

**MEMORANDUM OF AGREEMENT
AMONG THE UNITED STATES COAST GUARD,
THE NEW JERSEY STATE HISTORIC PRESERVATION OFFICE,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**

REGARDING

**THE HURRICANE SANDY RECAPITALIZATION PROJECT AT COAST GUARD
STATION SANDY HOOK, MONMOUTH COUNTY, NEW JERSEY**

WHEREAS the United States Coast Guard (USCG) plans to fund and execute the Proposed Recapitalization Project to Rebuild USCG Station Sandy Hook, pursuant to the *Disaster Relief Appropriations Act, 2013* (P.L. 113-2); and

WHEREAS Congress passed a Hurricane SANDY appropriation requiring obligation of funds by September 2014, which allocated funding for rebuilding and improving resiliency at USCG facilities affected by the storm, and the rebuilding of USCG facilities to improve resiliency constitutes an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, and its implementing regulations, 36 CFR Part 800; and

WHEREAS the undertaking consists of rebuilding facilities at the damaged USCG Station Sandy Hook, New Jersey to include the following:

- Demolish the existing non-historic Boathouse and replace with a new Boat Maintenance Facility (BMF) in the same location as the existing Boathouse;
- Demolish the existing non-historic Building #103 (Former Exchange/ESD Building);
- Demolish the existing historic Building #123 (Former Recreation Building), which is a contributing structure to the Fort Hancock and Sandy Hook Proving Ground National Historic Landmark District;
- Demolish the existing non-historic Station Building and replace with a new Multi-Mission Building (MMB) located in the area of the existing Building #103 and Building #123 structures;
- Demolish the existing non-historic Small Arms Firing Range (SAFR), which was constructed on top of and around the historic Casemate Structure 541, in a way that shall not damage the historic casemate structure;
- Construct a new SAFR in the area of the former Sycamore Circle Housing Units and playground, which were demolished immediately following Hurricane SANDY;
- Demolish twenty-two non-historic Borough Housing Units;
- Dredge and reconstruct the waterfront area; and

WHEREAS the USCG is operating within the following constraints and requirements for the planned rebuilding of USCG Station Sandy Hook:

- Following Hurricane SANDY, the mission critical need to restore the form and function of the USCG Station Sandy Hook facility at its present location, within a National Historic Landmark (NHL) District in order to support Search and Rescue and Law Enforcement in and around the Sandy Hook Bay;
- Rebuild three mission critical structures (BMF, MMB and SAFR) to support modern USCG mission requirements and meet Department of Defense Anti-Terrorism/Force Protection criteria;
- All new structures must be built to meet the FEMA 500-year flood plain elevation, requiring all new structures to be elevated above existing site structures, such that critical equipment and facilities remain at the proper elevation to sustain hurricanes, floods and storms;
- Due to the location of Station Sandy Hook within FEMA Flood Zone V and A and the associated foundational requirements to support hurricane-prone structures, it is cost prohibitive to construct new facilities that are one story high in order to reduce the height of the new structures;
- All new structures and rebuilt facilities must comply with the Office of Management and Budget Memo M-12-12 of 11 May 2012, mandating that all Federal agencies freeze their real estate footprint; therefore planning and space allowances for the new Station Sandy Hook structures are of the most efficient configuration and design to reduce space and associated costs;
- Rebuild the BMF on the site of the existing Boathouse, which is the only suitable location at USCG Station Sandy Hook, due to waterfront access and pier locations, proximity to the boat basin, and existing utilities;
- Rebuild the MMB on the site currently occupied by Buildings #103 and #123, since it is the only site available at Station Sandy Hook that provides a view of the waterfront, piers, and BMF, which is a mission requirement for the operations center, and is in close proximity to the BMF and waterfront, which is a mission requirement for time critical deployments;
- Rebuild the Station in a manner to reduce overall disturbance to the site by reusing utility lines, parking lots, sidewalks and other structures to the extent practical as well as avoiding construction in undisturbed areas and areas known to have archaeological and/or environmentally sensitive resources;
- Site and orient the new structures in locations that allow reuse of the existing geothermal well system, which allows USCG to utilize a renewable energy resource and reduce the overall energy footprint of the facility;
- Repair the waterfront in a timely manner, which currently is operating at 20% capacity due to damage sustained by Hurricane SANDY, resulting in USCG vessels being relocated until facilities can be restored and in USCG being unable to meet time critical deployments while construction awaits;
- USCG must obligate recapitalization funds by September 2014, as mandated by Congress; and

WHEREAS the Sandy Hook Request for Proposal (RFP) solicitation was issued to the design-build contractors on 14 May 2014, an advance copy of the draft RFP dated 27 March 2014 was made available on 03 April 2014 to the design-build contractors to ensure their interest. The draft RFP included the building elevation drawings that were provided to SHPO on 13 March 2014 for comment, two months prior to the issuance date of the solicitation. Since the contract is for a design-build, the RFP did not include a 30% design; rather the RFP included performance and prescriptive specifications; and

WHEREAS, USCG defined an Area of Potential Effect (APE) for both Architectural and Archaeological resources; and

WHEREAS the APE is within the Fort Hancock and Sandy Hook Proving Ground Historic District, which was previously listed on the New Jersey and National Registers of Historic Places, and designated as a National Historic Landmark; and

WHEREAS, USCG identified the presence of archaeological site 28-MO-409 within the APE during an archaeological survey conducted in April of 2014, pursuant to 36 C.F.R. Part 800.4: Identification of Historic Properties of the NHPA; and

WHEREAS USCG has determined that the undertaking will have an adverse effect on the Fort Hancock and Sandy Hook Proving Ground National Historic Landmark District, and has consulted with the New Jersey State Historic Preservation Officer (SHPO) pursuant to 36 C.F.R. Part 800, of the regulations implementing Section 106 of the NHPA (16 U.S.C. § 470f); and

WHEREAS USCG has agreed to avoid, minimize and mitigate impacts to historic resources by employing careful planning, communication, and construction measures throughout the recapitalization effort and beyond; and

WHEREAS USCG notified a series of Indian tribes, Tribal Historic Preservation Officers, and other Native American groups about the undertaking, including: 1) the Absentee Shawnee Tribe of Oklahoma; 2) the Delaware Tribal Historic Preservation Officer; 3) The Delaware Tribe of Indians; 4) the Nanticoke-Lenni Lenape Indians of New Jersey; 5) the Powhatan Renape Nation; 6) the Ramapough Lenape Indian Nation; 7) Sand Hill Band of Indians; 8) Sand Hill Indian Historical Association; 9) Shawnee Tribe of Oklahoma; 10) Stockbridge-Munsee Band of the Mohicans; 11) The Cherokee Nation of New Jersey; 12) The Cherokee Tribe of New Jersey; and 13) The Delaware Nation, asked all whether they would like to consult under 36 CFR Part 800.(c)(i)(A) and (B), and no tribe or group indicated its intention to do so, and

WHEREAS, USCG has consulted with the Advisory Council on Historic Preservation (ACHP), pursuant to 36 C.F.R. Part 800.10 (b) regarding resolution of adverse effects on National Historic Landmarks, and the ACHP has agreed to participate in the consultation; and

WHEREAS, USCG has consulted with the National Park Service (NPS) regarding the effects of the undertaking on historic properties per the NHPA Section 106 regulations for

National Historic Landmarks, 36 CFR 800.10; and NPS has agreed to participate in the consultation; and

WHEREAS the USCG held an interagency meeting at USCG Station Sandy Hook to continue historic consultation between USCG, ACHP, SHPO and NPS stakeholders and discuss the planned recapitalization effort, issues with compatibility of the new construction to the NHL district, and identify mitigation measures as detailed in this Memorandum of Agreement (MOA); and

WHEREAS the USCG sent notification letters regarding the proposed project to multiple municipal and historic groups such as Middletown Township, Monmouth County, Monmouth County Historical Association, Fort Hancock 21st Century Advisory Committee, New Jersey Lighthouse Society, Preservation New Jersey, Sandy Hook Foundation, and the Nike Historical Society; and no comments were received; and

WHEREAS, the USCG shall continue to consult with the public about this Project as a part of the ongoing Section 106 process; and

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

STIPULATIONS

USCG shall ensure that the following negotiated measures are carried out in order to avoid, minimize and mitigate impacts to historic resources. USCG and the SHPO agree to work cooperatively and efficiently in order to complete all Stipulations within five years of the execution date of this MOA.

I. USCG shall shift the foundation of the new MMB further west to avoid, to all practical extents, archaeological site 28-MO-409, as identified during the USCG April 2014 Archaeological Survey, and the existing geothermal wells. USCG shall re-orient the shipping/receiving paved area from the northern corner to the southeast corner of the new MMB structure to avoid archaeological site 28-MO-409; refer to the Site Plan included with this MOA as Appendix A. USCG shall submit Preliminary Civil Site Plans for the new MMB structure to SHPO, with archaeological site 28-MO-409 depicted on the plans relative to the structure footprint. USCG and SHPO shall then have a teleconference within seven (7) days to discuss the proposed layout and identify any concerns and room for flexibility. If SHPO and USCG believe there is room for flexibility at this point to adjust the MMB site plan in order to better address archaeological concerns, SHPO may provide an onsite representative to Station Sandy Hook while the design-build contractor is laying out foundation plan for the MMB. SHPO will be provided with one (1) week's notice of the onsite meeting at Station Sandy Hook. A copy of the as-built civil site plans will be made available to SHPO.

II. In consultation with SHPO, USCG shall prepare an Archaeological Resources Avoidance Plan with the design-build contractor in order to address potential impacts to archaeological

resources at Station Sandy Hook. This Avoidance Plan shall build on the USCG April 2014 Archaeological Survey and detail avoidance of areas identified by SHPO as potentially archaeologically significant or not yet surveyed for archaeological historic properties. At a minimum, this plan shall include the following: 1) A description of the purpose and need for the avoidance plan; 2) An outline and description of any physical barriers to be employed and observed during project implementation. This shall include descriptions of the proposed methodology for installation of these barriers; 3) An outline and description of any construction/demolition techniques and minimization measures to be observed during project implementation; 4) A description of how this avoidance plan will be implemented as part of this undertaking; and 5) A graphical representation of where avoidance and minimization measures are to be observed.

As part of the Archaeological Resources Avoidance Plan, a component for discovery of additional archaeological resources and appropriate protocol shall be included. At a minimum, a plan for unanticipated discoveries shall include: 1) A stipulation for training contractors to recognize potential archaeological historic properties; 2) A description of procedures for stoppages of work, including stoppage durations; 3) An outline of notification procedures, including a chain-of-command outlining the contact information and responsibilities of each party involved; 4) Provisions for the discovery of human remains, including information on all necessary regulations that apply; and 5) Provisions for documentation and final reporting of all unanticipated discoveries.

USCG shall prepare a Draft Archaeological Resources Avoidance Plan and submit it to SHPO; SHPO shall review the Draft Archaeological Resources Avoidance Plan and provide any comments back to USCG within thirty (30) days. The Archaeological Resources Avoidance Plan shall be finalized and implemented prior to USCG conducting any ground disturbing work at the site.

III. In consultation with SHPO, USCG shall relocate the proposed communications tower from the east side of the new MMB to the northwest corner of the new MMB, where there are no archaeological concerns. Refer to the Site Plan included with this MOA as Appendix A.

IV. USCG shall prepare a demolition plan, for SHPO review, to remove non-historic SAFR components from the historic casemate structure. The new SAFR shall be constructed in the former Sycamore Circle housing area, away from the historic casemate structure and in a previously disturbed area with no archaeological concerns. USCG will prepare a Draft SAFR Demolition Plan and submit to SHPO for review. SHPO shall provide any comments back to USCG within thirty (30) days. The SAFR Demolition Plan shall be finalized and implemented prior to USCG starting SAFR demolition.

V. In addition to the architectural design components included in the preliminary design-build RFP drawings, USCG shall continue to work with SHPO and NPS in order to make the new structures more compatible with the surrounding National Historic Landmark district. These items will include a lowering of the MMB building height by reducing the roof pitch, appropriate architectural finishes for the screening of the pilings for the new structures, and a mutually acceptable landscaping plan.

Furthermore, after the USCG awards the Design Build contract in September 2014, the USCG will consult with SHPO and NPS on the possibility of changing the MMB roof design to a flat roof. The USCG will provide ACHP, NPS, and SHPO the related contract schedule, after receipt from the Design Build contractor. USCG will make a good faith effort to make changes to the roof design within the Design Build contract cost. The USCG will document and implement all changes resulting from these consultations.

VI. USCG has included a requirement in the design-build contract for the contractor to have a qualified Historical Architect on staff. The design-build contractor shall retain the services of a qualified Historical Architect meeting the Secretary of Interior's Professional Qualification Standards as authorized by NHPA Section 101(h), and described on the National Park Service's Archaeology and Historic Preservation Professional Qualifications Standards web page: http://www.nps.gov/history/local-law/arch_stnds_9.htm

VII. As mitigation for the proposed demolition of Building # 123 (former Recreation Center), USCG shall perform Level II historic recordation of the contributing structure in accordance with Historic American Buildings Survey (HABS) Standards, which include the HABS Guidelines for Historical Reports and the Guide to Preparing HABS/HAER Photographic Documentation (July 2007 and November 2011, respectively). All materials submitted as documentation will follow the most recent requirements and review time lines as stated by the Heritage Documentation Program. Parties will make a good faith effort to meet the requirements of the NPS Northeast Regional Office's schedule of documentation. The draft historic recordation documents shall be provided to SHPO and NPS for concurrent review; SHPO and NPS shall provide any comments to USCG within thirty (30) days. USCG shall revise the documents, if needed, and resubmit to SHPO and NPS; SHPO and NPS shall provide a determination that the documentation is adequate within one (1) week, or detail required changes needed to the documentation. The USCG shall finalize the documentation and submit the final package to the NPS for acceptance. No demolition work shall be conducted on Building # 123 until the documentation is accepted by the NPS, or the USCG, NPS, and SHPO have mutually agreed that documentation of Building #123 has been satisfactorily completed to a level to allow demolition to proceed prior to finalization of the full documentation package. All parties acknowledge that the recordation of Building #123 needs to be completed by January of 2015 and will make all good faith efforts to meet this time frame.

VIII. USCG shall continue to work with the NPS GNRA to minimize disruptions to GNRA operations during USCG construction work. NPS will be invited to periodic onsite meetings with the contractor, and together, prior to the commencement of construction, USCG and GNRA shall: create guidelines for appropriate work hours, routes of ingress/egress for hauling materials, site restrictions on weekend work during 15 May – 15 September each year (or during special events), and develop a road condition monitoring plan to help prevent and correct as necessary damage sustained to NPS roads from USCG construction activities.

IX. USCG shall develop a vibratory monitoring plan for seven historic structures near the proposed new construction work. The seven historic structures that shall be included in the Vibratory Monitoring Plan include the following:

- Bldg #109 (USCG structure, former Chem Lab, near proposed new MMB)
- Bldg # 108 (NPS structure, across the street from proposed new MMB)
- Bldg # 102 (NPS structure, across the street from proposed new MMB)
- Bldg # 528 (USCG structure, historic Victorian house near proposed new SAFR)
- Bldg # 504 (USCG structure, historic Victorian house near proposed new SAFR)
- Bldg # 526 (USCG structure, historic Victorian house near proposed new SAFR)
- Bldg # 503 (USCG structure, former Railroad Bldg)

USCG shall prepare a Draft Vibratory Monitoring Plan for Station Sandy Hook Recapitalization Construction Activities and submit to SHPO and NPS for review. SHPO and NPS shall provide any comments to USCG within thirty days. The Vibratory Monitoring Plan shall be finalized and implemented prior to construction work starting at Station Sandy Hook.

X. In consultation with SHPO, ACHP and NPS, USCG shall develop a collaborative Communications Plan for Station Sandy Hook to better facilitate future work, and mutual coordination of projects and planning efforts, as well as foster better agency partnership and preservation of historic resources through early Section 106 consultation. This Communications Plan shall include points of contact, chains of command, addresses, phone numbers, electronic mail addresses, and a requirement for periodic stakeholder meetings. The Draft Communications Plan shall be submitted to GNRA, SHPO and ACHP for review; GNRA, SHPO, and ACHP shall provide any comments to USCG within thirty (30) days. USCG shall finalize the Communications Plan within five years of the MOA execution date, and/or before any new demolition or construction projects are developed, other than those covered in this MOA, and shall distribute copies to GNRA, SHPO and ACHP. The USCG Station Sandy Hook Communications Plan shall be implemented as part of the USCG Station Sandy Hook Cultural Resources Management Plan (CRMP), as addressed in Stipulation XI. The Communications Plan shall be updated periodically by USCG as needed.

XI. In consultation with SHPO, ACHP and NPS, USCG shall create a CRMP for USCG Station Sandy Hook, given its designation as a National Historic Landmark District. This CRMP shall evaluate all USCG historic structures and prioritize the best candidate structures to promote for reuse/rehabilitation/stabilization, as well as provide a basis to make better educated development choices and funding decisions for future projects. This CRMP shall incorporate requirements for USCG to consult early on NHPA Section 106 and Section 110, and shall include the USCG Station Sandy Hook Communications Plan as components. The Draft CRMP shall be submitted to SHPO, ACHP and NPS for comments; SHPO, ACHP and NPS shall provide any comments to USCG within thirty (30) days. USCG shall finalize and implement the CRMP within five years of the MOA execution date, and/or before any new demolition or construction projects are developed, other than those covered in this MOA, and shall distribute copies to GNRA, SHPO and ACHP. The CRMP shall be updated periodically by USCG as needed.

XII. USCG will initiate early Section 106 consultation with SHPO and NPS for future USCG Station Sandy Hook projects, prior to project selection and prioritization. This requirement shall be incorporated into the USCG Station Sandy Hook Communications Plan and the USCG Station Sandy Hook CRMP, which USCG shall develop in accordance with Stipulations X and XI.

XIII. All commitments made by USCG in this MOA are subject to the availability of appropriated funds, as required by the Antideficiency Act, 31U.S.C. 1341 and 1342. Nothing in this MOA, in and of itself, obligates USCG to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, or incur other financial obligations that would be inconsistent with Agency budget priorities. USCG agrees to make a good faith effort to obtain the necessary funds to fully implement this MOA.

XIV. DURATION

This MOA will be null and void if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, USCG may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation XVIII below. All milestone dates for Stipulations refer to calendar days, not business days.

XV. POST-REVIEW DISCOVERIES

If additional historic properties are discovered all work shall cease in the vicinity of the discovery and USCG shall implement the unanticipated discovery plan developed as part of Stipulation II of this MOA.

XVI. MONITORING AND REPORTING

Each year following the execution of this MOA until it expires, all Stipulations are complete, or is terminated, USCG shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in USCG's efforts to carry out the terms of this MOA.

XVII. DISPUTE RESOLUTION

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

A. Forward all documentation relevant to the dispute, including the USCG's proposed resolution, to the ACHP. The ACHP shall provide USCG with its advice on the resolution of the objection within thirty (30) calendar days of receiving adequate documentation. Prior to reaching a final decision on the dispute, USCG shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and signatories, and provide them with a copy of this written

response. USCG will then proceed according to its final decision.

B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) calendar day time period, USCG may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, USCG shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.

C. USCG's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged provided they may be suspended if execution of one or more acts is contingent on the outcome of a dispute being resolved.

XVIII. AMENDMENTS

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

XIX. TERMINATION

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

Once the MOA is terminated, and prior to work continuing on the undertaking, USCG must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. USCG shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by the USCG, SHPO, and ACHP, and implementation of its terms evidence that USCG has met all responsibilities under the National Historic Preservation Act for this undertaking and has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORIES:

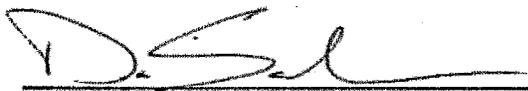
UNITED STATES COAST GUARD

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Date: 20 Jul 2014

James K. Ingalsbe, Captain
Chief, Office of Civil Engineering, Commandant (CG-43)

NEW JERSEY HISTORIC PRESERVATION OFFICE



Date: 7/21/2014

Daniel Saunders
New Jersey Deputy State Historic Preservation Officer

ADVISORY COUNCIL ON HISTORIC PRESERVATION



Date: 7/22/14

John M. Fowler, Executive Director

CONCURRING SIGNATORY:

NATIONAL PARK SERVICE

M. Gerbauckas

Date: 07-21-14

Maryanne Gerbauckas, Associate Regional Director, Resource Stewardship
Northeast Region