

**PROGRAMMATIC AGREEMENT
AMONG
THE PACIFIC AIR FORCES,
DIRECTORATE OF STRATEGY, PLANS, AND PROGRAMS,
THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
STATE HISTORIC PRESERVATION OFFICE,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING THE PROPOSED CONSTRUCTION
AND OPERATION OF DIVERT ACTIVITIES AND EXERCISES
WITHIN THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

WHEREAS, Headquarters Pacific Air Forces, Directorate of Strategy, Plans, and Programs (hereafter “PACAF/A5/A8”), hereinafter referred to as the United States Air Force (hereafter “USAF”), has the mission to provide ready air and space power to promote United States (hereafter “U.S.”) interests in the Asia-Pacific region as current geopolitical circumstances in Asia have influenced the Department of Defense (hereafter “DoD”) interests in rebalancing military forces in the Western Pacific, and the U.S. has established the joint U.S. Pacific Command (hereafter “USPACOM”) for all military services in the region responsible for maintaining peace, prosperity, and stability in Asia and the Pacific; and

WHEREAS, the USAF proposes the Divert Activities and Exercises project (hereafter “Divert”) to develop, construct, and operate facilities and infrastructure, including periodic exercises, at an existing airport or airports (hereafter “Modified Tinian Alternative,” “Modified Saipan Alternative,” or “Hybrid Modified Alternative”) in the Commonwealth of the Northern Mariana Islands (hereafter “CNMI”) to ensure airfield accessibility if access to other western Pacific airfields is limited or denied and to conduct training exercises; and

WHEREAS, the implementation of Divert would require the USAF to acquire an interest in real property in the CNMI and construct new infrastructure on CNMI property that could include a parking apron; cargo pad(s); a maintenance facility; jet fuel receiving, storage, and distribution; fencing and utilities; taxiway; and road improvements or new access roads, as depicted in a conceptual layout and accompanying description of the Modified Tinian Alternative in Attachment 1, and would require changes to Commonwealth Port Authority’s property; and

WHEREAS, it is the expressed intent and understanding of the parties that Divert shall be limited to the temporary use of cargo, tanker, and similar aircraft and up to 265 personnel in no more than 720 take-off and landing operations completed during no more than 8 total weeks of use annually; and

WHEREAS, the USAF plans to fund and execute Divert, making this an Undertaking subject to review under the National Historic Preservation Act (hereafter “NHPA”), 54 U.S.C. §306108, and its implementing regulation, 36 CFR Part 800 (hereafter “the Undertaking”); and

WHEREAS, the USAF has identified two Areas of Potential Effect (hereafter “APE”) associated with the Undertaking’s potential construction and operation activities on the islands of Saipan and Tinian in the CNMI, as depicted for the Modified Tinian Alternative in Attachment 1; and

WHEREAS, the USAF has determined that the Undertaking would have an adverse effect on the *Landing Beaches; Aslito/Isley Field; & Marpi Point, Saipan Island National Historic Landmark* at the Francisco C. Ada/Saipan International Airport on Saipan (hereafter “the Saipan NHL”), and the Tinian West Field site, all of which are properties listed in or eligible for listing in the National Register of Historic Places (hereafter “NRHP”), and has consulted with the CNMI State Historic Preservation Office (hereafter “SHPO”) pursuant to 36 CFR Part 800, the regulations implementing 54 U.S.C. §306108; and

WHEREAS, the USAF has consulted with the CNMI SHPO and Historic Preservation Review Board; National Park Service’s War in the Pacific National Historic Park, the American Memorial Park and Pacific West Regional Office (hereafter “NPS”); the Mayor of Tinian; Joint Region Marianas, Department of the Navy; and Mr. Sam McPhetres regarding the effects of the undertaking on historic properties and has invited them to consult on the development of this Programmatic Agreement (hereafter “PA”); and

WHEREAS, because of the Federal Aviation Administration’s (hereafter “FAA”) responsibility in the implementation of the Undertaking (i.e., approval of an airport sponsor’s change to an airport layout plan), the USAF and the FAA Pacific Service Center agree that, pursuant to 36 CFR § 800.2(a)(2), the USAF is hereby designated as the lead federal agency for purposes of compliance with 54 U.S.C. §306108 for the Undertaking and the FAA is an invited signatory to this PA; and

WHEREAS, the USAF has consulted with the NPS, to address the requirements per 36 CFR § 800.10(c) for potential effects to the Saipan NHL, and the NPS is an invited signatory to this PA; and

WHEREAS, the USAF has consulted with CNMI Office of the Governor at the request of the SHPO and Governor’s office, and the Governor is signing the PA on behalf of the CNMI SHPO; and

WHEREAS, the USAF sought public comments and input on the proposed Undertaking in accordance with 36 CFR §§ 800.2(d)(3) and 800.8(a), including publication of English-only articles and paid advertisements printed in the local media to inform the public of the Undertaking and to request public comments, meetings with consulting parties and the public, with interpreters provided, on Saipan and Tinian; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), the USAF has notified the Advisory Council on Historic Preservation (hereafter “ACHP”) of its finding of adverse effect and the ACHP has chosen to participate in consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, the USAF and consulting parties have discussed and determined that the development of a PA, in accordance with 36 CFR § 800.14(b)(3), was appropriate for this Undertaking; and

WHEREAS, pursuant to the *Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America* (hereafter “Covenant”), signed by President Gerald Ford on March 24, 1976, as Public Law 94-241 (90 Stat. 263) and codified as 48 U.S.C. §1801, CNMI became a self-governing commonwealth in political union with and under the sovereignty of the U.S.; and

WHEREAS, Section 806 of the Covenant requires the United States to recognize and respect the scarcity and special importance of land in the CNMI; and

WHEREAS, increased military presence and interest in acquiring additional real property in the CNMI have resulted in considerable debate and controversy in the Northern Mariana Islands as well as requests from the Executive Branch of the CNMI for government to government consultations between the United States and the CNMI in accordance with Article 902 of the Covenant on issues affecting the relationship between the two sovereigns; and

WHEREAS, the Covenant and the appended Technical Agreement Regarding the Use of Land by the United States in the Northern Mariana Islands (hereafter “Technical Agreement”) and subsequent military leases executed pursuant to the Technical Agreement and FAA grant assurances for the development of the Commonwealth Port Authority (hereafter “CPA”) airports agreed to among the DoD, FAA and CPA provided for a collaborative approach to both the economic development of Tinian including joint use of airfield and seaport infrastructure when appropriate, according to 1983, 1994 and 1999 military lease agreement and amendments and the FAA grant assurance agreement; and

WHEREAS, the CPA, pursuant to CNMI Public Law 2-48, manages, operates, and has exclusive jurisdiction over all airports and seaports within the CNMI; and

WHEREAS, the USAF seeks to comply with the real property policy contained in the Covenant, including Section 806, by acquiring the minimum area necessary to accomplish the public purpose of National Defense, and further seeks only to acquire the minimum interest in real property necessary to support such public purpose, in this case being a long term leasehold, and further seeks to only acquire publicly held property and no private property and in accordance with federal laws and procedures an interest in real property in the CNMI by lease under such terms and conditions as may be negotiated by the parties; and

WHEREAS, the USAF originally proposed the Undertaking as an improvement of an existing airport or airports in the Marianas region through the construction of facilities and infrastructure (a runway extension; a parking apron(s); associated permanent navigational aids; munitions storage facilities; a hazardous cargo pad and arm/disarm pad; an aircraft hangar; a maintenance facility; jet fuel receiving, storage, and distribution infrastructure; and tent billeting) to support a combination of 12 cargo and tanker aircraft, up to 24 fighter aircraft, or a combination of cargo, tanker and fighter aircraft and support personnel for periodic operations, joint military exercises, and humanitarian assistance and disaster relief efforts at either the Tinian International Airport or the Saipan International Airport; and

WHEREAS, the USAF received a large number of comments from federal, territorial, and CNMI agencies, consulting parties, stakeholders, and members of the public through both the 36 CFR Part 800 process, and the National Environmental Policy Act (hereafter “NEPA”) process, requesting that the Undertaking be revised to avoid or reduce adverse effects to historic properties by reducing the size of the Undertaking; and

WHEREAS, the USAF decided to revise the Undertaking by eliminating originally-proposed activities such as construction of a runway extension, aircraft hangar, munitions storage facilities, arm/disarm pad, tent billeting, installation of permanent navigation aids, fighter aircraft operations, and by reducing the total number of proposed training operations (take-offs

and landings from 1,920 to 720 operations per year) for all aircraft; and

WHEREAS, the USAF has a statutory requirement in accordance with 54 U.S.C. §306107 that requires the USAF to the maximum extent possible to undertake such planning and actions as may be necessary to minimize harm to a National Historic Landmark prior to the approval of any federal undertaking that may directly and adversely affect a landmark; and

WHEREAS, the USAF acknowledges that there has been an expressed preference by CNMI and other consulting parties for the Undertaking to be implemented at the Modified Tinian Alternative; and

WHEREAS, the consulting parties, including the USAF, understand and agree that the Modified Tinian Alternative is reasonable, feasible, prudent, and appropriately protective of the national defense interests of the United States; and

WHEREAS, the consulting parties, including the USAF, understand and agree that the Modified Tinian Alternative is the alternative that would minimize effects on and potential use of historic properties, including the Saipan NHL; and

WHEREAS, the USAF has designated the Modified Tinian Alternative as the preferred alternative in both the NHPA and NEPA processes; and

WHEREAS, while not included in or authorized to be implemented by this PA the USAF, and consulting parties, have also considered alternatives to avoid, minimize, or mitigate adverse effects to historic properties for the Modified Saipan Alternative and Hybrid Modified Alternative; and

WHEREAS, further analysis and consultation would be required in order to complete the process of identifying, assessing and resolving adverse effects on historic properties in connection with the Modified Saipan Alternative and the Hybrid Modified Alternative; and

WHEREAS, if the Modified Tinian Alternative is not selected, it is understood and agreed that the USAF will reengage in – and complete – Section 106 consultation with consulting parties to address, identify and agree to the measures necessary to avoid, minimize and/or mitigate potential adverse effects prior to taking any action to implement the Modified Saipan Alternative, the Hybrid Modified Alternative, or any other alternative to the Modified Tinian Alternative, and, further, that the results of such further consultation will be memorialized in an amendment to this PA prior to any implementation action; and

WHEREAS, the USAF acknowledges that the SHPO has been without the services of an archaeologist through most of the consultation process which has caused difficulties in meeting its responsibilities under the Section 106 process and has further strained the limited resources of the CNMI; and

WHEREAS, CNMI officials and the public have faced hardship in 2015 resulting from Typhoon Soudelor and the loss of the undersea fiber optic cable while consulting on this project, prompting the USAF to extend comment periods and offer additional consultation meetings to facilitate meaningful participation during this difficult period; and

WHEREAS, various branches within the DoD have analyzed a number of projects within CNMI and Guam since 2010 to include the Mariana Islands Range Complex Training (hereafter

“MIRC”), the Guam and CNMI Military Relocation (hereafter “Guam-CNMI Buildup”), and the Mariana Islands Training and Testing (hereafter “MITT”), all of which underwent separate environmental analysis and have been taken into account by the USAF in reviewing the current proposed Undertaking; and

WHEREAS, U.S. Marine Corps, Marine Forces Pacific, is currently involved in a separate consultation pursuant to NEPA and the NHPA for the CNMI Joint Military Training (hereafter “CJMT”) proposal, which will require additional NHPA compliance and may involve military lease areas on Tinian; and

WHEREAS, unless otherwise noted, this PA will utilize the definitions found at 36 CFR § 800.16; and

NOW, THEREFORE, the USAF, SHPO, ACHP, FAA, and NPS agree that the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effects of the Undertaking on historic properties.

STIPULATIONS AND CLAUSES

The USAF shall ensure that the following measures are carried out applicable to the selected alternative(s):

I. Roles and responsibilities

The parties included on the signature pages of this PA have separate roles and responsibilities under the PA, depending on whether they are Signatories or Invited Signatories.

1. **Signatories:** The following parties are identified as Signatories to this PA: USAF, SHPO, and ACHP. All Signatories will be responsible for complying with the provisions of this PA, and have assigned rights related to execution, amendment, and termination under this PA.
2. **Invited Signatories:** The NPS and FAA are identified as Invited Signatories to this PA. Invited Signatories electing to sign the PA assume roles related to identification and evaluation of historic properties, assessment and resolution of adverse effects, and general mitigation measures. Invited Signatories have assigned rights related to amendment and termination under this PA.
3. The Signatories and Invited Signatories recognize that consulting parties, including any parties that may be identified in the future, have a right to continued participation in the implementation of this PA.
4. For purposes of this PA, the terms “consult” and “consultation” (as defined in 36 CFR § 800.16(f)) shall not be interpreted to imply or require procedures or input from any party to this PA or the public beyond the procedures incorporated in the PA. When used in the clauses below, the term “Parties” includes all Signatories, Invited Signatories, and consulting parties.

II. Mitigation Measures if the Modified Tinian Alternative is Selected

1. **West Field Inventory:** Within 12 months of executing the Record of Decision (hereafter “ROD”) and prior to completing the project design phase for construction, the USAF will perform investigations in the West Field area to assess the extent and condition of remaining cultural resources associated with the known historic contexts there and evaluate the resources for NRHP eligibility.
 - a. Within 60 calendar days of executing the ROD, USAF will prepare a research design for the inventory that identifies research questions, potential data sources, research methods, and assessment criteria. The USAF shall consider existing LIDAR and other geospatial or remote sensing data in developing research questions and identify known sources of such data. USAF will seek concurrence on the research design from the SHPO and consulting parties. USAF will provide electronic copies of the draft research design to consulting parties, except for the ACHP, for a 30 calendar day review period. The USAF will also provide the SHPO with a hard copy. Additional hard copies will be provided to consulting parties upon request. Upon conclusion of the review period, USAF will host a telephone conference with consulting parties to discuss any comments

- received. USAF will prepare and distribute the final research design to consulting parties within 30 calendar days of the telephone conference.
- b. Within 60 calendar days of completing the survey, USAF will prepare a report that describes background research; field and laboratory methods; survey results; resource evaluations; and any adverse effects that would result from the Undertaking. USAF will provide electronic copies of the draft report to consulting parties, except for the ACHP, for a 30 calendar day review period. The USAF will also provide the SHPO with a hard copy. Additional hard copies will be provided upon request.
 - c. Upon conclusion of the review period, USAF will host a telephone conference with consulting parties to discuss any comments received. If the SHPO does not concur with the report's findings, the USAF will seek to resolve the disagreement. Within 60 days of the telephone conference, the USAF will prepare and distribute a revised report to consulting parties, who, upon receipt, will have 30 calendar days to concur. If the SHPO does not respond within 30 days, the USAF may assume concurrence. If the SHPO responds with non-concurrence on the revised report, the USAF will follow the procedures of Stipulation V, Dispute Resolution.
 - d. If the report identifies any adverse effects, USAF will consult with the consulting parties to determine if additional measures to avoid, minimize, or mitigate the effects are necessary, and what form such measures should take.
2. **Interpretive Plan:** Within 24 months of executing the ROD, USAF will develop a plan to document and interpret extant historic features of West Field for the public, particularly the history of the 58th Bombardment Wing's use of the field. The plan and resulting products will draw upon historical and archival research, existing archaeological studies, and available geospatial data. Possible interpretive products include but are not limited to: signage at publicly accessible historic features, printed brochures, airport exhibits and/or displays and electronic products. The resulting products will be produced in English, Chamorro, and other languages as determined to be appropriate during plan development.
- a. USAF will seek public input in the development of the Interpretive Plan. Within 12 months of executing the ROD, USAF will release public notices that describe the purpose of the plan and request input on the format and content of interpretive products. USAF will also notify and seek such input from the consulting parties. The scoping period will last 30 calendar days. USAF will consider the comments received during preparation of the plan.
 - b. Within 18 months of executing the ROD, the USAF will submit an electronic copy of the draft Interpretive Plan to consulting parties, except for the ACHP, for a 30 calendar day review period. The USAF will also provide the SHPO with a hard copy. Additional hard copies will be provided upon request. Upon conclusion of the review period, USAF will host a telephone conference with consulting parties to discuss any

comments received. USAF will prepare and distribute the final Interpretive Plan within 60 calendar days of the telephone conference.

- c. USAF will proceed to implement the Interpretive Plan and will produce the resulting products within 36 months of executing the ROD.

III. The Undertaking shall be subject to the following stipulations:

1. **Curation Management:** Although CNMI Public Law 10-5 designates the CNMI Museum of History and Culture as the official repository and custodian of historical and cultural artifacts of the CNMI and tasks the museum with the curation and display of CNMI cultural heritage, that facility does not presently have curation facilities that meet minimum federal requirements promulgated in 36 CFR §79. Therefore, the USAF will propose to the DoD Historic Preservation Working Group (hereafter "HPWG") that the curation of archaeological materials from DoD activities in the CNMI be a recurring agenda item. The USAF will coordinate with the CNMI concerning curation management of USAF collections as the Undertaking proceeds and provide updates to the HPWG. This will help ensure that DoD leadership is kept aware of the compliance status of the collections and the priorities of the CNMI.
2. **Curation Procedures:** Any materials recovered will be stored in a repository determined by the USAF and property owner (CPA) in consultation with and approval from the SHPO. Materials shall be temporarily curated by USAF in facilities meeting 36 CFR Part 79 standards until such time the materials can be transferred to a facility within CNMI that meets these standards.
3. **Monitoring Procedures:** The USAF shall provide one or more qualified archaeologists to monitor all ground disturbing activities during construction of facilities associated with the Undertaking. The monitor(s) shall meet the Secretary of the Interior's Professional Qualifications Standards for archaeology. In the event unanticipated archaeological materials are discovered through construction activities, the procedures below shall be followed:
 - a. The monitor shall inform the USAF or a contractor with stop work authority of the find.
 - b. Once informed by the monitor, the USAF or contractor with stop work authority shall issue a stop work order for that area. The discovery and surrounding area where further subsurface resources may be reasonably expected to occur shall be secured from further disturbance. The USAF's cultural resource manager (hereafter "CRM") should be notified immediately.
 - c. The USAF shall follow the procedures outlined in Stipulation III(4) for post-review discoveries.
 - d. Once the USAF has carried out appropriate actions concerning the discovery in accordance with Stipulation III(4), the USAF may issue a notice to continue construction.
 - e. Any archaeological materials recovered will be stored as outlined in Stipulation III(2).

4. **Post-Review Discoveries:** If historic properties are discovered or unanticipated effects on historic properties are found after execution of this PA, USAF shall follow the procedures outlined in 36 CFR § 800.13(b) for post-review discoveries. These procedures include notification and coordination with the SHPO. Other parties may be notified upon request.
5. **Human Remains:** If human skeletal remains (or remains thought to be human) are found during the Undertaking, the procedures below shall be followed:

- a. STEP I – INITIAL DISCOVERY

- (1) The remains shall be protected from the elements and the area around the discovery shall be secured. Local police and the USAF's CRM should be notified immediately.

- (2) If the remains are found during construction, the USAF or a contractor with stop work authority shall issue a stop work order for the area within the immediate vicinity of the discovery.

- b. STEP II – PRELIMINARY IDENTIFICATION

The CRM shall determine if the skeletal remains are animal or human. If the CRM does not have a background or training in osteology, a professional trained in the identification of human remains (such as an archaeologist, physical anthropologist, forensic specialist, medical examiner, or M.D.) shall examine the remains and make a determination as to whether they are human. If the skeletal remains are identified as human, then the USAF shall notify the SHPO and follow any applicable CNMI laws. Unless otherwise directed by the SHPO, the following steps shall be followed.

- c. STEP III – IDENTIFICATION

If possible, the age of deposition (time period) and ethnicity of the remains shall be determined based on skeletal morphology, burial context, and associated artifacts. This identification should be conducted by (or under the supervision of) an archaeologist that meets the federal qualifications set forth by the Secretary of the Interior in 36 CFR Part 61. This determination shall be made as soon as possible, taking into account specific circumstances regarding the discovery of the remains. Prior to removing any remains, the USAF shall obtain a permit from the SHPO, pursuant to PL 3-33 and Title 6 CMC §3108.

Depending on the preliminary determination as to whether the remains are of recent, historic, or pre-contact deposition, the following steps shall be taken:

- (1) Modern Remains

If the skeletal remains are found to be human and are modern, then local police will take over the investigation.

- (2) World War II Remains

If the skeletal remains are found to be human and are from World War II (hereafter “WWII”), then the following procedures shall be followed:

(a) In all cases of WWII period human remains, the USAF’s Community/Public Affairs office shall be notified.

(b) If there is reason to believe that the human remains are of Chamorro descent and from WWII, then the SHPO will be consulted since the CNMI Department of Culture and Community Affairs has designated the SHPO as the agency that handles civilian remains from WWII discovered within CNMI.

(c) If there is reason to believe that the remains are from WWII and are civilians of Carolinian descent, then the Carolinian Affairs (hereafter “CA”) office will be notified and will be consulted as to how the remains will be repatriated.

(d) If there is reason to believe that the remains are of U.S. military personnel from WWII, then the Defense POW/MIA Accounting Agency (hereafter “DPAA”) shall be notified and will take over the investigation.

(e) If there is reason to believe that the remains are Japanese or Okinawan civilians or soldiers from WWII, the Saipan Consular Office of Japan (hereafter “COJ”) shall be notified and will be consulted as to how the remains will be repatriated.

(f) If there is reason to believe that the remains are Korean civilians from WWII, the Republic of Korea Consulate General (hereafter “ROKCG”) in Guam shall be notified and will be consulted as to how the remains will be repatriated.

(g) The CNMI SHPO is the keeper of records regarding all human remains disinterred in CNMI from WWII. However, since human remains from this time period are under the jurisdiction of other agencies such as CA office, DPAA, COJ, and ROKCG, the USAF will put these agencies in touch with the SHPO. If the agencies mentioned above decide that they want the human remains exhumed, a record of the context, associated objects, and photograph and sketch the remains will be submitted to the SHPO after the remains are disinterred.

(3) Remains Older than WWII (Historic and Prehistoric)

If the skeletal remains are found to be human and older than 75 years (and are not associated with WWII), then following procedures shall be followed:

(a) If possible, the CRM should identify the ethnic affiliation (Chamorro or Carolinian) of the human remains in consultation with the SHPO.

(b) If requested, the CRM shall arrange for a site visit by a SHPO representative.

(c) If any other organization or agency comes forward and expresses an interest in participating in the consultation process, they must submit a written request expressing their desire to participate in the consultation process and explain how they are culturally affiliated with the human remains. The CRM will assess this request along with the SHPO. Their comments will be considered in the overall decision making process.

(d) If the remains are encountered during project construction, CRM shall determine the feasibility of project alternatives that will avoid disturbance of the remains or whether disinterment is necessary. If a mass burial is indicated, preservation is the preferred alternative. The results of the consultation shall be placed on file at USAF, Headquarters Pacific Air Forces.

(4) Undetermined Remains

If a determination as to the age of deposition or the ethnicity of the remains cannot be determined, the following procedures shall be followed:

(a) Based on consultation with the SHPO, a decision will be made to either preserve the remains in situ or to remove them for further analysis in hopes that the age of deposition and ethnicity can eventually be determined so that the appropriate protocols can be followed.

(b) If it is determined that the skeletal remains and any associated artifacts will be excavated, then they should be documented by (or under the supervision of) a qualified archaeologist.

(c) Tests involving damage to the skeletal material are highly discouraged and will not be performed by the USAF. However, should it be necessary, performance of radiocarbon dating on any associated charcoal, midden, or artifacts may be conducted at the discretion of the USAF in consultation with the SHPO in order to determine age of deposition. The results of these tests, if any, shall be presented in the report by the recording professional. This report shall be submitted to the USAF, Headquarters Pacific Air Forces and the SHPO as a record of the study.

(d) If additional studies are conducted, another attempt to determine age of deposition and determine ethnicity of the skeletal remains will be made based on the results.

6. **Artifact Display:** While temporarily curated by the USAF, and under an appropriate loan agreement, USAF will make available to CNMI a selection of display quality artifacts, if any such artifacts are acquired during the Undertaking, for displays and educational purposes.
7. **Fencing.** The USAF shall include in all applicable construction contracts relating to the Undertaking language stipulating that temporary fencing be placed around standing historic structures, archaeological sites, or other known contributing elements to historic properties that are immediately adjacent to areas of construction to help prevent inadvertent damage. The USAF shall coordinate with the FAA and CPA any fencing within the airport boundary prior to implementation to assure FAA safety and design standards are not compromised.

IV. Review of Implementation

The USAF shall invite consulting parties to participate in an annual workshop in February of each calendar year to discuss how well the PA is working. The workshop shall take the form of a telephone conference, unless the parties agree to meet in-person. The USAF shall prepare and distribute via electronic distribution (1) an agenda 7 calendar days prior to the meeting, (2) meeting notes 14 calendar days after the meeting, and (3) requesting consulting parties to provide a written response within 7 calendar days of receipt. After the review, the USAF shall distribute final meeting notes to the parties within 45 days of the meeting.

V. Dispute Resolution

1. Should any Signatory, Invited Signatory, or consulting party to this PA object to any actions carried out or proposed with respect to the implementation of this PA, the USAF shall consult with such party to resolve the objection. The USAF may notify the other Parties to this PA of the objection and invite their views and recommendations as needed to resolve the objection.
2. If after notifying the Parties of the objection and carrying out appropriate consultation to resolve it, the USAF determines that the objection cannot be resolved, the USAF shall forward all documentation relevant to the matter to the ACHP, including the USAF's proposed resolution to the objection.
3. Within 45 calendar days of receipt of all pertinent documentation, the ACHP shall exercise one of the following options:
 - a. Concur with the USAF's proposed resolution;
 - b. Provide the USAF with recommendations on the proposed resolution. The USAF shall take into account such recommendations before making a final decision on the matter, notify the Parties to this PA of its decision, and proceed accordingly.
4. If the ACHP does not provide its advice regarding the dispute within the 45 calendar day time period, USAF may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, USAF shall prepare a written response that takes into account any timely comments regarding the

dispute from the consulting parties to the PA, and provide them and the ACHP with a copy of such written response.

5. USAF's responsibility to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged.
6. Should any member of the public raise a timely and substantive objection pertaining to the manner in which the terms of this PA are carried out, at any time during its implementation, the USAF shall take the objection into account by consulting with the objector to resolve the objection. When the USAF responds to an objection, it shall notify the consulting parties of the object and the manner in which it was resolved. The USAF may request the assistance of a consulting party to resolve an objection.

VI. Amendment

1. Any Signatory or Invited Signatory to this PA may propose to the other Signatories and Invited Signatories, in writing, to amend any stipulation.
2. The Parties to this PA shall consult further to consider any proposed amendment.
3. Nothing in this Stipulation VI shall authorize the adoption or execution of any amendment purporting to implement an alternative to the Modified Tinian Alternative unless and until the consulting parties have completed the process of identifying, assessing and resolving that alternative's adverse effects on historic properties pursuant to applicable law and regulations.
4. Subject to the foregoing, upon agreement by the signatories to this PA, amendments shall be incorporated into this PA and executed in a manner consistent with the execution of the original agreement. Each amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

VII. Termination

1. If any Signatory or Invited Signatory to this PA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatories and invited signatories to attempt to develop an amendment per Stipulation IX, above. If within 30 calendar days an amendment cannot be reached, any Signatory or Invited Signatory may terminate the PA upon written notification to the other Parties.
2. Once the PA is terminated, and prior to work continuing on the undertaking, the USAF must either (a) execute a PA pursuant to 36 CFR § 800.6 or comply with 36 CFR §§ 800.3 through 800.6 on all individual actions associated with the Undertaking.

VIII. Anti-Deficiency Act

1. The Anti-Deficiency Act, 31 U.S.C. §1341, prohibits federal agencies from incurring an obligation of funds in advance of or in excess of available appropriations.
2. The USAF obligations under this PA are subject to the availability of appropriated funds, and the stipulations of this PA are subject to the provisions of the Anti-

Deficiency Act. The USAF will make reasonable and good faith efforts to secure the necessary funds to implement this PA in its entirety.

3. If compliance with the Anti-Deficiency Act alters or impairs the USAF's ability to implement the terms of the PA, the USAF shall immediately notify the consulting parties of this PA and consult further to resolve the issue.
4. USAF will resolve the issue in accordance with Stipulations VI, VII, or IX, as appropriate.

IX. Expiration

This PA will expire if its terms are not carried out within 10 years from the date of its execution. Prior to such time, USAF may consult with the other signatories to reconsider the terms of the PA and amend it in accordance with Stipulation VI.

Execution of this PA by the USAF, SHPO, ACHP, FAA, and NPS and implementation of its terms evidence that the USAF has taken into account the effects of the Undertaking on historic properties and afforded the ACHP an opportunity to comment.

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SIGNATORY



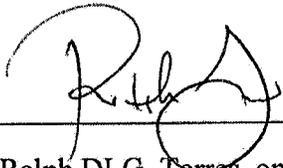
GREGORY M. GUILLOT, Brig Gen, USAF
Director of Strategy, Plans, and Programs
Pacific Air Forces

23 JUNE 2016

Date

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THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
STATE HISTORIC PRESERVATION OFFICE,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING THE PROPOSED CONSTRUCTION
AND OPERATION OF DIVERT ACTIVITIES AND EXERCISES
WITHIN THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

SIGNATORY



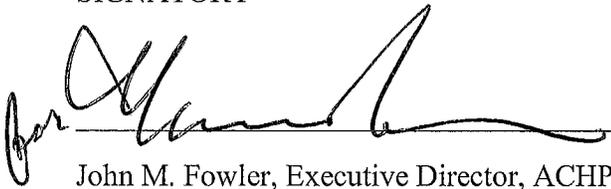
Governor Ralph DLG. Torres, on behalf of the
State Historic Preservation Officer, CNMI

6/23/16

Date

**PROGRAMMATIC AGREEMENT
AMONG
THE PACIFIC AIR FORCES,
DIRECTORATE OF STRATEGY, PLANS, AND PROGRAMS,
THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
STATE HISTORIC PRESERVATION OFFICE,
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REGARDING THE PROPOSED CONSTRUCTION
AND OPERATION OF DIVERT ACTIVITIES AND EXERCISES
WITHIN THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

SIGNATORY


John M. Fowler, Executive Director, ACHP

6/28/16
Date

**PROGRAMMATIC AGREEMENT
AMONG
THE PACIFIC AIR FORCES,
DIRECTORATE OF STRATEGY, PLANS, AND PROGRAMS,
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REGARDING THE PROPOSED CONSTRUCTION
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INVITED SIGNATORY

Mark McClardy, FAA Airports Division Manger

Date

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INVITED SIGNATORY

Laura E. Joss, Regional Director,
Pacific West Region, NPS

Date

ATTACHMENTS

Attachment 1: Description of Revised Divert Undertaking and Area of Potential Effect (APE)

ATTACHMENT 1: DESCRIPTION OF REVISED DIVERT UNDERTAKING AND AREA OF POTENTIAL EFFECT (APE)

This document was initially developed in June 2015, based on USAF's evaluation of project alternatives that were presented in the 2012 DEIS and evaluation of public, agency, and stakeholder comments as part of both the Section 106 and NEPA processes. The June 2015 description of the Undertaking and resulting APE presented modified versions of the alternatives from those identified in the 2012 DEIS. These modified alternatives included the Modified Saipan Alternative, the Modified Tinian Alternative, and the Hybrid Modified Alternative. All three modified alternatives eliminated fighter aircraft operations and associated munitions storage requirements from the Undertaking, which had been included in the 2012 alternatives. The USAF included all three modified alternatives in the Section 106 consultation process for the Divert Undertaking.

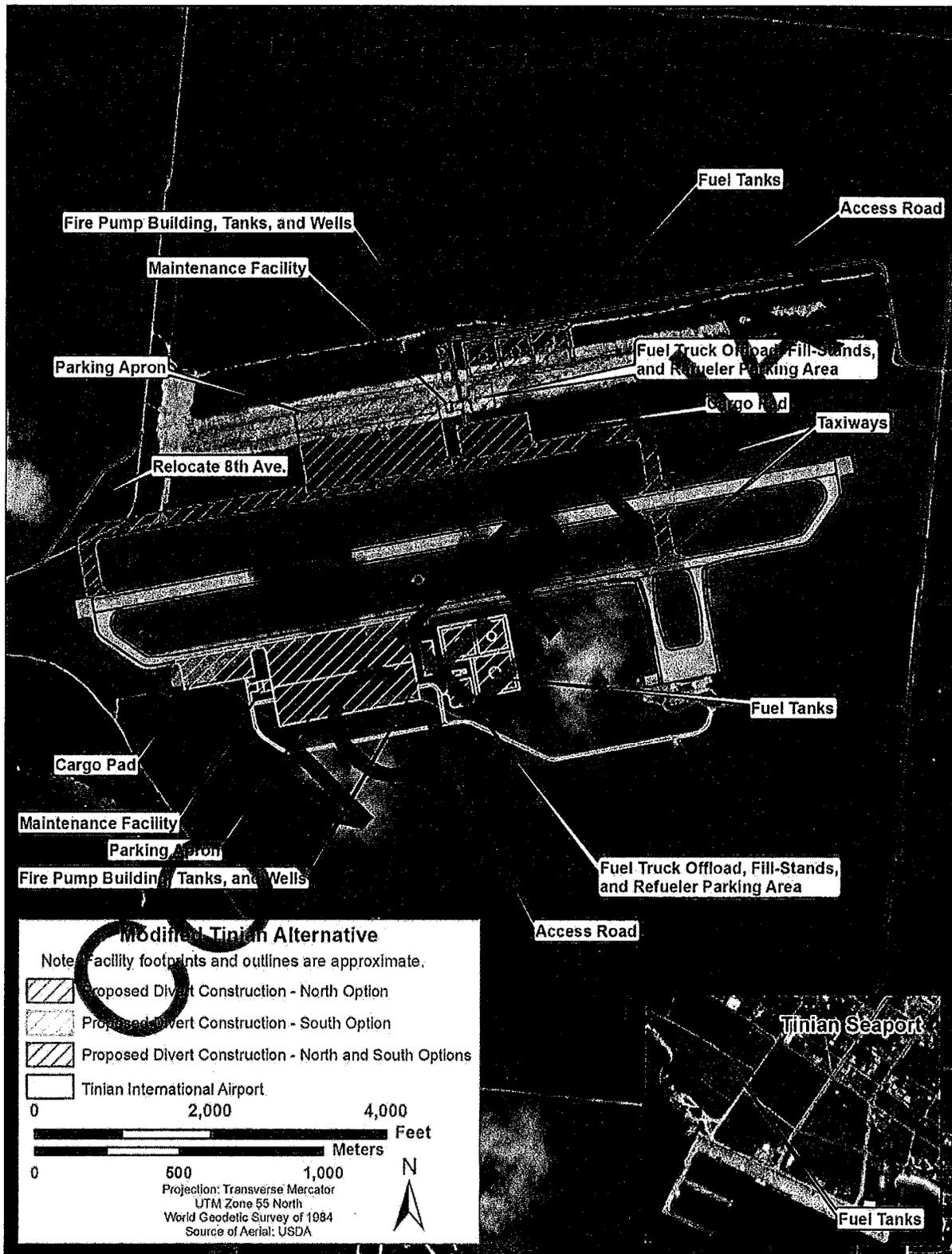
The description of the Divert Undertaking and Area of Potential Effect in this document was updated in May 2016 to remove detailed descriptions of the Modified Saipan Alternative, Hybrid Modified Alternative, Saipan APE, and Hybrid APE. This information was removed to ensure consistency with the *Programmatic Agreement among the Pacific Air Forces, Directorate Of Strategy, Plans, and Programs, the Commonwealth of the Northern Mariana Islands, State Historic Preservation Office, and the Advisory Council on Historic Preservation, regarding the Proposed Construction and Operation of Divert Activities and Exercises within the Commonwealth of the Northern Mariana Islands (Divert PA)*, which only provides stipulations and mitigation measures for implementation of the Modified Tinian Alternative. This document was also revised in May 2016 to update the description of the Divert Undertaking on Tinian, and the associated Tinian APE, based on minor technical revisions to the conceptual Tinian layout. These minor shifts do not result in additional or different adverse effects than those identified in the Section 106 consultation process and resolved in the Divert PA.

Modified Tinian Alternative

Under the Modified Tinian Alternative (**Figure 1**), the USAF would improve the Tinian International Airport to accommodate 12 KC-135 or similar aircraft. The USAF would build one parking apron, one cargo pad, and one maintenance facility, fuel tanks and supporting infrastructure, a fuel hydrant system, a fire suppression system (containing water only), and an access road. Development would occur on either the North or South side of the runway. For the North Option, the USAF would also build taxiways to connect the cargo and parking aprons to the runway and reroute 8th Avenue on the western side of the runway to avoid the proposed taxiway.

The USAF would also construct fuel tanks at the Port of Tinian. Jet fuel would be offloaded at the existing fuel offloading facility at the seaport into the proposed seaport fuel tanks. Standard fuel transfer tank trucks would transfer fuel from the seaport to the airport. Jet aircraft refueling capability would be provided by the use of a Hydrant Refueling System which would be installed as a part of the proposed fuel tanks and parking apron.

Temporary billeting, including medical, transportation, and dining services, would be required for up to 265 personnel supporting aircraft operations and would be procured on the local economy.



Note: Infrastructure footprints are approximate and subject to further revisions.

Figure 1. Proposed Construction at Tinian under the Modified Tinian Alternative

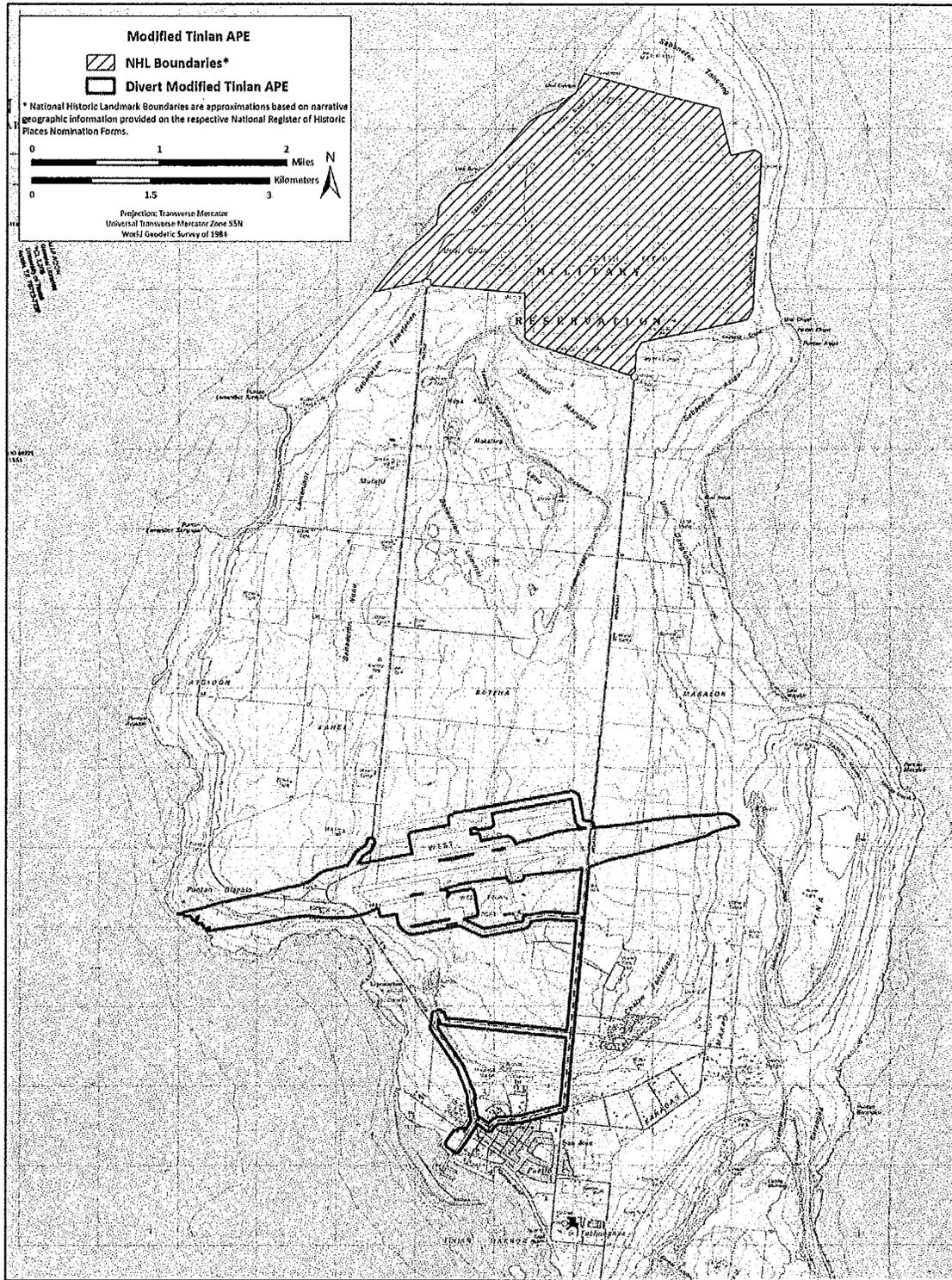
The Modified Tinian Alternative includes a reduced operational capability in terms of types of aircraft flown to and from Tinian International Airport as well as a decrease in operations during exercises described in the 2012 Draft EIS. Only cargo, tanker, and similar type aircraft such as the KC-135 would participate in joint military exercises. Specific types of aircraft that could be flown to and from Tinian International Airport during exercises would include, but not be limited to, the KC-135 used for aircraft refueling and airlift, the KC-46 Pegasus used for aircraft refueling, the C-130 Hercules used for airlift, the C-17 Globemaster used for airlift; and the C-5 Galaxy used for airlift. All aircraft flown to and from Tinian International Airport as part of military exercises would have the following in common:

- Same or similar noise profile as the KC-135
- Same or similar air emissions as the KC-135
- Would not transport munitions.

The USAF anticipates that under the Modified Tinian Alternative, two to four KC-135s would operate up to 8 weeks annually but typically not on weekends. A past example of a typical exercise is Cope North, where each aircraft would take off and land twice per day, for a total of four operations per day, and would fly 5 days per week. Therefore, each aircraft would complete 60 operations over a 3-week period; and up to four aircraft would complete 240 operations. During another past example, Exercise Valiant Shield, each aircraft would take off and land four times per day, for a total of eight operations per day, and would fly 5 days per week. Therefore, during 3 weeks of Valiant Shield, each aircraft would complete 120 operations; four aircraft would complete 480 operations.

Based on the example exercises above, the USAF estimates that approximately 720 operations (i.e., 360 take-offs and 360 landings) by KC-135 or similar aircraft would be completed annually. The Undertaking includes the take-off and landing of aircraft during divert exercises at the airport or airports proposed for improvements. Additionally, a mobile air traffic control tower (ATCT) could be deployed during planned joint military exercises. The ATCT would consist of a mobile unit mounted on a vehicle. The mobile ATCT would be located on an existing cleared surface and the location would be coordinated with the FAA and CPA.

The USAF has defined a single APE for the Modified Tinian Alternative that includes construction and operational activities, as well as both direct and indirect effects (**Figure 2**).



Topo Source: United States Geographic Survey

Figure 2. Modified Tinian APE under the Modified Tinian Alternative