

**MEMORANDUM OF AGREEMENT  
AMONG THE UNITED STATES GENERAL SERVICES ADMINISTRATION, THE  
ADVISORY COUNCIL ON HISTORIC PRESERVATION, AND  
THE COLORADO STATE HISTORIC PRESERVATION OFFICER  
REGARDING THE MODERNIZATION AND REHABILITATION OF THE  
WAYNE ASPINALL FEDERAL BUILDING, GRAND JUNCTION, COLORADO**

This Memorandum of Agreement ("MOA" or "Agreement") is made as of this 9<sup>th</sup> day of June 2011, by and among the United States General Services Administration ("GSA"), the Advisory Council on Historic Preservation ("ACHP"), and the Colorado State Historic Preservation Office ("SHPO"), referred to collectively herein as the "Signatories" or individually as a "Signatory", pursuant to 36 C.F.R. Part 800, regulations implementing Section 106 of the National Historic Preservation Act ("Act") as amended, 16 U.S.C. 470f.

WHEREAS, GSA proposes to modernize and rehabilitate the Wayne Aspinall Federal Building ("Property"), located at 400 Rood Avenue, Mesa County, in Grand Junction, Colorado, by upgrading the mechanical and domestic water piping systems, upgrading the lighting, replacing the roof, replacing the elevator, relocating and improving the exterior handicapped accessibility ramp to be in compliance with the Architectural Barriers Act Accessibility Standards (ABAAS) accessibility requirements, installing a rooftop photovoltaic solar array, restoring interior and exterior historic character-defining features of the Property, and making other associated exterior improvements ("Undertaking"); and

WHEREAS, GSA has defined the Undertaking's area of potential effect ("APE") to be the southwest corner of the block bounded by White Avenue to the North, N. 5<sup>th</sup> Street to the East, Rood Avenue to the South, and N. 4<sup>th</sup> Street to the West. The building's site is bound to the North by an alley at the midpoint between White Avenue and Rood Avenue, to the East by an easement and drive midway between N. 5<sup>th</sup> Street and N. 4<sup>th</sup> Street, Rood Avenue to the South and N. 4<sup>th</sup> Street to the West. A boundary survey further defining the APE is found in Attachment 1; and

WHEREAS, the Signatories have received and consulted upon the General Scope, Concept Design, baseline renderings ("Approved Documents"), which can be found in Attachment 2, and have determined the Undertaking will have an adverse effect upon the Property, which has been listed on the National Register of Historic Places (NRHP). SHPO approved by letter dated February 25, 2011, the final Design drawings for the Core and Shell and Demolition Phase 1, and the City HPB did not have any comments on these Design drawings; and

WHEREAS, GSA has agreed to mitigate the adverse effects of the Undertaking by restoring the historic character-defining features of the Property; and

WHEREAS, because the Undertaking will occur in phases by floor, and tenants will be relocated to swing space within the Property, the historic character-defining features of the Property will be protected in place, and will remain protected in place until they are restored in accordance with this MOA. Those historic character-defining features within the Property, including doors, door hardware, flooring, ceiling, light fixtures, base molding, and trim, will be temporarily removed for protection during construction, protected in place or protected and stored in the basement of the Property, and then reinstalled at the Property in accordance with this MOA; and

WHEREAS, GSA has received funding under the American Recovery and Reinvestment Act of 2009 (Public Law 109-115) ("Recovery Act") for this Undertaking, and this funding expires on December 31, 2015. In the interest of expending the funds within the federally mandated schedule, GSA design and construction will need to progress on an accelerated schedule that minimizes risk of delay and loss of funds; and

WHEREAS, GSA invited the National Trust for Historic Preservation ("NTHP") and the City of Grand Junction Historic Preservation Board ("City HPB"), to consult regarding the effects of the Undertaking on historic properties, and the City HPB agreed to be a Consulting Party ("Consulting Party") to this MOA; and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), GSA notified the ACHP of its adverse effect determination with specified documentation, and the ACHP has chosen to participate in the consultation pursuant to 36 C.F.R. § 800.6(a)(1)(iii), as a Signatory; and

WHEREAS, given the location and nature of the Property, GSA contacted federally recognized Indian Tribes, and no Tribal interest in the Property nor the Undertaking has been expressed to GSA. For any additional historic properties that may be affected by the Undertaking, GSA has, in consultation with the SHPO, made a good faith effort to identify and contact appropriate Indian tribes; and

NOW, THEREFORE, the Signatories agree that the Section 106 consultations for this MOA have concluded successfully and that therefore the Undertaking shall be implemented in accordance with the following stipulations in order to take into account and mitigate the Undertaking's effect on historic properties and that these stipulations shall govern the Undertaking and all of its parts until this MOA expires or is terminated.

## **STIPULATIONS**

The GSA shall ensure that the following measures are carried out:

### **I. GENERAL REQUIREMENTS**

- A. The Undertaking shall be planned, developed and executed in a manner consistent with the Approved Project Documents and the recommended approaches contained in the Secretary of the Interior's Standards for the Treatment of Historic Properties ("Secretary's Treatment Standards"), GSA's Technical Preservation Guidelines, (<http://www/gsa.gov/technicalpreservationguidelines>), and prevailing applicable codes.
- B. GSA shall ensure that all historic preservation work performed by GSA or on its behalf pursuant to this MOA shall be accomplished by or under the direct supervision of a person or persons who meet(s) or exceed(s) the pertinent qualifications in the Secretary's Professional Standards (36 CFR 61 [1983]) in those areas in which the qualifications are applicable for the specific work performed.

### **II. DOCUMENTATION**

- A. Upon completion of the Undertaking, as a mitigation measure, GSA will revise the existing GSA Building Preservation Plan ("BPP") for the Property based on research and documentation to provide the public with a better understanding of its original design and evolution over time. GSA's Regional Historic Preservation Officer ("RHPO") located in Denver, Colorado and SHPO will maintain hard copies of the revised BPP. This revised document will be provided to SHPO and will continue to be available to the public in an abbreviated format via the Center for Historic Building's website at [www.gsa.gov/historicpreservation](http://www.gsa.gov/historicpreservation) via the GSA Historic Buildings Database.

### III. PUBLIC OUTREACH AND INTERPRETATION PROGRAM

As an additional mitigation measure and in furtherance of the goals of the Act and Sections 1 and 5(b) of Executive Order 13287, *Preserve America*, GSA shall institute an Interpretation Program to enhance and celebrate the public's appreciation of the Property, to promote the public's understanding of its historical and architectural significance and evolution, and to increase its visibility and image as a prominent Federal public building.

- A. During construction of the Undertaking, the GSA will prominently post two interpretive panels for the public to view. One panel will describe the history and significance of the building and its rehabilitation. The second will address the energy and mechanical upgrade of the Building. Prior to posting GSA will provide SHPO the opportunity to comment on the text of the interpretative panels.

### IV. DESIGN REVIEW AND CONSULTATION

- A. By letter dated March 9, 2011, and delivered by overnight mail service, GSA invited the SHPO and City HPB to review the final Design drawings for the Core and Shell and Demolition Phases 2 and 3 ("Final Design"). The review of the Final Design by SHPO and City HPB will be based on the Approved Project Documents, the Secretary's Treatment Standards and prevailing applicable codes. SHPO and City HPB will provide written comments on the Final Design to GSA within thirty (30) calendar days of their receipt of the Final Design. The GSA shall consider and, where feasible, incorporate these written comments into the Final Design, which will then become part of the Approved Project Documents. If the SHPO or City HPB provides no comments at all by mail or email, postmarked within the thirty (30)-day timeframe in this Stipulation IV.A., GSA may assume that the SHPO or City HPB, respectively, do not have any comments regarding the Final Design, and GSA may proceed in accordance with the Final Design, which will then become part of the Approved Project Documents. If GSA cannot incorporate a comment from SHPO or City HPB that is provided to GSA within the thirty (30)-day timeframe in this Stipulation IV.A., due, e.g., to time constraints on this ARRA-funded Undertaking or other irreconcilable conflicts, GSA may proceed with demolition and construction, but GSA shall also promptly provide the SHPO and City HPB with a written explanation of the reasons for its objection to their comment(s) and initiate informal consultation with the SHPO and City HPB to resolve their concerns, if any, about GSA's objection.
- B. GSA will not proceed with demolition and construction work only in the following locations (which are addressed in the Approved Project Documents) agreed upon by the

Signatories and City HPB until the Final Design review for these locations has occurred in accordance with Stipulation IV.A. above:

1. New exterior ramp, South Elevation; and
2. Roof Mounted Photovoltaic Array.

- C. GSA will determine whether any conflicting conditions discovered or caused by an unknown field condition, or changes proposed (e.g. change orders) during implementation of the Undertaking, may result in an adverse effect on the Property. If the determination is that adverse effects may result, GSA will forward written documentation of the determination, along with proposed measures to resolve the adverse effects, to the SHPO and City HPB. Unless the SHPO or the City HPB objects in writing within seven (7) calendar days of receiving such documentation, GSA may proceed with the work. Otherwise, GSA will resolve the objection through further consultation with the SHPO and City HPB, or in accordance with the Dispute Resolution process in Stipulation VI of this MOA, before proceeding with the work.

## **V. UNANTICIPATED ADVERSE EFFECTS AND EMERGENCIES**

- A. If GSA determines that an emergency or unanticipated conditions may result in or has resulted in an unanticipated adverse effect to the historic property, GSA shall ensure that the Signatories are notified within two (2) business days of GSA's determination, and shall comply with 36 C.F.R. § 800.12 and 36 C.F.R. § 800.13.
- B. Nothing in this MOA shall be deemed to prevent GSA from taking immediate rescue and salvage operations to preserve life or property, such operations being exempt from Section 106 review per 36 C.F.R. § 800.12(d).

## **VI. DISPUTE RESOLUTION**

Should any Signatory to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, GSA shall consult with such Signatory to resolve the objection. If GSA determines that such objection cannot be resolved, GSA will:

- A. Forward all documentation relevant to the dispute, including GSA's proposed resolution, to the ACHP. The ACHP shall provide GSA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, GSA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and the Signatories, and provide them with a copy of this written response. GSA will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, GSA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, GSA shall prepare a written response that takes into account any timely comments regarding the dispute from the Signatories to the MOA, and provide them and the ACHP with a copy of such written response.
- C. GSA's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

## **VII. AMENDMENTS**

Any Signatory to this Agreement may propose that this Agreement be amended, whereupon all Signatories will consult for no more than thirty (30) calendar days to consider such amendment. The amendment will be effective on the date a copy signed by all of the Signatories is received by the ACHP.

## **VIII. TERMINATION**

If any Signatory to this MOA determines that its terms cannot be or are not being carried out, that Signatory shall immediately consult with the other Signatories to attempt to develop an amendment per Stipulation VII., above. If within thirty (30) days, an amendment cannot be reached, any Signatory may terminate the MOA upon written notification to the other Signatories.

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

## **IX. DURATION OF THIS MOA**

The terms of this MOA shall endure until completion of the Undertaking, but no later than the end of 2014. Prior to such time, Signatories may extend the duration of the Agreement through an amendment per Stipulation VII., above.

## **X. EFFECTIVE DATE OF THIS MOA**

This MOA shall take effect on the later of the latest date of execution of any Signatory hereto, which such Signatory shall insert such date in the first paragraph on page 1 of this MOA, and the filing of the MOA with the ACHP.

## **XI. AVAILABILITY OF FUNDS**

This Memorandum of Agreement is subject to applicable laws and regulations. Fulfillment of this Memorandum of Agreement by GSA is subject, pursuant 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 GSA does not have sufficient funds available to fulfill the stipulations of this MOA, GSA shall so notify the ACHP, SHPO, and City HPB 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, 31 U.S.C. §§ 1341 et seq. GSA shall make reasonable and good faith efforts to see funding for implementing this MOA.

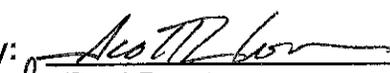
**XII. SIGNATURES**

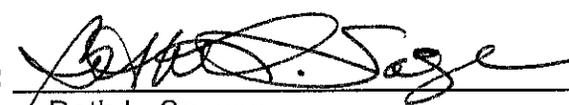
Execution of this MOA by the Signatories, and implementation of its terms, evidence that the GSA has afforded the SHPO and ACHP an opportunity to comment on the Undertaking and its effects on historic properties, and that the GSA has taken into account the effects of the Undertaking on historic properties, in compliance with 36 CFR Part 800.

IN WITNESS WHEREOF, the Signatories to this MOA have caused this MOA to be executed by their proper and duly authorized officers.

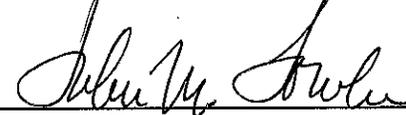
**SIGNATORIES:**

**U.S. GENERAL SERVICES ADMINISTRATION**

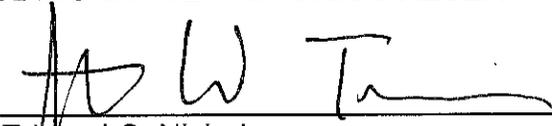
By:  Date: 5/25/11  
Paul Prouty  
Regional Commissioner  
Public Buildings Service, Rocky Mountain Region

By:  Date: 6/1/11  
Beth L. Savage  
Federal Preservation Officer

**ADVISORY COUNCIL ON HISTORIC PRESERVATION**

By:  Date: 6/9/11  
John M. Fowler  
Executive Director

**COLORADO STATE HISTORIC PRESERVATION OFFICE**

By:  Date: 5/20/11  
Edward C. Nichols,  
Colorado State Historic Preservation Officer

**ATTACHMENTS:**

- 1. Area of Potential Effect ("APE") Boundary Survey
- 2. Approved Project Documents

**MEMORANDUM OF AGREEMENT REGARDING the  
Modernization and Rehabilitation of the Wayne Aspinall Federal Building, Grand Junction, CO**

**GSA Concurrences and Distribution**

**Agency Signatory** (original signature on agreement documents): Regional Administrator, Assistant Regional Administrator, or PBS Commissioner. No other individuals are authorized to sign legally binding 106 compliance documents.

**Concurrence (Required):**

*Anders Allen*  
Regional Historic Preservation Officer

5-13-11  
Date

*Robert Sage*  
Federal Preservation Officer

6/1/11  
Date

*Robert L. Khatun for LAB*  
Regional Counsel

5/13/2011  
Date

**Distribution Checklist** (select according to issues addressed in the agreement):

NEPA Compliance Officer

Building Manager

Asset Manager

Project Manager

Property Disposal

Director, Portfolio Management

Director, Property Development

Director, Property Disposal

For further guidance, refer to ADM 1020.2 Procedures for Historic Properties, 3.2 Responsibilities, 4.c. Coordination of GSA's compliance, 9. Study of alternatives, and 1. Mitigation measures.

