

FORT MONROE PROGRAMMATIC AGREEMENT EXECUTIVE SUMMARY

INTRODUCTION

The following is a summary of the programmatic agreement (PA) among the United States Army, the Advisory Council on Historic Preservation (ACHP), the Virginia Department of Historic Resources (SHPO), the Commonwealth of Virginia, the Fort Monroe Federal Area Development Authority (FMFADA), and the National Park Service (NPS) for the closure and disposal of Fort Monroe, Hampton, Virginia. The summary highlights the major sections of the PA, the principle requirements in each section, and responsible parties. This summary does not cover every proposed stipulation, but rather is intended to give the reader an understanding of the scope and intent of the proposed final document. A copy of the final proposed PA is attached.

LEGAL BASIS

The Army's decision to close Fort Monroe is the undertaking that requires compliance with the provisions of Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulations 36 CFR Part 800 entitled *Protection of Historic Properties*. Execution and implementation of the PA evidences that the Army has taken into account the effects of closing Fort Monroe on historic properties and has provided the ACHP with an opportunity to comment on the undertaking.

AGREEMENT SUMMARY

The PA can be divided into the following major sections: whereas clauses, stipulations for the Army to implement, stipulations for the Commonwealth and FMFADA to implement, and administrative procedures. Each of these sections is summarized in further detail below.

Whereas Clauses

The whereas clauses state the facts of the project as they are understood and agreed to at the time the PA is executed. They are not implementable actions but rather facts that provide the basis for the PA. Specific topics covered in the whereas clauses include:

- Definition of the undertaking;
- Definition of the area of potential effect (this is the geographic area where the provisions of the PA apply);
- Listing of the various parties involved in the consultation to develop the PA;
- Listing of historic properties affected; and
- Applicable legal authorities, etc.

Stipulations

This section of the PA outlines the process and steps for actions that will be taken, how they will be taken, and by whom. In this particular agreement, the stipulations are divided into three basic sections, those that are the responsibility of the Army, those that are the responsibility of the FMFADA, and those that are the responsibility of the Commonwealth.

Stipulation 1—The Army shall ensure

The Army's stipulations identify the scope of the Army's responsibility and detail actions that will occur prior to the Army's departure. These include activities such as environmental clean up, property management, and mothballing historic properties¹. Additional mitigation measures to be completed by the Army include completion of additional resource identification studies (i.e. cultural landscape and viewshed studies), updating the National Historic Landmark documentation, nomination of individually eligible properties to the National Register, commitments to work with the FMFADA on education topics and loans of artifacts, an additional archaeological survey to identify remnants of a former Freedman's Cemetery, and a commitment to provide the Commonwealth and the FMFADA with copies of documentation related to historic and other buildings on Fort Monroe (i.e. maintenance records, architectural plans, survey data, etc.).

Stipulation 2—The Commonwealth, the FMFADA, and Concurring Parties Agree to the Following Principles

This section of the PA outlines a number of principles that the Commonwealth, FMFADA, and concurring parties agree to be guided by in their future use and management of Fort Monroe. These principles cover the following:

- Importance of preserving the National Historic Landmark status of Fort Monroe;
- Use of the historic property management zones as a basis for managing and treating Fort Monroe's historic properties;
- Importance of public access;
- Importance of economic sustainability;
- The desire not to take action that would preclude the use of all or part of Fort Monroe as a National Park or to partner with the NPS until such time as the Commonwealth and FMFADA have evaluated such opportunities; and

¹ While all actions will be initiated prior to the Army's departure, it is understood and acknowledged that certain activities may not be complete by the time the Army is scheduled to leave in 2011. The Army's responsibilities under this PA to complete such actions remain in effect until the actions are complete. Examples include additional studies associated with environmental cleanup, which may continue post 2011.

- An understanding that should any party transfer or delegate its responsibilities under this agreement to another party that they shall bind the party to the terms of this PA.

Stipulation 3—The FMFADA shall ensure

This section outlines the specific actions that the FMFADA is responsible for and includes:

- Development of Design Standards that will guide the repair and maintenance of existing facilities, as well as guidelines for new construction; and
- Development of an interpretive and educational program plan for Fort Monroe.

Stipulation 4—The Commonwealth shall ensure

This section of the PA specifies those actions that the Commonwealth shall ensure occur once they assume responsibility for management of the property. They include:

- Development of a State Level Memorandum of Understanding (MOU) among the Commonwealth, VASHPO, and FMFADA which takes the provisions of the PA and articulates them in a state level binding agreement²;
- Articulation of stewardship commitments;
- Statement of treatment guidelines for historic properties in each of the identified management zones (i.e. minimizing new construction, demolition only after full consideration of all other available options, etc.);
- Treatment guidelines for individually eligible properties;
- Provisions for identifying and treating archaeological resources;
- Procedures for demolition of non-historic property;
- Procedures for mothballing historic properties;
- Commitment to use sustainable (“green”) preservation, construction and development techniques;
- In the event of the sale, transfer, or lease of historic property, provisions for addressing and handling historic properties through the use of easements, covenants, or other appropriate protective mechanisms, as well as language encouraging use of federal and state rehabilitation tax credits;
- Provisions for ongoing property evaluation and condition assessments;
- Clarification for how privately owned or controlled properties located on Fort Monroe shall be treated under this PA;
- Specifics of a continuing review process for future proposed activities at Fort Monroe (i.e. establishment of a Commonwealth position which will serve as the Fort Monroe Historic Preservation Officer, provisions for developing a public participation protocol for future projects, a step-by-step process for reviewing future projects [required documentation, review timeframes, etc.], a

² The intent is to take language from the PA and include it in a state level MOU; not to introduce or add new stipulations not already agreed upon.

process for resolving disputes re: potential effects to historic properties, and a commitment to pursue a streamlined review process after 24 months of reviewing projects under the current process).

5 Administrative Provisions

This section is divided into two separate sections reflecting implementation of the PA while the Army is still occupying Fort Monroe vs. implementation of the PA once the Army has left and the Commonwealth has assumed responsibility. The administrative provisions include:

- Professional standards and qualifications;
- Documentation review timeframes;
- Procedures for addressing late discoveries;
- Procedures for resolving disputes;
- Procedures for handling emergency actions;
- Annual reporting and meeting requirements;
- Procedures for amending and terminating the PA;
- Anti-Deficiency Act statement; and
- A statement of duration for the PA.

With a few minor exceptions, the administrative provisions are the same for both the Army and the Commonwealth. The principle difference between the Army's and Commonwealth's administrative provisions is the designation of decision makers in the dispute resolution, amendment and termination stipulations, and the Anti-Deficiency statement.

Signature Pages

Individual signature pages are provided for each of the principal signatories, i.e. Army, ACHP, Commonwealth, SHPO, FMFADA, and NPS. Signature pages for the concurring parties are also provided.³

Appendices

Appendices include:

- Listing of definitions of key terms used in the PA;
- A map illustrating the area of potential effect;
- A map illustrating the status of property ownership;
- A listing of contributing non-archaeological elements of the NHL District;
- A listing of the archaeological loci of Site 44HT27
- A listing of the recognized consulting parties to this PA;
- A map of the management zones identified in the PA; and
- A narrative description of the management zone boundaries.

³ The PA becomes a legal document when the principal signatories have executed the agreement. Signatures of concurring parties are not required for the PA to become legal and enforceable.