

PROGRAMMATIC AGREEMENT

BY AND BETWEEN

DEPARTMENT OF VETERANS AFFAIRS

AND THE

SOUTH CAROLINA STATE HISTORIC PRESERVATION OFFICE

AND THE

ADVISORY COUNCIL ON HISTORIC PRESERVATION

AND THE

KEENAN DEVELOPMENT ASSOCIATES OF SOUTH CAROLINA,

LLC

REGARDING THE

ENHANCED USE LEASE AT THE

WILLIAM JENNINGS BRYAN DORN VA MEDICAL CENTER,

COLUMBIA, SOUTH CAROLINA

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WILLIAM JENNINGS BRYAN DORN VA MEDICAL CENTER,
COLUMBIA, SOUTH CAROLINA**

THIS PROGRAMMATIC AGREEMENT (hereinafter the "Agreement") is made and entered as of this _____ day of _____, 200_, by and between the Department of Veterans Affairs (hereinafter "VA"), the South Carolina State Historic Preservation Officer (hereinafter "SHPO"), the Advisory Council on Historic Preservation (hereinafter "ACHP"), and Keenan Development Associates of South Carolina, LLC (hereinafter "Keenan").

RECITALS

WHEREAS, the VA is the owner of that certain land as described and depicted in Exhibit A attached hereto, such property being approximately 28 acres located at the William Jennings Bryan Dorn VA Medical Center ("WJB Dorn VAMC"), Columbia, South Carolina ("Property") as described in Exhibit A which constitutes the Area of Potential Effect (APE); and

WHEREAS, the VA owned and operated the WJB Dorn VAMC beginning in 1932 as the Columbia, South Carolina Veterans Affairs Medical Center, dedicated to medical care and other services to our nation's veterans; and

WHEREAS, on January 13, 1981, a portion of Property was determined eligible for listing in the National Register of Historic Places ("National Register") by the Keeper of the National Register, National Park

Service, as contributing to the Veteran's Administration Medical Center, Columbia, Richland County, Historic District as shown in Exhibit B; and

WHEREAS, on December 23, 2005, VA issued a Request for Proposals seeking private-sector developer interest in the long-term lease, financing, construction, management, and operation of a mixed-use development on the Property pursuant to VA's Enhanced-Use Lease authority, 38 U.S.C. §§ 8161 et. seq., thereby making the Project an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, and its implementing regulations, 36 C.F.R. Part 800; and

WHEREAS, following its issuance of the RFP, VA competitively-selected Keenan to be the developer of the Property pursuant to an Enhanced-Use Lease ("Lease"); and

WHEREAS, VA and Keenan executed a fifty-five (55) year Lease on November 19, 2007, with certain rights to extend the Lease for an additional ten (10) years. The Lease provides that Keenan must comply with the NHPA and the Archaeological Resources Protection Act of 1979 (16 U.S.C. § 470aa et. seq.) ("ARPA"); and

WHEREAS, VA, in consultation with the SHPO, determined that the Project may have an adverse effects on the historic Property and that such effects could best be addressed through the development of this Programmatic Agreement ("Agreement") pursuant to 36 C.F.R. § 800.14(b); and

WHEREAS, this Agreement shall be a binding part of the Lease, which is enforceable by VA and Keenan pursuant to the terms thereof; and

WHEREAS, VA, SHPO and ACHP have participated in consultation in accordance with Section 106 of the NHPA and its implementing regulations, and in accordance with Section 110 of the NHPA, and those conditions have resulted in the development of this Agreement; and

WHEREAS, VA, SHPO and ACHP are parties to this Agreement; Keenan also participated in the consultation and is a party to this Agreement; and VA, SHPO, ACHP and Keenan are therefore collectively and hereinafter referred to as the "Parties;" and

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

WHEREAS, the City of Columbia, Historic Columbia Foundation, the National Trust for Historic Preservation, and local historical societies were invited to participate and to be consulting parties, and all comments received from those parties were considered in the drafting of this Agreement; and

WHEREAS, VA has consulted with the Catawba Indian Tribe, Eastern Band of Cherokee Indians, Eastern Shawnee Tribe of Oklahoma, Seminole Nation of Oklahoma, United South and Eastern Federation of Tribes, and the Carolina Indian Heritage Association and has invited the tribes to sign this Agreement as consulting parties; all declined; and

WHEREAS, the Parties acknowledge and agree that the purpose of this Agreement is to ensure that development activities by Keenan on the Property pursuant to the Lease preserve and protect the historic district, including the historic landscape as defined in the *National Register Bulletin 18: How to Evaluate and Nominate Designed Historic Landscapes* (as reflected in the existing tree survey of Exhibit B).

WHEREAS, VA and Keenan undertook an archaeological and tree survey of the proposed area; and

WHEREAS, VA, in consultation with the SHPO, has completed identification and evaluation of archaeological resources on the Property, as documented in the following reports: *Archaeological Aspect of the Cultural Resources Assessment of Proposed Improvements at WJB Dorn VA Medical Center* (New South Associates Technical Report #1503 dated August 1, 2007), and *Archaeological Reconnaissance of Proposed Improvements at WJB Dorn VA Medical Center* (New South Associates Technical Report #1565 dated March 10, 2008).

WHEREAS, based on the results of those studies, VA and the SHPO agree that the Property does not currently contain any known archaeological sites eligible for the National Register. The VA and SHPO concur that

further archaeological investigations are not warranted prior to the commencement of individual projects on the land based portions of the Property.

NOW, THEREFORE, VA, the SHPO, the ACHP, and Keenan agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

DEFINITIONS:

Archaeological Resource: means any material remains of past human life or activities which are of archaeological interest, as determined under uniform regulations promulgated pursuant to ARPA. Such regulations containing such determination shall include, but not be limited to: pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, human skeletal materials, or any portion or piece of any of the foregoing items. Nonfossilized and fossilized paleontological specimens, or any portion or piece thereof, shall not be considered archaeological resources, under the regulations under this paragraph, unless found in an archaeological context. No item shall be treated as an archaeological resource under regulations under this paragraph unless such item is at least 100 years of age.

Business Day: means a federal workday, Monday through Friday, excluding federal holidays designated annually by the President through the U.S. Office of Personnel Management.

Calendar Day: A twenty-four (24) hour period of time (12:00 midnight to 12:00 midnight EDT).

Effective Date of This Agreement: means the date this Agreement is executed by all of the Parties, and if executed on different dates, the date the later Party so executes.

Lease: means the Enhanced-Use Lease for the Property at WJB Dorn VAMC, Columbia, SC, pursuant to 38 U.S.C. §§ 8161 et. seq., executed by VA and Keenan on November 19, 2007, as amended.

Parties: means all of the Parties to this Agreement: the VA, the SHPO, the ACHP, and Keenan as described in the Preamble to this Agreement.

Project: means the construction or renovations of a particular improvement, or group of related improvements, on the Property as described in detailed design plans and specifications provided to the Parties by Keenan pursuant to Stipulation 2 of this Agreement.

Qualified Archaeologist: means a person who meets the Secretary of the Interior's Professional Qualification Standards (36 C.F.R. Part 61).

Study Building: means separate buildings on the Property each identified as "Study" in the "Status" column of the Building Schedule as shown in Exhibit D to this Agreement and as described in Stipulation 4 herein.

STIPULATIONS:

VA shall ensure that the following measures are carried out:

1. Development of the Property:

- a. Keenan shall develop the Property generally in accordance with the site development Master Plan ("Master Plan") in Exhibit C-1, dated November 2007, and as modified as such pertains to the Office Building as generally depicted in Exhibit C-2, dated March 2008, and the Existing Building Retention/Demolition Schedule ("Building Schedule") as shown in Exhibit D, dated January 15, 2008. All Parties to this Agreement concur that, at a minimum, the current Master Plan and Building Schedule indicate the following:
 - i. Historic building to be retained;
 - ii. All Study Buildings shall be studied further for future possible re-use, mothballing, or demolition in consultation with VA and the SHPO pursuant to Stipulation 4 of this Agreement;

- iii. Keenan will retain and preserve the existing planted mature trees and shrubs throughout the Property as practicable; in cases where maintaining a mature tree or shrub is not practicable (i.e., when the tree or shrub is diseased or located within the footprint of an improvement to be constructed on the Property as described and depicted in the Lease), Keenan will replace such trees or shrubs in a manner consistent with the City of Columbia Landscaping Guidelines; and
- b. Prior to undertaking any construction, renovation or demolition work on the Property that deviates from the Master Plan or the Building Schedule, Keenan shall submit such proposed deviations (e.g., proposed site work, new construction, rehabilitation or demolition, etc.) to VA and the SHPO for review utilizing the procedures outlined in Stipulation 2 of this Agreement.

2. Project Review Procedures

- a. VA working through its historic preservation staff, the SHPO, and Keenan working through a historic preservation specialist meeting Secretary of Interior qualifications, agree to consult proactively by conducting early design consultation and on-going periodic meetings, as necessary, to facilitate compliance with the terms of this Agreement.
- b. Projects proposed by Keenan that are not exempted from review in accordance with Stipulation 3 of this Agreement shall be processed as follows:
 - i. Prior to undertaking any action on a proposed Project, Keenan shall draft a Determination of Effect On Historic Properties ("DEHP") regarding the potential effect of the Project on relevant historic properties on the Property, and submit it to VA and the SHPO simultaneously for review and comment.
 - ii. The DEHP shall include information sufficient to fully describe and explain the proposed Project to VA and the SHPO and include SHPO Project Review Form (Exhibit

F) and Project Review Form: Historic Building Supplemental (Exhibit G) along with an analysis of any potential effect on historic properties on the Property, and shall include, as appropriate, maps, photographs, plans, drawings, alternatives analyses, and conditions assessments/structural reports.

- iii. VA and the SHPO shall then separately review their respective submissions of the DEHP from Keenan. Within twenty (20) Business Days after the SHPO receives its complete submission of the DEHP from Keenan, the SHPO shall provide comments on the DEHP to VA. VA will then prepare Consolidated Comments on the DEHP reflecting both the SHPO's and VA's comments.
 1. If, however, within such twenty (20) Business Day time period, the VA reasonably determines that the DEHP provided by Keenan is deficient or incomplete, VA shall notify Keenan of any additional information or correction needed, and may also request a meeting or site visit with Keenan. Keenan shall expeditiously and in good faith provide the additional information or correction, and cooperate with planning and executing such meeting or site visit. The same procedures will apply if the SHPO finds the DEHP is insufficient.
 2. Upon receipt by Keenan of any such request for additional information or correction from VA, the twenty (20) Business Day time period for VA to review the DEHP and provide Consolidated Comments to Keenan shall be extended, and the extension shall continue until VA has received all of the additional information or correction from Keenan as requested. VA agrees to promptly notify Keenan when it has received all of such additional information or correction from Keenan as requested.

- iv. VA will then forward the Consolidated Comments to Keenan within ten (10) Business Days of its receipt of comments from the SHPO. If the VA determines that the proposed undertaking will constitute an adverse effect, VA, the SHPO, and Keenan will consult to determine reasonable measures to avoid, minimize, or mitigate the adverse effect, and such consultation will occur within five (5) Business Days of Keenan's receipt of such comments.
- v. In the event that VA fails to forward Consolidated Comments to Keenan within the time period herein described, Keenan may proceed with the Project in accordance with the Lease subject to providing five (5) Business Days advance notice in writing to both VA and the SHPO.
- vi. Keenan shall evaluate VA's Consolidated Comments and shall, within fifteen (15) Business Days of receipt, submit simultaneously to VA and the SHPO a Keenan Response to Consolidated Comments.
 - 1. If the Keenan Response to Consolidated Comments indicates concurrence with all of the Consolidated Comments, Keenan shall incorporate such Consolidated Comments into the proposed Project and may immediately proceed with the Project subject to the terms of the Lease and this Agreement.
 - 2. If the Keenan Response to Consolidated Comments indicates non-concurrence with any of the Consolidated Comments, Keenan shall not commence work on the Project until the non-concurrence is resolved, and any Party may initiate Dispute Resolution procedures as outlined in Stipulation 13 of this Agreement.

3. Exempted Work

Activities undertaken by Keenan on the Property that are listed in Exhibit E, entitled “Activities That Do Not Require Further Review,” shall not require review by VA or the SHPO to satisfy the requirements of this Agreement or Section 106 of the NHPA.

4. Buildings Subject to Further Study:

- a. Since Study Buildings may contribute to the historic significance of the Property and WJB Dorn VAMC, Keenan shall undertake efforts to consider adaptive re-use of them.
- b. Within fourteen (14) months following the Effective Date of This Agreement, Keenan shall prepare an analysis of the Study Buildings that shall include, as a minimum, the following:
 - i. A list of possible adaptive uses for the Study Buildings with supporting conceptual plans and cost estimates;
 - ii. Existing conditions surveys, structural analyses and/or other engineering studies necessary to evaluate the feasibility of adapting the Study Buildings for the identified uses; and
 - iii. An initial fourteen (14) month plan and cost estimates for stabilization (“mothballing”) of the Study Buildings in accordance with the National Park Service’s *Preservation Brief 31: Mothballing Historic Buildings*. A subsequent long term stabilization plan shall be submitted at the end of the initial fourteen (14) month period.
- c. Keenan shall then submit the analysis described in (b) immediately above to VA and the SHPO for review and comment using the procedures described for submissions of Projects outlined in Stipulation 2 of this Agreement.
- d. If the Parties concur, utilizing the procedures as described in Stipulation 2, that the Study Buildings should be preserved, they shall be rehabilitated in accordance with the agreed upon plans. In addition:

- i. Keenan shall contact VA and the SHPO to determine if any additional recordation/documentation measures are required beyond those to be carried out as a part of the National Register nomination package described in Stipulation 7 of this Agreement.
 - ii. If VA, in consultation with the SHPO and Keenan, determines that additional and reasonable recordation/documentation measures are necessary, Keenan shall complete those measures and revise them in accordance with VA and the SHPO comments, if any, until such time that VA accepts the recordation/documentation measures in writing utilizing the procedures outlined in Stipulation 2.
- e. If the Parties concur, utilizing the procedures outlined in Stipulation 2, that the Study Buildings should be mothballed, they shall be mothballed in accordance with the agreed upon plans. In addition:
 - i. Keenan shall contact VA and the SHPO to determine if any additional recordation/documentation measures are required beyond those with will be carried out as a part of the National Register nomination package described in Stipulation 7 of this Agreement.
 - ii. If VA, in consultation with the SHPO and Keenan, determines that additional and reasonable recordation/documentation measures are necessary, Keenan shall complete those measures and revise them in accordance with VA and the SHPO comments, if any, until such time that VA accepts the recordation/documentation measures in writing utilizing the procedures outlined in Stipulation 2.
- f. If the Parties concur, utilizing the procedures outlined in Stipulation 2, that a Study Building shall be demolished, Keenan shall not demolish such Study Building, in whole or in part until the following is completed:

- i. Keenan shall contact VA and the SHPO to determine if any additional recordation/documentation measures are required beyond those which will be carried out as a part of the National Register nomination package described in Stipulation 7 of this Agreement.
- ii. If VA, in consultation with the SHPO and Keenan, determines that additional and reasonable recordation/documentation measures are necessary, Keenan shall complete those measures and revise them in accordance with VA and the SHPO comments, if any, until such time that VA accepts the recordation/documentation measures in writing utilizing the procedures outlined in Stipulation 2.

5. Design Guidelines for New Construction:

- a. Any proposed new construction within the boundaries of the Property's portion of the WJB Dorn VAMC Historic District will be designed to complement the existing historic architecture.
- b. All proposed new construction Projects should be coordinated with VA and the SHPO, utilizing the procedures outlined in Stipulation 2.

6. Unanticipated Discoveries

- a. In the course of conducting work on a Project or any other activity on the Property that involves disturbance of the ground, Keenan shall not intentionally or knowingly remove or disturb, or cause to be removed or disturbed, any archaeological resource or other cultural artifacts, relics, remains or objects of antiquity. Any such artifacts, relics, remains, or objects of antiquity constitute federally-owned property under the control of VA.
- b. In the event that a previously unidentified archaeological resource is discovered during such activities, Keenan shall immediately stop all work involving subsurface disturbance in the immediate area of the archaeological resource and in the surrounding area where further subsurface resources may

reasonably be expected to occur (the “Site”), and shall immediately notify VA. VA, working through the medical center, shall then, within one week, obtain a Qualified Archaeologist to inspect the Site to determine whether further investigations are warranted, and determine an appropriate buffer boundary to avoid any potential compromise to the archaeological resource. Following the inspection by the Qualified Archaeologist, VA, the SHPO, and Keenan shall consult and determine within five (5) Business Days following the completion of such inspection, whether to conduct any archaeological work that may be necessary, and if so, how such archaeological work shall be accomplished. Construction work may continue in the Project area outside the Site, which shall be clearly identified and marked by Keenan.

- c. If, following the inspection by the Qualified Archaeologist, VA determines that the discovered archaeological resource or other cultural artifacts, relics, remains or objects of antiquity are eligible for listing in the National Register, within five (5) Business Days of the completion of the Qualified Archaeologist’s inspection, VA shall submit to the SHPO a Preliminary Information Form and a Treatment Plan prepared by Keenan’s historic preservation consultant to avoid, minimize, or mitigate any adverse effect on the resource.
 - i. The Treatment Plan shall be prepared and implemented in accordance with the Secretary of Interior’s Standards for Archaeological Documentation and the South Carolina Standards and Guidelines for Archaeological Investigations.
 - ii. The SHPO shall provide VA comments on the eligibility of the resource for listing in the National Register and the Treatment Plan within five (5) Business Days of receipt. VA shall then take into account SHPO’s comments regarding National Register eligibility and the Treatment Plan (provided such SHPO comments are timely received by VA), and provide comments to Keenan within five (5) business days of receipt. Upon reaching agreement with Keenan on the Treatment Plan, VA shall promptly provide notice to Keenan to allow work to proceed.

Keenan shall carry out appropriate actions in accordance with the Treatment Plan.

- iii. If it is later determined by VA and the SHPO that the archaeological resource on the Site does not meet the criteria for eligibility in the National Register, Keenan may resume work immediately upon receipt of written notice from VA which shall not be unreasonably delayed.
 - iv. VA or Keenan (as determined by VA in its reasonable discretion) shall provide the SHPO with a written report on actions taken pursuant to the Treatment Plan within thirty (30) Calendar days following the resumption of work on the Site.
- d. If human remains are uncovered on the Property by any action taken pursuant to this Agreement, VA and Keenan shall consult and notify the SHPO within three (3) Business Days and shall develop and implement a plan for the appropriate treatment of those remains in accordance with the ARPA (16 §§ USC 470aa et. seq.), or the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC §§ 3001 et. seq. as appropriate) and their respective regulations, as well as applicable state and local law.
- i. The plan shall include provisions for in-place preservation, excavation, and analysis, in accordance with a data recovery plan approved pursuant to this Agreement, and disposition of the remains as appropriate.
 - ii. VA and Keenan shall, in good faith, consult with the relevant Parties in accordance with applicable law.
 - iii. VA and Keenan shall then submit the plan to the relevant Parties for review and comment prior to its implementation following the steps of Stipulation 2.

7. National Register of Historic Places Nomination

- a. VA will develop a National Register nomination package (“National Register Package”) for the WJB Dorn VAMC

Historic District (shown in Exhibit B), subject to the availability of appropriated funds.

- b. The National Register Package shall be developed in accordance with the *National Register Bulletin 16A: How to Complete the National Register Form* and all other applicable guidance from the National Park Service.
- c. The SHPO shall then review the National Register Package, and consult with VA regarding any revisions and at the conclusion of such consultation, shall sign the National Register Package and return it to VA within thirty (30) Calendar days. In the event, however, that SHPO shall require in excess of thirty (30) calendar days to review the National Register Package and return it to VA, VA shall not be responsible nor in breach of this Agreement due to such review by SHPO in excess of thirty (30) calendar days.
- d. VA shall forward the final National Register Package to the Keeper of the National Register; copies of the nomination package, including photographs, will be provided to the SHPO.

8. Retention of Historical Documentation and Artifacts:

- a. All historic and archaeological material discovered on the Property shall be owned by VA.
- b. The VA is responsible for deciding where it will curate such historical and archaeological material in accordance with 36 C.F.R. Part 79, "Curation of Federally-Owned and Administered Archeological Collections," at a minimum.

9. Public Education

- a. Keenan may permit visitors on the Property grounds as development activities permit.
- b. Keenan will provide and erect on site an historic marker depicting the historic significance of the site, following the WJB Dorn VAMC Historic District's listing on the National Register. The text for the marker shall be provided by VA or SHPO. The design and construction of the marker shall be

subject to VA and SHPO review pursuant to Stipulation 2 of this Agreement.

10.Reporting:

- a. Beginning on the three (3) year anniversary following the Effective Date of this Agreement, and upon every anniversary thereof for the next ten (10) years, Keenan shall compile and deliver an Annual Report to VA and the SHPO regarding Keenan preservation-related actions taken pursuant to this Agreement. After the 10th year report, a report will be made when development of preservation related actions have occurred pursuant to this Agreement.
- b. The Annual Report shall summarize activities undertaken that affected the historic properties and any preservation-related projects undertaken during the prior year.

11.Monitoring:

All inspections of the development pursuant to this Agreement shall be accomplished in accordance with the Lease.

12.Professional Qualification Standards:

All preservation-related work carried out in accordance with this Agreement shall be overseen by a person or persons meeting *The Secretary of the Interior's Professional Qualification Standards* (36 C.F.R. Part 61) for the appropriate discipline.

13.Dispute Resolution:

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

- a. Forward all documentation relevant to the dispute, including the VA's proposed resolution, to the ACHP. The ACHP shall provide VA with its advice on the resolution of the objection within thirty (30) Calendar Days of receiving adequate documentation. Prior to reaching a final decision on the dispute,

VA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. VA will then proceed according to its final decision.

- b. If the ACHP does not provide its advice regarding the dispute within the thirty (30) Calendar Day time period, VA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, VA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the Agreement, and provide them and the ACHP with a copy of such written response.
- c. VA's responsibility to carry out all other actions subject to the terms of this Agreement that are not the subject of the dispute remain unchanged.

14. Amendments and Termination:

- a. This Agreement may be amended when such an amendment is agreed to in writing by all Parties. The amendment will be effective on the date a copy signed by all of the Parties is filed with the ACHP.
- b. If any Party to this Agreement determines that its terms will not or cannot be carried out, that Party shall immediately consult with the other Parties to attempt to develop an amendment. If within thirty (30) Calendar Days (or another time period agreed to by all Parties) an amendment cannot be reached, any Party may terminate the Agreement upon written notification to the other Parties.
- c. Once the Agreement is terminated, VA must either (a) execute a Memorandum of Agreement 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. VA shall notify the signatories as to the course of action it will pursue. Keenan shall in such event comply with the terms of the Lease.

- d. In the event the Lease or any portion thereof is: (1) terminated between VA and Keenan, or (2) assigned in accordance with Article 6 of the Lease, Keenan shall be relieved of its responsibilities arising from this Agreement as to the Property or portion of the Property, respectively.

15.Duration:

This Agreement will be null and void if its stipulations are not carried out within the term of the Lease. At such time, and prior to work continuing on the undertaking, VA shall either (a) execute a Memorandum of Agreement 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. Prior to such time, VA may consult with the other signatories to reconsider the terms of the Agreement and amend it in accordance with Stipulation 14 above. VA shall notify the signatories as to the course of action it will pursue. In the event of a termination of the Lease, and thereby this Agreement, VA shall thereafter comply with the NHPA as amended with respect to the Property.

16.Notice and Other Correspondence:

- a. Notice and other correspondence between authorized representatives of the Parties as described in this Agreement may be in writing or via electronic means, unless otherwise required to be in writing as specified in the narrative.
- b. All written notices required or arising from the terms of this Agreement from any Party or to any Party shall be served on or mailed to that Party via the address(s) designated below. Such written notices shall be deemed to be given upon receipt. Refusal to accept delivery, and inability to make delivery because of an incorrect or outdated address provided by the intended recipient, shall constitute receipt.

VA:

The Department of Veterans Affairs
Office of Asset Enterprise Management (004B2)
810 Vermont Avenue, NW
Washington, DC 20420
Attn: Designated VA Representative

Keenan Development Associates of South Carolina, LLC:

Keenan Development Associates of South Carolina, LLC
1301 Gervais Street
Suite 805
Columbia, SC 29211

SHPO:

South Carolina Department of Archives & History
8301 Parklane Road
Columbia, SC 29223

ACHP:

Advisory Council on Historic Preservation
1100 Pennsylvania Avenue, Suite 809
Washington, DC 20004

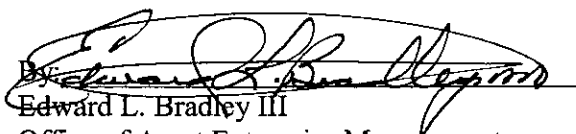
17.Availability of Funds

This Agreement is subject to the Anti-Deficiency Act (31 U.S.C. § 1341). VA's responsibilities under this Agreement are contingent upon the availability of appropriated funds from which payment, if any, can be made. No legal liability on the part of the VA for any payment may arise until funds are made available to the VA for this Agreement and until the Designated VA Representative receives written notice of such availability. VA shall promptly initiate consultation with the Parties to revise or terminate this Agreement in the event that VA determines that appropriated funds are not available as described herein.

SIGNATURES FOLLOW ON NEXT PAGE

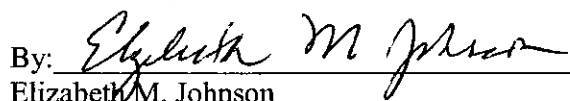
Execution of this Agreement by the Parties and implementation of its terms evidence that the VA has taken into account the effects of this undertaking on historic properties and provided the ACHP an opportunity to comment pursuant to 36 C.F.R. Part 800, the regulations that implement Section 106 of the NHPA, as amended.

DEPARTMENT OF VETERANS AFFAIRS:

By: 
Edward L. Bradley III
Office of Asset Enterprise Management
Department of Veterans Affairs


Date: 8/23/2010

SOUTH CAROLINA STATE HISTORIC PRESERVATION OFFICER:

By: 
Elizabeth M. Johnson
Deputy State Historic Preservation Officer
South Carolina Department of Archives and History

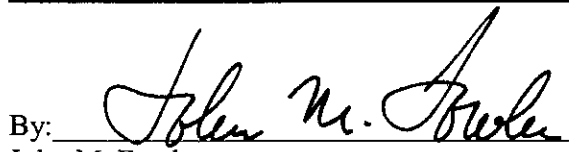
Date: 8/12/2010

KEENAN DEVELOPMENT ASSOCIATES OF SOUTH CAROLINA, LLC

By: 
Michael E. Penland
Manager
Keenan Development Associates of South Carolina, LLC

Date: 8/18/10

ADVISORY COUNCIL ON HISTORIC PRESERVATION:

By: 
John M. Fowler
Executive Director
Advisory Council on Historic Preservation

Date: 8/21/10

Exhibit A

(Property legal description and existing site plan of property)
(see attached)

LEGAL DESCRIPTION

All that certain piece, parcel or lot of land, lying and being in Richland County, State of South Carolina, being located at the southeast corner of the intersection of Garners Ferry Road (US Highway 76 & 378) and Old Woodlands Road (S-40-1100) and being more fully shown and designated as a 28.05 acre Lease Parcel on a Boundary and Partial Topographic Survey Prepared for Keenan Development Associates, LLC of Dorn VA Hospital by Survey & Mapping Services of SC, Inc. dated September 28, 2006, last revised November 6, 2007 and to be recorded in the Richland County Register of Deeds and having the following metes and bounds to wit:

Beginning at a PK Nail at the southeast corner of the intersection of Garners Ferry Road and Old Woodlands Road, near a concrete marker stamped BM-1, running along the southern right of way of Garners Ferry Road around a curve with an arc distance of 731.69', having a radius of 3,523.99' and a chord of S48°56'24"E for 730.36' to a 5/8" rebar; thence continuing along the southern right of way of Garners Ferry Road S42°59'31"E for 311.01' to a 5/8" rebar; thence turning and running along the back of curb of School of Medicine Boulevard S10°06'40"W for 10.01' to a 5/8" rebar; thence continuing along the back of curb of School of Medicine Boulevard S35°10'30"W for 144.66' to a 5/8" rebar; thence continuing along a portion of the back of curb of School of Medicine Boulevard and the remaining lands of WJB Dorn VA Medical Center S46°17'33"W for 1,143.75' to a 1/2" pipe at the corner of Lot 23, Block A, Olde Woodlands Subdivision; thence turning and running in northwesterly direction along Lots 1, 19, 20, 21, 22 and 23, Block A of Olde Woodlands Subdivision for a composite distance of 877.79' to a concrete monument on the right of way of Old Woodlands Road; thence turning and running along the southern right of way of Old Woodlands Road N36°48'02"E for 1,189.85' to the PK Nail at the point of beginning and containing 28.05 acres, more or less.

GRAPHIC BOUNDARY DESCRIPTION

[On Following Page]

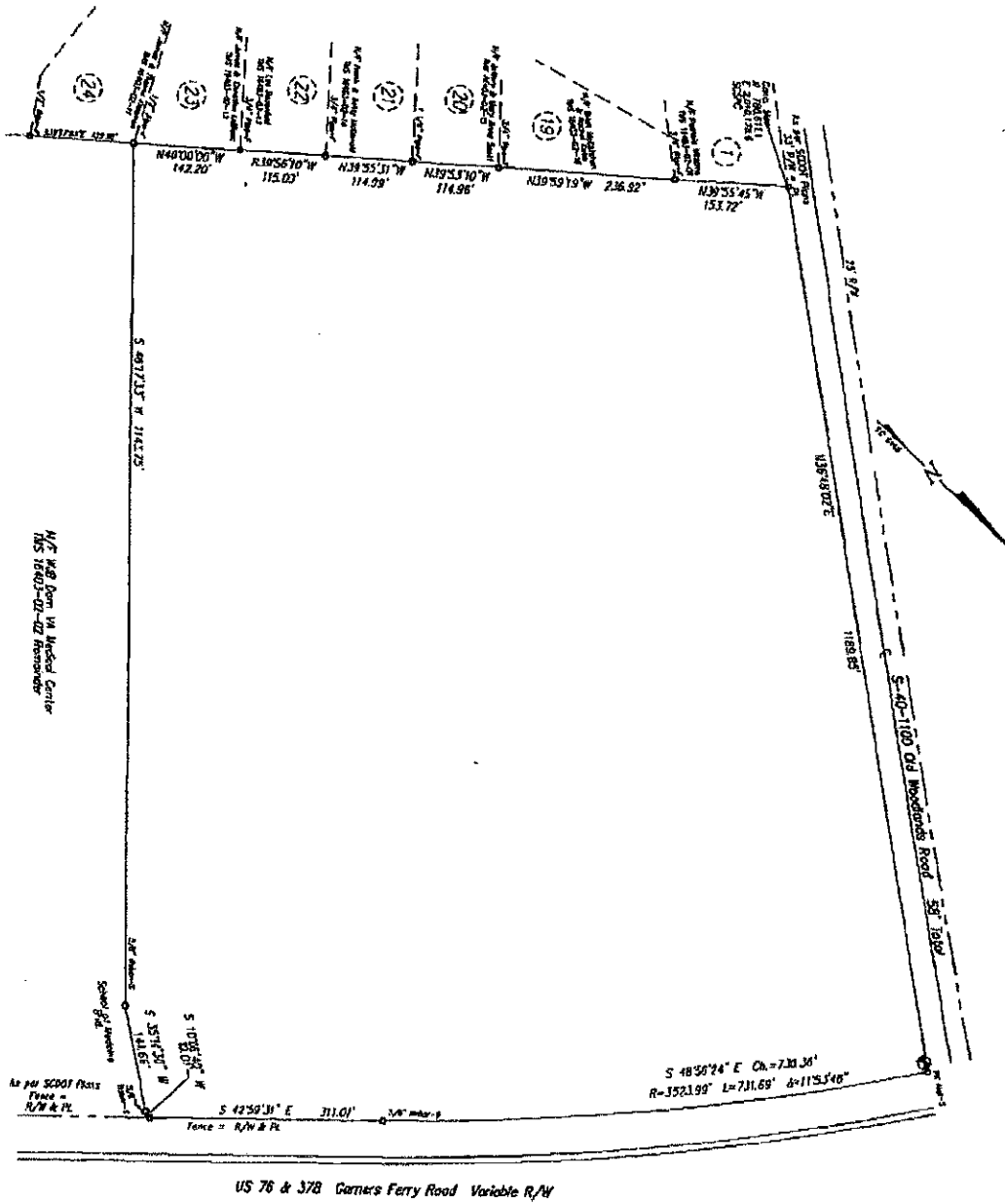
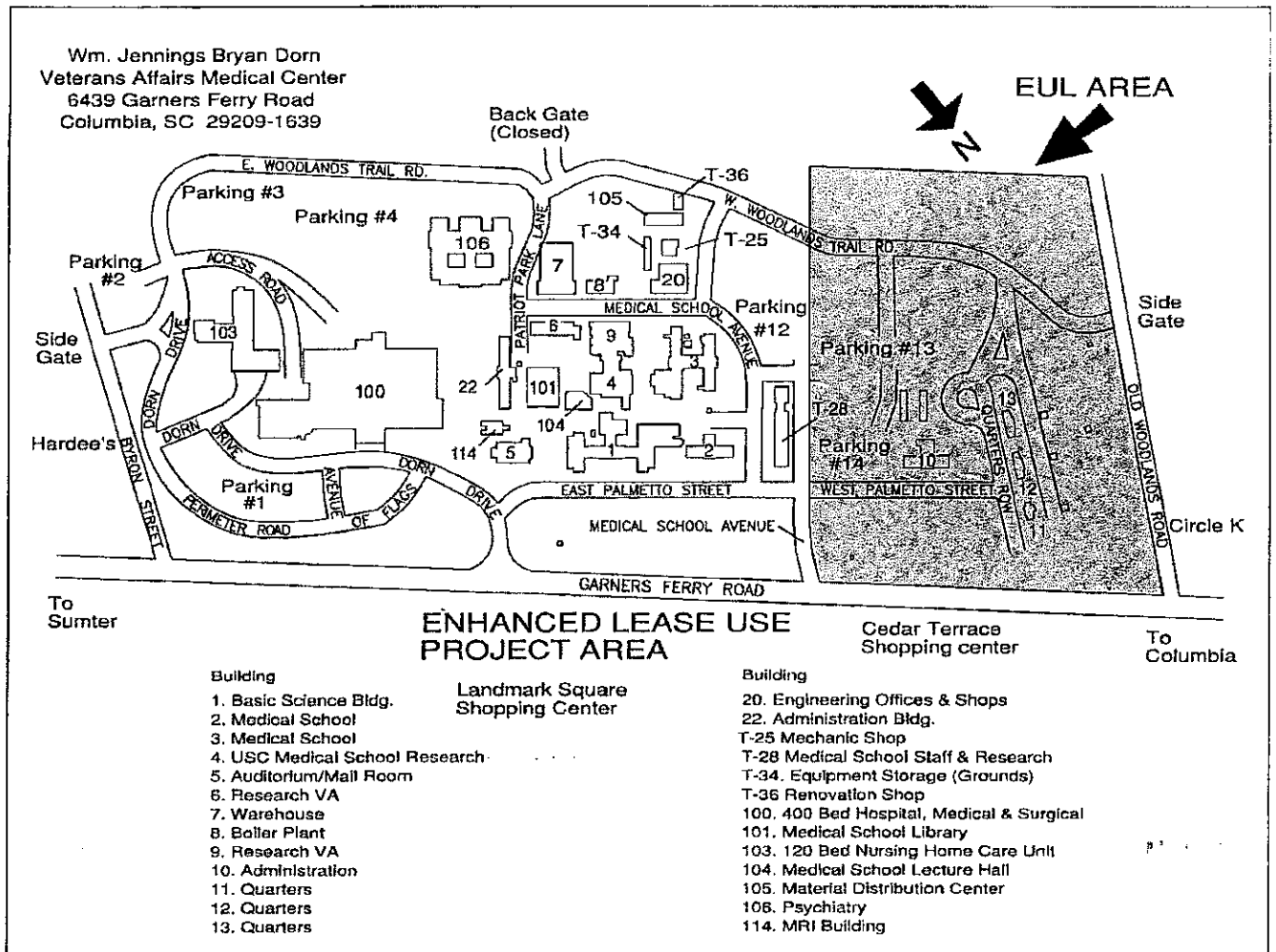


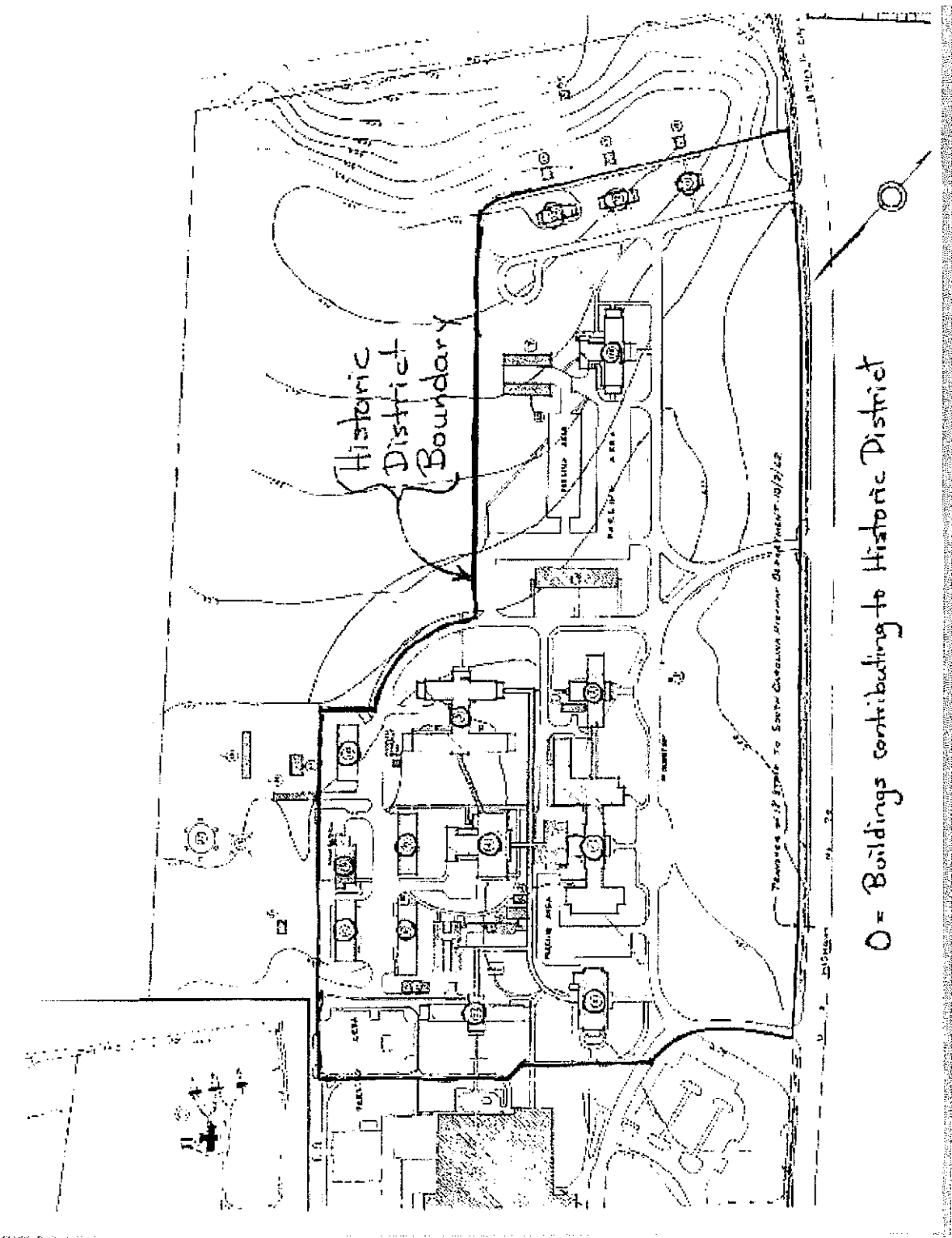
Exhibit B

(Additional property information, existing site, historic district, tree survey)

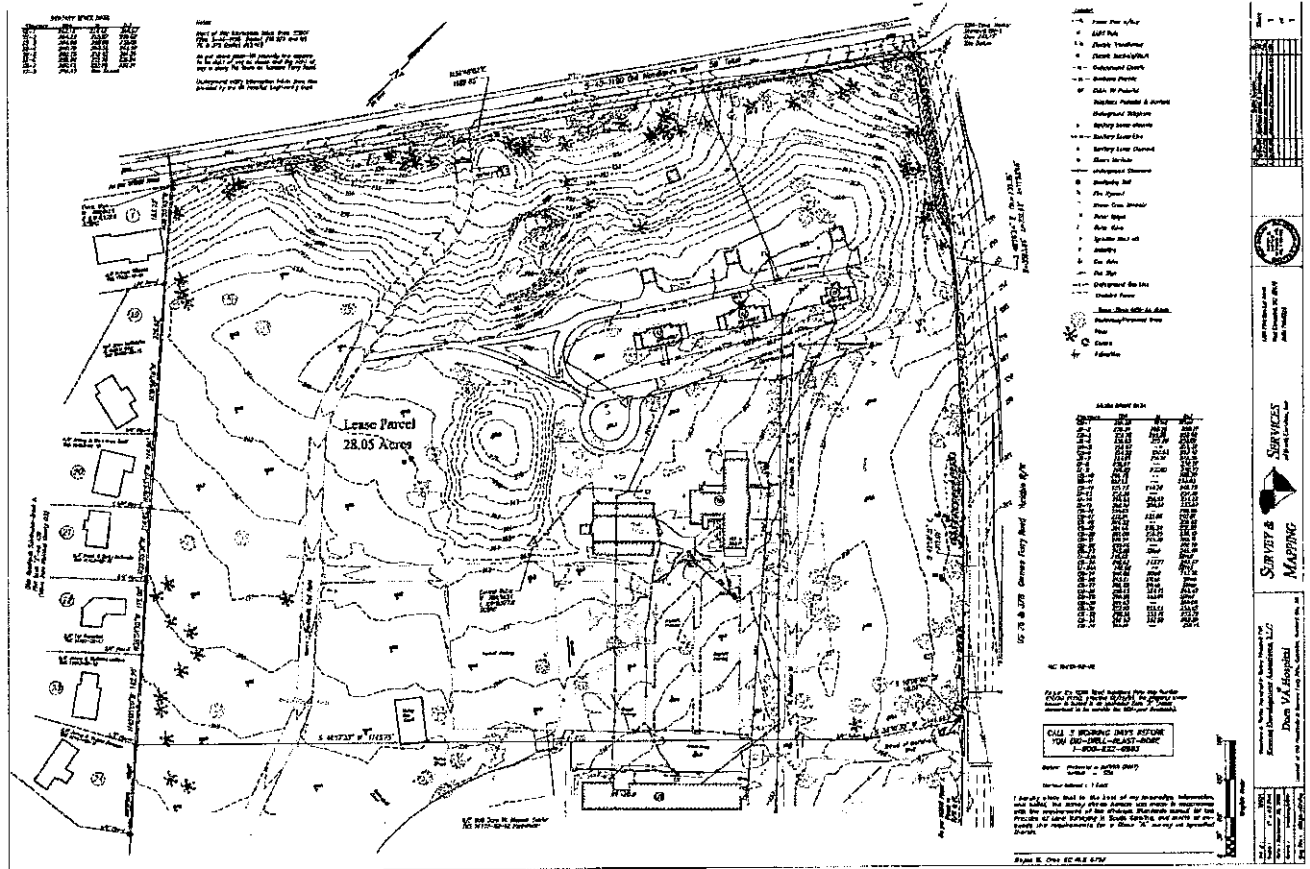


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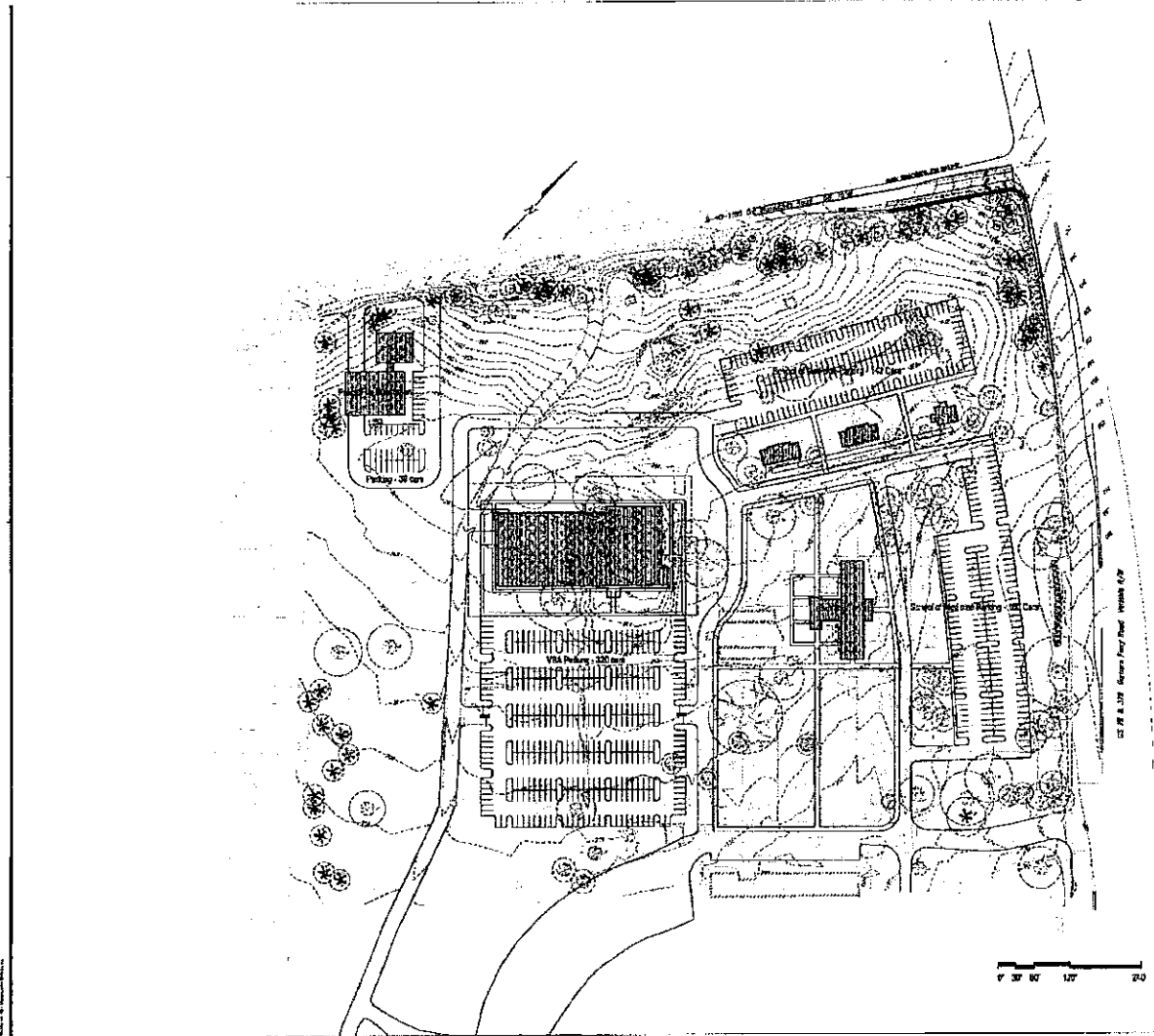
Historic District Boundary



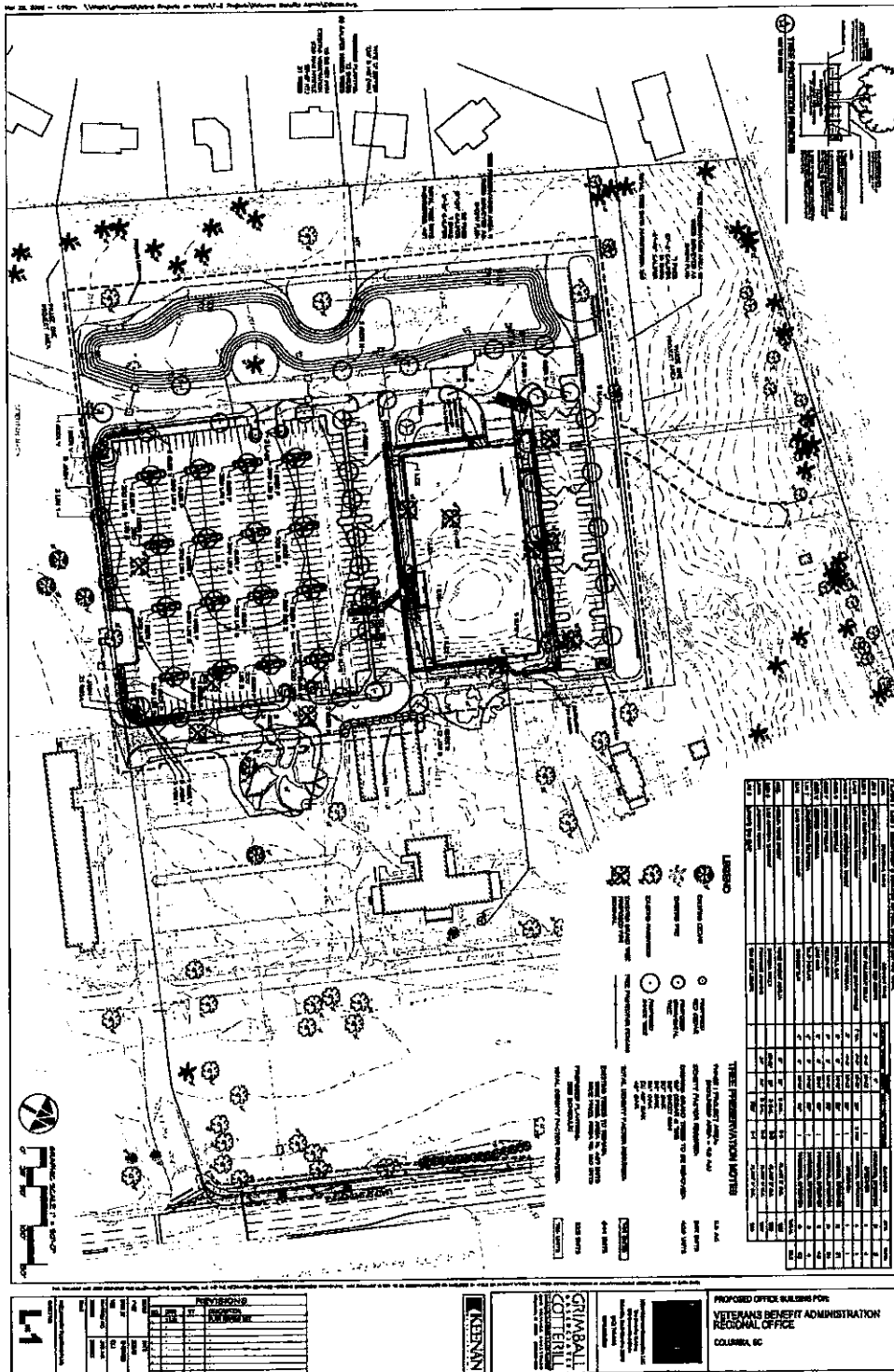
Existing Tree Survey



Partial Masterplan overlay on tree survey.



VBA development plan overlay on tree survey



Anticipated Demolition Plan

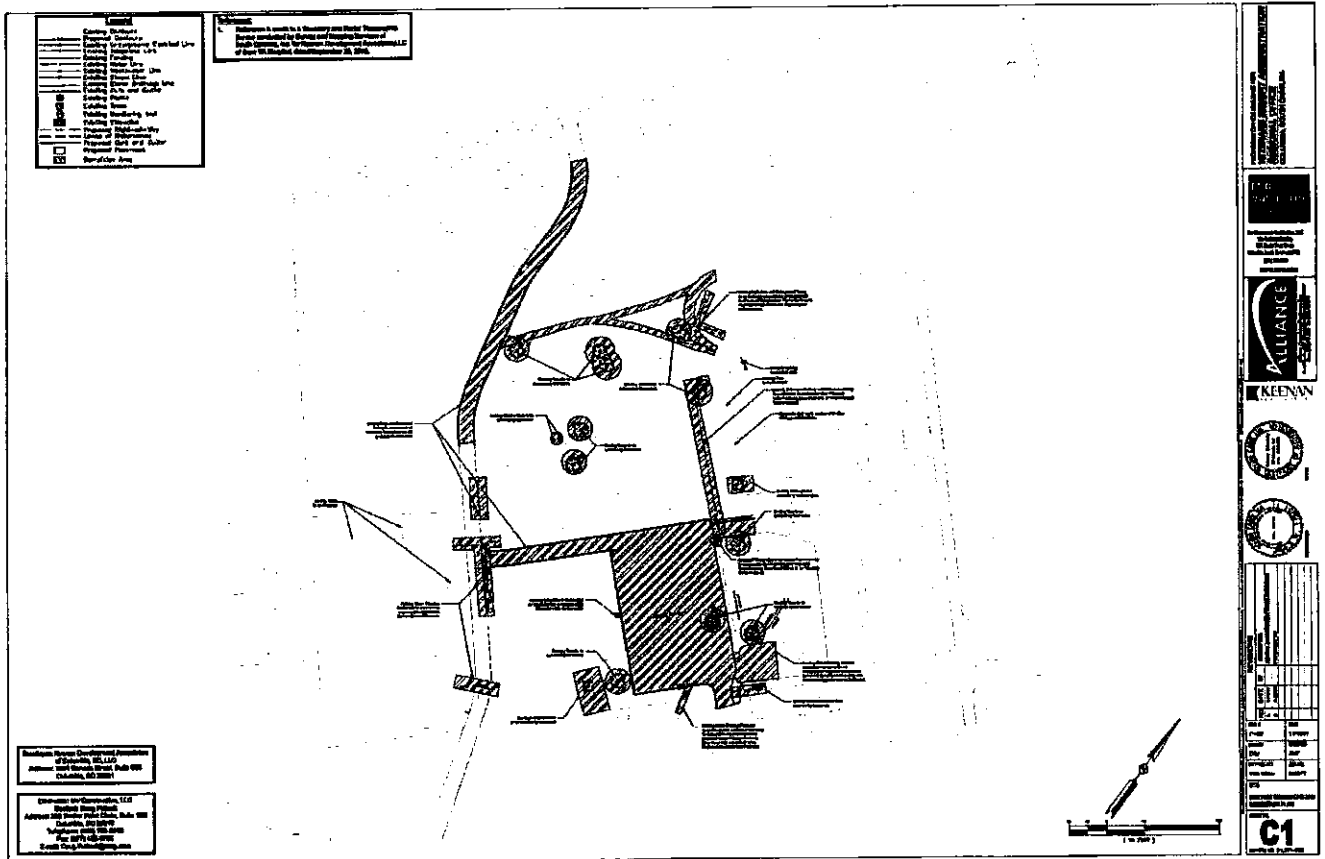
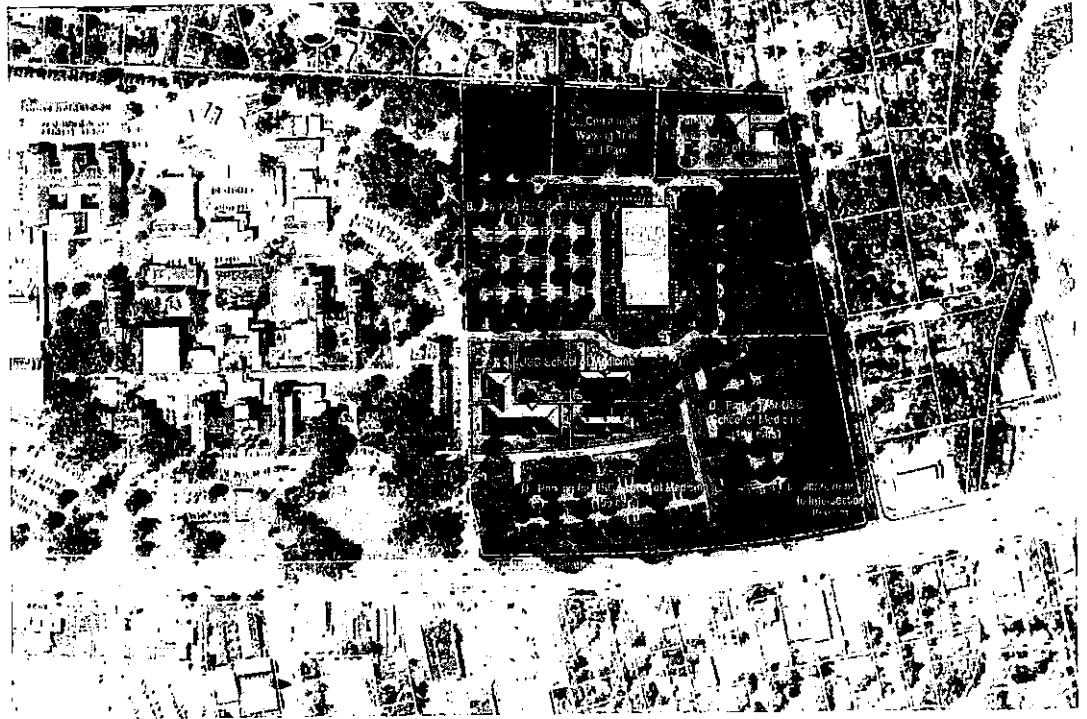


Exhibit C1
(Master Plan)

- 1. Introduction
- 2. Project Overview
- 3. Site Description
- 4. Project Goals
- 5. Project Objectives
- 6. Project Scope
- 7. Project Phases
- 8. Project Timeline
- 9. Project Budget
- 10. Project Risks
- 11. Project Management
- 12. Project Communication
- 13. Project Reporting
- 14. Project Evaluation
- 15. Project Conclusion



Williams Jennings Bryan Dorm VA Medical Center
Master Plan for Proposed VA Enhanced Use Lease
Keenan Development Ventures SC, LLC
November 2007





Master Plan for Proposed VA Enhanced Use Lease
Keenan Development Ventures SC, LLC

March 2008



QUACKENBUSH

Exhibit D

**(Columbia, SC Site Development
Existing Building Retention/Demolition Schedule)**

January 15,

2008

| <i>Bldg. #</i> | <i>Historic Function</i> | <i>Date</i> | <i>Proposed Function</i> | <i>G.S.F</i> | <i>Status</i> | <i>Contributing</i> |
|-----------------------|---------------------------------|--------------------|--|---------------------|----------------------|----------------------------|
| 10 | Administration | 1932 | Renovation/Addition for SC School of Medicine or other tenants | 22,620 sf | Retain | |
| 11 | Quarters | 1932 | Administration | 4,131 sf | Study | |
| 12 | Quarters | 1932 | Administration | 4,644 sf | Study | |
| 13 | Quarters | 1932 | Administration | 7,417 sf | Study | |
| | | | | | | |
| | | | | | | |

Exhibit E

(Activities That Do Not Require Further Review)

In accordance with this Agreement among the VA, the SHPO, the ACHP, and Keenan, the following activities have been determined to constitute “no effect” or “no adverse effect” on historic properties and, therefore, warrant no further review by the VA, the SHPO, or the ACHP:

1. IN GENERAL:

- a. Maintenance – This category includes only those projects which are used to protect the physical structure of the property and to assure proper function of its equipment. *The Secretary of the Interior's Standards for Rehabilitation*, applicable *Preservation Briefs* and all other relevant technical guidance from the National Park Service will be consulted to plan and implement these projects.
- b. Repair and Limited In-Kind Replacement – *The Secretary of the Interior's Standards for Rehabilitation* require that historic fabric be repaired rather than replaced unless existing historic fabric is deteriorated beyond repair. If the existing historic fabric is deteriorated beyond repair, the *Standards* require that it be replaced “in-kind” (i.e., using new fabric that is identical in size, shape, color, materials, design, configuration texture and composition to the historic fabric). Projects involving the in-kind replacement of less than approximately 25% of the historic fabric of any given feature (e.g. a few windows or balusters, a small portion of a roof, fence walkway etc.) will not require further review by the VA or the SHPO provided that it can be documented that the historic fabric to be replaced is deteriorated beyond repair. This exclusion does not include the complete replacement of an entire historic feature (i.e., all of the windows in a given building, an entire roof etc.).
- c. Minor Interior Renovation – This category includes only those projects that does not alter the original floor plan, result in significant damage to interior historic fabric (e.g. baseboards, trim, plaster, fireplaces, paneling, flooring, doors, light fixtures and hardware as well as decorative materials including stenciling, marbling and graining) or introduce new elements that would visually impact character-defining interior spaces. Examples of these types of projects include painting, wallpapering, door renovations, and/or ceiling work.
- d. Landscape-Related – This category includes only those projects which affect the earth and plantings located on the property. This category will include projects which add vegetation to the property but not those that remove significant amounts of live growth.

2. SITE MODIFICATIONS:

- a. The construction of utility, water and sewer projects through previously disturbed utility corridors.
- b. Repair of driveways and walkways following the existing or historic configuration and using limited in-kind or historically documented replacement materials.
- c. Repair of fences which follow the existing or historic configuration and design and are constructed with limited in-kind or historically documented replacement materials.
- d. Site clean-up, including trimming trees or other plantings provided that such activity does not change the characteristic size or shape of the tree or planting. Limited replacement of dead trees or other dead plantings with in-kind species in accordance with any planting plan that has been approved by the SHPO and the VA.

- e. Infilling abandoned wells, shafts and basement when the infilling does not remove or destroy supporting walls or character defining elements. The feature can be in filled but not obliterated. Structural characteristics such as well houses and support wall will be preserved.

3. WEATHERIZING AND ENERGY CONSERVATION:

- a. Installation of insulation in the attic, basement, crawl space, beneath floors and around pipes and ducts in such cases where the installation can be accomplished without permanent visual changes to the character defining features of the exterior or interior. This exclusion does not include urea formaldehyde or other materials that induce or introduce moisture into a building.
- b. Application of caulking in a color that is compatible with the existing finishes.
- c. Limited in-kind replacement of window panes.
- d. Installation of interior storm windows in accordance with *Preservation Brief No. 3: Conserving Energy in Historic Buildings* and other applicable technical guidance from the National Park Service.
- e. Repair or limited in-kind replacement of historic awnings.
- f. Insulating window treatments, such as installation of insulated shades and blinds if the installation does not detract from the significant visual qualities of the building.
- g. Installing water heater tank insulated blankets.
- h. Installing in-kind wood or raw aluminum storm windows which are painted to match window sash. Enameled aluminum storm windows and doors are acceptable provide that these items match the size and configuration of the historic window or door and do not detract from the appearance of the building.

4. EXTERIOR AND INTERIOR REPAIRS:

- a. Repair or limited in-kind replacement of deteriorated windows and other historic features when it can be documented that the existing historic windows are deteriorated beyond repair.
- b. Removal of deteriorated paint and preparation of the exterior surfaces in accordance with *Preservation Brief No. 10: Exterior Paint Problems on Historic Woodwork*; *Preservation Brief No. 37: Appropriate Methods for Reducing Lead-Paint Hazards in Historic Housing*, and other applicable technical guidance from the National Park Service.
- c. Cleaning masonry surfaces in accordance with *Preservation Brief No. 1: Assessing Cleaning and Water-Repellent Treatments for Historic Masonry Buildings* and other applicable technical guidance from the National Park Service.
- d. Repointing with mortar which matches the original in strength, composition, color, texture and duplicates the rake and other joints which define the existing historic characteristics and in accordance with *Preservation Brief No. 2: Repointing Mortar Joints in Historic Masonry Buildings* and other applicable technical guidance from the National Park Service.
- e. Correcting structural deficiencies in basements, crawl spaces and beneath porches.
- f. Non-historic floor refinishing and replacement of non –historic flooring material.

- g. Repair or limited in-kind replacement of exterior or interior stairs following the existing or historic configuration.
- h. Installation of grab bars and minor modifications for handicap accessibility including but not limited to temporary wooden ramps to one entrance of a given structure.
- i. Repair or limited in-kind replacement of roofing material in accordance with *Preservation Brief No. 4: Roofing for Historic Buildings* and other applicable technical guidance from the National Park Service.
- j. Installation of security devices including dead bolts, door locks, window latches and door peepholes.
- k. Installation of ridge vents or "Midget Louver" type soffit vents.
- l. The redesigning of non-character defining interior spaces which has no impact on historically significant, character-defining interior spaces.

5. MECHANICAL AND ELECTRICAL REPAIRS:

- a. Repair of existing mechanical or electrical system if no alterations of character defining features are required in the work plan and the work follows existing pathways.
- b. Electrical work which is limited to upgrading or in-kind replacement. If possible, the work will reuse and rewire historic light fixtures.
- c. Plumbing work which is limited to upgrading or in-kind replacement and, in the case of new plumbing, provided that work is situated within existing stud and joist cavities.
- d. Installation of fire or smoke detectors.
- e. Installation of mechanical equipment that does not significantly affect the exterior of the building (i.e., destroy historic fabric), is not visible from "street level," or does not require installation of new duct work in the interior.
- f. Removal of window air conditioning units.

6. OTHER EXEMPTIONS:

- a. Office Building – The office building and the relative parcel of property, as generally depicted on the attached parcelization plan as the parcel marked "B. Parking for Office Building" which includes "1. VBA Building," and the infrastructure and access improvements servicing the Office Building and this parcel, are not subject to the project review procedures of Stipulation 2 of this Agreement (see SHPO April 11, 2008 letter).
- b. Turning lanes – Land and improvements thereon to develop and construct a proposed turning lane on Old Woodlands Road and a deceleration lane proposed for Garners Ferry Road are not subject to the project procedures of Section 3 of this agreement.

SHPO April 11, 2008 letter
(see attached)



April 11, 2008

Mr. Alan Hackman
Capital Assets Portfolio Manager
Department of Veterans Affairs
Office of Asset Enterprise Management (004B2)
810 Vermont Avenue NW
Washington, DC 20420

Subject: Enhanced Use Lease and Veterans Benefits Affairs' Building, Dorn Veterans Affairs Medical Center, Columbia, SC

Dear Mr. Hackman:

Based upon recent e-mail and telephone conversations among your office, our office, and the office of Keenan Development Associates (KDA), we understand that the proposed Programmatic Agreement (PA) for the Enhanced Use Lease undertaking is not yet complete, and that KDA is otherwise prepared to begin construction of the Veterans Benefits Affairs' (VBA) building on the Dorn Veterans Affairs Medical Center's (DVAMC) Enhanced Use Lease (EUL) site. A portion of the DVAMC is eligible for listing in the National Register of Historic Places as a historic district.

While our office has recommended that the entire Enhanced Use Lease be treated as a single undertaking since initial consultation about this project began three years ago, we also realize that under Section 106 of the National Historic Preservation Act that the Department of Veterans Affairs, as the federal agency, is responsible for defining the undertaking. It appears that the VA has chosen to treat the construction of the VBA building as a separate undertaking.

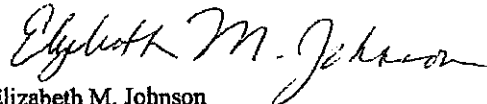
Furthermore, we understand that the VBA building's design and siting have been finalized as a product of the VBA's 2007-issued Solicitation for Offers (SFO) and the VBA's corresponding lease with KDA as an outgrowth of that SFO. While the proposed building is outside the boundaries of the eligible historic district, in our opinion, because of its proximity to the district, it still has the potential to affect the historic property through its location and design. However, our office was not asked by the VA to review or comment on the VBA building's design and siting. Since plans have been finalized, we do not believe our comments regarding the VBA building's design and siting would be purposeful.

Given these circumstances, our office has declined to sign a separate agreement on the VBA building, in part because it implies agreement with the design criteria. However, we do not object to KDA beginning construction of the VBA building, and believe that as the federal agency, it is the VA's decision to allow KDA's commencement of construction of the VBA building as proposed.

This particular situation highlights the urgency of moving forward to finalize the PA for the remainder of the EUL for the DVAMC. We look forward to continuing to work with the VA and KDA on the completion and implementation of the PA to address overall EUL-project effects on the Dorn VA Hospital historic district. We appreciate KDA's expressed interest and willingness to participate in this process. It is our expectation that the finalized PA will provide all of us ample time and opportunities to engage in meaningful consultation on future EUL projects.

If you have any questions please contact me, at 803-896-6168, email: emjohnson@scdah.state.sc.us, or Rebekah Dobrasko at 803-896-6169, email: dobrasko@scdah.state.sc.us.

Sincerely,



Elizabeth M. Johnson
Director, Historical Services
Deputy State Historic Preservation Officer

cc: Ms. Rebekah Dobrasko, SCDH
Mr. Ed Bradley, VA
Ms. Kathleen Schamel, VA
Mr. Mike Penland, KDA
Mr. Lyles Glenn, KDA
Ms. Katharine Kerr, ACHP

- 1 – Office building and relative parcel
- 6 – Turning lane improvements on Old Woodlands Road
- 7 – Deceleration lane on Garners Ferry Rd



Exhibit F

(Section 106 Project Review Form)

(see attached)



**SOUTH CAROLINA DEPARTMENT OF ARCHIVES & HISTORY
STATE HISTORIC PRESERVATION OFFICE
SECTION 106 PROJECT REVIEW FORM**

Section 106 of the National Historic Preservation Act requires the South Carolina State Historic Preservation Office to review all projects that are federally funded, licensed, or assisted. All information must be completed before our review can begin. Please allow thirty (30) days from receipt for review of a project.

The SHPO is only one consulting party under Section 106. Refer to 36 CFR 800.2 for information about other participants who are entitled to comment on the Section 106 Process, including Native American tribes, interested parties, and the public. Consultation with the SHPO is NOT a substitution for consultation with appropriate Native American tribes.

STOP This form should not be completed when submitting an FCC Form 620 or 621.

THIS IS:

- ☐ A NEW PROJECT (Complete all pages of form)
☐ ADDITIONAL INFORMATION REGARDING PREVIOUS SUBMISSION
(Complete first page of form ONLY) SHPO Project No:

STATUS OF PROJECT:

- ☐ FEDERAL UNDERTAKING ANTICIPATED ☐ FEDERAL UNDERTAKING (as defined at 36 CFR 800.16(y))

GENERAL INFORMATION

1. Project Name:
2. City:
3. County:
4. Federal Agency (providing funding, license, permit, or assistance):

Agency Contact Name:

Address:

Phone:

E-mail:

5. Federal Agency Authorized Delegate (often applicant):

Delegate Contact Name:

Address:

Phone:

E-mail:

6. Consultant/Agent for Delegate (if applicable):

Consultant Contact Name:

Address:

Phone:

E-mail:

INFORMATION REQUIRED FOR NEW PROJECTS

DETERMINING THE PROJECT AREA OF POTENTIAL EFFECT (APE)

1. Describe in **detail** all aspects of the project. Include a detailed description of any proposed ground disturbance and any proposed building rehabilitation or repairs.
2. Will this project involve phases of construction? If so, please describe the work to be conducted under each phase:
3. How many acres are in the project area?
4. Describe the current land use within the property and immediately adjacent to the property (e.g. farmland, forest, developed, etc.).
5. Describe prior land use or previous modification within the property and immediately adjacent to the property (e.g. grading, plowing, mining, draining, etc.).
6. Will the project involve:
 - ☐ new construction
 - ☐ rehabilitation of any structures
 - ☐ relocation of any structures
 - ☐ demolition of any structures

NOTE: If the project involves the rehabilitation of a building listed in the National Register of Historic Places or is eligible for listing in the National Register, complete and submit the Historic Building Supplement for each building as appropriate.

7. Provide a written description of the APE, including a discussion of the potential for direct and indirect effects that may result from the project and the justifications for the APE. See *Guidelines for Defining the Area of Potential Effects (APE)* for more information.

IDENTIFICATION OF HISTORIC PROPERTIES:

1. **ATTACH** a copy of the pertinent ArchSite GIS map to this submission.
Please see <http://archsite.cas.sc.edu/archsite> for information on registering for and using the database.

2. List all local historical societies, local governments, members of the public, and any other sources consulted in addition to the SHPO to identify known and potential historic properties.

3. Are there any structures within the property (houses, barns, old garages, sheds, commercial buildings, churches, etc.)?

☐ YES

☐ NO

4. If yes, what is the approximate age and original use of each structure? **ATTACH** photographs of the front and side elevations of all structures, regardless of age, that are within the property.

5. Does the landowner know of any archaeological resources on the property?

☐ YES

☐ NO

If yes, please describe:

6. Has a cultural resources assessment or a historic resources survey been conducted in the project area?

☐ YES

☐ NO

☐ DO NOT KNOW

If yes, provide a copy of the survey or the SHPO comments on the survey, if previously reviewed.

7. Based on the information contained in questions 1-6 please check one:

☐ Historic Properties are present in the APE

☐ Historic Properties are not present in the APE

ASSESSMENT OF PROJECT EFFECT



IF THIS SUBMISSION IS IN ANTICIPATION OF A FEDERAL PROJECT, DO NOT COMPLETE THIS SECTION!

☐ No historic properties affected. Provide the basis for this determination:

☐ No adverse effect on historic properties. Explain why the Criteria of Adverse Effect (found at 36 CFR 800.5(a)(1)) were not applicable, including any conditions on the project to avoid or minimize potential adverse effects:

☐ Adverse effect on historic properties. Explain why the Criteria of Adverse Effect (found at 36 CFR 800.5(a)(1)) were found applicable, including a description of efforts taken to avoid or minimize adverse effects:

REQUIRED DOCUMENTATION CHECKLIST (as found at 36 CFR 800.11):

- ☐ 1:24,000 USGS topographic map section with the boundaries of the project area clearly marked and the name of the quadrangle noted on the map
- ☐ Clear description, with supporting documentation such as maps and aerial photographs, of the project's Area of Potential Effects (APE)
- ☐ Site plan or sketch plan of project (existing and proposed)
- ☐ Results of an ArchSite search showing the project area and any historic properties in the vicinity
- ☐ Photographs of the project area — digital photos printed at a high resolution on a good-quality color printer are acceptable. No more than two (2) photographs per page should be submitted.

WHEN APPLICABLE:

- ☐ Notification of federal agency authorization to conduct consultation on its behalf
- ☐ Copies of summaries of any views provided by consulting parties and the public on the identification of historic properties and the project's effects
- ☐ Results of a cultural resources assessment, cultural resources reconnaissance survey, or intensive cultural resources survey conducted to identify any historic properties on the project area or SHPO comments on the survey, if previously reviewed
- ☐ Photographs of the front and side elevations of any structures within the APE. Digital photos printed at a high resolution on a good-quality color printer are acceptable. No more than two (2) photographs per page should be submitted.
- ☐ Historic Building Supplement, if work is proposed to a historic structure or building
- ☐ Plans and specifications for work on a historic structure or building

The completed form with all supporting documentation should be sent to Review and Compliance Coordinator, SC Department of Archives and History, 8301 Parklane Road, Columbia, SC 29223.
Project submissions will not be accepted via facsimile or e-mail.

Questions? Telephone the Review and Compliance Coordinator at 803-896-6169.

INSTRUCTIONS FOR SOUTH CAROLINA STATE HISTORIC PRESERVATION OFFICE SECTION 106 PROJECT REVIEW FORM

THIS IS

Check first box if no previous information on this project has been submitted to the SHPO.

Check second box if the project has been assigned a SHPO project number. This number can be found on SHPO comments from the initial submission. If the form has been fully, completely, and previously sent to the SHPO, then only the first page of the project review form must be completed for submission with additional information.

STATUS OF PROJECT

Check "federal undertaking anticipated" if this project is sent to the SHPO PRIOR to official federal involvement. Often, projects submitted in anticipation of a federal undertaking involve: grant applications for federal assistance, preliminary engineering and environmental work prior to a permit application, or preliminary design plans with the intent of applying for future federal grants, permits, or assistance. The SHPO will only provide preliminary comments UNTIL the federal agency initiates consultation with our office on the project.

GENERAL INFORMATION

1. Provide the name of the project as known, or as will be known, by the federal agency.
2. Provide the city name or city vicinity for the project.
3. Provide the county name.
4. Provide the name and contact information for the appropriate federal agency involved in the project. **"Unknown"** is not acceptable unless a project is submitted for due diligence review. Contact the appropriate agency requiring consultation with the SHPO for this information. For Housing and Urban Development projects under 24 CFR 58, the local government is the responsible entity/federal agency. **This form should not be completed when submitting an FCC Form 620 or 621.**
5. Provide the name and contact information for the federally-delegated authorized party for consultation. Federal agencies are required to conduct consultation under Section 106. If a federal agency chooses to delegate its initial consultation to another party (such as the applicant for federal assistance), then notification of that delegation must be provided to the SHPO. Attach a copy of the delegation notice by the federal agency. **Federal agencies remain responsible for all steps of the Section 106 consultation process.**

6. Provide the name and contact information for the consultant who may be providing information to the SHPO on behalf of the federal agency or its authorized delegate.

DETERMINING THE PROJECT AREA OF POTENTIAL EFFECT (APE)

As defined at 36 CFR 800.16(d), the Area of Potential Effects is the geographic area or areas within which an undertaking may directly or indirectly cause changes in the character or use of historic properties, if such properties exist. The area of potential effects is influenced by the scale and nature of the undertaking and may be different for different kinds of effects cause by the undertaking. **Every project has an Area of Potential Effects**, which must be defined prior to identification of historic properties. For more information and guidance on determining the APE, please see *Guidelines for Defining the Area of Potential Effects (APE)* at <http://shpo.sc.gov/revcomp/guidance/apeguidelines.htm>.

1. Project plans should include a description of the proposed site work, including the installation of utilities, roads, drainage, etc. Also describe the final results anticipated for the site. This should include, but is not limited to, the final number of buildings, any large landscaping such as retention ponds and parking, and any additional information. If rehabilitation is planned for a building, the proposed work should be described in detail as it will be described in construction bid documents or other work plans.
2. If the project will involve phases, please provide a detailed description of each phase of work. Also indicate if the undertaking will only cover one phase of the work, or if the undertaking will cover the work on the entire site.
3. Provide acreage for the entire project.
4. Provide a description of the current use of the land. Common uses include: farmland, forest, timbering, pasture, mining, commercial, industrial.
5. Provide a description of any past uses of the land and any modifications or previous ground disturbance. Prior modifications can include: grading, plowing, filling, mining, timbering, paving, draining.
6. Check the appropriate box for new construction or if any structures will be rehabilitated, relocated, or demolished as part of the project. If the project involves the rehabilitation of a building listed in

the National Register of Historic Places, eligible for listing in the National Register, or within a historic district, then complete and submit the Historic Building Supplement. Additional photographs and plans and specifications are required as part of the supplemental information.

7. Describe the steps and considerations used in determining the APE for the project. **Every project has an APE. In most instances, the APE is not just the project's physical boundaries or right-of-way.** Depending on the scale and nature of the undertaking, the APE should address both the direct effects of the project as well as indirect visual, auditory, and cumulative (i.e. land use, traffic patterns, public access) effects. Maps, photographs, and other materials should be submitted to supplement the APE determination.

IDENTIFICATION OF HISTORIC PROPERTIES

1. Federal agencies or their authorized delegates are required to conduct initial research to determine the presence of any known historic properties within the project's APE.

Historic properties are defined as those buildings, objects, structures, sites, and districts that are listed in the National Register of Historic Places or that are eligible for listing in the National Register. The SHPO maintains the records of all South Carolina properties listed in the National Register of Historic Places, including the maps and boundaries of all historic districts. The SHPO also maintains the South Carolina Statewide Survey of Historic Properties. The South Carolina Institute of Archaeology and Anthropology (SCIAA) maintains the records of all archaeological sites in South Carolina. Information on accessing these records can be found online at <http://shpo.sc.gov/revcomp/culture/>.

ArchSite is a collaborative effort between the South Carolina Department of Transportation, the University of South Carolina, SCIAA, and the SHPO to digitize all cultural resource information held by SCIAA and the SHPO. This information is available in a web-based Geographic Information Systems (GIS) database for all federal, state, and local government. Consultants have access to ArchSite for a fee, and the database is available for free to researchers at the South Carolina Department of Archives and History and at SCIAA. See <http://archsite.cas.sc.edu/archsite> for more information.

2. The SHPO is not the sole source of historic property information. Often, local historical societies, local libraries, local governments, and the public have knowledge of historic properties or potential historic

properties within the boundaries of the proposed project. These sources should be consulted based on the scale and nature of the undertaking. The Confederation of South Carolina Local Historical Societies has a list of all its members. The list is not comprehensive, but it does provide basic information on local sources. The list can be found at <http://www.state.sc.us/scdah/historgs/county1.html>.

3. Check the appropriate box to indicate if there are any structures on the property. Structures can include ruins of buildings, walls, or foundations in addition to complete buildings.
4. If the exact date of construction is unknown, please estimate the date of construction based on the history of the tract and the design of the structures. **Photographs of the front and side elevations of all structures on the property should be included.** The photographs should provide clear views of the buildings or structures. Obstructed views will be returned for better photographs.
5. Describe any archaeological resources on the property. Resources can include artifacts, such as arrowheads and pottery; features, such as earthworks or dark soil stains; and ruins of buildings, including foundations, chimneys, or walls. Archaeological resources can also be found through metal detecting or systematic professional archaeological survey of the property.
6. Attach the results of any archaeological or cultural resources survey conducted on the property. At a minimum, the survey must meet the *South Carolina Standards and Guidelines for Archaeological Investigations* (2005). Additional information on archaeology and the types of identification surveys can be found at www.palmettohistory.org/archaeology/SHPOGuidance.htm.
7. Determining the presence of historic properties within the project's APE can consist of several steps. At a minimum, a basic search of available information should be conducted to determine the presence of known historic properties. Historic maps, Sanborn maps, aerial photographs, or local histories should also be consulted to determine the presence of or the potential for historic properties in the APE. Based on the results of background research for the APE, it may be desirable to use the services of a qualified archaeologist or architectural historian to assist with determining whether a formal survey of the APE is warranted. Preliminary information may also be submitted to the SHPO for assistance in determining the need for a formal survey. All survey professionals must meet the Secretary of the Interior's Professional Qualifications (found at 36 CFR 61) and all survey reports and materials must meet federal and state standards and guidelines.

To support the appropriate determination, please include information either identifying all historic properties located in the APE or supporting the conclusion that there are no historic properties in the APE.

Check the appropriate box based on the research conducted to identify historic properties in the APE.

ASSESSMENT OF PROJECT EFFECT

NOTE: If this submission is in anticipation of a federal project **DO NOT** complete this section! Project effects should be determined once the federal undertaking and involvement is identified.

If the project is complex or if multiple historic properties are within the APE, then the federal agency or its delegate should contact the SHPO for preliminary comments. The preliminary consultation with the SHPO can provide advice about the resolution of complex issues that may be encountered or for more in-depth analysis.

An effect on a project is defined in 36 CFR 800.16(i) as an alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register.

1. **For a determination of no historic properties affected**, either no historic properties are identified in the APE or the project will have no effect on the historic properties in the APE. The basis for determining that no historic properties will be affected must be provided as part of the submission. An adverse effect is defined in 36 CFR 800.5(a)(1) when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. Consideration shall be given to all qualifying characteristics of a historic property, including those that may have been identified subsequent to the original evaluation of the property's eligibility for the National Register. Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance, or be cumulative.
2. **For a determination of no adverse effect**, there are historic properties identified in the APE. A determination of no adverse effect is appropriate when the undertaking's effects do not meet the adverse effect definition. Often, certain conditions will apply to the property, such as the avoidance of archaeological sites and protection through a restrictive covenant or the rehabilitation of a building that will follow the

Secretary of the Interior's *Guidelines for the Treatment of Historic Properties*. If such a project condition will apply, please describe all pertinent conditions. Also, the SHPO may recommend further conditions to the federal agency.

3. **Adverse effects may include:** physical destruction or damage to all or part of the property; removal of the property from its historic location; change of the physical features within the property's setting that contribute to its historic significance; transfer, lease, or sale of a property out of federal ownership without restrictive covenants to ensure the property's preservation; or visual, atmospheric, or audible intrusions.

If the criteria of adverse effect apply to the undertaking, then consultation must continue to resolve the adverse effects. The SHPO may suggest changes or conditions to avoid or minimize adverse effects. Any description of alternates considered by the federal agency to avoid or minimize adverse effects should be provided to the SHPO.

The federal agency must notify the Advisory Council of Historic Preservation of its finding of an adverse effect and provide a description of the undertaking, including the APE, a description of the steps taken to identify historic properties, a description of the affected historic properties, an explanation of why the undertaking will cause an adverse effect, and copies or summaries of any views provided by consulting parties and the public. The resolution of adverse effects will result in the development of a Memorandum of Agreement between the federal agency, the SHPO, consulting parties, and any other interested parties.

REQUIRED DOCUMENTATION CHECKLIST

NOTE: All submissions will be returned if the required documentation is not provided. Our office will review and comment on all projects within 30 days of receipt of all required documentation.

The following information must be submitted:

1. A USGS topographic map section at a 1:24,000 scale with the boundaries of the project area clearly marked and the name of the quadrangle noted on the map. Maps can be downloaded for free at www.maptech.com.
2. A clear description of the project's Area of Potential Effects, with the APE marked on a USGS topographic map and any additional photographs or maps used to determine the APE.
3. A site plan or sketch plan of the project showing both the current conditions and the proposed changes to the site.

4. Provide a copy of the map printed from the ArchSite GIS database showing the presence or absence of historic properties in the project area and vicinity. The map should include the name of all identified historic properties and the determinations of eligibility of the historic property for the National Register of Historic Properties.
5. Representative photographs of the project area should include photographs of any previous ground disturbance and current land use. Digital photos printed at a high resolution on a good-quality color printer are acceptable. No more than two (2) photographs per page should be submitted.
2. Any cultural resources assessments or surveys conducted for the project by professional archaeologists should be provided to our office for review and comment.
3. Provide photographs of the front and side elevations of all structures on or adjacent to the project area. Digital photos printed at a high resolution on a good-quality color printer are acceptable. **No more than two (2) photographs per page should be submitted.**
4. The Historic Building Supplement should be completed and submitted when a historic building or structure is proposed for rehabilitation/repairs/renovation. The supplement can be found online or a hard copy can be provided by the SHPO.
5. Provide all construction plans and specifications only when rehabilitation, repairs, or renovation work is proposed to a historic structure.

WHEN APPLICABLE

1. Provide summaries of any views provided by consulting parties and the public, even if the consulting parties and the public had no comments.

NOTE: *Project submissions will not be accepted via facsimile or e-mail.*

Exhibit G

(Historic Building Supplement)

(see attached)



SOUTH CAROLINA DEPARTMENT OF ARCHIVES & HISTORY
STATE HISTORIC PRESERVATION OFFICE

HISTORIC BUILDING SUPPLEMENT

Use this form to describe a project that includes work on a building that is listed in the National Register of Historic Places, is within the boundaries of a National Register Historic District, or is eligible for listing in the National Register of Historic Places. See instructions for information needed. All information must be included before our review can begin. Please include photographs of the current condition of the building as well as plans and specifications of the proposed work as attachments to this form. Include this form with the Section 106 Project Review Form or the OCRM Project Review Form.

Current Property Name

Historic Property Name

Historic District Name

Property Address

City County

Federal or State Agency

Agency Contact Name

Contact Email Contact Telephone

BRIEF Project Description (in this box):

SPECIFIC DESCRIPTION OF PROPOSED PROJECT WORK: Check appropriate boxes and provide all requested information with this form (see instructions for description of the work covered in each category and documentation necessary for review).

☐ ROOF work

☐ Masonry REPOINTING

☐ Masonry CLEANING

☐ FOUNDATION work

☐ REPLACEMENT of existing or historic exterior and/or interior masonry, wood, or other building materials, finishes, or features

☐ INSULATING the exterior walls of a wood-frame building

☐ ALTERING historic doors, windows, and/or window openings

☐ REPLACING historic doors and/or windows

☐ PAINTING

☐ Changing historic INTERIOR spaces, materials, finishes

☐ ADDITION to a historic building

☐ DEMOLITION of non-significant or non-historic additions and/or alterations

☐ DEMOLITION of major portions of a building

☐ IMPACTS ON OTHER HISTORIC FEATURES

INSTRUCTIONS FOR SOUTH CAROLINA STATE HISTORIC PRESERVATION OFFICE HISTORIC BUILDING SUPPLEMENT

Complete this form if the project proposes rehabilitation on a building listed in the National Register of Historic Places, within a National Register historic district, or is eligible for listing in the National Register of Historic Places. All guidance documents referenced in this form are available online or you may request a paper copy from the SHPO. This form is intended to supplement the information that you provide in the Section 106 Project Review Form or the OCRM Project Review Form when historic buildings are part of the project. This form is not a substitute for the Section 106 Project Review Form.

Property Name: Provide both the historic and current name of the property, if known. Not all properties have names. Please identify the historic district, if the property is within a historic district.

Property Address: Provide the property street address.

City: Provide the name of the city or vicinity where the property is located.

County: Provide the county where the property is located.

Federal or State Agency: Provide the federal or state agency whose assistance will be used for the property's rehabilitation and that is responsible for consultation with our office.

Contact Name: Provide the contact name and contact information for the federal or state agency responsible for consultation with our office.

Brief Project Description: Provide a brief description of the overall project, including the proposed use of the building and any adjacent site work or ground disturbance *within the box provided*.

Specific Description of Project Work: Check the box next to the work item if that work item is part of your proposed project. Provide concise answers in the space provided. Keep the description short and simple. Attach specifications for proposed work items that need additional description. *"See Attached" is not a description of work.*

Roof Work: Describe existing roof materials and historic roof materials (if known). Describe proposed work (including insulation, new roofing materials, and changes in or additions to the existing roof form). Provide documentation for reconstruction of missing features. See Preservation Briefs 4, 19, 29, and/or 30 from the

National Park Service (NPS) for more information and guidance on roofing for historic buildings.

Masonry Repointing: Include a specification that describes the method for mortar removal and the specific mortar mixture. New mortar should match in composition, strength, and visual qualities. See Preservation Brief 2 from NPS for more information on masonry repointing for historic buildings.

Masonry Cleaning: Include a specification that describes the method of cleaning (we recommend that it be based on a test panel) and a description of the proposed cleaning materials. See Preservation Briefs 1 and 6 from NPS for more information on masonry cleaning for historic buildings.

Foundation Work: Describe the existing foundation and any issues that need to be addressed. Describe proposed work (including masonry repointing if not included above, shoring, foundation drains, and changes or additions to the existing foundation).

Replacement of Historic Masonry, Wood, or Other Building Materials: Describe the existing/historic material, include clear photographs of representative conditions, and explain why it is being replaced. If the basis for restoration is historic documentation (photographs, physical evidence, or documentary information), then please provide a copy of that documentation.

Insulating the Walls of a Wood Frame Building: Describe proposed technique for adding insulation to the stud cavities and how the system will avoid trapping moisture within the wall.

Altering Historic Doors, Windows, and/or Window Openings: Provide photographs to document the existing conditions and a written justification of the decision to alter historic doors, windows, and/or openings.

Replacing Historic Doors and/or Windows: Since replacement of historic windows with non-matching modern windows diminishes the historic integrity of the building, the SHPO strongly recommends conducting a window survey prior to making a decision to replace ALL windows in a historic building. Copies of window survey guidance are available from the SHPO. Provide a discussion of the need to replace historic doors and windows as well as detailed drawings of the proposed new doors or windows.

Painting: Describe the proposed method of surface preparation and the type of paint. NOTE: Sandblasting and other abrasive techniques that damage the historic substrate are not appropriate treatments for historic buildings.

Changing Interior Spaces, Materials, Finishes:

Describe any interior work, including changes to the floor plan, alterations of historic materials, electrical upgrades, heating and/or air conditioning, and other system upgrades or installations. Include photographs and floor plans of the impacted areas.

Addition to Historic Building: Provide a site plan, floor plans, and elevations that clearly portray the new design in the context of the historic building(s). Include photographs of the existing conditions. Note that the following information is required: site plan of current conditions; site plan of proposal; photographs of the building in the area of the proposed addition, and photographs of the building from the street where the new addition is visible from the street.

Demolition of Non-Significant or Non-Historic Alterations: Where demolition of non-significant or non-historic additions and/or alterations is proposed,

include a written statement describing the basis for making the determination that the addition and/or alteration is not significant and/or historic. Include photographs of the portions proposed for demolition.

Demolition of Major Portions of the Building:

Provide photographs of the portion of the building proposed for demolition and include a thorough description of the issues that led to this decision. If the decision is based on a deteriorated structural condition, then provide a report of an in-depth investigation by a structural engineer or other qualified professional. The intent, scope, and recommendations resulting from such an in-depth investigation is not to justify demolition but to present a full exploration of options for structurally stabilizing, reinforcing, or otherwise preserving the existing physical and historic characteristics of the building.

Impacts on Other Historic Features: Include a description of any other project work, not covered above, that directly impacts significant historic materials or visual characteristics.

Preservation Briefs from the National Park Service, available on line at <http://www.nps.gov/history/hps/tps/briefs/presbhom.htm> or by request from the State Historic Preservation Office:

- | | |
|---|---|
| 01 Assessing Cleaning and Water-Repellent Treatments for Historic Masonry Buildings | 15 Preservation of Historic Concrete: Problems and General Approaches |
| 02 Repointing Mortar Joints in Historic Masonry Buildings | 16 The Use of Substitute Materials on Historic Building Exteriors |
| 03 Conserving Energy in Historic Buildings | 17 Architectural Character — Identifying the Visual Aspects of Historic Buildings as an Aid to Preserving Their Character |
| 04 Roofing for Historic Buildings | 18 Rehabilitating Interiors in Historic Buildings — Identifying Character-Defining Elements |
| 05 The Preservation of Historic Adobe Buildings | 19 The Repair and Replacement of Historic Wooden Shingle Roofs |
| 06 Dangers of Abrasive Cleaning to Historic Buildings | 20 The Preservation of Historic Barns |
| 07 The Preservation of Historic Glazed Architectural Terra-Cotta | 21 Repairing Historic Flat Plaster — Walls and Ceilings |
| 08 Aluminum and Vinyl Siding on Historic Buildings: The Appropriateness of Substitute Materials for Resurfacing Historic Wood Frame Buildings | 22 The Preservation and Repair of Historic Stucco |
| 09 The Repair of Historic Wooden Windows | 23 Preserving Historic Ornamental Plaster |
| 10 Exterior Paint Problems on Historic Woodwork | 24 Heating, Ventilating, and Cooling Historic Buildings: Problems and Recommended Approaches |
| 11 Rehabilitating Historic Storefronts | 25 The Preservation of Historic Signs |
| 12 The Preservation of Historic Pigmented Structural Glass (Vitrolite and Carrara Glass) | 26 The Preservation and Repair of Historic Log Buildings |
| 13 The Repair and Thermal Upgrading of Historic Steel Windows | |
| 14 New Exterior Additions to Historic Buildings: Preservation Concerns | |

- 27 The Maintenance and Repair of Architectural Cast Iron
- 28 Painting Historic Interiors
- 29 The Repair, Replacement, and Maintenance of Historic Slate Roofs
- 30 The Preservation and Repair of Historic Clay Tile Roofs
- 31 Mothballing Historic Buildings
- 32 Making Historic Properties Accessible
- 33 The Preservation and Repair of Historic Stained and Leaded Glass
- 34 Applied Decoration for Historic Interiors: Preserving Historic Composition Ornament
- 35 Understanding Old Buildings: The Process of Architectural Investigation
- 36 Protecting Cultural Landscapes: Planning, Treatment and Management of Historic Landscapes
- 37 Appropriate Methods of Reducing Lead-Paint Hazards in Historic Housing
- 38 Removing Graffiti from Historic Masonry
- 39 Holding the Line: Controlling Unwanted Moisture in Historic Buildings
- 40 Preserving Historic Ceramic Tile Floors
- 41 The Seismic Retrofit of Historic Buildings: Keeping Preservation in the Forefront
- 42 The Maintenance, Repair and Replacement of Historic Cast Stone
- 43 The Preparation and Use of Historic Structure Reports
- 44 The Use of Awnings on Historic Buildings: Repair, Replacement and New Design
- 45 Preserving Historic Wooden Porches
- 46 The Preservation and Reuse of Historic Gas Stations
- 47 Maintaining the Exterior of Small and Medium Size Historic Buildings

Exhibit H
(Preliminary Information Form)
(see attached)



South Carolina Department of Archives & History
National Register of Historic Places

PRELIMINARY INFORMATION FORM (PIF)
to evaluate National Register eligibility

Please return to: South Carolina Department of Archives & History
Historical Services Division
8301 Parklane Road
Columbia, SC 29223-4905

Please complete every blank that applies to the property in which you are interested.

► **NAME OF PROPERTY**

► **STREET ADDRESS**

► **CITY (OR VICINITY)**

.COUNTY

► **MAPS**

Tax Parcel #

USGS Topo Quad Sheet Name

Attach a county tax map and a USGS Topographic Map. Contact the county assessor's office for a tax map. For a USGS Topographic Map, contact South Carolina Geodetic Survey, 5 Geology Road, Columbia, South Carolina 29212 (Telephone: 803-896-7700), or a topographic map can be downloaded from www.maptech.com. Mark the location of the property and the boundaries in pencil on both maps.

► **OWNER OF PROPERTY** (as recorded in city/county tax or land records)

Name

Address

City

.State

.Zip

Telephone (provide area code) Home:

Work:

► **PROPERTY DESCRIPTION**

Present Use

.Original Use

Date(s) of Construction

.Date(s) of Major Alterations

Moved? (check if yes) ☐ Original Location

Date(s) of move(s)

Outbuildings/Other Features

Archaeological Remains/Potential

► **SIGNIFICANCE OF PROPERTY**

In the space provided below and on a separate page if necessary, please provide a brief (paragraph or two) statement about why this property is worthy of recognition by the National Register of Historic Places. You may wish to consider the following questions when formulating a statement.

- A. Did an important event happen there? Is it important for its association with the development of a town or community? Was it used, for instance, as a meeting place of an important local organization? Is it the site of an important battle of the American Revolution or Civil War?
- B. Who built it and when? Who lived there over the years? Can you document that he/she/they were prominent or important in the community, county, region, state of South Carolina, or nation? Did they live or work there during the productive years of their lives?
- C. Did an architect, landscape architect, or master carpenter/brickmason design and/or build it? If so, please provide biographical information on him or her.

► **SIGNIFICANCE OF PROPERTY** *continued*

Please include copies of pertinent sources, including summaries of interviews and documents that are not readily available. Do not send copies of pages from secondary sources unless they are from a rare book. In researching the history of the property, check records at your local library, church, historical society, and county courthouse. Interviews with local historians may also yield information. Label all published sources with the name of the author, name of publication and publisher, date and place of publication, and page number(s). In the case of unpublished manuscripts, provide the name and page number(s) of the particular document, the name of the document collection, and the name and location of the repository.

Use the space below for your statement of significance.

► **PHOTOGRAPHS**

Send at least six (6) clear photographs showing the front, side and rear elevations, additions, interior, and outbuildings, and at least two (2) additional photos of the surroundings. Take extra shots of significant interior and exterior details. Label each photograph with the name of the property, what the photo shows, the name of the photographer, and the date taken. Either write the label information on the back of the photo with a soft lead pencil or permanent ink marker, attach a post-it note to the back, or attach a list of the photos.

Photographs cannot be returned.

PRELIMINARY INFORMATION FORM (PIF) COMPLETED BY:

Name

Address

City

State

Zip

Phone (include area code) H

W

FAX #

E-mail address

Date completed

DID YOU REMEMBER TO ENCLOSE:

- ☐ County Tax Map
- ☐ USGS Topo Map
- ☐ Photos (exterior, interior & setting)
- ☐ Copies of Sources
- ☐ Statement of Significance