

**PROGRAMMATIC AGREEMENT
AMONG
UNITED STATES ARMY
VIRGINIA STATE HISTORIC PRESERVATION OFFICER
ADVISORY COUNCIL ON HISTORIC PRESERVATION
COMMONWEALTH OF VIRGINIA
FORT MONROE FEDERAL AREA DEVELOPMENT AUTHORITY
AND
NATIONAL PARK SERVICE
FOR THE
CLOSURE AND DISPOSAL OF FORT MONROE, VA**

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WHEREAS, the Army proposes the transfer out of Federal ownership of Fort Monroe in accordance with the provisions of the Defense Base Realignment and Closure Act (BRAC) of 1990 (Title XXIX of P.L. 101-510, 10 U.S.C. 2687 note), and is proceeding with the closure of Fort Monroe and consequent disposal of excess and surplus property currently scheduled for completion by the year 2011 in a manner consistent with the recommendations of the 2005 BRAC Commission Report; and

WHEREAS, the Army shall also conduct environmental remediation in compliance with Section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); and

WHEREAS, the Army has determined these actions constitute an Undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. Part 470f, and its implementing regulations, 36 CFR Part 800; and

WHEREAS, the terms defined in Appendix A are applicable throughout this document; and

WHEREAS, the Army has initially defined the Undertaking's Area of Potential Effects (APE) as Fort Monroe, which comprises the entire 570 acres of the Old Point Comfort Peninsula located within the City of Hampton, Virginia, as well as those portions of the adjacent communities of Phoebus and Buckroe shown on the map in Appendix B; and

WHEREAS, the current northern boundary of the Fort Monroe National Historic Landmark (NHL) District ends at the seawall, and it has been proposed that the boundary for the Fort Monroe NHL District be expanded to include the full property owned by the Army, the Army shall, for the purposes of this Undertaking, treat the area extending north of the seawall to the northern property line of Fort Monroe abutting the community of Buckroe as contributing to the NHL District; and

WHEREAS, the Commonwealth of Virginia, through Chapter 713, 2004 Acts of Assembly, consented to the lease by the Army of the former Chamberlin Hotel property and agreed that the existence of the lease alone would not cause the property on which the Chamberlin was located to revert to the Commonwealth; and

WHEREAS, Fort Monroe also includes St. Mary Star of the Sea Church and Rectory, buildings owned by the Diocese of Richmond and allowed at Fort Monroe by long-standing agreement of the Army. It is the intention of the parties that these buildings remain on Fort Monroe as they are, subject to the terms and conditions of this Agreement and any other documents delineating the historic rights of the parties; and

WHEREAS, the United States Coast Guard (USCG) owns, maintains, and operates the NRHP-listed Old Point Comfort Lighthouse, which is a separate property that shall remain under the

ownership of the USCG after Fort Monroe is no longer used for national defense purposes, and is not subject to this Agreement; and

WHEREAS, the Army holds a fee simple determinable interest in certain lands comprising a portion of Fort Monroe which shall terminate upon the abandonment of said lands by the Army for their use for any purpose other than fortification and national defense, and the Commonwealth holds reverter rights in those lands; and

WHEREAS, the map of Fort Monroe in Appendix C illustrates the Army's current position regarding the ownership status of lands at such time that Fort Monroe is no longer used for national defense purposes; and the Commonwealth has indicated to the Army that it believes that Parcels 4-1 and 4-2, as shown in Appendix C, also revert to the Commonwealth at such time that Fort Monroe is no longer used for national defense purposes; and

WHEREAS, the reverter rights held by the Commonwealth prevent the Army from unilaterally imposing historic preservation easements or deed restrictions that would survive reversion to the Commonwealth; and

WHEREAS, the Army has consulted with the SHPO as required under Section 106 of the NHPA; and

WHEREAS, the Army has invited the Advisory Council on Historic Preservation (ACHP) to participate in this consultation pursuant to 36 CFR Parts 800.6(a)(1)(i) and 800.14(b), and the ACHP has elected to participate; and

WHEREAS, the Army in consultation with the ACHP, SHPO and other Consulting Parties has determined that the Undertaking meets the criteria of *adverse effect* described in 36 CFR 800.5(a)(1); and

WHEREAS, the Army recognizes that the Undertaking has the potential to affect historic properties, including archaeological properties, that have not yet been identified; and

WHEREAS, the Army in consultation with the SHPO has conducted cultural resource surveys as part of its Section 110 responsibilities, resulting in the identification of one hundred eighty-nine (189) Army-owned contributing elements to the Fort Monroe NHL District including one hundred seventy-five (175) historic buildings, three (3) historic structures, nine (9) historic landscape features, one (1) historic object and the Stone Fort which is made up of eleven (11) named or numbered segments, all of which are listed in Appendix D. Of these elements, four (4), the Chapel of the Centurion, Quarters 1, Quarters 17 (the Lee Quarters), and the Stone Fort, have been determined to be individually eligible for the NRHP, and one hundred twelve (112) buildings have been determined as of the date of signature of this Agreement pursuant to an ongoing identification effort, to have significant interior features, all of which are listed in Appendix D; and

WHEREAS, the Army in consultation with the SHPO has conducted archaeological surveys in accordance with its Section 110 responsibilities, resulting in the identification of one (1) archaeological site, 44HT27, within the Fort Monroe NHL District, and further that Site 44HT27 has twenty-one (21) numbered loci listed in Appendix E, ten (10) of which, and part of an eleventh, are considered eligible for inclusion on the NRHP, five (5) of which, and parts of two (2) other loci, are not eligible, and three (3) of which, and parts of two (2) other loci will require further investigation to determine conclusively their eligibility in terms of the NRHP criteria; and

WHEREAS, the Fort Monroe NHL District also includes thirty-one (31) Wherry Housing units which are subject to *Program Comment for Capehart and Wherry Era Army Family Housing and Associated Structures and Landscape Features (1949-1962)* (Federal Register/Vol. 67, No. 110/Friday, June 7, 2002) (Program Comment) that was approved by the ACHP on May 31, 2002; and

WHEREAS, the parties to this Agreement acknowledge the national importance of Fort Monroe to the history and development of the United States, especially in the fields of military history; African American history, particularly the significance of the Contraband events of 1861 and their continuing importance; Native American history; Civil War history; maritime history; recreational resort history; association with significant individuals; natural resources; engineering and architecture; and

WHEREAS, because the APE for the closure of Fort Monroe includes the Fort Monroe NHL District, the Army has invited the Secretary of the Interior (Secretary) to participate in this consultation pursuant to 36 CFR Part 800.10(c) as an invited signatory, and the National Park Service (NPS) on behalf of the Secretary has elected to participate; and

WHEREAS, the Code of Virginia Section 15.2-6304.1 directed the Fort Monroe Federal Area Development Authority (FMFADA) to request the U.S. Congressional Representative in whose district Fort Monroe is located to seek a reconnaissance survey from the NPS to evaluate whether Fort Monroe should be incorporated as a unit of or be affiliated with the National Park System, and the NPS has issued a report concluding that “it is unlikely that a Special Resources Study would find that it is feasible for the NPS to manage, maintain and operate the full range of resources associated with Fort Monroe” and that “without a strong and sustainable financial partnership with others, a similar finding would result for even those resources constituting the original fortress within the moat.” The report further states, “Based on the analysis contained in the reconnaissance study, the NPS recommends that Congress defer consideration of any authorization for a Special Resources Study for Fort Monroe, until such time as the Fort Monroe Reuse Plan is approved by the Department of Defense and the NPS has the opportunity to review the plan and its implementation components and is able to make further recommendations to Congress”; and

WHEREAS, the Army has invited the Commonwealth, as the future property owner of reversionary property, to participate in this consultation as an invited signatory pursuant to 36 CFR Part 800.6(c)(2), and the Commonwealth has elected to participate; and

WHEREAS, the Army has invited the FMFADA, the official Local Redevelopment Authority (LRA) charged under BRAC law with developing a redevelopment plan, to participate in this consultation as an invited signatory pursuant to 36 CFR Part 800.6(c)(2), and the FMFADA has elected to participate; and

WHEREAS, the Army has identified the Catawba Indian Nation, the Shawnee Tribe, and the Absentee-Shawnee Tribe of Indians of Oklahoma, which attach traditional religious and cultural importance to historic properties in the APE, and has invited these tribes to participate in the consultation as Concurring Parties pursuant to 36 CFR Part 800.6(c)(3); and

WHEREAS, the Army has consulted on a government-to-government basis with these tribes and has coordinated consultation on this Undertaking with other provisions of the NHPA; the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. Part 3001 et seq.; the American Indian Religious Freedom Act (AIRFA) as amended, 42 U.S.C. Part 1996 and 1996a; Executive Order 13007, *Indian Sacred Sites* (Federal Register/Vol. 61, No. 104/Wednesday, May 29, 1996); and 36 CFR Part 79, *Curation of Federally-Owned and Administered Archeological Collections*; and

WHEREAS, the Army has invited the City of Hampton (City) to participate in this consultation as a Concurring Party pursuant to 36 CFR Part 800.2(c)(3), and the City has elected to participate; and

WHEREAS, the Army has invited the Virginia Council on Indians (VCI) to participate as a Concurring Party pursuant to 36 CFR Part 800.6(c)(3), and the VCI has elected to participate; and

WHEREAS, the Army has identified and consulted with the individuals and groups listed in Appendix F and has invited them to participate as Concurring Parties pursuant to 36 CFR Part 800.6(c)(3); and

WHEREAS, hereinafter the SHPO, the ACHP, the NPS, the FMFADA, the Commonwealth, and all other parties listed in Appendix F shall be referred to as “Consulting Parties”; and

WHEREAS, the Army is conducting a review process in accordance with the National Environmental Policy Act (NEPA), which includes the solicitation of public input on the potential effects of the closure of Fort Monroe to historic properties; and

WHEREAS, the Army has provided for public participation in the consultation process through a public website and public workshops held on October 30, November 8, November 15, and November 29, 2007, and public workshops held on June 7, June 12 and June 13, 2008; and

WHEREAS, the Parties agree that Stipulations I.F and I.G of this Agreement are sufficient to maintain the historical integrity of the Fort Monroe NHL District in Army ownership such that

the NPS will not be precluded from considering affiliation with all or part of Fort Monroe or use of all or part of Fort Monroe as a National Park; and

NOW, THEREFORE, the Signatory Parties (the Army, the SHPO, the ACHP, the NPS, the Commonwealth, and the FMFADA) agree that the Undertaking as described above shall be implemented in accordance with the following stipulations to take into account the effect of this Undertaking on historic properties.

STIPULATIONS

I. The Army shall ensure the following:

A. Scope and Limitation of Army Duties and Obligations

1. The Army's duties and obligations under this Agreement are wholly described within Stipulation I and Subsection V.A. Notwithstanding any other language appearing in this Agreement, no other provision will create any Army duty or obligation, nor confer any rights or reciprocal obligations upon the Army.
2. The Army obligations described in the following Subsections shall be considered mitigations required under the NHPA.
 - Subsection B) – Continuing Enforcement
 - Subsection C) – Environmental Clean-up
 - Subsection D) – Identify Significant Viewsheds
 - Subsection E) – Cultural Landscape Study
 - Subsection F) – Property Management (excluding Paragraph 4)
 - Subsection G) – Mothballed Buildings and Structures
 - Subsection H) – Other Measures
3. Army's obligations under this Agreement with respect to the Property or any part thereof are limited to those obligations accruing prior to transfer out of Army ownership.

B. Continuing Enforcement

The Army shall provide historic preservation covenants, easements or other appropriate protections on non-reversionary land in accordance with Stipulation I.F.3 below.

C. Environmental Clean-Up

1. Buildings, Structures, Terrestrial and Underwater Archaeology

- i) If the Army determines that a site investigation or remediation will or may have an adverse effect on an eligible or potentially eligible historic property listed in Appendices D or E of this Agreement, or identified subsequent to this Agreement, or an area of high archaeological sensitivity that has not been subject to archaeological inventory efforts, the Army shall develop, in consultation with the SHPO, a plan for its avoidance, protection, or for recovery of information or appropriate documentation. The plan shall comply with the Archaeological Resources Protection Act (ARPA), NHPA and NAGPRA, as appropriate. The Army shall submit the plan to the Signatory Parties for review and comment prior to implementation.
 - ii) The treatment plan shall consider health and human safety issues when weighing data recovery or other documentation procedures for resources located within or adjacent to hazardous soils, materials or munitions.
2. Cultural Landscape Treatment

- i) Prior to the initiation of activities associated with characterization or clean-up of hazardous materials and/or waste, the Army shall determine whether or not the proposed activities have the potential to affect cultural landscapes that contribute to the Fort Monroe NHL District. The Army shall ensure that such a determination is made by a qualified person meeting the professional standards found in 36 CFR Part 61 for the appropriate discipline. These determinations shall be made in consultation with the SHPO before the cultural landscape study required by Stipulation I.E. is finalized. After the cultural landscape study is completed, determinations of effect shall be based on the information in that study.
- ii) If the Army determines that the proposed activities have the potential to adversely affect cultural landscapes that contribute to the Fort Monroe NHL District, then the Army shall prepare a landscape treatment plan. The plan shall identify significant landscape features that the activity may affect, provide a narrative description of the activity's scope of work, and an explanation of how the Army will minimize impacts to the cultural landscape, if necessary. The plan shall include appropriate supporting documentation and exhibits such as photography and site plans. The Army shall submit the plan to the Signatory Parties for review and comment prior to implementation.

D. Identify Significant Viewsheds

1. The Army shall, within eighteen (18) months of the execution of this Agreement, submit a final viewshed analysis to the Consulting Parties in order to identify significant viewsheds from and toward the Fort Monroe NHL District.

2. The Army shall develop the viewshed analysis in the following manner:
 - i) Provide the Consulting Parties a fifteen (15) calendar day opportunity to provide input on the viewshed analysis methodology. Early in the fifteen (15) calendar day comment period the Army shall conduct a meeting to provide and explain the proposed methodology for the viewshed analysis to the Consulting Parties. The Army shall consider comments received within the fifteen (15) calendar day comment period in developing a methodology for the viewshed analysis.
 - ii) The Army shall provide the draft viewshed analysis to the Consulting Parties for review and comment. The Army shall consider comments received within the comment period in preparing the final viewshed analysis.
 - iii) The Army shall provide the Signatory Parties copies of the final viewshed analysis and make electronic versions available to the Consulting Parties.

E. Cultural Landscape Study

1. The Army shall, within eighteen (18) months of the execution of this Agreement, submit a final cultural landscape study to the Consulting Parties. The cultural landscape study shall document the evolution of the land form at Fort Monroe from its earliest known occupation to the present. The cultural landscape study shall not only examine the physical changes to Fort Monroe due to man-made and natural forces, but also chronicle past land uses, identify significant landscape features and spatial relationships, and other important aspects of the existing and historic landscape at Fort Monroe.
2. The Army shall develop the cultural landscape study in the following manner:
 - i) Provide the Consulting Parties a fifteen (15) calendar day opportunity to provide input on the cultural landscape study methodology. Early in the fifteen (15) calendar day comment period the Army shall conduct a meeting to provide and explain the proposed methodology for the study to the Consulting Parties. The Army shall consider all comments received within the fifteen (15) calendar day comment period in developing a methodology for the study.
 - ii) The Army shall provide the draft cultural landscape study to the Consulting Parties for review and comment. The Army shall consider comments received within the comment period in preparing the final study.
 - iii) The Army shall provide the Signatory Parties copies of the final cultural landscape study and make electronic versions available to the Consulting Parties.

F. Property Management

1. The Army shall maintain property to the standard established in Chapter 7- Maintenance, Utilities and Services of the “Department of Defense Base Redevelopment & Realignment Manual” (*DoD 4165.66-M, March 1, 2006; <http://www.dtic.mil/whs/directives/corres/pdf/416566m.pdf>*) until transfer out of Army ownership.
2. The Army shall continue to consult on non-BRAC related undertakings pursuant to 36 CFR Part 800.
3. Prior to the Sale, Transfer or Lease of Non-Reversionary Land, the Army shall:
 - i) Develop in consultation with Signatory Parties model historic preservation covenants, easements or other appropriate protections to be attached to the deed or lease agreements.
 - ii) Provide draft model covenants, easements or other appropriate protections to Signatory Parties for review and comment.
 - iii) Inform potential purchasers of state and federal rehabilitation tax credits and other preservation incentives.
 - iv) The Army may be required to negotiate the final text of the covenants, easements, or other appropriate protections with the transferee or lessee. The final text may vary from the text of the draft model covenants, easements, or other appropriate protections provided to the Signatory Parties. The finalized covenants, easements, or other appropriate protections shall be recorded in the City of Hampton conveyance records immediately prior to transfer, or shall be attached to the lease which shall be similarly recorded. In no event shall the Army transfer property out of Federal ownership or control without adequate and legally enforceable restrictions or conditions to ensure the long-term preservation of the property’s historic significance.
4. The Army shall continue to provide periodic updates on the schedule for vacating buildings to the Commonwealth and the FMFADA.

G. Mothballed Buildings and Structures

1. The Army shall develop a plan to mothball buildings and structures that have been or are to remain vacant for twelve (12) months or longer, or if there is no planned use for them identified, according to the guidance found in *Preservation Brief 31: Mothballing Historic Buildings*, the *Historic Fortification Preservation Handbook* (National Park Service, 2003) and other applicable publications.

2. The Army shall provide the draft mothballing plan to the Signatory Parties for review and comment.
3. The Army shall undertake reasonable measures to preserve unused historic buildings through mothballing in accordance with provisions listed above.
4. Prior to the closure of Fort Monroe the Army shall provide the Commonwealth, the SHPO, and the FMFADA the final mothballing plan.

H. Other Measures

Prior to the closure of Fort Monroe the Army shall ensure that the following measures are carried out:

1. The Army shall revise the Fort Monroe NHL District nomination to more clearly define boundaries of the NHL and to more accurately identify those buildings, structures, objects, archaeological sites, historic viewsheds and landscape features that contribute to the Fort Monroe NHL District. The Army shall submit the final draft nomination to the SHPO for review and concurrence. The Army shall then submit the revised nomination to the NPS for listing.
2. The Army shall complete draft NRHP nominations for those buildings at Fort Monroe identified as individually eligible and submit them to the SHPO for review and concurrence. The Army shall then submit the nominations to the NPS for listing.
3. The Army shall, under the guidance of the Center for Military History (CMH), consider the on-site loan of all or part of the collections pertinent to Fort Monroe's historic significance. Such loan will be limited to an FMFADA, or Commonwealth organization meeting national museum standards, as defined by the American Association of Museums, or an organization sponsored by the FMFADA or Commonwealth meeting national museum standards, that is established or assigned to properly care for the objects. Any such agreement shall be in accordance with Army policies and procedures controlling such agreements. Non-Commonwealth entities must have an executed lease or access agreement with the Commonwealth acceptable to the Army. If the Army, at its sole discretion, determines that no organization meeting the American Association of Museums standards is established and identified to the Army by March 15, 2011, and if an agreement acceptable to the Army, at its sole discretion, is not executed by June 15, 2011, the Army may remove its collections from Fort Monroe. However, nothing in this section will prevent the Army from removing artifacts that are, in its sole discretion, not pertinent to the history of Fort Monroe. If an FMFADA or Commonwealth organization, or an organization sponsored by the FMFADA or Commonwealth, is established after March 15, 2011, or if an agreement is not executed by June 15, 2011, that organization can request the loan of artifacts in accordance with Army regulation 870-20 "Army Museums, Historic Artifacts, and Art".

4. Pursuant to the identification of educational topics and in support of the FMFADA's interpretive and educational programs on the history of Fort Monroe, the Army shall, upon request by the FMFADA, provide copies of specific archival materials (letters, photos, documents, etc.) and information on individual artifacts (accession records, files, notes, etc.) from the Casemate Museum's indexed collection. Copies will be made by the Army's museum personnel within a reasonable period of time following such request, provided that such request is made no later than twelve (12) months after the execution of this Agreement.
5. The Army shall conduct additional archaeological testing within the boundary of Fort Monroe to identify any remnant of the former Freedmen's Cemetery. Prior to conducting the testing involved in such efforts, the Army shall select specific locations where, based upon archival research and past land use, it believes that there is a reasonable expectation that the Freedmen's Cemetery could exist. The Army shall provide documentation supporting its selection of areas to be tested and intended methods to the Consulting Parties for review and comment. Testing shall be sufficient to determine the full extent of burials if present. If any such remnant of the former Freedmen's Cemetery is identified, the Army shall take appropriate actions to define the site boundaries, commemorate with an appropriate marking, and provide site information to the future property manager. If found, any human remains and associated grave goods shall be preserved in place. The location of any graves identified shall be clearly recorded on future installation maps and planning documents and the boundary of the burial area permanently marked in the field. A report documenting the results of testing in each location shall be prepared and submitted to the SHPO for review and comment. The Army shall provide the Signatory Parties copies of the final report and make copies available to other Consulting Parties upon request.
6. The Army shall, within eighteen (18) months of the execution of this Agreement, establish procedures to make available to the FMFADA and Commonwealth appropriate documents related to historic and other properties on Fort Monroe, such as maintenance records, architectural plans, survey materials and similar documents, to facilitate the proper management of Fort Monroe. The Army, the Commonwealth, the FMFADA and the SHPO shall work together to assess existing records to determine those appropriate for reproduction, the method of transfer for reproduction, and the manner of reproduction. However, for the purpose of this Agreement such appropriate documents are considered available "as is where is."
7. The Army shall provide notice to the FMFADA and the Commonwealth of the future locations of all collections removed from Fort Monroe. The FMFADA and the Commonwealth may request, from the Army, access to such collections in accordance with Army policies and regulations.

II. The Commonwealth, the FMFADA and Concurring Parties agree that the following Principles and Statements shall inform the management of Fort Monroe upon transfer of Army ownership:

A. Preservation of the NHL Status of Fort Monroe

1. The Commonwealth and the FMFADA shall recognize the significant archaeological, architectural, viewshed, and cultural landscape characteristics that contribute to the Fort Monroe NHL District and recognize their stewardship responsibilities to properly consider, identify, maintain, and protect these significant characteristics.
2. The Commonwealth and the FMFADA shall make prudent and feasible efforts to maintain the NHL status for the Fort Monroe NHL District.
3. The Commonwealth and the FMFADA shall reuse to the greatest extent possible historic buildings and structures that contribute to the Fort Monroe NHL District.
4. The Commonwealth and the FMFADA shall consider the direct, cumulative, and indirect effects of their undertakings, not only on specific historic properties at Fort Monroe, but also on historically significant viewsheds and cultural landscapes and on the Fort Monroe NHL District as a whole.

B. Historic Property Management Zones

1. The Management Zones shall serve as the basis for a comprehensive approach for the management and treatment of the diverse and numerous historic, architectural, viewshed, cultural landscape, and archaeological resources at Fort Monroe. The rationale for the Management Zone boundaries is based upon careful consideration of historic and existing architectural character, current and past land uses, construction periods, concentration of contributing resources, and resource types such as the Endicott Batteries and those properties individually eligible for listing on the NRHP.
2. The Management Zones *do not* recommend or suggest any possible future subdivision of Fort Monroe nor are they intended to encourage consideration of each Zone in isolation without acknowledging the implications of future management decisions and treatments on adjacent Zones and Fort Monroe as a whole.
3. Definition of Management Zones
 - i) The Management Zones are as follows:
 - a) Zone A (West Peninsula)
 - b) Zone B (East Peninsula)
 - c) Zone C (North Gate Road/Stilwell Drive)
 - d) Zone D (McNair, Ingalls, Fenwick Corridors)

- e) Zone E (Stone Fort and Moat)
 - f) Endicott Batteries
 - g) Individually eligible historic properties
- ii) The boundaries of the Management Zones are defined in Appendix G (Map) and Appendix H (Narrative description).

C. Public Access

1. All parties shall recognize the importance that the public has placed on the need for continued public access to the historic and natural amenities at Fort Monroe.
2. The Commonwealth and the FMFADA shall maintain and enhance public access to Fort Monroe's historic, natural, and recreational attractions to the greatest extent possible.

D. Economic Sustainability

1. All parties shall recognize that economic sustainability is essential to ensuring the continued and future preservation of historic properties at Fort Monroe.
2. The Commonwealth and the FMFADA shall endeavor to create a sustainable, steady, and diverse revenue stream at Fort Monroe that is in keeping with the principles expressed in Stipulation II.A above.

E. NPS National Park Initiative

1. The Commonwealth and the FMFADA shall take no actions that may preclude the use of Fort Monroe as a National Park, in whole or in part, or entering into an affiliated partnership with the NPS at Fort Monroe until such time that the Commonwealth and the FMFADA have consulted with the NPS and have evaluated such opportunities.
2. The NPS shall be responsible for its own compliance with Section 106 and Section 110 of the National Historic Preservation Act.

F. Continuing Enforcement

In the event of a transfer of any interest in the real estate or delegation of their interest in, or respective responsibilities for, Fort Monroe, the Commonwealth and the FMFADA shall bind the transferee or the delegatee to the terms of this Agreement as appropriate through available legally enforceable mechanisms.

III. The FMFADA shall ensure the following:

A. Historic Preservation Manual and Design Standards

1. Prior to closure and the Commonwealth assuming responsibility for the Reversionary Land, the FMFADA shall develop a Historic Preservation Manual and Design Standards (Design Standards) for activities occurring on the reversionary and non-reversionary land at Fort Monroe.
2. The Design Standards shall be based upon and consistent with sound and accepted preservation practices and standards as established and revised in relevant NPS publications and guidance documents, such as its Preservation Briefs and Preservation Tech Notes series, and other appropriate source materials including, for example, *The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes* (National Park Service 1996), *Preservation Bulletin 36: Protecting Cultural Landscapes: Planning, Treatment, and Management of Historic Landscapes*, and *Historic Fortification Preservation Handbook* (National Park Service, NPS 2003). The Design Standards shall be consistent with the property management and treatment of historic property requirements found in Stipulation IV.C. The Design Standards shall, at a minimum, address the following:
 - i) The array of treatment options (rehabilitation, restoration, reconstruction, preservation) for existing historic buildings, structures, objects, and landscapes.
 - ii) Routine maintenance and repair activities.
 - iii) Appropriate design, massing, height, scale, materials, location, spatial relationships, density, etc. for new construction and additions to existing buildings or structures within each Management Zone.
 - iv) Significant historic viewsheds and cultural landscapes identified by the Army pursuant to Stipulation I.D. and I.E. above.
 - v) Potential to affect archaeological sites resulting from proposed ground disturbing activities.
3. The FMFADA shall post preliminary drafts of the Design Standards on its website to solicit public comment. The FMFADA shall consider the comments of the public as it revises the Design Standards.
4. The FMFADA shall provide a draft of the Design Standards, and any public comments received on the draft Design Standards, to the Consulting Parties for review and comment within eighteen (18) months of the execution of this Agreement.

The FMFADA shall consider the comments of the Consulting Parties as it develops the final Design Standards.

5. The FMFADA shall provide a final draft of the Design Standards to the SHPO and the NPS for review and approval.
6. The FMFADA shall ensure that a copy of the final Design Standards is provided to the Signatory Parties and that the Design Standards are posted on its website within twenty four (24) months of execution of this Agreement. The final Design Standards shall be used by the Commonwealth to carry out its management responsibilities established in Stipulation IV below.
7. Amendment to the Final Design Standards:
 - i) Recommendations for amendment to the Design Standards may be made through written request to the FMFADA.
 - ii) The FMFADA, the Commonwealth, and the SHPO shall consult on the need for amendment and shall seek the technical assistance from the NPS.
 - iii) The FMFADA, the Commonwealth, and the SHPO shall take into account any technical assistance from the NPS in making a decision to amend the Design Standards.
 - iv) The proposed response to the request for amendment shall be posted for public comment on the FMFADA website for a period of thirty (30) calendar days.
 - v) The SHPO shall have approval authority over any proposed amendment to the Design Standards. Upon SHPO approval, the amended Design Standards shall be posted on the FMFADA website.

B. Interpretive and Educational Programs Plan

1. Prior to closure and the Commonwealth assuming responsibility for the Reversionary Land, the FMFADA shall develop a plan for interpretive and educational programs on the reversionary and non-reversionary land at Fort Monroe. The intent of the plan is to inform future interpretive and educational activities at Fort Monroe.
2. Within three (3) months of the execution of this Agreement, the FMFADA shall develop in consultation with the Army topics for the Interpretive and Educational Programs Plan. The Interpretive and Educational Programs Plan shall address the entire history of human occupation at Fort Monroe and, at a minimum, shall include, but not be limited to, the following:

- i) Natural history and resources
 - ii) Native American occupation
 - iii) Colonial settlement and occupation
 - iv) Military history of the site and its environs, with emphasis on Fort Monroe's strategic importance to coastal defense, training, the Civil War period, Army command headquarters located there, etc.
 - v) African American history with emphasis on the significance of the Contraband Order of 1861
 - vi) Individuals of national significance associated with Fort Monroe
 - vii) History as a resort
 - viii) Maritime history with emphasis on exploration and commercial port activities
 - ix) Architectural, archaeological, and cultural landscape elements of outstanding quality, important historic or pre-historic associations or uniqueness
3. The FMFADA shall provide a draft of the Interpretive and Educational Programs Plan to the Signatory Parties, the VCI, identified federally-recognized tribes, and other Consulting Parties for review and comment within twenty-four (24) months of the execution of this Agreement. The FMFADA shall take into account all timely comments provided in developing the final Interpretive and Educational Programs Plan.
 4. The FMFADA shall ensure that a copy of the final Interpretive and Educational Programs Plan is provided to the Signatory Parties, the VCI, identified federally-recognized tribes, and other Consulting Parties. The FMFADA shall also make the final Interpretive and Educational Programs Plan available to the public via its website.
 5. The FMFADA shall notify and request comments from the Signatory Parties, the VCI, identified federally-recognized tribes, and other Consulting Parties of proposed revisions and amendments to the Interpretive and Educational Programs Plan.

IV. The Commonwealth shall ensure the following:

A. State Level Memorandum of Understanding

Due to the nature of the Undertaking, and to ensure the long term management of Fort Monroe consistent with the terms of this Agreement, the Commonwealth, the SHPO, and the FMFADA shall enter into a state-level Memorandum of Understanding (MOU) within twelve (12) months of execution of this Agreement that shall include Stipulation II, Stipulation III.A, Stipulations IV.B through IV.D, and Stipulation V.B as written below.

B. Stewardship Commitments

1. The Commonwealth reaffirms its commitment to the principles expressed in Stipulation II.
2. The Commonwealth shall ensure that the property shall be managed in accordance with the treatments specified for the designated Management Zones established in Stipulation IV.C.1 below, and the final Design Standards developed pursuant to Stipulation III.A above.
3. The Commonwealth shall take all prudent and feasible actions to preserve and protect the historic properties at Fort Monroe and the Fort Monroe NHL District as a whole.
4. The Commonwealth shall not cause an adverse effect to the Fort Monroe NHL District, or any of its contributing historic, architectural, archaeological, viewshed or cultural landscape elements, unless after a full consideration of alternatives and consultation pursuant to Stipulation IV.D.4, it is determined that the adverse effect cannot be avoided.

C. Upon Assuming Management of the Property

1. Treatment of Historic Properties
 - i) Zone A (West Peninsula)
 - a) New construction shall be minimized in order to maintain the current and historic character of Zone A as an area of little permanent development and a more natural setting.
 - b) New construction shall be in accordance with established Design Standards and implemented only after consultation pursuant to Stipulation IV.D.4 below.
 - c) Demolition of a contributing property to the Fort Monroe NHL District shall not occur until after a full consideration of reuse alternatives, documentation of reuse alternatives, and justification of the reason(s) why they are not prudent and feasible, and presentation of economic data to support the

proposal to demolish the historic property are completed and provided by the project proponent. The Commonwealth shall consult on such undertakings pursuant to Stipulation IV.D.4 below.

- d) All restoration, preservation, rehabilitation or reconstruction (if appropriate due to loss of a historic property) shall be done according to the Design Standards.
- ii) Zone B (East Peninsula)
- a) The Commonwealth shall fully consider reuse alternatives that maintain the existing housing, cultural landscape features, and circulation patterns prior to demolishing Wherry Housing consistent with the provisions of the Program Comment. The Commonwealth shall consider the use of historic federal and state rehabilitation tax credits and other preservation incentives in its decision-making process.
 - b) New construction outside of the Wherry Housing area, but still within Zone B, shall, to the greatest extent practicable, be constructed within the same general geographic area of disturbance as previous development, and maintain no more than the same two to three-story height found in the contributing historic buildings in Zone B and in accordance with the Design Standards. New construction shall occur only after consultation pursuant to Stipulation IV.D.4 below.
 - c) The Commonwealth shall provide the SHPO supporting materials that document the Commonwealth's full consideration of reuse alternatives that maintain the existing Wherry Housing.
 - d) After full consideration of reuse alternatives and the comments provided by the SHPO, the FMFADA, and any other comments received pursuant to the protocol established in Stipulation IV.D.2.iii)g) below, the Commonwealth may demolish Wherry Housing.
 - e) If any new construction is proposed in the Wherry Housing area, any new construction shall, to the greatest extent practicable, be constructed within the same general geographic area of ground disturbance as previous development, and maintain no more than the same two to three-story height found in the contributing historic buildings of the Wherry Housing area and in accordance with the Design Standards. New construction shall occur only after consultation pursuant to Stipulation IV.D.4 below.
 - f) If new construction is proposed in the Wherry Housing area, to the greatest extent practicable, existing cultural landscape features and circulation patterns shall be maintained.
 - g) All restoration, preservation, rehabilitation or reconstruction (if appropriate due to loss of a historic property) shall be done according to the Design Standards.
- iii) Zone C (North Gate/Stilwell Drive)

- a) Demolition of a contributing property to the Fort Monroe NHL District shall not occur until after a full consideration of reuse alternatives, documentation of reuse alternatives, and justification of the reason(s) why they are not prudent and feasible, and presentation of economic data to support the proposal to demolish the historic property are completed and provided by the project proponent. The Commonwealth shall consult on such undertakings pursuant to Stipulation IV.D.4 below.
 - b) New infill construction shall be in accordance with established Design Standards and implemented only after consultation pursuant to Stipulation IV.D.4 below.
 - c) All restoration, preservation, rehabilitation or reconstruction (if appropriate due to loss of a historic property) shall be done according to the Design Standards.
- iv) Zone D (McNair, Ingalls, Fenwick Corridor)
- a) Demolition of a contributing property to the Fort Monroe NHL District shall not occur until after a full consideration of reuse alternatives, documentation of reuse alternatives, and justification of the reason(s) why they are not prudent and feasible, and presentation of economic data to support the proposal to demolish the historic property are completed and provided by the project proponent. The Commonwealth shall consult on such undertakings pursuant to Stipulation IV.D.4 below.
 - b) Only limited new infill construction for the replacement of pre-existing buildings/structures in accordance with the Design Standards shall occur and only after consultation pursuant to Stipulation IV.D.4 below. Any proposed replacement of a building or structure shall have documented historic precedent and be compatible with the existing architectural character of the Management Zone.
 - 1) Notwithstanding the foregoing, this Agreement recognizes the validity of the pre-existing Programmatic Agreement among the Army, the SHPO, and OPC Hampton, LLC, which includes the establishment and construction of a future parking facility for the former Chamberlin Hotel.
 - 2) Continued consultation among OPC Hampton, LLC, the SHPO, and the NPS regarding the parking facility for the former Chamberlin Hotel shall proceed according to existing authorities and protocols provided, however, the construction of the parking facility shall be subject to the Design Standards with respect to design, massing, scale, height, and materials.
 - c) All restoration, preservation, rehabilitation or reconstruction (if appropriate due to loss of a historic property) shall be done according to the Design Standards.
- v) Zone E (Stone Fort and Moat)
- a) No demolition of a contributing property to the Fort Monroe NHL District shall occur unless necessary to address immediate health and safety concerns

or to prevent further property damage, and only after consultation pursuant to Stipulation IV.D.4 below.

- 1) If the Commonwealth determines that demolition is necessary and appropriate, only that amount of historic fabric and materials needed to ensure adequate protection of life and property shall be removed.
 - 2) Existing historic materials and features, such as bricks, windows, mantels, sills, lintels, etc. shall be salvaged to the greatest extent practicable and safely stored for reuse in the reconstruction of the property or to replace deteriorated or damaged historic materials and features in other contributing properties at Fort Monroe.
 - 3) The Commonwealth shall undertake adequate protections to stabilize, secure, and preserve the remaining extant portions of the historic property from further damage.
- b) No new infill construction shall occur unless to reconstruct documented missing historic properties or landscapes and only after consultation pursuant to Stipulation IV.D.4 below. New infill construction shall have documented historic precedent and be compatible with the existing architectural character of the Management Zone.
- c) All restoration, preservation, rehabilitation or reconstruction (if appropriate due to loss of a historic property) shall be done according to the Design Standards.
- d) Reuse of historic properties shall occur in a sensitive and appropriate manner that corresponds with their historic use or a new use that requires minimal change to their distinctive materials, features, spaces, and spatial relationships.
- vi) Endicott Batteries
- a) No demolition shall occur unless necessary to address immediate health and safety concerns or to prevent further property damage, and only after consultation pursuant to Stipulation IV.D.4 below.
 - 1) If the Commonwealth determines that demolition is necessary and appropriate, only that amount of historic fabric and materials needed to ensure adequate protection of life and property shall be removed.
 - 2) Existing historic materials and features, such as gun mounts, windows, mantels, sills, lintels, etc. shall be salvaged to the greatest extent practicable and safely stored for reuse in the reconstruction of the property or to replace deteriorated or damaged historic materials and features in other contributing properties at Fort Monroe.
 - 3) The Commonwealth shall undertake adequate protections to stabilize, secure, and preserve the remaining extant portions of the historic property from further damage.
 - b) All restoration, preservation, rehabilitation or reconstruction (if appropriate due to loss of a historic property) shall be done according to the Design Standards.

vii) Individually Eligible Historic Properties

- a) No demolition shall occur unless necessary to address immediate health and safety concerns or to prevent further property damage, and only after consultation pursuant to Stipulation IV.D.4 below.
 - 1) If the Commonwealth determines that demolition is necessary and appropriate, only that amount of historic fabric and materials needed to ensure adequate protection of life and property shall be removed.
 - 2) Existing historic materials and features, such as bricks, windows, mantels, sills, lintels, etc. shall be salvaged to the greatest extent practicable and safely stored for reuse in the reconstruction of the property or to replace deteriorated or damaged historic materials and features in other contributing properties at Fort Monroe.
 - 3) The Commonwealth shall undertake adequate protections to stabilize, secure, and preserve the remaining extant portions of the historic property from further damage.
- b) All restoration, preservation, rehabilitation or reconstruction (if appropriate due to loss of a historic property) shall be done according to the Design Standards.

2. Archaeological considerations in the Management Zones

The process outlined herein shall be applicable for all Management Zones described in Stipulation IV.C.1.i) through vii) above.

- i) If the Commonwealth determines, in consultation with the SHPO, that further efforts are needed to identify archaeological sites, the Commonwealth shall ensure that an archaeological testing program is developed in consultation with the SHPO and after considering any other comments received pursuant to the protocol established in Stipulation IV.D.2.iii)g) below. Prior to affecting any potentially eligible archaeological site, the Commonwealth shall develop a testing program of sufficient intensity to provide an evaluation of eligibility for the NRHP by the Commonwealth in consultation with the SHPO, following the regulations outlined in 36 CFR Part 63.
- ii) If, as a result of the testing program, archaeological sites are identified that are eligible for the NRHP, the Commonwealth shall develop a plan for their avoidance, protection, or recovery of information, in consultation with the SHPO and after considering any other comments received pursuant to the protocol established in Stipulation IV.D.2.iii)g) below. The plan shall be submitted to the SHPO for review and approval prior to implementation.
- iii) The treatment plan shall evaluate the full range of treatment options for a resource (avoidance shall be the preferred treatment). Following approval by the SHPO, the treatment plan shall be implemented by a qualified archaeologist.

- iv) All data recovery plans prepared under the terms of this Agreement shall include the following elements:
 - a) Information on the archaeological property or properties where data recovery is to be carried out and the context in which such properties are eligible for the NRHP;
 - b) Information on any property, properties, or portions of properties that will be destroyed without data recovery;
 - 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 keep the SHPO 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;
 - f) Proposed methods for disseminating results for the work to the interested public; and
 - g) Proposed methods by which other parties, if applicable, shall be kept informed of the work, and if human remains and/or grave goods are expected to be encountered, information on consultation with the appropriate federally recognized tribes and the VCI regarding final disposition of the human remains and/or grave goods.
3. Demolition of non-contributing buildings and structures
- i) The Commonwealth shall consult with the SHPO as outlined in Stipulation IV.C.2 above to assess whether ground disturbing activities associated with demolition may affect recorded archaeological sites or archaeologically sensitive areas.
 - ii) If the Commonwealth determines that no archaeological resources will be affected by the proposed demolition, the Commonwealth may demolish without further review those buildings and structures identified as non-contributing properties to the Fort Monroe NHL District.
 - iii) If the Commonwealth determines that the demolition of non-contributing buildings or structures may affect recorded archaeological sites or archaeologically sensitive areas, the Commonwealth shall follow the procedure outlined in Stipulation IV.C.2 above.
 - iv) The Commonwealth shall report demolitions of non-contributing buildings or structures to the SHPO and the FMFADA annually pursuant to Stipulation V.B.6 below.

4. Mothballed Buildings and Structures

- i) The Commonwealth shall adopt the plan and procedures for mothballing buildings and structures developed by the Army in Stipulation I.G above and implement it for those properties the Army had not been able to mothball prior to closure, and for future vacant properties under the ownership, management or control of the Commonwealth.
- ii) The Commonwealth shall undertake all prudent and feasible efforts to preserve historic buildings through mothballing if they have been or are to remain vacant for twelve (12) months or longer, or if there is no planned use for them identified.

5. Sustainable (“green”) Preservation, Construction, and Development

The Commonwealth shall use sustainable (“green”) techniques, materials, and principles in the rehabilitation, restoration or preservation of historic properties in a manner that is consistent with the Design Standards.

6. In the event of Sale, Transfer or Lease of Property

- i) The Commonwealth shall develop in consultation with the SHPO and the FMFADA, criteria that shall guide the decision-making process for the sale, transfer or lease of historic properties at Fort Monroe. The criteria shall include at a minimum the following:
 - a) An economic analysis comparing retention of the historic property under Commonwealth ownership and control VS. the sale, transfer or lease of the historic property to another entity.
 - b) Anticipated effects to the characteristics that make the historic property eligible for the NRHP either as a contributing resource in the Fort Monroe NHL District or individually.
 - c) Significance of the historic property.
 - d) Physical condition of the historic property, to include its historic integrity.
 - e) Evaluation of the feasibility and practicality of mothballing the historic property until a future use is identified.
- ii) The Commonwealth shall develop in consultation with the SHPO historic preservation covenants, easements or other appropriate protections to be attached to the deed or lease agreements. Such protections shall be consistent with the principles established in Stipulation II above.
- iii) The Commonwealth shall provide the language of draft preservation covenants, easements or other appropriate protections to the SHPO and the FMFADA for review and comment.

- iv) The Commonwealth shall consult with the signatories of the state level MOU to determine if amendment of the MOU is necessary.
 - v) The Commonwealth shall encourage use of state and federal rehabilitation tax credits and other preservation incentives.
 - vi) If the property is to be transferred to any party not bound by the state-level MOU, the Commonwealth shall take such necessary steps to ensure that the protections afforded by the state-level MOU are enforceable against such party by the Commonwealth, the FMFADA, the City of Hampton, or such entity as may have jurisdiction over the property at the time through local zoning and/or other appropriate tools.
7. Property Evaluation and Condition Assessments
- i) Evaluation of Properties to the NRHP
 - a) The Commonwealth shall, in consultation with the SHPO and the FMFADA, develop a plan to conduct regularly scheduled evaluations of properties at Fort Monroe in order to determine if properties previously determined not individually eligible or non-contributing to the Fort Monroe NHL District due to age, condition, alteration, etc. have become eligible for the NRHP.
 - b) The Commonwealth shall report to the SHPO and the FMFADA on its eligibility recommendations in a format stipulated in the evaluation plan, and request concurrence from the SHPO and comment from the FMFADA.
 - c) If the Commonwealth and the SHPO do not agree on the eligibility recommendation, the Commonwealth shall request the opinion of the Keeper of the NRHP pursuant to 36 CFR Part 63.
 - ii) Condition Assessments of Historic Properties
 - a) The Commonwealth shall, in consultation with the SHPO and the FMFADA, develop a plan to conduct regularly scheduled inspections to assess the conditions of historic properties at Fort Monroe.
 - b) The plan shall include, at a minimum, criteria for assessing the condition of historic properties, schedule for property inspections, methods for reporting the findings to the SHPO and the FMFADA and recommendations for corrective actions if necessary.
8. Historic Properties Not Included in the BRAC Action
- i) Nothing in this Agreement impacts or alters the USCG's Section 106 responsibilities for its undertakings involving the Old Point Comfort Lighthouse, a property listed on the NRHP pursuant to 36 CFR Part 800.

- ii) The Commonwealth shall include as terms of future ground leases for those historic properties at Fort Monroe that are currently in private ownership or control, specifically St Mary's Star of the Sea Church and Rectory and the former Chamberlin Hotel, that any proposed exterior changes, alterations, additions or demolitions to these historic properties shall be subject to review and comment pursuant to the process described in Stipulation IV.D.4 below.

D. Continuing Review Process

1. The Commonwealth shall comply with all applicable state and federal environmental and historic preservation laws and regulations.
2. Fort Monroe Historic Preservation Officer
 - i) The Commonwealth shall create and maintain the state position of Fort Monroe Historic Preservation Officer (FMHPO) within twelve (12) months of execution of this Agreement. In the event that the Commonwealth no longer maintains management, control or ownership of the property, the state-level MOU in Stipulation IV.A above shall be amended in order to re-establish the position of FMHPO.
 - ii) The FMHPO shall meet the NPS *Professional Qualification Standards* for architectural historian or historic architect.
 - iii) The duties of the FMHPO shall include, but not be limited to, the following:
 - a) Function as the historic preservation expert at Fort Monroe for the Commonwealth.
 - b) Review of proposed undertakings at Fort Monroe in order to evaluate effects to historic properties.
 - c) Act as the liaison between the Commonwealth and project proponents and advise on undertakings affecting historic properties.
 - d) Act as the liaison between the Commonwealth and the public concerning historic preservation issues at Fort Monroe.
 - e) Coordinate project reviews with the SHPO and the FMFADA.
 - f) Coordinate public notification and stakeholder involvement in undertakings occurring at Fort Monroe covered under the "Continuing Review Process" in Stipulation IV.D.4 below.
 - g) Develop a public notification and stakeholder involvement protocol.
 - 1) A public notification and stakeholder involvement protocol (protocol) shall be developed in consultation with the SHPO, the FMFADA, and other Consulting Parties to this Agreement identified in Appendix F within eighteen (18) months of execution of Agreement.
 - 2) During consultation on the protocol, a consulting party may request that a Signatory file a written objection with the Secretary of Administration

concerning the development of the protocol. If a Signatory files such an objection, the Secretary of Administration shall consider it and attempt to resolve it. If the Secretary of Administration and the Signatory cannot resolve the objection, the Secretary of Administration shall refer the matter to the ACHP for advice on resolving the objection. The ACHP will have fifteen (15) days from receipt of the referral to provide advice. The Secretary of Administration will consider any timely comment provided by the ACHP before making a final decision on how to resolve the objection. The Secretary of Administration will notify the objecting consulting party and the Signatories as to the final decision.

- 3) The protocol shall incorporate the following principles and practices:
 - (i) Be in a manner that reflects the nature and complexity of the proposed undertakings, on the potential for undertakings to affect historic properties, and the likely interest of the public and stakeholders.
 - (ii) Provide the public and stakeholders with access to full, accurate and timely information regarding undertakings at Fort Monroe and include a clear definition of proposed undertakings and their potential to affect historic properties.
 - (iii) Provide opportunities for meaningful and timely review and comment by members of the public and involvement of those groups and individuals with a special demonstrated interest in Fort Monroe. The Commonwealth shall take into consideration any comments received from the public and stakeholders in its decision-making process.
 - (iv) Methods for notification and participation may utilize existing procedures used by the Commonwealth and the FMFADA, and may include electronic means, websites or other cost-effective methods provided these are consistent with the terms and intent of this Agreement.
 - (v) The protocol shall address confidentiality concerns of private individuals and businesses, location of archaeological sites, and other potential issues.
 - (vi) Stakeholder involvement shall be at appropriate stages such as identification and evaluation of historic properties, effect findings, and resolution of adverse effects.
 - (vii) The public notification and stakeholder involvement protocol shall be submitted to the Secretary of the Administration for approval prior to its implementation.
 - (viii) The public notification and stakeholder involvement protocol shall become effective on the day the Commonwealth assumes legal control or ownership of all or a portion of Fort Monroe.
 - (ix) Any amendments to the protocol shall be made pursuant to Stipulation V.B.8 of this Agreement.

3. Continuing Involvement of Consulting Parties under the Protocol

- i) The FMHPO shall communicate in writing with the Consulting Parties to this Agreement, as identified in Appendix F, of the approval of the public notification and stakeholder involvement protocol. The Consulting Parties shall then have three (3) months to inform the FMHPO in writing if they wish to be considered a stakeholder under the terms of the protocol developed pursuant to Stipulation IV.D.2.iii)g) above.
- ii) The FMHPO shall consider all requests from Consulting Parties to this Agreement for stakeholder status, and such requests shall not be unreasonably denied.
- iii) If a Consulting Party to this Agreement does not notify the FMHPO of its interest in becoming a stakeholder, the FMHPO may assume that the Consulting Party has chosen not to participate further or will participate as a member of the public.

4. Review of Undertakings at Fort Monroe

- i) Public notification and stakeholder involvement in the continuing review of undertakings at Fort Monroe as outlined in this section shall be determined by the protocol developed in Stipulation IV.D.2.iii)g) above.
- ii) The FMHPO shall determine whether a proposed undertaking at Fort Monroe has the potential to affect historic properties. If the FMHPO determines that the undertaking does not have the potential to affect historic properties, then no further action is necessary pursuant to this section.
- iii) If after considering a preliminary APE for the undertaking using the principles described in Stipulation IV.D.4.iv)a) below, the FMHPO determines that the nature of the undertaking has the potential to affect historic properties, but the FMHPO determines that either there are no historic properties present or there are historic properties present but the undertaking will have no effect upon them, the FMHPO shall:
 - a) Notify the project proponent to proceed with the undertaking and to inform the FMHPO if the scope of work changes.
 - b) Document the decision that no historic properties are present or that no historic properties were affected by the undertaking.
 - c) All undertakings receiving a no historic properties present/no historic properties affected determination will be reported quarterly to the SHPO.
 - d) If the SHPO determines that the FMHPO has incorrectly or inappropriately determined that there are no historic properties present or no historic properties are affected by undertakings, the SHPO may require the FMHPO to submit all undertakings the FMHPO determines are no historic properties

present/no historic properties affected for the concurrence of the SHPO. After a period, and at its discretion, the SHPO may reinstate the process described in Stipulation IV.D.4.iii)a) through c) above.

- iv) If after considering a preliminary APE for the undertaking using the principles described in Stipulation IV.D.4.iv)a) below, the FMHPO determines that the proposed undertaking has the potential to affect historic properties by altering directly or indirectly any of the characteristics that qualify them for inclusion in the NRHP, the FMHPO shall, in consultation with the SHPO and the FMFADA, define the APE for the undertaking in the following manner:
 - a) The APE shall encompass the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if such exist.
 - b) The APE is influenced by the scale and nature of an undertaking and may be different for different kinds of effects (e.g., direct and indirect).

- v) Once the APE is defined, the FMHPO shall identify, in consultation with the SHPO and the FMFADA, historic properties located within the APE.
 - a) The FMHPO shall review existing information on historic properties within the APE, including any data on historic properties that may not already be identified.
 - b) The FMHPO shall seek information, as appropriate, from individuals and organizations likely to have knowledge of, or concerns with, historic properties in the area and identify issues relating to the undertaking's potential effects to historic properties.
 - c) Based on the information gathered pursuant to this section of the Agreement, the FMHPO shall apply the NRHP criteria to determine if a previously unevaluated property within the APE is eligible for listing on the NRHP.

- vi) The FMHPO shall, in consultation with the SHPO and the FMFADA, apply the following criteria of adverse effect to historic properties listed in or eligible for the NRHP located within the APE:
 - a) An adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify it for inclusion in the NRHP in a manner that would diminish the integrity of a property's location, design, setting, materials, workmanship, feeling or association.
 - 1) Consideration shall be given to all qualifying characteristics of a historic property, including those that may have been identified subsequent to the original evaluation for the NRHP.
 - 2) Adverse effects may also include reasonably foreseeable effects caused by undertakings that may occur later in time, be farther removed in distance, or be cumulative.
 - b) Adverse effects include, but are not limited to:

- 1) Physical destruction of all or a part of the property.
 - 2) Alteration of a property including restoration, rehabilitation, repair, maintenance, stabilization, hazardous materials remediation and provision of handicapped access, that is not consistent with the Design Standards.
 - 3) Removal of the property from its historic location.
 - 4) Change in character of the property's use or of physical features within the property's setting that contribute to its historic significance.
 - 5) Introduction of visual, atmospheric or audible elements that diminish the integrity of the property's significant historic features.
 - 6) Neglect of a property which causes its deterioration, except where such neglect and deterioration are recognized qualities of a property.
 - 7) Transfer, lease, or sale of a property out of Commonwealth ownership or control without adequate and legally enforceable restrictions or conditions to ensure long-term preservation of the property's historic significance.
- c) The FMHPO shall consider any views concerning such effects which have been provided by the SHPO, the FMFADA, and members of the public or stakeholders pursuant to the protocol developed in Stipulation IV.D.2.iii)g) above.
- vii) If the FMHPO determines that the proposed undertaking will have no adverse effect to historic properties, the FMHPO shall notify the SHPO and the FMFADA and request their review and comment on the finding.
- viii) If the SHPO agrees with the finding and the FMFADA has not objected in writing, the FMHPO may recommend to the project proponent that the undertaking proceed.
- ix) If the FMHPO and the SHPO fail to agree, or if the FMFADA objects in writing, the FMHPO shall consult with the objecting party to resolve the disagreement in the following manner:
- a) Disagreement with the FMFADA
 - 1) The FMHPO shall notify the SHPO of the objection, and make a good faith effort to resolve the disagreement with the FMFADA.
 - 2) The FMHPO may request technical assistance from the ACHP and/or the NPS in resolving the objection.
 - 3) The FMHPO shall take into account the comments of the SHPO and any other comments received pursuant to the protocol established in Stipulation IV.D.2.iii)g) above, and any technical assistance provided by the ACHP and/or the NPS, in making a final decision as to the effect of the undertaking. The FMHPO shall provide the SHPO and the FMFADA a written summary of the final decision that contains the justification for the decision and evidence of consideration of the opinions of the FMFADA and the SHPO, the public, any stakeholders, and the ACHP and/or NPS if applicable.

- b) Disagreement with the SHPO
 - 1) The FMHPO shall notify the FMFADA of the objection and make a good faith effort to resolve the disagreement with the SHPO.
 - 2) The SHPO shall request technical assistance from the ACHP and/or the NPS, and shall forward any comments received from the ACHP and/or the NPS to the FMHPO and the Secretary of Administration. The FMHPO shall forward all project information, to include all comments received from the SHPO, the FMFADA, and any other comments received pursuant to the protocol established in Stipulation IV.D.2.iii)g) above, to the Secretary of Administration and request the Secretary to determine if the undertaking may proceed as designed, may proceed with modifications, may not proceed or if further consultation between the FMHPO and the SHPO to resolve the objection is necessary. The Secretary shall consider any comments of the ACHP, the NPS, and any comments received from the public and any stakeholders in making a final decision. The FMHPO shall notify the SHPO and the FMFADA of the Secretary's decision and provide evidence of the consideration of the views of the ACHP, the NPS, the public, and/or any stakeholders.

- x) If the proposed undertaking has the potential to adversely affect historic properties, the FMHPO shall resolve the adverse effect in the following manner:
 - a) The FMHPO, in consultation with the SHPO, the FMFADA, and appropriate stakeholders identified pursuant to the stakeholder involvement protocol developed in Stipulation IV.D.2.iii)g) above, shall work with the project proponent to modify the proposed undertaking in a manner that will attempt to avoid or minimize the adverse effect.
 - b) If the FMHPO believes that the modifications to the project would result in historic properties no longer being adversely affected, the FMHPO shall provide the SHPO and the FMFADA the revised project plans and request their review and comment.
 - 1) If the SHPO agrees with the finding and the FMFADA has not objected in writing, the FMHPO may recommend to the project proponent that the undertaking proceed.
 - 2) If the FMHPO and the SHPO fail to agree, or if the FMFADA objects in writing, the FMHPO shall consult with the objecting party in the following manner:
 - (i) Disagreement with the FMFADA
 - (a) The FMHPO shall notify the SHPO of the objection, and make a good faith effort to resolve the disagreement with the FMFADA.
 - (b) The FMHPO may request technical assistance from the ACHP and/or the NPS in resolving the objection.
 - (c) The FMHPO shall take into account the comments of the SHPO, any technical assistance provided by the ACHP and/or the NPS, and any comments received from the public or any stakeholders

pursuant to the protocol established in Stipulation IV.D.2.iii)g) above, in making a final decision as to the effect of the undertaking. The FMHPO shall provide the SHPO and the FMFADA a written summary of the final decision that contains the justification for the decision and evidence of consideration of the opinions of the FMFADA, the SHPO, the public, and/or any stakeholders, and the ACHP and/or the NPS, if applicable.

(ii) Disagreement with the SHPO.

- (a) The FMHPO shall notify the FMFADA of the objection and make a good faith effort to resolve the disagreement with the SHPO.
- (b) The SHPO shall request technical assistance from the ACHP and/or the NPS, and shall forward any comments received from the ACHP and/or the NPS to the FMHPO and the Secretary of Administration. The FMHPO shall forward all project information, to include all comments received from the SHPO, the FMFADA, and any other comments received from the public or any stakeholders pursuant to the protocol established in Stipulation IV.D.2.iii)g) above, to the Secretary of Administration and request the Secretary to determine if the undertaking may proceed as designed, may proceed with modifications, may not proceed or if further consultation between the FMHPO and the SHPO to resolve the objection is necessary. The Secretary shall consider any comments of the ACHP, the NPS, and any comments received from the public and any stakeholders in making a final decision. The FMHPO shall notify the SHPO and the FMFADA of the Secretary's decision and provide evidence of the consideration of the views of the ACHP, the NPS, the public, and/or any stakeholders.

- c) If the FMHPO determines that the adverse effect still exists, the FMHPO shall, in consultation with the SHPO and the FMFADA, and other stakeholders pursuant to the protocol developed in Stipulation IV.D.2.iii)g) above, develop a legally binding mitigation agreement (Mitigation Agreement) with the agreed upon measures to mitigate the adverse effect.
 - 1) The proposed mitigation shall be proportional to the nature and severity of the effect, and the significance of the historic property impacted.
 - 2) The mitigation shall be, to the greatest extent practicable, related to the historic property affected, however, alternative mitigations may be considered when appropriate.
 - 3) The mitigation shall have the greatest public benefit possible.
 - 4) The FMHPO shall ensure that the mitigation is carried out.
 - 5) The Mitigation Agreement shall include the following:
 - (i) *Duration*: Provisions for the timeframe in which it will remain in effect, termination, and reconsideration of terms if the undertaking has not been implemented within a specified time.

- (ii) *Discoveries*: Provisions for unexpected archaeological discoveries during the implementation of the terms of the Mitigation Agreement.
 - (iii) *Amendments*: Procedures to amend the Mitigation Agreement.
 - (iv) *Termination*: Provisions if any signatory determines that the terms of the Mitigation Agreement cannot be, or are not being, carried out.
- d) If the Commonwealth, the SHPO or the FMFADA fail to resolve adverse effects through a mutually acceptable Mitigation Agreement, then the FMHPO may request, or upon consideration of a request from any stakeholder pursuant to the protocol developed in Stipulation IV.D.2.iii)g) above, may request technical assistance from the ACHP and/or the NPS in resolving the dispute. The FMHPO shall forward to the Secretary of Administration the comments of the Commonwealth, the SHPO, the FMFADA, any comments received from the ACHP and/or the NPS, and any comments received from the public or any stakeholders pursuant to the protocol established in Stipulation IV.D.2.iii)g) above, for the Secretary's consideration in resolving the dispute. The Secretary shall consider any comments of the ACHP, the NPS, and any comments received from the public and/or any stakeholders in making a final decision. The FMHPO shall notify the Commonwealth, the SHPO, and the FMFADA of the Secretary's decision and evidence of consideration of the views of the ACHP and/or the NPS, and any comments received from the public and/or any stakeholders.

5. Streamlined Review Process

- i) After twenty-four (24) months from the date of the first project submitted for review pursuant to Stipulation IV.D.4 above, the FMHPO may recommend to the Commonwealth, the SHPO, the FMFADA, and any stakeholders identified pursuant to the protocol established in Stipulation IV.D.2.iii)g) above, changes to streamline the review process.
- ii) Any changes to the review process as described in Stipulation IV.D.4 shall be made in accordance with the provisions for amendment found in the state-level MOU.

V. Administrative Provisions:

A. The Army shall ensure prior to closure the following:

1. Professional Standards and Qualifications

- i) For the purposes of this Agreement, "Qualified Staff" is defined as an individual who meets the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-44739). Qualified Staff will have professional qualifications, training, and experience relevant to the technical requirements of a given

undertaking.

- ii) All archaeological, history, cultural landscape, or architectural history investigations carried out in pursuant to this Agreement shall be conducted by or under the direct supervision of an individual or individuals who meet, at a minimum, the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-44739).

2. Review of Documentation

If a Consulting Party fails to respond to an Army submission for review within thirty (30) calendar days or such other time specified in this Agreement or the submission, the Army may assume no comment from the non-responding party. Army is not required to consider comments received after the specified time.

3. Post Review Discoveries

- i) In the event of any post-review discovery of archaeological materials during any of its activities, all work in the area of the discovery shall stop immediately, and the Fort Monroe Cultural Resources Manager shall be notified. The Army shall ensure that no unauthorized personnel have access to the site and no further work is done in the area of discovery until the Army has complied with 36 CFR Part 800.13(b).
- ii) The Army shall within forty-eight (48) hours notify and consult with the SHPO for any post review discoveries and with the VCI, the Shawnee Tribe, the Absentee-Shawnee Tribe of Indians of Oklahoma, and the Catawba Indian Nation Tribal Historic Preservation Office (CIN-THPO), if appropriate.
- iii) Human remains and associated funerary objects encountered during the course of actions taken as a result of this Agreement shall be treated in accordance with NAGPRA (25 U.S.C. Sec 3001 et seq.). Informational copies of any notifications made under NAGPRA shall be provided to the SHPO and the Shawnee Tribe, the Absentee-Shawnee Tribe of Indians of Oklahoma, and the CIN-THPO.
- iv) The Army shall ensure that archaeological artifacts recovered from archaeological investigations or post review discoveries shall be stored in a curatorial repository that meets federal standards stipulated in 36 CFR Part 79, *The Curation of Federally Owned and Administered Archaeological Collections*.
- v) The Army shall consult with the Shawnee Tribe, the Absentee-Shawnee Tribe of Indians of Oklahoma, the CIN-THPO, and the VCI regarding curation practices of Native American archaeological artifacts.

4. Dispute Resolution

- i) Should any Signatory to this Agreement object to the performance by the Army of any obligation under this Agreement, the Army shall consult with the objecting Signatory to resolve the objection.
- ii) If after initiating such consultation the Army determines that the objection cannot be resolved through consultation, the Army shall forward all documentation relevant to the objection to the ACHP, including the proposed response to the objection.
- iii) Within thirty (30) calendar days after receipt of all pertinent documentation, the ACHP shall exercise one of the following options:
 - a) Advise the Army that the ACHP concurs in the proposed response to the objection, whereupon the Army shall respond to the objection accordingly;
 - b) Provide the Army with recommendations, which the Army shall take into account in reaching a final decision regarding its response to the objections; or
 - c) Respond to the Army that it will not consider the dispute or provide recommendations, in which case the Army may proceed with the proposed resolution; or
 - d) Notify the Army that the objections shall be referred for ACHP comment pursuant to 36 CFR 800.7(c), and proceed to refer the objection for comment. Any ACHP comment rendered pursuant to this stipulation shall be understood to apply only to the subject of the objection: all other responsibilities of the parties stipulated in this Agreement shall remain unchanged.
- iv) Should the ACHP not exercise one of the above options within thirty (30) calendar days after receipt of all pertinent documentation, the Army may move forward with its proposed response to the objection and make a final decision on how to respond to the objection.

5. Emergency Actions

- i) Emergency actions are those actions deemed necessary by the Army as an immediate and direct response to an emergency situation, which is a disaster or emergency declared by the President, tribal government, or the Governor of the State, or other immediate threats to life or property. Emergency actions under this Agreement are only those implemented within thirty (30) calendar days from the initiation of the emergency situation.
- ii) If the emergency action has the potential to affect historic properties, the Army shall notify the SHPO and other parties as appropriate prior to undertaking the action, when feasible. As part of the notification, the Army shall provide a plan to

address the emergency. The SHPO shall have seven (7) calendar days to review and comment on the plan to address the emergency. If the SHPO does not comment or object to the plan within the review period, the Army shall implement the proposed plan.

- iii) If the Army is unable to consult with the SHPO prior to carrying out emergency actions, the Army shall notify the SHPO and other parties as appropriate within forty-eight (48) hours after the initiation of the emergency action. This notification shall include a description of the emergency action taken, the effects of the action(s) to historic properties, and, where appropriate, any further proposed measures to avoid, minimize, or mitigate potential adverse effects to historic properties. The SHPO shall have seven (7) calendar days to review and comment on the proposal where further action is required to address the emergency. If the SHPO does not object to the plan within the review period, the Army shall implement the proposed plan.
- iv) Where possible, such emergency actions shall be undertaken in a manner that does not foreclose future preservation or restoration of historic properties. Where such emergency actions may affect historic buildings, they shall be undertaken in a manner that is consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties*. In addition, where possible, such actions shall be done with on-site monitoring by the appropriate preservation professional who meets, at a minimum, the *Professional Qualifications Standards* in his or her field of expertise.
- v) Where the SHPO and/or any other party has reason to believe that a historic property may be adversely affected by an emergency action, the party shall submit a request to the Army to review and comment on that action.
- vi) Immediate rescue and salvage operations conducted to preserve life or property are exempt from these and all other provisions of this Agreement.

6. Annual Reporting

The Army shall provide an annual status report within twelve (12) months of the execution of this Agreement, and every twelve (12) months thereafter, to all Consulting Parties until the Army's obligations under this Agreement are complete.

7. Annual Meeting

- i) The Army shall conduct an annual meeting with the Consulting Parties within twelve (12) months of the execution of this Agreement and every twelve (12) months thereafter until the Army's obligations under this Agreement are complete.

- ii) The purpose of the annual meeting is to review implementation and achieved outcomes of the terms of this Agreement and to determine whether amendments are needed.

8. Amendment & Termination

i) Amendment

Prior to the completion of property transfer out of Army ownership or control, any Signatory to this Agreement may request that this Agreement be amended, whereby the Signatory Parties shall consult to consider whether such amendment is necessary. Any amendment to this Agreement shall become effective upon the signature of all the Signatory Parties.

Notwithstanding the above, any modification of the Direct APE extending beyond the boundary shown in Appendix B shall be effective upon an agreement in writing between the Army and the SHPO and transmittal of the new boundary to the Signatories.

ii) Termination

Prior to the completion of the property transfer, any Signatory to this Agreement may terminate this Agreement by providing sixty (60) calendar days written notice to the Army and the other Signatory Parties. During the period after notification and prior to termination, the Army and the other Signatory Parties shall consult to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the Army shall negotiate a new agreement per 36 CFR Part 800.14(b), or request, consider, and respond to the ACHP's formal comments per 36 CFR Part 800.7.

9. Anti-Deficiency Act

The Army's obligations under this Agreement are subject to the availability of appropriated funds, and the stipulations of this Agreement are subject to the provisions of the Anti-Deficiency Act. The Army shall make reasonable and good faith efforts to secure the necessary funds to implement its obligations under this Agreement. If compliance with the Anti-Deficiency Act alters or impairs the Army's ability to implement its obligations under this Agreement, the Army shall consult in accordance with the amendment and termination procedures found at Stipulation V.A.8 above.

10. Duration

The effective date of this Agreement shall be the date of the last signature of the Signatory Parties. The Army's obligations under this Agreement with respect to the property or any portion thereof are limited to those obligations accruing prior to transfer of the property or portion thereof out of Army ownership.

B. The Commonwealth shall ensure after the transfer of the reversionary land the following:

1. Professional Standards and Qualifications

- i) All archaeological studies resulting from this Agreement, including data recovery plan(s), shall be consistent with the *Secretary of the Interior's Standards and Guidelines for Archeological Documentation (48 FR 4434-37)* and the SHPO's *Guidelines for Conducting Cultural Resource Survey in Virginia: Additional Guidance for the Implementation of the Federal Standards Entitled Archaeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines (48 FR 44742, September 29, 1983) 1999, rev. 2003* or subsequent revisions or replacements to these documents, and shall take into account the ACHP's publications, *Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites (1999)* and *Section 106 Archaeology Guidance (June 2007)*.
- ii) All historical and architectural studies resulting from this Agreement shall be consistent with pertinent standards and guidelines of the Secretary of the Interior, including as applicable the Secretary of the Interior's *Standards and Guidelines for Historical Documentation (48 FR 44728-30)* and for *Architectural and Engineering Documentation (48 FR 44730-34)*, and the SHPO's *Guidelines for Conducting Cultural Resource Survey in Virginia: Additional Guidance for the Implementation of the Federal Standards Entitled Archaeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines (48 FR 44742, September 29, 1983) 1999, rev. 2003* or subsequent revisions or replacements to these documents.
- iii) All archaeological work carried out pursuant to this Agreement shall be conducted by or under the direct supervision of an individual or individuals who meet, at a minimum, the qualifications for archaeology set forth in the Secretary of Interior's *Professional Qualifications Standards (62 FR 33707, June 20, 1997)*.
- iv) All archaeological work on submerged lands shall be conducted under the direct supervision of an archaeologist who meets, at a minimum, the qualifications set forth in the *Professional Qualifications Standards* and has demonstrated experience in maritime history and maritime archaeology.
- v) All evaluations of buildings or structures shall be carried out by or under the

supervision of an individual or individuals who meet, at a minimum, the qualifications for architectural history set forth in the *Professional Qualifications Standards* while all design work on historic buildings and structures shall be carried out by or under the supervision of an individual or individuals meeting the qualifications for historic architecture set forth in the *Professional Qualifications Standards*.

- vi) All work concerning cultural landscapes shall be carried out by or under the supervision of a qualified landscape historian, landscape architect, or other pertinent landscape expert, and in accordance with the applicable guidance set forth in Preservation Brief 36 *Protecting Cultural Landscapes Planning, Treatment and Management of Historic Landscapes* (National Park Service 1994) and *The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes* (National Park Service 1996).

2. Review of Documentation

The SHPO, the FMFADA, and any stakeholder identified pursuant to the protocol established in Stipulation IV.D.2.iii)g) above agree to respond to any request for review pursuant to actions arising from this Agreement within thirty (30) calendar days of confirmed receipt unless otherwise specified. If no response from the SHPO, the FMFADA or any stakeholder is received within thirty (30) calendar days, the Commonwealth may assume that the non-responding party has no comment.

3. Post Review Discoveries

- i) The Commonwealth shall ensure that contracts for activities involving ground disturbance and/or construction contain the following provisions for the treatment of post review discoveries:
 - a) In the event that previously unidentified archaeological resources are discovered during any ground disturbing activities and/or construction, all work in the area of the discovery shall stop immediately and the contractor responsible for the construction site shall notify the project proponent and the FMHPO. The contractor shall ensure that no unauthorized personnel have access to the site and no further work is done in the area of the discovery until the FMHPO notifies the contractor that work may proceed;
 - b) The project proponent shall engage an archaeologist meeting the professional standards set forth in Stipulation V.B.1.iii) above. The FMHPO and the project proponent's archaeologist shall meet on site and establish the area where further subsurface remains are likely to occur. The FMHPO shall then notify the contractor that work may resume outside of the designated archaeologically sensitive area.
 - c) Within two (2) business days of the discovery, the FMHPO shall notify and

consult with the SHPO, other stakeholders as appropriate, and, if the resource is likely to be prehistoric, the VCI, the CIN-THPO, the Shawnee Tribe and the Absentee-Shawnee Tribe of Indians of Oklahoma. The notification shall include the FMHPO's assessment of the eligibility of the resource in terms of the NRHP criteria and the proposed plan for avoidance, protection or recovery of information. The SHPO and other stakeholders shall have two (2) business days to comment on the plan. The FMHPO shall ensure that all comments received within two (2) business days are addressed in the final treatment plan. The project proponent's archaeologist shall then implement the plan. The project proponent shall notify the FMHPO and the SHPO when the recovery of information or other agreed upon treatment measures specified in the plan are complete. The FMHPO shall then notify the contractor that work may proceed in the designated archaeologically sensitive area while a technical report is prepared.

- d) The project proponent shall provide copies of the draft technical report to the Commonwealth, the FMHPO, the SHPO and any stakeholders identified pursuant to the protocol established in Stipulation IV.D.2.iii)g) above for review and comment. All comments received within thirty (30) calendar days of report receipt shall be addressed in the final report.

ii) Human Remains

- a) The Commonwealth shall make all reasonable efforts to avoid disturbing gravesites, including those containing Native American human remains and associated artifacts. The Commonwealth shall treat all human remains in a manner consistent with the ACHP "Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects," (<http://www.achp.gov/docs/hrpolicy0207.pdf>).
- b) The Commonwealth shall ensure that human skeletal remains and associated funerary objects encountered during the course of actions taken as a result of this Agreement shall be treated in accordance with the Regulations Governing Permits for the Archaeological Removal of Human Remains (Virginia Register 390-01-02) found in the *Code of Virginia* (10.1-2305, et seq., Virginia Antiquities Act) and, in the case of Native American burials, in a manner developed in consultation with the VCI, the CIN-THPO, the Shawnee and the Absentee-Shawnee of Indians of Oklahoma, to include the CIN-THPO burial policy. If removal is the proposed treatment, the project proponent shall apply for a permit from the SHPO for the removal of human remains in accordance with the regulations stated above.
- c) Prior to issuance of any permit for the removal of Native American remains, the SHPO shall notify the VCI, the CIN-THPO, the Shawnee and the Absentee-Shawnee of Indians of Oklahoma. The permit shall include the condition that all parties involved in the permit action shall make a good faith effort to ensure that the general public is excluded from viewing any Native American burial site or associated funerary artifacts. All parties involved in

the permit action shall release no photographs of any Native American burial site or associated funerary artifacts to the press or general public.

- d) The project proponent shall deliver any Native American Indian human skeletal remains and associated funerary artifacts recovered pursuant to any permit issued to the appropriate tribe to be reinterred. The disposition of any other human skeletal remains and associated funerary artifacts shall be governed as specified in any permit issued by the SHPO.
- e) The Commonwealth shall ensure that all archaeological materials recovered from archaeological investigations or post-review discoveries shall be stored in a curatorial repository that meets federal standards stipulated in 36 CFR 79, *The Curation of Federally-Owned and Administered Archaeological Collections*.
- f) The FMHPO shall consult with the CIN-THPO, the Shawnee and the Absentee-Shawnee of Indians of Oklahoma, and the VCI with regards to the curation and display of Native American archaeological artifacts.

4. Dispute Resolution

- i) After the transfer of the property to the Commonwealth and the closure of Fort Monroe, should any of the remaining signatories with duties and responsibilities pursuant to this Agreement (hereinafter the term “Remaining Signatories” refers solely to the Commonwealth, the SHPO, and the FMFADA) object in writing to the other parties regarding any action carried out or proposed with respect to this Agreement or to the implementation of its terms, the parties shall consult to resolve the objection.
- ii) If after initiating such consultation any of the Remaining Signatories finds that further consultation will not resolve the objection, the objecting party shall so notify the other parties in writing and the FMHPO. The FMHPO shall then forward all documentation relevant to the objection, including a proposed response to the objection, to the Secretary of Administration.
- iii) Within thirty (30) calendar days after receipt of the documentation, the Secretary of Administration shall exercise one of the following options:
 - a) Advise the Remaining Signatories that the Secretary of Administration concurs with the proposed response to the objection, whereupon the objection shall be resolved accordingly; or
 - b) Provide the parties with the recommendation of the Secretary of Administration, whereupon the objection shall be resolved according to the Secretary’s direction.
 - c) The Remaining Signatories shall take into account any recommendations or comments provided by the Secretary in accordance with this stipulation with reference only to the subject of the objection. The responsibilities of the

Remaining Signatories under this Agreement that are not the subject of the objection shall remain unchanged.

- iv) If at any time after the transfer of the property to the Commonwealth should a member of the public raise an objection pertaining to a proposed action or the implementation of the measures stipulated in this Agreement, the Remaining Signatory party receiving the objection shall notify the other parties to this Agreement in writing of the objection. The Remaining Signatories shall consult regarding the objection, and the Commonwealth shall take the objection and the comments from the SHPO and the FMFADA into account in responding to the objection.

5. Emergency Actions

- i) Emergency actions are those actions deemed necessary by the Commonwealth as an immediate and direct response to an emergency situation, which is a disaster or emergency declared by the President or the Governor of the State, or other immediate threats to life or property. Emergency actions under this Agreement are only those implemented within thirty (30) calendar days from the initiation of the emergency situation.
- ii) If the emergency action has the potential to affect historic properties, the Commonwealth shall notify the SHPO and other parties as appropriate prior to undertaking the action, when feasible. As part of the notification, the Commonwealth shall provide a plan to address the emergency. The SHPO shall have seven (7) calendar days to review and comment on the plan to address the emergency. If the SHPO does not comment or objects to the plan within the review period, the Commonwealth shall implement the proposed plan.
- iii) If the Commonwealth is unable to consult with the SHPO prior to carrying out emergency actions, the Commonwealth shall notify the SHPO and other parties as appropriate within forty-eight (48) hours after the initiation of the emergency action. This notification shall include a description of the emergency action taken, the effects of the action(s) to historic properties, and, where appropriate, any further proposed measures to avoid, minimize, or mitigate potential adverse effects to historic properties. The SHPO shall have seven (7) calendar days to review and comment on the proposal where further action is required to address the emergency. If the SHPO does not object to the plan within the review period, the Commonwealth shall implement the proposed plan.
- iv) Where possible, such emergency actions shall be undertaken in a manner that does not foreclose future preservation or restoration of historic properties. Where such emergency actions may affect historic buildings, they shall be undertaken in a manner that is consistent with the Design Standards. In addition, where

possible, such actions shall be done with on-site monitoring by the appropriate preservation professional who meets, at a minimum, the *Professional Qualifications Standards* in his or her field of expertise.

- v) Where the SHPO and/or any other party has reason to believe that a historic property may be adversely affected by an emergency action, the party shall submit a request to the Commonwealth to review and comment on that action.
- vi) Immediate rescue and salvage operations conducted to preserve life or property are exempt from these and all other provisions of this Agreement.

6. Annual Reporting

The Commonwealth shall provide an annual status report within twelve (12) months of the transfer of the land to its ownership or control, and every twelve (12) months thereafter, to the SHPO and the FMFADA to review implementation of the terms of this Agreement and to determine whether amendments are needed. Annual reports shall be prepared by the Commonwealth and submitted to the SHPO and the FMFADA as long as the Commonwealth retains ownership or control of properties at Fort Monroe. The annual report shall also be made available to the interested public on the FMFADA web site.

7. Annual Meeting

- i) The Commonwealth shall coordinate an annual meeting with the SHPO, the FMFADA, and stakeholders as identified pursuant to the protocol established in Stipulation IV.D.2.iii)g) above, within twelve (12) months of the transfer of land to its ownership or control, and every twelve (12) months thereafter as long as the Commonwealth retains ownership or control of properties at Fort Monroe.
- ii) The purpose of the annual meeting is to review implementation and achieved outcomes of the terms of this Agreement and the state-level MOU, and to determine whether amendments are needed.

8. Amendment & Termination

- i) Amendment
 - a) After property transfer to the Commonwealth and the closure of Fort Monroe, any Remaining Signatory party may request in writing that this Agreement be amended, whereby the parties shall consult to consider whether such amendment is necessary.
 - b) If the Remaining Signatories agree that such amendment to this Agreement is necessary, the parties shall consult to develop an amendment. All Remaining Signatories must agree to the proposed amendment. Any amendment to this

Agreement shall become effective upon the date of the last signature of the Remaining Signatories.

- c) The state-level MOU shall then be amended to reflect any changes made to this Agreement within thirty (30) calendar days that the amendment becomes effective.

ii) Termination

- a) If, after property transfer to the Commonwealth and the closure of Fort Monroe, any of the Remaining Signatories to this Agreement finds that it cannot implement the terms of this Agreement or that this Agreement is not being implemented, such party may propose to the other Remaining Signatories that this Agreement be terminated. The party proposing termination shall notify the other Remaining Signatories in writing of its intention to terminate this Agreement. The notification shall include the reason(s) why this Agreement should be terminated.
- b) Within thirty (30) calendar days after receipt of the notification, the Remaining Signatories shall consult to amend this Agreement or seek alternatives to termination. If consultation does not result in amendment after ninety (90) calendar days of notification of the intent to terminate, and if two of the three Remaining Signatories agree to termination, the Commonwealth shall notify the Governor of the Commonwealth of Virginia in writing of the desire to terminate the Agreement. The notification shall include all documentation relevant to the proposed termination.
- c) This Agreement shall only be terminated by the written notification of the Governor. Within sixty (60) calendar days of receipt of the notification to terminate, the Governor shall either terminate this Agreement or direct the Remaining Signatories to continue consultation under the Agreement. The decision of the Governor is final.
- d) The state-level MOU shall be amended or terminated as necessary to reflect the termination of this Agreement within thirty (30) calendar days of a decision from the Governor.
- e) If this Agreement is terminated, the land owned by the Commonwealth at Fort Monroe shall be subject to all applicable state environmental laws and regulations.

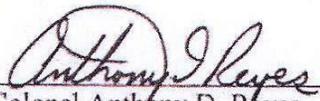
9. Duration

The effective date of the Agreement shall be the date of the last signature of the Signatories. This Agreement shall remain in effect for fifty (50) years after the date of the last Signatory's signature. Six (6) months prior to such time, the Remaining Signatories shall consult to reconsider the terms of this Agreement and revise or amend it in accordance with Stipulation V.B.8 above. Additionally, the duration of this Agreement may be extended upon the signature of all the Remaining Signatories.

Execution and implementation of this Agreement evidences that the Army has taken into account the effects of the Undertaking on historic properties and has afforded the ACHP a reasonable opportunity to comment on the undertaking.

CONCURRENT APPROVAL AND SIGNATURE PAGE FOR THE
PROGRAMMATIC AGREEMENT
AMONG
UNITED STATES ARMY
VIRGINIA STATE HISTORIC PRESERVATION OFFICER
ADVISORY COUNCIL ON HISTORIC PRESERVATION
COMMONWEALTH OF VIRGINIA
FORT MONROE FEDERAL AREA DEVELOPMENT AUTHORITY
AND
NATIONAL PARK SERVICE
FOR THE
CLOSURE AND DISPOSAL OF FORT MONROE, VA

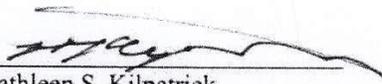
UNITED STATES ARMY

By: 
Colonel Anthony D. Reyes
Garrison Commander, Fort Monroe

Date: 5 March 2009

CONCURRENT APPROVAL AND SIGNATURE PAGE FOR THE
PROGRAMMATIC AGREEMENT
AMONG
UNITED STATES ARMY
VIRGINIA STATE HISTORIC PRESERVATION OFFICER
ADVISORY COUNCIL ON HISTORIC PRESERVATION
COMMONWEALTH OF VIRGINIA
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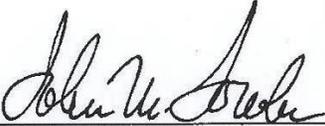
VIRGINIA STATE HISTORIC PRESERVATION OFFICER

By: 
Kathleen S. Kilpatrick
Director, Department of Historic Resources

Date: 3/12/09

CONCURRENT APPROVAL AND SIGNATURE PAGE FOR THE
PROGRAMMATIC AGREEMENT
AMONG
UNITED STATES ARMY
VIRGINIA STATE HISTORIC PRESERVATION OFFICER
ADVISORY COUNCIL ON HISTORIC PRESERVATION
COMMONWEALTH OF VIRGINIA
FORT MONROE FEDERAL AREA DEVELOPMENT AUTHORITY
AND
NATIONAL PARK SERVICE
FOR THE
CLOSURE AND DISPOSAL OF FORT MONROE, VA

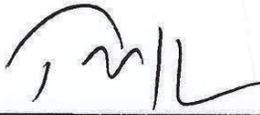
ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: 
John M. Fowler
Executive Director

Date: 4/27/09

CONCURRENT APPROVAL AND SIGNATURE PAGE FOR THE
PROGRAMMATIC AGREEMENT
AMONG
UNITED STATES ARMY
VIRGINIA STATE HISTORIC PRESERVATION OFFICER
ADVISORY COUNCIL ON HISTORIC PRESERVATION
COMMONWEALTH OF VIRGINIA
FORT MONROE FEDERAL AREA DEVELOPMENT AUTHORITY
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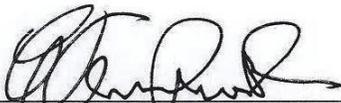
COMMONWEALTH OF VIRGINIA

By: 
The Honorable Timothy M. Kaine
Governor of Virginia

Date: 4/16/09

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FORT MONROE FEDERAL AREA DEVELOPMENT AUTHORITY
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CLOSURE AND DISPOSAL OF FORT MONROE, VA

FORT MONROE FEDERAL AREA DEVELOPMENT AUTHORITY

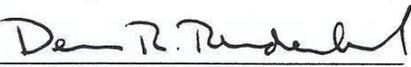
By: 

William A. Armbruster
Executive Director

Date: March 10, 2009

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FORT MONROE FEDERAL AREA DEVELOPMENT AUTHORITY
AND
NATIONAL PARK SERVICE
FOR THE
CLOSURE AND DISPOSAL OF FORT MONROE, VA

NATIONAL PARK SERVICE

By: 
Dennis R. Reidenbach
Regional Director, Northeast Region

Date: MAR 16 2009

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FOR THE
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CONCURRING PARTIES

Absentee-Shawnee Tribe of
Indians of Oklahoma

American Legion Post 48

APVA Preservation Virginia

Buckroe Civic Association

Catawba Indian Nation

Citizens for a Fort Monroe
National Park

City of Hampton

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FORT MONROE FEDERAL AREA DEVELOPMENT AUTHORITY
AND
NATIONAL PARK SERVICE
FOR THE
CLOSURE AND DISPOSAL OF FORT MONROE, VA

CONCURRING PARTIES

Civil War Preservation Trust _____

Coast Defense Study Group _____

Diocese of Richmond _____

Hampton University _____

Independent Citizen Association _____

National Historic Landmark
Stewards Association _____

National Parks Conservation
Association _____

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AND
NATIONAL PARK SERVICE
FOR THE
CLOSURE AND DISPOSAL OF FORT MONROE, VA

CONCURRING PARTIES

National Trust for Historic
Preservation

Norfolk Historical Society

Norfolk Preservation Alliance

Old Point National Bank

Phoebus Civic Association

Phoebus Improvement League

Shawnee Tribe

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NATIONAL PARK SERVICE
FOR THE
CLOSURE AND DISPOSAL OF FORT MONROE, VA

CONCURRING PARTIES

The Archaeological Society of
Virginia

The Casemate Museum Foundation

The Contraband Historical
Society

United Daughters of the
Confederacy

Virginia Council on Indians

Virginia Department of
Environmental Quality

Appendix A: Definitions

Agreement. The Programmatic Agreement memorialized in this document. Where not directly addressed in this Agreement, the rights, obligations, and other duties of the Army shall be determined by 36 CFR Part 800 and applicable Army Regulations and Guidance.

Consulting Party. A party as defined in 36 CFR Part 800.2(c), composed of Signatories, Invited Signatories, and Concurring Parties, and those parties who elect not to concur in this Agreement but participated in the consultation to develop this Agreement.

Signatory Party. A party with rights and obligations with respect to this Agreement, as defined in 36 CFR Part 800.6(c)(1). Signatories are: Department of the Army, Advisory Council on Historic Preservation (ACHP), the Virginia State Historic Preservation Officer (SHPO), and those Invited Signatories signing this Agreement.

Invited Signatory Party. A party that is invited by the Army to sign this Agreement as an Invited Signatory Party shall, upon becoming a Signatory Party, have the same rights with regards to seeking amendments or termination of this Agreement as the other Signatory Parties. Invited Signatory Parties are: the Commonwealth of Virginia (Commonwealth), the Fort Monroe Federal Area Development Authority (FMFADA), and the National Park Service.

Concurring Party. A consulting party concurring in this Agreement in accordance with 36 CFR Part 800.6(c)(3). Concurring Parties are the parties listed in Appendix F who sign this Agreement, other than the Signatories and Invited Signatories.

Undertaking. The transfer out of Federal ownership of Fort Monroe, the consequent disposal of excess and surplus property, and the conduct of environmental remediation in compliance with Section 120 of CERCLA until such time as the transfer occurs.

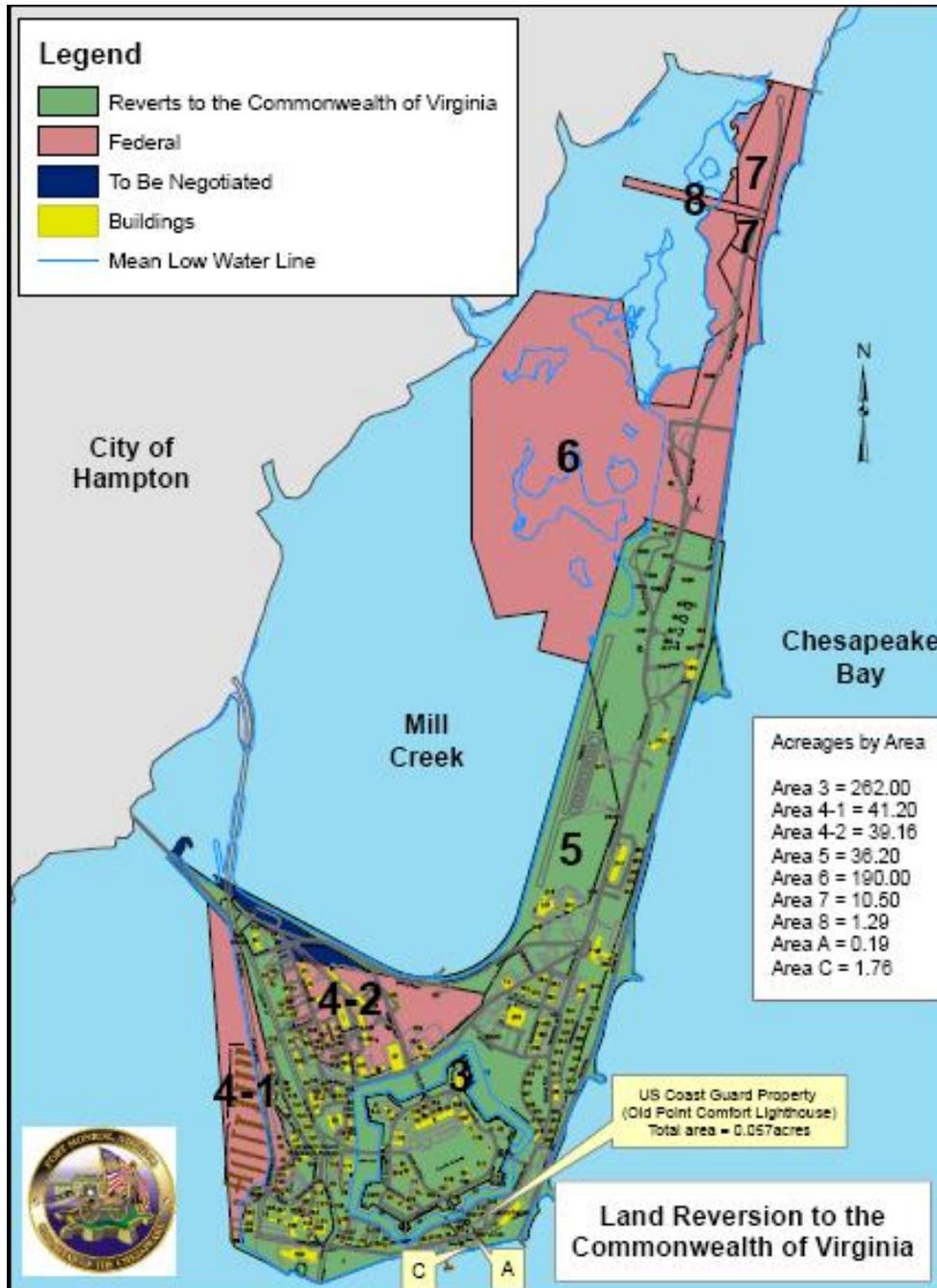
Appendix B: Fort Monroe Area of Potential Effects



Direct APE (in red): Area with the potential for direct physical effects

Indirect APE (in yellow): Area with the potential for indirect visual/auditory effects

Appendix C: Fort Monroe Ownership Status Map



Appendix D: The Contributing Non-archaeological Elements of the National Historic Landmark District of Fort Monroe, VA

HOUSING BUILDINGS (113)

1, 3, 15, 16, 17, 18, 19, 25, 26, 30, 31, 33, 34, 35, 43, 44, 45, 50, 51, 52, 54, 55, 61, 62, 63, 64, 90, 93, 101, 102, 103, 109, 110, 111, 112, 113, 114, 115, 118, 119, 120, 121, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 136, 137, 140, 141, 142, 143, 144, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 167, 186, 187, 188, 191, 192, 193, 194, 195, 196, 300, 301, 302, 303, 304, 305, 306, 307, 309, 311, 312, 313, 314, 316, 318, 320, 322, 324, 342, 344, 346, 348, 350, 352, 354, 356, 452, 454, 456, 458, 460

ADMINISTRATIVE BUILDINGS (60)

5, 6, 7, 8, 9, 10, 11, 14, 24, 27, 27A, 28, 37, 38, 42, 46, 47, 49, 53, 56, 57, 59, 73, 77, 80, 82, 83, 84, 85, 86, 87, 92, 100, 105, 105A, 116, 117, 133, 134, 135, 138, 139, 159, 161, 163, 166, 171, 182, 183, 204, 205, 209, 212, 213, 214, 216, 232, 233, 234, the Experimental Battery

SUPPORT BUILDINGS (2)

39, T28

THE STONE FORT, INCLUDING 11 NAMED AND NUMBERED SEGMENTS (1)

2, 20, 21, 22, 23, 48, the Boat Launch, the Flagstaff Bastion, the East Gate, the North Gate, the Postern Gate

STRUCTURES (3)

Bandstand in Continental Park (4), Gazebo behind Qtrs 119 (1087), Seawall (200)

LANDSCAPE FEATURES (9)

Cadet Battery/Park, Cannon Park, Jefferson Davis Arch/Park, the Fort Monroe Live Oaks, the Parade Grounds, Reeder Circle, the Pet Cemetery, Continental Park, Coast Artillery School Green Space.

OBJECT (1)

The Lincoln Gun

INDIVIDUALLY ELIGIBLE HISTORIC PROPERTIES (4) AS OF THE DATE OF SIGNATURE OF THIS AGREEMENT

Casemate stone fortification to include the moat and the Water Battery, Quarters 1, Quarters 17,

Chapel of the Centurion (166)

IDENTIFIED SIGNIFICANT INTERIORS AS OF THE DATE OF SIGNATURE OF THIS AGREEMENT

(According to the 2001 Fort Monroe HARAM)

HOUSING

Quarters #	Year Built	Interior Features
1	1819	Ornamental plaster dome above stairs; column & rope molding @ doors & window casings; paneled reveals; elliptical staircase; 2 marble fireplace mantels; 2 wood fireplace mantels; vaulted ceilings, 2 nd floor bedrooms; quarter-sawn pine flooring; solarium floor w/ alternating light and dark stained boards; below-grade cistern or coal bin; century-old radiators; built-in casework on all floors.
3	1875	Original stairs; original window and door casings; original flooring.
15	1878	Original windows and doors
16	1875	Original stairs; original window and door casings; original flooring
17	1823	Original stairs and some original flooring; closets on either side of fireplace are probably historical; one or two original fireplaces may exist.
18	1823	Original stairs and some original flooring.
19	1880	Original slate fireplace mantels; hardware, moldings; quarter-sawn pine flooring; arched recesses in primary spaces; stair with turned balusters, acorn newels, and a hardwood handrail.
25	1934	Original windows and doors, including ten-light, paired French doors; casings and moldings; fireplace mantels; stairs; and wood flooring.
26	1934	Original windows and doors, including ten-light, paired French doors; casings and moldings; fireplace mantels; stairs; and wood flooring.
30	1934	Original windows and doors, including ten-light, paired French doors; casings and moldings; fireplace mantels; stairs; and wood flooring.
31	1934	Original windows and doors, including ten-light, paired French doors; casings and moldings; fireplace mantels; stairs; and wood flooring.

Quarters #	Year Built	Interior Features
33	1930	Original windows and doors, casings, and moldings; fireplace mantels, stairs; wood flooring.
34	1930	Original windows and doors, casings, and moldings; fireplace mantels, stairs; wood flooring.
35	1930	Original windows and doors, casings, and moldings; fireplace mantels, stairs; wood flooring.
43	1930	Original windows and doors, casings, and moldings; fireplace mantels, stairs; wood flooring.
44	1930	Original windows and doors, casings, and moldings; fireplace mantels, stairs; wood flooring.
45	1930	Original windows and doors, casings, and moldings; fireplace mantels, stairs; wood flooring.
51	1930	Original windows and doors, casings, and moldings; fireplace mantels, stairs; wood flooring.
52	1930	Original windows and doors, casings, and moldings; fireplace mantels, stairs; wood flooring. (52 B had a fire in 1936 which caused significant interior damage)
54	1930	Original windows and doors, casings, and moldings; fireplace mantels, stairs; wood flooring.
55	1886	Original reeded window and door casings; radiators; moldings; oak flooring; arched recesses in primary spaces; stair with turned balusters, chamfered newels with beveled caps, and a stained hardwood handrail.
60	1890	Original fireplace with reeded surround; wood fireplace mantel shelf with brackets; raised panel doors with period hardware; random width pine floors and trim.
61	1889	Original stairs; probably original wood flooring; original window and door casings; built-in china cabinet
62	1889	Original reeded window and door casings; period hardware; moldings; faux fainted slate and wood fireplace mantels; built-in casework; wood flooring; front and rear stairs; original double porcelain laundry tubs in laundry; main stairs with ball newel caps, drop pendants, and reeded newel posts.
63	1889	Original reeded window and door casings; period hardware; moldings; incised slate fireplace mantels; built-in casework; wood flooring; front and rear stairs; main stairs with hardwood handrails and reeded newel posts; main fireplace retains a cast-iron coal gate.

Quarters #	Year Built	Interior Features
64	1934	Brick fireplace with wooden mantel and brick hearth; five paneled doors with period hardware, wood flooring and trim, plain casings, and a straight run stair.
90	1900	Original windows and doors, casings, and moldings; stairs; wood flooring.
93	1884	Original pocket doors; fluted pilaster trim; corner blocks; original staircase; arched openings into the bays on the 1 st & 2 nd floors
101	1906	Original window and door casings; built-in sideboard; fireplace mantel with mirrors; original window and door moldings; stairs with bracketed stringers; original wood flooring.
102	1906	Built-in sideboard; fireplace mantel with mirrors; original windows and door; original moldings; stairs with bracketed stringers; original wood flooring.
103	1906	Built-in sideboard; fireplace mantel with mirrors; original windows and doors; stairs with bracketed stringers; original wood flooring.
109	1906	Original windows and doors; stairs with open stringers; living room mantel; wood flooring.
110	1906	Original windows and doors; stairs with open stringers; living room mantel; wood flooring.
111	1906	Original windows and doors; stairs with open stringers; living room mantel; wood flooring.
112	1906	Original windows and doors; stairs with open stringers; living room mantel; wood flooring.
113	1906	Original windows and doors; stairs with open stringers; living room mantel; wood flooring.
114	1906	Original windows and doors; stairs with open stringers; living room mantel; wood flooring.
115	1906	Original windows and doors; stairs with open stringers; living room mantel; wood flooring.
118	1908	Original windows and doors; stairs with bracketed stringers; wood flooring; built-in casework in pantry.
119	1907	Original fireplace mantels; original multi-light French doors and transoms; original pocket doors; original staircase; probably original flooring.
120	1907	Original window and doors; stairs with bracketed stringers; wood flooring; built-in casework in pantry.
121	1909	Original window and doors; stairs with bracketed stringers; wood flooring.

Quarters #	Year Built	Interior Features
123	1909	Original window and doors; stairs with bracketed stringers; wood flooring.
124	1909	Original window and doors; stairs with bracketed stringers; wood flooring.
125	1909	Original window and doors; stairs with bracketed stringers; wood flooring; built-in casework in pantry.
126	1909	Original window and doors; stairs with bracketed stringers; wood flooring.
127	1909	Original window and doors on both sides of duplex; original wood flooring(127 B); stairs with bracketed stringers (127 B only)
128	1909	Original window and doors; stairs with bracketed stringers; wood flooring.
129	1909	Original window and doors, casings, and moldings; stairs with bracketed stringers; wood flooring; historic bathroom fixtures in attic bath; built-in cupboard and radiator with warming oven in dining room.
130	1906	Original windows and doors; stairs with open stringers; living room mantel; wood flooring.
131	1906	Original windows and doors; stairs with open stringers; living room mantel; wood flooring.
132	1906	Original windows and doors; stairs with open stringers; living room mantel; wood flooring.
136	1908	Some original windows and doors, casings, moldings, and wood flooring.
137	1908	Some original windows and doors, casings, moldings, and wood flooring.
140	1906	Original windows and doors; stairs with open stringers; living room mantel; wood flooring.
141	1910	Original windows and doors, stairs, and wood flooring; large louvered skylight over stair hall
142	1910	Original windows and doors, stairs, and wood flooring; large louvered skylight over stair hall
143	1910	Original window and some doors, including pocket doors, casings, and moldings; original stairs and quarter-sawn wood flooring; built-in casework; bay windows in dining room.
144	1910	Original window and some doors, including pocket doors, casings, and moldings; original stairs and quarter-sawn wood flooring; built-in casework; bay windows in dining room.

Quarters #	Year Built	Interior Features
146	1910	Original windows and doors, casings, and moldings; stairs; wood flooring.
147	1910	Original windows and doors, casings, and moldings; stairs; wood flooring.
148	1911	Original windows and doors, casings, and moldings; stairs with open stringers; living room mantel; built-in casework; wood flooring; historic air registers on 2 nd floor.
149	1911	Original windows and doors, casings, and moldings; stairs with open stringers; living room mantel; built-in casework; wood flooring.
150	1911	Original windows and doors, casings, and moldings; stairs with open stringers; living room mantel; built-in casework; wood flooring; historic air registers on 2 nd floor.
151	1911	Original windows and doors, casings, and moldings; stairs with open stringers; living room mantel; built-in casework; wood flooring; historic air registers on 2 nd floor.
152	1911	Original windows and doors, casings, and moldings; stairs with open stringers; built-in casework; wood flooring.
153	1911	Original windows and doors, casings, and moldings; stairs with open stringers; built-in casework; wood flooring.
154	1911	Original windows and doors, casings, and moldings; stairs with open stringers; built-in casework; wood flooring; a mantel; a historic register.
155	1911	Original windows and doors, casings, and moldings; stairs with open stringers; built-in casework; wood flooring; historic heating registers may remain.
156	1911	Original windows and doors, casings, and moldings; stairs with open stringers; built-in casework; wood flooring.
157	1911	Fireplace mantels; original windows and doors, including two pairs of pocket doors, casings, and moldings; stairs with turned spindles; wood flooring; built-in casework in the pantry.
158	1911	Fireplace mantels; original windows and doors, including two pairs of pocket doors, casings, and moldings; stairs with turned spindles; wood flooring; historic bathroom fixtures in attic bath.
167	1921	Original windows and doors, casings, and moldings; stairs; wood flooring. There are unusual salmon-colored brick varied with red brick at building's corners, and at the window and door surrounds.

Quarters #	Year Built	Interior Features
186	1931	Original windows and doors, including ten-light, paired French doors; casings and moldings; fireplace mantels; stairs; and wood flooring.
187	1931	Original windows and doors, casings, and moldings; fireplace mantels, stairs; wood flooring.
188	1931	Original windows and doors, casings, and moldings; fireplace mantels, stairs; wood flooring.
191	1934	Original windows and doors, casings, and moldings; fireplace mantels, stairs; wood flooring.
192	1934	Original windows and doors, casings, and moldings; fireplace mantels, stairs; wood flooring.
193	1934	Original windows and doors, casings, and moldings; fireplace mantels, stairs; wood flooring.
194	1934	Original windows and doors, casings, and moldings; fireplace mantels, stairs; wood flooring.
195	1934	Original windows and doors, casings, and moldings; fireplace mantels, stairs; wood flooring.
196	1934	Original windows and doors, casings, and moldings; fireplace mantels, stairs; wood flooring.

ADMINISTRATION

Building #	Year Built	Interior Features
Flagstaff Bastion & Casemate Club	1826	Vaulted casemates and a number of gun emplacements with original traverse rings. Each three-way casemate is defined by a deep brick segmental arch supported by flush granite piers; surrounding brick laid in Flemish bond. One original fireplace mantel remains, in glazed Roman brick laid with red mortar.
7	1880	Original wooden stairs; hall lined with original beaded tongue-and-groove wainscoting; several cast iron columns exposed on 1 st and 2 nd floors; original pressed tin ceilings are currently hidden by acoustic tile.
9	1900	A few significant interior features remain, including cast iron columns and a section of pressed metal ceiling.

Building #	Year Built	Interior Features
20 (Casemate Museum)	1826	Two-room casemates with central fireplace and brick herringbone floors; rooms comprised of unpainted, exposed brick vaults and granite walls; fireplace mantels glazed Roman brick laid with red mortar (some painted).
21	1827	Two-room casemates with central fireplace and brick herringbone floors; rooms comprised of unpainted, exposed brick vaults and granite walls; fireplace mantels glazed Roman brick laid with red mortar
23	1823	The interior has never been wired or otherwise renovated for office use: it has always been used for storage, and thus retains a high degree of integrity.
24	1881	Original painted cast iron columns with ornamental caps supporting chamfered wood beams in the garage area.
27	1860	At the north end some historic paneling remains at wall and ceiling, some cast iron ornamental heat registers; some historic doors and transoms remain.
28	1938	Original open bays and loading area with historic submarine mine depot on ground floor; original main stairs; original two-story entry vestibule.
37	1934	Original stairs and some original doors, transoms, and casings.
42	1938	“Many original architectural features remain on the interior”.
49	1909	Historic light fixtures; beaded tongue-and-groove trim in wing.
56	1939	Original stair with steel pipe railing
77	1894	Original stair with oak handrail and turned balusters and molded newels; historic steel triangle bolted to stair stringer; original floor plan organization remains intact.
80	1897	The north end of the building features original stairs, fireplace mantels, doors, and trim which are Colonial Revival in character; south end features fireplace mantels with mottled brown and white ceramic tile, mantel shelves, and beveled mirrors which are all late Victorian in character; south end stairs features turned balusters and chamfered newel posts; north end stairs features square balusters and Colonial Revival features.
82	1898	Main entry retains an historic vestibule; two sets of steel stairs, one at each end of the building.
83	1898	Original oak trimmed post office vestibule remains with bronze boxes and grilles preserved in place; vestibule retains a pressed tin ceiling; upper floors have original wood flooring; some original door casings and transoms have been preserved.
87	1932	Original stair with steel railing; original terrazzo flooring on ground floor corridors.

Building #	Year Built	Interior Features
105	1905	Broad entry hall featuring a double stair with turned oak balusters and a molded handrail; the ceiling of the main entry hall has pressed tin plates featuring large central medallions; wooden columns and pilasters also remain; original pipe railings on 2 nd floor mezzanine; original wood base, chair rail moldings, picture moldings, window and door casings; original five paneled doors and transoms remain' vestibule paneling is also original; one-over-one wood double-hung window sash appears to also be original.
133	1909	Two sets of original stairs; cast iron columns with ornamental capitols; skylights over the stairs; plaster ornamentation at Moreli Auditorium.
134	1909	Original stairs; some original doors, casings, and transoms
135	1908	Historic freight elevator; some ornamental heating grills
138	1909	Original vestibule; original molded plaster ornamentation in principle interior space.
139	1909	Original steel stairs.
161	1912	Two original stairs
163	1940	Original stair; some original doors, casings, and transoms.
166	1858	Exposed roof trusses in interior; memorial stained glass windows, including several prepared by Tiffany Studios in New York City; original windows include the triple lancet windows over the vestibule and in the vestry.
204	1910	Original wooden stair with steel pipe railing; open bay still serves an industrial function; upper floor has long corridor which features beaded wainscoting and chair rail molding.

Appendix E: The 21 Numbered Loci of Archaeological Site 44HT27

NRHP Eligible Loci

3, 4, 5, 6, 9, 10, 11, 12, 16, 19, 18A & 18B

Non-Eligible Loci

1, 2, 8, 14, 15, 18C, part of 20

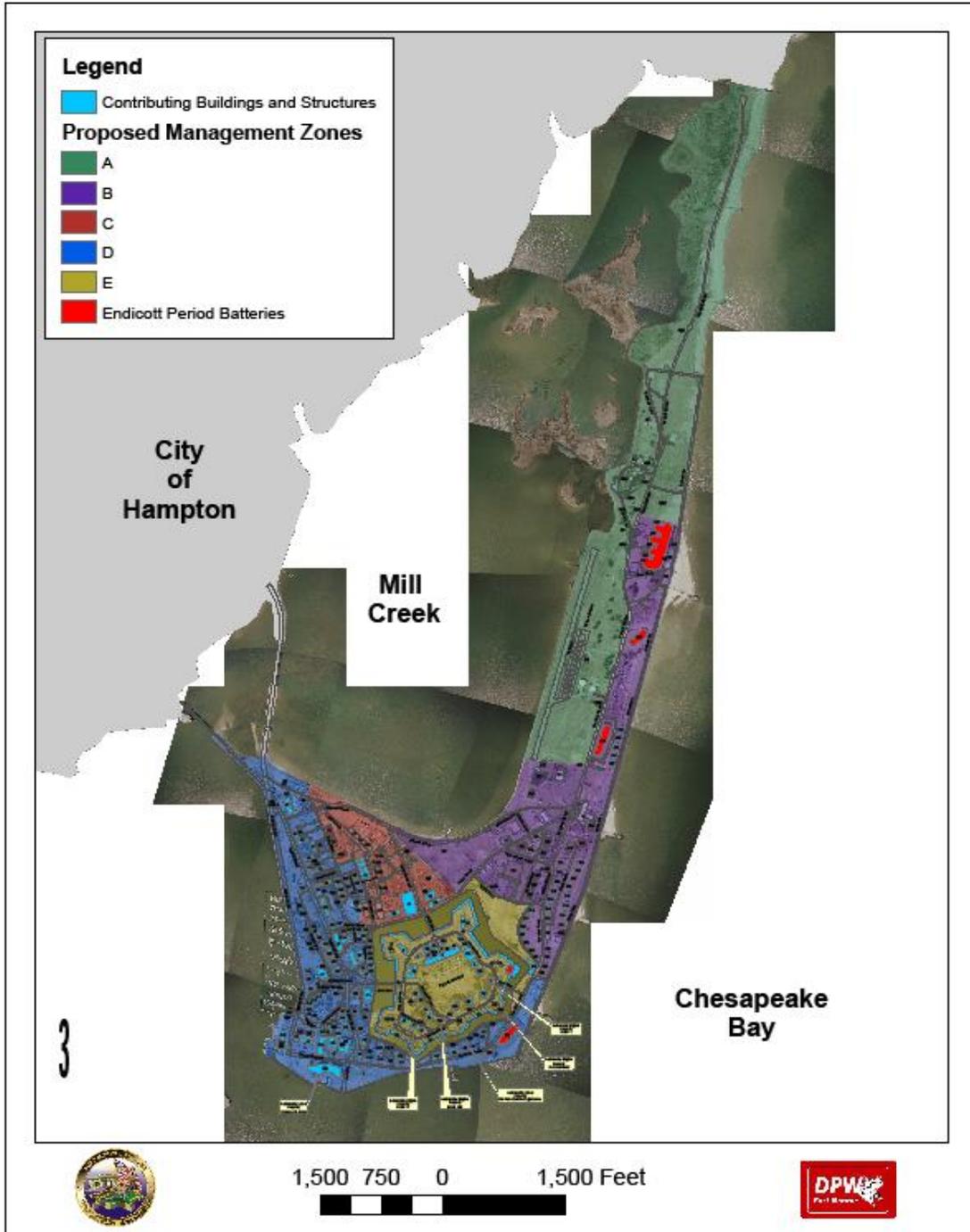
Requires Further Eligibility Determination

7, 13, 17, part of 20, 21

Appendix F: List of Consulting Parties

Absentee-Shawnee Tribe of Indians of Oklahoma
Advisory Council on Historic Preservation
American Legion Post 48
APVA Preservation Virginia
Buckroe Civic Association
Catawba Indian Nation
Citizens for a Fort Monroe National Park
City of Hampton
Civil War Preservation Trust
Coast Defense Study Group
Commonwealth of Virginia
Diocese of Richmond
Fort Monroe Federal Area Development Authority
Hampton University
Independent Citizen Association
National Historic Landmark Stewards Association
National Park Service
National Parks Conservation Association
National Trust for Historic Preservation
Norfolk Historical Society
Norfolk Preservation Alliance
Old Point National Bank
Phoebus Civic Association
Phoebus Improvement League
Shawnee Tribe
The Archaeological Society of Virginia
The Casemate Museum Foundation
The Contraband Historical Society
United Daughters of the Confederacy
Virginia Council on Indians
Virginia Department of Environmental Quality
Virginia Department of Historic Resources

Appendix G: Management Zones Map



Appendix H: Narrative Description of Management Zone Boundaries

Zone A (West Peninsula): The boundary for Zone A will follow the Buckroe/Fort Monroe property line in the north; the shoreline along Mill Creek from Buckroe/Fort Monroe property line to the southern edge of Walker Airfield in the west; a line from Mill Creek along the southern edge of DeRussy Field to Fenwick Road in the south, and; along the Seawall north of the Bay Breeze Community Center (Building 185) to the Buckroe/Fort Monroe property line in the east.

Zone B (East Peninsula): The northern boundary for Zone B will follow a line from the seawall just north of the Bay Breeze Community Center (Building 185) to Fenwick Road, then follow the center line of Fenwick Road to the south of DeRussy Field, then follow a line west to the Mill Creek shoreline at the southern edge of Walker Airfield; the western boundary will follow a line from Fenwick Road at the Bay Breeze Community Center (Building 185) to south of DeRussy Field, from the Mill Creek shoreline at the southern edge of Walker Field to the intersection of Stilwell Drive and North Gate Road; the southern boundary will be from Mill Creek at the intersection of Stilwell Drive and North Gate Road and proceed in a line southeast along the northern edge of the parking lot to the opening of the 2-72” diameter culvert pipes in the counterscarp wall north of the Northwest Bastion of the stone fort, proceed along the center line of Patch Road north to Griffith Road, then turn east and follow the center line of Griffith Road to Fenwick Road and beyond to the seawall in order to encompass all of the Wherry Housing; the eastern boundary extends north along the seawall from the termination of the southern boundary to the beginning of the northern boundary.

Zone C (North Gate Road/Stilwell Drive): The northern boundary for Zone C runs along the Mill Creek shoreline from north of the intersection of Stilwell Drive and North Gate Road to just north of the Stilwell Drive and Pratt Street intersection; the western boundary begins at the Mill Creek shoreline between the storage lot and basketball court east of Building 87 parking lot and heads south crossing Eustis Lane onto Pratt Street, then heads east at Reeder Circle between Building 268 and the tennis courts, moves south along the center line of Murray Street to Patch Road (including Building 168); the southern boundary follows the center line of Patch Road from the intersection of Patch Road and Murray Street to the opening of the 2-72” diameter culvert pipes in the counterscarp wall north of the Northwest Bastion of the stone fort; the eastern boundary runs from the opening of 2-72” diameter culvert pipes in the counterscarp wall north of the Northwest Bastion of the stone fort west to Mill Creek at the intersection of North Gate Road and Stilwell Drive diagonally to follow the eastern edge of parking lot across from Patch Road.

Zone D (McNair, Ingalls, Fenwick Corridors): The northern boundary for Zone D consists of the Fort Monroe property line at the bridges approaching the main entrance; the western boundary runs south along the shoreline to the southern end of the marina; the southern boundary begins at the southern end of the marina and follows the seawall to a point southeast of Wherry Housing Unit 300; the eastern boundary begins at the intersection of Fenwick Road and Griffith Road and proceeds south along the center line of Fenwick Road at East Gate to the counterscarp

then along the southern edge of the counterscarp to the Postern Gate; from the Postern Gate the boundary follows the southern and western edge of the counterscarp north to Patch Road and continues north across Patch Road and west of Building 168, north along the center line of Murray Street then heads west between Building 268 and the tennis courts at Reeder Circle; at Reeder Circle the boundary proceeds north along the center line of Pratt Street to the intersection of Pratt Street and Stilwell Drive, continues across Stilwell Drive until it hits Mill Creek, then north along the Mill Creek shoreline to the Fort Monroe property line at the entrance bridges.

Zone E (Stone Fort and Moat): The northern boundary for Zone E runs along the center line of Patch Road from the intersection of Patch Road and Griffith Road west to the intersection of Patch Road and Murray Street; the western boundary proceeds south from the Patch Road/Murray Street intersection and follows the counterscarp along Moat Walk to Postern Gate; the southern boundary begins at the Postern Gate and runs east along the counterscarp to East Gate, from East Gate it continues east following the center line of Fenwick Road and terminates at the intersection of Fenwick Road and Griffith Road (the southern boundary excludes the Water Battery, but includes the green space at East Gate); the eastern boundary begins at the intersection of Fenwick Road and Griffith Road and proceeds north along the center line of Griffith Road to the intersection of Griffith Road and Patch Road (the eastern boundary includes the green space between the counterscarp and Griffith Road as well as the Water Battery, but excluding Wherry Housing).

Endicott Batteries: The Individual boundaries for the seven Endicott batteries at Fort Monroe need to be established to separate them from the Management Zones in which they are located. The boundaries shall include the earthen protection system (the sand barrier that was placed around the concrete structure to protect the battery from incoming naval shelling) or space for these barriers where the protection system is now missing. The boundaries shall also include sufficient buffers to establish appropriate historic settings. The boundaries will be based on the historic usage of the individual batteries, i.e., field of fire and working areas, and their respective viewsheds. This information shall be identified and included in the Viewshed Analysis and Cultural Landscape Study to be conducted by the Army pursuant to Stipulations I.D and E and in updating the Fort Monroe NHL District nomination form pursuant to Stipulation I.H.1. Further consultation on a case by case basis is necessary to establish an appropriate buffer for each battery.

Individually eligible historic properties: Individual boundaries for the four properties identified as being significant in their own right. Boundaries should include sufficient buffers to establish appropriate historic settings. Further consultation on a case by case basis is necessary to establish an appropriate buffer for each individually eligible historic property. These buffers shall be identified and included in the draft NRHP nominations developed by the Army pursuant to Stipulation I.H.2.