

CULTURAL RESOURCES PROGRAMMATIC
AGREEMENT APPENDIX J
FOLLY BEACH, SOUTH CAROLINA

SEPTEMBER 2021



Prepared by:

U.S. Army Corps of Engineers, Charleston District
Environmental Section

**PROGRAMMATIC AGREEMENT
AMONG
THE U.S. ARMY CORPS OF ENGINEERS, CHARLESTON DISTRICT,
THE BUREAU OF OCEAN ENERGY MANAGEMENT,
THE CITY OF FOLLY BEACH, AND
THE SOUTH CAROLINA STATE HISTORIC PRESERVATION OFFICE
REGARDING
THE FOLLY BEACH COASTAL STORM RISK MANAGEMENT PROJECT**

WHEREAS, the U.S. Army Corps of Engineers, Charleston District (USACE) proposes to evaluate alternatives for long-term coastal storm risk management on Folly Beach, an undertaking known as the Folly Beach Coastal Storm Risk Management (CSRМ) Project (Project); and

WHEREAS, the Project is a reevaluation of the existing 50-year Folly Beach CSRМ and consists of an evaluation of structural and non-structural alternatives in the development of alternative solutions to the ongoing Coastal Storm Risk Management; and

WHEREAS, the Project involves dredging sandy material from several offshore or riverine borrow areas onto an approximately 5.85-mile long area consisting of various widths of berms and dunes on Folly Beach, on Folly Island, Charleston County, South Carolina; and

WHEREAS, the Project is a federally funded undertaking, and therefore subject to the requirements of Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108; Section 106); and

WHEREAS, USACE has consulted about the Project with the South Carolina Department of Archives and History, which serves as the South Carolina State Historic Preservation Office (SHPO), pursuant to 36 CFR Part 800, the regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108); and

WHEREAS, USACE, in consultation with the SHPO, has established the Project's direct Area of Potential Effects (APE) as the 5.85-mile long study area along the Folly Beach shoreline and several sand borrow areas proposed in the Atlantic Ocean and Folly River (see Appendix A); and

WHEREAS, the APE includes archaeological site 38CH1213 (the Folly North Site) which was listed in the National Register of Historic Places (NRHP) in 2003 and the Neck Redoubts & Lines Federal Earthwork Fortifications which require additional research and testing to determine their eligibility for listing in the NRHP; and

WHEREAS, USACE, in consultation with the SHPO and other consulting parties, has determined that the Project has the potential to cause adverse effects to unrecorded submerged archaeological sites which may be eligible for listing in the NRHP; and

WHEREAS, USACE, in consultation with the SHPO and other consulting parties, has determined that the Project has the potential to cause adverse effects to recorded and unrecorded archaeological sites which may be eligible for listing in the NRHP; and

WHEREAS, USACE anticipates that any visual, auditory, or other indirect effects for the undertaking will be temporary and not adverse; and

WHEREAS, the parties have executed this Programmatic Agreement (“Agreement”) in accordance with 36 CFR § 800.14(b)(1)(ii), which allows federal agencies to fulfill their Section 106 obligations through the development and implementation of programmatic agreements when effects on historic properties cannot be fully determined prior to approval of an undertaking; and

WHEREAS, in accordance with 36 CFR § 800.2(c)(4) USACE has invited the City of Folly Beach to consult on and sign this Agreement as an invited signatory; and

WHEREAS, in accordance with 36 CFR § 800.2(c)(4) and § 800.14(b)(2)(i) USACE has invited the Bureau of Ocean Energy Management (BOEM) to consult on and sign this Agreement as an invited signatory; and

WHEREAS, in accordance with 36 CFR § 800.14(b), USACE has notified the Advisory Council on Historic Preservation (ACHP) of its intention to develop this Agreement pursuant to 36 CFR § 800.14(b)(1)(ii) (letter dated March 15, 2021), and the ACHP has chosen not to participate in the consultation (letter dated March 29, 2021); and

WHEREAS, in accordance with 36 CFR § 800.14(b)(2)(i), USACE has invited Federally recognized Indian tribes to consult on and sign this Agreement as concurring parties and no responses were received from the Absentee-Shawnee Tribe of Oklahoma, Alabama- Quassarte Tribal Town, Chickasaw Nation, Delaware Tribe of Indians, Eastern Band of the Cherokee Indians, Eastern Shawnee Tribe of Oklahoma, Kialegee Tribal Town, Muscogee (Creek) Nation, Poarch Band of Creek Indians, Shawnee Tribe and Thlopthlocco Tribal Town; and

WHEREAS, of the invited Federally recognized Indian tribes, USACE has received a response from only the Catawba Indian Nation stating that they have no immediate concerns but request to be notified should Native American artifacts and/or human remains be encountered during the ground disturbance phase of the project; and

WHEREAS, USACE has notified the Maritime Research Division at the South Carolina Institute of Archaeology and Anthropology (SCIAA) of the undertaking and invited them to consult on and sign this Agreement as a concurring party; and

WHEREAS, in accordance with 36 CFR § 800.2(d), USACE solicited public comments on the Project by releasing the draft Feasibility Study and Environmental Assessment for public review from November 10, 2020–December 10, 2020. USACE solicited public comments on this Agreement by releasing a copy of the draft agreement for public review from May 18, 2021–June 18, 2021. No comments were received from the public on the draft agreement during the review period; and

WHEREAS, USACE, the SHPO, the City of Folly Beach, BOEM, and SCIAA are collectively referred to as “Consulting Parties” under this agreement; and

NOW, THEREFORE, USACE, SHPO, the City of Folly Beach, and BOEM (Signatories) agree that the Project will be implemented in accordance with the following stipulations in order to take into account the effects of the Project on historic properties:

STIPULATIONS

USACE will ensure that the following measures are carried out:

I. ARCHAEOLOGICAL HISTORIC PROPERTIES

A. Identification

1. Prepare a Scope of Work (SOW) to submit to the SHPO and BOEM for review and concurrence. The SOW will outline and describe underwater archaeological identification efforts to be conducted of the borrow sites and the attendant dredging infrastructure areas and archaeological evaluation efforts for the beach front in the vicinity of 38CH1213, the Folly North site, and the Neck Redoubts & Lines Federal Earthwork Fortifications. The SOW will also describe reporting protocols in accordance with the guidelines set forth in Stipulation II.A of this Agreement. Pursuant to Stipulation II.B, USACE will provide the other Consulting Parties an opportunity to review and comment on the SOW.
2. Conduct underwater archaeological surveys of the borrow sites and attendant dredging infrastructure areas and archaeological evaluations for the beach front in the vicinity of 38CH1213, the Folly North site and the Neck Redoubts & Lines Federal Earthwork Fortifications as outlined in the SOW discussed in Stipulation I.A.1. The evaluations must be conducted by a qualified archaeologist meeting the standards set forth in Stipulation V.B, and must be conducted in accordance with the guidelines set

forth in Stipulations II.A and V. If any affected archaeological site is associated with the Naval History and Heritage Command (NHHC), the *NHHC Methods and Guidelines for Conducting Underwater Archaeological Fieldwork* will be utilized. The evaluations will be conducted to determine the NRHP eligibility of any affected archaeological site.

3. Prepare a report that describes the findings and recommendations of the archaeological surveys and evaluations. The report will be prepared in accordance with Stipulation II.A. Pursuant to Stipulation II.B, USACE will provide the SHPO and BOEM the opportunity to review and comment on the results.

B. Assessment of Effects

If archaeological sites meeting the criteria for listing in the NRHP are identified as a result of the activities described in Stipulation I.A.2, USACE will assess the effects of the Project on these sites in a manner consistent with 36 CFR § 800.5, and submit its findings to the SHPO and BOEM for review and concurrence and to the other Consulting Parties for review and comment pursuant to Stipulation II.B.

C. Treatment of Archaeological Sites Determined Eligible for Listing on the NRHP

1. If USACE, in consultation with the SHPO and other Consulting Parties, determines that an archaeological site listed in or eligible for listing in the NRHP will be adversely affected by the Project, USACE, in consultation with the SHPO and other Consulting Parties, will determine whether avoidance or minimization of the adverse effects is practicable. If the adverse effects cannot be practicably avoided, USACE, in consultation with the SHPO and other Consulting Parties, will develop a treatment plan for mitigation of the archaeological site. In a manner consistent with Stipulation II.B of this Agreement, USACE will provide the SHPO and BOEM the opportunity to review and concur with the treatment plan and the other Consulting Parties an opportunity to review and comment.
2. Any treatment plan USACE develops for an archaeological site under the terms of this Stipulation must be consistent with the requirements of Stipulation V.A and will include, at a minimum:
 - a. Information on the portion of the site where data recovery or controlled site burial, as appropriate, is to be carried out, and the context in which the site is listed in or eligible for listing in the NRHP;
 - b. The results of previous and current research and investigations relevant to the Project;

- c. Research problems or questions to be addressed, with an explanation of their relevance and importance;
 - d. The field and laboratory analysis methods to be used, with a justification of their cost-effectiveness and how they apply to this particular site and the research needs;
 - e. The methods to be used in artifact, data, and other records management;
 - f. Arrangements for presenting to the public the research findings, focusing particularly on the community or communities that may have interests in the results;
 - g. The curation of recovered materials and records resulting from the data recovery in accordance with 36 CFR Part 79;
 - h. The conservation of recovered materials, as applicable;
 - i. Procedures for evaluating and treating discoveries of unexpected human remains during the course of the Project, including necessary consultation with other parties;
 - j. Schedule and personnel; and
 - k. Supporting figures and references.
3. USACE will ensure the treatment plan is implemented and that any agreed-upon data recovery field operations have been completed before dredging occurs or dredged material placement activities associated with the Project are initiated at or near the affected site. USACE will notify the SHPO and other Consulting Parties once data recovery field operations have been completed so that a site visit may be scheduled, if the SHPO and other Consulting Parties find a visit appropriate. USACE will ensure that the archaeological site form on file at SCIAA is updated to reflect the implementation of the treatment plan for each affected site.
 4. Pursuant to Stipulation II.B, USACE shall provide the SHPO and BOEM the opportunity to review and concur and other Consulting Parties the opportunity to review and comment on the results of the implementation of any treatment plan prepared under this Agreement via a technical report prepared in accordance with Stipulation II.A.

II. PREPARATION AND REVIEW OF DOCUMENTS

A. Technical Preparation

All archaeological studies, technical reports, and treatment plans prepared pursuant to this Agreement will incorporate guidance provided by the Secretary of Interior's "*Standards and Guidelines for Archaeological Documentation*" (48 FR 44734-37) and the ACHP's *Treatment of Archaeological Properties* (ACHP 1980) and *Section 106 Archaeology Guidance* (ACHP 2009). In addition, these materials will be consistent with the *South Carolina Standards and Guidelines for Archaeological Investigations* (Council of South Carolina Professional Archaeologists et al. 2013).

B. Review

The Consulting Parties agree to provide comments to USACE on all technical materials, findings, and other documentation arising from this Agreement within thirty (30) calendar days of receipt unless otherwise specified. If no comments are received from the SHPO or other Consulting Parties within the thirty (30) calendar-day review period, USACE may assume that the non-responsive party has no comment. USACE will take into consideration all comments received in writing from the SHPO and other Consulting Parties within the thirty (30) calendar-day review period, as specified in this Agreement.

C. Physical Documents

A minimum of two (2) hard copies and one (1) pdf format copy of the draft technical report will be submitted for review and approval to the SHPO and BOEM no later than six (6) months from the completion of fieldwork. All other Consulting Parties will also receive a pdf format copy of the draft technical report for review. SHPO may submit the report to outside reviewers for peer review. If the SHPO elects to utilize this option, additional report copies may be requested. If revisions of the draft report are recommended, USACE will ensure that these are addressed in the final report. The final report will be submitted within three (3) months of receipt of all agency and peer review comments.

USACE will also provide the City of Folly Beach or any other Consulting Party a copy of any final report (in hard copy or .pdf format, as requested) if so requested by that party. Such requests must be received by USACE in writing prior to the completion of construction of the Project.

III. CURATION STANDARDS

USACE will ensure that all original archaeological records (research notes, field records, maps, drawings, and photographic records) and all archaeological collections recovered from the USACE Project or produced as a result of implementing the Stipulations of this Agreement are

permanently curated. USACE will ensure that the records, and collections and curation facility comply with standards set forth in 36 CFR part 79, Curation of Federally Owned and Administered Archaeological Collections.

IV. CHANGES IN PROJECT SCOPE

In the event of any changes to the Project scope that may alter the APE, USACE will consult with the SHPO and other Consulting Parties pursuant to 36 CFR § 800.2 through § 800.5.

V. STANDARDS

A. Research Standards

All work carried out pursuant to this Agreement shall meet or exceed the *Archaeology and Historic Preservation; Secretary of Interior's Standards and Guidelines* (48 FR 44716-44740, September 29, 1983) and, if applicable, the *NHHC Methods and Guidelines for Conducting Underwater Archaeological Fieldwork*.

B. Professional Standards

USACE will ensure that all work carried out pursuant to this Agreement will be done by or under the direct supervision of archaeology professionals who meet the Secretary of the Interior's Professional Qualifications Standards for Archaeology. USACE will ensure that consultants retained for services pursuant to this Agreement meet these standards.

VI. TREATMENT OF HUMAN REMAINS

A. Coordination

In the event human skeletal remains or burials are encountered during implementation of the Project, USACE will coordinate its compliance with Section 106 with other applicable federal, state, and local laws and reviews as appropriate.

B. Treatment

Historic and prehistoric human remains from non-federal, non-tribal lands are subject to protection under South Carolina's burial/unmarked grave/cemetery law(s). As such, if human remains are discovered during construction, work in that portion of the project must stop immediately. The remains must be covered and/or protected in place in such a way that minimizes further exposure of and damage to the remains, and USACE will immediately notify the appropriate local authority and State Archaeologist. If human remains or associated funerary objects are identified, consultation will occur with any Indian Tribe(s) that claims cultural affiliation with the identified human remains and any

associated funerary objects, sacred objects, or objects of cultural patrimony. Following consultation with the SHPO, appropriate Consulting Parties and Interested Tribe(s), USACE will ensure that proper steps are taken regarding the remains.

USACE will ensure that any treatment and reburial plan is fully implemented. If the remains are not Native American, the appropriate local authority will be consulted to determine final disposition of the remains. Avoidance and preservation in place is the preferred option for treating human remains.

C. Additional Procedures

Additional procedures regarding the treatment of human remains are detailed in Appendix B of this Agreement.

VII. SUNKEN MILITARY CRAFT

If at any point in the Project, USACE discovers or reasonably believes that a Department of the Navy sunken military craft or part thereof will be disturbed or otherwise affected in the course of the Project, USACE will immediately notify the NHHHC.

A. USACE will provide the NHHHC with a reasonable opportunity to accomplish the following:

1. In relation to Stipulation I.A, review and provide concurrence on USACE's identification of archaeological sites eligible for listing in the NRHP within the APE of the Project.
2. In relation to Stipulation I.A.2, review and provide concurrence on the evaluation of any such historic property.
3. In relation to Stipulation I.B, review and provide concurrence on USACE's assessment of effects of the Project, as opposed to review and comment on USACE's assessment.
4. In relation to Stipulation I.C.1, in consultation with USACE, the SHPO, and the Consulting Parties, determine whether avoidance or minimization of the adverse effects on an archaeological site eligible for listing in the NRHP that will be adversely affected by the Project is practicable.
5. In relation to Stipulation I.C.1, review and provide concurrence on the treatment plan for archaeological sites that will be impacted by practicably unavoidable adverse effects, as opposed to review and comment on the treatment plan.

- B. Upon discovery or disturbance of Department of the Navy sunken military craft, USACE further agrees to the following:
1. Any treatment plan developed pursuant to Stipulation I.C.2 for an archaeological property that is also a Department of the Navy sunken military craft must take into account the requirements imposed under 32 CFR § 767.6(d).
 2. Conditions set forth in 32 CFR § 767.6(g) apply and a permit from NHHHC is not required to carry out the terms of the treatment plan developed pursuant to Stipulation I.C.2 for an archaeological property that is also a Department of the Navy sunken military craft.
 3. In relation to Stipulation I.C.3, USACE will notify the NHHHC once recovery field operations have been completed so that a site visit may be completed. One or more site visits may also be completed by the NHHHC during recovery field operations.
 4. In relation to Stipulation II.C, USACE will provide the NHHHC two (2) copies on acid-free paper and one (1) copy in pdf format on archival compact disc of all final reports prepared pursuant to this Agreement pertaining to Department of the Navy sunken military craft.
 5. In relation to Stipulation III, USACE will transfer all original archaeological records (research notes, field records, maps, drawings, and photographic records) and all archaeological collections recovered and retained from Department of the Navy sunken military craft to the NHHHC at the completion of the Project for curation.
 6. USACE will fund the professional recovery, documentation, conservation, packaging, and transportation of the associated retained archaeological collections, as well as costs for certifying inert any associated ordnance in consultation with appropriate Department of Navy personnel. The NHHHC will be afforded a determinative role should USACE desire not to retain any part of an associated archaeological collection post-recovery and documentation, and agrees to maintain such records and collections in accordance with 36 CFR part 79, *Curation of Federally Owned and Administered Archaeological Collections*.
 7. In relation to Stipulation VII.B, USACE will address the treatment of any human remains associated with Department of the Navy sunken military craft in consultation with the NHHHC.
 8. The aforementioned clauses supersede Appendix B with respect to Department of the Navy sunken military craft.
 9. The stipulations in the Archaeological Resources Protection Act, Section 9 against disclosing site locations to the public will be followed.

VIII. POST-REVIEW DISCOVERIES

If properties are discovered that may be eligible for listing in the NRHP or unanticipated effects on historic properties are found subsequent to the completion of surveys under Stipulation I, USACE will implement the Procedures for Post-Review Discoveries included as Appendix B of this Agreement.

IX. COMMUNICATIONS

Electronic mail (email) may serve as the official correspondence method for all communications regarding this Agreement and its provisions. See Appendix C for a list of contacts and email addresses. Contact information in Appendix C may be updated as needed without an amendment to this Agreement. It is the responsibility of each party to the Agreement to immediately inform USACE of any change in name, address, email address, or phone number of any point-of-contact. USACE will forward this information to all Consulting Parties by email.

X. MONITORING AND REPORTING

Each year on the anniversary of the execution of this Agreement until it expires or is terminated, USACE will provide all parties to this Agreement a summary report detailing work undertaken pursuant to its terms. Such report will include any scheduling changes proposed, any problems encountered, and any disputes and objections received in USACE's efforts to carry out the terms of this Agreement. The reporting period will be the fiscal year from October 1 to September 30.

XI. DISPUTE RESOLUTION

Should any party to this Agreement object in writing to USACE regarding any actions proposed under this Agreement, or the manner in which the terms of this Agreement are implemented, USACE will consult with the objecting party to resolve the objection. If USACE determines that such objection cannot be resolved, USACE will:

A. Documentation

Forward all documentation relevant to the dispute, including USACE's proposed resolution, to the ACHP. The ACHP will provide USACE 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, USACE will prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and consulting parties, and provide them with a copy of this written response. USACE may then proceed according to its final decision.

B. Resolution

Make a final decision on the dispute and proceed accordingly if the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period. Prior to reaching such a final decision, USACE will prepare a written response that takes into account any timely comments regarding the dispute from the Consulting Parties to the Agreement, and provide them and the ACHP with a copy of such a written response.

C. Continuity

Carry out all other actions required by the terms of this Agreement that are not the subject of the dispute.

XII. ANTI-DEFICIENCY ACT

The Anti-Deficiency Act, 31 U.S.C. §1341, prohibits federal agencies from incurring an obligation of funds in advance of or in excess of available appropriations. Accordingly, the Consulting Parties agree that any requirement for obligation of funds arising from the terms of this agreement will be subject to the availability of appropriated funds for that purpose, and that this agreement will not be interpreted to require the obligation or expenditure of funds in violation of the Anti-Deficiency Act. USACE will make reasonable and good faith efforts to secure the necessary funds to implement this Agreement in its entirety. If compliance with the Anti-Deficiency Act alters or impairs USACE's ability to implement the stipulations of this agreement, USACE will consult in accordance with the amendment and termination procedures found at Stipulations XIII and XIV of this Agreement.

XIII. AMENDMENTS

This Agreement may be amended when an amendment is agreed to in writing by all of the Signatories. The amendment will be effective on the date a copy signed by all of the Signatories is filed with ACHP. Amendments may be signed in counterparts consistent with Stipulation XVI of this Agreement.

XIV. TERMINATION

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

Once the Agreement is terminated, and prior to work continuing on the Project, USACE must either (a) execute another Agreement pursuant to 36 CFR § 800.14, or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. USACE will notify the Signatories as to the course of action it will pursue.

XV. DURATION

This Agreement will remain in effect until such time as the legal requirements for Section 106 are completed or until the end of the ten (10) year period beginning on the date the Agreement is signed by all Signatories, whichever is earlier. If the Section 106 legal requirements are not completed six (6) months prior to the end of such ten (10) year period, USACE will consult with the other Consulting Parties to reconsider the terms of the Agreement and amend it in accordance with Stipulation XIII above, if necessary.

XVI. EXECUTION OF THIS AGREEMENT

This Agreement may be executed in counterparts, with a separate signature page for each party. USACE will ensure that each party is provided with a copy of the fully executed Agreement.

Execution of this Agreement and its submission to the ACHP, and implementation of its terms, constitutes evidence that USACE has afforded the ACHP an opportunity to comment on the Project and its effect on historic properties, and that USACE has satisfied its Section 106 obligations regarding the effect of the Project on historic properties.

Appendix A – Area of Potential Effects
Appendix B – Procedures for Post-Review Discoveries
Appendix C – Contact Information

Signatures Follow on Separate Pages

Programmatic Agreement
Folly Beach Coastal Storm Risk Management Project

IN WITNESS WHEREOF, the signatories hereto have caused this PA to be executed by their duly authorized representatives as of the last date signed.

SIGNATORIES:

U.S. ARMY CORPS OF ENGINEERS



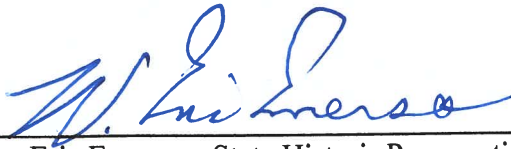
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JOHANNES.ANDREW.CARSON.1234013307
Date: 2021.07.19 19:58:05 -04'00'

19 July 2021

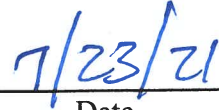
By: ANDREW C. JOHANNES
 Lieutenant Colonel, EN
 Commander, U.S. Army Engineer District, Charleston

Date

STATE HISTORIC PRESERVATION OFFICE



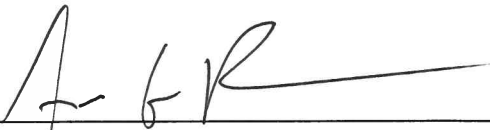
By: Dr. Eric Emerson, State Historic Preservation Officer



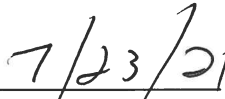
Date

INVITED SIGNATORIES:

CITY OF FOLLY BEACH



By: Aaron Pope, City Administrator



Date

BUREAU OF OCEAN ENERGY MANAGEMENT

MEGAN CARR Digitally signed by MEGAN CARR
Date: 2021.07.22 09:44:48 -04'00'

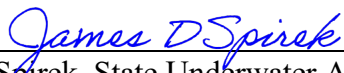
By: Dr. Megan Carr, Chief, Office of Strategic Resources

7/22/21

Date

CONCURRING PARTIES:

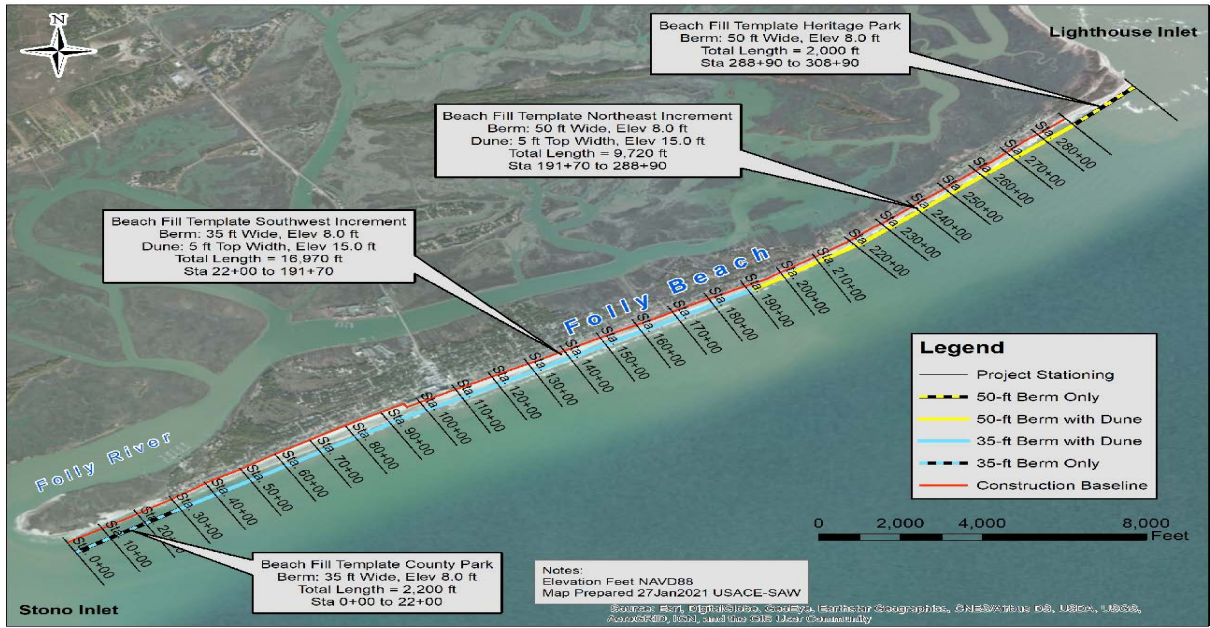
SOUTH CAROLINA INSTITUTE OF ARCHAEOLOGY AND ANTHROPOLOGY,
MARITIME RESEARCH DIVISION


By: James Spirek, State Underwater Archaeologist

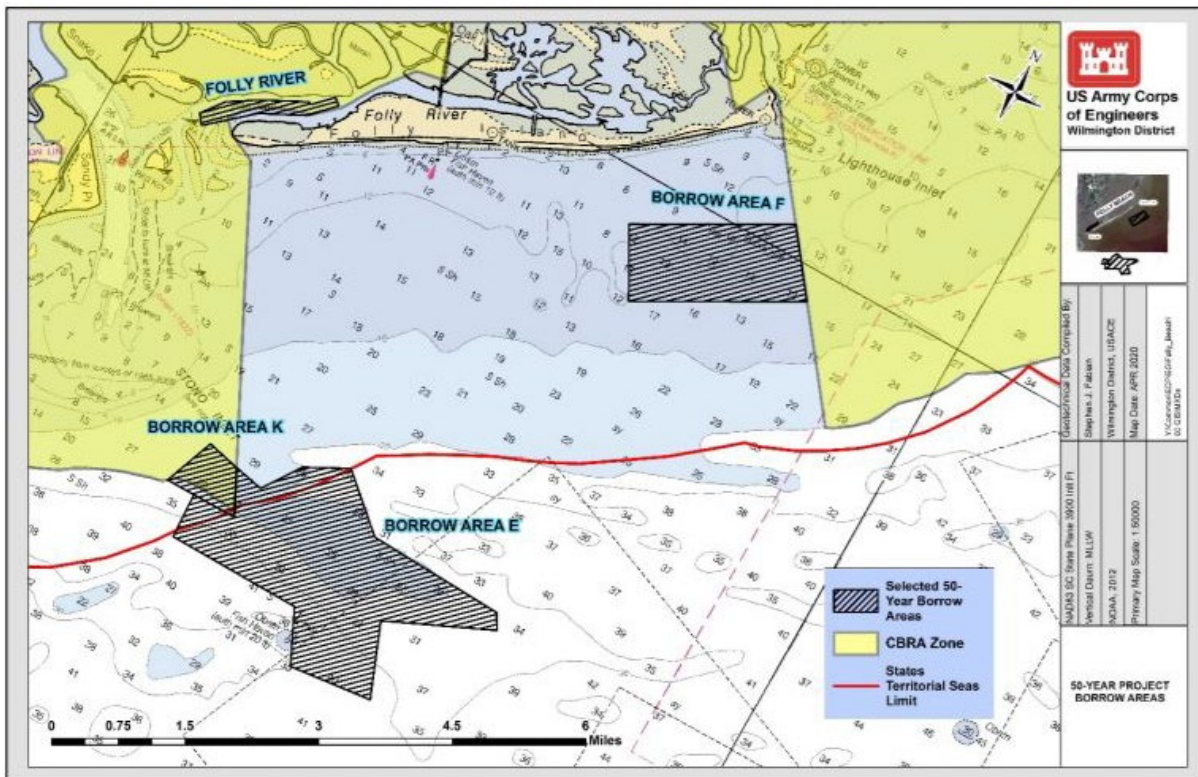
7/26/2021
Date

APPENDIX A

Area of Potential Effects



APE – Front Beach



APE – Borrow Areas

APPENDIX B

Procedures for Post-Review Discoveries

PROCEDURES FOR POST-REVIEW DISCOVERIES

Post-Review Discoveries

USACE will ensure that construction documents contain the following provisions for the treatment of unanticipated archaeological discoveries:

If previously unidentified historic properties or unanticipated effects to historic properties are discovered during contract activities, the contractor must immediately halt all activity within a one hundred (100) foot radius of the discovery, notify the USACE Project Manager and the USACE Archaeologist of the discovery and implement interim measures to protect the discovery from looting and vandalism. Work in all other areas not the subject of the discovery may continue without interruption.

Immediately upon receipt of the notification from the contractor (see subparagraph immediately above), USACE will:

1. Inspect the site to determine the extent of the discovery and ensure that the undertaking in that area is halted;
2. Clearly mark the area of the discovery;
3. Implement additional measures, as appropriate, to protect the discovery from looting and vandalism;
4. Determine the extent of the discovery and provide recommendations regarding its NRHP eligibility and treatment;
5. Notify the SHPO, and other Consulting Parties by email or telephone within 48 hours of the discovery, describing the measures that have been implemented to comply with this Stipulation;
6. In the case of Native American artifacts, notify the Catawba Indian Nation by email or telephone within 48 hours of the discovery;
7. In the case of human remains, the procedures outlined below for the Treatment of Human Remains will be followed.

Upon receipt of the information required in subparagraphs 1–5 above, USACE will provide the SHPO and other Consulting Parties with an assessment of the NRHP eligibility of the discovery and the measures proposed to resolve adverse effects through an email notification. In making the evaluation, USACE, in consultation with the SHPO, may assume the discovery to be eligible for the NRHP for the purposes of Section 106 pursuant to 36 CFR Part 800.13(c). The SHPO and other Consulting Parties must respond to USACE's assessment via email within forty-eight (48)

working hours of receipt. If warranted and necessary depending on the complexity of the assessment and discovery, the SHPO and other Consulting Parties may request an extension to the forty-eight (48) hour response timeline.

USACE will consider the SHPO and Consulting Parties' recommendations on eligibility and treatment of the discovery and will provide the SHPO and other Consulting Parties with a report on the actions when implemented. The Undertaking may proceed in the area of the discovery, once USACE has determined that the actions undertaken to address the discovery pursuant to this Stipulation are complete.

Treatment of Human Remains

USACE will make every effort to avoid disturbing gravesites, including those containing Native American human remains and associated funerary objects. Human remains and burial grounds are also subject to South Carolina law that addresses abandoned cemeteries and burials, including but not limited to S.C. Code Ann. §§ 27-43-10 to 27-43-30, 16-17-600, and 61-19-29.

If human remains and/or associated funerary objects are encountered during the course of the Undertaking, USACE will immediately halt the Undertaking in the area and contact the USACE Project Manager, the USACE Archaeologist, the appropriate city Coroner, and the State Archaeologist.

USACE will treat all human remains in a manner consistent with the ACHP's Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects (February 23, 2007; <https://www.achp.gov/sites/default/files/policies/2018-06/ACHPPolicyStatementRegardingTreatmentofBurialSitesHumanRemainsandFuneraryObjects0207.pdf>). USACE will make every effort to ensure that the general public is excluded from viewing any Native American burial site or associated funerary objects. No photographs are to be taken of the burial, human remains and/or funerary objects at any time.

If human remains or associated funerary objects are identified, consultation will occur with any Indian Tribe(s) that claim cultural affiliation with the identified human remains and any associated funerary objects, sacred objects, or objects of cultural patrimony. Following consultation with the SHPO, appropriate Consulting Parties and interested Tribe(s), USACE will ensure that proper steps are taken regarding the treatment and disposition of the remains. USACE will consult with the SHPO, appropriate Consulting Parties, and interested Tribe(s) to develop a treatment plan consistent with Stipulations II and VI. Avoidance and preservation in place is the preferred option for treating human remains. USACE will ensure that any treatment and reburial plan is fully implemented. If the remains are not Native American, USACE will consult with the appropriate local authority to determine the final treatment and disposition of the remains.

APPENDIX C

Contact Information

U.S. Army Corps of Engineers, Charleston District

Alan Shirey
Environmental Engineer
U.S. Army Corps of Engineers 69A Hagood Avenue
Charleston, SC 29403
(843) 329-8166
Alan.D.Shirey@usace.army.mil

South Carolina Department of Archives and History

Elizabeth Johnson
South Carolina Department of Archives and History
State Historic Preservation Office
8301 Parklane Road
Columbia, South Carolina 29223-4905
(803) 896-6168
EJohnson@scdah.sc.gov

City of Folly Beach

Aaron Pope
City Administrator
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