

**MEMORANDUM OF AGREEMENT
AMONG
THE GENERAL SERVICES ADMINISTRATION,
FOOD AND DRUG ADMINISTRATION,
THE MARYLAND STATE HISTORIC PRESERVATION OFFICER, AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING THE FOOD AND DRUG ADMINISTRATION CONSOLIDATION
PROJECT AT WHITE OAK, MARYLAND**

WHEREAS, the General Services Administration (GSA) has received \$35 million in federal funding to design and build the first phase of a consolidation of 2.1 million square feet of laboratory and office space for the Food and Drug Administration (FDA) in the greater Washington, D.C. area, including 6,200 employees, on former U.S. Navy property currently administered by the General Services Administration (GSA) in White Oak, Maryland, and will request additional funding to construct subsequent phases of the project from 2001 through 2007; and

WHEREAS, the overall design of the U.S. Food and Drug Administration consolidation at the Federal Research Center at White Oak, Montgomery County, Maryland, including the placement of laboratories, office buildings, and support facilities associated with the Center for Drug Evaluation and Research (CDER), the Center for Devices and Radiological Health (CDRH), the Center for Biologics Evaluation and Research (CBER), Office of the Commissioner (OC), and Office of Regulatory Affairs (ORA), is governed by a Master Plan approved by GSA and FDA on February 11, 1997, and

WHEREAS, the FDA Consolidation Master Plan has been reviewed and approved by National Capital Planning Commission on June 26, 1997; and

WHEREAS, this undertaking will be constructed according to the general plan included in the FDA Consolidation Master Plan, and as described in the approved Final Environmental Impact Statement dated April 1997; and

WHEREAS, GSA, in its role as manager of federal government real estate and space planning is assuming historic preservation responsibilities on behalf of FDA under 36 CFR Part 800; and

WHEREAS, GSA has received a separate \$10 million federal appropriation to be used for demolition of buildings within the 130 acre project area to facilitate construction associated with Phase I FDA consolidation; and

WHEREAS, GSA has determined that the undertaking will have an effect on the U.S. Naval Ordnance Laboratory (NOL) Historic District, a property eligible for inclusion in the National Register of Historic Places, and has consulted with the Maryland State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (Council) pursuant to 36

CFR Part 800, regulations implementing the National Historic Preservation Act (16 U.S.C., 470f); and

WHEREAS, through additional research and consultation, the planted buffer (1200 feet in depth, from the center line of New Hampshire Avenue to the front of the closest building of the U.S. NOL Historic District), established in 1945 to protect the Naval Ordnance Laboratory from electronic and other incursion, and to protect the surrounding residential community from what was considered an industrial facility, is determined to be a contributing element within the U.S. NOL Historic District, GSA will determine the effect of future project phases on this buffer, and if the effect is found to be adverse, continue the consultation process to avoid or minimize the project's effect, if possible, on this contributing element within the historic district; and

WHEREAS, a number of umbrella citizen and related historic preservation groups, including LABQUEST and the White Oak Laboratory Alumni Association Inc. (WOLAA) have participated in the consultation and have been invited to concur in this Memorandum of Agreement; and

NOW THEREFORE GSA, FDA, the Maryland SHPO and the Council agree that the undertaking shall be administered in accordance with the following stipulations to satisfy GSA's and FDA's Section 106 responsibilities for all aspects of the project.

STIPULATIONS – PHASE 1 OF PROJECT

The General Services Administration and the Food and Drug Administration will ensure that the following measures are carried out:

I. ADMINISTRATION

- A. The GSA shall ensure that in completing the necessary provisions of this Agreement that it will employ or contract with the appropriate qualified professionals who meet *The Secretary of Interior's Professional Qualifications Standards* at 36 CFR 61 (Professional Qualifications).

II. RETENTION OF CONTRIBUTING RESOURCES

- A. The GSA will retain the following contributing resources: Building 1 extended, the fire station portion of Building 100, and the flagpole within a redesigned circle to be located in front of Building 1 extended. Building 1 extended is the entire front of the Navy Laboratory Main Buildings, as seen from New Hampshire Avenue, including the two side entrances and steps.

III. RECORDATION

- A. Prior to demolition or alteration of any of the contributing buildings in the U.S. Naval Ordnance Laboratory (NOL) Historic District (Naval Surface Warfare

Center), the GSA shall ensure that each of these buildings are documented to Historic American Buildings Survey (HABS)/Historic American Engineering (HAER) standards. The GSA will contact the National Park Service (NPS) to determine the level and kind of documentation required:

Ms. Kathleen Catalano Milley, National Park Service, Philadelphia
Support Office, U.S. Custom House, 200 Chestnut Street, 3rd Floor,
Philadelphia, PA 19106

- B. All documentation must be accepted by the National Park Service. The GSA will notify the Advisory Council and the Maryland SHPO of documentation acceptance, prior to the demolition and/or alteration of the contributing buildings. Copies of the HABS/HAER documentation will be provided to the SHPO and to the Montgomery County Historical Society within thirty (30) days of acceptance by NPS.

IV. DESIGN REVIEW

- A. All design elements related to Phase I of the Food and Drug Administration Consolidation at White Oak will conform to the proposed May 2000 site plan and aerial view included in this MOA as Appendix 1. This site plan and aerial view have not yet been approved but will be submitted to the National Capital Planning Commission at a later date.
- B. GSA will submit to the Maryland SHPO the proposed design plans for the Center for Drug Evaluation and Research (CDER) to ensure that the design of the proposed building will be compatible with neighboring historic buildings in terms of their height, scale, massing, and materials.

V. COMMEMORATION AND INTERPRETATION/EDUCATION ACTIVITIES

- A. Within six months of ratification of this agreement, the GSA shall form an advisory committee to guide the development of a plan for the commemoration and interpretation of the history of the U.S. Naval Ordnance Laboratory and its personnel. At a minimum, the advisory committee will include representatives of the following: GSA, FDA, the Maryland SHPO, LABQUEST, and the White Oak Laboratory Alumni Association Inc. (WOLAA).
- B. Development of the commemoration and interpretation plan will be guided by principles included in the National Register Bulletin "Telling the Stories: Planning Effective Interpretive Programs for Properties Listed in the National Register of Historic Places" (2000), the National Park Service's "Planning for Interpretation and the Visitor Experience" (1998), and the National Park Service's Director's Order # 28 "Cultural Resource Management Guideline" (1997). Components of this plan

will be passive, rather than active (e.g., staffed). These components will be limited to indoor exhibits, exterior exhibits and signs, publications (e.g., brochures) and may include indoor exhibits, exterior exhibits and signs, publications (e.g., brochures), and electronic media (e.g., web page).

- C. The GSA shall ensure that the interpretive plan will be developed within twelve months of ratification of this agreement. One portion of the plan will outline how a commemorative area for the White Oak Laboratory personnel should be developed. The plan will provide details about what type of commemoration should be developed, an outdoor garden and indoor memorial space, and about the number, type, and content of interpretive panels to be erected in the commemoration. The interpretive section of the plan will outline how artifacts associated with the property, including salvaged architectural elements, tools, objects, and other historical source materials from the property along with the recordation photographs described in Stipulation III should be incorporated into an interpretive exhibit or exhibits. The plan will also describe how information about the historic and architectural context of the Naval Ordnance Laboratory will be included in the interpretive exhibit or exhibits. The plan for an indoor memorial space will be prepared to include public access, such as Building 1 extended, or the new FDA visitors' center.
- D. The GSA shall ensure that the commemorative and interpretive plan incorporates recommendations about how related public education materials about the Naval Ordnance Laboratory will be developed including the The Legacy of the White Oak Laboratory book that is currently in progress of publication by the White Oak History Corporation.
- E. The GSA shall ensure that the commemorative and interpretive plan incorporates the recommendations of the committee such as in what buildings and spaces the commemorative exhibit or exhibits will be placed, what artifacts and other materials should be exhibited, and how the public may gain access to the exhibit.
- F. The GSA shall notify the Council of the measures that will be taken to fulfill this stipulation and provide progress updates to the Council as work is completed.

VI. DISCOVERY

- A. During the course of this undertaking, the GSA will ensure that the Maryland SHPO is informed of any newly identified potential historic properties discovered within the project's area of potential effect during the construction of the Center for Drug Evaluation and Research (CDER). Potential historic properties are herein considered any building, structure, object, or archaeological site to which the National Register of Historic Places Criteria of Eligibility (36 CFR 60.4) has not already been applied. The GSA will not take any actions that would adversely affect such properties until such time as it has taken the following actions and

resolved or mitigated all Section 106 responsibilities regarding such late-identified sites:

1. Upon notification that a potential historic site or object previously unidentified during the course of Section 106 compliance has been identified within the undertaking's area of effect during the implementation of the undertaking, the GSA will undertake the steps outlined in 36 CFR 800.13(b through d) in order to ensure compliance with Section 106 of the National Historic Preservation Act.
2. In accordance with 36 CFR 800.13(b), the identification of additional, late-identified historic resources discovered during the implementation of the undertaking does not require the GSA to stop work on the overall undertaking, but to make reasonable efforts to avoid or minimize harm to the property until the requirements of 36 CFR 800.13 are met.

VII. DISPUTE RESOLUTION

- A. Should the Maryland SHPO object within 30 days to any plans and documents required pursuant to the terms of this Agreement, the GSA shall consult with the SHPO and other consulting parties to resolve the objection. If the GSA determines that the objection cannot be resolved through consultation, the GSA shall forward all documentation relevant to the dispute to the Council. Within 30 days after receipt of pertinent documentation, the Council will either:
 1. Provide the GSA with recommendations, which the GSA shall take into account in reaching a final decision regarding the dispute; or
 2. Notify the GSA that it will comment pursuant to 36 CFR Part 800.6(b), and proceed to comment. Any Council comment provided in response to such a request will be taken into account by the GSA in accordance with 36 CFR Part 800.6(b)(2) with reference to the subject of the dispute.
 3. Any recommendations or comment provided by the Council will be understood to pertain only to the subject of the dispute; the GSA's responsibility to carry out all actions under this Agreement that are not the subject of the dispute will remain unchanged.

VIII. REVIEW OF PUBLIC OBJECTIONS

- A. At any time during implementation of the measures stipulated in this Agreement, should any objection to any such measure or its manner of implementation be raised by a member of the public, LABQUEST, or WOLAA, the GSA shall take the objection into account, notify the SHPO of the objection, and consult as

needed with the objecting party, the SHPO, or the Council to resolve the objection.

IX. MONITORING AND REPORTING

- A. The SHPO may monitor any activities carried out pursuant to this Agreement and the Council may review any activities if requested. The GSA will cooperate with the SHPO and the Council should they request to monitor or to review project files or visit project sites for activities at specific project sites.
- B. The GSA shall provide the SHPO, LABQUEST, and WOLAA with a report that summarizes activities carried out under the terms of this Agreement six (6) months from the date of the Agreement's execution and again at one (1) year from the date of execution. Thereafter, the GSA shall provide the SHPO, LABQUEST and WOLAA with an annual report. Reports shall include information regarding preservation activities, information on any public objections and their status, any other activities undertaken pursuant to this Agreement, and information on overall project funding and construction phases.

X. RECORD KEEPING

- A. The GSA shall maintain records of all activities undertaken pursuant to this Agreement which shall become part of the Environmental Review Record for the project including:
 - 1. All records related to the selection of Professionals who perform the work stipulated in the provisions of this agreement, which clearly documents adherence to the Professional Qualifications (36 CFR 61);
 - 2. All records of correspondence and finding letters provided by the Maryland SHPO to the GSA;
 - 3. All records indicating all mitigation measures taken in accordance with the provisions of this Agreement;
 - 4. All records related to consultations GSA has with the Maryland SHPO and/or the Advisory Council following the ratification of this Agreement;
 - 5. All records of public comments received during public hearings and written or telephonic comments received from the public at all other times;
 - 6. All of the above records shall be maintained for a minimum of three (3) years after completion of each project and shall be made available to the general public and additional parties with a demonstrated interest in the undertaking upon request during this time frame.

XI. AMENDMENTS

- A. Any party to this Agreement may request that it be amended or modified, whereupon the GSA, the SHPO, and the Council will consult in accordance with 36 CFR Part 800.13 to consider such revisions.
- B. Any resulting amendments or addenda shall be developed and executed among GSA, FDA, the Maryland SHPO, the Council, LABQUEST, and WOLAA in the same manner as the original Agreement.

XII. TERMINATION

- A. Any party to this Agreement may terminate the Agreement by providing thirty (30) days notice to the other parties, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination.

XII. FAILURE TO COMPLY WITH THIS AGREEMENT

- A. In the event that the GSA does not carry out the terms of this Agreement, the GSA will comply with 36 CFR Parts 800.4 through 800.6 with regard to individual undertakings covered by this Agreement.

XIII. SUNSET

- A. Provisions of this Agreement will be carried out from the date of execution of this Agreement through completion of Phase I of the FDA Consolidation, or April 1, 2007, whichever occurs first.

STIPULATIONS – FUTURE PROJECT PHASES

The signatories to this Memorandum of Agreement agree that the following stipulations will be followed for future phases of this project. Provided that sufficient funds are made available through the appropriation process, the General Services Administration and the Food and Drug Administration will ensure that the following measures are carried out:

I. ADMINISTRATION

- A. The GSA shall ensure that in completing the necessary provisions of this Agreement that it will employ or contract with the appropriate qualified professionals who meet *The Secretary of Interior's Professional Qualifications Standards* at 36 CFR 61 (Professional Qualifications).

- B. Standard stipulations regarding discovery (Stipulation VI.), dispute resolution (Stipulation VII.), review of public objections (Stipulation VIII.), monitoring and reporting (Stipulation IX.), record keeping (Stipulation X.), amendments (Stipulation XI.), termination (Stipulation XII.), failure to comply with this agreement (Stipulation XIII.), and sunset (Stipulation XIV.) will apply to all future phases of the project.

II. RETENTION OF CONTRIBUTING RESOURCES

- A. The GSA will retain the following contributing resources: Building 1 extended, the fire station portion of Building 100, and the flagpole within a redesigned circle to be located in front of Building 1 extended. Building 1 extended is the entire front of the Navy Laboratory Main Buildings, as seen from New Hampshire Avenue, including the two side entrances and steps.

III. ARCHITECTURAL SALVAGE

- A. Prior to implementation of project activities involving the demolition of the wings of Buildings 2, 3, and 4 (scheduled for demolition in 2002), and the demolition of Building 5 (scheduled for demolition in 2005), GSA shall determine whether any architectural or decorative elements, such as wood wall paneling, flooring, and fireplace mantles, may be salvaged for possible re-use.
- B. To determine which elements are salvaged, GSA will conduct an on-site inspection of Buildings 2, 3, 4, and 5 with representatives of the Maryland SHPO to identify elements that may be potential candidates for salvage. The White Oak Laboratory Alumni Association, Inc. (WOLAA) will provide GSA and the SHPO with a candidate list of items to be considered for architectural salvage.
- C. If it is determined that such architectural elements exist during the on-site inspection described in III.B., the GSA will submit a salvage plan to the SHPO including an inventory of all the elements that it proposes to salvage, the manner in which they will be salvaged, and how they will be used. Within 20 days, the SHPO will provide its review comments to the GSA.
- D. The GSA shall ensure that any elements that are removed are done so in a manner that minimizes damage. Following their removal, GSA shall further ensure that all salvaged elements are properly secured from vandalism and weather until such time as they can be used.

IV. COMMEMORATION AND INTERPRETATION/EDUCATION ACTIVITIES

- A. The GSA shall ensure that the commemorative and interpretive plan developed in Phase I of the project will be installed by April 1, 2007.

V. DESIGN REVIEW

- A. Phases 2 through 5 of the project will be guided by the proposed May 2000 site plan and aerial view included in this MOA as Appendix 1, with the understanding that specific design elements may be modified and/or refined over time. Information pertaining to the design of Phases 2 through 5 will also be submitted for review and approval by the National Capital Planning Commission.
- B. GSA shall ensure that the rehabilitation of Building 1 extended, including its exterior and interior, any new construction added to the building, and all site improvements surrounding the building will adhere to *The Secretary of the Interior's Standards for the Treatment of Historic Properties*. Key character-defining features, as more fully described in Appendix 2, will be retained "in situ."
- C. Prior to any alteration of this building, GSA will prepare a Historic Building Preservation Plan reflecting these character-defining features, according to GSA's approach described in "Historic Building Preservation Plan – Comprehensive Building Report" (1992).
- D. GSA shall further ensure that the Project Architect will submit to the Maryland SHPO for its review and comment complete project plans and specifications for the rehabilitation of Building 1 extended including its exterior and interior, any new construction added to the building, all site improvements surrounding the building, and approved commemoration and interpretation plan referenced in stipulation V.B. of this agreement. The Architect will submit such plans to the Maryland SHPO at the schematic and at the 30 percent design development levels of completion. GSA will also ensure that the Maryland SHPO is invited to participate in a multi-agency review of the design at the approximately 75 percent level of design development.
- E. GSA shall ensure that the exterior rehabilitation of the fire station portion of Building 100 will adhere to *The Secretary of the Interior's Standards for the Treatment of Historic Properties*. Prior to any alteration of the fire station, GSA will prepare a Historic Building Preservation Plan according to GSA's approach for the preparation of such reports, as referenced in Stipulation VI. C above.
- F. GSA shall further ensure that the Project Architect will submit to the Maryland SHPO for its review and comment project plans and specifications for the exterior rehabilitation of the fire station portion of Building 100. The Architect will submit such plans at the schematic and at 30 percent design development levels of completion. GSA will also ensure that the Maryland SHPO is invited to participate in a multi-agency review of the design at the approximately 75 percent level of design development.

- G. GSA will also submit a copy of the proposed landscaping plan for the entire site to the Maryland SHPO for review and comment. The GSA will submit these plans for review and comment at a 30 percent and 75 percent level of design development. Prior to the Maryland SHPO providing comments regarding plans, it will consult with WOLAA and LABQUEST to incorporate their comments with the Maryland SHPO's comments.

Execution of this Agreement by the GSA, FDA, and the Maryland SHPO, its subsequent acceptance by the Council, and implementation of its terms by GSA, evidence that GSA and FDA have afforded the Council an opportunity to comment on the proposed FDA Consolidation Project at White Oak, Maryland and its effects on historic properties, and that the GSA and FDA have taken into account the effects of the proposed project on historic properties.

GENERAL SERVICES ADMINISTRATION

By:


Annie W. Everett
Acting Regional Administrator
National Capital Region

Date:



FOOD AND DRUG ADMINISTRATION

By: Robert J. Byrd
Robert J. Byrd
Deputy Commissioner for Management and Systems

Date: 12.15.00

MARYLAND STATE HISTORIC PRESERVATION OFFICER

By: 
J. Rodney Little
State Historic Preservation Officer

Date: 2-8-01

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: John W. Fowler
John Fowler
Executive Director

Date: 2/26/01

CONCURRING PARTIES

LABQUEST

By: _____

Meyer J. Levin

Date: _____

CONCURRING PARTIES

WHITE OAK LABORATORY ALUMNI ASSOCIATION, INC

By: M. John Tino
M. John Tino

Date: 2 January 2001

APPENDIX 1

- **Revised Site Plan**
- **View into Commons**

APPENDIX 2

Photographs and Character-Defining Features