

**PROGRAMMATIC AGREEMENT
AMONG
UNITED STATES ARMY GARRISON PICATINNY ARSENAL,
NEW JERSEY STATE HISTORIC PRESERVATION OFFICER, AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION FOR
UNDERTAKINGS OF THE REAL PROPERTY MASTER PLAN FOR
PICATINNY ARSENAL, NEW JERSEY**

WHEREAS, the United States Army Garrison, Picatinny Arsenal, Morris County, New Jersey (USAG Picatinny) has completed its Real Property Master Plan (RPMP) based on a six to ten (6-10) year budget cycle that establishes planning strategies for stationing, equipment distribution, and training (Project). The RPMP includes construction and demolition actions to support military mission construction projects, increase in operations and redevelopment of existing facilities to include the demolition of surplus buildings as part of the U.S. Army's Facility Reduction Program (FRP), and development associated with the Enhanced Use Lease (EUL) initiative; and

WHEREAS, USAG Picatinny plans to execute the Project pursuant to Army Regulation 210-20, 'Real Property Master Planning for Army Installations', thereby making the Project (see Attachment A, list of RPMP Projects and Attachment B, list of FRP structure demolitions) 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 § 800; and

WHEREAS, USAG Picatinny has defined the Project's area of potential effects (APE) as the entire installation as demonstrated in Attachment C (RPMP Project Maps); and

WHEREAS, USAG Picatinny has determined that the Project will have an adverse effect upon the Administration and Research Historic District, 600 Ordnance Testing Area Historic District, Naval Air Rocket Test Stands (NARTS) Test Areas D & E Historic Districts, and the 1500 Rocket Test Area Historic District which are eligible for listing in the National Register of Historic Places (NRHP), and has consulted with the New Jersey State Historic Preservation Office (SHPO) pursuant to 36 CFR § 800; and

WHEREAS, USAG Picatinny, has consulted with the Delaware Nation of Oklahoma, Absentee-Shawnee Tribe of Oklahoma, and the Shawnee Tribe, for whom Picatinny Arsenal has religious and cultural significance (letter dated 25 February 2009); and

WHEREAS, the Delaware Nation of Oklahoma has elected to participate in this consultation (verbally at May 28, 2009 meeting), and has been invited to sign this Programmatic Agreement (PA) as a Concurring Party; and

WHEREAS, the Absentee-Shawnee Tribe of Oklahoma and the Shawnee Tribe have verbally responded to a lack of interest in providing input into the development of this PA, and as an alternative remain interested as a point of contact for Native American finds during Standard Operating Procedures (SOP) for inadvertent archaeological discoveries listed in Attachment D; and

WHEREAS, the Delaware Tribe of Indians has elected to participate in this consultation (per email sent April 21, 2010 meeting), and has been invited to sign this PA as a Concurring Party; and

WHEREAS, USAG Picatinny has additionally consulted with the following Consulting Parties: National Trust for Historic Preservation, New Jersey State Museum, Preservation New Jersey, Morris County Heritage Commission, Morris County Historical Society, Morris County Trust for Historic Preservation, Society for Industrial Archaeology (Roebing Chapter), Jefferson Township Historical Society, Historical Society of the Rockaways, Mount Hope Historical Conservancy, Denville Historical Society, and the Mount Olive Township Historical Society regarding the effects of the Project on historic properties; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), USAG Picatinny has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination providing the specified documentation, and the ACHP has chosen to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii);

WHEREAS, USAG Picatinny has conducted survey investigations to identify potential historic properties within the particular RPMP Project's areas (identified APE) as part of its Section 106 responsibilities as illustrated in Attachment C; and

WHEREAS, USAG Picatinny has performed Historic American Building Survey (HABS) and Historic American Engineering Record (HAER) documentation to the Level II Standard at six (6) historic properties to include the following, Buildings 154 and 168 within the Administration and Research Historic District, Buildings 617D and 617E within the 600 Ordnance Testing Area Historic District, and Buildings 3617 and 3618 within the NARTS Test Area E Historic District (Attachment B); and

WHEREAS, USAG Picatinny and the Consulting Parties to this PA acknowledge the national importance of Picatinny Arsenal to the historic context of military history within the United States, especially in the fields of Cold War rocket development, ammunition and explosives development, armament research and development, and also the fields of Native American history; regional history related to farmsteads, community development, iron forging and mineral mining; association with significant individuals; natural resources; and engineering and architecture; and

WHEREAS, USAG Picatinny has determined that the previously discussed during consultation RPMP Project for the Army Community Service renovation to NRHP-eligible Building 119 (contributing structure to the Administration and Research Historic District) has been removed from this PA due to a redirection of funds from RPMP Military Construction directly to the Garrison tenant Family, Morale, Welfare & Recreation; and

WHEREAS, USAG Picatinny, in consultation with the SHPO, has determined that due to the current state of deterioration of the twenty-three (23) historic properties listed for demolition within the FRP, which were historically used for manufacture and storage of munitions, propellants, and explosives, are severely contaminated and deteriorated and cannot be made safe for reuse with the exception of a few partially contaminated buildings for which the level of significance does not justify the high cost of decontamination (Attachment B); and

WHEREAS, USAG Picatinny, in consultation with the Consulting Parties, has prioritized the FRP structure demolition list (Attachment B) to ensure that properties determined not eligible and the historic properties listed above with completed HABS/HAER documents are demolished first (Buildings 154 and 168 within the Administration and Research Historic District, Buildings 617D and 617E within the 600 Ordnance Testing Area Historic District, and Buildings 3617 and 3618

within the NARTS Test Area E Historic District), prior to NRHP-eligible historic properties, which will be demolished after Stipulation I(D) is complete (pg 6-7); and

WHEREAS, USAG Picatinny and the Consulting Parties to this PA acknowledge that there are 14 structures included within the FRP (Attachment B) that have not and will not be evaluated for NRHP eligibility as potential historic properties as they no longer exist for evaluation; and

WHEREAS, USAG Picatinny, has conducted a review process in accordance with the National Environmental Policy Act for the development of an Environmental Assessment, which included the solicitation of public input on the cumulative effects of the Project; and

WHEREAS, USAG Picatinny, has provided public participation during the consultation process through a secure website, public meetings, and conference calls; and

NOW, THEREFORE, USAG Picatinny, SHPO, and the ACHP agree that the Project as described above shall be implemented in accordance with the following stipulation provisions in order to take into account the effect on historic properties.

STIPULATIONS

USAG PICATINNY SHALL ENSURE THE FOLLOWING MEASURES ARE CARRIED OUT:

I. MITIGATION FOR THE LOSS OF NATIONAL REGISTER ELIGIBLE HISTORIC PROPERTIES

- A. USAG Picatinny shall within two (2) years of the execution of this PA, ensure the installation of identification signage at five (5) viewpoints total within the following NRHP-eligible historic districts- the Administration and Research Historic District (2 signs), 600 Ordnance Testing Area Historic District (1 sign), NARTS Test Area D Historic District (1 sign), and the 1500 Area Rocket Test Area Historic District (1 sign).
- i) USAG Picatinny shall develop the identification signage in the following manner:
- a) Provide the Consulting Parties two (2) weeks notice by email, and phone if necessary, to determine the Parties interests (interested parties) in the development of the historic district signage;
 - b) Provide the interested parties the text of the signage by email;
 - c) Provide the interested parties a thirty (30) calendar day opportunity to review and comment by email on the text and location(s) of the signage;
 - d) If requested by an interested party during the thirty (30) calendar day review period, USAG Picatinny shall conduct a meeting via conference call, or on-site if needed, to explain the text and location(s) of the signage to the interested parties. USAG Picatinny shall consider all comments received within the thirty (30) calendar day period in developing the final signage text and location(s);
 - e) USAG Picatinny shall distribute a copy of the final signage to the interested parties by mail;
 - f) USAG Picatinny shall post an electronic version of the final signs online at The Historical Marker Database (<http://www.hmdb.org/default.asp>) for public viewing.
- B. USAG Picatinny shall within one (1) year of the execution of this PA, develop a temporary museum exhibit of display text boards (will not contain artifacts) to travel within New Jersey for approximately two (2) years. The final museum exhibit shall be placed at each exhibition site location for a three (3) month time period for a total of at least eight (8) individual exhibition site locations. The temporary museum exhibit shall explain all of the mitigation stipulations listed within this PA and will also include an informational pamphlet describing its purpose and background within the Project.
- i) USAG Picatinny shall develop the temporary museum exhibit and informational pamphlet in the following manner:
- a) Provide the Consulting Parties two (2) weeks notice by email, and phone if necessary, to determine the Parties interests (interested parties) in the development of the temporary museum exhibit and informational pamphlet;
 - b) Provide the interested parties the presentation and appearance of the temporary museum exhibit and informational pamphlet by email;

- c) Provide the interested parties a thirty (30) calendar day opportunity to provide review and comment by email on the presentation and appearance of the temporary museum exhibit and informational pamphlet;
 - d) If requested by an interested party during the thirty (30) calendar day review period, USAG Picatinny shall conduct a meeting via conference call, or on-site if needed, to explain the presentation and appearance of the temporary museum exhibit and informational pamphlet to the interested parties. USAG Picatinny shall consider all comments received within the thirty (30) calendar day period in developing the final temporary museum exhibit and informational pamphlet;
 - e) USAG Picatinny and the interested parties shall coordinate a list of exhibition sites for the temporary museum exhibit;
 - f) USAG Picatinny shall post photos of the temporary museum exhibit online at their cultural resources website (<http://picac2w4.pica.army.mil/ead/Cultural/>).
- C. USAG Picatinny shall, within three (3) years of the execution of this PA, submit a Cultural Landscape Analysis (CLA) to the Consulting Parties. The CLA shall document the built environment of USAG Picatinny beginning with the purchase and development of the installation in 1880. This analysis should also include detailed mapping of the Arsenal's steam lines to demonstrate a comparison of the lines to remain existing versus the lines to be demolished as described within the Project. The CLA should be developed with guidance from the National Park Service, Technical Preservation Services Preservation Brief 36 entitled 'Protecting Cultural Landscapes Planning, Treatment and Management of Historic Landscapes' and the Secretary of the Interior's Standards Guidelines for the Treatment of Cultural Landscapes.
- i) USAG Picatinny shall develop the CLA in the following manner:
 - a) Provide the Consulting Parties two (2) weeks notice by email, and phone if necessary, to determine the Parties interests (interested parties) in the development and methodology of the CLA;
 - b) Provide the interested parties the draft methodology for the CLA by email;
 - c) Provide the interested parties a thirty (30) calendar day opportunity to provide review and comment by email on the draft methodology for the CLA;
 - d) If requested by an interested party during the thirty (30) calendar day review period, USAG Picatinny shall conduct a meeting via conference call, or on-site if needed, to review the interested parties comments on the draft methodology for the CLA. USAG Picatinny shall consider all comments received within the thirty (30) calendar day period in developing the CLA's methodology;
 - e) Provide the interested parties the draft Table of Contents based on the methodology by email for comment within thirty (30) calendar days;
 - f) If requested by an interested party during the thirty (30) calendar day review period, USAG Picatinny shall conduct a meeting via conference call, or on-site if needed, to review the draft Table of Contents. USAG Picatinny shall consider all comments received within the thirty (30) calendar day period in developing the final CLA Table of Contents;
 - g) Provide the interested parties a thirty (30) calendar day opportunity to review and comment by email on the draft CLA;
 - h) If requested by an interested party during the thirty (30) calendar day review period, USAG Picatinny shall conduct a meeting via conference call, or on-

site if needed, to review the draft CLA. USAG Picatinny shall consider all comments received within the thirty (30) calendar day period in developing the final CLA.

- i) USAG Picatinny shall distribute an electronic version (by CD) of the final CLA to the interested parties.
 - ii) USAG Picatinny shall ensure that steam lines within the aforementioned historic districts will not be demolished until this Stipulation is complete;
 - iii) USAG Picatinny shall ensure that ongoing steam line demolition (starting in 2010) is tracked by Geographic Information System (GIS) mapping for inclusion into the final CLA report.
- D. USAG Picatinny shall, within five (5) years of the execution of this PA, develop an Internet-ready, multi-media historic narrative presentation to be posted on a stand-alone website providing background on the history of Cold War era rocket production at Picatinny Arsenal to include the relationship between the NRHP-eligible NARTS Test Areas D & E Historic Districts and the 1500 Area Rocket Test Area Historic District. This narrative is being produced in lieu of traditional HABS/HAER documentation.
- i) USAG Picatinny shall develop the Internet-ready, multi-media historic narrative presentation in the following manner:
 - a) Provide the Consulting Parties two (2) weeks notice by email, and phone if necessary, to determine the Parties interests (interested parties) in the development and methodology of the Internet-ready, multi-media historic narrative presentation;
 - b) Provide the interested parties the methodology for the Internet-ready, multi-media historic narrative presentation by email;
 - c) Provide the interested parties a thirty (30) calendar day opportunity to provide review and comment by email on the methodology for the Internet-ready, multi-media historic narrative presentation;
 - d) If requested by an interested party during the thirty (30) calendar day review period, USAG Picatinny shall conduct a meeting via conference call, or on-site if needed, to review the methodology for the Internet-ready, multi-media historic narrative presentation. USAG Picatinny shall consider all comments received within the thirty (30) calendar day period in developing the methodology for the Internet-ready, multi-media historic narrative presentation comments;
 - e) Provide the interested parties the draft Table of Contents and appearance of the Internet-ready, multi-media historic narrative presentation based on the methodology by email for comment within thirty (30) calendar days;
 - f) If requested by an interested party during the thirty (30) calendar day review period, USAG Picatinny shall conduct a meeting via conference call, or on-site if needed, to review the draft Table of Contents and appearance of the Internet-ready, multi-media historic narrative presentation. USAG Picatinny shall consider all comments received within the thirty (30) calendar day period in developing the final Table of Contents;
 - g) Provide the interested parties a thirty (30) calendar day opportunity to review and comment by email on the draft presentation of the Internet-ready, multi-media historic narrative presentation;
 - h) If requested by an interested party during the thirty (30) calendar day review period, USAG Picatinny shall conduct a meeting via conference call, or on-site if needed, to review the draft presentation of the Internet-ready, multi-

media historic narrative presentation. USAG Picatinny shall consider all comments received within the thirty (30) calendar day period in developing the final Internet-ready, multi-media historic narrative presentation for a stand-alone website;

- i) USAG Picatinny shall provide an electronic demonstration version of the final Internet-ready, multi-media historic narrative presentation to the interested parties.
 - ii) USAG Picatinny shall ensure that no NRHP-eligible historic properties will be demolished until this Stipulation is complete, with the exception of Buildings 154 and 168 within the Administration and Research Historic District, Buildings 617D and 617E within the 600 Ordnance Testing Area Historic District, and Buildings 3617 and 3618 within the NARTS Test Area E Historic District (Attachment B).
- E. USAG Picatinny shall reevaluate each NRHP-eligible historic district (except NARTS Test Area E Historic District- to be demolished per FRP, Attachment B) for eligibility at the completion of the entire RPMP and FRP Projects within the respective historic district. This reevaluation will be accomplished through separate consultation to the Consulting Parties.

II. PROTECTION OF NATIONAL REGISTER ELIGIBLE HISTORIC PROPERTIES

- A. All rehabilitation and adaptive reuse projects for NRHP-eligible historic properties shall conform to *The Secretary of the Interior's Standards for the Treatment of Historic Properties, with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings* (herein referred to as Treatment Standards) with the intent of avoiding adverse effects to historic properties.
- i) These Treatment Standards shall be stipulated for the following RPMP Project listed below:
 - a) Explosive Test Area Revitalization Project, Buildings 604, 604D, 604F, 607, and 621
 - i. Provide the Consulting Parties two (2) weeks notice by email, and phone if necessary, to determine the Parties interests (interested parties) in reviewing the RFP and 35% Design Drawings;
 - ii. Provide the interested parties by email the RFP for review and comment within thirty (30) calendar days;
 - iii. Provide the interested parties the requisite 35 % Design drawings for review and comment within thirty (30) calendar days to ensure the Treatment Standards are met;
 - iv. If requested by an interested party during the thirty (30) calendar day review period, USAG Picatinny shall conduct a meeting via conference call, or on-site if needed, to review the 35 % Design drawings. USAG Picatinny shall consider all comments received within the thirty (30) calendar day period in developing the final 100% Design drawings;
 - v. Distribute to the interested parties the final 100% Design drawings by mail.
- B. Structures not previously assessed for a determination of NRHP eligibility for the Project(s) shall be evaluated.

- C. Ensure future buildings listed for demolition (not yet shown in Attachment B) as defined within the RPMP will not adversely affect NRHP-eligible historic properties.
 - i) This consideration shall be stipulated for the following RPMP Projects:
 - a) Armament University Complex;
 - b) Other RPMP Projects to be determined (TBD) at a later date based upon proposed funding and design concerns in accordance with Stipulation V.

III. PROTECTION OF HISTORIC DISTRICTS AND VIEWSHEDS

- A. USAG Picatinny shall, within one (1) year of the execution of this PA, develop a viewshed analysis (by GIS mapping) to identify significant views surrounding the following NRHP-eligible historic districts- the Administration and Research Historic District, 600 Ordnance Testing Area Historic District, NARTS Test Area D Historic District, and the 1500 Area Rocket Test Area Historic District.
 - i) USAG Picatinny shall develop the viewshed analysis in the following manner:
 - a) Provide the Consulting Parties two (2) weeks notice by email, and phone if necessary, to determine the Parties interests (interested parties) in the development of the viewshed maps;
 - b) Provide the interested parties, by email the viewshed maps for review and comment within thirty (30) calendar days;
 - c) If requested by an interested party during the thirty (30) calendar day review period, USAG Picatinny shall conduct a meeting via conference call, or on-site if needed, to explain the viewshed maps to the interested parties. USAG Picatinny shall consider all comments received within the thirty (30) calendar day period in developing the final viewshed maps;
 - d) USAG Picatinny shall distribute the final viewshed maps to the interested parties by mail.
- B. USAG Picatinny shall ensure that RPMP Projects are designed to meet the Installation's Design Guide (IDG) to allow for an architectural continuity of exterior design standards within Picatinny Arsenal. The IDG is USAG Picatinny's version of a community plan. To note, the IDG is planned for revision by USAG Picatinny within two (2) years of this PA.
 - i) USAG Picatinny shall ensure that the viewshed analysis maps completed for Stipulation III(A) are included in the revised IDG;
 - ii) USAG Picatinny shall ensure the proper historic property management language from the CLA (completed for Stipulation I(C)) is included within the revised IDG. If the CLA has not been completed by the time period for review of the draft revised IDG, the planned Contractor performing the CLA will be sought for guidance and the interested parties for the CLA will also be given the chance to review the draft IDG prior to its finalization following similar timelines and procedures as stipulated within this PA;
 - iii) USAG Picatinny shall ensure that RPMP Projects located within viewshed (as defined and mapped within Stipulation III(A)) of the aforementioned NRHP-eligible historic districts are designated as historically sensitive and designed to the following criteria, as feasibly possible,
 - a) Limit building heights to no more than 45 feet to the gutter-line;
 - b) Designed architecturally sensitive to the surrounding area,
 - i. If the RPMP Project is proposed within viewshed (as defined and mapped within Stipulation III(A)), or defined as NRHP-eligible within Stipulations I(C) or II(B), USAG Picatinny shall ensure that the

Treatment Standards listed in Stipulation II(A) are followed unless otherwise stated below in Stipulation III(B)(iii)(e);

- c) Landscaping utilizing native species designed to screen and/or blend in with surrounding species from view; and
 - d) Open space retained to the greatest extent possible;
 - e) The above described (Stipulation III(B)(iii)(b)) design considerations shall be stipulated for the following RPMP Projects as listed below:
 - i. 600 Area Water Mainline Extension
 - a. The new pump-house replacing Contributing Structures 617D and 617E, located within the 600 Ordnance Testing Area Historic District, shall be colored a Richmond Bisque tone (walls) with Cactus Green fascia (trim) as previously discussed with the Consulting Parties;
 - b. The new pump-house shall be designed similar to surrounding buildings within the 600 Ordnance Testing Area Historic District as previously discussed with the Consulting Parties;
 - c. Provide the Consulting Parties two (2) weeks notice by email, and phone if necessary, to determine the Parties interests (interested parties) in receiving the final design drawings for the new pump-house;
 - d. USAG Picatinny shall distribute the final new pump-house design to the interested parties by mail.
 - ii. Conference and Convention Center (2016 Design);
 - iii. Other RPMP Projects TBD at a later date based upon the viewshed analysis and maps as defined within Stipulation III(A), and in accordance with Stipulation V.
- C. USAG Picatinny shall ensure any historic property(ies) left unoccupied by an RPMP Project be stabilized until a new occupant or tenant (TBD) is in place to ensure the property's NRHP eligibility is not compromised.
- i) USAG Picatinny shall prioritize the stabilization needs of any historic property(ies) left unoccupied by an RPMP Project to determine if National Park Service Preservation Brief 31 'Mothballing Historic Buildings' can be met,
 - a) If USAG Picatinny determines that the historic property(ies) affected cannot be mothballed to National Park Service Preservation Brief 31 standards, USAG Picatinny will notify the Consulting Parties by email, and phone if necessary.

IV. PROTECTION OF ARCHAEOLOGICAL RESOURCES

- A. USAG Picatinny shall determine the need for a Phase I Cultural Resource Survey (CRS) based upon the RPMP Project's identified APE.
 - i) USAG Picatinny shall utilize the installation's Archaeological Sensitivity Model, as illustrated in Attachment C, in determining the need for a CRS within the RPMP Project's identified APE;
 - ii) Upon CRS determination, USAG Picatinny shall provide the Consulting Parties two (2) weeks notice by email, to determine the Parties interests (interested parties) in the review process of the CRS;
 - iii) Upon CRS fieldwork and report completion, USAG Picatinny shall provide the SHPO and interested parties a thirty (30) calendar day opportunity to review and comment on the final CRS report;

- iv) If requested by an interested party during the thirty (30) calendar day review period, USAG Picatinny shall conduct a meeting via conference call, or on-site if needed, to discuss the fieldwork results and final CRS report. USAG Picatinny shall consider all comments received within the thirty (30) calendar day period;
- v) These CRS considerations have been previously agreed on by USAG Picatinny and the Consulting Parties for the following RPMP Project(s):
 - a) Explosive Storage Magazines, 1200 Area;
 - b) EUL, Picatinny Applied Research Campus/Little League Field Relocation;
- vi) USAG Picatinny shall evaluate the RPMP identified APE, to SHPO's Standards as defined within the New Jersey Historic Preservation Office Guidelines for Phase I Archaeological Investigations: Identification of Archaeological Resources and the New Jersey Historic Preservation Office Guidelines for Preparing Cultural Resources Management Archaeological Reports to determine the NRHP eligibility of archaeological sites.
 - a) The following RPMP Projects have been previously evaluated to SHPO's Standards by CRS:
 - i. Explosive Ordnance Disposal Technology Facility
 - a. proposed location for this particular project's identified APE shall remain within previously disturbed area(s);
 - ii. Nanotechnology Facility Addition
 - a. intensive Phase IA historic background research, including deed research and detailed mapping, shall be performed upon Site 28MR337, identified within this particular project's APE;
 - iii. Davidson Advanced Warhead Development Facility Addition
 - a. Phase II excavations and seismic vibration assessment upon Site 28MR336 to assess for potential indirect effects;
 - b. USAG Picatinny shall develop a methodology with SHPO, and interested Federally recognized Tribes for this particular project's potential indirect effects and identified APE;
 - iv. Water Treatment Plant 2MGD
 - a. intensive Phase IA historic background research, including deed research and detailed mapping, and Phase II excavations shall be performed upon Site 28MR327, identified within this particular project's APE;
 - v. Other RPMP Projects TBD at a later date based upon Stipulation IV(A)(i) and (vi), and in accordance with Stipulation V.
- vii) If NRHP-eligible historic properties are identified during CRS investigations and additional archaeological evaluations, USAG Picatinny shall apply the criteria of Adverse Effect and consult with the Consulting Parties within this PA .

B. In the event of inadvertent discovery of archaeological materials during ground disturbance activities listed within the Project, all work in the area of discovery shall stop immediately and the Picatinny Cultural Resource Coordinator (CRC) notified. USAG Picatinny shall ensure that no unauthorized personnel have access to the area of identification ensuring no further damage to the potentially significant archaeological resource until USAG Picatinny has complied with this PA and any other legal requirements. If human remains are identified, no photographs shall be taken of the remains and the interested Federally recognized Tribes listed within the PA shall be contacted immediately. USAG Picatinny shall ensure the SOP's listed within Attachment D are followed in the event of inadvertent discovery of archaeological materials.

- i) The identified archaeological resource(s) shall be protected by instituting the following,
 - a) Work stoppage within identified area;
 - b) Temporary fencing;
 - c) Temporary signage similar to ‘Do not enter, by order of Garrison Commander’;
 - d) Restricted access to include CRC, construction project manager, and construction contractor, unless otherwise approved by the CRC;
 - e) Restrictions remain in place until a written report, as specified in the SOPs (Attachment D), is approved by SHPO;
 - ii) USAG Picatinny shall ensure a briefing is given to construction project managers as needed concerning this Stipulation provision.
- C. USAG Picatinny shall ensure that all archaeological artifacts, field records, photographs and reports recovered from CLS and/or inadvertent discovery will be curated and stored in a curatorial repository that meets Federal standards as stipulated in 36 CFR 79.
- i) USAG Picatinny shall renovate space within Building 319 within one (1) year of the execution of this PA to meet 36 CFR 79.

V. PROJECT ADDITIONS AND CHANGES

- A. If a new or existing RPMP Project or FRP demolition is proposed or changed prior to the termination of this PA, the following guidelines shall be utilized by USAG Picatinny to accommodate historic preservation concerns with the needs of USAG Picatinny projects through consultation, commencing at the early stages of project planning:
- i) USAG Picatinny shall notify the Consulting Parties by email within 1 week to start the initiation process of the particular Project addition or change;
 - ii) USAG Picatinny shall notify the Consulting Parties by written letter as an email attachment within two (2) weeks with a determination of Adverse Effect and the proposed course of action for the particular Project’s identified APE as Stipulated within Sections II, III, and IV of this PA;
 - a) If USAG Picatinny determines the proposed Project addition or change will have an Adverse Effect on historic properties, the Consulting Parties will be sought for resolution, as noted above, to seek ways to avoid, minimize or mitigate the Adverse Effect(s) on the particular historic property(ies);
 - iii) If USAG Picatinny determines that the proposed Project addition or change will have No Adverse Effect on historic properties, USAG Picatinny will notify the Consulting Parties and request their review and comment on the finding within 30 calendar days of notification;
 - iv) Should any Signatory or Consulting Party to this PA fail to concur with USAG Picatinny’s Project determinations, Stipulation X, Dispute Resolution shall be followed below;
 - a) USAG Picatinny shall notify the SHPO and ACHP of the objection, and make a good faith effort to resolve the disagreement with the Consulting Party;
 - b) USAG Picatinny may request technical assistance from the ACHP in resolving the objection;
 - v) If the SHPO agrees with the Project’s addition or change finding(s) and Consulting Parties within this PA have not objected in writing, USAG Picatinny

may recommend to the project proponent that the Project addition or change can proceed.

VI. PROFESSIONAL STANDARDS AND QUALIFICATIONS

- A. USAG Picatinny shall ensure the following during the life of this PA:
- i) Professional Standards and Qualifications
 - a) Qualified Staff will have professional qualifications, training, and experience relevant to the technical requirements for Cultural Resource compliance review(s) of any given Project. For the purposes of this PA, "Qualified Staff" is defined as an individual who meets the Secretary of the Interior's Professional Qualifications Standards for Architectural History and/or Archaeology as appropriate (48 FR 44738-44739);
 - ii) All archaeological, history, cultural landscape, and/or architectural history investigations carried out in pursuant to this PA shall be conducted by or under the direct supervision of an individual or individuals who meet, at a minimum, the Secretary of the Interior's Professional Qualifications Standards for History, Architectural History and/or Archaeology as appropriate (48 FR 44738-44739);
 - iii) All Design Build contractors acting under Stipulation II(A) must be able to provide a team member (can be subcontracted) who meets, at a minimum, the Secretary of the Interior's Professional Qualifications Standards for Architectural History, Architecture, and/or Historic Architecture (48 FR 44738-44739).

VII. REVIEW OF DOCUMENTATION

If a Consulting Party fails to respond to a USAG Picatinny submission for review as discussed within this PA within thirty (30) calendar days or such other time specified within this PA or the submission itself, USAG Picatinny may assume no comment from the non-responding party. USAG Picatinny is not required to consider comments received after the specified time.

VIII. ANTI-DEFICIENCY ACT

The Stipulations of this PA are subject to the provisions of the Anti-Deficiency Act. If compliance with the Anti-Deficiency Act alters or impairs USAG Picatinny's ability to implement the Stipulations of this PA, USAG Picatinny will consult in accordance with the Amendment and Termination procedures found at Section XII and XIII of this PA.

IX. STATUS REPORTS

USAG Picatinny shall report to the Consulting Parties the status of particular RPMP and FRP Project details by the end of calendar year 2011, 2013, and 2015. This Status Report will be a written document that shall include an update on the Stipulation Provisions as discussed within this PA, and descriptions of any anticipated or unanticipated problems that could affect the integrity of (potential) NRHP-eligible historic properties. The final written Status Report will be emailed to the Consulting Parties listed within this PA upon its completion. If determined needed, a meeting will be held in lieu of the written Status Report.

X. DISPUTE RESOLUTION

Should any Signatory or Concurring Party to this PA object at any time to any actions proposed or the manner in which the terms of this PA are implemented, USAG Picatinny shall consult with such party within thirty (30) days to resolve the objection. If USAG Picatinny determines that such objection cannot be resolved, USAG Picatinny will:

- A. Forward all documentation relevant to the dispute, including USAG Picatinny's proposed resolution, to the ACHP. The ACHP shall provide USAG Picatinny with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, USAG Picatinny shall prepare a written response that takes into account 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. USAG Picatinny will then proceed according to its final decision;
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, USAG Picatinny may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, USAG Picatinny shall prepare a written response that takes into account any timely comments regarding the dispute from the Signatories and Concurring Parties to the PA, and provide them and the ACHP with a copy of such written response;
- C. USAG Picatinny's responsibilities to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged.

XI. DURATION

This PA will expire within five (5) years from the date of its execution. At such time, and prior to work continuing on the Project, USAG Picatinny shall either (a) execute a MOA pursuant to 36 C.F.R. § 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 C.F.R. § 800.7. Prior to such time, USAG Picatinny may consult with the other Signatories to reconsider the terms of this PA and amend it in accordance with Stipulation XI below. USAG Picatinny shall notify the Signatories as to the course of action it will pursue.

XII. AMENDMENTS

This PA 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.

XIII. TERMINATION OF AGREEMENT

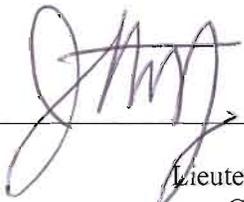
If any signatory to this PA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation XII, above. If within thirty (30) days (or another time period agreed to by all Signatories) an amendment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

Once the PA is terminated, and prior to work continuing on the undertaking, USAG Picatinny 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. USAG Picatinny shall notify the Signatories as to the course of action it will pursue.

EXECUTION of this PA by USAG Picatinny, SHPO, and the ACHP and implementation of its terms evidence that USAG Picatinny has taken into account the effects of this Project on historic properties and afforded the ACHP an opportunity to comment.

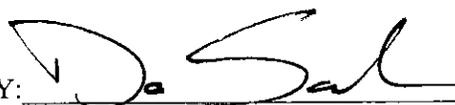
**PROGRAMMATIC AGREEMENT
AMONG
UNITED STATES ARMY GARRISON PICATINNY ARSENAL,
NEW JERSEY STATE HISTORIC PRESERVATION OFFICER, AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION FOR
UNDERTAKINGS OF THE REAL PROPERTY MASTER PLAN FOR
PICATINNY ARSENAL, NEW JERSEY**

U.S. ARMY GARRISON, PICATINNY ARSENAL

BY:  DATE: 16 April 2010
John P. Stack
Lieutenant Colonel, U.S. Army
Garrison Commander

**PROGRAMMATIC AGREEMENT
AMONG
UNITED STATES ARMY GARRISON PICATINNY ARSENAL,
NEW JERSEY STATE HISTORIC PRESERVATION OFFICER, AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION FOR
UNDERTAKINGS OF THE REAL PROPERTY MASTER PLAN FOR
PICATINNY ARSENAL, NEW JERSEY**

NEW JERSEY STATE HISTORIC PRESERVATION OFFICER

BY:  DATE: 5/4/10

Daniel Saunders
Deputy State Historic Preservation Officer
New Jersey Historic Preservation Office

**PROGRAMMATIC AGREEMENT
AMONG
UNITED STATES ARMY GARRISON PICATINNY ARSENAL,
NEW JERSEY STATE HISTORIC PRESERVATION OFFICER, AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION FOR
UNDERTAKINGS OF THE REAL PROPERTY MASTER PLAN FOR
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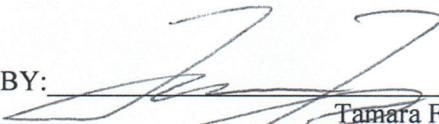
ADVISORY COUNCIL ON HISTORIC PRESERVATION

BY: John M. Fowler DATE: 6/12/10
John M. Fowler
Executive Director

**PROGRAMMATIC AGREEMENT
AMONG
UNITED STATES ARMY GARRISON PICATINNY ARSENAL,
NEW JERSEY STATE HISTORIC PRESERVATION OFFICER, AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION FOR
UNDERTAKINGS OF THE REAL PROPERTY MASTER PLAN FOR
PICATINNY ARSENAL, NEW JERSEY**

CONCURRING PARTY

DELAWARE NATION OF OKLAHOMA

BY:  DATE: 4-22-10
Tamara Francis
Delaware Nation Cultural Preservation Director

PROGRAMMATIC AGREEMENT
AMONG
UNITED STATES ARMY GARRISON PICATINNY ARSENAL,
NEW JERSEY STATE HISTORIC PRESERVATION OFFICER, AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION FOR
UNDERTAKINGS OF THE REAL PROPERTY MASTER PLAN FOR
PICATINNY ARSENAL, NEW JERSEY

CONCURRING PARTY

DELAWARE TRIBE OF INDIANS

BY: Brice Obermeyer DATE: 4/29/10
Dr. Brice Obermeyer
Tribal Historic Preservation Director