacent to MNBP, or within the boundary of
912 MBHD, and immediately adjacent to the section of the BCP where it is
913 collocated with the MNBP Bypass (Attachment 7). The purpose of this
914 initiative is to preserve the historic setting of MNBP and MBHD, preclude
915 the widening of the BCP and direct access from the BCP to any private
916 driveways and public roads other than I-66 and Route 29 within the area
917 of the BCP adjacent to MNBP and within MBHD, and provide a buffer for
918 the MNBP and MBHD and adjacent community from the BCP. VDOT
919 shall implement this initiative in consultation with the NPS, the SHPO, the
920 ACHP, and an Advisory Committee. The Advisory Committee shall be
921 comprised of members invited by VDOT to represent individuals or
922 organizations recognized as Consulting Parties to the Undertaking, and, at
923 VDOT's discretion, additional representatives of local, state, or federal
924 government or conservation/preservation organizations.

925 2. The VDOT shall provide Three million dollars (\$3,000,000) to
926 fund this land preservation initiative, and shall transfer these funds to its
927 partnering organization according to the following schedule: \$ 1,000,000
928 after the VDOT Chief Engineer's approval of a design for the BCP
929 following the Design Public Hearing [payable within three to six (3 to 6)
930 months]; \$ 1,000,000 after the VDOT Chief of Planning and
931 Programming's authorization of Right of Way for the BCP [payable
932 within three to six (3 to 6) months]; and \$ 1,000,000 after completion of
933 the construction of the BCP [payable within three to six (3 to 6) months].
934 The VDOT, at its discretion, may modify the schedule for disbursement of
935 funds if so requested by the NPS, SHPO, or partnering organization.

936 3. The VDOT shall add to the land preservation fund any unexpended
937 funds that may remain from the Four million dollars (\$4,000,000) VDOT
938 shall make available pursuant to Stipulation III.G.1 for the contract with
939 EFLHD for preliminary engineering and design of the MNBP Bypass after
940 final payment on that contract if the remaining funds have not been
941 allocated to the purchase of right of way for MNBP Bypass at the request
942 of the NPS under the terms of Stipulation III.G.3 of this Agreement.

943 4. Working as the VDOT's agent, the land conservation organization
944 shall use the funds provided by VDOT to preserve land held by willing
945 sellers through either fee simple purchase, the purchase of conservation
946 easements, or other legally enforceable mechanism. For the purposes of
947 this Agreement, "preserve" shall mean to maintain in existing condition or
948 maintain in or restore to a condition compatible with the historic setting of
949 MNBP.
950

- 951 5. The VDOT shall require the following of the land conservation
952 organization with which it partners:
- 953 a) The organization shall execute a partnering agreement with
954 the VDOT which, among other terms, shall specify what portion of
955 the funds provided by VDOT may be used to cover reasonable
956 administrative costs incurred by the land conservation
957 organization.
- 958 b) The organization shall consult closely with the VDOT,
959 NPS, the SHPO, and the land preservation Advisory Committee on
960 determining the specific land transactions on which the VDOT's
961 funds will be used, and consult with the VDOT, NPS, the SHPO,
962 and the Advisory Committee on the terms of each conservation
963 easement and fee simple transaction that will be purchased with the
964 VDOT's funds prior to executing the transaction.
- 965 c) The organization shall hold in perpetuity any lands it
966 acquires through fee simple transactions using the VDOT's funds
967 or transfer ownership of these lands to the NPS (if the NPS so
968 agrees) or to another land trust approved by the SHPO; and hold in
969 perpetuity any conservation easements it acquires using the
970 VDOT's funds or transfer these easements to the NPS (if the NPS
971 so agrees) or to another land trust approved by the SHPO.
- 972 d) If the organization is unable to expend all of the funds for
973 the purposes defined in Paragraph 1 of this Stipulation within three
974 (3) years following completion of VDOT's construction of the
975 BCP, the organization shall expand the geographic focus of its
976 efforts to include any lands that, if preserved through fee simple
977 acquisition, purchase of an easement, or other legally enforceable
978 mechanism, would contribute to the preservation or protection of
979 MNBP or its historic characteristics as determined by the
980 organization through consultation with VDOT, the NPS, the
981 SHPO, and the land preservation Advisory Committee .
- 982 e) Upon five (5) years following completion of VDOT's
983 construction of the BCP, the organization shall return any unused
984 funds to the VDOT if the organization is unable to expend all of
985 the available funds for the purposes defined herein. VDOT shall
986 not deny any reasonable request from the NPS or the SHPO to
987 allow the partnering organization to continue its efforts to preserve
988 land for the purpose defined herein for a specified period of time
989 beyond five (5) years following completion of construction of the
990 BCP.

991 I. Recordation of Three Known Cemeteries in Proximity to the BCP
992 Corridor

993
994 The VDOT shall prepare Virginia Department of Historic Resources (DHR)
995 electronic inventory records (“reconnaissance-level”) for the following three
996 cemeteries in Prince William County that are located outside of the portion of the
997 Undertaking’s APE for direct effects: Gwatkin cemetery, located at 3440 Pin
998 Oak Court; Heath cemetery, located at 12512 Bridle Lane, Catharpin, VA; and
999 Phillips cemetery (44PW1931), located at 6389 Pageland Lane. The VDOT shall
1000 submit these records to the DHR Archives, and enter the information into the
1001 DHR’s Data Sharing System, or subsequent replacement, within six (6) months of
1002 execution of this Agreement. The purpose of this recordation is to facilitate
1003 VDOT’s ability to take these cemeteries into account should a future change in
1004 the location of the portion of the Undertaking’s APE for direct effects require that
1005 VDOT re-examine the Undertaking’s effect on historic properties.

1006 J. Construction Management Plan

1007
1008 The VDOT shall develop and implement a construction management plan for the
1009 Undertaking for the purpose of minimizing the temporary effects of construction
1010 operations (e.g., construction noise and dust from earth moving operations) on the
1011 historic setting of MNBP and MBHD and interpretive programming within
1012 MNBP. Pursuant to Stipulation VIII.B of this Agreement, the VDOT shall provide
1013 the Signatories and Consulting Parties to this Agreement and the public an
1014 opportunity to review and comment on the construction management plan.

1015 **IV. Identification and Treatment of Archaeological Historic Properties**

1016
1017 The VDOT shall review the final plans for the BCP, any new access roads
1018 associated with the Undertaking (local access, Stipulation I.F; Brawner Farm,
1019 Stipulation III.B; and Stuart’s Hill Center, Stipulation III.C), and the traffic
1020 calming measures to be implemented on Route 29 (Stipulation III.D) to determine
1021 if known archaeological resources on or eligible for the NRHP will be impacted
1022 by BCP construction, the access roads, or the traffic calming measures along
1023 Route 29 or if construction impacts will otherwise extend beyond the APE
1024 previously surveyed for archaeological resources. The VDOT shall report its
1025 findings to the Signatories and Consulting Parties, pursuant to the requirements of
1026 Stipulation VIII.B of this Agreement. If the VDOT, in consideration of the
1027 comments of the Signatories and Consulting Parties to this Agreement,
1028 determines that further efforts to identify, evaluate, or treat archaeological historic
1029 properties are necessary to take into account the effects of the BCP, the access
1030 roads, or the Route 29 traffic calming measures on archaeological resources, the
1031 VDOT shall implement these efforts as stipulated below, and if within MNBP,
1032 pursuant to a NPS Archaeological Resources Protection Act (ARPA) (16 U.S.C.
1033 470ee, et seq.) permit.

1034 A. The VDOT shall complete efforts to identify archaeological historic
1035 properties in accordance with 36 CFR Part 800.4(b). The VDOT shall conduct
1036 these identification efforts pursuant to Stipulation VIII.A of this Agreement.
1037 Pursuant to Stipulation VIII.B of this Agreement, the VDOT shall provide the
1038 SHPO and the NPS the opportunity to review and approve, and the other
1039 Signatories and Consulting Parties to this Agreement the opportunity to review and
1040 comment on a report on its findings.

1041 B. The VDOT shall conduct any further investigations necessary to evaluate
1042 the NRHP-eligibility of any resources identified as a result of the activities
1043 described in Stipulation IV.A of this Agreement. These evaluations shall be
1044 conducted in accordance with 36 CFR Part 800.4(c), and pursuant to Stipulation
1045 VIII.A of this Agreement. Pursuant to Stipulation VIII.B, the VDOT shall provide
1046 the SHPO and the NPS the opportunity to review and approve, and the other
1047 Signatories and Consulting Parties to this Agreement the opportunity to review and
1048 comment on a report on its findings.

1049 C. If historic properties meeting the criteria for listing on the NRHP are
1050 identified as a result of the activities described in Stipulations IV.A and IV.B of
1051 this Agreement, the VDOT shall assess the effects of the Undertaking on these
1052 properties in a manner consistent with 36 CFR 800.5, and submit its findings to the
1053 SHPO and the NPS for review and concurrence, and to the other Signatories and
1054 Consulting Parties to this Agreement for review and comment pursuant to
1055 Stipulation VIII.B.

1056 D. If the VDOT, in consultation with the Signatories and Consulting Parties
1057 to this Agreement, determines that an archaeological site eligible for listing in the
1058 NRHP will be adversely affected by the BCP, the access roads, or the Route 29
1059 traffic calming measures, the VDOT, in consultation with the FHWA and NPS,
1060 shall determine whether avoidance or minimization of adverse effects to the
1061 property is prudent and feasible. If adverse effects cannot be avoided, the VDOT,
1062 in consultation with the Signatories and Consulting Parties to this Agreement, shall
1063 develop a treatment plan for the archaeological historic property. Pursuant to
1064 Stipulation VIII.B of the Agreement, the VDOT shall provide the SHPO and the
1065 NPS the opportunity to review and approve, and the other Signatories and
1066 Consulting Parties to this Agreement the opportunity to review and comment on
1067 the treatment plan.

1068 E. In the case of necessary minimization of adverse effect to the property, the
1069 VDOT shall ensure that the treatment plan is implemented and that any agreed
1070 upon data recovery field operations are complete before ground-disturbing
1071 activities associated with the Undertaking are initiated at an affected
1072 archaeological historic property. The VDOT shall notify the SHPO and the NPS
1073 upon initiation and upon completion of data recovery field operations so that a site
1074 visit may be scheduled, if the SHPO or the NPS find a visit appropriate. The
1075 proposed construction may proceed following the VDOT's notification of the
1076 completion of data recovery field operations and fulfillment of any field visits
1077 requested by the SHPO and NPS while the technical report is in preparation. The
1078 VDOT shall ensure that the archaeological site inventory record on file in the
1079 DHR's Archives is updated to reflect the implementation of the treatment plan for
1080 each affected site.

1081 **V. Post-Review Discoveries**

1082 A. In the event that a previously unidentified archaeological resource is
1083 discovered during ground-disturbing activities associated with the construction of
1084 the BCP, access roads, and Route 29 traffic calming measures, the VDOT, in
1085 accordance with Section 107.16(d) of the VDOT's *Road and Bridge*
1086 *Specifications*, shall require the construction contractor to halt immediately all
1087 construction work involving subsurface disturbance in the area of the resource and
1088 in the surrounding areas where additional subsurface remains can reasonably be
1089 expected to occur. Work in all other areas of the Undertaking may continue.

1090 B. The VDOT shall notify the FHWA, the SHPO, and the other Signatories
1091 and Consulting Parties to this Agreement within two (2) working days of the
1092 discovery. In the case of prehistoric or historic Native American sites, the FHWA
1093 shall also notify any federally recognized Indian tribes with an interest in the area
1094 and the VDOT shall notify appropriate Indian tribes recognized by the
1095 Commonwealth (hereinafter "Virginia Indian tribes") within two (2) working days
1096 of the discovery.

1097 C. The VDOT shall ensure that an archaeologist meeting the Secretary of the
1098 Interior's Professional Qualification Standards (48 FR 44739) investigates the
1099 work site and the resource, and then the VDOT shall forward to the FHWA, the
1100 SHPO, the federally recognized Indian tribes, the appropriate Virginia Indian
1101 tribes, and the other Signatories and Consulting Parties to this Agreement an
1102 assessment of the NRHP eligibility of the resource (36 CFR Part 60.4) and
1103 proposed treatment actions to resolve any adverse effects on historic properties.
1104 The SHPO, the federally recognized Indian tribes, the appropriate Virginia Indian
1105 tribes, and the other Signatories and Consulting Parties to this Agreement shall
1106 respond within five (5) working days of receipt of the VDOT's assessment of
1107 NRHP eligibility of the resource and proposed action plan. The VDOT, in
1108 consultation with the FHWA, shall take into account the recommendations of the
1109 SHPO, the federally recognized Indian tribes, the appropriate Virginia Indian
1110 tribes, and the other Signatories and Consulting parties to this Agreement
1111 regarding the NRHP eligibility of the resource and the proposed action plan, and
1112 then carry out the appropriate actions.

1113 D. The VDOT shall ensure that construction work within the affected area
1114 does not proceed until the appropriate treatment measures are developed and
1115 implemented or the determination is made that the located resource is not eligible
1116 for inclusion on the NRHP.

1117 **VI. Treatment of Human Remains**

1118 A. The VDOT shall treat all human remains and gravesites in a manner
1119 consistent with the ACHP's *Policy Statement Regarding Treatment of Burial Sites,*
1120 *Human Remains and Funerary Objects* (February 23, 2007;
1121 <http://www.achp.gov/docs/hrpolicy0207.pdf>).

1122 B. Human remains and associated funerary objects encountered during the
1123 course of actions taken as a result of this Agreement shall be treated in a manner
1124 consistent with the provisions of the Virginia Antiquities Act, § 10.1-2305 of the
1125 Code of Virginia and its implementing regulations, 17 VAC5-20, adopted by the
1126 Virginia Board of Historic Resources and published in the Virginia Register on
1127 July 15, 1991, and the Native American Graves Protection and Repatriation Act
1128 (25 U.S.C. 3001) and its implementing regulations, 36 CFR Part 10. In accordance
1129 with the regulations stated above, the VDOT may obtain a permit from the SHPO
1130 for the archaeological removal of human remains should removal be necessary.

1131 C. In the event that the human remains encountered are likely to be of Native
1132 American origin, whether prehistoric or historic, the FHWA shall immediately
1133 notify any federally recognized Indian tribes with an interest in the area, and the
1134 VDOT shall immediately notify appropriate tribal leaders of Virginia Indian tribes.
1135 The FHWA and the VDOT shall determine the treatment of Native American
1136 human remains and associated funerary objects in consultation with the federal
1137 Indian tribes and appropriate tribal leaders of Virginia Indian tribes.

1138 D. The VDOT shall make all reasonable efforts to ensure that the general
1139 public is excluded from viewing any Native American gravesites and associated
1140 funerary objects. The Signatories and Consulting Parties to this Agreement shall
1141 release no photographs of any Native American gravesites or associated funerary
1142 objects to the press or to the general public.

1143 **VII. Professional Qualifications**

1144
1145 All archaeological work carried out pursuant to this Agreement shall be conducted by or
1146 under the direct supervision of an individual or individuals who meet, at a minimum, the
1147 Secretary of the Interior's Professional Qualifications Standards for Archaeology (48 FR
1148 44738-44739, September 29, 1983).

1149 **VIII. Preparation and Review of Plans and Documents**

1150 A. All archaeological studies, technical reports, and treatment plans prepared
1151 pursuant to this Agreement shall be consistent with the federal standards entitled
1152 Archaeology and Historic Preservation: Secretary of the Interior's Standards and
1153 Guidelines (48 FR 44716-44742, September 29, 1983), the SHPO's *Guidelines for*
1154 *Conducting Historic Resource Survey in Virginia* (October 2011), and the ACHP's
1155 *Recommended Approach for Consultation on Recovery of Significant Information*
1156 *from Archaeological Sites* (1999), or subsequent revisions or replacements to these
1157 documents.

1158 B. The SHPO and the other Signatories and Consulting Parties to this
1159 Agreement agree to provide comments to the FHWA and the VDOT on all plans,
1160 technical materials, findings, and other documentation arising from this Agreement
1161 within thirty (30) calendar days of receipt in Adobe Acrobat (PDF) format. If no
1162 comments are received from the SHPO or other Signatories or Consulting Parties
1163 to this Agreement, the FHWA and the VDOT may assume that the non-responding
1164 party has no comment. The FHWA and VDOT shall take into consideration all
1165 comments received within the thirty (30) calendar day review period in writing
1166 from the SHPO and the other Signatories and Consulting Parties to this
1167 Agreement.

1168
1169

1170 C. The VDOT shall provide the SHPO three (3) copies [two (2) hard copies
1171 and one in Adobe Acrobat format (PDF) on compact disk] of all final reports
1172 prepared pursuant to this Agreement. The VDOT shall also provide any other
1173 Signatory or Consulting Party to this Agreement a copy of any final report (in hard
1174 copy or Adobe Acrobat format) if so requested by the party. Such requests must
1175 be received by the VDOT in writing prior to completion of construction of the
1176 Undertaking.

1177 **IX. Reassessment of Efforts to Identify Historic Properties**
1178

1179 If construction of the BCP is not initiated within five (5) years of execution of this
1180 Agreement, prior to initiating construction the VDOT shall reassess its efforts to identify
1181 historic properties that may be affected by the Undertaking. The VDOT shall determine
1182 whether the passage of time, changing perceptions of significance, or incomplete prior
1183 evaluations indicate that properties previously determined eligible or ineligible for the
1184 NRHP warrant reevaluation or whether there are unevaluated resources fifty (50) or more
1185 years of age within the APE which warrant evaluation. The VDOT shall provide a report
1186 on its reassessment and a plan for implementing any further efforts it believes are
1187 warranted for identifying historic properties to the SHPO and the ACHP for review and
1188 approval, and to the other Signatories and Consulting Parties for review and comment
1189 pursuant to the terms of Stipulation VIII.B of this Agreement. Prior to initiating
1190 construction of the Undertaking, the VDOT shall consider comments received from the
1191 Signatories and the Consulting Parties, and shall complete any further actions the SHPO
1192 or ACHP indicate are warranted for identifying historic properties pursuant to 36 CFR
1193 800.4, and shall assess effects on any newly identified historic properties and consult on
1194 resolving any adverse effects on those properties in a manner consistent with 36 CFR
1195 800.5 and 36 CFR 800.6.
1196 .

1197 **X. Curation Standards**

1198 A. Except as described in Paragraph C of this Stipulation, the VDOT shall
1199 ensure that all original archaeological records (e.g., research notes, field records,
1200 maps, drawings, and photographic images) produced in connection with the BCP
1201 and all collections recovered from VDOT highway right of way in association with
1202 the BCP are provided to the DHR for permanent curation. In exchange for its
1203 standard collections management fee as published in the DHR's State Collections
1204 Management Standards (June 26, 2009), or subsequent revisions or replacements
1205 to that document, the SHPO agrees to maintain such records and collections in
1206 accordance with 36 CFR 79, Curation of Federally Owned and Administered
1207 Archaeological Collections.

1208 B. Except as described in Paragraph C of this Stipulation, the VDOT shall
1209 return to an individual property owner any artifact collection that the VDOT has
1210 recovered from his or her property, unless the VDOT and the property owner have
1211 reached agreement on an alternative arrangement. If the property owner donates
1212 the artifact collection to the DHR by executing a donation agreement for the
1213 collection with the DHR within ninety (90) days of receipt of written notification
1214 from the VDOT of its intent to return the collection to the private property owner,
1215 the VDOT shall assume responsibility for payment of DHR's standard collections
1216 curation fee for the donated artifact collection.

1217 C. The disposition of original archaeological records (e.g., research notes,
1218 field records, maps, drawings, and photographic images) and collections produced
1219 or recovered in association with investigations conducted on MNBP shall be
1220 governed by NPS requirements, the terms of this Agreement, and the terms of the
1221 federal permit issued pursuant to the ARPA permit authorizing the investigations.

1222 **XI. Requirements for Archaeological Investigations on NPS Lands**

1223
1224 The VDOT shall obtain all necessary permits required under ARPA and otherwise by the
1225 NPS prior to conducting any archaeological investigations within MNBP. Preparation,
1226 submittal, and review of VDOT's ARPA permit applications shall be subject to NPS
1227 requirements as described in the *NPS Archaeology Guide. Part I. Permits for*
1228 *Archaeological Investigations*
1229 (<http://www.nps.gov/archeology/npsGuide/permits/overview.htm#permit>), or any
1230 subsequent revisions or replacements to this document. Archaeological investigations
1231 carried out under the terms of an ARPA permit shall meet the requirements of that
1232 permit, which may supersede the requirements of Stipulations VI, VIII, and X of this
1233 Agreement.

1234

1235 **XII. Authorization of Design/Build Contractor or PPTA Concessionaire**
1236

1237 It is permissible for the VDOT to authorize a Design/Build Contractor or Public Private
1238 Transportation Act (PPTA) Concessionaire to act on the VDOT's behalf in fulfilling
1239 VDOT's obligations under Stipulations I-VI of this Agreement (with the exception of
1240 VDOT's obligations under Stipulations III.F, III.G, and III.H), including consultation and
1241 coordination with the SHPO, other Signatories and Consulting Parties, provided the
1242 VDOT so notifies the FHWA, the SHPO, other Signatories and Consulting Parties in
1243 advance. The VDOT shall ensure that work conducted by the Design/Build Contractor or
1244 PPTA Concessionaire meets the requirements of Stipulations VII-XI. The responsibility
1245 to ensure that the stipulations of this Agreement are carried out remains that of the
1246 FHWA.

1247 **XIII. Monitoring and Reporting**
1248

1249 Each January 31st following the execution of the Agreement until it expires or is
1250 terminated, the FHWA, in coordination with the VDOT, shall provide all Signatories and
1251 Consulting Parties to this Agreement a summary report detailing work undertaken
1252 pursuant to its terms. Such report shall include any scheduling changes proposed, any
1253 problems encountered, and any disputes and objections received in the FHWA's efforts
1254 to carry out the terms of this Agreement.

1255 **XIV. Recognition of Additional Consulting Parties**
1256

1257 Subsequent to the execution of this Agreement, the FHWA shall consider all written
1258 requests of individuals or organizations to participate in consultation on the
1259 implementation of this Agreement as Consulting Parties and, in consultation with the
1260 SHPO and ACHP, determine which parties should be recognized as Consulting Parties.

1261 **XV. Dispute Resolution**

1262 A. Objection by Signatory or Consulting Party

1263 1. Should any Signatory or Consulting Party to this Agreement
1264 object in writing to the FHWA to any determinations made pursuant to
1265 this Agreement or the manner in which the terms of this Agreement are
1266 implemented, the FHWA shall first consult with the objecting party to
1267 resolve the objection. If the FHWA determines that the objection cannot
1268 be resolved through such consultation, the FHWA shall then consult with
1269 all Signatories to resolve the objection. If the FHWA then determines that
1270 the objection cannot be resolved through consultation, the FHWA shall
1271 forward all documentation relevant to the objection to the ACHP,
1272 including the FHWA's proposed response to the objection.

1273 2. Within thirty (30) calendar days after receipt of all pertinent
1274 documentation, the ACHP shall exercise one of the following options:

1275 a) Advise the FHWA that the ACHP concurs with the
1276 FHWA's proposed response to the objection, whereupon the
1277 FHWA will respond to the objection accordingly; or

1278 b) Provide the FHWA with recommendations, which the
1279 FHWA shall take into account in reaching a final decision
1280 regarding its response to the objection; or

1281 c) Notify the FHWA that the objection will be referred for
1282 comment pursuant to 36 CFR 800.7(a)(4), and proceed to refer the
1283 objection and comment. The FHWA shall take the resulting
1284 comment into account in accordance with 36 CFR 800.7(c)(4).

1285
1286 Should the ACHP not exercise one of the above options within thirty (30)
1287 calendar days after receipt of all pertinent documentation, the FHWA may
1288 assume the ACHP's concurrence in its proposed response to the objection.

1289 3. The FHWA shall take into account any ACHP recommendation or
1290 comment provided in accordance with this stipulation with reference only
1291 to the subject of the objection; the FHWA's responsibility to carry out all
1292 actions under this Agreement that are not the subjects of the objection
1293 shall remain unchanged.

1294 B. Objection from Public

1295
1296 At any time during the implementation of this Agreement, should a member of the
1297 public object to the FHWA or the VDOT regarding the manner in which the
1298 Agreement is being implemented, the FHWA shall notify the Signatories and
1299 consult with the objector to solve the objection. The Signatories may request that

1300 the FHWA notify the Consulting Parties to this Agreement about the objection as
1301 well.

1302 **XVI. Amendments**

1303
1304 Any Signatory to this Agreement may propose to the FHWA that the Agreement be
1305 amended, whereupon the FHWA shall consult with the other Signatories to consider such
1306 an amendment. 36 CFR 800.6(c)(7) shall govern the execution of any such amendment.
1307 This Agreement is amended when such an amendment is agreed to in writing by all
1308 Signatories.

1309 **XVII. Termination**

1310 A. If any Signatory to the Agreement determines that its terms will not or
1311 cannot be carried out, that party shall immediately consult with the other
1312 Signatories to attempt to develop an amendment per Stipulation XVI. If agreement
1313 over an amendment cannot be reached, any Signatory may terminate the
1314 Agreement fifteen (15) days following written notification to the other Signatories
1315 of its intent to terminate.

1316 B. If the FHWA and the VDOT decide they will not proceed with the BCP
1317 before commencement of work, they shall notify the Signatories and the
1318 Consulting Parties to this Agreement in writing to terminate the Agreement. If
1319 work has commenced, the FHWA and VDOT shall notify the Signatories to
1320 arrange a meeting to discuss closing out the activities underway pursuant to the
1321 Agreement.

1322 C. In the event that this Agreement is terminated, the VDOT shall submit to
1323 the SHPO and the NPS a technical report on the results of any archaeological
1324 investigations conducted prior to and including the date of termination, and shall
1325 ensure that any associated collections and records recovered are curated in
1326 accordance with Stipulation X of this Agreement.

1327 D. In the event of termination, and prior to work continuing on the
1328 Undertaking, the FHWA shall, after consultation with the NPS, either (i) execute a
1329 Memorandum of Agreement pursuant to 36 CFR 800.6(c)(1) or (ii) request the
1330 comments of the ACHP under 36 CFR 800.7(a). The FHWA shall notify the
1331 Signatories as to the course of action it will pursue.

1332 E. Upon termination, any funds provided by VDOT to third parties and not
1333 already used for intended purposes under this Agreement shall be returned to
1334 VDOT within ninety (90) days.
1335

1336 **XVIII. Duration**

1337

1338 This Agreement shall continue in full force and effect until the Undertaking is complete
1339 and the requirements of all Stipulations of this Agreement have been met. The
1340 Undertaking is considered complete only upon agreement by the FHWA, the ACHP, the
1341 SHPO, the VDOT, and the NPS. At any time in the six (6)-month period prior to such
1342 date, the VDOT may request that the Signatories consider an extension of this
1343 Agreement. No extension or modification shall be effective unless all Signatories to the
1344 Agreement have agreed with it in writing.

1345 **XIX. Execution**

1346

1347 This Agreement may be executed in counterparts, with a separate page for each
1348 Signatory. Separate pages may also be provided for each Consulting Party. The FHWA
1349 shall ensure that each Signatory and Consulting Party is provided a copy of the executed
1350 Agreement.

1351 **XX. Miscellaneous**

1352 A. Anti-Deficiency Act – Federal agencies who are Parties: This Agreement
1353 is subject to applicable laws and regulations. As to the Signatories who are
1354 Federal agencies, fulfillment of this Agreement is subject to available funds
1355 pursuant to the Anti-Deficiency Act, 31 U.S.C. § 1341 et seq. This Agreement is
1356 not an obligation of funds in advance of an appropriation of such funds, and it does
1357 not constitute authority for the expenditure of funds. If that Federal agency does
1358 not have sufficient funds available to fulfill the Agreement, it shall so notify the
1359 other Signatories and shall take such actions as are necessary to otherwise comply
1360 with 36 C.F.R. Part 800. The Federal agencies shall make reasonable and good
1361 faith efforts to seek funding for implementing this Agreement.

1362 B. Any amounts due and owing by the VDOT under this Agreement shall be
1363 subject to appropriation by the General Assembly and allocation by the CTB.

1364 C. Recitals and Exhibits -- The recitals (Whereas clauses) and exhibits are
1365 incorporated herein as a substantive part of this Agreement.

1366 D. Authority of Signers -- Each Signatory hereto represents that the person or
1367 persons executing this Agreement on behalf of such Signatory has full authority to
1368 do so.
1369

1370 **XXI. Compliance of Other Agencies with Section 106 for the Undertaking**
1371

1372 A Federal agency, other than the original Signatories and the Corps, that has Section 106
1373 responsibility for the Undertaking may satisfy its responsibility through that federal
1374 agency's "agency official," as defined in 36 CFR § 800.2(a), writing the Signatories
1375 stating that the agency agrees to the terms of this Agreement. When the letter is received
1376 by the Signatories, the Federal agency will be deemed to be a Signatory of this
1377 Agreement.

1378 **XXII. Signatures**
1379

1380 Execution and submission of the Agreement, and implementation of its terms, is evidence
1381 that the FHWA, the Corps, and the NPS have afforded the ACHP an opportunity to
1382 comment on the proposed Undertaking and its effects on historic properties, and that the
1383 FHWA, the Corps, and the NPS have taken into account the effects of the Undertaking on
1384 historic properties.

1385

DRAFT

1386 **SIGNATORY:**

1387

1388 **FEDERAL HIGHWAY ADMINISTRATION**

1389

1390 By: _____ Date: _____

1391 Irene Rico, Division Administrator

1392 Virginia Division

1393

1394

DRAFT

1395 **SIGNATORY:**

1396

1397 **VIRGINIA STATE HISTORIC PRESERVATION OFFICER**

1398

1399 By: _____ Date: _____

1400 Kathleen S. Kilpatrick, Director

1401 Virginia Department of Historic Resources

1402

DRAFT

1403 **SIGNATORY:**

1404

1405 **ADVISORY COUNCIL ON HISTORIC PRESERVATION**

1406

1407 By: _____ Date: _____

1408 John M. Fowler, Executive Director

1409

DRAFT

1410 **SIGNATORY:**

1411

1412 **VIRGINIA DEPARTMENT OF TRANSPORTATION**

1413

1414 By: _____ Date: _____

1415 Gregory A. Whirley, Sr.

1416 Commissioner of Highways

1417

DRAFT

1418 **SIGNATORY:**

1419

1420 **DEPARTMENT OF THE INTERIOR**

1421 **NATIONAL PARK SERVICE, NATIONAL CAPITAL REGION**

1422

1423 By: _____ Date: _____

1424 Stephen E. Whitesell, Regional Director

1425

DRAFT

1426 **CONCUR:**

1427

1428 **LOUDON COUNTY, VIRGINIA**

1429

1430 By: _____ Date: _____

1431 Tim Hemstreet, County Administrator

1432

DRAFT

1433 **CONCUR:**

1434

1435 **PRINCE WILLIAM COUNTY, VIRGINIA**

1436

1437 By: _____ Date: _____

1438 Melissa S. Peacor, County Executive

DRAFT

1439
1440
1441
1442
1443
1444
1445

CONCUR:

AMERICAN BATTLEFIELD PROTECTION PROGRAM

By: _____ Date: _____
Paul Hawke, Chief

DRAFT

1446 **CONCUR:**

1447

1448 **BULL RUN CIVIL WAR ROUNDTABLE**

1449

1450 By: _____ Date: _____

1451 Mark Trbovich, President

1452

DRAFT

1453
1454
1455
1456
1457
1458
1459

CONCUR:

CIVIL WAR TRUST

By: _____ Date: _____
James Lighthizer, President

DRAFT

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CONCUR:

COALITION FOR SMARTER GROWTH

By: _____ Date: _____
Stewart Schwartz, Executive Director

DRAFT

1467 **CONCUR:**

1468

1469 **GENERAL TRIMBLES COMMUNITY ASSOCIATION**

1470

1471 By: _____ Date: _____

1472 Barry G. Cline, President

1473 12100 General Trimbles Lane

1474 Manassas, VA 20109

1475

DRAFT

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CONCUR:

NATIONAL PARKS CONSERVATION ASSOCIATION

By: _____ Date: _____
Thomas C. Kiernan, President

DRAFT

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CONCUR:

NATIONAL TRUST FOR HISTORIC PRESERVATION

By: _____ Date: _____
Stephanie K. Meeks, President and Chief Executive Officer

DRAFT

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CONCUR:

PIEDMONT ENVIRONMENTAL COUNCIL

By: _____ Date: _____
Chris Miller, President

DRAFT

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CONCUR:

SOUTHERN ENVIRONMENTAL LAW CENTER

By: _____ Date: _____
Rick S. Middleton, Executive Director

DRAFT

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CONCUR:

SUDLEY SPRINGS CATHARPIN CIVIC ASSOCIATION

By: _____ Date: _____

DRAFT

1511 **CONCUR:**
1512
1513 **SUDLEY UNITED METHODIST CHURCH**
1514

1515 By: _____ Date: _____
1516 Mr. Bass Mitchell, Pastor
1517

DRAFT

1518 **CONCUR:**
1519
1520 **WASHINGTON AIRPORTS TASK FORCE**
1521

1522 By: _____ Date: _____
1523 Leo Schefer, President
1524

DRAFT

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CONCUR:

PROPERTY OWNER

By: _____ Date: _____
Mr. John Bradshaw

DRAFT

1532 **CONCUR:**

1533

1534 **PROPERTY OWNER**

1535

1536 By: _____ Date: _____

1537 Ms. Denise Costley

1538 3200 Sanders Lane

1539 Catharpin, VA 20143-1027

1540

DRAFT

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CONCUR:

PROPERTY OWNER

By: _____ Date: _____
Ms. Patricia Ferguson

DRAFT

1548 **CONCUR:**

1549

1550 **PROPERTY OWNER**

1551

1552 By: _____ Date: _____

1553 Mary Ann Ghadban

1554 6389 Pageland Lane

1555 Gainesville, VA

1556

DRAFT

1557 **CONCUR:**

1558

1559 **PROPERTY OWNER**

1560

1561 By: _____ Date: _____

1562 Philomena Hefter

1563 5595 Pageland Lane

1564 Gainesville, VA 20155

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DRAFT

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CONCUR:

PROPERTY OWNER

By: _____ Date: _____
Mr. Shawn Moler

DRAFT

1573 **CONCUR:**

1574

1575 **PROPERTY OWNER**

1576

1577 By: _____ Date: _____

1578 Ms. Page Snyder

1579 6312 Pageland Lane

1580 Gainesville, VA 20155

1581

DRAFT

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CONCUR:

PROPERTY OWNER

By: _____ Date: _____
Mr. Keith Webster

DRAFT

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CONCUR:

FHWA, EASTERN FEDERAL LANDS HIGHWAY DIVISION

By: _____ Date: _____

DRAFT

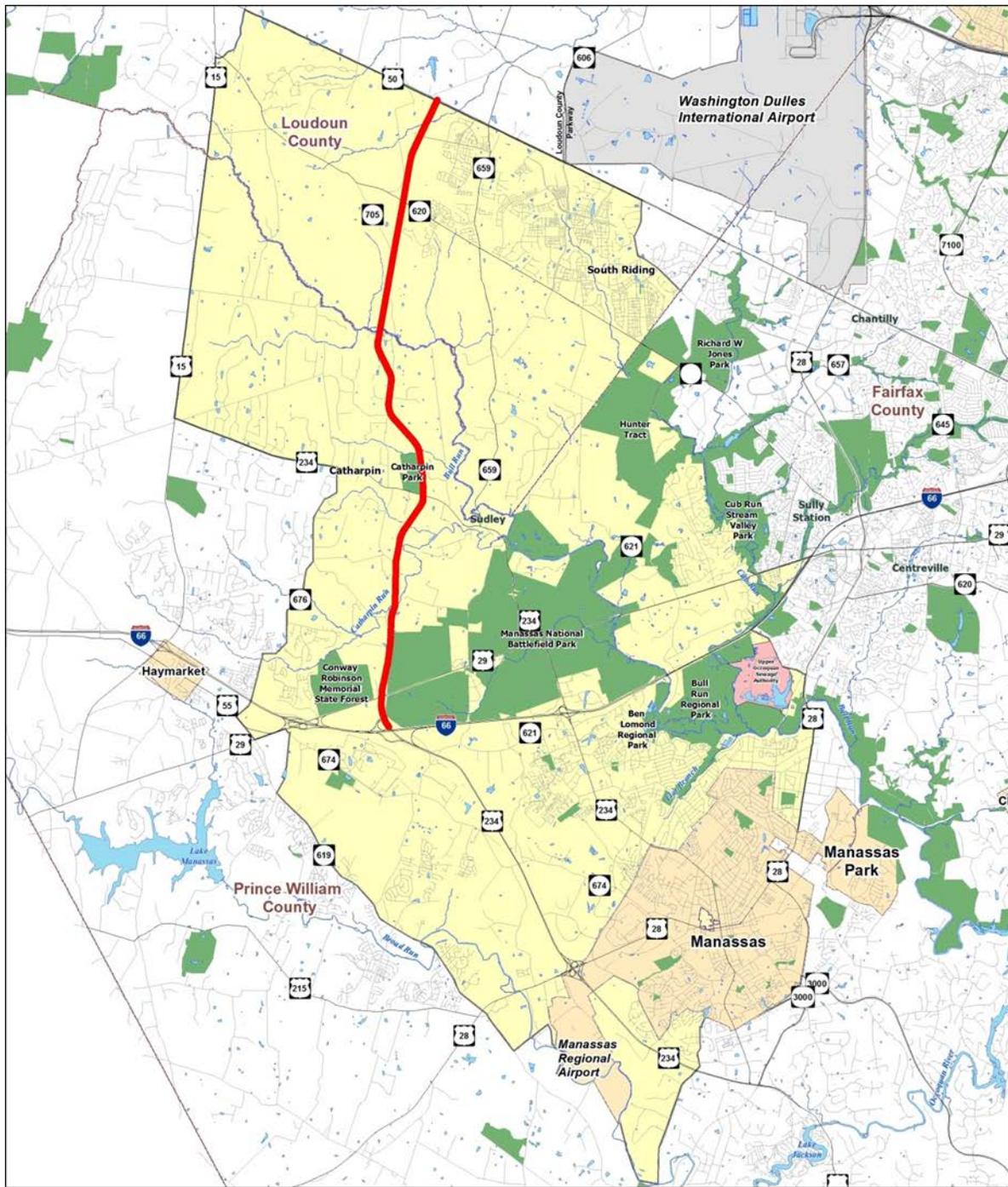
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ATTACHMENT 1

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LOCATION OF THE BI-COUNTY PARKWAY

DRAFT



 Alternative West Two
 Study Area



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ATTACHMENT 2

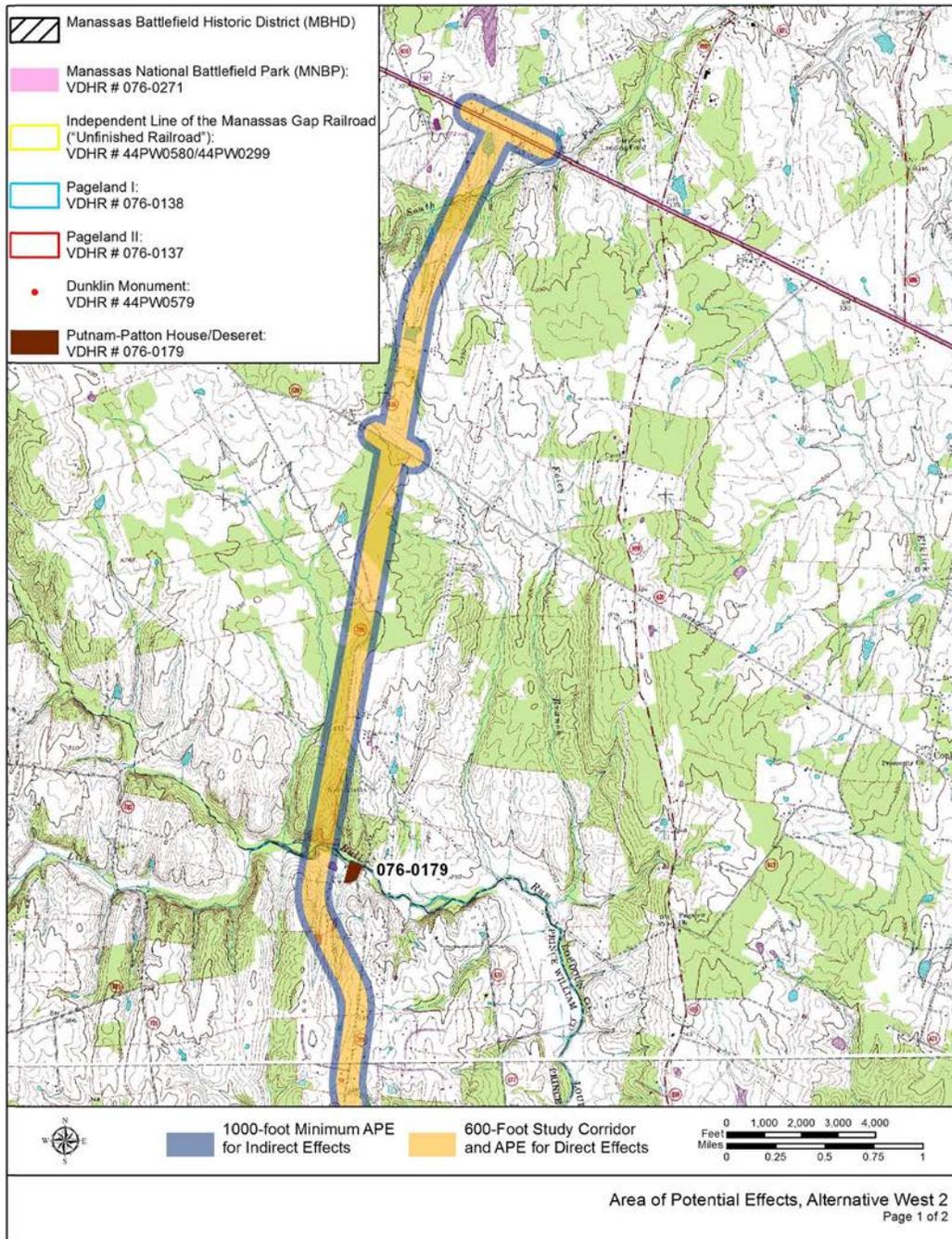
1602

**AREA OF POTENTIAL EFFECTS AND LOCATIONS OF POTENTIALLY
AFFECTED HISTORIC PROPERTIES**

1603

1604

DRAFT



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ATTACHMENT 3

1608

ANNOTATED BIBLIOGRAPHY OF TECHNICAL CULTURAL RESOURCES

1609

STUDIES (ORGANIZED BY DATE OF REPORT)

1610

Bamann, Susan, Loretta Lautzenheiser, Maral Kalbian, and Bill W. Hall

1611

March 2003 Final Cultural Resources Overview. Prepared by Coastal Caroline

1612

Research, Inc., in association with Parsons Brinckerhoff Quade & Douglas, Inc.,

1613

for the Virginia Department of Transportation.

1614

(Historic context and review of known cultural resources within the Tri-County Parkway

1615

study area, an area measuring 15 miles long and nine miles wide and covering

1616

approximately 110 square miles in portions of Prince William, Fairfax, and Loudoun

1617

counties.

1618

1619

Stewart, Jennifer, and Loretta Lautzenheiser

1620

May 2004 Architectural Survey. Prepared by Coastal Carolina Research, Inc.

1621

(Survey of corridor segments C, D, F, and G. The Area of Potential Effects

1622

included 1000-ft-wide corridors plus above-ground resources adjacent to or

1623

visible from the corridor.)

1624

Coastal Carolina Research, Inc.

1625

June 2004 Architectural Survey, Alternative B. Prepared by Coastal Caroline

1626

Research, Inc., in association with Parsons Brinckerhoff Quade & Douglas, Inc.,

1627

for the Virginia Department of Transportation.

1628

(Survey of corridor segment D. The Area of Potential Effects included a 1000-ft-

1629

wide corridor plus above-ground resources adjacent to or visible from the

1630

corridor.)

1631

Coastal Carolina Research, Inc.

1632

January 2005 Architectural Evaluations. Prepared by Coastal Caroline Research,

1633

Inc., in association with Parsons Brinckerhoff Quade & Douglas, Inc., for the

1634

Virginia Department of Transportation.

1635

(Architectural evaluation studies were conducted for five properties: George

1636

Hancock House/Oak Level Farm (DHR Inventory No. 053-0971); Gallagher Farm

1637

(053-6040); Old Barrett Farm/Barn at Sunny Brook Farm (076-0073); Putnam-

1638

Patton House/Deseret (076-0179), Conway Robinson Memorial Forest (076-

1639

0297)

1640

- 1641 Luchsinger, Heidi, Loretta Lautzenheiser, and Bill Hall
- 1642 September 2006 Archaeological Survey. Prepared by coastal Carolina
1643 Research, Inc. for Parsons Brinckerhoff Quade & Douglas, Inc., for the Virginia
1644 Department of Transportation.
- 1645 (Archaeological survey of the corridor for the selected alternative corridor. The
1646 survey corridor was 500 feet wide.)
- 1647 James, Tiffany A., Loretta Lautzenheiser, Bill Hall, and Dennis C. Gosser
- 1648 April 2010 Evaluation of Sites 44PW0579 (VDHR# 076-0271-0062) and
1649 44PW0623 and Dunklin Monument Avoidance Metal Detection Survey.
1650 Prepared by Coastal Carolina Research, Inc., in association with PB Americas and
1651 the Louis Berger Group, for the Virginia Department of Transportation.
- 1652 (Archaeological evaluation studies of two reported cemetery sites. Site
1653 44PW0579 is the site of the Dunklin Monument. Also reports on the results of
1654 systematic metal detection within a modification to the proposed alignment
1655 designed to avoid the Dunklin Monument.)
- 1656 Gosser, Dennis, and Dawn M. Bradley
- 1657 September 2010 Supplemental Archaeological Survey and Metal Detecting.
1658 Prepared by Coastal Carolina Research for the Louis Berger Group and the
1659 Virginia Department of Transportation.
- 1660 (Archaeological survey of three discontinuous areas totally 18.3 acres within a
1661 600-ft-corridor along the west side of Pageland Lane where permission for access
1662 the properties was denied by the owners during the 2006 archaeological survey.
1663 Supplemental metal detector survey was conducted of 68 previously surveyed
1664 acres within a 600-ft-corridor located at the north end of the Dunklin Shift and
1665 extending north for a distance of one mile.)
- 1666
- 1667

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ATTACHMENT 4

1669

KEY AGENCY SECTION 106 CORRESPONDENCE

1670

(FHWA, VDOT, SHPO, ACHP)

1671

1672 **July 7, 2004. VDOT to SHPO.** VDOT forwards Tri-County Parkway Location Study
1673 Architectural Survey Report (May 2004) and Tri-County Parkway Location Study Draft
1674 Architectural Survey Alternative D (June 2004) reports to SHPO. VDOT requests SHPO
1675 concur:

1676 • Properties 029-0027, 029-5271, 0053-0971, 29-5321 through 029-5335, 053-
1677 5242, 053-5321, 053-6038, 063-6039, 053-6041 through 053-6044, 053-6046 through
1678 053-6057, 076-0073, 076-0180, 076-0200, 076-0257, 076-0292, 076-0297, 076-0360,
1679 076-0362, 076-0363, 076-0433 through 076-0435, 076-0441, 0076-5099 through 076-
1680 5103, 076-5105, 076-5106 are not eligible for the National Register;

1681 • Gallagher Farm (053-6040) and Putnam-Patton House (0179-076) warrant further
1682 evaluation to establish their National Register eligibility; and

1683 • Bull Run Stone Bridge (029-0084), Dulles International Airport (053-0008),
1684 Pageland II (076-0137), Pageland I (076-0138), and Manassas Battlefield (076-0271) are
1685 listed on or eligible for the National Register.

1686 **July 23, 2004. SHPO to VDOT.** SHPO concurs that the following properties are not
1687 eligible for the National Register:

1688 SHPO also provides comments on the following properties:

1689 • Further research is needed to establish National Register eligibility of these
1690 properties: Kline House (076-5099). WKDV Transmitter Site (076-5100). Cub Run
1691 Primitive Baptist Church (029-5321). House (029-5327). Class Farm (076-5105).
1692 Underwood House (076-5106). Stuart's Crossing/Shaver Farm (029-5271). George
1693 Hancock House/Oak Level Farm (053-0971). Barn at Sunny Brook Farm/Old Barrett
1694 Farm (076-0073). Haislip Cemetery and House Site (076-0292). Conway Memorial
1695 State Forest (076-0297). Shed (076-0362). Byrne House (053-6056). Shockley House
1696 (053-6057). Putnam-Patton House (076-0179).

1697 • Ruins (029-0027). Not eligible as an architectural resource, but would require
1698 further research to establish its National Register eligibility as an archaeological resource.

1699 • Ex-Slave House, Brawner Farm (076-0257). No longer standing. Would require
1700 further research to establish its National Register eligibility as an archaeological resource.

1701 • Swart Family Cemetery (076-0441). SHPO determined this cemetery eligible as a
1702 contributing resource to the Manassas National Battlefield Park in May 1994.

1703

1704 **January 24, 2005. VDOT to SHPO.** VDOT provides supplementary documentation or
1705 further comments on 12 architectural properties:

- 1706 • Shed (076-0362). Should be considered a contributing element to the Manassas
1707 National Battlefield Park (076-0271).
- 1708 • Swart Family Cemetery (076-0441): Should be considered a contributing element
1709 to the Manassas National Battlefield Park (076-0271).
- 1710 • The following properties are not eligible for the National Register: Kline House
1711 (076-5099); WKDV Transmitter Site (076-5100); Cub Run Primitive Baptist Church
1712 (029-5321); House (029-5327); Class Farm (076-5105); Underwood House (076-5106);
1713 Stuart's Crossing/Shaver Farm (029-5271); Haislip Cemetery and House Site (076-
1714 0292); Byrne House (053-6056); Shockley House (053-6057).

1715 **February 16, 2005. VDOT to SHPO.** VDOT forwards evaluation studies for 5
1716 architectural properties. Requests SHPO concurrence that:

- 1717 • Gallagher Farm (053-6040) and Putnam-Patton House (076-0179) are
1718 individually eligible for the National Register.
- 1719 • George Hancock House (053-6040), Old Barrett Farm/Barn at Sunny Brook (076-
1720 0073), and Conway Robinson Memorial State Forest (076-0297) are not eligible for the
1721 National Register.

1722 **February 24, 2005. SHPO to VDOT.**

- 1723 • SHPO concurs that the Shed (076-0362) should be considered a contributing
1724 element to the Manassas National Battlefield Park (076-0271).
- 1725 • SHPO concurs that the following properties are not eligible for the National
1726 Register: Kline House (076-5099); WKDV Transmitter Site (076-5100); House (029-
1727 5327); Underwood House (076-5106); Stuart's Crossing/Shaver Farm (029-5271);
1728 Haislip Cemetery and House Site (076-0292); Byrne House (053-6056); Shockley
1729 House (053-6057).
- 1730 • SHPO finds Cub Run Primitive Baptist Church (029-5321) eligible for the
1731 National Register.

1732 **March 10, 2005. SHPO to VDOT.** SHPO response to significance evaluations for 5
1733 architectural properties:

- 1734 • Conway Robinson Memorial State Forest (076-0297) is not eligible for the
1735 National Register in its own right as a state forest or because of connection with the
1736 Civilian Conservation Corps;
- 1737 • Barn at Sunny Brook (076-0073) is not eligible for the National Register;

1738 • Gallagher Farm (053-6040) is potentially eligible for the National Register under
1739 Criterion A for its association with settlement patterns in Loudoun Co, and Criterion C as
1740 a rare surviving mid to late-18th-century residence in Loudoun Co. SHPO concurs with
1741 VDOT's proposed National Register boundary;

1742 • Oak Level Farm/George Hancock House (053-6040) is not eligible for the
1743 National Register; and

1744 • Putnam-Patton House (076-0179) is eligible for the National Register under
1745 Criterion C as a rare surviving example of the Italianate style in Loudoun Co. The
1746 present parcel serves as the National Register boundary.

1747 **December 20, 2006. VDOT to SHPO.** VDOT forwards report entitled Tri-County
1748 Parkway Location Study, Archaeological Survey, prepared by Heidi Luchsinger, Loretta
1749 Lautzenheiser, and Bill Hall of Coastal Carolina Research, Inc., and reviews surveys
1750 conducted by others within the BCP corridor. VDOT requests SHPO concur:

1751 • Site 44LD0853 is individually eligible for the National Register, but will require
1752 reassessment after extent of recent data recovery operations is fully understood;

1753 • Sites 44LD0854, 44LD1027, 44LD1186 and 44LD1363 are not eligible for the
1754 National Register;

1755 • Site 44LD1187 is individually eligible for the National Register under Criterion
1756 D;

1757 • Site 44PW0579 is eligible for the National Register under Criterion A, as
1758 contributing element to Manassas National Battlefield and Historic District. Further
1759 assess may be needed to better define the site boundary and the nature of the site;

1760 • Site 44PW0580 is eligible for the National Register under Criterion A, as
1761 contributing element to Manassas National Battlefield and Historic District, and is
1762 individually eligible under Criterion D; and

1763 • Site 44PW0623 is potentially eligible for the National Register, as a contributing
1764 element to the Manassas National Battlefield and Historic District under Criteria A and
1765 D, and warrants further investigation to conclusively establish its eligibility.

1766 SHPO concurs with VDOT's recommendations on January 22, 2007, with these
1767 exceptions:

1768 • Site 44LD0853 is not eligible for the National Register; and

1769 • Eligibility of Site 44LD0854 cannot be established until report is complete.

1770

1771 **October 11, 2007. FHWA to ACHP.** Notification to the ACHP of the adverse effect of
1772 the project, and provision of documentation for the ACHP's use in determining whether it
1773 will participate in consultation.

1774 **November 20, 2007. ACHP to FHWA.** ACHP chooses not to participate in
1775 consultation.

1776 **November 19, 2007. VDOT to SHPO.** VDOT agrees that site 44LD0853 is not eligible
1777 for the National Register, as previously determined by SHPO. VDOT forwards report
1778 entitled Phase II Archaeological Evaluation of Site 44LD0854 on the Smith Property,
1779 Loudoun County, Virginia, prepared by Stephanie Taleff Sperling and Johanna Flahive of
1780 Thunderbird Archaeology for Greenvest, LC, November 2005. VDOT requests SHPO
1781 concur site 44LD0854 is not eligible for the National Register.

1782 SHPO concurs with these findings December 19, 2007.

1783 **July 7, 2010. VDOT to SHPO.** VDOT forwards report Evaluations of Sites 44PW0579
1784 (VDHR# 076-0271-0062) and 44PW0623 and Dunklin Monument Avoidance Metal
1785 Detector Survey and requests SHPO concur:

- 1786 • Site 44PW0579 is not eligible for the National Register individually, but is
1787 eligible as a contributing element to the National Register-listed Manassas National
1788 Battlefield Historic District (VDHR# 076-0271) under Criterion A;
- 1789 • The National Register-eligible boundary of Site 44PW0579 is the 5-by-7-foot
1790 parcel purchased by the Dunklin family in 1873 and containing the Dunklin Monument;
1791 and
- 1792 • Site 44PW0623 is not eligible for the National Register.

1793 SHPO concurred with these determinations on July 27, 2010

1794 **October 7, 2010. VDOT to SHPO.** VDOT forwards report Supplemental
1795 Archaeological Survey and Metal Detecting (August 2010). VDOT requests SHPO
1796 concur that:

1797 • Portions of the linear archaeological resources 44PW0580 (portion of "Unfinished
1798 Railroad") and 44PW0595 (remnant of Centreville Road) within the BCP APE have no
1799 potential to yield new information and therefore are not eligible for the National Register
1800 under Criterion D;

1801 • Site 44PW0593's ("mass burial") boundary does not extend into the APE and the
1802 boundary should be updated; and

1803 • Site 44PW0594 ("pit latrine") is not eligible for the National Register under
1804 Criterion D.

1805 SHPO concurred November 2, 2010

1806 **July 10, 2012. VDOT to SHPO.** VDOT assesses the Undertaking's effects on historic
1807 properties and provides for review and comment draft Programmatic Agreement with
1808 proposed measures to resolve the adverse effects.

1809

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ATTACHMENT 5

1811

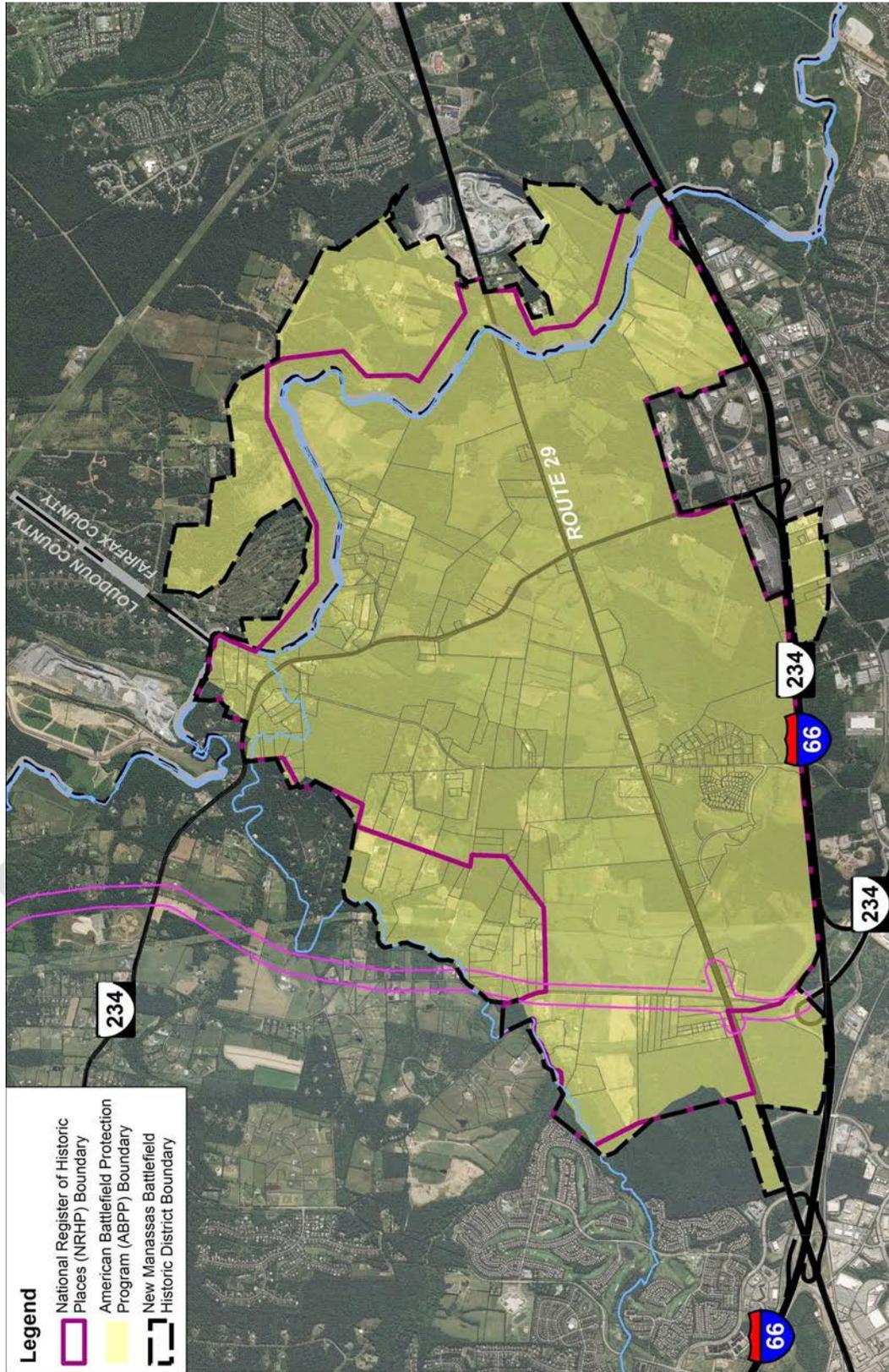
BOUNDARIES OF NRHP-LISTED BATTLEFIELD DISTRICT, ABPP PotNR

1812

FOR MANASSAS II BATTLEFIELD, AND REDEFINED “MBHD”

1813

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1815

ATTACHMENT 6

1816

LOCATIONS OF THE PREVIOUSLY PROPOSED CORRIDORS AND

1817

ALIGNMENTS FOR THE BI-COUNTY PARKWAY AND THE

1818

MANASSAS NATIONAL BATTLEFIELD PARK BYPASS IN THE VICINITY

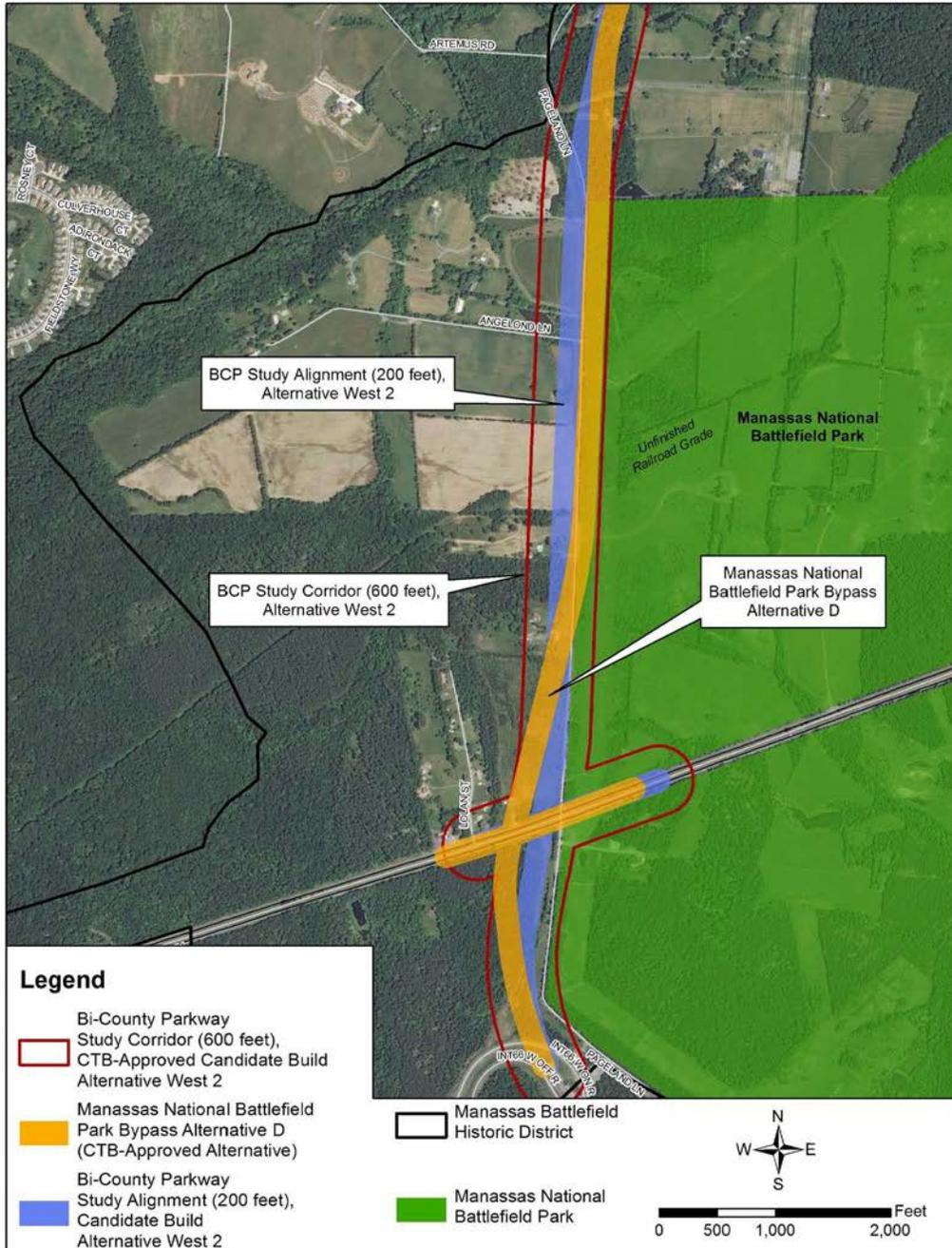
1819

OF MANASSAS NATIONAL BATTLEFIELD PARK

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ATTACHMENT 7

1824

**SECTIONS OF ROUTE 234 WITHIN MANASSAS NATIONAL BATTLEFIELD
PARK PROPOSED FOR ABANDONMENT FOLLOWING CONSTRUCTION OF
THE BI-COUNTY PARKWAY (STIPULATION III.F)**

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