

**PROGRAMMATIC AGREEMENT AMONG THE U.S. MERCHANT MARINE  
ACADEMY;  
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER;  
AND  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
REGARDING OPERATIONS, MAINTENANCE, AND DEVELOPMENT ACTIVITIES  
AT THE U.S. MERCHANT MARINE ACADEMY,  
NASSAU COUNTY, NEW YORK**

**WHEREAS**, the U.S. Merchant Marine Academy (USMMA), administered by the US Department of Transportation (USDOT), Maritime Administration (MARAD), is a federal service academy, located in Kings Point, New York, that educates students to serve the national security, maritime transportation and economic needs of the United States as licensed Merchant Marine Officers and commissioned officers in the U.S. Armed Forces; and

**WHEREAS**, the USMMA contains historic properties listed on the National Register of Historic Places (NHRP) (October 2014), including the USMMA Historic District (HD or District), which encompasses a group of buildings, structures, and objects of various types (administrative, academic, residential, religious, and athletic/recreational) and the individually listed William Barstow Mansion; and

**WHEREAS**, the 42-acre USMMA HD is significant for its support to the war effort during World War II and as a training academy with a mandate “to educate and graduate licensed merchant mariners and leaders of exemplary character who will serve America’s marine transportation and defense needs in peace and war” and for its association with the Gold Coast; and

**WHEREAS**, the individually listed William Barstow Mansion is significant for its association with the Gold Coast, its owner, and its architecture; and

**WHEREAS**, the USMMA conducts routine undertakings related to the operation, maintenance, and development of the facility, that involve similar and repetitive actions (Project Undertakings), which have the potential to affect historic properties, subject to review under Section 106 of the National Historic Preservation Act (hereafter NHPA), 54 U.S.C. 300101 et seq, and its implementing regulations, 36 C.F.R. § 800; and

**WHEREAS**, the USMMA has determined, in consultation with the New York State Historic Preservation Officer (SHPO), that select buildings have retained historic character-defining interior features, as identified in the *Character-Defining Features of Contributing Buildings and Structures in the United States Merchant Marine Academy Historic District (Character-Defining Features Report)* (Appendix C) including the entire interior of Wiley Hall, the dining hall and entrance vestibules of Delano Hall, the gymnasium portion of O’Hara Hall, the auditorium and entrance hall of Bowditch Hall, and the first floor and staircases of Memorial Chapel within the district, as well as the entire interior of the individually-listed William Barstow Mansion; and

**WHEREAS**, in 2005, a cultural resources survey was conducted and shared with the SHPO; and

**WHEREAS**, no archaeological properties eligible for listing in the NRHP have been identified on USMMA property and USMMA has recognized the potential for undiscovered archaeological properties that may need evaluation if discovered; and

**WHEREAS**, the USMMA has determined that the aforementioned Project Undertakings may have the potential to affect properties listed on the NRHP within the USMMA HD or at the Barstow Mansion, and has consulted with the SHPO pursuant to 36 C.F.R. § 800; and

**WHEREAS**, pursuant to the NHPA, USMMA has determined, in accordance with 36 C.F.R. § 800.14(b)(2), to improve consistency, consultation, and accountability in fulfilling its responsibilities to comply with Section 106 that it is appropriate to develop a program specific programmatic agreement (Agreement) to govern the implementation of these Project Undertakings; and

**WHEREAS**, the *USMMA HD Property Maintenance and Repair Manual (Maintenance and Repair Manual)* (Appendix D) and a *Landscape Management Plan for the USMMA (Landscape Management Plan)* (Appendix E) includes preservation and maintenance guidelines and procedures for conducting work on historic buildings, landscapes, monuments, and memorials within the USMMA HD and which are also relevant to the William Barstow Mansion; and

**WHEREAS**, USMMA has identified no known properties of traditional religious and cultural importance at the USMMA; and

**WHEREAS**, the USMMA invited the Stockbridge-Munsee Mohican, the Shinnecock Indian Nation, the Delaware Nation, and the Delaware Tribe, federally-recognized Indian Nations/Tribes to participate in the development of this Agreement; and

**WHEREAS**, the Stockbridge-Munsee Mohican Tribal Historic Preservation Office indicated no known cultural sites at USMMA and opted not to participate, the Delaware Tribe initially expressed an interest but didn't respond to subsequent communications, and the Shinnecock Indian Nation and the Delaware Nation did not respond; and

**WHEREAS**, the USMMA has invited the Unkechaug Indian Nation, a state-recognized Indian Nation to participate as a consulting party and received no response; and

**WHEREAS**, the USMMA has invited Nassau County and the Village of Kings Point to participate and did not receive a response; and

**WHEREAS**, the USMMA invited the Advisory Council on Historic Preservation (ACHP) to participate in the development of this PA and the ACHP is participating pursuant to 36 C.F.R. § 800.14(b)(2); and

**WHEREAS**, the USMMA, pursuant to 36 C.F.R. § 800.14(b)(2)(ii), has provided the public an opportunity to comment on this Agreement through posting the document on the USMMA's

website and has considered the recommendations of the public and reviewing agencies into this Agreement; and

**WHEREAS**, the USMMA has developed a concise document describing cultural resources management responsibilities in Appendix B; and

**NOW, THEREFORE**, the USMMA, the SHPO, and the ACHP agree that Project Undertakings at the USMMA shall be implemented in accordance with the following stipulations to consider their effects on historic properties at the USMMA.

## STIPULATIONS

The USMMA shall ensure that the following stipulations are carried out:

### I. Purpose, Applicability, Responsibilities, and Standards

#### A. Purpose

This Agreement is intended to modify the Section 106 process for USMMA Project Undertakings when the scope and scale or routine nature of the undertakings and/or potential to affect historic properties warrants. The streamlined review will help the USMMA better manage historic properties and administer its responsibilities pursuant to the NHPA. All undertakings to which this Agreement are applicable, as identified in Stipulation II, will be reviewed in accordance with the following stipulations and appendices.

#### B. Applicability

Except as specifically excluded or otherwise provided, this Agreement applies to USMMA Project Undertakings related to the operation, maintenance, and development of the facility in furtherance of its authorized purposes, as detailed in Stipulation II.

#### C. Responsibilities

(1). Cultural Resource Manager: The USMMA Superintendent, as the Agency Official for Section 106 in accordance with 36 C.F.R. § 800.2(a), shall designate a Cultural Resources Manager (hereafter CRM) that shall be assigned responsibility for administering the process outlined in this Agreement. This position can be full-time, part-time, or a collateral duty. The USMMA shall ensure the CRM meets the *Secretary of the Interior's Professional Qualification Standards* (Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines [As Amended and Annotated]) (hereafter SOI Professional Qualifications). If the CRM does not meet SOI Professional Qualifications and/or these responsibilities are a collateral duty, the CRM shall take one class yearly of cultural resources management training from a place or person that meets the SOI Professional Qualifications.

For the purposes of this Agreement, the CRM's responsibilities shall include, but are not limited to:

(a). Serving as the point of contact with the SHPO, the ACHP, other consulting parties, and the public as appropriate for questions and concerns about historic properties and preservation at USMMA.

(b). Reviewing all proposed project documentation for capital improvement projects, as well as major and minor maintenance projects to identify specific Project Undertakings that may be subject to review under the terms of this Agreement and identifies those that will require review, pursuant to 36 C.F.R. § 800 Subpart B, over a five-year planning cycle.

(c). Establishing schedules and priorities within the planning cycle for the evaluation and treatment of historic properties that might be affected by Project Undertakings.

(d). Ensuring that information is available to USMMA senior management and other relevant offices, as well as MARAD and MARAD's Federal Preservation Officer (FPO) on potential adverse effects to historic properties, review requirements, and the USMMA's responsibilities under this Agreement, so that adverse effects may be identified and avoided early in the planning process.

(e). Defining an Area of Potential Effect (APE) for Project Undertakings to ensure that all types of historic properties are identified for each proposed undertaking, and performing reviews, making determinations, and issuing approvals per the terms of this Agreement.

(f). Inspecting annually buildings to confirm that the preservation and maintenance guidelines are being correctly and successfully implemented, and report any areas of disrepair or other issues to the Director of Academy Operations, and the SHPO, as necessary.

## **D. Standards**

### **(1). Documentation**

The USMMA shall ensure that all identification and evaluation survey documentation and all resource treatment documentation carried out pursuant to the terms of this Agreement be completed by or under the direct supervision of an individual or individuals who meet SOI Professional Qualifications in the appropriate discipline. The USMMA shall ensure that scopes of work prepared for undertakings on buildings and landscapes contributing to the HD listed in Appendix A, or at the William Barstow Mansion require that contractors show past performance in the successful application of the *Secretary of the Interiors Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings* (Weeks and Grimmer: 1995; 36 C.F.R. § 68); hereafter *Standards*) in their response bids and proposals.

### **(2). Maintenance and Repair Manual and Character-Defining Features Report**

USMMA agrees to follow the guidelines that are established in the *Maintenance and Repair Manual* (Appendix D) and the *Character-Defining Features Report* (Appendix C). The historic district contains contributing mansions constructed during the Gold Coast Era and Academy buildings constructed from 1942 to 1969 and their character-defining features are identified in the *Character-Defining Features Report*. All buildings, especially historic ones, require regular planned maintenance and repair. The most notable cause of historic building element failure and/or decay is not the fact that the historic building is old, but rather it is caused by an incorrect or inappropriate repair and/or basic neglect of the historic building fabric. This maintenance and repair manual

compiles as-is conditions of construction materials of buildings with as-is conditions of construction materials of buildings at the Academy. The Secretary of Interior Guidelines on rehabilitation and repair per material are discussed to provide the Academy with a guide to maintain these historic buildings. Materials included in this report are concrete, stucco, wood, brick, metal, electrical, mechanical, roofing, ceramic, glass, and stone. Treatment recommendations for preserving and rehabilitating the materials are provided. Material treatments covered in the *Maintenance and Repair Manual* are also relevant to the Gold Coast Era mansion and garage that comprise the individually-listed William Barstow Mansion.

### **(3). Landscape Management Plan**

The USMMA agrees to follow the guidelines that are established in the *Landscape Management Plan* (Appendix E). This management plan inventories the existing cultural landscape at USMMA, and includes recommendations for managing the historic landscape in the future. The contributing landscapes are identified in the study and their existing conditions discussed. Treatment recommendations for preserving and rehabilitating the landscapes are provided. This document meets the requirements for federal agencies to address their cultural resources, which are defined as any pre-historic or historic district, site, building, structure, or object. Especially relevant is Section 110 of the NHPA, which requires federal agencies to inventory and evaluate their cultural resources.

## **F. Notification**

The designated CRM shall post an electronic copy of this Agreement, the *Maintenance and Repair Manual*, the *Character-Defining Features Report*, and the *Landscape Management Plan* to the USMMA internal website within three (3) weeks of execution of this Agreement and notify via email all appropriate USMMA personnel involved with carrying out actions under this Agreement within four (4) weeks of execution of this Agreement. The designated CRM will notify new personnel of this Agreement via email within two (2) weeks of the start of their employment. New notifications via email shall be made within two (2) weeks of amendments or updates to the Agreement.

## **II. Review Process**

The USMMA CRM will review Project Undertakings for applicability with this Agreement and determine if a specific undertaking is non-routine or qualifies for streamlined review.

### **A. Non-routine Project Undertakings**

Undertakings considered non-routine shall be reviewed in accordance with 36 C.F.R. § 800 Subpart B. The following Project Undertakings affecting buildings shall be considered non-routine.

**(1).** Wholesale replacement at contributing buildings within the HD or at the William Barstow Mansion of non-historic windows and doors or roofing that is a character-defining feature with historically compatible windows, doors, or roofing.

**(2).** Undertakings within character-defining interior spaces, including the entire interiors of Wiley Hall and the William Barstow Mansion, the dining hall and entrance vestibules of Delano Hall, the gymnasium portion of O'Hara Hall, the auditorium and entrance hall of Bowditch Hall, and the first floor and staircases of Memorial Chapel, with the exception of select routine maintenance items as outlined in Stipulation II.B (1) c.

**(3).** Undertakings involving new construction or additions to existing buildings either within or outside the HD and William Barstow Mansion boundaries.

**(4).** Undertakings affecting the landscape within the boundary of the NRHP-listed USMMA HD and William Barstow Mansion, including:

**(a).** Alterations to circulation patterns, such as the removal or introduction of new paths, roads, or other paved areas.

**(b).** Introduction of any new paved surfaces or replacement of paved surfaces with a new paving material not matching the historic or existing paving.

**(c).** Wholesale removal of shrubs, hedges, and trees and conversion of space to an alternate use.

## **B. Streamlined Review Process**

For a Project Undertaking to qualify for the streamlined review process an activity must be listed within this section. These undertakings shall be known as “streamlined activities” for purposes of reference. If the CRM determines that an undertaking qualifies for streamlined review then no SHPO consultation is required and the CRM shall document this in an Annual Report prepared by the designated CRM as noted in Stipulation VII.A.

The following undertakings shall not require further SHPO review when the specified requirements are followed:

### **(1). Buildings, Structures, and Objects**

**(a).** Undertakings involving routine maintenance and repair at non-contributing buildings, structures, and objects within the USMMA HD and at existing buildings, structures, objects outside of the NRHP-boundaries of the USMMA HD and the William Barstow Mansion.

**(b).** Undertakings involving routine maintenance and repair at interiors of non-contributing buildings or within interior spaces at contributing buildings that have not been identified as character-defining, provided the undertakings do not involve new ground disturbance or any associated exterior work (e.g., penetrations for vents or piping associated with mechanical work).

**(c).** Undertakings involving routine maintenance and repair within character-defining interior spaces in accordance with the recommended procedures in the *Standards*, with further guidance as provided in current publications of the National Park Service, such as the Preservation Briefs (PB) referenced below by their numbers in that publication series (PBs can be found on the Technical Preservation Services webpage on the National Park Service website), including:

- (1)** Repair in-kind of existing non-decorative plaster, wallboard, or gypsum board with like materials, installation techniques, and finish texture (PB 21).
- (2)** Repainting non-decorative interior surfaces when the new paint matches the existing or original color (PB 28).
- (3)** Plumbing system repair/replacement in-kind, to include pipes and fixtures in bathrooms and kitchens.
- (4)** Heating, ventilation, and air conditioning repair/replacement in-kind including furnaces, pipes, radiators, or other heating/air conditioning units (PB 24).
- (5)** Repair/replacement in-kind of electrical wiring including lighting, fire alarms, smoke/heat detectors, fire suppression systems, telephones, and local area network.
- (6)** Replacement in-kind of insulation.
- (7)** Repair or replacement in-kind of structural members and elements.

**(d).** Undertakings involving maintenance, repair, and minor replacement in-kind at exteriors of contributing buildings, structures, and objects in accordance with the recommended procedures in the *Standards*, with further guidance as provided in current PBs referenced below by their numbers. Specific work includes:

- (1)** Doors (PB 10):
  - (a).** Repair in-kind of existing materials.
  - (b).** Replacement when beyond repair and done in-kind to match the existing appearance, material, size, form, and details.
- (2).** Window frames and sashes (PB 9, 13, 10):
  - (a).** Repair in-kind of window frames by patching, splicing, consolidating or otherwise reinforcing or replacing in-kind those parts that are either extensively deteriorated or missing. No change in the exterior or interior appearance, configuration, or the operation of the window shall result.
  - (b).** Replacement when beyond repair and done in-kind to match the existing appearance, material, size, form, and details.
  - (c).** Installation of storm windows, provided that they conform to the shape and size of historic windows and that the meeting rail coincides with that of the existing sash. Color shall match prime window color; mill finish aluminum is not acceptable.
  - (d).** Adjusting counterweights.



- (3).** Wood siding, trim, porch decking, porch rails, joists, columns, and stairs (including framing) (PB 10, 45):
- (a).** Repair in-kind of siding, trim, or hardware when done in kind to match existing appearance, material, and design.
  - (b).** Replacement in-kind of only those elements that are beyond repair when done in-kind to match existing appearance, material, and design.
  - (c).** Maintenance of features such as window and door frames, hoodmolds, paneled or decorated jambs, and moldings through appropriate surface treatments such as cleaning, rust removal, limited paint removal, and reapplication of protective coating systems.
  - (d).** Repair in-kind of porches and stairs when done in kind to match existing appearance, materials, and design.
- (4).** Window and Door Screens (PB 9, 10): Repair in-kind of existing window and door screens with material to match existing screen wire and screen bead in material, style, size, and finish. If repair of existing screen is not possible, replacement in-kind is allowed.
- (5).** Glass (PB 9, 13): Replacement in-kind of broken glass with glass of similar type when no modification or damage to adjacent surfaces will result and replacement does not alter existing window glazing rabbets.
- (6).** Roofs (PB 29, 30):
- (a).** Repair and limited replacement of roofing and associated underlayment that have deteriorated, when done in kind to match the existing appearance, materials, and design. Adequate anchorage of the roofing material to guard against wind damage and moisture penetration should be provided. Samples of replacement materials need to be reviewed and approved by the CRM.
  - (b).** Replacement in-kind of flat roofing and associated underlayment when the roofing material is not considered a character-defining feature.
  - (c).** Repair and/or replacement in-kind gutters and down spouts.
- (7).** Surfaces (PB 1, 2, 9, 10, 15, 18, 22, 24, 39, 42):
- (a).** Painting surfaces when the new paint matches the existing or original color. Damaged or deteriorated paint may be removed to the next sound layer by hand scraping or hand sanding (PB 10).
  - (b).** Replacement in-kind or installation of caulking and weather stripping around windows, doors, walls, and roofs (PB 9, 39).
  - (c).** Repointing of mortar of like materials, installation techniques, and finish texture (PB 2).
  - (d).** Repair in-kind or removal of fire escapes, vestibules, canopies, awnings, railings, ramps, and other similar additions to historic properties that are not original character-defining elements.
  - (e).** Removal of exterior wiring, conduit, wiring devices, antennas, transformers, and related electrical systems.

**(f).** Limited masonry repair utilizing patching compounds that match the historic masonry in terms of physical and aesthetic characteristics (PB 15, 22, 42). Samples of patching compounds and replacement materials need to be reviewed and approved by the CRM.

**(g).** Cleaning masonry that is in good condition with low-pressure water rinses not to exceed 200 PSI (PB 1).

**(8).** Footings, Foundation and Retaining Walls (PB 2, 15):

**(a).** Repair in-kind of existing materials.

**(b).** Replacement in-kind of those portions that have deteriorated beyond repair to match the existing appearance, materials, and form. Any associated mortar replacement shall be with a mortar mix that is softer than the surrounding masonry. New mortar joints shall match the existing in color, texture, profile, and width.

**(9).** Mechanical Work (PB 24):

**(a).** Replacement of exterior condenser units or other mechanical systems, with comparable units at the same location and reusing existing building penetrations for related piping and refrigerant lines.

**(b).** Repair and cleaning of flues, chimneys, and stacks.

**(2). Archaeological Resources**

No known archaeological sites have been identified on USMMA land. Digging necessary for utility repair, landscaping repair/maintenance, and foundation repair/maintenance shall not require further SHPO review; however, inadvertent discovery can happen at any point and the designated CRM should be called and follow the requirements under Stipulation IV.

**(3). Infrastructure, Landscape Features and Vegetation**

**(a).** In-kind repair or replacement of street, parking lot, driveway, sidewalk, curb and gutter, and storm drainage structure.

**(b).** In-kind repair or replacement of fencing to match existing material and design in existing locations.

**(c).** In-kind replacement or repair, and/or removal of utility poles, street, and parking lot lighting that are not character defining features of a historic property.

**(d).** Replacement of annuals and perennials in existing beds in existing bed formations.

**(e).** In-kind replacement of tree species in same location.

**(f).** Where a tree species or cultivar removed is invasive and is identified as being invasive, it shall not be replaced in-kind but the replacement follows the exceptions given in the *Landscape Management Plan*.

**(g).** Where a tree species is susceptible to disease or insect attack, it may be replaced by a different species or cultivar, in order to comply with sustainable landscaping by decreasing use of pesticides and decreasing management costs. If a resistant cultivar of that species or hybrid is available, it shall be used to replace; where these are not available, a different species may be planted as long as the replacement follows the guidelines given in the *Landscape Management Plan*.

**(h).** If a tree fails to establish after two attempts at planting, that selection may be switched with a replacement that follows the exceptions given in the *Landscape Management Plan*.

**(i).** Removal of trees, shrubs, or other plantings that presents a hazard to people or buildings or greatly impacts the maintenance of a building.

#### **IV. Inadvertent Discoveries**

**A.** At the time of execution of this Agreement, the USMMA has identified no known archaeological sites within the facility boundary. Through the course of routine landscaping activities, if a potentially historic property, or if human remains are identified, guidelines provided in this section shall be followed. The USMMA shall ensure that the provisions in this stipulation shall be included as a requirement of all USMMA operations and contracts involving ground disturbance. Basic procedures and contact information shall be provided to project managers and supervisory contractors for on-site reference.

**B.** If previously unidentified, or unanticipated effects to historic properties are discovered during excavation for construction, utility maintenance, or for interments, the excavation supervisor shall immediately halt the excavation in the immediate area of the finding and notify the USMMA Director of Academy Operations and the designated CRM of the discovery and implement interim measures (e.g., surveillance, concealment) to protect the discovery from looting and vandalism. In the event of an inadvertent discovery of human remains, the USMMA will stop work, protect the remains, and notify local authorities. If the remains appear to be Native American, or if any funerary objects, sacred objects, or objects of cultural patrimony are discovered, the USMMA will follow the notification and consultation protocols in the Native American Graves and Repatriation Act (NAGPRA) Section 3 and 43 C.F.R. § 10.4.

**C.** Immediately upon receipt of the notification required in Stipulation IV.A, the designated CRM shall:

**(1).** Inspect the work site to determine the extent of the discovery and ensure that the project manager and contractor supervisors know that construction activities with the potential to affect the historic property in question must be halted as a legal and contractual requirement;

- (2). Clearly mark the area of discovery and establish a 50-foot buffer between the discovery and ground disturbing activities;
- (3). Implement additional measures, e.g., surveillance or concealment as appropriate, to protect the discovery from looting and vandalism;
- (4). Have a professional archaeologist inspect the construction site to determine the extent of the discovery and provide recommendations regarding its NRHP eligibility and treatment; and
- (5). Within forty-eight (48) hours of the discovery USMMA shall notify the SHPO and other consulting parties, as appropriate, of the discovery and describe the measures that will be implemented within five (5) business days.

**D.** Upon receipt of the information required above, the USMMA shall provide the SHPO and other consulting parties with its assessment of the NRHP eligibility of the discovery and the measures proposed to resolve adverse effects. In making its evaluation, the USMMA in consultation with the SHPO may assume the discovery to be NRHP eligible for the purposes of Section 106 pursuant to 36 C.F.R. § 800.13(c). The SHPO and other consulting parties shall respond to the USMMA assessment within forty-eight (48) hours of receipt.

**E.** The USMMA will consider the SHPO and other consulting parties' recommendations on eligibility and treatment of the discovery and carry out any appropriate required actions. The USMMA will provide the SHPO and consulting parties with a report on the actions within two (2) weeks of implementation.

**F.** Any disputes over the evaluation or treatment of previously unidentified historic properties will be resolved in accordance with Stipulation V ("Dispute Resolution") of this Agreement.

## **V. Dispute Resolution**

**A.** Signatories or concurring parties to this Agreement may raise objections to actions carried out or proposed by the USMMA about the implementation of measures stipulated in this Agreement. The USMMA shall notify the other Signatories of any objections raised and shall consult with the objecting party to resolve the objection.

**B.** If the objection remains unresolved, the USMMA shall forward all documentation relevant to the objection to the ACHP, including the proposed response to the objection. The ACHP shall provide the USMMA 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, the USMMA shall prepare a written response that considers any timely advice or comments regarding the dispute from the ACHP, signatories, and concurring parties, and provide them with a copy of this written response. The USMMA will then proceed according to its final decision.

**C.** If the ACHP does not provide its advice regarding the dispute within the thirty (30) calendar-day time period, the USMMA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the USMMA shall prepare a written response that considers any timely comments regarding the dispute from the signatories and concurring parties to this Agreement, and provide them and the ACHP with a copy of such written response.

**D.** The USMMA's responsibility to carry out all other actions subject to the terms of this Agreement, that are not the subject of the dispute, remain unchanged.

**E.** At any time during implementation of the measures stipulated in this Agreement, should a member of the public raise an objection to the USMMA regarding the manner in which the measures stipulated in this Agreement are being implemented, the USMMA shall notify the signatories to this Agreement and consult with the signatories to evaluate and address the objection.

## **VI. Efficient Communications**

In accordance with Executive Order 13563 “Improving Regulation and Regulatory Review,” and Executive Order 13589 “Promoting Efficient Spending” communications between signatories of this Agreement and consulting parties discussed herein shall be in electronic form whenever practicable, permitted by law, and consistent with applicable records retention requirements, unless specifically requested in another form (i.e., mail/hard copy) by a consulting party. The USMMA is responsible for maintaining an up-to-date list of email addresses of the consulting parties.

## **VII. Annual Reporting and Monitoring**

**A.** On July 1 of each year this Agreement remains in force, the USMMA shall prepare and provide, via the chain of command, an Annual Report that reviews the implementation of the terms of this Agreement and determine whether amendments are needed. The Annual Report shall address the following topics:

- (1).** Problems with implementation or issues encountered during the previous year.
- (2).** Changes the USMMA believes should be made in the implementation of this Agreement.
- (3).** A list of properties treated under this Agreement during the reporting period, including non-review activities found eligible for the Streamlined Review process.
- (4).** A list of all USMMA professional training opportunities relative to this Agreement provided during the reporting period and number of participants and organizations.
- (5).** Management summaries of inadvertent discoveries of all archaeological sites at the USMMA during the reporting period, subject to the confidentiality provisions of Stipulation IV of this Agreement.
- (6).** Two copies of the Annual Report shall be provided to the SHPO.

**B.** The ACHP and the SHPO may monitor and review the activities carried out pursuant to this Agreement. The USMMA shall cooperate with the SHPO and the ACHP in their monitoring and review responsibilities.

C. The USMMA shall meet with SHPO, ACHP, and the concurring parties as necessary to review the implementation of this Agreement and any amendments that may be proposed.

### **VIII. Amendment and Termination**

A. This Agreement may be amended when such an amendment is agreed to in writing by all signatories. The amendment shall be effective on the date of the last signature of the signatory parties.

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

C. Should the designated CRM position change, the USMMA shall notify SHPO and the ACHP within five (5) days of the position changing, and shall consult on each individual undertaking pursuant to 36 C.F.R. §§ 800.3 through 800.6 until the designated CRM is in place.

D. Once the Agreement is terminated, and prior to work continuing on undertakings, the USMMA must either (a) comply with 36 C.F.R. § 800 for each individual undertaking, or (b) consult to determine if parties agree to develop a new PA, pursuant to 36 C.F.R. § 800.14. the USMMA shall notify the signatories as to the course of action it will pursue.

### **IX. Anti-Deficiency Act**

The USMMA's future efforts to execute requirements arising from the stipulations of this Agreement are subject to the provisions of the Anti-Deficiency Act. If compliance with the Anti-Deficiency Act alters or impairs the USMMA's ability to implement the stipulations of this Agreement, the USMMA shall consult in accordance with the amendment and termination procedures found at Stipulation VIII of this Agreement. No provision of this Agreement shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, Title 31 U.S.C. § 1341.

### **X. Duration of Agreement**

This Agreement shall remain in full force and effect for ten (10) years after the date of the last signatory's signature. This Agreement shall be reviewed periodically, and must be formally reviewed after the fifth year from the execution of the Agreement or it will be terminated. Six (6) months prior to the date this Agreement would otherwise expire, USMMA shall consult with the Signatories to determine whether the Agreement needs to be extended, amended, or terminated and take such actions as appropriate.

**Execution** of this Agreement by the USMMA, the SHPO, and the ACHP and implementation of its terms, is evidence that the USMMA has taken into account the effects of the undertakings to which this Agreement applies on historic properties and afforded the ACHP an opportunity to comment.



**SIGNATORIES:**

UNITED STATES MERCHANT MARINE ACADEMY

By: SUSAN LYNN DUNLAP Digitally signed by SUSAN LYNN DUNLAP  
Date: 2022.04.06 14:08:53 -04'00' Date: 6 April 2022  
RDML Susan Dunlap, United States Maritime Service

NEW YORK STATE HISTORIC PRESERVATION OFFICER

By:  Date: 4/15/22  
Daniel Mackay, Deputy State Historic Preservation Officer

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:  Date: 4/22/2022  
Jordan E. Tannenbaum  
Vice Chairman



Appendix A  
NRHP Listed Elements at  
U.S. Merchant Marine Academy

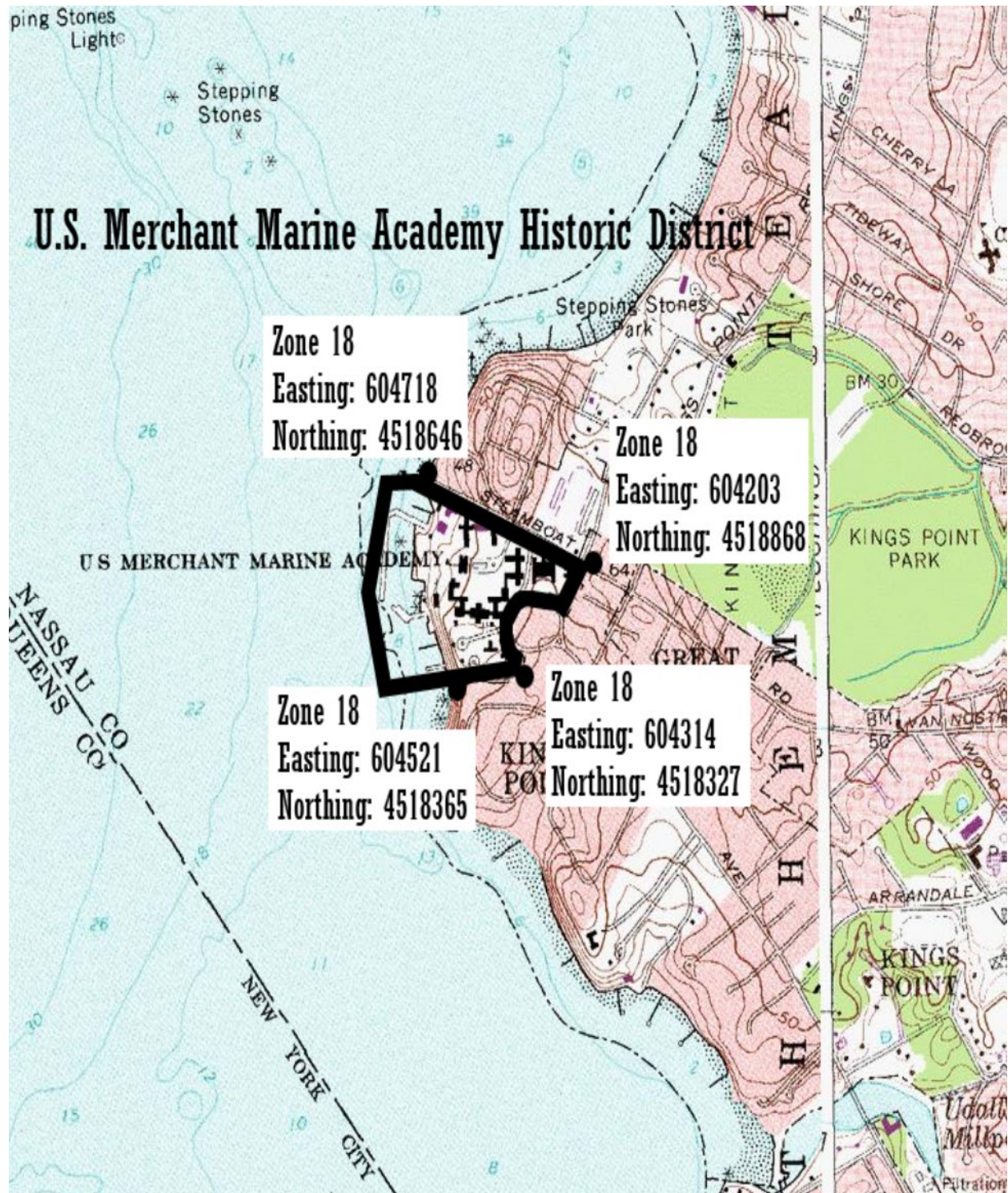


Figure 1: Location and boundary for the USMMA historic district



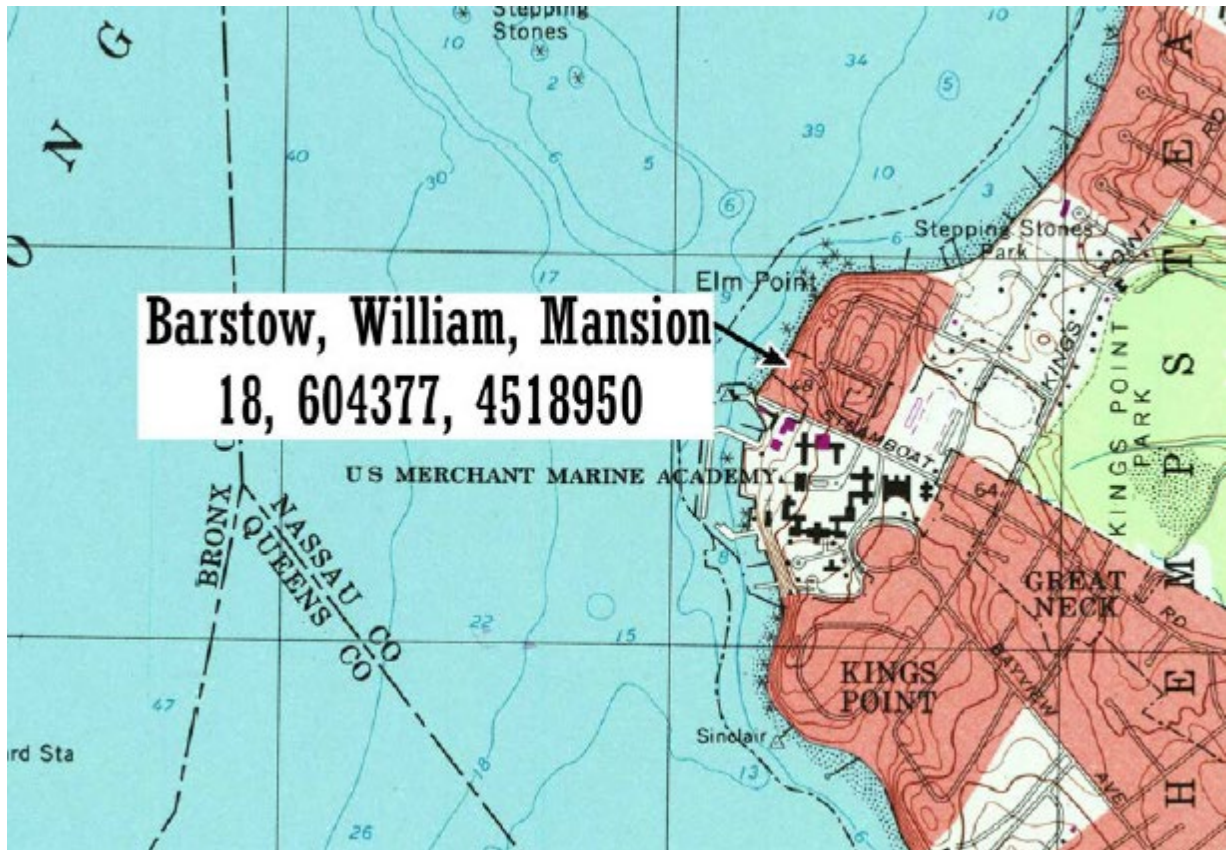


Figure 2: Location of the individually listed William Barstow Mansion

## **U.S. Merchant Marine Academy Historic District List of Contributing and Non-Contributing Features**

SITE: (1 contributing)

- 1 Topography, landscape, viewsheds, layout, and circulation

BUILDINGS: (30 contributing, 9 non-contributing)

- 2 Quarters D (Grenwolde Casino)
- 3 Quarters A (Neiley Estate – Main House)
- 4 Quarters J (Neiley Estate – Garage)
- 5 Melville Hall (Meighan Estate)
- 6 Quarters K (Meighan Estate – Garage)
- 7 Land Hall (Schenck Estate)
- 8 Quarters B (a Grenwolde House)
- 9 Quarters C (Vreeland House)
- 10 Wiley Hall (Bendel/Chrysler Mansion)
- 11 Palmer Hall
- 12 Murphy Hall
- 13 Cleveland Hall
- 14 Rogers Hall
- 15 Barry Hall
- 16 Jones Hall
- 17 Furuseth Hall
- 18 Fulton Hall
- 19 Bowditch Hall
- 20 Berger Hall [noncontributing]
- 21 Gibbs Hall [noncontributing]
- 22 Fitch Building
- 23 Quarters G [noncontributing]
- 24 Samuels Hall
- 25 Coast Guard Station [noncontributing]
- 26 Yocum Sailing Center [noncontributing]
- 27 Delano Hall
- 28 O'Hara Hall
- 29 Natatorium [noncontributing]
- 30 Admissions Center
- 31 Guard Shack [noncontributing]
- 32 Patten Medical Clinic
- 33 U.S. Merchant Marine Memorial Chapel
- 34 Boat House (Schenck Estate swimming pool) [noncontributing]
- 35 Crowninshield Pier and Boat House
- 36 Men's Shower
- 37 Women's Shower
- 38 Paint Locker
- 39 Sewer Pump House [noncontributing]
- 40 Bland Library

STRUCTURES: (4 contributing)

- 41 Vickery Gate
- 42 Marvin Place Gate
- 43 Mallory Pier
- 44 Eldridge Pool

OBJECTS: (4 Contributing, 1 Noncontributing)

- 45 Flagpole

- 46 Amphitrite Pool
- 47 Gun (5-inch deck gun)
- 48 War Memorial
- 49 Mariner Monument [noncontributing]

**William Barstow Mansion**

- 1 American Merchant Marine Museum (William Barstow Mansion)
- 1 Quarters O (Garage)

**Property outside the Historic District and Barstow Mansion Determined Not Eligible**

- Tomb Memorial Field & Brooks Stadium
- Upper & Lower Roosevelt Fields
- Tennis & Handball Courts
- Brooks Field House
- Parking Lot
- Quarters E& F
- DPW Buildings
- Quarters M & N (McNulty Campus)
- Quarters L (McNulty Campus)
- 307 Steamboat Road

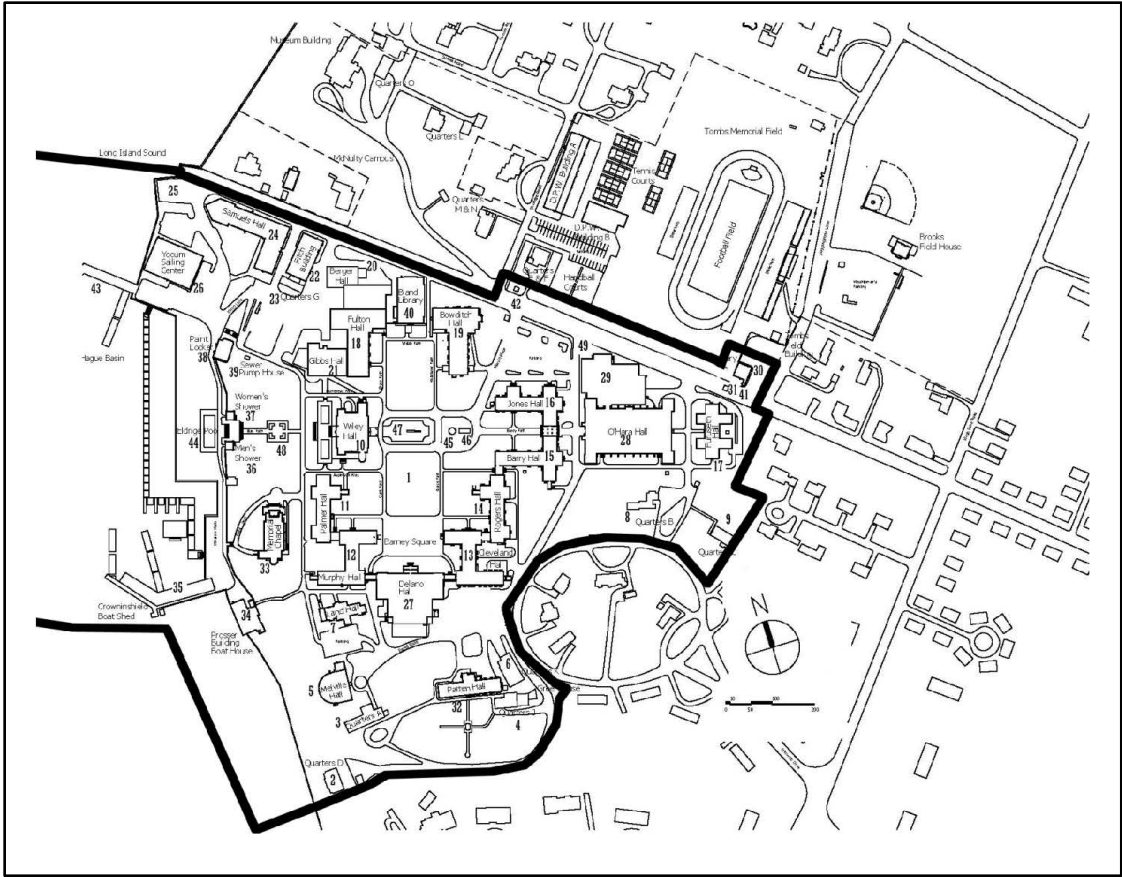


Figure 3: Sketch map of USMMA Historic District

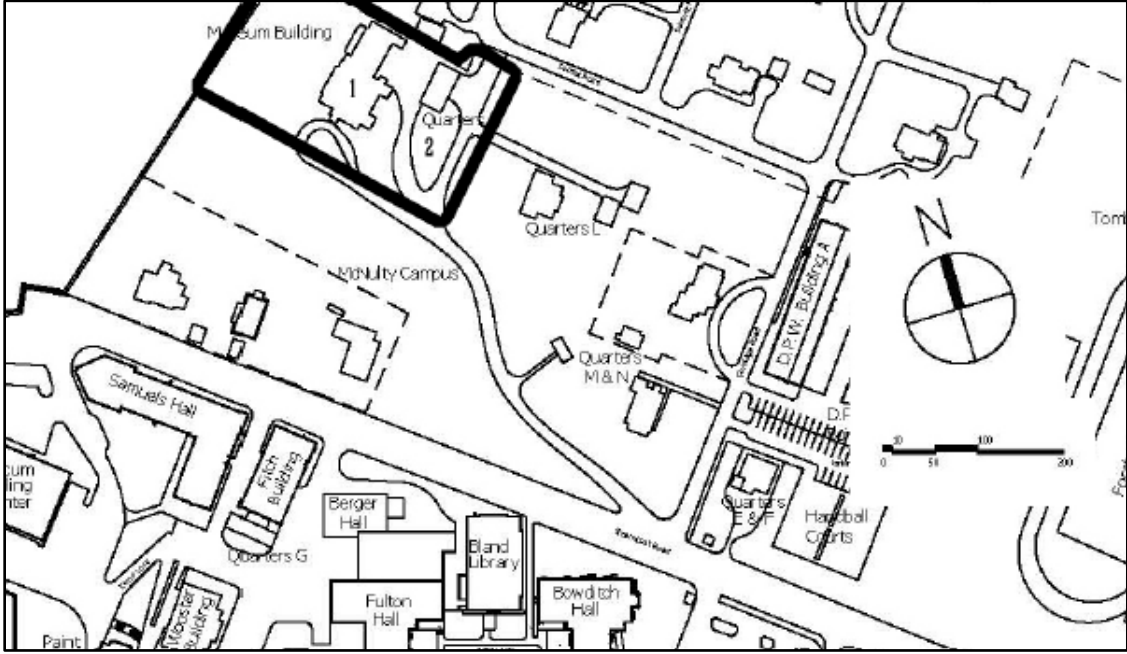


Figure 4: Sketch map of the William Barstow Mansion

Appendix B  
Cultural Resources Management Responsibilities  
U.S. Merchant Marine Academy

## Cultural Resources Management

- (1) Cultural resources must be considered in developing and implementing management and development plans for lands and buildings under control of the U.S. Merchant Marine Academy (USMMA), including but not limited to, academic, residential, religious, and athletic/recreational buildings, medical clinic, and administration and staff offices.
- (2) Direct, indirect, and cumulative impacts on cultural resources of all kinds must be addressed when considering the environmental impacts of USMMA activities under the National Environmental Policy Act (NEPA), beginning at the earliest possible time when planning any cultural resources action. Impacts on cultural resources may constitute extraordinary circumstances requiring special review of actions that would otherwise be categorically excluded from extensive NEPA review. Impacts on cultural resources may be, but are not necessarily, significant enough impacts on the quality of the human environment to require preparation of environmental documentation under NEPA.
- (3) The impacts of proposed actions on cultural resources will be considered when planning and in decision making at all levels within USMMA, with reference to the legal authorities listed herein.
- (4) USMMA officials responsible for compliance with NEPA, the National Historic Preservation Act (NHPA), and other cultural resource legal requirements will ensure that other government agencies, organizations, and members of the public who may be concerned about impacts on cultural resources are fully and fairly consulted when planning pertinent USMMA action.
- (5) Consultation with federally recognized Indian tribal governments about cultural resource-related matters will be guided by this Agreement.

## Cultural Resources Legal Authorities

### 1. FEDERAL LAWS

- a. **American Indian Religious Freedom Act (AIRFA)** (42 U.S.C. § 1996). Establishes as U.S. Government policy to respect the inherent right of American Indians, Alaska Natives, and Native Hawaiians to practice their traditional religions. AIRFA has been interpreted by the courts to require Federal agencies to consult with Indian tribes and other Native Americans about agency actions that may affect religious practices, places, and sacred objects used in religious practices.
- b. **Archaeological and Historic Preservation Act (AHPA)** (54 USC 312501-312508). Also called the Archaeological Data Preservation Act (ADPA). This law requires Federal agencies to recover archaeological, historical, and scientific data that may be threatened by construction projects and other related actions they undertake, assist, or license.
- c. **Archaeological Resources Protection Act (ARPA)** (16 USC 470aa-mm). This law prohibits the excavation or removal of archaeological resources from Federal and Indian tribal land without a permit issued by the responsible land management agency in accordance with regulations issued jointly by the Departments of Agriculture, Defense, and Interior, and the Tennessee Valley Authority.



d. **Federal Records Act (FRA)** (44 U.S.C. ch. 31 § 3101). This law and its extensive regulations require Federal agencies to manage documents and other records under their jurisdiction and control in accordance with procedures approved by the National Archives and Records Administration (NARA) that are designed to preserve the historical value of such records.

e. **National Environmental Policy Act (NEPA)** (42 U.S.C. §4321 et seq). This law articulates U.S. Government policy favoring protection and responsible use of the human environment. Together with the implementing regulations issued by the Council on Environmental Quality (CEQ) (40 C.F.R. §§ 1500-1508), NEPA requires Federal agencies to consider the environmental impacts of their proposed actions prior to making decisions.

f. **National Historic Preservation Act (NHPA)** (54 U.S.C. 300101 et seq). Establishes government-wide policy favoring responsible use of historic properties, places included in or eligible for the National Register of Historic Places, and creates a national historic preservation program. The following sections provide specific direction relevant to USMMA:

(1) **Section 106:** Requires agencies to consider the effects of actions they propose to undertake, assist, or license on historic properties. Implementing regulations (i.e., 36 C.F.R. § 800) by the Advisory Council on Historic Preservation (ACHP) outline how agencies are to consult with State and Tribal Historic Preservation Officers and other interested parties, identify historic properties, and resolve adverse effects.

(2) **Section 110:** Requires agencies to identify and manage historic properties under their jurisdiction and control, encourage the preservation of non-federally owned historic properties, discourage the anticipatory destruction of historic properties, document historic properties that must be destroyed or damaged, maintain historic preservation offices, respond to comments by the ACHP, and consult with preservation authorities, Indian tribes, and others in carrying out their historic preservation activities. Authorizes inclusion of historic preservation costs as eligible project costs of Federal and federally assisted projects.

(3) **Section 111:** Requires agencies to seek adaptive uses of historic properties under their jurisdiction or control that can no longer be used for agency purposes, authorizes leases as a means of effecting adaptive use, and authorizes agencies to retain proceeds from such transactions to support preservation activities.

(4) **Section 112:** Requires agencies to use qualified personnel to carry out historic preservation work and maintain records of such work in perpetuity.

g. **Native American Graves Protection and Repatriation Act (NAGPRA)** (25 U.S.C. 3001-3013). Requires Federal agencies and museums receiving Federal assistance to identify Native American cultural items (i.e., Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony) under their control, and repatriate such items to culturally affiliated tribes having the right to receive them. Also requires work stoppage and various forms of coordination and documentation when such items are unearthed on Federal or Indian tribal lands. Regulations issued by the National Park Service (NPS) (i.e., 43 C.F.R. § 10) require that anyone, including Federal agencies, whose actions may disturb such items on Federal or Indian tribal lands must consult with culturally affiliated tribes and develop and implement plans of action.

**h. Religious Freedom Restoration Act (RFRA)** (42 U.S.C. Ch. 21B § 2000bb et seq). Prohibits Federal agencies from substantially burdening any person’s practice of religion, unless doing so is required to meet a compelling government interest, and the means of doing so is the least restrictive means of meeting that interest.

## **2. DEFINITIONS**

a. **Ancestral remains.** Ancestral remains are the physical remains, including, but not limited to, bones of deceased human beings, including, but not limited to, those that must be given special consideration under NAGPRA.

b. **Community identity.** A human community’s sense of itself typically expressed in and reinforced by social institutions, beliefs, forms of expression, arts, crafts, means of subsistence, and patterns of interaction. Community identity is an aspect of the human environment that must be addressed in analyses under NEPA, and at times under other cultural resource legal authorities.

c. **Cultural item.** Cultural items, as defined at Section 2(3) of NAGPRA with regard to Native Americans, include ancestral human remains, associated and unassociated funerary objects, sacred objects, and objects of cultural patrimony. Communities that are not of Native American ancestry may also have cultural items, and concerns about such items should be respected, though such communities do not have special rights under NAGPRA.

d. **Cultural resource.** Cultural resource, as used here, includes all aspects of the human environment that have historical, architectural, archaeological, or cultural significance, including, but not limited to, historic properties, archaeological resources and data, Native American ancestral remains and cultural items, religious places and practices, historical objects and artifacts, historical documents, and community identity.

e. **Historical document.** Historical documents are documents preserved in any medium (e.g., paper, film, and electronic media) that may be of historical, archaeological, or cultural value, or that must be maintained by USMMA in accordance with the requirements of the FRA. This will be determined by the records management office.

f. **Historical object or artifact.** Historical objects or artifacts are portable and semi-portable objects that may have historical, archaeological, or cultural value, including, but not limited to, portable archaeological artifacts that must be cared for in accordance with ARPA.

g. **Historic property.** A historic property is any district, site, building, structure, or object included in or eligible for the National Register of Historic Places, and hence entitled to consideration under NHPA.

h. **Native American.** Native Americans are individuals, tribes, and organizations that have special rights under NAGPRA, as Indian tribes and/or Native Hawaiian organizations under NHPA, under AIRFA, or under any other provision of Federal law relating to Indian tribes and/or Native Hawaiian organizations.

i. Religious place. A religious place is a location where a group of people practice their beliefs. It may be a building or structure (e.g., a church, synagogue, mosque, or temple), a rural area, an urban location, or a natural place. Impacts on religious places must be considered under RFRA and sometimes under AIRFA.

j. Religious practice. A religious practice is any activity carried out by a group of people expressing its religious beliefs; impacts on such practices must be considered under RFRA and sometimes AIRFA.

## Appendix C

# Character-Defining Features of Contributing Buildings and Structures in the United States Merchant Marine Academy Historic District

[to be inserted]

## Appendix D

# United States Merchant Marine Academy Historic District Property Maintenance and Repair Manual

[to be inserted]

## Appendix E

# Landscape Management Plan for the United States Merchant Marine Academy

[to be inserted]