

Historic Covenant

THIS HISTORIC COVENANT ("Historic Covenant") is made and executed as of 23 of July, 2007 (the "Effective Date"), by THE UNITED STATES OF AMERICA, acting by and through the Administrator of General Services and authorized representatives (hereinafter referred to as "Grantor") and is consented to by the District of Columbia State Historic Preservation Office/Officer.

A. Pursuant to the terms and authority of Southeast Federal Center Public-Private Development Act of 2000 (Public Law 106-407; 114 Stat. 1758) (the "SEFC Act"), the National Historic Preservation Act, as amended ("NHPA"), and the rules, orders and regulations issued under the SEFC Act and NHPA, Grantor desires to establish and create certain covenants, conditions, restrictions and limitations with respect to portions of the Property that are Transferred (each as hereinafter defined) by Grantor. The Property is located in the District of Columbia and is part of a larger site commonly known as the "Southeast Federal Center."

B. Grantor intends that the covenants, conditions, restrictions, and limitations established by this Historic Covenant shall run with the Property, and by each Grantee (as defined below) accepting a Transfer (or re-transfer, conveyance or assignment following a prior transfer) of a portion of the Property, shall extend to and be binding upon each such Grantee (as defined below) and such Grantee's successors and assigns and every successor and assign thereof (other than Grantor).

NOW, THEREFORE, Grantor hereby declares that the Property shall be Transferred and re-transferred, conveyed or assigned, and shall be occupied and used by the Grantee, subject to the covenants, conditions, restrictions and limitations hereinafter set forth, for and during the period of time hereinafter specified.

1. Definitions

"ACHP" means the Advisory Council on Historic Preservation.

"ASZ" means an archeologically sensitive zone. The ASZs are shown on Exhibit B hereto.

"Commercially Reasonable Efforts" means that, as and when required hereunder, the party charged with making such efforts is diligently taking, or causing to be taken, in good faith in a commercially reasonable manner the steps that would usually, reasonably, and customarily be taken by an experienced real estate developer, lessee, or owner, as applicable, under similar circumstances, seeking with reasonable diligence to lawfully achieve the objective to which the particular effort pertains.

“Completion” means such time as initial development of the affected building or portion of the Property, as contemplated by the Revised Master Plan, has been substantially completed in compliance with this Historic Covenant, except for punch-list items.

“Consultation” means the process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising under the process implemented pursuant to Section 106 of NHPA, as amended. Grantor, SHPO, and ACHP, with the concurrence of the Grantee, if applicable, may adjust the timing and extent of Consultation, depending upon the urgency of the required action and other factors. The Secretary of the Interior’s “Standards and Guidelines for Federal Agency Preservation Programs pursuant to the National Historic Preservation Act” provide further guidance on consultation.

“Consulting Parties” means, collectively, the National Capital Planning Commission, the United States Department of the Navy, the District of Columbia Water and Sewer Authority, JBG/Federal Center, LLC, the District of Columbia Office of Planning, the District of Columbia Preservation League, the Committee of 100 on the Federal City, the Capitol Hill Restoration Society, the National Trust for Historic Preservation, Anacostia Waterfront Corporation, and Forest City SEFC, as defined below.

“Contributing Structure” means Buildings 74, 160, 167, 173, 202, and the Sentry Tower and Wall, all as shown on Exhibit C hereto.

“DC Historic Protection Law” has the meaning set forth in Paragraph 18 of this Historic Covenant.

“Declaration of Covenants” means that certain Declaration of Covenants executed (or to be executed) by Grantor which has been or may be joined in by Forest City SEFC pursuant to the Development Agreement.

“Design Submission” means a 15% Design Submission or a 35% Design Submission, as the case may be.

“Development Agreement” means that certain Development Agreement effective June 16, 2005, as amended from time to time, setting forth the rights and obligations of Grantor and Forest City SEFC with respect to the development of the Property.

“Effective Date” has the meaning set forth in the first paragraph of this Historic Covenant.

“15% Design Submission” means the plans and specifications for each building or portion of the Property at 15% completion.

“Forest City SEFC” means Forest City SEFC LLC, a District of Columbia limited liability company.

“Grantee” means the entity taking fee simple title to and/or possession of or leasehold title to a portion of the Property from the Grantor through a Transfer, such entity’s successors and assigns, and every successor-in-interest thereof, other

than Grantor. The extent of the application of this Historic Covenant to each Grantee is described in Paragraph 15 hereof.

“Grantor” has the meaning set forth in the first paragraph of this Historic Covenant.

“Ground Lease” means the leasing of any portion of the Property by Grantor as lessor; such term specifically does not include a Master Lease or a Short-Term Lease.

“Historic Covenant” has the meaning set forth in the first paragraph of this Historic Covenant.

“Historic Preservation Design Guidelines” has the meaning set forth in Paragraph 2.a. of this Historic Covenant.

“Historic Zone” means the portion of the Property shown as such in Exhibit D hereto.

“Master Developer” means Forest City SEFC, or in the event of the termination of the Development Agreement, such other entity as may be designated by Grantor.

“Master Lease” means a lease, under which the Master Developer is expected to undertake maintenance obligations for the Contributing Structures, between Grantor and the Master Developer of all or a portion of the Property as the same is or becomes vacant.

“NHPA” has the meaning set forth in the Recitals to this Historic Covenant.

“Parcel” means any of the parcels of the Property as designated on the Revised Master Plan.

“Plan Sunset Date” has the meaning set forth in Paragraph 19 of this Historic Covenant.

“Programmatic Agreement” means the Programmatic Agreement among the United States General Services Administration, the Advisory Council on Historic Preservation, and the District of Columbia State Historic Preservation Office Regarding the Transfer by Sale and/or Ground Lease to Forest City SEFC for Mixed-Use Development of 42 Acres of the Southeast Federal Center, Washington, D.C. dated _____, 2007, to which this Historic Covenant is an exhibit.

“Property” means approximately 42 acres of the Southeast Federal Center, as graphically shown on Exhibit A-1 attached hereto, and as described by metes and bounds on Exhibit A-2 attached hereto, together with (a) all improvements now or hereafter located on such property, if any; (b) any air space, subterrain, roads, streets, alleys and ways, public and private, appurtenant to such property or improvements located thereon; and (c) all other appurtenances, rights, easements, rights-of-way, tenements and hereditaments incident thereto, including all

development rights and entitlements relating to any portion of the Property. As to any portion of the Property, this Historic Covenant is binding with respect to such portion of the Property only upon and following Transfer (as defined below) thereof.

“Revised Master Plan” has the meaning set forth in Paragraph 2.a. of this Historic Covenant.

“Secretary’s Standards” has the meaning set forth in Paragraph 2.d. of this Historic Covenant.

“SEFC Act” has the meaning set forth in the Recitals to this Historic Covenant.

“Short-Term Lease” means a lease between Grantor, as lessor, and a lessee of any portion of the Property that may be used to facilitate the lessee’s development, construction, remediation, and financing of such portion.

“SHPO” means the District of Columbia State Historic Preservation Office/Officer.

“Southeast Federal Center” has the meaning set forth in the Recitals to this Historic Covenant.

“35% Design Submission” means the plans and specifications for each building or portion of the Property at 35% completion.

“Transfer” means (a) conveyance by Grantor of fee simple title to any portion of the Property by deed or dedication to public use, or (b) conveyance by Grantor of possession of all or a portion of the Property as the same is or becomes vacant, or of any portion thereof, by Ground Lease, if such deed, dedication to public use, or Ground Lease specifically provides that this Historic Covenant shall be binding upon the Grantee thereunder.

2. Revised Master Plan, Historic Preservation Design Guidelines, and Historic Covenant

a. Compliance with Revised Master Plan and Historic Preservation Design Guidelines. In its development, construction, and design of any portion of the Property, Grantee shall comply with the Revised Master Plan set forth in Exhibit E hereto (as it may hereafter be amended, the “Revised Master Plan”), the Historic Preservation Design Guidelines set forth in Exhibit F hereto (as they may hereafter be amended, the “Historic Preservation Design Guidelines”), and its obligations under this Historic Covenant.

b. Compliance with the Secretary’s Standards. The Historic Preservation Design Guidelines are based on and are intended to be in full compliance with the Secretary’s Standards, which shall prevail and apply in case of conflict with the Historic Preservation Design Guidelines.

c. Anticipation of Amendments. It is anticipated that circumstances may arise that prevent full compliance with the prevailing Revised Master Plan and/or Historic Preservation Design Guidelines (taking into account commercial and physical feasibility, legal mandates, and other circumstances) in carrying out the pre-development and development of the Property, thereby requiring the Master Developer or Grantee, as the case may be, to propose an amendment to the Revised Master Plan and/or the Historic Preservation Design Guidelines.

d. Consultation on a Proposed Amendment.

i. The Master Developer or Grantee, as the case may be, through Grantor, shall engage in Consultations with SHPO, ACHP, and the Consulting Parties to devise an amendment that is in full compliance with the Secretary's Standards.

ii. Proposed Amendments to the Revised Master Plan or the Historic Preservation Design Guidelines must be approved in writing by the Grantor. Requests for such approval shall be submitted to the Grantor by the Master Developer, except that requests for approval of amendments which affect only a portion of the Property may, at the Master Developer's option, be submitted to the Grantor by the Grantee of such portion of the Property.

iii. Requests for approval of material amendments to the Revised Master Plan or the Historic Preservation Design Guidelines shall be subject to review by SHPO, ACHP, and each Consulting Party, in addition to being subject to Grantor's written approval under Paragraph 2.d.ii of this Historic Covenant.

iv. The Master Developer or Grantee, as the case may be, shall provide the following documentation in support of any request for approval or review of an amendment to the Revised Master Plan or the Historic Preservation Design Guidelines: (A) detailed description of the proposed change; (B) explanation of the justification for the change; (C) analysis of potential effects on Contributing Structures; (D) description of consultation with other governmental authorities and interested parties, and copy of formal responses, if any; and (E) analysis of alternatives.

v. The ACHP and SHPO must review all proposed amendments for full compliance with the Secretary of Interior's Standards for the Treatment of Historic Properties, 36 CFR Part 68 (as may be amended, the "Secretary's Standards") and only approve such amendments that are found to be consistent with the Secretary's Standards.

vi. Upon Grantor's approval of an amendment to the Revised Master Plan or Historic Preservation Design Guidelines, such amendment shall be deemed to amend the Revised Master Plan or Historic Preservation Design

Guidelines, as appropriate. The Master Developer or Grantee, as the case may be, and the Grantor shall record any such approved amendment to the Revised Master Plan or Historic Preservation Design Guidelines as an amendment to this Historic Covenant.

e. Compliance with Secretary's Standards.

If circumstances arise that prevent full compliance with the Secretary's Standards (taking into account commercial and physical feasibility, legal mandates, and other circumstances), in implementing such amendment, Grantee, through Grantor, shall engage in Consultations with SHPO, ACHP, and the Consulting Parties to devise a plan (taking into account commercial and physical feasibility, legal mandates, and other circumstances) for implementing the amendment that is consistent with the Secretary's Standards and is consented to by SHPO and ACHP; provided that such consent is not unreasonably withheld or conditioned.

3. Caretaker Maintenance

a. Maintenance by Grantee. Prior to Completion of a Contributing Structure, Grantee shall maintain (absent destruction of or material damage to such Contributing Structure due to causes beyond the Grantee's reasonable control) such Contributing Structure in the same condition it is in when transferred to such Grantee, and such Grantee shall comply with the Maintenance Program in Exhibit G hereto, as appropriate for such Contributing Structure in light of its condition and use, and subject to amendments as set forth in the Revised Master Plan and Historic Preservation Design Guidelines. If there is destruction of or material damage to such Contributing Structure due to causes beyond Grantee's reasonable control (for example, due to a casualty loss thereof), Grantee shall so notify Grantor, SHPO, and ACHP in writing and obtain SHPO's and ACHP's permission, provided that such permission is not unreasonably withheld, conditioned or delayed, regarding any changes to the Maintenance Program proposed in light of such destruction or material damage that would materially affect the exterior of such Contributing Structure.

b. Seismic Consideration. Grantee shall conduct seismic analyses of the Contributing Structures as necessary prior to any ground-disturbing activity on the portion of the Property conveyed or leased to it and as warranted thereafter and shall take into consideration the results of such seismic analyses in its development of the Property so that the structural integrity of the Contributing Structures is not adversely affected by such development.

c. Post-Completion Maintenance. Following Completion of a Contributing Structure, Grantee shall maintain (absent destruction of or material damage to such Contributing Structure due to causes beyond the Grantee's reasonable control) such Contributing Structure in good repair and condition,

generally consistent with then-prevailing standards for the maintenance of similar buildings in the area under similar circumstances and conditions.

4. Design Submissions

a. Purpose. The purpose of the Design Submission is to enable SHPO (and in the case of the 35% Design Submission, ACHP and the Consulting Parties) to determine whether such Design Submission is materially consistent with the Revised Master Plan and the Historic Preservation Design Guidelines.

b. Early Coordination. Grantee shall coordinate with Grantor so that Grantor can coordinate with SHPO, ACHP, and, as appropriate, the Consulting Parties at the earliest possible stage of conceptual design for each portion of the Property regarding Design Submissions and the plans for the archeology work on such portion of the Property; and shall continue such coordination on a regular basis throughout the development of the Design Submissions and such plans.

c. Submissions.

i. 15% Design Submissions. The Grantee shall provide to Grantor, for review by Grantor and SHPO, a 15% Design Submission for the development or subsequent redevelopment of each building or other portion of its portion of the Property. Notwithstanding the previous sentence, Grantee is not required to provide any 15% Design Submissions to SHPO with respect to streets, parks, or the existing or proposed improvements thereon. The 15% Design Submission shall be in sufficient detail to show the massing and general exterior appearance of buildings in their physical context and conformity of such massing and appearance with the Historic Preservation Design Guidelines for each such portion of the Property.

ii. 35% Design Submissions. The Grantee shall provide to Grantor, for review by Grantor, SHPO, ACHP and each Consulting Party, the Design Submission for the development or subsequent redevelopment of each building or other portion of its portion of the Property at 35% design completion. The 35% Design Submission shall be in sufficient detail to show the exterior design intent and the conformity of such exterior design intent with the Historic Preservation Design Guidelines. The 35% Design Submissions that include one or more Contributing Structures shall also include the design intent of each such Contributing Structure's Significant Interior Features as defined in Exhibit I.

iii. Grantor's Submissions to SHPO, ACHP, and Consulting Parties. Each 35% Design Submission provided by Grantee to Grantor shall be accompanied by a notice to Grantor (A) requesting that Grantor concurrently provide a copy to Grantee of the 35% Design Submission package that Grantor sends to SHPO, ACHP, and/or each Consulting Party, as the case may be, and (B) clearly stating that if, within ten (10) calendar days of providing a 35% Design Submission to Grantor, Grantee has not received such copy of such Design

Submission package as sent by Grantor, Grantee may provide copies of its Design Submission directly to SHPO, ACHP, and each Consulting Party for their review thereof.

d. Failure to Provide Written Comments for 35% Design Submission. If either SHPO or ACHP does not provide written comments to Grantor within forty-five (45) calendar days of receipt of the 35% Design Submission from Grantor or Grantee, Grantee may assume, for purposes of this Historic Covenant, that SHPO or ACHP, as the case may be, have no comments regarding such 35% Design Submission.

e. Modifications. After Grantor's approval of the 35% Design Submission for each building or portion of the Property and prior to Completion thereof, any material modification to such 35% Design Submission proposed to Grantor by the Grantee shall be subject to review and comment as set forth in this Paragraph 4 (Design Submissions) for review of the 35% Design Submission.

f. Exemptions from 15% Design Submission. No 15% Design Submission shall be required under this Historic Covenant with respect to Buildings 160, 167, and 202 unless material changes are made in the designs for such buildings (reflected in the drawings dated June 2, 2006, February 5, 2007, and June 20, 2006, respectively), which have been reviewed and commented upon by the SHPO.

g. Compliance with the Secretary's Standards. Each Design Submission with respect to a Contributing Structure shall comply with the Secretary's Standards, provided, however, that if circumstances arise that prevent full compliance by the Grantee with the Secretary's Standards (taking into account commercial and physical feasibility, legal mandates, and other circumstances), the Grantee, through Grantor, shall engage in Consultations with SHPO, ACHP, and Consulting Parties so that the Design Submission is consistent to the extent possible with the Secretary's Standards (taking into account commercial and physical feasibility, legal mandates, and other circumstances).

5. Semi-Annual Progress Reports

a. General. Grantee shall, beginning with respect to the six (6) month period following a Transfer to it (or its predecessor Grantee) of any portion of the Property by Grantor, and with respect to each six (6) month period thereafter, through Completion of such portion, provide a semi-annual progress report to Grantor, ACHP, and SHPO within ninety (90) calendar days following the expiration of each such six (6) month period.

b. Report Contents.

The reports will address the following topics:

i. general summary of how this Historic Covenant has been implemented during such six (6) month period with respect to such portion of the Property;

ii. general summary of the current status of implementation of the archeology-related requirements set forth herein with respect to such portion of the Property; and

iii. general summary of the status of development at such portion of the Property as it relates to historic preservation, including notice of any conveyance or assignment of an interest therein or of a portion thereof, and discussion of any material problems or issues relating to compliance with this Historic Covenant, implementation of the archeology-related requirements, and/or historic preservation requirements set forth herein that have arisen in the course of the six (6) months regarding such portion of the Property.

c. Public Availability. Grantee shall make each such semi-annual progress report available to the general public at the same time that such report is issued to Grantor, ACHP, and SHPO through such means, for example, as providing a copy of the report to the Martin Luther King Jr. Memorial Library in the District of Columbia or another publicly-accessible venue.

d. Conversion to Annual Reporting. Notwithstanding the foregoing, with the consent of Grantor, SHPO, and ACHP, the progress reports required under this Paragraph 5 (Semi-Annual Progress Reports) may be submitted on an annual basis instead of on a semi-annual basis.

6. Archeology

During such period of time, if any, that Grantee owns fee simple title to any portion of the Property, Grantee shall comply with the obligations for archeology as set forth in Exhibit H-1 hereto with respect to such portion of the Property. During such period of time, if any, that Grantee possesses or holds leasehold title by Ground Lease of any portion of the Property, Grantee shall comply with the obligations for archeology as set forth in Exhibit H-2 hereto with respect to such portion of the Property. Grantee shall ensure that all of its contracts for development of any portion of the Property shall comply with the requirements of Paragraphs 9.a and 9.b.(1) and (2) of Exhibit H-1 or Exhibit H-2, as applicable.

7. Actions after Completion

With respect to any portion of the Property, after Completion of such portion following a Transfer thereof, the Grantee shall comply with the following:

a. Alterations of Contributing Structure. Following the termination of Paragraph 4 (Design Submissions) of this Historic Covenant (in accordance with Paragraph 19 (Duration) of this Historic Covenant) with respect to such portion of the Property, Grantee shall not perform any alteration, rehabilitation, renovation, remodeling, or other action or inaction (not to include, without limitation, in-kind replacement, repairs, and maintenance) that would materially affect the exteriors of the Contributing Structures or their Significant Interior Features as defined in Exhibit I. (e.g., a demolition of a façade, removal of significant historic materials) located on such portion of the Property, if such action would be materially inconsistent the Revised Master Plan and/or with the Historic Preservation Design Guidelines, (a) without the prior written permission of SHPO and ACHP, each of which shall provide such permission within thirty (30) calendar days of SHPO's and ACHP's receipt of Grantee's reasonable description of the specific action or (b) if SHPO or ACHP has denied or otherwise failed to provide such permission, the Grantee has resolved the matter in accordance with Section 10 (Unanticipated Adverse Effects) of this Historic Covenant.

b. Demolition of Contributing Structure. With respect to any portion of the Property, at any time after Completion of such portion of the Property, Grantee shall not, without prior written permission of SHPO, ACHP, and Grantor, perform any material demolition of any Contributing Structure located on such portion of the Property.

c. Ground-Disturbing Activity. With respect to any portion of the Property, at any time after Completion of such portion of the Property, Grantee shall not, without prior written permission of SHPO, ACHP, and Grantor, conduct any material disturbance of ground surface located within an ASZ on such portion of the Property, if such location has not previously been the subject of an archeological treatment plan carried out by or on behalf of the Grantor or the Grantee, except if such activity is for the repair of the streets, sidewalks, curbs and gutters and/or the emergency or routine repair of infrastructure underlying the streets.

8. Repair and Restoration After Casualty

a. Casualty Loss to a Contributing Structure After Transfer and Prior to Plan Sunset Date. Subject to Paragraph 8.d below, if there is damage to a Contributing Structure resulting from casualty loss after Transfer of a Parcel on which such Contributing Structure is located and prior to the Plan Sunset Date applicable to such Contributing Structure, Grantee shall repair or restore, as appropriate, such Contributing Structure in compliance with Paragraphs 2 (Revised Master Plan, Historic Preservation Design Guidelines, and Historic Covenant) and 4 (Design Submissions) of this Historic Covenant, unless it is not feasible to do so because of commercial or physical infeasibility, legal mandates or other circumstances. If it is not feasible to repair or restore under the

circumstances in the immediately preceding sentence, the Revised Master Plan and/or Historic Preservation Design Guidelines may be amended in accordance with Paragraph 2 above.

b. Casualty Loss to a Contributing Structure After Transfer and After Plan Sunset Date. Subject to Paragraph 8.d below, if there is damage to a Contributing Structure resulting from casualty loss after Transfer of the Parcel on which such Contributing Structure is located and after the Plan Sunset Date applicable to such Contributing Structure, Grantee shall repair or restore, as appropriate, such Contributing Structure in compliance with the Secretary's Standards unless it is not feasible to do so because of commercial or physical infeasibility, legal mandates, or other circumstances. If it is not feasible because of commercial or physical infeasibility, legal mandates, or other circumstances to repair or restore such Contributing Structure in compliance with the Secretary's Standards, then:

i. Grantee shall engage in Consultation with SHPO and ACHP on redevelopment alternatives that are consistent with the Secretary's Standards;

ii. the cost and expense of the construction of any such redevelopment alternative shall be borne by Grantee; and

iii. no such redevelopment alternative, including without limitation the design and plans for construction, shall occur without the prior written consent of SHPO, ACHP, and (with respect to any Parcel held under Ground Lease) Grantor. Grantee shall provide a reasonable description of such proposed redevelopment alternative, including without limitation the design and plans for construction (which may be in the form of the Design Submission), to SHPO, ACHP, and (if Transfer has been by Ground Lease) Grantor at the end of the Consultation for their consent (taking into account commercial and physical feasibility, legal mandates, and other circumstances); provided such consent is not withheld or conditioned, if, in their reasonable determination, the proposed redevelopment alternative is consistent with the Secretary's Standards. If SHPO or ACHP fails to respond within thirty (30) calendar days of receipt of the proposed redevelopment alternative, Grantee may assume that SHPO or ACHP, respectively, consents to the proposed redevelopment alternative.

c. Rendering Remains of Contributing Structures Safe. Notwithstanding the timing of any redevelopment alternatives for the Parcel on which a Contributing Structure is located or any restoration or repair of any Contributing Structure, in the event of damage to a Contributing Structure, whether covered by this Paragraph 8 or by any other provision of this Historic Covenant, Grantee shall, without limiting any other obligations of this Historic Covenant, promptly take all steps necessary to render any remains of the Contributing Structure in a reasonably safe condition and promptly take all Commercially Reasonable Efforts to render any remains of the Contributing

Structure in secure and weather-tight condition and to minimize additional damage to such structure.

9. **Emergency Situations**

Notwithstanding the approval requirements and Consultation requirements set forth elsewhere in this Historic Covenant, Grantee may take the following actions in response to emergency situations:

a. Immediate Action. Grantee shall use Commercially Reasonable Efforts to ensure that any immediate rescue and salvage operations on the portion of the Property conveyed or leased to it that are (i) required because of an emergency (i.e., a disaster or emergency declaration by the President or the Mayor of Washington, D.C., or another threat to life or property) that adversely affects a National Register-eligible resource at the portion and (ii) necessary to preserve life or property shall be carried out in accordance with any emergency orders or citations issued by the appropriate official of the District of Columbia or the United States, as applicable. Grantee shall use its best efforts to notify SHPO and ACHP and Grantor of such operations within two (2) business days (not including a federal holiday) after the commencement of such operations. Nothing in this Historic Covenant shall be deemed to prevent Grantee from taking immediate rescue and salvage operations on the portion of the Property conveyed or leased to it as necessary in an emergency to prevent the loss of life or property.

b. Emergency Undertakings.

i. If, prior to Completion of a portion of the Property, Grantee proposes such an emergency undertaking, which may have an adverse effect on National Register-eligible resources at the Property, as an essential and immediate response to a disaster or emergency declaration by the President or the Mayor of Washington, D.C., or another threat to life or property, Grantee shall notify Grantor, SHPO, and ACHP and afford SHPO and ACHP an opportunity to comment within seven (7) business days (not including a federal holiday) of such notification. If Grantee determines that circumstances do not permit seven (7) business days for comment, then Grantee shall notify Grantor, SHPO, and ACHP and invite comments within the time available. Grantee shall consider, as applicable in light of the urgency of the circumstances, any comments received in reaching a decision on how to proceed with the emergency undertaking.

ii. These emergency procedures apply only to undertakings that may have an adverse effect on National Register-eligible resources at the Property and that will be implemented within thirty (30) calendar days after the disaster or emergency occurs. Grantee may request an extension of the period of applicability from Grantor (if Transfer is by Ground Lease), SHPO, and ACHP prior to the expiration of the thirty (30) calendar days.

10. **Unanticipated Adverse Effects**

If unanticipated adverse effects occur to any Contributing Structure, Grantee shall notify Grantor, SHPO, ACHP, and the Consulting Parties of such unanticipated adverse effects within two (2) business days (not including a federal holiday) of Grantee learning of such unanticipated adverse effects. In carrying out any efforts in response to such unanticipated adverse effects, Grantee shall comply with this Historic Covenant. The effect and the resulting restoration, repair, replacement, rehabilitation, and/ or mitigation shall be documented by Grantee within the corresponding semi-annual progress report.

11. Inspection

After Transfer of any portion of the Property and through Completion of such portion of the Property, SHPO and/or ACHP may, subject to reasonable prior notice in writing to Grantor and Grantee, periodically perform reasonable visits to such portion of the Property to ascertain whether Grantee is complying with the conditions of this Historic Covenant. SHPO, ACHP, Grantor, and Grantee shall cooperate in scheduling such visits. After Completion with respect to any portion of the Property, the Grantee shall allow SHPO and ACHP, at all reasonable times and upon reasonable advance written notice to Grantee, to inspect such portion of the Property in order to ascertain whether Grantee is complying with the conditions of this Historic Covenant.

12. Waiver

Failure of any party to exercise any right or remedy granted under this Historic Covenant shall not have the effect of waiving or limiting the exercise by such party of any such right or remedy, or the invocation of such right or remedy, at any other time.

13. Remedies

a. In the event of an alleged violation of this Historic Covenant, and in addition to any remedy now or hereafter provided by law, SHPO may, following reasonable written notice to Grantee, institute suit to enjoin said alleged violation or to require that the violation be remedied. Instead of the institution of suit as described above, SHPO and Grantee may by mutual agreement in writing, choose to use the dispute resolution procedures described below or other procedures mutually acceptable to them.

b. If SHPO objects to Grantee's performance of its obligations under this Historic Covenant, Grantee shall consult with SHPO in response to the objections. If, after initiating such consultation, Grantee determines that the objection cannot be resolved, Grantee shall forward all documentation relevant to the objection, including Grantee's issued or proposed response to the objections, to ACHP, with a request that, within thirty (30) calendar days after receipt of all such documentation, ACHP exercise one of the following options:

i. Advise Grantee that ACHP concurs in Grantee's issued or proposed response, in which case the matter shall be deemed resolved and the Grantee may proceed notwithstanding the objections of SHPO;

ii. Provide Grantee with recommendations that Grantee shall consider in deciding whether to proceed notwithstanding the objections of SHPO; or

iii. Notify Grantee that the objection will be referred to the ACHP membership for formal comments, and deliver such comments to Grantee within thirty (30) calendar days following such notification, in which case Grantee shall consider the resulting comments in deciding whether to proceed notwithstanding the objections of SHPO.

c. If ACHP does not exercise one of the options in Paragraph 13.b above within thirty (30) calendar days after receipt of all pertinent documentation, or if, after having received the notification in Paragraph 13.b.iii, Grantee has not received the comments, if any, from the ACHP membership from ACHP within the stated time period, Grantee may assume the ACHP's concurrence in its proposed response to the objections, in which event Paragraph 13.b.i shall apply.

d. Any disputes under this Historic Covenant between Grantor and SHPO that were governed by Stipulation III of the Programmatic Agreement prior to Completion shall for purposes of this Historic Covenant continue to be governed by Stipulation III for as long as the Historic Covenant remains in effect.

14. Approval Rights of Grantor

Grantor has certain approval and other rights, as set forth in the Declaration of Covenants, a Ground Lease, or otherwise, in addition to any such rights set forth in this Historic Covenant.

15. Obligations Binding Upon Grantee Only as to Portions of the Property Transferred to It

Notwithstanding anything to the contrary herein, the obligations set forth in this Historic Covenant shall be binding upon a Grantee only with respect to that portion of the Property that has been Transferred to such Grantee or its predecessor(s) and only from the date such Grantee acquires fee or leasehold title (as described in Paragraph 16 below) until the date, if any, that such portion of the Property or such leasehold estate therein is transferred by it to another party, whereupon such other party shall become bound hereby. By becoming a Grantee, whether by acceptance of the delivery of a deed or other instrument transferring fee simple title of any portion of the Property, the Grantee's execution of a Ground Lease for the transfer of possession of any portion of the Property, or otherwise, Grantee shall be bound to comply with the conditions, restrictions and

limitations, and otherwise to perform the obligations, set forth herein, as to such portion of the Property.

16. Successors and Assigns

This Historic Covenant shall be binding on Grantee as to the portion of the Property Transferred to Grantee or any part thereof or its predecessors. The restrictions, stipulations, and covenants contained herein shall be inserted by Grantee with respect to such portion of the Property or part thereof conveyed or assigned, verbatim or by express reference, in any deed or other legal instrument by which it divests itself of either the fee simple title or any lesser estate in such portion of the Property, or any part thereof. Grantee shall be obligated under the terms of this Historic Covenant only for the obligations of this Historic Covenant that arise or are incurred during the period of time when it holds legal title to any portion of the Property or possesses leasehold title to any portion of the Property under a Ground Lease. If at any time, however, Grantor succeeds to fee simple title to a portion of the Property Transferred by fee simple title, and at the termination or earlier expiration of any Ground Lease with respect to any portion of the Property, then, at Grantor's election, this Historic Covenant shall no longer be in force and effect with respect to such portion of the Property. The expiration or earlier termination of this Historic Covenant does not excuse or relieve Grantee from its obligations that by their terms are to be performed after the termination or earlier expiration of this Historic Covenant.

17. Termination of Programmatic Agreement

If, at any time, the Programmatic Agreement is terminated, Grantee shall be bound by this Historic Covenant with respect to any portion of the Property which has been transferred to the Grantee, whether prior to or subsequent to termination of the Programmatic Agreement, provided such transfer has not been revoked or terminated.

18. Coordination of Reviews under Federal and District of Columbia Law

Stipulation II of the Programmatic Agreement states as follows:

"In carrying out its functions under [the] Programmatic Agreement pursuant to the NHPA, SHPO has sought and may continue to seek the advice of the HPRB [District of Columbia Historic Preservation Review Board] on the Revised Master Plan and the Historic Preservation Design Guidelines, as they may be amended, in their entirety, and on the implementation of and any revisions to the Revised Master Plan and the Historic Preservation Design Guidelines, as they may be amended, in their entirety. The goal is that the recommendations, if any, made by the HPRB in response to such consultation shall constitute the recommendations of the HPRB under the District of Columbia Historic Landmark and Historic District Protection Act of 1978, D.C. Official Code Sec. 6-1101 et seq., (as it may be amended, the 'DC Historic Protection Law') with respect to proposed actions

on any portion of the Property, if the DC Historic Protection Law applies after the Transfer of such portion of the Property. Further, the SHPO will request that HPRB delegate authority to the SHPO to review for each portion of the Property any Design Submissions for purposes of both [the] Programmatic Agreement and the DC Historic Protection Law. However, SHPO may submit to HPRB for its review any Design Submission that SHPO determines not to be consistent with the Revised Master Plan and/or the Historic Preservation Design Guidelines.”

19. Duration

This Historic Covenant shall continue in effect in perpetuity as to the entire Property, except that Paragraphs 2 and 4 of this Historic Covenant shall terminate, as to any portion of the Property, upon the date (the “Plan Sunset Date”) which is the later of (a) June 1, 2032 or (b) twenty (20) years after Completion of such portion of the Property.

20. SHPO/ACHP Reviews Conducted Pursuant to Programmatic Agreement


With respect to any Design Submission, amendment to the Revised Master Plan or amendment to the Historic Preservation Design Guidelines or other matter for which Consultation with, and/or approval by, SHPO or ACHP is otherwise contemplated by this Historic Covenant:

a. if such Consultation has been completed, or such approval has been granted, by SHPO or ACHP, as the case may be, under the Programmatic Agreement prior to the Transfer of the affected portion of the Property to the Grantee, the Grantee shall not be required under this Historic Covenant to submit such matter for Consultation and/or approval by SHPO or ACHP unless material changes are made to such Design Submission, amendment or other matter; and

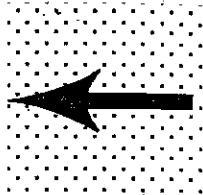
b. if Grantor has submitted such matter to SHPO and/or ACHP, as appropriate, prior to the Transfer of the affected portion of the Property to the Grantee, but Consultation under the Programmatic Agreement has not been completed or approval has not been granted by SHPO or ACHP, as the case may be, prior to such Transfer, the date of such submission to SHPO and/or ACHP, as the case may be, shall be deemed the date of submission to SHPO and ACHP, as the case may be, for purposes of this Historic Covenant.

IN WITNESS WHEREOF, the Grantor has executed this Historic Covenant as of the day and year first above written.

GENERAL SERVICES ADMINISTRATION

By: 

Date: 7/5/07



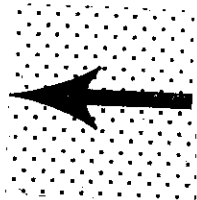
Assistant Regional Administrator
National Capital Region

CONSENTED TO BY:

DISTRICT OF COLUMBIA STATE HISTORIC PRESERVATION OFFICER

By: _____

Date: _____



David Maloney
Acting State Historic Preservation Officer

IN WITNESS WHEREOF, the Grantor has executed this Historic Covenant as of the day and year first above written.

GENERAL SERVICES ADMINISTRATION

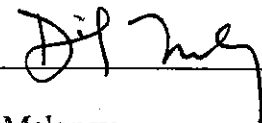
By: 

Date: 7/5/07

Assistant Regional Administrator
National Capital Region

CONSENTED TO BY:

DISTRICT OF COLUMBIA STATE HISTORIC PRESERVATION OFFICER

By: 

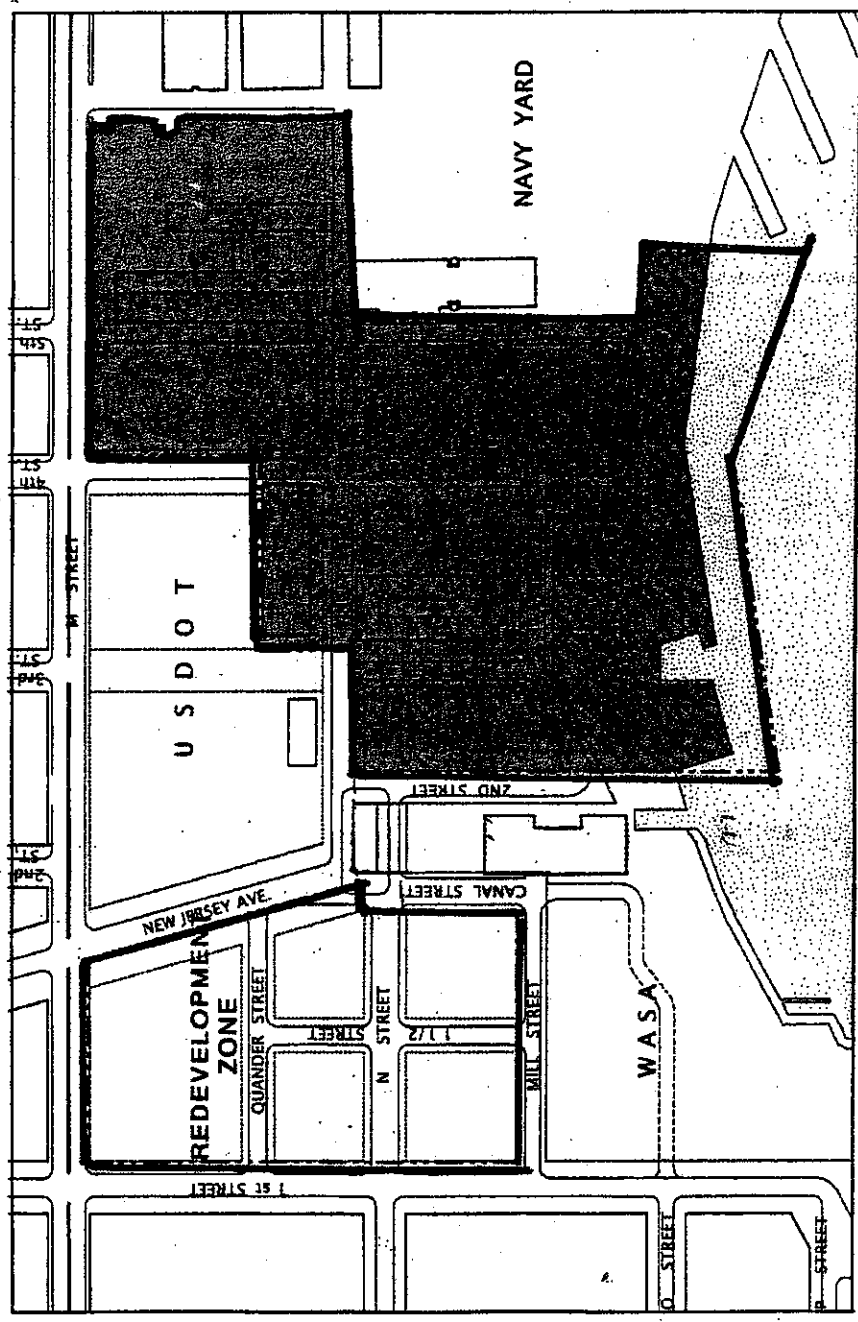
Date: 7/17/07

David Maloney
Acting State Historic Preservation Officer

Exhibits to Historic Covenant

Exhibit A-1	Map of Property
Exhibit A-2	Metes and Bounds of Property
Exhibit B	Archeologically Sensitive Zones
Exhibit C	Contributing Structures
Exhibit D	Historic Zone
Exhibit E	Revised Master Plan
Exhibit F	Historic Preservation Design Guidelines
Exhibit G	Maintenance Program
Exhibit H-1	Archeology Requirements - after Transfer of Fee Simple or Dedication to Public Use
Exhibit H-2	Archeological Requirements – for Ground Lease Transfer
Exhibit I	List of Significant Interior Features

EXHIBIT A-1
MAP OF PROPERTY



- LEGEND:
- HISTORIC ZONE
 - WATERFRONT AREA
 - REDEVELOPMENT ZONE
 - Property**
 - CHARACTER ZONES

SOUTHEAST FEDERAL CENTER
 WASHINGTON, D. C.

FOREST CITY WASHINGTON
 SHALOM BARANES ASSOCIATES

© 2005
 12-05-05

**HISTORIC COVENANT
EXHIBIT A-2**

METES AND BOUNDS OF PROPERTY

Description of:

**REMAINING PARTS OF
SOUTHEAST FEDERAL CENTER**

42.09178 acres, more or less,

**Being portions of the former WASHINGTON NAVY YARD ANNEX
U.S. RESERVATION 14,**

Bounded by:

**1st Street, S.E., M Street, S.E., Isaac Hull Avenue, S.E. and Anacostia River,
Ward.6 — ANC 6D
District of Columbia.**

The remaining 42.09178 acres of Southeast Federal Center, formerly part of Washington Navy Yard Annex, U.S. Reservation 14, as purchased and authorized by Acts of Congress in 1917 and thereafter (34 Stat 1187; 39 Stat 566), being bounded in part, except as otherwise set forth herein, on the west by 1st Street, S.E., on the north by M Street, S.E., on the east by Isaac Hull Avenue, S.E. and on the south by the Anacostia River and other described features; said land being all of the property transferred from the U.S. Department of the Navy to the U.S. General Services Administration by unrecorded agreement effective October 1, 1963; SAVING and EXCEPTING therefrom, however, the approximately 6 acres of land for Building 197 returned to the Navy pursuant to Public Law 100-456, effective September 29, 1988; and also SAVING and EXCEPTING therefrom the 11.0498 acres designated as the future headquarters of the U.S. Department of Transportation, said 11.0498 acres being known for purposes of assessment and taxation, at the date hereof, as Lots 802, 803, 804, 805 and 806 in Square 770, District of Columbia; and SAVING and EXCEPTING also therefrom the 1.7164 acres set aside for boiler, power plant and cooling towers presently serving the Washington Navy Yard, said 1.7164 acres being designated as Navy Yard Buildings 116 and 118, to be transferred in Fee to the U.S. Department of the Navy; and SAVING and EXCEPTING also therefrom the 0.37728 of an acre to be transferred in Fee to the U.S. Department of the Navy for Isaac Hull Avenue, S.E. and appurtenances; said remaining 42.09178 acres being more particularly described, in two non-contiguous parcels, in accordance with a survey prepared for GSA by A. Morton Thomas & Associates, Inc., dated August, 2005, and following the bearing meridian of the Washington Metropolitan Area Transit Authority (WMATA), as follows:

PARCEL "A"

BEGINNING for Parcel "A," the westerly remaining portion of Southeast Federal Center, at the intersection of the east line of 1st Street, S.E. (110 feet wide) and the south line of M Street, S.E. (90 feet wide), being the northwest corner of Square 743 as shown among the Records of the Office of the Surveyor, D.C.; thence departing 1st Street, S.E. and running with said south line of M Street, S.E. and the north line of Square 743

1. South $89^{\circ} 57' 31''$ East, 426.90 feet to the new westerly line of New Jersey Avenue, S.E., as proposed to be reopened and dedicated to public use (known for purposes of assessment and taxation at the date hereof as Lot 805 in Square 770); thence departing M Street, S.E. and running with said line of proposed New Jersey Avenue, S.E. (Lot 805 in Square 770)
2. South $15^{\circ} 40' 15''$ East, 607.63 feet to the north line of Canal Street, S.E. (80 ft. wide per Records); thence departing said proposed New Jersey Avenue, S.E. and running with the north line of Canal Street, S.E.
3. North $89^{\circ} 57' 31''$ West, 62.75 feet to the southeast corner of Square 743 aforesaid; being also the northwest corner of Canal Street, S.E.; thence departing Square 743 and running with the west line of Canal Street, S.E.
4. Due SOUTH, 329.73 feet to the north line of N Place, S.E. (60 ft. wide); thence departing Canal Street, S.E. and running with said line of N Place, S.E.
5. Due WEST, 528.67 feet to the east line of 1st Street, S.E. as previously mentioned; thence departing N Place, S.E. and running with said line of 1st Street, S.E.
6. North $00^{\circ} 01' 29''$ East, 915.04 feet to the place of beginning, containing a computed area of 472,175 square feet or 10.83964 acres of land, more or less.

NOTE: At the date hereof, the above-described Parcel "A" is known for purposes of assessment and taxation as Lot 854 in Square 743, Lot 806 in Square 744 and a portion of New Jersey Avenue (Closed), S.E.

PARCEL "B"

BEGINNING for Parcel "B," the easterly remaining portion of Southeast Federal Center, at a point on the south line of M Street, S.E. (90 ft. wide), at the east line of 4th Street, S.E. (60 ft. wide) as the same is proposed to be dedicated and reopened to public use, said portion of 4th Street, S.E. being known for purposes of assessment and taxation, at the date hereof, as Lot 806 in Square 770; the aforesaid Point of Beginning for Parcel "B" being also the northwest corner of Original Square 826 as shown upon the 1805 King Plats of Washington and other records on file in the Office of the Surveyor of the District of Columbia; and lying also DISTANT South $89^{\circ} 57' 31''$ East, 1,499.45 feet from the east line of 1st Street, S.E. (110 ft. wide) as previously mentioned; thence departing said proposed 4th Street, S.E. (Lot 806 in Square 770) and running with the south line of M Street, S.E.

1. South $89^{\circ} 57' 31''$ East, 694.27 feet; thence departing M Street, S.E. and running
2. South $00^{\circ} 36' 06''$ East, 51.72 feet; thence
3. North $89^{\circ} 21' 18''$ East, 20.21 feet; thence

4. South 01° 30' 23" East, 104.74 feet; thence
5. North 89° 04' 53" East, 2.93 feet; thence
6. South 00° 31' 00" East, 390.92 feet; thence
7. South 89° 06' 50" West, 437.49 feet to the northwest corner of the land presently occupied by the boilers, power plant and cooling towers serving Washington Navy Yard, being designated as Navy Yard Buildings 116 and 118; thence running with the westerly line of said land, binding upon the west face of Building 118 and a chain-link security fence for part of the distance
8. South 00° 53' 10" East, 549.39 feet; thence
9. North 89° 11' 03" East, 17.60 feet to the westerly face of Navy Yard brick security wall; thence departing said chain link fence and running with said face of brick wall
10. South 00° 53' 10" East, 72.94 feet to an angle point in said Navy Yard brick security wall; thence following the south face of said wall
11. North 89° 11' 03" East, 128.88 feet to a Navy Yard security fence; thence
12. South 02° 27' 20" West, 142.82 feet to the southerly face of the Anacostia River Seawall, as now constructed; thence passing beyond said seawall and extending out into the Anacostia River to the established Pierhead Line
13. South 00° 54' 04" East, 201.18 feet; thence running with said Pierhead Line
14. North 72° 06' 56" West, 473.11 feet; thence still with said Pierhead Line
15. South 81° 32' 37" West, 672.20 feet; thence departing said established Pierhead Line and running
16. North 00° 02' 29" East, 887.45 feet, departing the Anacostia River and crossing over its existing seawall after 221.85 feet of length, and thereafter running with the easterly line of that certain area of Public Space unofficially used as 2nd Street, S.E., and also with the west line of original Square 771 for a portion of the distance, to a point on the south line of future Tingey Street, S.E. (width varies), intended to be dedicated to public use and known at the date hereof for purposes of assessment and taxation as Lot 805 in Square 770; thence running with the outline of said future Tingey Street, S.E. (Lot 805)
17. North 45° 02' 28" East, 33.40 feet; thence still with said Lot 805
18. South 89° 57' 31" East, 235.80 feet; thence

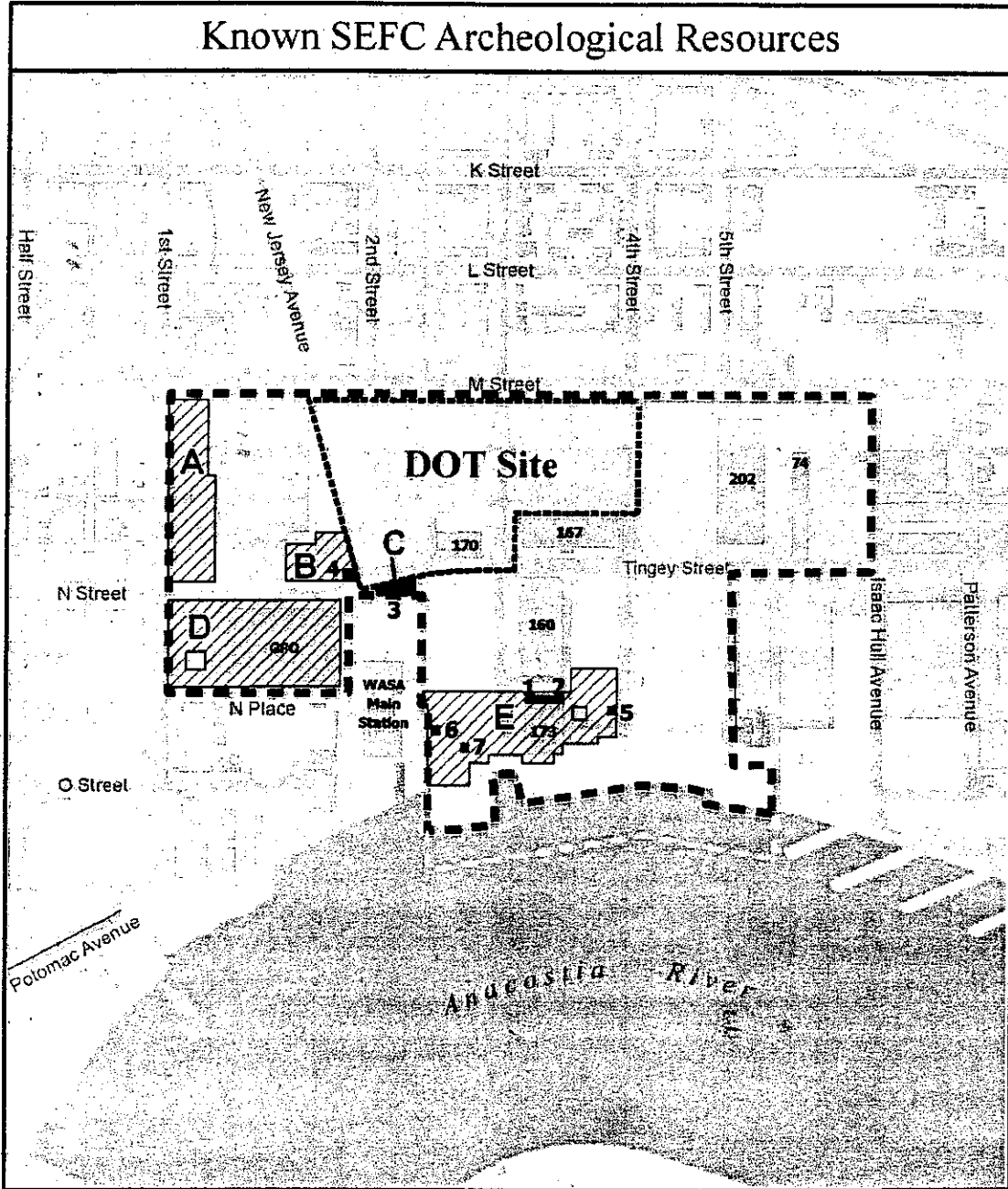
19. North $00^{\circ} 02' 29''$ East, 198.35 feet, departing said future Tingey Street (Lot 805) after the first 66.38 feet of distance and running thereafter with the outline of the future United States Department of Transportation Headquarters site, being known for purposes of assessment and taxation, at the date hereof, as Lot 802 in Square 770; thence continuing still with said Lot 802 for a portion of the following course and distance
20. South $89^{\circ} 57' 31''$ East, 414.74 feet to the southeast corner of future 4th Street, S.E., intended to be dedicated as previously mentioned, and presently known for purposes of assessment and taxation as Lot 806 in Square 770; and thence running with the east line of said proposed 4th Street, S.E. (Lot 806), being the west line of Original Square 826
21. North $00^{\circ} 02' 29''$ East, 362.96 feet to the place of beginning, containing a total area of 1,361,343 square feet or 31.25214 acres, of which 148,498 square feet or 3.40906 acres are water of the Anacostia River, extending out to the established Pierhead Line, and 1,212,845 square feet or 27.84309 acres are fast land.

The combined total area of Parcels "A" and "B," being the two non-contiguous western and eastern remaining portions of Southeast Federal Center, is 1,833,518 square feet or 42.09178 acres, more or less.

EXHIBIT B
ARCHEOLOGICALLY SENSITIVE ZONES

Archeologically Sensitive Zones

Known SEFC Archeological Resources



	In-Water SEFC Property Boundary (Exempt from SEFC EIS)		Known Resource
	Upland SEFC Property Boundary		4. Occupation-related Features
	Area with Archeological Potential		5. Wharf Remains
	National Register-Eligible Resource		6. Historic Soils
	1. Thomas Blagden's Wharf		7. Wharf Remains
	2. Columbia Pottery Deposits		Existing Building
	3. Washington City Canal		Exempt from SEFC EIS

N

0 200 400 600 Feet

0 50 100 150 Meters