**Amendment #1**

**to**

**Programmatic Agreement**

**By AND AMONG**

**U.S. Department of Veterans Affairs**

**and**

**Fort Howard DEVELOPMENT LLC**

**AND**

**Maryland State Historic Preservation Office**

**And**

**Advisory Council on Historic Preservation**

**REGARDING**

**THE landing at FORT HOWARD, FORT HOWARD, MARYLAND**

**Amendment #1**

**PROGRAMMATIC AGREEMENT**

**FOR**

**THE LANDING AT FORT HOWARD**

**FORT HOWARD, MARYALND**

This Amendment #1 to the Programmatic Agreement (where this agreement shall be referred to individually herein as “Amendment #1,” and the existing Programmatic Agreement and this Amendment #1 shall be referred to collectively as the “Agreement”), is made and entered into by and between the U.S. Department of Veterans Affairs (hereinafter “Department” or “VA”), Fort Howard Development LLC (hereinafter “FHD”), the Maryland State Historic Preservation Officer (hereinafter “SHPO”), and the Advisory Council on Historic Preservation (hereinafter “ACHP”) (all to be referred to hereinafter as the “Parties”).

**RECITALS**

1. **WHEREAS**, VA and FHD executed an Enhanced Use Lease (EUL) on December 27, 2011, and an Amendment #1 to the EUL on June 26, 2014; and
2. **WHEREAS**, the EUL includes provisions that VA and FHD coordinate and work together to complete certain activities required under applicable Federal, State, and local laws, codes, ordinances, and regulations, including Section 106 of the National Historic Preservation Act of 1966, as amended, (54 USC 3000101 et. seq.) (“NHPA”); and
3. **WHEREAS**, pursuant to 36 CFR 800.5(a)(2)(vii), the enhanced-use lease of the Property constituted an “undertaking” subject to the requirements of the NHPA and its implementing regulations, "Protection of Historic Properties" (“36 CFR Part 800”); and
4. **WHEREAS**, to ensure that historic properties will be protected, the Lease requires that FHD and VA work together to complete certain activities required under Section 106 of the NHPA, including an initial outreach and public involvement; and
5. **WHEREAS**, VA, in consultation with SHPO, defined the Area of Potential Effect as the entire peninsula, including the historic district, upon which the Property is situated and the immediately surrounding waters, as shown in Exhibit A; and
6. **WHEREAS**, VA, in consultation with SHPO, has completed identification and evaluation of archaeological resources on the Property, as documented in the following reports: *Phase I and II Cultural Resource Investigations at Fort Howard Medical Center, Fort Howard, Maryland* (Markell et al. 2001) and *Addendum Report: Phase II Archaeological Excavations at Site 18BA494, Fort Howard Medical Center, Fort Howard, Maryland* (Markell et al. 2002); and
7. **WHEREAS,** based on the results of those studies, VA and SHPO agreed that the Property did not contain any known archaeological sites eligible for the National Register of Historic Places Nomination (NRHP). VA and SHPO concur that further archaeological investigations were not warranted prior to the commencement of individual Projects on the land based portions of the Property; and
8. **WHEREAS**, due to the complexity of the undertaking, the effects of individual Projects on historic properties cannot be fully determined and will not be known until the details about such Projects are available; and
9. **WHEREAS**, VA, in consultation with the SHPO in accordance with Section 106 of the NHPA and its implementing regulations, and in accordance with Section 110 of the NHPA, determined that the Project may cause adverse effects on the historic Property and that such effects could best be addressed through the Agreement pursuant to 36 CFR § 800.14(b); and
10. **WHEREAS**, VA notified ACHP of the adverse effect determination and its intention to develop the Agreement pursuant to 36 CFR § 800.6(a)(1)(i)(C) and ACHP elected to participate in the consultation; and
11. **WHEREAS**, the Parties on May 2, 2013 executed the Agreement among, FHD, SHPO, ACHP and VA; and
12. **WHEREAS,** FHD needs more time to submit its NRHP Nomination package;

**NOW THEREFORE**, the Parties agree that Stipulation 3.a of the Agreement shall be amended as follows:

Stipulation 3.a. is deleted and replaced with the following wording:

**3. National Register of Historic Places Nomination (NHRP):** By December 31, 2015

By December 31, 2015, FHD shall develop and submit a NRHP nomination package (“NRHP Package”) for the Property to SHPO.

All other terms of the Agreement remain unchanged.

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**Signatures**

Execution of this Amendment #1 to the Programmatic Agreement by the Parties and implementation of its terms evidence that VA has taken into account the effects of the undertaking on historic properties and provided the ACHP an opportunity to comment pursuant to 36 CFR Part 800, the regulations that implement Section 106 of the National Historic Preservation Act of 1966, as amended.

**DEPARTMENT OF VETERANS AFFAIRS:**

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date:\_\_\_\_\_\_\_\_\_\_\_\_\_  
Edward L. Bradley III

Office of Asset Enterprise Management

U.S. Department of Veterans Affairs

**MARYLAND STATE HISTORIC PRESERVATION OFFICER:**

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

Elizabeth Hughes

Acting Director/State Historic

Preservation Officer

**FT. Howard DEVELOPMENT LLC**

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date:\_\_\_\_\_\_\_\_\_\_\_\_\_  
Timothy S. Munshell

Managing Member

Ft. Howard Development LLC

**ADVISORY COUNCIL ON HISTORIC PRESERVATION:**

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

John M. Fowler

Executive Director

Advisory Council on Historic Preservation

**CONCUR: PRESERVATION MARYLAND**

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date:\_\_\_\_\_\_\_\_\_\_\_\_\_  
Nicholas Redding

Executive Director

Preservation Maryland

**CONCUR: national trust for historic preservation**

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date:\_\_\_\_\_\_\_\_\_\_\_\_\_  
David Brown

Executive Vice President/Chief Preservation Officer

National Trust for Historic Preservation