

MEMORANDUM OF AGREEMENT BETWEEN THE FORT ADAMS FOUNDATION AND
THE FORT ADAMS TRUST

WHEREAS, the FORT ADAMS FOUNDATION, (hereinafter called the "FOUNDATION") has been created by the Rhode Island State Legislature to be a "body corporate and politic, to promote interest in and to plan, develop, coordinate, encourage, facilitate, set standards for, and programs and projects relating to the restoration, renovation, reconstruction and use of the historically significant structures at Fort Adams State Park, including the Fort and other historic structures (hereinafter collectively called the "FORT") as delineated in Appendix A, and

WHEREAS, in order to carry out this objective the FOUNDATION shall "in close cooperation with and through recommendations to the director of the DEPARTMENT OF ENVIRONMENTAL MANAGEMENT" (hereinafter called the "DEPARTMENT"): initiate, coordinate and support planning, development and conduct of the programs and projects in furtherance of the restoration and use of the FORT, and

WHEREAS, the DEPARTMENT is required by law "to assume tort liability" subject to Rhode Island General Law Section 9-31-2 for the purpose of public access, use and implementation of a tour program at the FORT which shall be operated by the FOUNDATION with oversight by the DEPARTMENT, and

WHEREAS, the FORT ADAMS TRUST (hereinafter called the "TRUST") has been created as a private non-profit entity to assist the FOUNDATION in its restoration efforts, and

WHEREAS, the FOUNDATION is empowered by law to employ such assistants, agents and other employees as may be necessary or desirable for its purposes and to enter into contracts, leases and agreements necessary or incidental to the performance of its duties, and

WHEREAS, the TRUST as the funding arm of the FOUNDATION desires to rent the historic structures to both public and private groups for functions and events for the purpose of promoting the historic value of Fort Adams State Park and for raising revenue to assist the FOUNDATION and the DEPARTMENT in the restoration and maintenance of the Fort;

NOW THEREFORE the FOUNDATION and the TRUST for good and valuable consideration and in consideration of the purposes set forth herein, hereby enter into a Memorandum of Agreement (MOA) for the purposes of defining responsibilities of each organization relative to the day to day operations, restoration of the FORT and the operation of a program to provide safe public access and a public tour program within the areas covered by this Agreement. It is the intent of this MOA that a cooperative coordinated relationship be developed between the DEPARTMENT, the FOUNDATION and the TRUST.

1) RESPONSIBILITIES OF THE FOUNDATION

- a) The FOUNDATION shall be responsible for general oversight of the operations of public and private use of the Fort and the public access and public tour programs. For the

purposes of this MOA the public tour program shall be defined as the seasonal scheduled tours of the FORT and public access shall be defined as public uses of the FORT including any special events, demonstrations, historic recreations, etc., that will be open and available to the public and shall take place at the FORT. For the purposes of this MOA private use of the FORT shall be defined as any function or event that is not available to the general public and/or to which general admission tickets are not made available to the general public. All such private and public events shall be approved by the DEPARTMENT.

- b) The FOUNDATION shall approve and help coordinate the implementation of a long term master capital development plan for the restoration of the FORT with the DEPARTMENT and the TRUST. The FOUNDATION shall initiate, encourage cooperation, and be a party to all planning relative to the restoration of the FORT. All plans must be reviewed and approved by the DEPARTMENT, the National Park Service and the State Historical Preservation Officer.
- c) The FOUNDATION shall have general oversight over the collection, expenditure and investment of all monies raised or received by the TRUST from its operations at the Fort including but not limited to monies received from its operations of programs for the public and private use or access to the Fort, or monies received from grants, donations or otherwise in any way related to restoration, renovation, reconstruction or maintenance plans for the Fort.
- d) The FOUNDATION shall require that the TRUST provide it with an inventory of all significant artifacts, curios, relics, art, uniforms, equipment or other tangible personal property or assets of historical significance located at the Fort. The FOUNDATION shall approve the Collections Management Policy for all further acquisitions, gifts, or loaning of such property which shall be located at the Fort, or the loaning of said property by the TRUST to any other entity.
- e) The FOUNDATION shall be responsible for the granting of approvals for plans, schedules, fees, activities, and any other matters which are subject to its approval pursuant to the terms and provisions of this Agreement.

2) RESPONSIBILITIES OF THE TRUST

- a) The TRUST shall be responsible for, and make all decisions relative to, the day to day operations of all activities within the walls of the historic Fort Adams structure including a seasonal public tour program of the historic Fort structure. The TRUST shall have no jurisdiction over employees of the DEPARTMENT working within the FORT.
- b) The TRUST, as delegated and approved by the FOUNDATION, shall hire such employees it believes necessary to provide public access and public tour programs of the FORT including but not limited to an Executive Director. All employees will be considered employees of the TRUST and not employees of the FOUNDATION, DEPARTMENT, or STATE OF RHODE ISLAND. The TRUST shall comply with all pertinent State and Federal wage and labor laws.

- c) The TRUST shall be responsible for coordinating its activities and its communications concerning the same with the FOUNDATION and the DEPARTMENT including the scheduling of events anticipated for the FORT. Nothing herein shall preclude informal working relationships between the TRUST and the DEPARTMENT's Fort Adams operational staff, consistent with this Agreement.
- d) With the exception of agreements entered in to by the FOUNDATION pursuant to RIGL section 42-57-4, the TRUST, as delegated by the FOUNDATION, shall be a signatory of and a party to all contracts involving the public or private use of the FORT, entertainment within the FORT structure (with the exception of entertainment contracts between the DEPARTMENT and other parties), all consultant contracts for planning, engineering and other specialized services and all contracts for construction, restoration, renovation and reconstruction on or within the areas covered by this Agreement which are approved by the DEPARTMENT and the FOUNDATION beforehand.
- e) The TRUST may charge reasonable fees for public events and the seasonal public tour program held within the FORT. The TRUST is entitled to the use of all fees collected consistent with the TRUST's charter of incorporation and good and prudent public business practices. All such fees collected shall be managed to provide for the restoration, reconstruction and maintenance of the FORT and for operations of the TRUST necessary for the safe use of the FORT by the public. The TRUST shall provide the proposed fee schedule to the FOUNDATION and the DEPARTMENT for review and approval in accordance with item 2(g) herein.
- f) The TRUST shall be a party to all planning, design, and restoration decisions relative to the restoration of the FORT and may with the approval of the FOUNDATION initiate restoration and rebuilding construction projects. Any such project must be reviewed and approved by the DEPARTMENT, the National Park Service and the State Historical Preservation Officer.
- g) The TRUST shall inform the FOUNDATION in writing monthly of all important and relevant information, activities and events.
- h) The TRUST shall provide the FOUNDATION monthly accounting statements of all revenues and expenditures in any way related to its operations and activities at or for the FORT. Within ninety (90) days following the close of each calendar year, the TRUST shall provide the FOUNDATION an annual financial statement certified as true and accurate by an independent certified public accountant, of all income, expenditures, assets and liabilities. The FOUNDATION and DEPARTMENT may upon reasonable notice audit or inspect TRUST financial records.
- i) The TRUST shall maintain an inventory of assets which shall include all curios, relics, art, uniforms, and other items of historical significance. The TRUST shall provide the FOUNDATION with the inventory within one hundred twenty days (120) of signing this MOA and shall provide the FOUNDATION with an annual update of the inventory

showing assets purchased with proceeds or donated to the TRUST which are approved by the FOUNDATION pursuant to paragraph 1(d).

- j) The TRUST shall keep FORT improvements and public areas within the Fort as delineated in Appendix A clean and in good repair in coordination with the DEPARTMENT. The TRUST'S maintenance obligations for the other fortifications as delineated in Appendix A shall be coordinated with the DEPARTMENT.
- k) The TRUST shall obtain and maintain liability and fire and extended property insurance in amounts determined by the DEPARTMENT and shall name the State of Rhode Island, the DEPARTMENT and the FOUNDATION as additional insureds. Such insurance shall be written with a company or companies of recognized responsibility and financial standing authorized to engage in the business of such insurance in Rhode Island and which are approved by the DEPARTMENT. The TRUST shall provide the DEPARTMENT with certificates and endorsements of all insurance specified. The TRUST shall deliver to the DEPARTMENT such certificates and endorsements at least annually at the time it submits its annual financial statement to the DEPARTMENT pursuant to paragraph 2(h) or at other reasonable times requested by the DEPARTMENT.
- l) Events and Functions: Except as provided in Section 2(n) and 2(q), the TRUST is granted permission to rent the areas covered by this Agreement for private functions such as social events, corporate outings, weddings, fundraisers and retreats and for public events such as educational programs and military reenactments subject to the approval of the DEPARTMENT and subject to the terms and conditions set forth herein.
 - i) To the maximum extent possible these activities will be collaborative efforts with other organizations located in Fort Adams State Park and take place after the time for closing the Forts to the public for daily tours. If a private event takes place during tour hours, an agreement will be made with the renting organization to allow the TRUST to conduct public tours on a "not to interfere" basis.
 - ii) The TRUST will enter into a license agreement with each organization renting the FORT. All license agreements shall be approved by the DEPARTMENT and may be subject to the approval of the Rhode Island State Properties Committee. All license agreements shall require general comprehensive liability insurance naming the TRUST, FOUNDATION, the State of Rhode Island and the DEPARTMENT as insured parties in such amount as the DEPARTMENT shall require. All license and other use agreements shall ensure that the historical integrity of the Fort is preserved and protected. Any use proposal that involves alteration, temporary or permanent, of the historical integrity of the fort shall not occur unless there is conformance with the requirements of Section 1 (b) above.
- m) The TRUST shall provide the Foundation a proposed Annual Schedule of Events, which shall include all public and private events, programs and activities known to the TRUST along with estimated attendance. Upon approval of this schedule by the FOUNDATION and the DEPARTMENT, the TRUST will be responsible for all planning and logistical support necessary to conduct safe events and programs and shall obtain all necessary

approvals and permits, including but not limited to the DEPARTMENT, the Rhode Island State Properties Committee and the City of Newport. After the Annual Schedule of Events is approved by the FOUNDATION, the TRUST may add public and private events in accordance with Section 2(l) herein provided it obtains all the necessary approvals and permits.

- n) Other Events: The TRUST shall submit public and private events proposed within the Fort that do not fall within the events defined in Section 2(l) herein to the FOUNDATION for review and approval beforehand, including proposed festivals, car shows, ticketed events and other events or programs that create local impacts.
- o) All revenues generated from rentals of the Fort or fundraising events shall be used for operations, maintenance and/or capital improvements to the historic structures.
- p) The TRUST acknowledges that the North Lawn of the Fort as delineated in Appendix A remains under the jurisdiction of the DEPARTMENT. Any requests from the TRUST for use of the North Lawn must be approved by the DEPARTMENT. If approved by the DEPARTMENT, the TRUST shall enter into a license agreement with the DEPARTMENT, which may be subject to the approval of the FOUNDATION and the Rhode Island State Properties Committee.
- q) The DEPARTMENT retains the right to host other park-wide events that may include use of the historic structures and areas covered by this agreement, including but not limited to concerts, the historic Newport Folk and Jazz Festivals, tall ships, national and international sailing events such as the America's Cup and Volvo Ocean Races and other large events.

3) LENGTH OF AGREEMENT

This Agreement shall be for an initial term of five (5) years. The TRUST and the FOUNDATION may mutually agree to extend all terms and conditions for an additional five (5) years.

4) CONDITIONS OF AMENDMENT

This Agreement may be amended at any time by majority vote of the respective governing boards of the TRUST and the FOUNDATION. The amendment process may be initiated by either the TRUST or the FOUNDATION. All amendments must be approved in writing by the DEPARTMENT.

5) CONDITIONS OF TERMINATION

In the event that the TRUST shall violate the terms of this Agreement, the FOUNDATION may terminate the Agreement upon written notification to the TRUST. Such grounds for termination shall include, but not be limited to failure by the TRUST to reasonably and prudently use all monies received as a result of its operations and activities at or for the

FORT in support of the restoration, renovation, reconstruction and safe use of the FORT by the public.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

WITNESS:

Lara Bissone

FOR THE FORT ADAMS FOUNDATION:

By: Janet Q
CHAIR, FORT ADAMS FOUNDATION

DATE: 9/30/15

WITNESS:

FOR THE FORT ADAMS TRUST:

By: Bill Hoel
PRESIDENT, FORT ADAMS TRUST

DATE: 10/1/2015

ACKNOWLEDGEMENT BY THE DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT

WITNESS:

Mary E. Kay

STATE OF RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT:

By: Janet Q
DIRECTOR

DATE: 9/30/15

This agreement was voted on and approved by members of the Fort Adams Foundation at its meeting held on 4/30/2015.
(Date)

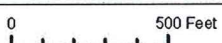
This agreement was voted on and approved by the Board of Directors of the Fort Adams TRUST meeting held on 9/10/2015.
(Date)

Appendix A



	The Fort
	Other Fortifications

Title:	
Scale:	
Date:	5/5/2015
Drawn by:	paj



This map was created for informational, planning and guidance use only. It is a general reference, not a legally authoritative source for the location of natural or man-made features. Proper interpretation of this map may require the assistance of appropriate professional services. The cartographic representations depicted have not been verified by a Registered Professional Land Surveyor and are not intended to be used in place of a survey. The producer makes no warranty, express or implied, related to the accuracy, reliability, completeness, or currency of this map.

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