COMMONWEALTH of VIRGINIA

Office of the Governor

Robert F. McDonnell
Governor

September 9, 2011

The Honorable Ken Salazar
Secretary of the Interior
Washington, DC 20240

Dear Secretary Salazar:

I write today to express my strong support for the establishment of a national park (park) at Fort Monroe in Hampton, Virginia. Fort Monroe, located on the Old Point Comfort peninsula at Hampton Roads Harbor where the Old Point Comfort lighthouse has been welcoming ships since 1802, is one of the Commonwealth's most important cultural treasures. It has a storied history and a wealth of natural and cultural resources that may best be preserved and appreciated by the public through a partnership between the Commonwealth of Virginia (Commonwealth) and the National Park Service (NPS). I am joined in support of the establishment of a park unit at this site by members of the Virginia congressional delegation, the City of Hampton, and numerous interested local governments, organizations, and citizens. I also understand that the recent public meetings that the NPS held in Hampton, along with the thousands of public comments received at the NPS website, demonstrate that overwhelming public support exists for moving forward with the creation of such a park.

Since 2007, the Commonwealth, the Department of the Army, and the City of Hampton have actively engaged in planning and decision making for Fort Monroe's transition from a United States Army post. The General Assembly has established the Fort Monroe Authority (FMA) and charged it with administering much of the former Army property. Further, it is the declared policy of the Commonwealth to protect the historic resources at Fort Monroe, provide public access to the Fort's historic resources and recreational opportunities, exercise exemplary stewardship of the Fort's natural resources, and maintain Fort Monroe in perpetuity as a desirable place in which to reside, do business, and visit, all in a way that is economically sustainable. To this end, the NPS, the Commonwealth and the FMA, in accordance with Section 106 of the National Historic Preservation Act, are among the parties to the Fort Monroe Programmatic Agreement, dated April 27, 2009 (Programmatic Agreement), that requires specific actions be taken, including the adoption and enforcement of Design Standards to govern any new development or building restoration or rehabilitation at Fort Monroe. Further, the General Assembly has authorized, subject to the approval of the Governor, the conveyance by donation of lands or interests in lands to the NPS for the benefit of the public.

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On May 19, 2011, I wrote the FMA, to express my support for certain areas of Fort Monroe becoming a unit of the National Park System either through the use of Presidential authorities or action by Congress. Since then, Commonwealth Secretary of Veterans Affairs & Homeland Security Terrie Suit, NPS Director Jonathan Jarvis, Mayor Molly Ward of the City of Hampton, members of our respective staffs and the FMA have met to continue discussions on future management options consistent with respective state and federal legal authorities. Based on these discussions in furtherance of the establishment of a park at Fort Monroe, and consistent with the boundary of the park as depicted on the map entitled "Fort Monroe National Historical Park Proposed Boundary," numbered 250/107,111, and dated June 24, 2011 (Attachment 1), or a subsequent replacement map utilizing the same boundary, I intend to approve conveyances to the NPS as described below, subject, as always, to my final review and approval of all documentation as provided by Virginia law. These conveyances would be premised on a prior direct transfer of the non-reversionary portion of North Beach from the Department of the Army to the NPS for establishment of a unit of the National Park System. Such transfer would be in lieu of the currently planned conveyance to the FMA of this property; and, the Commonwealth's support for such a change is conditioned upon its use for the establishment of a park unit at Fort Monroe. Further, any deeds from the Commonwealth conveying fee title to Fort Monroe properties will only convey such properties in their "as is" condition, without general or special warranties or representations of any kind by the Commonwealth.

The following conveyances and grants of access from the Commonwealth to the NPS would take place in coordination with the conveyance of the appropriate lands, buildings, and structures at Fort Monroe by the Army to the Commonwealth in accordance with the Programmatic Agreement, applicable laws and regulations, and upon compliance by the Army with all applicable requirements and agreements pertaining to the treatment of properties requiring environmental remediation, unless, in the alternative, the Army agrees to an earlier direct transfer of its interests in the proposed park lands located within the boundaries thereof to be held in fee simple by the NPS, conditioned upon the prior quitclaim, release and relinquishment of the Commonwealth's reversionary (reverter) interests in such proposed park lands unto the NPS, all as further described below:

1. Donation by the Commonwealth to the United States (NPS) of fee simple title to, or, in the alternative, the quitclaim, release and relinquishment of the Commonwealth's reversionary (reverter) and any other right, title and interest in, those certain proposed park lands, buildings, and structures reverting to the Commonwealth as a result of implementation of the Base Realignment and Closure Commission's action of 2005 as depicted on the map entitled "Fort Monroe Ownership - Detail" (Attachment 2). Specifically, these include, along Bernard Road, Building #1 (the Old Headquarters Building), Building #50 (Bachelors Officer Quarters), Building #17 (Lee's Quarters), and the historic Parade Ground within the walls and moat of the Fort.

2. Donation by the Commonwealth to the United States (NPS) of an easement covering the interior of Casemate #22. The easement would authorize NPS to use the interior of this structure for interpretation, allow access for visitor use and NPS administrative purposes, authorize NPS to perform routine maintenance of the interior and authorize, but not require, NPS to undertake improvements to the interior (with the approval of the Commonwealth).

3. Donation by the Commonwealth to the United States of fee simple title to, or in the alternative the quitclaim, release and relinquishment of the Commonwealth's reversionary (reverter) and any other right, title and interest in, all those certain proposed park lands, buildings and structures reverting to the Commonwealth as a result of implementation of the Base Realignment and Closure Commission's action of 2005 located within those areas of North Beach as depicted on the map entitled "Fort Monroe Ownership" (Attachment 3).

4. Donation by the Commonwealth to the United States of a permanent reciprocal easement or easements to ensure the historic integrity of all of the lands, cultural landscapes, buildings, and structures within the Fort, and lying adjacent to the Fort, within the connecting road system formed by Fenwick Road, Ingalls Road, Murray Road, Patch Road, Griffith Street, and Bomford Lane, as depicted on "Fort Monroe Ownership – Detail" (Attachment 2). Such easements would provide, *inter alia*, that any improvements or modifications to historic structures be consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties, 36 C.F.R. Part 68 (Secretary's Standards).

5. Provide non-exclusive rights of access to the NPS and the public between the Fort area and the North Beach area.

6. In coordination with the FMA, provide non-exclusive access by NPS personnel for the purposes of providing park operations, public interpretation, and technical assistance on natural and cultural resources within the Fort Monroe National Historic Landmark District, including placement of directional signs and interpretive exhibits.

The Commonwealth offers these properties and property interests outlined above conditioned on the following:

1. For the area within the boundary formed by the connecting road system referenced in paragraph 4, above, the Commonwealth, acting through the Fort Monroe Authority or any successor entity, may provide for the adaptive reuse of any historic resource not subject to a federal ownership interest for such compatible uses that are conducted in accordance with the Secretary of the Interior's Standards for the Treatment of Historic

Properties. The areas and improvements between Building #1 and Building # 17, along and immediately adjacent to Bernard Road, and areas adjacent to the Parade Ground shall remain in their current general use patterns, and the area from Casemate #22 to the Casemate Museum shall remain in its current office and educational uses. Uses such as casinos, amusement parks, private resort facilities not open to the general public, developments exceeding the present mass and scale of adjacent buildings and structures or those constructed as replacements of existing buildings and structures, or other uses that detract from the historic character of the Fort or a national park visitor experience shall not be deemed compatible with the presence of a park. The Commonwealth and the NPS would establish a process to determine jointly uses that would be compatible within the boundary of the park based upon the considerations identified in this letter, the Programmatic Agreement, and the FMA's Fort Monroe Reuse Plan.

2. In the case of the loss for any reason, or duly authorized demolition, of buildings or structures within the Fort Monroe National Historic Landmark, replacement of the square footage from the loss or demolition shall be permitted subject to any construction being in compliance with the Secretary's Standards; the Programmatic Agreement, and Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f).

3. The Superintendent of the park will work and coordinate with appropriate boards and committees relating to the Fort to benefit preservation of park resources and further the interpretive or educational purposes of the park.

4. The NPS will provide financial assistance, based on its determination of the availability of funds appropriated for that purpose, as a maintenance contribution share for the Fort structure and moat or related infrastructure.

5. The Secretary will explore the feasibility of entering into a partnership agreement with the Fort Monroe Foundation to encourage private philanthropy and projects to benefit the preservation and interpretation of resources within the park.

6. Except as mutually agreed upon hereafter in writing or as required by applicable law, neither the NPS nor the Commonwealth shall be responsible for any liabilities, including environmental liabilities, resulting from other than their respective property ownership or activities each conducts. Further, regarding future easements and agreements between the Commonwealth/FMA and the NPS, it will be understood that the NPS will not seek to impose upon the Commonwealth or the FMA, either by deed, easement (including historic preservation easements), or by other instrument or contract, any covenants, conditions or agreements that impose or seek to impose obligations, responsibility or liability upon the Commonwealth to abate, remediate or eliminate any hazardous materials, including munitions, explosives or military ordnance, or any contamination

from chemicals, petroleum and related products, asbestos, lead-based paint, or any carcinogenic compounds or substances, that may exist on or about Fort Monroe, including on or about any lands within the boundaries of the proposed park or within the bottomlands of adjacent waters, that was not caused by any act or omission of the Commonwealth.

7. The Commonwealth may retain, or the Secretary may grant, such rights of access as may be necessary for the maintenance and operations of utilities, infrastructure, and transportation in the park, subject to a determination by the Secretary that there would be no impairment to park resources or impacts on visitor experiences in the park as a result of the easements or rights of access.

8. Not later than three fiscal years after the date on which funds are first made available, the Secretary, in consultation with the Commonwealth, shall complete a general management plan for the park in accordance with applicable laws and policies pertaining to the National Park System. In developing the general management plan, the Secretary shall consider the Fort Monroe Reuse Plan (and any revisions to the plan), the Fort Monroe Programmatic Agreement adopted April 27, 2009 (and any amendments to the agreement), such other pertinent planning documents that may be developed by the FMA, and the Commonwealth of Virginia Fort Monroe Authority Act, as amended. The management plan shall include provisions that identify any costs to be shared by the Federal Government and the Commonwealth or other public or private entities or individuals for necessary capital improvements to, and maintenance and operations of the unit.

9. Nothing associated with the establishment of a park at Fort Monroe other than authorization of the park itself, enlarges, diminishes, or modifies any authority of any agency of the United States to carry out federal laws (including regulations) on federal land located within the boundary of the park. Nothing associated with the establishment of the park enlarges, diminishes, or modifies any authority of the Commonwealth or any political subdivision of the Commonwealth to exercise civil and criminal jurisdiction within the park, unless jurisdiction ceded by the Commonwealth and accepted by the Department of the Interior in accordance with 40 U.S.C. § 3112 modifies the jurisdiction of the Commonwealth or political subdivision of the Commonwealth with respect to the park; or to carry out Commonwealth laws, regulations, and rules on non-federal land located within the boundary of the park.

While nothing in this letter should be construed as a binding contract or partnership, either implied or in fact, I consider the terms set forth in this letter to form a viable agreement in principle for working together to advance our mutual interests to establish and open a national park unit at Fort Monroe. We look forward to working in partnership with your Department and

the NPS to preserve, protect, and provide for public understanding and appreciation of the nationally significant resources of Fort Monroe while permitting viable and appropriate economic development opportunities for the Commonwealth and the City of Hampton.

Sincerely,

Robert F. McDonnell

RFM/tls