

**FIRST AMENDMENT TO  
THE PROGRAMMATIC AGREEMENT AMONG THE  
UNITED STATES COAST GUARD, DEPARTMENT OF TRANSPORTATION, THE  
ADVISORY COUNCIL ON HISTORIC PRESERVATION  
AND THE NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION  
OFFICERS REGARDING OUTGRANTING OF HISTORIC LIGHTHOUSE  
PROPERTIES**

WHEREAS, the United States Coast Guard (USCG), the Advisory Council on Historic Preservation (the Council), and the National Conference of State Historic Preservation Officers (NCSHPO) executed a Programmatic Agreement (PA), dated 7/24/1996, regarding the outgranting of historic lighthouses; and,

WHEREAS, after the PA was executed, the USCG encountered funding difficulties that prevented full completion of stipulations specified in Section I.A.1. and 2. of the PA; and,

WHEREAS, pursuant to Section IV. A. of the underlying PA, the USCG has developed a First Amendment (Amendment) to the PA that revises Section I.A.1. and 2. of the PA to extend the deadline for completion of the evaluation of each lighthouse the USCG owns or controls to determine whether the lighthouse is historic (listed or eligible for listing on the National Register) and whether it is a good candidate for outgranting per Section 2a.-c. of the underlying PA; and,

WHEREAS, the Amendment also includes new stipulations to address any future unforeseen delays that may occur in completing the evaluations; and,

WHEREAS, the USCG, the Council, and NCSHPO agree that the Council's regulations, effective on December 12, 2000 (and as modified by the recent court case, National Mining Association and the Cellular Telecommunications and Internet Association verses Cathryn Slater, et. Al) shall govern the development and interpretation of this Amendment; and,

WHEREAS, the USCG, the Council, and NCSHPO have participated in the consultation and have been invited to execute this Amendment to the PA;

NOW, THEREFORE, the USCG, the Council, and NCSHPO agree that Section I.A.1. and 2. of the PA is superseded by the new stipulations in this Amendment at I.A. and B. below, and that stipulations in Sections II-III of this Amendment pertain solely to this Amendment, and, further, that this Amendment reaffirms the commitment of the USCG, the Council, and NCSHPO to perform all other applicable duties as previously set forth in the PA and acknowledge that these duties are incorporated by reference as if fully set forth herein.

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**STIPULATIONS**

To the extent of its legal authority and in coordination with the Council, and NCSHPO, the USCG will ensure that the following requirements and measures are carried out:

**I. IDENTIFICATION OF HISTORIC LIGHTHOUSES AND CONSIDERATION OF OUTGRANTING**

- A. Contingent on the availability of funding and barring any other unforeseen and uncontrollable delays, the USCG shall make a diligent good faith effort to complete the evaluation of each lighthouse we own or control to determine whether each is historic (listed or eligible for listing on the National Register) and whether it is a good candidate for outgranting within 6 years of the date of the enactment of this Amendment.
- B. If the USCG is unable to meet the new deadlines for completion as established in Section I.A. of this Amendment yet all other provisions of the PA can still be met, then the USCG shall notify all signatory parties to the Amendment of: all properties evaluated to date, those left to evaluate, and the new completion date for lighthouse properties still not evaluated.

**II. DISPUTE RESOLUTION**

- A. Should any of the signatories object to the manner in which the terms of this Amendment are implemented, the USCG will consult further with the objecting party to resolve the objection. Should any party to this Amendment object, within thirty (30) days to any actions pursuant to this Amendment, then the USCG shall consult with the objecting party to resolve the objection. If the USCG determines that the objection cannot be resolved, the USCG shall forward all documentation relevant to the dispute to the Council. Within thirty (30) days after receipt of all pertinent documentation, the Council shall either:

1. Provide the USCG with recommendations pursuant to 36 CFR 800.2(b)(2), which the USCG shall take into account in reaching a final decision regarding the dispute; or
2. Notify the USCG that it will comment pursuant to 36 CFR 800.7(c), and proceed to comment. Any Council comment provided in response to such a request will be taken into account by the USCG in accordance with 36 CFR 800.7(c)(4) with reference to the subject dispute. The USCG responsibility to carry out all actions under this Amendment that are not subjects of the dispute will remain unchanged.

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**III. AMENDMENTS AND NONCOMPLIANCE**

If any of the signatories to this Amendment believes that its terms cannot be carried out, or that an amendment to its terms must be made, that party shall immediately consult with the other signatory parties to develop further amendments to this First Amendment pursuant to 36 CFR §§800.6(c)(7) and 800.6(c)(8).

**IV EXECUTION OF AGREEMENTS**

This Amendment may be executed in counterparts, with a separate page for each signatory, and the USCG will ensure that each party is provided with a copy of the fully executed Amendment.

EXECUTION AND IMPLEMENTATION of this Amendment evidences that the USCG has afforded the Council a reasonable opportunity to comment on the Undertaking and its effect on historic properties, that the USCG has taken into account the effect of the Undertaking on historic properties, and that the USCG has satisfied its responsibilities under Section 106 of the National Historic Preservation Act and applicable implementing regulations.

**SIGNATORY PARTY:**

UNITED STATES COAST GUARD

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

Captain U.S. Coast Guard  
Chief, Office of Civil Engineering

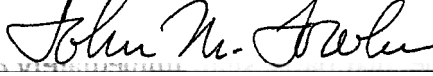
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5/17/2002

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SIGNATORY PARTY

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:  Date: 12/16/02  
John M. Fowler, Executive Director

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SIGNATORY PARTY

NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS

By: Edward Sanderson  
Mr. Edward Sanderson, President

Date: 12/2/2002