

MEMORANDUM OF AGREEMENT
AMONG
THE U.S. GENERAL SERVICES ADMINISTRATION,
THE U.S. DEPARTMENT OF STATE,
THE DISTRICT OF COLUMBIA STATE HISTORIC PRESERVATION OFFICE AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING PHASE 1-B, BID PACKAGE 2 OF THE MODERNIZATION OF THE
HARRY S. TRUMAN BUILDING EXTENSION, WASHINGTON, D.C.

This Memorandum of Agreement (MOA) is entered into as of this _____ day of October, 2008 by the United States General Services Administration (GSA), the United States Department of State (DOS), the Advisory Council on Historic Preservation (ACHP), and the District of Columbia State Historic Preservation Office (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 implement the Modernization of the Harry S. Truman Building Extension ("New State") through a phased construction program and pursuant 36 CFR Part 800.14, meet its responsibilities under Section 106 of the NHPA in a process as set forth in the May 13, 2008 Programmatic Agreement (PA) for the Modernization of the New State; and

WHEREAS, Pursuant to Stipulation I.A of the PA, GSA has decided to utilize this MOA as evidence of its submission, consultation with signatories and assessment of the effects for Phase 1-B, Bid Package 2; and

WHEREAS, The Phase 1-B design and construction program is being developed in separate construction packages consisting of the following:

- Bid Package 1 for demolition and abatement (currently under construction),
- Bid Package 2 for wall hardening, blast windows and progressive collapse mitigation, which is in design and scheduled to be issued for construction in the fall of 2008,
- Bid Package 3, core and shell, and
- Bid Package 4, tenant fit-out; and

WHEREAS, GSA has defined the Undertaking as Phase 1-B, Bid Package 2 of the Modernization; and

WHEREAS, the attached *Historic Preservation Report for the State Department, Phase 1B Bid Package 2* (Westlake Reed Leskosky, 18 July 2008) details the proposed design, the effects of the construction program, and the actions to avoid, minimize and mitigate the identified effects; and

WHEREAS, GSA has determined that the Undertaking will have an adverse effect on the New State Building, and has consulted with the SHPO pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. Section 470(f)) regarding the effects of the Undertaking on the New State Building; and

WHEREAS, in accordance with 36 CFR Part 800.6(a)(1), GSA has notified the ACHP of its adverse effect determination with the specified documentation and the ACHP has chosen to participate in the consultation pursuant to 36 CFR Part 800.6(a)(1)(iii); and

WHEREAS, GSA has consulted on the exterior design elements with the Commission of Fine Arts (CFA) and the National Capital Planning Commission (NCPC) and will seek formal design review concurrence from these agencies;

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 properties.

STIPULATIONS

GSA shall ensure that the following measures are carried out:

I. Phase 1-B Schedule and Outline

A. Project Outline:

1. Replace punched and ribbon windows, glass curtain wall assemblies and the D Street lobby facade to accommodate the Department of State requirements for blast protection.
2. The interior of the D Street lobby, the entrance vestibules and the exterior Canopy will be left unchanged at this time. The Department of State is conducting a separate Section 106 consultation to address perimeter security. If and when the perimeter security plan is approved and is funded, the D Street lobby, entry vestibules and exterior canopy will be addressed as part of that consultation.

B. Schedule:

The Phase 1-B schedule will have a duration of approximately 3 years, with demolition having begun in the spring of 2008 and reaching completion with the tenant fit-out in the spring of 2011. Bid Package 2 for the wall hardening, blast windows and progressive collapse mitigation will begin in January 2009.

II. Minimization and Mitigation

- A. To minimize the adverse effect, the exterior detailing of the punched and ribbon windows and glass curtain wall assemblies will be replicated as detailed in the *Historic Preservation Report for the State Department, Phase 1B Bid Package 2* and supplemental drawings submitted to the SHPO on September 23, 2008. Because of the blast requirements for the D Street lobby facade it is not possible to match the original exterior detailing. The use of sympathetic materials in the reconstruction will be utilized to minimize the loss of historic character of the façade and lobby.
- B. To mitigate the adverse effect, GSA will compile a comprehensive collection of historic photographs, original drawings and photographs of existing conditions. This collection of labeled photographs and drawings will serve as a resource for future researchers, designers and reviewers. Three copies of this material will be created and distributed to GSA, DOS and SHPO to maximize availability.

III. Design Review

- A. In accordance with Stipulation II-A of the PA, GSA has developed and submitted the required design documents for this phase of the Modernization to the Signatories for review. GSA has also met with NCPD and CFA in developing the agreed upon design for the exterior components of the modernization program pursuant to Stipulation II-C of the PA and will make formal submissions to these agencies upon the signing of this MOA. The agreed upon design and mitigation measures are described and illustrated in the attached Historic Preservation Report.

IV. Dispute Resolution

- A. Objections:
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 GSA determines that the objection cannot be resolved through consultation, GSA shall forward all documentation including documentation of GSA's responses to the objections 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. 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 that are not subject to the dispute remains unchanged. GSA will notify all Parties of its decision in writing before implementing that portion of the Undertaking subject to dispute under this Stipulation. GSA's decision will be final.

V. Amendments

If any Signatory to this MOA 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(c)(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.

VI. Termination

If the MOA is not amended following the consultation set out in Stipulation IV, it may be terminated by any signatory or invited signatory. Within 30 days following termination, GSA shall notify the signatories if it will initiate consultation to execute a MOA with the signatories under 36 CFR Part 800.6(c)(7) and 800.6(c)(8) or request the comments of the ACHP under 36 CFR Part 800.7(a) and proceed accordingly.

VII. Execution

GSA will carry out its commitments as outlined in the Stipulations Section; however, these commitments are subject to the appropriation of funds. If GSA is unable to carry out its commitments in the stipulations, pursuant to the Anti-Deficiency Act, 31 U.S.C. 1341 *et seq.*, to the availability of funds, then GSA will enter into consultation with the signatories in accordance with 36 CFR Part 800.6 (c) (7). 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.

VIII. Duration

This MOA will be null and void if its terms are not carried out within 4 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.

IX. Monitoring and Reporting

In accordance with the MOA, GSA shall provide all the Signatories to the MOA a summary report at the completion of Phase 1-B detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in GSA's efforts to carry out the terms of the MOA.

Please see the following page for signatures

X. Signatures

Execution of this MOA by GSA, ACHP and the DC SHPO, the submission of documentation and filing of this MOA with the ACHP pursuant to 36 CFR Part 800.6(b) (1) (iv) prior to GSA's approval of this undertaking, and implementation of its terms evidence that GSA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

The parties hereto execute this MOA on the dates hereinafter identified

FOR THE GENERAL SERVICES ADMINISTRATION

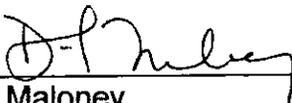
By:  10/22/08
Date
Bart Bush
Assistant Regional Administrator
Public Buildings Service
National Capital Region

By:  11.12.08
Date
Rolando Rivas-Camp, FAIA
Federal Preservation Officer
Office of the Chief Architect
Public Buildings Service
National Office

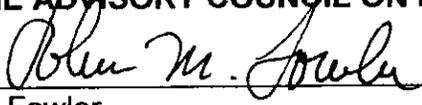
FOR THE DEPARTMENT OF STATE

By:  11/05/08
Date
William E. Kohlenbush
Director, Office of Real Property Management

FOR THE DISTRICT OF COLUMBIA STATE HISTORIC PRESERVATION OFFICE

By:  11/12/2008
Date
David Maloney
State Historic Preservation Officer

FOR THE ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:  12/4/08
Date
John M. Fowler
Executive Director