

**PROGRAMMATIC AGREEMENT
AMONG
THE U.S. DEPARTMENT OF VETERANS AFFAIRS, NATIONAL CEMETERY
ADMINISTRATION; AND THE
VIRGINIA STATE HISTORIC PRESERVATION OFFICER;
REGARDING THE DEMOLITION OF A HISTORIC RESOURCE AND
INSTALLATION OF PRE-PLACED CRYPTS AT DANVILLE NATIONAL
CEMETERY, PITTSYLVANIA COUNTY, DANVILLE, VIRGINIA**

WHEREAS, the U.S. Department of Veterans Affairs (VA) National Cemetery Administration (NCA) plans to install pre-placed crypts and demolish a 1928 Caretaker's Lodge at the Danville National Cemetery in in Pittsylvania County, Danville, Virginia (Project); and

WHEREAS, NCA considered alternatives to the demolition of the 1928 Caretaker's Lodge, including reuse of the building and the acquisition of additional property for burial, that ultimately were determined unviable by NCA, and the demolition of the lodge would provide 300 cremains sites allowing the cemetery to remain open for burial for thirty (30) years; and

WHEREAS, in accordance with 36 CFR § 800.3(a), NCA has determined that the Project is a federal action that meets the definition of an undertaking per 36 CFR § 800.16(y), and is the type of activity that has the potential to cause effects on historic properties, and therefore subject to review under Section 106 of the National Historic Preservation Act (NHPA), as amended, 54 USC Section 306108, and its implementing regulations, 36 CFR Part 800 – Protection of Historic Properties; and

WHEREAS, NCA has consulted with the Virginia Department of Historic Resources, State Historic Preservation Officer (VA SHPO) pursuant to 36 CFR § 800.2(c)(1); and

WHEREAS, in accordance with 36 CFR § 800.4(b), NCA, in consultation with the VA SHPO, has determined the undertaking's Area of Potential Effects (APE) to be the property boundaries of the National Cemetery (Appendix A); and

WHEREAS, in accordance with 36 CFR § 800.5(a), NCA has determined that the undertaking will have an adverse effect on the Danville National Cemetery Historic District, which is listed the National Register of Historic Places (NRHP), as the undertaking proposes to demolish the 1928 Caretaker's Lodge that is a contributing feature of the historic district and will have an adverse effect on other contributing features to include the cultural landscape of the cemetery and the VA SHPO concurs with this determination; and

WHEREAS, on September 4, 2024, NCA submitted to the VA SHPO a report entitled "Caretaker's Lodge Danville National Cemetery Danville, VA Condition Assessment Historic Structures Report As-Built Drawings" (prepared by StanTec) that provides an overall description of the current conditions of the 1928 Caretaker's Lodge and updates the Historic Structures Assessment Report compiled by the National Park Service Training Center in 2010, which VA SHPO requested; and

WHEREAS, NCA has consulted with the Delaware Nation of Oklahoma and the Monacan Indian Nation for which Pittsylvania County has religious and cultural significance, and none of the Indian Tribes have elected to participate in the consultation; and

WHEREAS, NCA has consulted with the Danville Historical Society and Preservation Virginia regarding the effects of the undertaking on historic properties, and none have elected to participate in the consultation; and

WHEREAS, in accordance with 36 CFR § 800.2(d), NCA provided the public with information about the undertaking and its effects on historic properties and sought comment and input, through public notice on the NCA website; and

WHEREAS, in accordance with 36 C.F.R. Part 800.6(a)(1), NCA has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination on 16 December 2024 and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

NOW, THEREFORE, NCA and SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account effect of the undertaking on historic properties.

STIPULATIONS

The VA NCA shall ensure that the following measures are carried out:

I. ADMINISTRATION

- a. The Anti-Deficiency Act, 31 U.S.C. § 1341, prohibits federal agencies from incurring an obligation of funds in advance of or in excess of available appropriations. NCA's obligations under this PA are subject to the availability of appropriated funds, and the stipulations of this PA are subject to the provisions of the Anti-Deficiency Act. NCA shall make reasonable and good faith efforts to secure the necessary funds to implement this PA in its entirety. If compliance with the Anti-Deficiency Act alters or impairs NCA's ability to implement the stipulations of this PA, NCA shall consult in accordance with the amendment and termination procedures found at Stipulations VII and VII of this PA.
- b. All signatories shall send and accept official notices, comments, requests for additional information and/or documentation, draft materials, final deliverables, and all other communications required by this PA via email.
- c. Time designations in this PA shall be in calendar days. Failure of any party to this PA to respond within the specified comment period shall not preclude NCA from implementing measures of this PA.

- d. For the purposes of this PA, the definitions provided in 36 CFR § 800.16(a) through (z) inclusive shall apply.
- e. NCA shall ensure that federal or contractor staff who meet the applicable Secretary of the Interior's Professional Qualification Standards (SOI Qualified) for architectural history, history, archaeology, architecture, and/or historic architecture (36 CFR Part 61) participate as required by this PA.

II. MITIGATION

- a. NCA will submit the proposed design at 65% for additional burial space at Danville National Cemetery to consulting parties for review within one (1) year of the execution of this PA.
 - i. NCA shall submit the proposed design plans to all consulting parties for a thirty (30) day review.
 - ii. NCA shall take all timely comments into account when finalizing the design plans.
 - iii. NCA shall submit a final copy of the design plans to the signatories.
- b. The historic Caretaker's Lodges at the Winchester National Cemetery and at the Staunton National Cemetery will be rehabilitated by NCA and returned to use within five (5) years of execution of this PA.
 - i. The rehabilitation of these two lodges will adhere to the Secretary of the Interior's *Standards for Rehabilitation* pursuant to 36 CFR 67.7.
 - ii. Proposed rehabilitation plans will be submitted individually to the VA SHPO for review and concurrence no more than two (2) years following the execution of this PA.
 - 1. NCA shall submit the draft rehabilitation plans to the VA SHPO for a thirty (30) day review.
 - 2. NCA shall take all timely comments into account when finalizing the rehabilitation plans.
 - 3. NCA shall submit a final copy of the rehabilitation plans to the signatories.
- c. NCA will revise NRHP and Virginia Landmarks Register registration forms to reflect changes to the historic property due to this undertaking and clarify any extent contributing buildings.

- i. NCA shall ensure that the NRHP registration form and Virginia Landmarks Register registration form for the Danville National Cemetery are updated, and that these revised registration forms are submitted to appropriate state and federal registers.
- ii. Amendments to the registration forms shall be completed according to the standards of the *How to Complete the National Register Registration Form, National Register Bulletin Guidance: Best Practices Review “Amending National Register Documentation,”* (National Register Bulletin Issue 3, April 2023), available at https://www.nps.gov/subjects/nationalregister/upload/BPR_additional-documentation-2023-04-12-FINAL.pdf, and in consultation with the State and National Register Coordinator at the VA SHPO.
- iii. Updates to the registration forms shall be completed by historic preservation professional(s) meeting the Secretary of the Interior’s Professional Qualification Standards under architectural history or history pursuant to Stipulation I(c).
- iv. A draft of each of the revised registration forms will be prepared and submitted to the VA SHPO for review and comment by 31 December 2027. VA SHPO will review and comment within thirty (30) days.
- v. A final version of the revised registration forms incorporating the VA SHPO comments will be submitted to VA SHPO by 30 May 2028. The VA SHPO will submit the revised registration forms to pertinent state entities and to the Keeper of the National Register for listing in the NRHP.

III. POST-REVIEW DISCOVERIES

If properties are discovered that may be historically significant or unanticipated effects on historic properties found, the NCA shall implement the discovery plan outlined below.

- a. In the event that a previously unidentified archaeological resource is discovered during ground disturbing activities associated with the undertaking, NCA shall immediately stop all work involving subsurface disturbance within one hundred (100) feet of the discovery and in the surrounding areas where additional subsurface remains can reasonably be expected to occur. Work in all other areas of the undertaking may continue.
- b. NCA shall notify the signatories within two (2) working days of the discovery. In the case of archaeological sites associated with Native American cultural groups, NCA shall also notify Indian Tribe(s) with an interest in the area within two (2) working days of the discovery.

- c. NCA shall ensure that an archaeologist meeting the Secretary of the Interior's Professional Qualification Standards (48 FR 44739) investigates the work site and the archaeological resource.
- d. NCA shall then forward to the signatories and any associated Indian Tribe(s) with an interest in the area if the archaeological site is associated with Native American cultural groups, an assessment of the NRHP eligibility of the resource (36 CFR Part 60.4) and proposed treatment actions to resolve or avoid any adverse effects on historic properties.
- e. NCA will wait for five (5) days from the sending of this proposal to receive responses. NCA shall take into account the recommendations of the signatories and Indian Tribe(s) when determining the NRHP eligibility of the resource and the proposed action plan when carrying out the actions.
- f. NCA shall ensure that ground disturbing work within the affected area does not proceed until the appropriate consultation and any other applicable processes are completed.

IV. TREATMENT OF HUMAN REMAINS AND ITEMS OF RELIGIOUS AND CULTURAL IMPORTANCE

NCA shall make all reasonable efforts to avoid disturbing gravesites, including those containing Native American human remains and associated funerary artifacts. In the event that human remains and/or associated funerary objects are encountered during the implementation of this PA, NCA shall immediately halt all work in the area and contact the appropriate authorities.

- a. NCA will call the pertinent County Medical Examiner or Coroner, local law enforcement, and the State Archaeologist. NCA will notify the VA Federal Preservation Officer and VA SHPO.
- b. If the remains are suspected and/or determined to be Native American in origin, any such remains and/or funerary objects shall be treated in accordance with the provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 USC 3001.
- c. If the remains are determined not to be of Native American origin, NCA will retain an archaeologist who meets or exceeds the Secretary of the Interior's Professional Qualifications Standards for Archaeology, and shall consult with signatories in a manner that is consistent with federal law.
- d. NCA shall treat all human remains in a manner consistent with the ACHP's Policy Statement on Burial Sites, Human Remains and Funerary Objects (March 1, 2023; <https://www.achp.gov/treatment-burial-sites>).

V. MONITORING AND REPORTING

Each year following the execution of this PA (the date the agreement is signed and is in force) until it expires or is terminated, NCA's Design and Construction Service shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in NCA's efforts to carry out the terms of this PA.

VI. DISPUTE RESOLUTION

Should any signatory or concurring party to this PA object at any time to any actions proposed or the manner in which the terms of this PA are implemented, NCA shall consult with such party to resolve the objection. If NCA determines that such objection cannot be resolved, NCA will:

- a. Forward all documentation relevant to the dispute, including NCA's proposed resolution, to the ACHP. The ACHP shall provide NCA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, NCA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. NCA will then proceed according to its final decision.
- b. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, NCA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, NCA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the PA, and provide them and the ACHP with a copy of such written response.

VII. AMENDMENTS

This PA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

VIII. TERMINATION

If any signatory to this PA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatories to attempt to develop an amendment per Stipulation **VII**, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the PA upon written notification to the other signatories.

- a. Once the PA is terminated, and prior to work continuing on the undertaking, NCA must either (a) execute an PA pursuant to 36 CFR § 800.6 or (b) request, take into

account, and respond to the comments of the ACHP under 36 CFR § 800.7. NCA shall notify the signatories as to the course of action it will pursue.

IX. DURATION

This PA will expire if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, NCA may consult with the other signatories to reconsider the terms of the PA and amend it in accordance with Stipulation VII, above. At any time in the six (6)-month period prior to expiration of this Agreement, the NCA may request the signatory parties to consider an extension or modification of this Agreement. No extension or modification will be effective unless all parties to the Agreement have agreed to it in writing.

Execution of this PA by NCA and the VA SHPO implementation of its terms evidence that NCA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

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CITY, DANVILLE, VIRGINIA**

SIGNATORY:


NATIONAL CEMETERY ADMINISTRATION, U.S. DEPARTMENT OF VETERANS
AFFAIRS

By: **MICHAEL ROTH** Digitally signed by MICHAEL
ROTH Date: 2025.04.29 06:32:50 -04'00' Date: _____
Michael T Roth
Deputy Under Secretary for Management (acting)
National Cemetery Administration
Department of Veterans Affairs

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SIGNATORY:

VIRGINIA STATE HISTORIC PRESERVATION OFFICER

By:  Date: May 29, 2025
Julie V. Langan
Director, Virginia Department of Historic Resources

PA Regarding the Demolition of a Historic Resource and Installation of Pre-placed Crypts at Danville National Cemetery, Virginia

APPENDIX A – Map of the Danville National Cemetery with the Area of Potential Effect (APE) and referenced structures highlighted.

