



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
HISTORICAL PRESERVATION & HERITAGE COMMISSION

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SENT VIA CERTIFIED MAIL

May 29, 2019

Dr. D.K. Abbass
Director and Principal Investigator
Rhode Island Marine Archeology Project
P.O. Box 1492
Newport, RI, 02840

Subject: 1999 Memorandum of Agreement (MOA) between the Rhode Island Historical Preservation and Heritage Commission (Commission), and the Rhode Island Marine Archeology Project (RIMAP)

Dear Dr. Abbass:

In accordance with the provisions of the MOA noted above (copy attached), the Commission is hereby providing RIMAP with notice of termination of the MOA, effective 10 days from the date of this notice.

The MOA is being terminated for the following reasons:

- 1) The Commission has concluded that it is not currently in the best interests of The State of Rhode Island to enter into or maintain any agreements that, on an open-ended basis, designate any private or public entity as an exclusive investigator for any state-owned historic property in Rhode Island.
- 2) The MOA was originally entered into by the Commission and RIMAP over 20 years ago. Its primary purpose at that time was to ensure that the state would be recognized by the federal district court as the sole salvor of record under U.S. Admiralty Law, and to ensure the court's acknowledgement of the state's claim to ownership of the remains of the HMS *Endeavour* and other sunken vessels off of Newport, RI. At that time, The State of Rhode Island also asserted permanent ownership of the shipwrecks pursuant to both the state's Antiquities Act and the federal Abandoned Shipwreck Act. Since that time, Rhode Island's Coastal Resources Management Council has established a Marine Protected Area encompassing the shipwrecks; The State of Rhode Island, as owner and designated salvor of record, has been granted injunctive relief to protect the shipwrecks from other parties. The Commission's MOA with RIMAP is therefore now immaterial with respect to the state's ownership and protection of the shipwrecks.
- 3) Section 2 ("Scope of Work") of the MOA states, in part, that "RIMAP will be responsible for having in place facilities, personnel, and funds sufficient to conserve in a responsible manner any artifacts or archeological materials recovered, consistent with 36 CFR 79, *Curation of Federally*

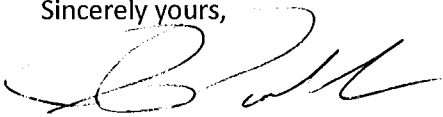
Owned Archeological Collections. Over the course of the past 20 years, RIMAP has never fulfilled the core requirement of "...having facilities in place sufficient to conserve in a responsible manner any artifacts or archeological materials recovered, consistent with 36 CFR 79, *Curation of Federally Owned Archeological Collections.*"

The Commission takes this opportunity to emphasize that termination of this MOA in no way limits RIMAP's future opportunities to apply for or receive state archeological permits to investigate *Endeavour* specifically or the transport fleet in general on a project-by-project basis. The Commission assures RIMAP that a permit will be awarded for project work so long as the application for the project satisfies all permit application requirements.

In closing, please note that, with the termination of the MOA, the Commission expects RIMAP to deliver in good condition all artifacts recovered from RIMAP's investigations of *Endeavour* or the transport fleet to date related to the 1999 MOA. These artifacts should be delivered to the Commission at its headquarters at 150 Benefit Street in Providence within 90 days of the effective termination date of the MOA.

Alternatively, if RIMAP is interested in retaining these artifacts for the purposes of display and interpretation, and can demonstrate to the Commission that it can provide the 36 CFR 79-quality curation and storage capacity sufficient to accommodate at least these artifacts on a temporary basis, the Commission is willing to consider entering into a new agreement for the purpose of loaning said artifacts to RIMAP for a limited term.

Sincerely yours,



J. Paul Loether
Executive Director and
State Historic Preservation Officer

cc: Ms. Ruth Taylor, Chair, RI Historical Preservation and Heritage Commission
Ms. Charlotte Taylor, Senior Archeologist, RI Historical Preservation and Heritage Commission

Attachment: 1999 Memorandum of Agreement between the Rhode Island Historical Preservation and Heritage Commission and the Rhode Island Marine Archeology Project (March 5, 1999)

Memorandum of Agreement

This agreement is made this 5th day of March, 1999 by and between the Rhode Island Historical Preservation and Heritage Commission, hereinafter referred to as the "RIHPHC", and the Rhode Island Marine Archaeology Project, hereinafter referred to as "RIMAP", and hereinafter together referred to as the "parties."

Whereas, the State of Rhode Island, represented by the RIHPHC, is charged pursuant to the State Antiquities Act (RIGL 42-45.1) with the protection of the underwater historic properties of the State of Rhode Island lying on or under the bottoms of any navigable waters of the state, and

Whereas, the State of Rhode Island reserves to itself the exclusive right and privilege of field investigation on sites owned or controlled by the state, to be conducted in accordance with National Park Service standards (RIGL 42-45.1-4; Archaeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines), and

Whereas, RIMAP is a non-profit organization dedicated to assisting the State in the protection, management, and investigation of the shipwrecks of Rhode Island, working under the regulatory and advisory oversight of the RIHPHC with federal grant monies administered by the RIHPHC, and

Whereas, RIMAP, while conducting research and field work funded by the above-referenced grants has concluded that the vessel that had formerly been Captain Cook's ship HMS ENDEAVOUR was, under new name and under private ownership, one of the fleet of British transports sunk off of Newport, RI, and has identified a particular shipwreck, site number RI 2125, as having a high possibility of being this vessel, and

Whereas, the State of Rhode Island asserts ownership of this vessel, pursuant to the Abandoned Shipwrecks Act (43 USC 2101 et seq.), the Antiquities Act of Rhode Island (RI Gen. Laws 42-45.1-4), the Law of Finds (Supplemental Admiralty Rule D and the General Maritime Law), the Submerged Lands Act (43 USC 1311a), and as a claim for salvage (Supplemental Admiralty Rule C and the General Maritime Law), unless and until a court of competent jurisdiction determines ownership to be with another, such as the Government of Great Britain, and

Whereas, RIMAP wishes to serve as the agent and associate of the State in the archaeological and historical investigation of RI 2125 in particular and the British transport fleet in general,

Now therefore, the parties do mutually agree as follows to RIMAP being designated by the State as the exclusive archaeological investigator of RI 2125 and the Newport transport fleet until such time as the State determines that this is no longer in its interest, or unless and until a court of competent jurisdiction determines ownership to be with another, such as the Government of Great Britain; in the case, for instance, of ownership being with the

government of Great Britain, the United States Navy would take precedence over the State in the management and protection of the said shipwreck(s).

1. Purpose: The purpose of this agreement is to provide for a cooperative arrangement between the RIHPHC and RIMAP for the archaeological evaluation of the vessel believed to be Captain Cook's ENDEAVOUR, and for the location and survey of other vessels in the transport fleet.

2. Scope of Work: RIMAP will provide for archaeological services in accordance with the following stipulations:

Archaeological fieldwork will be conducted in compliance with United States historic preservation laws and regulations, and any other applicable laws, with detailed research designs to be submitted to the RIHPHC for review and approval, signified by the issuance of a permit authorizing the proposed fieldwork. No changes can be made in the scope of work specified in the approved research design without the approval of the RIHPHC. All fieldwork designs will also be submitted to the United States Navy for review and comment.

RIMAP will be responsible for having in place facilities, personnel, and funds sufficient to conserve in a responsible manner any artifacts or archaeological materials recovered, consistent with 36 CFR 79 "Curation of Federally-Owned Archaeological Collections." All archaeological materials recovered will remain the property of the State of Rhode Island unless and until a court of competent jurisdiction determines ownership to be with another, such as the Government of Great Britain.

3. Monitoring and Inspection: RIMAP agrees that the RIHPHC may monitor RIMAP's investigations and that RIHPHC may inspect the shipwreck site, any artifacts recovered, the curation facilities, and any project documentation while this agreement holds.

4. Reporting: RIMAP will provide the RIHPHC with quarterly and annual reports, in accordance with State requirements, detailing the results of the archaeological fieldwork and artifact analysis.

5. Funding: No remuneration will be provided by the RIHPHC or any other agency of the State for the archaeological services to be conducted by RIMAP on the sites specified by this agreement, nor will any payment be made for archaeological materials recovered.

6. Amending or Terminating this Agreement: This agreement may be amended at any time at the instigation of either party only with the written consent of both parties. This agreement can be terminated at any time by either party, with 10 days notice being given, unless such termination would result in the disruption of data recovery and analysis of materials from the shipwreck site(s) such that information or cultural material could be lost or destroyed, or when the State decides that immediate termination is in the best archaeological interest of the

site. Should the agreement be terminated prior to the completion of data recovery and analysis, it will be the responsibility of the terminating partner to propose a mutually satisfactory means to complete the project. The RIHPHC and RIMAP may agree to terminate or amend this agreement if a court of competent jurisdiction determines ownership to be with another, such as the Government of Great Britain.

Rhode Island Historical Preservation and Heritage Commission



Edward F. Sanderson
Executive Director
Deputy State Historic
Preservation Officer

Rhode Island Marine Archaeology Project



Dr. D.K. Abbass
Director