

**PROGRAMMATIC AGREEMENT AMONG THE  
NEW YORK STATE HISTORIC PRESERVATION OFFICE,  
NEW JERSEY STATE HISTORIC PRESERVATION OFFICE  
AND  
GATEWAY NATIONAL RECREATION AREA,  
NATIONAL PARK SERVICE  
FOR IMPLEMENTATION OF THE GENERAL MANAGEMENT PLAN**

**WHEREAS**, the National Park Service (NPS) manages and administers the Gateway National Recreation Area (GATE) as a unit of the National Park System and is responsible for preserving, restoring, maintaining, and interpreting the historic properties of the park unimpaired for the enjoyment of future generations; and

**WHEREAS**, GATE includes the Jamaica Bay and Staten Island units of the park in Queens, Richmond and Kings Counties in New York and the Sandy Hook unit in Monmouth County, New Jersey. Historic sites within New York include Ft. Tilden, Floyd Bennett Field, Jacob Riis Park and Miller Army Air Field National Historic Districts along with Battery Weed, Fort Tompkins Quadrangle, the Endicott Era Batteries at Fort Wadsworth, and the USCG Station Far Rockaway, among others. Historic sites within New Jersey include the Fort Hancock and Sandy Hook Proving Ground National Historic Landmark District, Sandy Hook Light National Historic Landmark, and the Fort Hancock Life Saving Station, among others; and

**WHEREAS**, the National Historic Preservation Act of 1966 (as amended) governs the treatment of archeological and historic properties; that NPS recognizes its responsibilities in executing provisions of Sections 110 and 106 of that Act; and that *Director's Order 28* outlines NPS policy in regard to the preservation and treatment of archeological, cultural and historic properties within the park; and

**WHEREAS**, in 2008 the National Park Service entered into a Nationwide Programmatic Agreement (Nationwide PA) with the Advisory Council on Historic Preservation and the National Conference of State Historic Preservation Officers to carry out its Section 106 responsibilities with respect to the management of park areas; and

**WHEREAS**, the Nationwide PA encourages development of park-specific programmatic agreements to supplement the provisions of the Nationwide PA; and

**WHEREAS**, the NPS is currently preparing a General Management Plan/Environmental Impact Statement (GMP/EIS) for GATE; and

**WHEREAS**, the effects of the GMP/EIS on historic properties cannot be fully evaluated at this time and will require further evaluation and consultation as the GMP/EIS is implemented, though the GMP/EIS preferred alternative establishes a "ruins" concept and GATE has determined implementation of the ruins concept will have an adverse effect on historic properties and this PA will guide the Section 106 process as the GMP/EIS is implemented and as the decisions regarding management of historic properties designated as ruins are made; and

**WHEREAS**, the NPS has consulted with the New York State Office of Parks, Recreation and Historic Preservation (NY SHPO) and the New Jersey Department of Environmental, Historic Preservation Office (NJ SHPO) and they have agreed to participate in the development and execution of this PA; and

**WHEREAS**, the NPS has invited the Delaware Nation, Delaware Tribe of Indians and Stockbridge-Munsee Community and to participate in the development of this PA, and while they are not participating in the development of the PA the NPS will continue to consult with them during implementation of the GMP; and

**WHEREAS**, the NPS has consulted with the Advisory Council on Historic Preservation (ACHP) and invited them to participate in the development of this PA. and they have declined to participate; and

**WHEREAS**, the NPS has informed the public throughout the development of the GMP/EIS and made the draft GMP/EIS available to the public for review and comment and will provide additional opportunities for public input through the Section 106 process as the GMP/EIS is implemented, and

**WHEREAS**, the NPS, in consultation with the NY and NJ SHPOs, will identify additional consulting parties for inclusion in the Section 106 process as the GMP/EIS is implemented; and

**NOW, THEREFORE**, GATE, the NY SHPO, the NJ SHPO mutually agree that the NPS will carry out its Section 106 responsibilities with respect to implementation of the GATE GMP/EIS in accordance with the following guidelines:

## **STIPULATIONS**

**I. REVIEW OF UNDERTAKINGS:** During the implementation of the GATE GMP/EIS, GATE will follow the Section 106 review process described in the Nationwide PA, particularly sections III and IV. Undertakings will be reviewed according to one of two processes: Streamlined Review or Standard Review.

### **A. Streamlined Review:**

1. In order to qualify for streamlined review, undertakings must meet three criteria:
  - a) The undertaking must fall under one of the sixteen categories of activities eligible for streamlined review, listed in section III C of the Nationwide PA.
  - b) Identification and evaluation of properties within the undertaking's area of potential effect (APE) must have already occurred, and the SHPO(s) must have concurred with all eligibility/ineligibility determinations.
  - c) GATE's Section 106 coordinator, in consultation with the park CRM team, as defined in section I B of the Nationwide PA, must review the undertaking and the determination of effect must be no adverse effect upon properties listed on or eligible for the National Register of Historic Places (historic properties).
2. If the undertaking meets all of these criteria, GATE will document compliance with the Nationwide PA and report on the actions in the annual report to each SHPO required by section III B (5)(d) of the Nationwide PA.
3. Actions that do not meet all three criteria will follow the standard review process.

### **B. Standard Review:**

1. The standard review process is described in 36 CFR Parts 800.3 through 800.6.
2. As appropriate, GATE will work with the NY SHPO and/or NJ SHPO to identify parties other than those who are signatories to this agreement that may have an interest in properties that could be affected by undertakings undergoing the standard review process.

**II. TREATMENT OF HISTORIC PROPERTIES IDENTIFIED AS RUINS:** Within the designated Ruins Subzones and through the priority banding, the GATE GMP/EIS identifies certain resources as "ruins." Within the GMP/EIS, properties designated as ruins are defined as "Structures in poor condition... that may be removed or fenced off to keep from being a safety hazard; no work will be done to better the condition of the resources." These structures, and in some cases their associated landscapes, will be allowed to decay naturally, be stabilized for safety, fenced off to limit public access, or demolished. Cumulatively, and in most cases individually, these actions will have an adverse effect upon historic properties.

- A. Upon execution of this PA and completion of the GMP/EIS Record of Decision (ROD) process, GATE will initiate consultations with the NY and NJ SHPOs, and interested federally-recognized tribes to complete the Section 106 process for implementation of the ruins concept. This process will formalize and document the decisions made regarding the treatment of specific historic properties designated as ruins.
- B. GATE will work with the NY and NJ SHPOs to identify additional consulting or interested parties as appropriate and establish a process for public involvement.
- C. Consultation on the treatment of historic properties designated as ruins will include input on final decisions regarding which properties will be designated as ruins. As stated in the GMP/EIS the priority banding (including the “ruins” designation) may be updated as the result of new or better information and further consultation.
- D. Consultations on the ruins concept will be initiated within one year of the ROD and will be organized in three efforts corresponding to GATE’s three units. While consultation efforts will pertain to the three units of GATE separately, final decisions regarding treatment of historic properties will need to incorporate decisions being made across the park.
- E. Treatment decisions for historic properties identified as ruins may include demolition, natural decay, minor stabilization, fencing the properties, or other viable options identified during consultation.
- F. Treatments resulting in further damage or loss of historic properties, such as natural decay and demolition, will be mitigated by such efforts that might include documentation, interpretation or other measures to be determined during the consultation process.
- G. No historic property designated as a ruin will undergo demolition or destructive action prior to consultation regarding the treatment of that particular property.

### III. ADMINISTRATIVE STIPULATIONS:

- A. **Amendment:** At any time, signatories to this Agreement may determine whether revisions or amendments to this Agreement are needed. If signatories to this Agreement determine that revisions or amendments are needed, the signatories will consult to consider such amendment, and upon the unanimous decision of all signatories, such amendments will be implemented.
- B. **Failure to Carry Out Terms of this Agreement:** In the event that NPS does not carry out the terms of this Agreement, GATE will comply with the terms of the Nationwide PA, or 36 CFR Section 800.3 through 800.6 as applicable with regard to individual undertakings that otherwise would be covered by the terms and provisions of this Programmatic Agreement.
- C. **Termination:** Signatories to this agreement may request termination of this agreement by providing ninety (90) calendar days’ notice to all signatory and concurring parties, provided that the parties will consult during the period prior to termination to seek agreements on amendments or other actions that would avoid termination. In the event of termination, the NPS will follow the procedures in the Nationwide PA or 36 CFR Section 800.3 through 800.6.
- D. **Duration:** This agreement will terminate 20 years from the date of its execution. During the term of the PA, the NPS will review the PA every 5 years and consult with the signatories of the PA to evaluate the progress and effectiveness of the PA.
- E. **Anti-Deficiency:** All actions taken by GATE in accordance with this PA are subject to the availability of funds, and nothing in this PA shall be interpreted as constituting a violation of the Anti-Deficiency Act.

Execution of this PA by GATE and the NY and NJ SHPOs and implementation of its terms evidence that GATE has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

**NEW YORK STATE HISTORIC PRESERVATION OFFICE**

**By:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**NEW JERSEY STATE HISTORIC PRESERVATION OFFICE**

**By:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**NATIONAL PARK SERVICE, GATEWAY NATIONAL RECREATION AREA**

**By:** \_\_\_\_\_ **Date:** \_\_\_\_\_