

**MEMORANDUM OF AGREEMENT  
BY AND AMONG  
THE U.S. GENERAL SERVICES ADMINISTRATION,  
THE OHIO STATE HISTORIC PRESERVATION OFFICE  
AND  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
REGARDING THE  
FAÇADE OVER-CLAD AND SECURITY UPGRADE PROJECT AT THE  
ANTHONY J. CELEBREZZE FEDERAL BUILDING  
CLEVELAND, OHIO**

**THIS MEMORANDUM OF AGREEMENT** (“MOA” or “Agreement”) is made by and among the U.S. General Services Administration (“GSA”), as lead agency and agency with jurisdiction, custody and control over the Property, defined below, the Ohio State Historic Preservation Office (“SHPO”) and the Advisory Council on Historic Preservation (“ACHP”) (collectively referred to herein as “Signatories” or “Parties” and each individually as a “Signatory” or a “Party”) pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. § 470f, and its implementing regulations at 36 C.F.R. part 800.

**WITNESSETH:**

**WHEREAS**, the property includes the Anthony J. Celebrezze Federal Building, an approximately 1.5 million gross square foot federal office building located at 1240 E. 9th Street in Cleveland, Ohio (“Celebrezze Building”), considered an integral part of the Erieview Plan (“Erieview Plan”), a massive urban renewal project that had a significant impact on the development of Cleveland, and its site, which is bounded by E. 9th Street, Lakeside Avenue, E. 6th Street, and St. Clair Avenue (the “Property”); and

**WHEREAS**, the Celebrezze Building, constructed in 1967 and designed by architect Peter van Dijk of Oucalt, Guenther, Rode, Toguchi & Bonebrake Architects of Cleveland, Ohio, was determined by the Keeper (“Keeper”) of the National Register of Historic Places (“National Register”), on July 27, 2011, to be eligible for listing in the National Register under Criteria A and C, and meets National Register Criterion Consideration G for its exceptional local historic and architectural importance; and

**WHEREAS**, the Keeper’s determination was informed by a study commissioned by GSA and prepared by Ghafari Associates and Harboe Architects, attached hereto as **Appendix A** and incorporated herein by reference, which concluded that the Celebrezze Building did not meet National Register Criterion Consideration G for properties less than 50 years of age, a finding with which the SHPO disagreed as documented in a letter dated May 19, 2011, attached hereto as **Appendix B** and incorporated herein by reference; and

**WHEREAS**, GSA received funding through the American Recovery and Reinvestment Act of 2009 ("ARRA") for the design and construction of a new secure, energy-efficient, double-wall façade over-clad system for the Celebrezze Building (the "Undertaking"); and

**WHEREAS**, ARRA was a multi-faceted initiative aimed at creating jobs in the construction and real estate sectors, while also stimulating long-term growth in energy-efficient technologies, alternative energy solutions and green buildings, and whereby funds for selected ARRA projects, including this Undertaking, had to be awarded by the end of Fiscal Year 2011; and

**WHEREAS**, the Undertaking is informed by GSA's assessments of the Celebrezze Building's original stainless steel spandrel panel façade system, which exhibited initial failures in the early 1990s and continued to delaminate despite a temporary repair effort in 2000 aimed at providing an additional 10 to 12 years of "serviceable life" to the façade until funds could be obtained for a complete upgrade; and

**WHEREAS**, the Undertaking also is informed by a 2007 GSA Feasibility Study for Curtain Wall Investigation and Security Enhancements prepared by Westlake Reed Leskosky Architects of Cleveland, Ohio (the successor firm to van Dijk Reed Westlake Architects formed by Peter van Dijk), attached hereto as **Appendix C** and incorporated herein by reference, upon which GSA determined that the original façade system could not be repaired with in-kind materials and construction methods while also meeting current security and energy efficiency requirements; and

**WHEREAS**, the boundaries of the Undertaking's area of potential effect are South Marginal Road on the north, East 12th Street on the east, Superior Avenue on the south, then returning north along East 6th Street to St. Clair Avenue NE running west to Ontario Street, then north along Ontario Street to Lakeside Avenue East, then running west to West 2nd Street, and then running north back to South Marginal Road, as shown on the map attached hereto as **Appendix D** and incorporated herein by reference (the "APE"); and

**WHEREAS**, given the location and nature of the Property, and as the Undertaking will not include any ground disturbing activities, no tribal interest in the Undertaking or the Property has been expressed to GSA; and

**WHEREAS**, informed by the official National Register determination of eligibility and consultation on the Undertaking, GSA determined that the Undertaking will have an adverse effect on the Property and will not have an adverse effect on adjacent historic properties in the APE; and

**WHEREAS**, in accordance with 36 C.F.R. § 800.6(a)(1), GSA formally notified the SHPO and the Consulting Parties (hereinafter defined) of its adverse effect determination; and

**WHEREAS**, GSA consulted with the Cleveland Restoration Society, the City of Cleveland Landmarks Division and the Cleveland Chapter of the American Institute of Architects ("AIA")

(collectively referred to herein as "Consulting Parties" and each individually as a "Consulting Party"), regarding the effects of the Undertaking; and

**WHEREAS**, in accordance with 36 C.F.R. § 800.6(a)(1), GSA notified ACHP of GSA's adverse effect determination, with necessary documentation, attached hereto as **Appendix E** and incorporated herein by reference, and ACHP accepted GSA's invitation to participate in the consultation; and

**WHEREAS**, at the request of the SHPO, GSA sent a letter, attached hereto as **Appendix F** and incorporated herein by reference, outlining its section 106 consultation procedures and policies, particularly as they concern and relate to the maintenance, repair and modernization of mid-20th century modern era resources and future coordination with the SHPO regarding other properties under the jurisdiction, custody or control of GSA in Ohio.

**NOW, THEREFORE**, in consideration of the terms, conditions, agreements, covenants, and restrictions hereinafter set forth, the Signatories agree that the Undertaking will be implemented in accordance with the following stipulations to take into account the effect of the Undertaking on historic properties.

## STIPULATIONS

GSA will carry out the following measures:

### I. General Requirements

**A. Qualifications.** All historic preservation work performed by or on behalf of GSA, pursuant to this Agreement, will be accomplished by or under the direct supervision of a person or persons who meet(s) or exceed(s) the pertinent qualifications set forth in the Secretary of the Interior's Professional Historic Preservation Qualification Standards ([http://www.nps.gov/history/local-law/arch\\_stnds\\_9.htm](http://www.nps.gov/history/local-law/arch_stnds_9.htm)) in those areas in which the qualifications are applicable for the specific work performed ("Qualified Personnel").

**B. Definitions.** Unless otherwise noted, this Agreement uses the definitions found in 36 C.F.R. part 800, and particularly 36 C.F.R. § 800.16.

### II. Management and Treatment

**A. Avoidance.** Construction staging for the Undertaking will be located on the Property, but in a location that provides adequate protection to the nearby Celebrezze Building. During the period of construction, GSA's Qualified Personnel will attend regularly scheduled ARRA project progress meetings (e.g., monitoring compliance, budget, schedule, and performance) to confirm that protections are being implemented, in accordance with the project contract documents, to avoid unanticipated adverse effects.

**B. Minimization.** Minimization of effects to the material integrity of the original façade system, all in accordance with the project contract documents, will include:

(1) Retention and stabilization of the original stainless steel spandrel panels, with the exception of the removal of material (28" x 24") at each structural joint of the façade and at the northwest corner, which is required to provide attachment for the new double-wall system to the building structure. Larger openings for attachments will occur at the parapet and second floor spandrel panel. This new structural connection will then be sealed with matching stainless steel material to close and finish the attachment; and

(2) The remaining original stainless steel and glass façade will remain *in situ* as an intact building enclosure system behind the new double-wall/over-clad glazing system.

**C. Mitigation.** Mitigation for the Undertaking will include:

(1) Education and Interpretation

a) Historic Building Film Series: Development by GSA of an educational film that addresses the history of the Celebrezze Building and the Erieview Plan of 1960, and the effects these projects and initiatives had on the later development of Cleveland.

i. The film will be developed in segments to engage a general public interest as well as a more technically knowledgeable audience. The quality and script of the film will be developed using GSA's existing award-winning historic building film series (<http://www.gsa.gov/portal/category/25440>), with the film produced on the modernization of Cleveland's Howard M. Metzenbaum U.S. Courthouse as a model.

ii. Film production experts will be managed by GSA's Great Lakes Region in consultation with GSA's Center for Historic Buildings, the producer of the series. The SHPO and other Consulting Parties will be consulted regarding the content of the film, as developed in outline and script format, and invited to be included as one of several key interviews to be featured. GSA, in cooperation with the SHPO, will, upon execution of this MOA, identify and interview the original architect, Peter van Dijk, and other more senior, key players so that their comments, contributions and reflections can be captured and recorded in a timely fashion for inclusion.

iii. The film, which will run no more than 15-20 minutes in length and include a separate promotional trailer, will be made available to the SHPO and the Consulting Parties and for public display within the Celebrezze Building and through other appropriate venues, including GSA's Center for Historic Building's website, within 3 years of completion of the Undertaking.

b) Educational Session: Coordination and administration by GSA of an educational session that was held as part of the AIA Ohio Annual Convention on

September 12, 2012. The session addressed the challenges and opportunities presented by modern era resources and the need often to balance historic significance with energy and other sustainability requirements, particularly as these issues relate to public buildings. The four-hour roundtable discussion used the ARRA facade over-clad project at the Celebrezze Building as its primary case study. Subject matter experts, including representatives from the SHPO and other local Consulting Parties, participated as speakers. All speakers were identified and selected in collaboration with the SHPO, and participated in a series of webinars during the months of August and September to prepare for the presentation. Given the timeliness of the event and the opportunity to reach a broad, key audience, GSA agreed to prepare and present this session as part of the AIA Ohio Convention and recorded the session. GSA intends to post materials from this session, including the presentations, and an executive summary of the session, on its Federal Modernism homepage, within the Center for Historic Building's website, at [www.gsa.gov/federalmodernism](http://www.gsa.gov/federalmodernism).

c) Mobile Application Partnership: GSA will collaborate with the Center for Public History + Digital Humanities at Cleveland State University to contribute content on the Property and the Undertaking to "Cleveland Historical" (<http://clevelandhistorical.org>), a mobile application developed and managed by Cleveland State University that allows the general public to explore the people, places and moments that have shaped Cleveland's history. Information contributed and posted to this application will be developed with the Center for Public History + Digital Humanities in consultation with the SHPO and will be generated from the educational and project recordation materials referenced herein. It is anticipated that approved materials will be posted to this site once they are developed (to begin upon execution of this MOA) and will be updated and expanded as more information, including the film referenced in subsection II.C.(1), becomes available. It is further anticipated that the inclusion of the data on the Undertaking and the Erieview Plan will lead to increased content on modernism in Cleveland and that others, including the SHPO and the other Consulting Parties, also will have the opportunity to contribute related modern era resource materials.

d) Construction Signage: During construction, GSA will prominently post two interpretive panels along East Ninth Street for the public to view. One panel will describe the history and significance of the Property, and the second panel will describe modernization and energy-efficiency efforts and the ARRA initiative. The panels will be designed and installed upon execution of this MOA and remain in place until the Undertaking is completed.

## (2) Evaluation

a) GSA Assessment Tool: GSA, using this Undertaking as an impetus, will update the GSA Assessment Tool, which was originally developed as part of its publication *Growth, Efficiency and Modernism: GSA Buildings of the 1950s, 60s and 70s*. Designed and developed in 2000, the Assessment Tool was created to assist GSA regions in assessing the potential eligibility of Modernist buildings in GSA's portfolio for listing in the National Register. This tool has been used not only by GSA but by many public and private agencies and organizations nationwide and its application and evaluation over the last decade has identified areas for improvement. Revisions to the Assessment Tool will include clarification of National

Register criteria, including consideration of architectural, historical and local significance, how to use the tool, models and sample attachments, definition of contributing elements and features representative of the modern era, and further explanation and direction regarding submission requirements. GSA will consult and seek input from various SHPO offices, including Ohio and New Jersey, and the National Council for State Historic Preservation Officers, among others, to best consider methods to enhance the appropriate interpretation, application and transferability of this tool nationwide. The redesigned Assessment Tool, which will remain focused on the evaluation of public federal buildings, is expected to be completed within 2 years of the execution of this MOA by GSA's Center for Historic Buildings, in collaboration with our Regional Historic Preservation Officers, and will be available to the public at GSA's Federal Modernism homepage, within the Center for Historic Building's website, at [www.gsa.gov/federalmodernism](http://www.gsa.gov/federalmodernism).

### (3) Recordation and Documentation

a) Record of Performance: GSA will make available a record of the performance (rate of deterioration) of the original façade materials over the course of the last two decades and once stabilized and enclosed with the new double-wall/over-clad system. The records will include photo documentation of the range of deterioration of the elements of the original façade system as identified during the construction process and as limited materials are removed as a necessity of construction. The GSA Project Manager for the Undertaking and the Great Lakes Regional Historic Preservation Officer will begin monitoring this performance upon execution of this MOA. The content and format of the Record of Performance will be designed in consultation with skilled conservation specialists, such as those associated with the Inter-museum Conservation Association (<http://www.ica-artconservation.org>) based in Cleveland, and reviewed, prior to execution, by the SHPO. The records will be updated annually and submitted as part of the annual report due by August 31st of each year as provided in section IV of this Agreement. A copy of the final document will be deposited in repositories, to be agreed upon by the SHPO and GSA, but, at a minimum, including the Public Administration Library, the Cleveland City Hall and the State Library of Ohio, in Columbus, in accordance with the submittal requirements of each institution, on or before August 31, 2020.

b) ARRA Project Life-Cycle and Data Collection: In addition to the Record of Performance described in subsection II.C.3(a), above, GSA will make available, upon its completion, the project information collected by GSA's Information Management Division on this ARRA Undertaking. The Information Management Division is responsible for tracking the progress and performance of all ARRA projects and will capture data on LEED, Energy Star ratings, water reduction and renewable energy production estimates, anticipated utility consumption rates, and other energy and sustainability goals and building performance targets, and, upon completion of the project, will prepare a post-construction operational data evaluation. This report, which will be included in the Recovery Act High-Performance Green Building Database Online, will include narratives and design documentation specific to the minimum performance criteria set forth for this particular ARRA project and is anticipated within one to two years of construction completion.

c) Project Record: GSA will collect, retain and make available, upon request, the documents identified in the *List of GSA Studies and Reports Informing the Development of the Celebrezze Façade Repair and Over-Clad Project*, attached hereto as **Appendix G** and incorporated herein by reference. These documents will be held in a repository to be mutually agreed upon by the SHPO and GSA and will be submitted within one year of the execution of this MOA. The Record of Performance will be added to this collection once the final document has been completed.

### **III. Duration**

This Agreement will expire if its terms are not carried out, or if GSA is not diligently performing its obligations under the Agreement, within 8 years after the execution of this Agreement. Prior to such time, GSA may consult with the other Signatories to reconsider the terms of the Agreement and amend it in accordance with section VI., below.

### **IV. Status Reports**

Each August 31st following execution of this Agreement, and until the Agreement expires or is earlier terminated, GSA will provide an annual report to the Signatories and the Consulting Parties to this Agreement detailing work undertaken pursuant to its terms. Such report will include any scheduling changes proposed, mitigation measures met, construction progress summary, problems encountered, and any disputes and objections received in GSA's efforts to carry out the terms of this Agreement.

### **V. Dispute Resolution**

**A.** Should any Signatory to this Agreement object, in writing, to GSA regarding any action proposed to be or carried out with respect to the Undertaking or the manner in which the terms of this Agreement are implemented, GSA will consult with the objecting Party, as well as the Consulting Parties, as appropriate, to resolve the objection. If, after initiating such consultation, GSA determines that the objection cannot be resolved through consultation, GSA will forward all documentation relevant to the dispute, including GSA's proposed resolution, to ACHP. Within 30 days after receipt of all pertinent documentation, ACHP must exercise one of the following options:

- (1) Consult with the objecting Party, and with other Parties, as appropriate, to resolve the dispute; or
- (2) Provide GSA with recommendations, which GSA must take into account in reaching a final decision regarding the dispute; or
- (3) Notify GSA that the dispute will be referred for comment pursuant to 36 C.F.R. § 800.7(a)(4) and proceed to refer the dispute for comment. GSA must take the resulting comment into account in accordance with 36 C.F.R. § 800.7(c)(4).

**B.** Should ACHP not exercise one of the above options within 30 days after receipt of all pertinent documentation, GSA may assume ACHP's concurrence in its proposed response to the objection.

**C.** Prior to reaching a final decision on the dispute, GSA will prepare a written response that takes into account any timely advice or comments regarding the dispute from ACHP, the Signatories and the Consulting Parties, if applicable, and provide them with a copy of GSA's written response. GSA will then proceed according to its final decision.

**D.** GSA will take into account any recommendation or comment provided in accordance with this section V. with reference only to the subject of the dispute. GSA's responsibility to carry out all other actions under this MOA that are not the subject of the dispute will remain unchanged and in full force and effect.

## **VI. Amendments**

This Agreement may be amended when such an amendment is agreed to, in writing, by all Signatories. The amendment will be effective on the date a copy of the document is signed by all of the Signatories and filed with ACHP.

## **VII. Termination of Agreement**

**A.** If any Signatory to this Agreement determines that its terms will not or cannot be carried out, that Party must immediately consult with the other Parties, and Consulting Parties, as appropriate, to attempt to develop an amendment in accordance with section VI., above. If, within 30 days (or another time period agreed to by all Signatories), an amendment cannot be reached, any Signatory may terminate this Agreement upon written notification to the other Signatories.

**B.** Once the Agreement is terminated, and prior to work continuing on the Undertaking, GSA must either: (a) execute an Agreement pursuant to 36 C.F.R. § 800.6, or (b) request, take into account, and respond to the comments of ACHP under 36 C.F.R. § 800.7. GSA must notify the Signatories as to the course of action it will pursue.

## **VIII. Miscellaneous**

**A. Agreement Components.** The recitals and appendices are incorporated herein as a substantive part of this Agreement.

**B. Anti-Deficiency Act.** GSA's obligations under this Agreement are subject to the availability of appropriated funds, and the stipulations of this Agreement are subject to the provisions of the Anti-Deficiency Act. GSA will make reasonable and good faith efforts to secure the necessary funds to implement the Agreement in its entirety. If compliance with the Anti-Deficiency Act alters or impairs GSA's ability to implement the stipulations of this Agreement, GSA will consult in accordance with section VII. of this Agreement.

## IX. Notices

All notices under this Agreement must be in writing and will be deemed to be delivered 2 business days after the notice has been deposited in the United States Mail, postage paid by certified mail, return receipt requested, addressed to the Parties as set forth in **Appendix H**, *Addresses for Issuance of Notice*, attached hereto and incorporated herein by reference, or 1 day after the notice has been given to a reputable express mail service for next day delivery, such as Federal Express, Purolator or UPS, at the addresses set forth in **Appendix H**.

*[Remainder of page intentionally left blank.  
Signature page to follow.]*

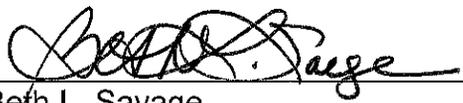
Execution of this Agreement by the Signatories and implementation of its terms evidences that GSA has afforded ACHP a reasonable opportunity to comment on the Undertaking and its effect on historic properties and that GSA has taken into account the effects of the Undertaking on historic properties.

**IN WITNESS WHEREOF**, the Signatories hereto have caused this Agreement to be executed by their proper and duly authorized officers on the dates hereinafter identified.

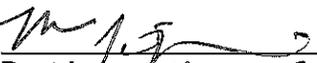
**SIGNATORIES:**

**United States General Services Administration**

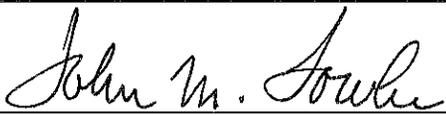
By:  Date: 4/26/13  
Dorothy Robyn  
Commissioner  
Public Buildings Service

By:  Date: 1/30/2013  
Beth L. Savage  
Federal Preservation Officer  
Public Buildings Service

**Ohio State Historic Preservation Office**

By:  Date: 6/11/13  
Burt Logan Mark Epstein  
State Historic Preservation Officer

**Advisory Council on Historic Preservation**

By:  Date: 6/26/13  
John Fowler  
Executive Director