



GSA National Capital Region

**MEMORANDUM OF AGREEMENT**  
**BETWEEN**  
**THE U.S. GENERAL SERVICES ADMINISTRATION**  
**AND**  
**THE DISTRICT OF COLUMBIA, STATE HISTORIC PRESERVATION OFFICER**  
**REGARDING**  
**PERIMETER SECURITY FOR FEDERAL OFFICE BUILDING (FOB) 8**

This Memorandum of Agreement (MOA) is entered into as of this 12 day of January, 2010, by the United States General Services Administration (GSA), and the District of Columbia State Historic Preservation Officer (SHPO), referred to collectively herein as the "Parties" or "Signatories" or individually as a "Party" or "Signatory" pursuant to Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. 470f, and its implementing regulations 36 CFR Part 800.

**WHEREAS**, GSA will undertake the Modernization of FOB 8, which was determined to be ineligible for the National Register of Historic Places in consultation with the SHPO on January 13, 2009, but has entered into consultation with the SHPO to address the adverse effects of the proposed perimeter security and plaza design on the L'Enfant Plan, which is listed in the National Register; and

**WHEREAS**, the Undertaking is defined as the FOB 8 perimeter security and plaza design; and

**WHEREAS**, in consultation with the SHPO, GSA has determined that the security design placed in public space along D Street and 2<sup>nd</sup> Street, SW, will have an adverse effect on the L'Enfant Plan; and

**WHEREAS**, GSA has notified the Advisory Council on Historic Preservation (ACHP) of the adverse effect determination and they have elected not to participate in the consultation; and

**WHEREAS**, GSA has consulted with the SHPO, the Commission of Fine Arts, the National Capital Planning Commission and various departments of the District of Columbia to minimize, avoid and mitigate the adverse effects and pursuant to 36 CFR Part 800.8 has coordinated public participation through the National Environmental Policy Act; and

Now therefore, in consideration of the terms, conditions and agreements hereinafter set forth, the Signatories hereby agree that effective upon the execution of this MOA, the Undertaking shall be implemented in accordance with the following Stipulations to take into account the effect of the Undertaking on Historic Resources.

### Stipulations

GSA shall ensure that the following measures are carried out to minimize, mitigate and avoid adverse effects on the L'Enfant Plan:

#### I. PLAZA AND SECURITY DESIGN

The plaza and perimeter security design will be executed in accordance with the presentation design documents, *Federal Office Building 8 Plaza & Streetscape Design, November 10, 2009*, attached as Appendix A.

The Plaza and Streetscape Design is characterized by the following elements:

- All security elements on 3<sup>rd</sup> and C Streets will be kept back from the curb and placed in the building yard to **minimize** adverse effects on these two contributing L'Enfant streets.
- Security elements on D Street and 2<sup>nd</sup> Street will be placed in public space to maximize standoff due to the minimal building yard. A variety of hardened elements including benches, bollards, bike racks and lamp posts will be used to minimize the visual impact of the security features. These elements will be set at varying distances off the curb so that they can be integrated with the tree beds, **minimizing** the adverse effects to these contributing streets.

#### Mitigation Measures

- To **mitigate** the adverse effect of the D Street and 2<sup>nd</sup> Street security elements, GSA will undertake an extensive re-vegetation program for the building yard and the adjacent public spaces fronting the surrounding streets. The planting scheme is illustrated in the attached design documents and will provide a much improved streetscape on the contributing L'Enfant Streets that border the site.
- The plaza design calls for the removal of the C Street parking lot. This area will be restructured with a combination of planted areas and hard-scape features that incorporate security elements. The removal of the

parking lot will further **mitigate** the adverse effect of perimeter security, while providing a more pedestrian friendly setting.

## II. ADMINISTRATION

For purposes of this MOA, the term "parties to this MOA" means the Signatories, these being the US General Services Administration and the DC State Historic Preservation Officer.

## III. DISPUTE RESOLUTION

Should any party to this MOA object to any action carried out or proposed by GSA with respect to the implementation of this MOA, GSA shall consult with the objecting party to resolve the objection.

1. If, after initiating such consultation, GSA determines that the objection cannot be resolved through consultation, GSA shall forward all documentation including without limit, documentation of GSA's responses to the objections, as submitted by the Party or Parties relevant to the objection, to the ACHP, in accordance with 36 CFR 800.2(b)(2). Within 30 days after receipt of all adequate documentation, the ACHP shall exercise one of the following options:
  - a. Upon receipt of documentation from GSA, the ACHP shall review and advise GSA on the resolution of the objection. Any comment provided by the ACHP, and all comments from the parties to the MOA, will be taken into account by GSA in reaching a final decision regarding the dispute.
  - b. If the ACHP does not provide written comments to GSA regarding the dispute within 30 days after receipt of adequate documentation, GSA may render a decision regarding the dispute. In reaching its decision, GSA will take into account all comments regarding the dispute from the parties to the MOA.
2. GSA's responsibility to carry out all other actions subject to the terms of this MOA, not subject to the dispute, will remain unchanged. GSA will notify all Parties of its decision in writing before implementing an action subject to dispute under this stipulation. GSA's decision will be final.

## IV. AMENDMENTS

If any Signatory to this MOA, including any invited Signatory, determines that its terms will not or cannot be carried out or that an amendment to its terms

must be made, that party shall immediately consult with the other parties to develop an amendment to the MOA pursuant to 36 CFR Part 800.7. The amendment will be effective on the date a copy signed by all of the original Signatories is filed with the ACHP. If the Signatories cannot agree to appropriate terms to amend the MOA, any Signatory may terminate the agreement in accordance with Stipulation V.

#### V. TERMINATION

Any Signatory may terminate this MOA by providing 30 calendar days advance written notice to any other Signatories, provided that the Signatories consult during the 30 calendar day notice period to seek agreement on amendments or other actions that would avoid termination. In the event of termination, GSA will comply with 36 C.F.R. § 800.3 through 800.7, with regard to individual actions covered by this MOA.

#### VI. EXECUTION

GSA will carry out its commitments as outlined in the MOA; however, this MOA is subject to applicable laws and regulations. As to the Signatories only, fulfillment of this MOA is subject to the Anti-Deficiency Act, 31 U.S.C. 1341 et seq., to the availability of funds. This MOA is not an obligation of funds in advance of an appropriation of such funds, and it does not constitute authority for the expenditure of funds. If a Signatory does not have sufficient funds available to fulfill the stipulations of this MOA, such Signatory shall so notify the other Signatories and shall take such actions as are necessary to comply with all requirements of 36 CFR Part 800. Nothing in this MOA shall be deemed to authorize an expenditure of funds in violation of the Anti-Deficiency Act U.S.C. 1341 et seq.

#### VII. DURATION

This MOA will be null and void if its terms are not carried out within 5 years from the date of its execution. Prior to such time, GSA may consult with the other Signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation IV.

(Please See the Following Page for Signatures)

**Signatures**

**U. S. GENERAL SERVICES ADMINISTRATION**

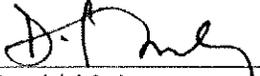
By:  Date: 1/11/10

Bart Bush  
Regional Commissioner  
Public Buildings Service  
National Capital Region

By:  Date: 1/12/10

Beth L. Savage  
Director, Center for Historic Buildings  
Federal Preservation Officer

**DISTRICT OF COLUMBIA STATE HISTORIC PRESERVATION OFFICER**

By:  Date: 1/12/10

David Maloney  
State Historic Preservation Officer

APPENDIX A: FOB 8 Plaza & Streetscape Design