

PROGRAMMATIC AGREEMENT

Among The

UNITED STATES DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE,

The

GEORGE WASHINGTON FOUNDATION,

and the

VIRGINIA DEPARTMENT OF HISTORIC RESOURCES

For

TREATMENT OF THE SITE OF GEORGE WASHINGTON'S BOYHOOD

HOME

("FERRY FARM")

NATIONAL HISTORIC LANDMARK

STAFFORD COUNTY, VIRGINIA

[April 22, 2020 draft]

PROGRAMMATIC AGREEMENT
GEORGE WASHINGTON'S BOYHOOD HOME ("FERRY FARM")
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WHEREAS, the National Park Service (hereinafter "NPS") owns and administers a protective conservation easement (hereinafter "Easement"), dated June 16, 2000 and recorded by the Stafford County Circuit Court, on the lands commonly known as George Washington's Boyhood Home, Ferry Farm (the Protected Property described in the easement hereinafter "Ferry Farm")—an easement authorized by Section 509 of the Act of November 6, 1998, Public Law 105-355, and subsequently acquired from the George Washington Foundation (formerly known as George Washington's Fredericksburg Foundation, and hereinafter "Foundation") for consideration; and

WHEREAS, Ferry Farm was designated a National Historic Landmark (hereinafter "NHL") by the Secretary of the Interior on February 16, 2000; and

WHEREAS, the Foundation owns and operates Ferry Farm as a historic site for the benefit of the public; and

WHEREAS, culturally significant Native American objects, sites, and human remains may be encountered at Ferry Farm that are subject to the provisions of the Native American Graves Protection and Repatriation Act (hereinafter "NAGPRA"), and the Foundation will consult with the National NAGPRA Program Office to determine the next course of action in order to comply with NAGPRA in the role of museum; and

WHEREAS, the Easement describes the right of the NPS to protect in perpetuity the natural, cultural, archeological, ecological, open space and aesthetic features of Ferry Farm, and describes the restrictions of the easement as intended to prevent uses, which if allowed to occur, would have an individual or cumulative adverse effect on Ferry Farm; and

WHEREAS, the Easement permits the Foundation to propose to the NPS "formal archeological investigations" on Ferry Farm; and

WHEREAS, the Easement incorporates as a "part hereof" of its provisions pages 44734-44737 of Archeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines (Federal Register, September 29, 1983), hereinafter referred to as 1983 Secretary's Standards for Archeological Documentation, which stipulate that, "Archeological documentation may be undertaken as an aid to various treatment activities, including research, interpretation, reconstruction, stabilization, and data recovery when mitigating archeological losses resulting from construction," define "documentation" as including observation "directly, through excavation, or indirectly, through remote sensing," and stipulate, "Destructive methods should not be applied to portions or elements of the property if nondestructive methods are practical"; and

WHEREAS, the NPS must approve all construction and development plans of the Foundation for Ferry Farm regardless of the purpose of said plans, including but not limited to any surface alteration or other disturbance of the ground or any vegetative management plan; and

WHEREAS, the Easement stipulates that the Foundation shall comply with the Historic Sites Act of 1935 (16 U.S.C. § 461), the National Historic Preservation Act of 1966, as amended (hereinafter "NHPA"), 54 U.S.C. § 306108, and *Protection of Historic Properties*, its implementing regulations, 36 CFR Part 800

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(hereinafter "Section 106"), which the NPS complies with in reviewing plans and proposals for Ferry Farm; and

WHEREAS, the NPS has notified the Advisory Council on Historic Preservation (hereinafter "ACHP") of the intention to develop this programmatic agreement (hereinafter "Agreement"), pursuant to 36 CFR § 800.14(b)(1)(ii) and has invited the ACHP to participate in consultation and the ACHP has [elected/declined] to participate; and

WHEREAS, the NPS has solicited and considered the views of the public on an Environmental Assessment (hereinafter "EA") for *George Washington Boyhood Home at Ferry Farm Site Treatment Plan*, October 2013, using its National Environmental Policy Act public involvement procedures pursuant to 40 CFR § 1500.2(d) and 40 CFR Part 1506, and approved the EA via a Finding of No Significant Impact; and

WHEREAS, the EA finds that relocation of the 1870s agricultural building will diminish the integrity of the structure and result in an adverse impact on the resource; and

WHEREAS, the NPS has determined through a Section 106 review and in consultation with the State Historic Preservation Officer (hereinafter "SHPO"), which in Virginia is the Department of Historic Resources (hereinafter "DHR"), that implementation of the initial phase of the Site Treatment Plan as described in the EA (pages 31-32, 34-36, 44-46) will have no adverse effect on the qualities that make Ferry Farm significant, provided that certain conditions were met; and

WHEREAS, the NPS consults as Concurring Parties the Pamunkey Indian Tribe and the Catawba Indian Nation on its proposed undertakings at the lands covered by the Easement; and

WHEREAS, the NPS has identified the Chickahominy Indian Tribe, the Chickahominy Indians Eastern Division, the Upper Mattaponi Indian Tribe, the Rappahannock Tribe, the Monacan Indian Nation, the Nansemond Indian Nation, and the Delaware Nation, and has invited these tribes to participate in this Agreement as Concurring Parties on a government-to-government basis pursuant to 36 CFR § 800.6(c)(3) and the _____ have [elected/declined] to participate; and

WHEREAS, the NPS has invited the Foundation to participate in this Agreement as an invited signatory and the Foundation has elected to participate; and

WHEREAS, the NPS has invited Stafford County (hereinafter "County") and the City of Fredericksburg (hereinafter "City") to participate in this Agreement as Concurring Parties pursuant to 36 CFR § 800.2(c)(3), and the _____ has [elected/declined] to participate; and

WHEREAS, the NPS has invited the Department of Historic Preservation of the University of Mary Washington (hereinafter "University") to participate in this Agreement as a Concurring Party pursuant to 36 CFR § 800.6(c)(3) and the University has [elected/declined] to participate; and

WHEREAS, the NPS has invited the American Battlefield Trust and the Friends of the Rappahannock to participate in this Agreement as Concurring Parties pursuant to 36 CFR § 800.6(c)(3) and the _____ has [elected/declined] to participate; and

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WHEREAS, this Agreement builds upon and does not supersede the 2008 Nationwide Programmatic Agreement (Appendix C) executed by the NPS, the ACHP, and The National Conference of State Historic Preservation Officers.

NOW, THEREFORE, the NPS, the SHPO, [and the ACHP if participating] and the Foundation agree that the Easement shall be administered consistent with Section 106 of the NHPA.

STIPULATIONS

The NPS in cooperation with the Foundation shall ensure that the following measures are carried out:

I. Consultation

- A. The NPS and the Foundation shall consult with the SHPO and the concurring parties in carrying out the terms of this Agreement. Such consultation may include but not be limited to written correspondence, conference calls, face-to-face meetings, and/or field visits.

II. Implementation of Site Treatment Plan

- A. Continued implementation of the Site Treatment Plan as described in the EA (including map, page 46 of the EA and Appendix B of this Agreement) will entail among other undertakings construction of the following: a new visitor center, an entrance station, an asphalt-surfaced parking lot, an administrative building, a pedestrian bridge, an interpretive play area, a Rappahannock River Interpretive Node, and a Washington Home Farm Interpretive Landscape with missing Washington era landscape features and structures; and relocation of the 1870s agricultural building.
- B. The Foundation agrees to carry out the following measures to ensure that continued implementation will have no adverse effect on the qualities that make Ferry Farm eligible for inclusion in the National Register of Historic Places (hereinafter "NRHP"):
 - i. Documentation of the Ferry Road trace in the project area will be updated in the Virginia Cultural Resource Information System (hereinafter "V-CRIS").
 - ii. Measures described in Stipulations for Protection of Archeological Resources During Phase I of the Landscape Rehabilitation Project at George Washington's Boyhood Home National Historic Landmark (implementation of the initial phase of the Site Treatment Plan), agreed upon on August 27, 2015.

III. Undertakings Exempt from Review

- A. The parties to this Agreement agree that those undertakings listed in Appendix A have little to no potential to affect historic properties, provided that the following conditions are met:

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- i. Replacement of materials in buildings and structures will be in kind. To qualify as "in kind," the material proposed for replacement must be of the same kind as the existing material and placement must be in the same location on the resource.
 - ii. Any changes in material or location will be subject to review following the process outlined in the 2008 Nationwide Programmatic Agreement.
- B. The list of undertakings provided in the Appendix A may be modified through consultation and written agreement between the Foundation, the NPS, the SHPO, and the concurring parties without requiring an amendment to this Agreement.
- C. Undertakings not identified in Appendix A shall require further review as outlined in Stipulation IV.
- D. The Foundation will prepare a list of all undertakings exempt from review under this Part for inclusion in the Annual Status Report as outlined in Section VII.A.

IV. Review Requirements for Proposed New Undertakings

- A. The Foundation shall prepare draft Assessments of Actions Having an Effect on Historic Properties (hereinafter "AOE") and appropriate supporting plans or documentation for proposed actions (process outlined in Stipulation IV.B.). The Foundation shall provide drafts of all documents to the NPS for a preliminary review.
 - i. The NPS will conduct the preliminary review of all relevant plans, narrative descriptions, alternatives, supporting documentation, and forms, including the AOE and notify the Foundation when the documentation is found to be complete.
 - ii. Upon receiving the NPS interim response that these documents are complete, the Foundation shall submit these documents to the NPS for formal approval of an action or actions under the terms of the Easement.
 - iii. The Foundation at its own expense shall provide the NPS with sufficient copies of the AOE and appropriate supporting plans or documentation in an agreed upon format for the NPS to provide the SHPO and the concurring parties for review and comment, as stipulated below. The NPS at its discretion may provide the copying services for the plans, reports, and other items submitted by the Foundation, or request from the Foundation fewer than the five stipulated for the NPS.
 - a) [Number corresponding to final number of concurring parties to this PA] hard copies shall be provided to the NPS of all forms, plans, reports, and other items. The Foundation shall also submit one (1) copy in digital Adobe Portable Format of each those documents, when requested by the NPS.
 - b) The Foundation shall provide to the NPS for review by the SHPO a single hard copy of forms, plans and other documentation as well one (1) hard

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copy bound in GBC plastic comb binding and one (1) copy in digital Adobe Portable Format of both draft and final reports.

- c) The Foundation shall provide the NPS for review by the concurring parties reports, forms, plans and other documentation in an agreed upon format.
 - iv. Unless otherwise specified in this Agreement, the SHPO and the concurring parties shall have thirty (30) calendar days after receipt of any document distributed by the NPS for review and comment. If any party fails to comment within this time period, the NPS and the Foundation may assume the nonresponding party has no comment. The NPS shall have a total of sixty (60) calendar days after the distribution of documents to consolidate the comments of the SHPO and the concurring parties and render its own judgment as to the appropriateness of a proposed action with respect to the terms of the Easement held by the NPS.
- B. Process to Identify and Evaluate Historic Properties for Proposed Undertakings (36 CFR § 800.4)
- i. Identify Area of Potential Effect (hereinafter "APE")
 - a) The Foundation shall define the area surrounding the proposed undertaking that could be affected by the proposed project, taking into consideration both direct and indirect effects. The Foundation shall provide its definition of the APE to the NPS for review and approval.
 - ii. Identify Historic Properties
 - a) The Foundation shall develop a list of all recorded historic properties, located within the APE effects including those individually listed in the NRHP, those contributing to the NHL, and those not yet evaluated. These will include architectural, landscape and archeological resources.
 - (1) The only standing historic architectural resource within Ferry Farm is the 1870s agricultural building.
 - (2) The entire property is included in the NHL boundary for Ferry Farm, and thus is considered to be part of the cultural landscape.
 - (3) Identification process for archeological resources
 - (a) The Foundation shall consider the current conditions of the APE. If prior ground disturbance can be documented to have occurred below the level of the vertical extent of any ground disturbance necessary for the proposed undertaking, the Foundation will provide its opinion that no further archeological investigations are warranted

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together with any supporting documentation to the NPS for review and approval in consultation with the SHPO and the concurring parties. Subject to NPS approval, no further archeological investigations will be required.

- (b) If the Foundation determines in consultation with the NPS, the SHPO, and the concurring parties that further efforts are needed to identify archeological sites, the Foundation will develop an archeological testing program (Identification Phase I survey). The NPS shall submit the draft research design to the SHPO and the concurring parties for review and comment prior to implementation. Such inventory work shall conform to the standards of National Park Service Director's Order No. 28., Cultural Resource Guideline, chapter 6, sec. 2 ("Evaluation and Identification"), including the listed standard document types: Archeological Overview and Assessment, Archeological Identification Study, Archeological Evaluation Study. Such inventory work shall also conform to the SHPO's *Guidelines for Conducting Historic Resources Survey in Virginia* (September 2017) (hereinafter "Guidelines") or subsequent revisions to this document. The archeological testing proposed in the research design shall follow the 1983 Secretary's Standards for Archeological Documentation and also the June 2000 easement's stipulation to avoid an individual or cumulative adverse effect to historic properties.
- (c) For locations where prior survey has not identified archeological resources but the Foundation finds the documented level of effort not sufficient to determine the nature and extent of prior ground disturbance and the Foundation's research indicates that archeological resources may still be present, the Foundation will develop a testing program to determine the presence or absence of archeological sites. The testing strategy will be developed in consultation with the NPS. The archeological testing program shall follow the 1983 Secretary's Standards for Archeological Documentation and also the June 2000 easement's stipulation to avoid an individual or cumulative adverse effect to historic properties. Shovel tests will typically be excavated at a closer interval than the 50-foot interval recommended in the SHPO's *Guidelines*, typically at 25-foot intervals. Other methods than shovel test pits may be used, at the discretion of the Foundation with NPS approval, including but not limited to, documentary

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investigation, more intensive shovel-test-pit coverage, remote sensing, unit excavation, partial excavation, and mechanical excavation to uncover deeply buried levels.

iii. Evaluate Historic Properties

- a) Once potential historic resources have been identified, the Foundation shall evaluate the resources for eligibility in terms of the NRHP Criteria for Eligibility outlined in 36 CFR §.60.4.
- b) The only standing historic architectural resource within Ferry Farm is the 1870s agricultural building.
- c) The entire property under easement is included in the National Historic Landmark boundary, thus is considered to be part of the cultural landscape. Evaluation will be necessary during the Section 106 process in consultation with the NPS and the SHPO.
- d) Evaluation of archeological resources
 - (1) Prior to affecting any archeological resource, the Foundation will determine, consultation with the NPS and the SHPO, whether the resource has the potential meet one or more of the NRHP eligibility criteria. If the resource is found not to meet any criterion and is not likely to be individually eligible or contributing to the NHL, no further archeological work is needed in connection with the resource.
 - (2) Prior to affecting any archeological resource that may have the potential to meet one or more of the criteria, the Foundation will develop a testing program of sufficient intensity (Evaluation of Phase II survey) to provide an evaluation of eligibility for NRHP, following the regulations outlined in 36 CFR § 800.4(c). The archeological testing proposed shall follow the 1983 Secretary's Standards for Archeological Documentation, the SHPO's *Guidelines*, and the Easement's stipulation to avoid individual or cumulative adverse effect to historic properties. The NPS shall submit the draft research design to the SHPO and the concurring parties for review and comment prior to implementation. Additional testing and investigation may include any or all of the following: documentary investigation, more intensive shovel-test-pit coverage, remote sensing, test units, and partial excavation. No decision on the appropriateness of implementing an undertaking at a location possessing documented archeological resources within the APE of direct effects will be made by the signatory parties until agreement is reached on eligibility of the resource.

iv. Assessment of Adverse Effect (36 CFR § 800.5)

- a) The Foundation will provide its opinion on whether the proposed project may alter directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the NRHP in a manner that would diminish its integrity. The NPS will evaluate that opinion and make its decision by applying the criteria of adverse effect in consultation with the SHPO and the concurring parties.

b) Architectural Resources

Prior to the commencement of any action that may affect the 1870s agricultural building, the Foundation shall prepare a plan for its preservation, protection, and recovery of information. The plan shall be submitted to the NPS for approval and to the SHPO and the concurring parties for review and comment prior to implementation. The plan shall include documentation of the 1870s agricultural building in V-CRIS.

c) Landscape Resources

Prior to the commencement of any action that may affect the cultural landscape, any addition of landscape features (i.e. dependencies, fences, vegetation, etc.) as further part of the landscape rehabilitation must be fully supported by the archeological evidence and other documentation with articulation of the analysis of the that brought the conclusion.

d) Archeological Resources

- (1) If as a result of the testing program, archeological resources are identified that are eligible for the NRHP, the Foundation shall develop a plan for their avoidance, protection, or recovery of information. To the extent possible the Foundation shall prioritize avoidance and protection over data recovery. The NPS shall submit the treatment plan to the SHPO and other concurring parties for review and comment prior to implementation.

- (2) All data recovery plans prepared under the terms of this Agreement shall include the following elements:

- (a) Information on the archeological property or properties where data recovery is to be carried out, and the context in which such properties are eligible for the National Register;
- (b) Information on any property, properties, or portions of properties that will be destroyed without data recovery,

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- and a description of why destruction without data recovery is proposed;
- (c) Discussion of the research questions to be addressed through the data recovery with an explanation/justification of their relevance and importance;
 - (d) Description of the recovery methods to be used, with an explanation of their pertinence to the research questions;
 - (e) Information on arrangements for any regular progress reports or meetings to the NPS, the SHPO and the concurring parties up to date on the course of the work. The plan should contain the expected timetable for excavation, analysis and preparation of the final report.

V. Review Requirements for Archeology Research Program

- A. In consultation with the NPS, the SHPO, and the concurring parties, the Foundation shall prepare and submit for review a Research Design, as part of the Monograph Technical Report described in Stipulation V. D., outlining the overall goals, research questions, and methods for archeological investigation across the entire NHL property. The archeological testing plan proposed in the Research Design shall include all practical strategies for avoiding an adverse effect to historic properties.
- B. The Foundation shall prepare and submit for NPS review an annual Scope of Work detailing the Foundation's proposal for each forthcoming year's archeological research project. The Scope of Work shall place the proposed research in the context of the overall Research Design and/or of discoveries and new information that may suggest modification of the Design. The NPS submit the Scope of Work to the SHPO and the concurring parties for review and comment. The scope of work shall be submitted no later than January 15 of each year.
- C. The Foundation at the conclusion of each field season shall prepare and submit for NPS review an Interim Technical Report consisting of a nine (9)- to twelve (12)-page summary of the archeological research accomplished and a preliminary assessment of results (such as those known) as those relate to the research questions outlined in the Research Design. The Interim Technical Report shall also summarize research on the historic landscape occurring during the same period, including the landscape implications and interpretations the archeological research. The Interim Technical Report will be due January 15 of each year. The NPS shall provide the Interim Technical Report to the SHPO and the concurring parties for review and comment. The NPS will not review and approve the Scope of Work for the following year until after the Foundation submits its Interim Technical Report.
- D. For archeological investigations at 44ST0174 the Foundation shall prepare and submit for NPS review a Monograph Technical Report at the completion of fieldwork for investigation

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within the previous three seasons. The Monograph Technical Report shall define and summarize the results of the previous three seasons of fieldwork and subsequent laboratory analysis and synthesis with all prior years of fieldwork and analysis, and provide an updated Research Design for the property that incorporates those results, updates research questions, and recommends future research. The Monograph Technical Report shall also summarize research on the historic landscape occurring during the same period, including the landscape implications and interpretations the archeological research. Reasonable requests for extensions may be granted at the discretion of the NPS. The NPS at its discretion may provide the copying services for the Monograph Technical Report.

VI. Professional Qualifications

- A. All archeological work will be conducted by or under the direct supervision of a qualified archeologist who meets, at a minimum, the qualifications set forth in the Secretary of Interior's *Professional Qualifications Standards* (48 FR 44 738-9).
- B. Work concerning historic structures, districts, and Landscapes will be carried out by or under the supervision of a qualified historical architect, landscape architect, architectural conservator, or architectural historian or historians who meets, at a minimum the qualifications set forth the Secretary of the Interior's *Professional Qualifications Standards* (48 FR 44738-9).

VII. Monitoring of Performance under the Agreement

- A. Annual Report
 - i. On or before December 31 of each year or until the NPS determines that the terms of this Agreement have been fulfilled and so notifies the concurring parties, the Foundation will prepare and provide an annual status report to all parties to this Agreement, addressing:
 - a) Progress in implementing Phase I of the Landscape Rehabilitation Project
 - b) Undertakings that did not require further review under Stipulation III and Appendix A
 - c) Undertakings reviewed under the standard review process under Stipulation IV
 - d) Any problems or unexpected issues encountered during the year, and
 - e) Any proposed changes to this agreement
 - ii. The Foundation shall ensure that its annual report is made available for public inspection, potentially interested members of the public are made aware of its availability, and that interested members of the public are invited to provide

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comments. The method and for public access will be determined in consultation with the NPS and SHPO, but will minimally include posting on both the Foundation and NPS websites.

- iii. The NPS shall review the annual status report and any comments it receives from the public and will provide comments to the concurring parties to this agreement. Based on this any concurring party to this agreement may request that the concurring parties meet to facilitate review and comment, to resolve questions or to resolve adverse comments.
 - iv. Based on this review, the signatories will consult to determine whether this agreement shall in force, be amended, or be terminated.
- B. The SHPO may monitor activities carried out pursuant to this agreement, and the ACHP may review such activities if so requested. The NPS and Foundation will cooperate with the other signatories in carrying out their monitoring and review responsibilities.

VIII. Unanticipated Discoveries

- A. In the event that a previously unidentified archeological resource is discovered during ground disturbing activities, the Foundation will immediately notify the NPS, which shall immediately notify the SHPO and the concurring parties. All construction work involving subsurface disturbance will be halted in the area of the resource and in the surrounding area where further subsurface materials can reasonably be expected to occur. Work in areas not associated with the discovery may continue without interruption, unless the NPS or SHPO deems that the method or nature of the work poses an unforeseen risk to historic resources. The Foundation will that a qualified archeologist immediately will inspect the work site and provide the NPS with a draft assessment of the affected area and the eligibility of the affected archeological property. Within five (5) working days of the original notification of discovery, the NPS in consultation with the SHPO and the concurring parties will review that analysis, and determine the NRHP eligibility of the resource.
- B. If, in consultation with the Foundation, the SHPO and the concurring parties the NPS determines that the resource meets NRHP Evaluation Criteria (36 CFR § 60.6), the NPS shall ensure compliance with 36 CFR § 800.13. Work in the affected area shall not proceed until either (a) the development or implementation of appropriate data recovery or other recommended mitigation procedures, or (b) the determination is made that the located archeological resource(s) is not eligible for inclusion on the NRHP.
- C. The Foundation shall make all reasonable efforts to avoid disturbing gravesites, including those containing Native American human remains and associated funerary artifacts. The Foundation shall treat all human remains in a manner consistent with the ACHP's Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects (February 23, 2007; <http://www.achp.gov/docs/hrpolicy0207.pdf>).

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- D. If the remains are determined to be of Native American origin, the Foundation shall comply with the provisions of NAGPRA and the accompanying regulations at 43 CFR Part 10. If the remains are determined not to be of Native American origin, the Foundation shall comply with the Virginia Antiquities Act, Section 10.1-2305 of the Code of Virginia, final regulations adopted by the Virginia Board of Historic Resources published in the Virginia Register on September 20, 2016, 17VAC5-and found in the Code of Virginia 10.1-2305 et seq, or subsequent revisions.

IX. Curation

- A. Under the terms of the Easement the Foundation shall ensure that all materials and appropriate field and research notes, maps, drawing and photographic records collected as a result of archeological investigations at Ferry Farm (with the exception of American human skeletal remains and associated funerary objects, which will not be collected and, instead, if encountered, treated according to NAGPRA) remain for permanent curation with the Foundation or its designated representative, a repository which meets the requirements in 36 CFR 79, Curation of Federally Owned and Administered Archeological Collections. All such items shall be made available to educational institutions and individual scholars for appropriate exhibit and/or research under the operating policies of the Foundation.

X. Dispute Resolution

- A. Should any concurring party to this Agreement object in writing to any action carried out proposed by with respect to implementation of this Agreement, the NPS will consult with the objecting party to resolve the objection.
- B. If after initiating such consultation, the NPS determines that the objection cannot be resolved through consultation, the NPS shall forward all documentation relevant to the objection to the ACHP, including the proposed response to the objection.
- C. Within forty-five (45) days after receipt of all pertinent documentation, the ACHP shall exercise one of the following options:
- i. Advise the NPS that the ACHP concurs with the proposed response to the objection, whereupon the NPS will respond to the objection accordingly;
 - ii. Provide the NPS with recommendations, which the Federal agency shall take into account in reaching a final decision regarding its response to the objections; or
 - iii. Notify the NPS that the objection will be referred for ACHP comment pursuant to Section 110(1) of the NHPA and 36 CFR § 800.7(c), and proceed to the objection for comment. Any ACHP comment rendered pursuant to this stipulation shall understood to apply only to the subject of the objection; all other responsibilities of the parties stipulated in this Agreement shall remain unchanged.

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- iv. Should the ACHP not exercise one of the above options within forty-five (45) days after receipt of all pertinent documentation, the NPS may assume the ACHP's concurrence in its proposed response to the objection.
- D. At any time during implementation of the measures stipulated in this Agreement, should objection pertaining to this Agreement be raised by a member of the public, the party to this Agreement receiving the objection shall notify the other parties to this Agreement and the NPS will take the objection into account, consulting with the objector and, should the objector so request, with any of the parties to this Agreement to resolve the objection.

XI. Amending the Agreement

- A. Any signatory to this Agreement may propose to the NPS that the Agreement be amended whereupon the NPS will consult with the other parties to this Agreement to consider such an amendment. All signatories to the agreement must agree to the proposed amendment in accordance with 36 CFR § 800.5(e)(5).

XII. Terminating the Agreement

- A. If the Foundation determines that it cannot implement the terms of this Agreement, or if any signatory determines that the Agreement is not being properly implemented, the NPS may propose to the other signatories that it be terminated.
- B. If the Foundation determines that it cannot implement the terms of this Agreement and thus proposes termination of the Agreement, the NPS will consider prior approvals given under the terms of the Agreement that have not been implemented to be revoked—requiring reconsideration at such a time and in such a form that the signatories can again come to agreement upon a process for review.
- C. Termination shall include the submission of any outstanding technical reports on any work done up to and including the date of termination.
- D. Any signatory proposing to terminate this Agreement shall so notify the other signatories to the agreement, explaining the reasons for termination and affording them at least thirty (30) days to consult and seek alternatives to termination. The signatories shall then consult.
- E. Should such consultation fail and the Agreement be terminated, the NPS will comply with the 2008 Nationwide Programmatic Agreement and 36 CFR § 800.3 through 800.6 with regard to individual actions conducted under the Easement.
- F. It is understood that the Easement over Ferry Farm and other agreements governing the management of and operations on the property shall remain in effect irrespective of the status of this agreement vis-à-vis termination.

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- G. The NPS shall notify the signatories and the concurring parties in the event that any amendment of the terms of this Agreement are proposed by the NPS, the Foundation, or the SHPO.

XIII. Duration of the Agreement

- A. This Agreement will continue in full force and effect for ten (10) years after the date of the last signatory's signature. At any time in the six (6)-month period prior to such date, the NPS may request the signatories to consider an extension or modification of this Agreement. No extension or modification will be effective unless all signatories to the Agreement have agreed with it in writing.
- B. Execution and implementation of this Agreement evidences that the NPS has satisfied Section 106 responsibilities pertaining to the Easement.
- C. This Agreement May be executed in counterparts, with a separate page for each signatory. The NPS shall ensure that each concurring party is provided with a copy of the fully executed Agreement.

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SIGNATURES

SIGNATORY:

Department of the Interior, National Park Service

By: _____ Date: _____

Kirsten Talken-Spaulding
Superintendent, Fredericksburg and Spotsylvania National Military Park

DRAFT

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SIGNATORY:

George Washington Foundation

By: _____ Date: _____

William E. Garner, President

DRAFT

PROGRAMMATIC AGREEMENT
GEORGE WASHINGTON'S BOYHOOD HOME ("FERRY FARM")
NATIONAL HISTORIC LANDMARK
STAFFORD COUNTY, VA

SIGNATORY:

Virginia State Historic Preservation Officer

By: _____ Date: _____

Julie V. Langan
Director, Department of Historic Resources

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CONCUR:

By: _____ Date: _____

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APPENDIX A

Undertakings Not Subject to Further Review

The following undertakings will not require further review provided that the proposed undertaking meets requirements of Stipulation III of this document.

1. Maintenance, repair and replacing materials in kind as necessary on the non-historic buildings and structures, including the visitor's center, the Washington House interpretive building, the utility shed, the pump house, the Great Oak Pavilion, the Education Cottage north of the visitor's center, the restrooms building north of the visitor's center, the open-sided structure/storage structure in the demonstration garden west of the visitor center, and the structures and operations/maintenance buildings in the area south of the south visitor-center parking lot—and of a line extending the south edge of that lot to the opposite points on the nearest property boundaries—including the structures in and around former sand and gravel quarry.
2. Routine grounds maintenance, including the removal of dead; dying, or fallen trees and other vegetation provided this requires no ground disturbance; planting, mowing and fertilizing grass and lawn; routine maintenance of plantings and decorative features of the demonstration garden west of the visitor center and the planting beds, plants and trees among the concrete walks surrounding the visitor center.
3. Repair or resurfacing in kind of existing roads, including the dirt and gravel surfaced road extending for 200 yards north from the south edge of the grove of mature trees situated between pump house and the south visitor center parking lot—and of a line extending that edge to the opposite points on the nearest property boundaries and the dirt and gravel surfaced road extending northeast through the property's western woodlands, from the former sand- and gravel quarry to a point west of the restrooms structure, and providing access via branch roads and trails.
4. Repair and maintenance in kind of existing trails, walks, paths, and sidewalks, including the concrete walks surrounding and extending from the visitor's center.
5. Repair, maintenance, replacement in kind, or removal of directional and interpretive signs, including the wood-and-masonry entrance/advertising sign at the Virginia Route 3 entrance to Ferry Farm.
6. Repair, maintenance, replacement in kind, or removal of the two gates at the Virginia Route 3 entrance to the property.
7. Repair, maintenance, replacement in kind, or removal of the flagpole on the south side of the 1870's agricultural building, including flag spotlights and the flagpole on east side of the visitor center, including flag spotlights.
8. Repair, maintenance, replacement in kind, or removal of the above-grade standpipe and security chain south of the 1870's agricultural building.

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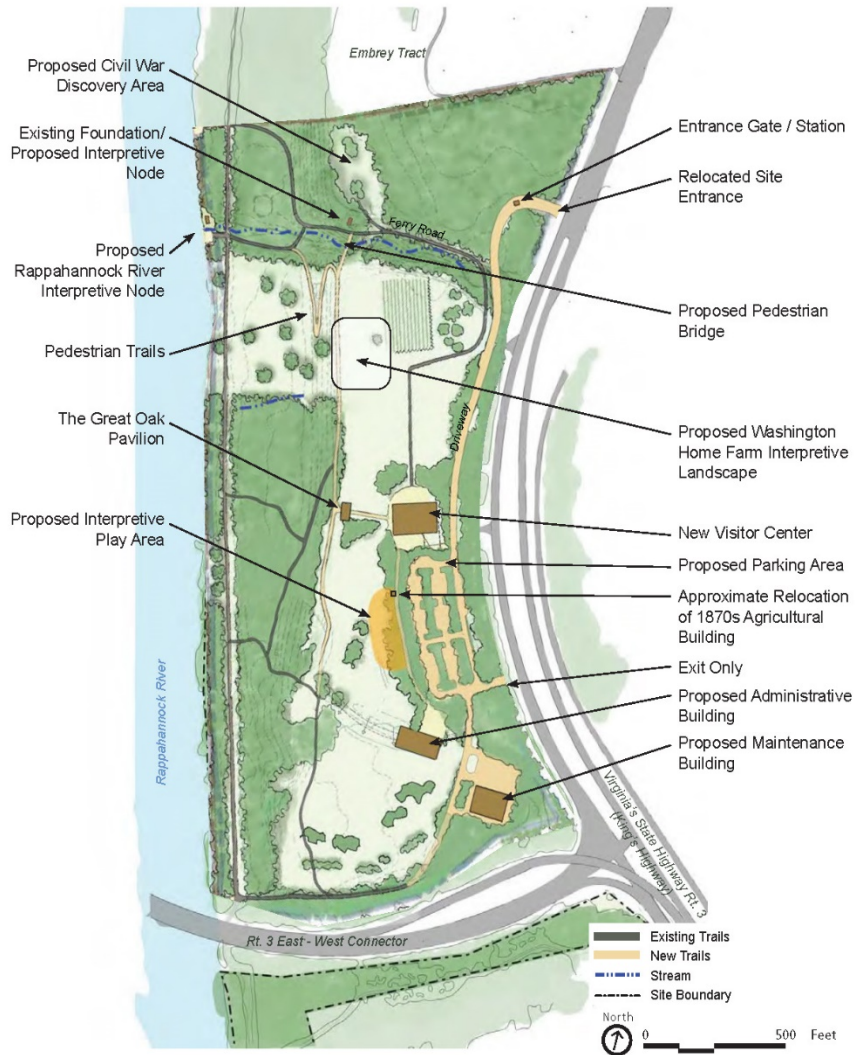
9. Repair, maintenance, replacement in kind, or removal of wooden fences, utility poles, wooden benches, access-control stanchions, the utility screening barrel east of the restrooms building, the concrete well-access south of the restrooms building, the two gates on Route 3 and trash receptacles.

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APPENDIX B

Map of Preferred Alternative (Alternative D) from EA, page 46, for George Washington Boyhood Home at Ferry Farm Site Treatment Plan, October 2013



George Washington Boyhood Home Site at Ferry Farm



THE GEORGE WASHINGTON FOUNDATION

Figure 8
ALTERNATIVE D

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APPENDIX C [2008 Nationwide PA]

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