

Preserving America's Heritage

September 21, 2015

Ms. Nancy Witherell
Regional Historic Preservation Officer
National Capital Region
U.S. General Services Administration
7th and D Streets, NW, Room 2020
Washington, DC 20405

RE: *Memorandum of Agreement Regarding the Adaptive Use of the Center Building
St. Elizabeths National Historic Landmark
Washington, D.C.*

Dear Ms. Witherell:

The Advisory Council on Historic Preservation (ACHP) has signed the subject Memorandum of Agreement (MOA) for the referenced project, and our signature page is enclosed. By carrying out the terms of the MOA, GSA will fulfill its responsibilities under Section 106 of the National Historic Preservation Act and the regulations of the ACHP. The original MOA will remain on file at our office.

If we may be of further assistance as the MOA is implemented, please contact Ms. Kirsten Kulis, GSA Liaison, (202) 517-0217, or via e-mail at kkulis@achp.gov.

Sincerely,

Tom McCulloch
Acting Assistant Director
Office of Federal Agency Programs
Federal Property Management Section

Enclosure

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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**MEMORANDUM OF AGREEMENT
AMONG
THE UNITED STATES GENERAL SERVICES ADMINISTRATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
THE DISTRICT OF COLUMBIA STATE HISTORIC PRESERVATION OFFICE,
THE NATIONAL CAPITAL PLANNING COMMISSION,
AND
THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY,
REGARDING THE ADAPTIVE USE OF THE CENTER BUILDING (BUILDINGS 1-6 AND 8)
AS THE OFFICE OF THE SECRETARY OF THE UNITED STATES DEPARTMENT OF
HOMELAND SECURITY
ST. ELIZABETHS NATIONAL HISTORIC LANDMARK,
WASHINGTON, D.C.**

This Memorandum of Agreement (“MOA”) is made as of this 21 day of September 2015, by and among the United States General Services Administration (“GSA”), the Advisory Council on Historic Preservation (“ACHP”), the District of Columbia State Historic Preservation Office (“DCSHPO”), the National Capital Planning Commission (“NCPC”), and the United States Department of Homeland Security (“DHS”) (all referred to collectively herein as the “Signatories” or individually as a “Signatory” or as the “Parties” or individually as a “Party”), pursuant to Sections 106 and 110 of the National Historic Preservation Act (“NHPA”), 54 U.S.C. §§ 306108 and 306107, the Section 106 implementing regulations at 36 CFR Part 800, and the Programmatic Agreement (“PA”) (Exhibit 1) among GSA, ACHP, DCSHPO, FHWA (or “Federal Highway Administration”), NCPC, and DHS regarding the Redevelopment of St. Elizabeths National Historic Landmark (“NHL”), Washington, D.C., dated December 9, 2008, which contemplates a multi-phased Redevelopment Project on the St. Elizabeths campus (“Redevelopment Project”) that is informed by the Secretary of the Interior’s Standards for the Treatment of Historic Properties (“Secretary’s Standards”) and the execution of one or several separate Memoranda of Agreement (“MOAs”) to develop and implement the Redevelopment Project per 36 CFR § 800.6, of which this MOA is the third MOA for Phase II (“Phase II”) of the Redevelopment Project; and

WHEREAS, St. Elizabeths (“St. Elizabeths”) is located in the Southeast quadrant of Washington, D.C. and consists of the 176-acre West Campus (“West Campus”) and the 173-acre East Campus (“East Campus”) (Exhibit 2; St. Elizabeths Regional Plan); and

WHEREAS, pursuant to the PA and respective MOAs, on the West Campus GSA has undertaken development of the new U.S. Coast Guard Headquarters, an adjacent parking garage, rehabilitation and adaptive use of several of the NHL West Campus contributing buildings, roadway access to Firth Sterling Street, SW, and perimeter security improvements, all of which align with the square footage development totals contemplated in Phase I of the Redevelopment Project as detailed in the PA; and

WHEREAS, the Undertaking (hereinafter defined) contemplated by this MOA is part of a larger undertaking for the Redevelopment Project, addressed in the PA, *The DHS Headquarters Consolidation at St. Elizabeths Final Master Plan, Washington, DC, November 10, 2008* (“Master Plan”), *The DHS Headquarters Consolidation at St. Elizabeths Master Plan Amendment: Federal Use Parcel of the East Campus, Washington, DC, March 30, 2012* (“Master Plan Amendment”)(Exhibit 3), and the *Consolidation at St. Elizabeths Master Plan Amendment – East Campus North Parcel Environmental Impact Statement, March 2012* (“FEIS”)(“Exhibit 4) which

proposes GSA's redevelopment of the entire West Campus of St. Elizabeths and implementation of transportation improvements to provide ingress and egress to the West Campus; and

WHEREAS, GSA has entered into ten (10) year preliminary Occupancy Agreements ("OA") for Phases I and II of the Redevelopment Project on the West Campus and is reviewing additional preliminary OA's for future phases of the Redevelopment Project, wherein DHS anticipates they will occupy the West Campus, creating a high-security Interagency Security Committee ("ISC") Level 5 facility that meets DHS's program and functional requirements consistent with the Master Plan and the Master Plan Amendment; and

WHEREAS, the purpose of this MOA, for which GSA formally notified ACHP of its continued consultation on May 1, 2014 (Exhibit 5), is for the adaptive use of the Center Building as a modern Federal office building; and to ensure continued compliance with the PA and NHPA, including Sections 106 and 110(f). GSA shall carry out consultation for each phase of development while satisfying the programmatic requirements of DHS and, prior to any effort that may directly or adversely affect the Site (hereinafter defined), shall to the maximum extent possible undertake planning and actions as may be necessary to minimize harm to the NHL and afford ACHP a reasonable opportunity to comment; and

WHEREAS, the program for the building would support DHS's 900-seat goal in accordance with GSA's National Business Space Assignment Policy as updated; the March 2015 Implementation of Office of Management and Budget ("OMB") Memorandum M-12-12 Section 3: Reduce the Footprint (collectively referred to as "GSA Workspace Standards")(Exhibit 6); and DHS Workspace Standards ("DHS Workplace Standards") (Exhibit 7); and

WHEREAS, GSA has determined the Area of Potential Effect ("APE"), revised on April 26, 2011 and March 23, 2012, (Exhibit 8), as defined in 36 CFR § 800.16(d), for the Undertaking includes both physical and visual areas; and

WHEREAS, the following activities, collectively referred to as the Undertaking ("Undertaking") will satisfy the program requirements to support Phase IIa ("Phase IIa") of the Redevelopment Project. GSA proposes to adaptively use NHL Contributing Buildings 1 ("Center 1"), 2 ("Center 2"), 3 ("Center 3"), 4, ("Center 4"), 5 ("Center 5"), 6 ("Center 6") and 8 ("Center 8") (referred to individually by their numbers or together as "Center Building"), which are located on the West Campus of St. Elizabeths (the "Site") (Exhibit 9) and together occupy approximately 265,800 gross square feet ("GSF"); install utilities associated with Center Building; rehabilitate select adjacent Contributing Landscape Character Defining Features ("Contributing Landscape Features"); improve the existing roads to and parking surfaces around the Center Building and conduct associated site work within the Limit of Disturbance (hereinafter defined) under a design-build delivery method; and

WHEREAS, GSA consulted on the Center Building Preliminary Design ("Center Building Preliminary Design") (Exhibit 10) for the Undertaking to evaluate alternatives or modifications to the Undertaking that would avoid, minimize or mitigate adverse effects per 36 CFR § 800.6(a). The Preliminary Design, based on the extensive forensic and structural investigation, reflects proposed exterior rehabilitation and restoration, partial interior reconstruction, and new interior construction; and

WHEREAS, GSA also consulted on a process, stipulated herein, for Signatory and Consulting Party (hereinafter defined) review of the ongoing design work contemplated by this

MOA (“Design Review Process”), for which the Preliminary Design, informed by the ARMP and the Secretary’s Standards serves as a baseline for the Final Design (“Final Design”); and

WHEREAS, Pre-Construction Activities (“Pre-Construction Activities”) that were necessary to stabilize and prepare the building for essential repair work have been completed. These include removal of asbestos, removal of window protection, removal of non-contributing additions, removal of all plaster at the interior face of the exterior walls, removal of all window sash and trim for evaluation and select reinstallation, repair of exterior wall ground level masonry, and temporary removal of various landscape elements for storage and reinstallation, all of the foregoing are further described in the Abatement and Removal of Non-Contributing Additions correspondence (Exhibit 11), were found by GSA to be a separate undertaking that constituted no adverse effect, with modifications and conditions, and the DCSHPO concurred (Exhibits 12, 13, and 14), and no disagreement with the finding was received under 36 CFR § 800.5(c). These Pre-Construction Activities allowed for GSA to commence with the efforts necessary to abate, stabilize, brace and underpin the building to protect it from further deterioration in preparation for forthcoming rehabilitation and renovation efforts; and

WHEREAS, GSA, as the Federal agency with jurisdiction over the St. Elizabeths West Campus and the lead agency for Section 106 purposes for this Undertaking, is responsible for the ongoing stabilization, maintenance, upkeep and protection of the West Campus in accordance with the separate National Capital Region Programmatic Agreement throughout redevelopment and in perpetuity as long as the West Campus remains in its control and jurisdiction *provided that* if GSA proposes to transfer the West Campus or any portion thereof to any non-federal entity, such an undertaking would be subject to the provisions of 36 CFR Part 800; and

WHEREAS, NCPC will review the Center Building and components of the Undertaking pursuant to the National Capital Planning Act of 1952 and has designated GSA lead agency for NCPC’s compliance pursuant to 36 CFR § 800.2(a). NCPC will rely upon the PA and this MOA to fulfill its Section 106 obligation for any approval action taken associated with its review; and

WHEREAS, GSA delineated the Limit of Disturbance (“LOD”) as the footprint associated with this Undertaking and the immediately surrounding areas (Exhibit 9); and

WHEREAS, GSA applied the Criteria of Adverse Effect (36 CFR § 800.5(a)(1)) and determined that the Undertaking shall have an adverse effect on the Center Building Character Defining Features (Exhibit 15), and GSA notified DCSHPO and ACHP of its adverse effect determination for this Undertaking on May 1, 2014, in accordance with the PA, and GSA has continued its ongoing consultation with the Signatories and the Consulting Parties (hereinafter defined) to avoid, minimize or mitigate adverse effects in accordance with the PA; and

WHEREAS, GSA applied the Criteria of Adverse Effect (36 CFR § 800.5(a)(1)) and also determined that the Undertaking shall have an adverse effect on Contributing Landscape Features (Exhibit 16), which is based on information developed for the St. Elizabeths West Campus Master Plan Final Environmental Impact Statement (“FEIS”) and derived from the St. Elizabeths West Campus Cultural Landscape Report (“CLR”) and the Landscape Preservation Management Plan (“LPMP”); and

WHEREAS, GSA submitted the final Master Plan, inclusive of the Preservation, Design & Development Guidelines (“Design Guidelines”), to NCPC and the U.S. Commission of Fine Arts (“CFA”) on November 10, 2008, and approval was granted on November 20, 2008, by CFA and

January 8, 2009, by NCPC at their regularly scheduled meetings. The final Master Plan Amendment was approved on May 17, 2012, by CFA and June 7, 2012, by NCPC at their regularly scheduled meetings; and

WHEREAS, GSA, in accordance with Sections III.D.1.a and III.D.1.c of the PA, completed Historic American Buildings Survey (“HABS”) documentation in November 2012, in accordance with DCSHPO and NPS guidance for Center Building (Exhibit 17), and completed Historic Structures Reports (“HSRs”) for Center Building (Exhibit 18); and

WHEREAS, GSA conducted extensive forensic and structural investigation documenting the poor physical condition and structural integrity of the Center Building in July 2014 Structural Recommendation Report (Exhibit 19); and

WHEREAS, GSA has identified in accordance with 36 CFR § 63.2 the existing Contributing Landscape Features (Exhibit 16) on the Site that contribute to the character and significance of the NHL and proposes to retain, to the maximum extent possible, Contributing Landscape Features and to otherwise be guided by landscape restoration, treatment and maintenance guidelines outlined in the Design Guidelines, the CLR and the associated LPMP (Exhibit 20); and

WHEREAS, GSA, in accordance with Section III.D.1.a of the PA, completed Historic American Landscape Survey (“HALS”) documentation in January 2010 for the overall West Campus documentation (Exhibit 21); and

WHEREAS GSA completed the Phase I archaeological survey, *Phase I Archaeological Survey of Portions of the St. Elizabeths Hospital West Campus, Washington, D.C.*, by Kreisa, McDowell, and Kermes (2008) (Exhibit 22), with which the DCSHPO concurred, as part of a phased approach to the identification and evaluation of archaeological resources, pursuant to 36 CFR § 800.4(b)(2), and to the application of criteria of adverse effect, pursuant to 36 CFR § 800.5(a)(3), as appropriate. Areas where an archaeological identification survey or identified site National Register of Historic Places (“NRHP”) evaluation have not yet occurred shall not be subject to ground-disturbing activities for the proposed Undertaking until such testing and evaluation have occurred and the DCSHPO has concurred with the results as described in the PA Exhibit 14 and Stipulation II.D.2, below; and

WHEREAS, GSA, in compliance with the PA, informed by the studies and consultation noted above, and in consultation with the DCSHPO, finalized the Archaeological Resources Management Plan (“ARMP”)(Exhibit 23) in August 2012; and

WHEREAS, GSA completed the Phase II archaeological survey, *Phase II NRHP Evaluation of Five Archaeological Sites within the St. Elizabeths NHL West Campus (51SE046), Washington, D.C.* by Kreisa, Cochran, McDowell, and Powell (2013), which determined Area N (“Area N” or archaeological site 51SE046-N) NRHP-eligible, with which the DCSHPO concurred (Exhibit 24) and whose boundaries are shown on Exhibit 25 and are within the LOD (hereinafter defined); and

WHEREAS, GSA applied the Criteria of Adverse Effect (36 CFR § 800.5(a)(1)) and determined that the Undertaking shall have an adverse effect on archaeological sites 51SE046 Area N, 51SE046 Area F, 51SE046 adjacent to the north façade of Center 3 (West Wing), 51SE046 adjacent to the north façade of Center 1 (Center Building), 51SE046 adjacent to the

east façade of Center 4 (East Wing), and GSA consulted on measures to avoid, minimize or mitigate adverse effects; and

WHEREAS, GSA completed a geophysical survey and ground-truthing investigation of archaeological site 51SE046 Area N and areas adjacent to the exterior walls of the Center Building which located numerous archaeological features and deposits related to the construction and use of the Center Building (“Center Building Archaeological Resources”) (Exhibit 26) as documented in *Management Summary: St. Elizabeths West Campus Ground Penetrating Radar (“GPR”) Survey Archaeological Investigations* by Kreisa (2015) and *Preliminary Management Summary: St. Elizabeths West Campus Center Building Foundation Repair Archaeological Investigations* by Kreisa (2015); and

WHEREAS, GSA, in accordance with Section III.C.1.c of the PA, consulted with NCPD and CFA, and shall work with both agencies to determine appropriate submittal dates for the Preliminary Design Submission (“Preliminary Design Submission”) and Final Design Submission (“Final Design Submission”); and

WHEREAS, GSA informed the Signatories and Consulting Parties during consultation that GSA shall comply with laws and Executive Orders current at the time of action to: increase energy efficiency such that buildings are at least thirty percent more energy efficient than the requirements of ASHRAE 90.1 (to the extent economically practicable); utilize energy from renewable sources; lower energy consumption per square foot by 2.5 percent annually; and improve water efficiency. GSA will also work to increase energy security by expanding Federal supply of energy. The Guiding Principles for Federal Leadership in High Performance and Sustainable Buildings, and the corresponding implementing instructions, will be used in coordination with the Governing Documents (hereinafter defined); and

WHEREAS, GSA recognizes that Indian Tribe(s) may have sites of religious and cultural significance on or off Tribal lands (as defined in 36 CFR § 800.16(x)), and in meeting its Federal trust responsibility, GSA has consulted with the DCSHPO and concludes that there are no areas of tribal interest within the APE. If a Tribe(s) should be subsequently identified or come forward, GSA will engage in government-to-government consultation with the federally recognized Tribe(s), and pursuant to 36 CFR § 800.2 (c)(2)(ii)(E) invite the Tribe(s) to enter into an agreement that specifies how GSA and the Tribe(s) will carry out Section 106 responsibilities, including the confidentiality of information; and

WHEREAS, pursuant to 36 CFR § 800.3(f), GSA identified and invited, in addition to the Signatories identified above, the following Consulting Parties: Advisory Neighborhood Commissions 8A, 8B, 8C, 8D, and 8E, American Society of Landscape Architects, Anacostia Historical Society, Committee of 100 on the Federal City, CFA, Cultural Landscape Foundation, D.C. Preservation League, District of Columbia Department of Transportation, District of Columbia Office of Planning, Department of Navy, Federal Highway Administration, Friends of St. Elizabeths, National Association of Olmsted Parks, Medical and Professional Society of St. Elizabeths Hospital, National Coalition to Save Our Mall, National Historic Landmark Stewards Association, National Museum of Civil War Medicine, NPS, National Trust for Historic Preservation, Office of Ward 8 Councilmember, Representative Eleanor Holmes Norton, St. Elizabeths Hospital (D.C. Department of Mental Health), Ward 8 Transportation Task Force, and Washington Metropolitan Area Transit Authority (referred to collectively herein as the "Consulting Parties"); and

WHEREAS, GSA informed the Signatories and Consulting Parties during consultation that GSA shall continue to provide an opportunity for public involvement in the development of future undertakings of the project in accordance with the PA and 36 CFR § 800.2(d) and § 800.6(a)(4); and

WHEREAS, GSA informed the Signatories and Consulting Parties during consultation that GSA shall continue to make consultation and non-sensitive Undertaking-related documents accessible to the public through a project website. This MOA includes Sensitive-But-Unclassified (“SBU”) related elements which are included within specific exhibits of this MOA. Any exhibits marked SBU may not be released to any party who does not have a valid and demonstrated “Need to Know.” Nor shall any SBU material be released to a media source or published on any public website that is not accredited to support SBU materials in accordance with SBU guidelines and procedures (Exhibit 27); and

NOW THEREFORE, the Signatories agree that the Undertaking shall be implemented in accordance with the following Stipulations (“Stipulations”) in order to take into account the effect of the Undertaking on historic properties inclusive of potential archaeological resources.

STIPULATIONS

GSA shall ensure that the following measures are carried out:

I. GENERAL REQUIREMENTS

A. Reference Documents and Documentation

The Final Design shall be based upon the Center Building Preliminary Design. As the Center Building Preliminary Design advances through the Design Review Process toward completion, the Final Design, and the implementation of the Undertaking will be informed by the Design Guidelines, LPMP, ARMP, Secretary’s Standards, Contributing Building Character Defining Features (Exhibit 15), Contributing Landscape Features (Exhibit 16), Structural Recommendation Report and a forthcoming Window Treatment Study, hereinafter defined, based on a thirty (30) calendar day, or agreed upon timeframe, review and consultation with the DCSHPO. If GSA and DCSHPO cannot reach consensus within the agreed upon timeframe, GSA shall enter into consultation in accordance with Stipulation III.C of the PA. The Undertaking shall also be carried out in accordance with: the Master Plan, Master Plan Amendment, FEIS and the Record of Decision for the Amended Master Plan, DHS and GSA Workspace Standards and shall take into consideration the HALS, HSRs, and HABS documentation. Collectively, the documents mentioned in this Stipulation shall be referred to as governing documents (“Governing Documents”); and GSA shall also comply with applicable Building and Life Safety Codes.

B. Qualified Personnel

GSA shall ensure that all historic preservation and archaeological work performed by GSA or on its behalf pursuant to this MOA shall be accomplished by or under the direct supervision of a person or persons who meet(s) or exceed(s) the pertinent qualifications in the Secretary of the Interior’s Professional Qualification Standards (36 CFR 61) published in 1983 at 48 FR 44716, incorporated in 36 CFR 61 (Appendix A) until 1999, and now located at http://www.nps.gov/history/local-law/arch_stnds_9.htm (“Qualified Personnel”).

II. AVOIDANCE, MINIMIZATION AND MITIGATION MEASURES

A. Avoidance Measures

GSA shall follow the Construction Staging Plan herein (Stipulation III.B), and also take the following actions to avoid unanticipated adverse effects associated with this Undertaking.

1. Prior to construction, finalize and implement a monitoring and protection plan to measure for movement at the Center Building and Buildings 28, 29, 30, 44, 45 and 46 due to the proposed adjacent construction.
2. If GSA determines NRHP-eligible or listed properties may be affected by excavation and/or construction activities associated with the Undertaking, GSA will develop a monitoring and protection plan, based on a thirty (30) calendar day, or agreed upon timeframe, review and consultation with the DCSHPO. If GSA and DCSHPO cannot reach consensus within the agreed upon timeframe, GSA shall enter into consultation in accordance with Stipulation III.C of the PA.
3. Contributing Landscape Features adjacent to construction and other areas of disturbance shall be protected during construction, per the Construction Staging Plan.
4. Fence the LOD around the Undertaking, thereby protecting nearby contributing building and landscape features not associated with this Undertaking.
5. Complete measures to avoid adverse effects to NRHP-eligible archaeological resources identified under Stipulation II.D, below.

B. Minimization Measures

In accordance with the Preliminary Design and following the Design Review process herein (Stipulation III.A) for the Final Design, GSA shall continue efforts to minimize adverse effects associated with the Undertaking. GSA shall also take the following actions to minimize adverse effects associated with this Undertaking:

1. Repair historic windows to the extent feasible in accordance with the forthcoming Window Treatment Study.
2. Minimize adverse effects to the Contributing Landscape Features within the LOD.
3. Complete measures to minimize adverse effects to NRHP-eligible archaeological resources identified under Stipulation II.D, below.
4. Inventory and evaluate the removal of any Contributing Building Character Defining Features necessary to complete the Undertaking for appropriate salvage and representative feature replication based on previous consultation with the DCSHPO (Exhibit 15).

C. Mitigation Measures

In accordance with the Preliminary Design, GSA shall take the following actions to mitigate adverse effects associated with this Undertaking:

1. Reconstruction of interior walls and decorative trim and elements limited to HSR Restoration Zone 1 as described in Exhibit 10.
2. Complete measures to mitigate adverse effects to NRHP-eligible archaeological resources identified under Stipulation II.D., below.
3. Contributing Landscape Features disturbed shall be replanted, wherever possible, per the LPMP.
4. In areas used temporarily for construction staging, as documented in the Construction Staging Plan (Stipulation III.B), and within the LOD, Contributing Landscape Features shall be restored to their condition prior to construction upon completion of construction.
5. Installation of interpretive exterior signage at main building entrances describing the history of the building.
6. Develop an exhibit per Stipulation III.D.2.c. of the PA using salvage materials removed from the Center Building.

D. Archaeology

1. Additional Investigations:
 - a. GSA conducted a GPR survey of the area agreed upon by GSA and DCSHPO (Exhibit 25), which encompasses Area N and other noncontiguous areas, which have the potential to be National Register-eligible. Additional archaeological resources were discovered during the GPR survey, and GSA consulted with the DCSHPO on measures to avoid, minimize or mitigate adverse effects to the resources. GSA has documented the GPR findings in the appendix E of the ARMP and in *Management Summary: St. Elizabeths West Campus GPR Survey Archaeological Investigations* by Kreisa (2015) and *Preliminary Management Summary: St. Elizabeths West Campus Center Building Foundation Repair Archaeological Investigations* by Kreisa (2015).
 - b. Per the *Management Summary: St. Elizabeths West Campus GPR Survey Archaeological Investigations* by Kreisa (2015) and *Preliminary Management Summary: St. Elizabeths West Campus Center Building Foundation Repair Archaeological Investigations* by Kreisa (2015), GSA has identified potentially National Register-eligible archaeological resources in 51SE046 Area F, 51SE046 adjacent to the north façade of Building 3 (West Wing), 51SE046 adjacent to the north façade of Building 1 (Center Building), 51SE046 adjacent to the east façade of Building 4 (East Wing), as well as 51SE046 Area N.
 - c. Per the *Preliminary Management Summary: St. Elizabeths West Campus Center Building Foundation Repair Archaeological Investigations* by Kreisa (2015), GSA shall undertake monitoring and an alternative mitigation strategy to mitigate the adverse effects of the exterior wall reconstruction on the identified potentially National Register-eligible archaeological resources in 51SE046 Area

F, 51SE046 adjacent to the north façade of Building 3 (West Wing), and 51SE046 adjacent to the north façade of Building 1 (Center Building).

- d. The alternative mitigation strategy shall include monitoring and documentation of archaeological resources in 51SE046 Area F, 51SE046 adjacent to the north façade of Building 3 (West Wing), 51SE046 adjacent to the north façade of Building 1 (Center Building), 51SE046 adjacent to the east façade of Building 4 (East Wing), and data recovery excavations within 51SE046 Area N and the east façade of Building 4 (East Wing). The alternative mitigation shall include preparation of a data recovery plan in consultation with DCSHPO, archaeological excavations within 51SE046 Area N and the east façade of Building 4 (East Wing), artifact analysis, and technical report preparation.
 - e. Per the *Preliminary Management Summary: St. Elizabeths West Campus Center Building Foundation Repair Archaeological Investigations* by Kreisa (2015), GSA has identified several areas along the north and south facades of the Center Building which will be monitored for Unanticipated Archaeological resources during the construction of the Undertaking.
 - f. GSA shall undertake archaeological investigations in the interior basement to determine whether resources are present and will continue to consult with the DCSHPO based on the findings.
2. Unanticipated archaeological discoveries, including sites, features and artifacts, or human remains, discovered during surface or ground-disturbing activities prior to or during construction phases, shall be evaluated by a qualified archaeologist in consultation with the DCSHPO, and in accordance with Exhibit 14 of the PA.

III. DESIGN REVIEW PROCESS

A. Design Review The development of the Center Building Preliminary and Final Designs for the Undertaking shall be advanced by GSA as follows, prior to the commencement of construction:

1. Preliminary Design

- a. Preliminary Design. The Preliminary Design (Exhibit 10), includes Renovation, Repair, Rehabilitation, Restoration and Reconstruction of Character Defining Features to support the modern office requirements of DHS in accordance with GSA and DHS Workspace Standards (Exhibits 6 and 7). The Preliminary Design proposes design treatments for the three preservation zones as depicted in the HSRs: Restoration Zone 1, Rehabilitation Zone 2 and Renovation Zone 3, as identified in the 2010 HSR.

Restoration Zone 1, as identified in the 2010 HSR. The Preliminary Design includes reconstruction of interior walls and decorative trim and elements limited to Restoration Zone 1 as depicted in the HSRs; rehabilitation of selected window sash and trim as determined in the window rehabilitation methodology described in the Pre-Construction Activities previously consulted on with the DCSHPO, and the forthcoming Window Evaluation and Treatment Recommendation Study (“Window Treatment Study”) based on a thirty (30)

calendar day, or agreed upon timeframe, review and consultation with the DCSHPO. If GSA and DCSHPO cannot reach consensus within the agreed upon timeframe, GSA shall enter into consultation in accordance with Stipulation III.C of the PA; repair and restoration of exterior wall masonry; and reconstruction of wooden porches, porte cochere, bay window structure, parapet and roofs, all as described in Exhibit 10.

Rehabilitation Zone 2 and Renovation Zone 3, as identified in the 2010 HSR. The Preliminary Design includes removal of interior walls and floors/structure to support modern office space within the interior spaces identified as Rehabilitation Zone 2 and Renovation Zone 3 as depicted in the HSR; salvaging of select materials for reuse; reconstruction of interior floors at original elevation as described in Exhibit 10.

- b. The Signatories and the Consulting Parties provided comments on the Preliminary Design and GSA has taken those comments into consideration and incorporated them into the design to the fullest reasonable extent as shown in Exhibit 10.
- c. Preliminary Design Submissions to NCPD and CFA. GSA shall submit the Preliminary Design to NCPD and CFA, along with a summary of comments made through this process, for their respective reviews pursuant to each agency's independent jurisdiction over the Undertaking.

2. Final Design

- a. Final Design. The Preliminary Design shall be further developed by GSA into a Final Design that shall be consulted upon in accordance with this Stipulation and the Governing Documents. Design development will take into account archaeology, Contributing Building Character Defining Features, Contributing Landscape Features, and will address exterior rehabilitation, Restoration Zone 1 interior reconstruction, and new interior construction materials, lighting, low-profile removable photovoltaic panels, landscaping, signage, and other relevant topics. GSA shall incorporate into the Final Design any additional minimization or mitigation identified during Section 106 Consultation and in accordance with this Stipulation and Stipulation II.
- b. GSA's Regional Historic Preservation Officer ("RHPO") will consult with the DCSHPO based on a thirty (30) calendar day, or agreed upon timeframe on the recommended treatment derived from the forthcoming Window Treatment Study to further develop the Preliminary Design into a Final Design. If GSA and DCSHPO cannot reach consensus within the agreed upon timeframe, GSA shall enter into consultation in accordance with Stipulation III.C of the PA.
- c. Consultation and Review. GSA shall present the Final Design to Signatories and Consulting Parties at a Section 106 Consultation meeting and will provide them a ten (10) business-day review and comment period. GSA shall take comments into consideration and shall inform them as to how comments were considered.
- d. Final Design Submissions to NCPD and CFA. GSA shall submit the Final Design to NCPD and CFA, along with a summary of comments made through

this process, for their respective reviews pursuant to each agency's independent jurisdiction over the Undertaking. NCPC and/or CFA may elect to combine Preliminary and Final Design Submissions into one review by the commission(s).

- e. Final Design Record Copies. Upon approval of the Final Design by NCPC, GSA shall issue one (1) electronic copy of the NCPC Final Design Submission to each of the Signatories for their records and attach the NCPC Final Design Submission as an exhibit to this MOA without requiring Amendment pursuant to Stipulation VII of this MOA.

B. Construction Monitoring and Staging

1. Construction Monitoring. During the period of construction for the Undertaking, GSA's Qualified Personnel will participate in project meetings deemed necessary by the RHPO to ensure that protections are being enacted to minimize adverse effects as determined in the Design Review Process, and monitor the construction work to ensure conformity with the Final Design.
2. Construction Staging Plan. As stipulated in the PA, GSA shall ensure that all construction contractors and teams selected to perform work that may result in adverse effects to historic properties inclusive of archaeological resources develop and follow a Construction Staging Plan ("Construction Staging Plan") for the Undertaking approved by GSA's RHPO, based on a thirty (30) calendar day, or agreed upon timeframe, review and consultation with the DCSHPO. If GSA and DCSHPO cannot reach consensus within the agreed upon timeframe, GSA shall enter into consultation in accordance with Stipulation III.C of the PA.

The Construction Staging Plan and LOD (Exhibit 9) for this Undertaking shall be consistent with Governing Documents, Stipulation I.A herein, and construction best practices, and shall identify historic properties inclusive of archaeological resources potentially affected by the Undertaking and associated construction staging activities, and outline measures to protect, avoid and minimize harm to these resources, while providing the necessary access and flexibility to efficiently and effectively complete the Undertaking. The Construction Staging Plan shall address temporary construction trailers to ensure they are located within the LOD for the duration of construction, and upon removal, their sites shall be restored to their condition prior to construction.

C. Alterations to Project Documents

1. In accordance with Section IX.A of the PA, GSA shall carry forth the following practices and procedures regarding Alterations to Project Documents (hereinafter defined) associated with this Undertaking:

If GSA, in consultation with the DCSHPO, anticipates an intensification of adverse effects from proposing any substantial material changes or substantial additions or deletions from the Final Design Submission, Construction Staging Plan (inclusive of Site Area and LOD), or other documents that have been reviewed and commented on pursuant to this MOA ("Project Documents"), GSA shall furnish the Signatories and the Consulting Parties with a statement of the requested material changes, additions

and/or deletions, submitting with such statement appropriate plans, specifications or other documentation showing in detail the nature of the material changes, additions and/or deletions requested. If the changes are found, by GSA's RHPO, to cause or constitute adverse effects on historic properties inclusive of archaeological resources, GSA shall then consult further and consider the comments regarding these potential effects in accordance with Section III.C.1 of the PA.

IV. PUBLIC ACCESS

In accordance with the PA, GSA continues to work with DHS to develop a Public Access Program ("Access Program") for St. Elizabeths that respects the operational and functional needs of DHS and shares the experience, exceptional history and significance of the West Campus with the general public. The Public Access program is not applicable to this MOA with the exception of the construction period in which GSA shall coordinate limited West Campus access through DHS Security once construction has commenced for this Undertaking.

V. EMERGENCY UNDERTAKINGS, CASUALTY LOSS AND UNANTICIPATED ADVERSE EFFECTS SITUATIONS

A. Emergency Undertakings

GSA shall ensure that any emergency undertaking for immediate rescue and salvage operations on the Site that is (a) required because of an emergency (e.g., a disaster or emergency declaration by the President, the Mayor of Washington, D.C., or another threat to life or property) that adversely affects a NR-eligible resource at the Site or (b) 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 D.C. or the United States, as applicable. GSA shall use its best efforts to notify DCSHPO immediately and ACHP of such operations within one (1) business day (not including a Federal holiday) after the commencement of such operations. Nothing in this MOA shall be deemed to prevent GSA from taking immediate rescue and salvage operations on the Site as necessary in an emergency to prevent the loss of life or property.

If GSA proposes an emergency undertaking which may have an adverse effect on NR eligible resources at the Site, GSA shall afford DCSHPO and the ACHP an opportunity to comment within three (3) business days (not including a Federal holiday) of such notification. If GSA determines that circumstances do not permit three (3) business days for comment, then GSA shall notify DCSHPO, the ACHP and invite comments within the time available. GSA 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. If DCSHPO or the ACHP objects to the proposed actions, the dispute will be resolved in accordance with Stipulation VI, Dispute Resolution.

These emergency procedures apply only to undertakings that may have an adverse effect on NR-eligible resources at the Site and that will be implemented within thirty (30) calendar days or other agreed upon timeframe after the disaster or emergency occurs. GSA may request an extension of the period of applicability from DCSHPO prior to the expiration of the thirty (30) calendar days.

B. Casualty Loss

GSA shall ensure that, if there is damage to a Contributing Building or Landscape Feature or archaeological resource resulting from casualty loss, GSA shall preserve, repair or rehabilitate as appropriate and in accordance with the Governing Documents, unless it is not feasible. If it is not feasible to preserve, repair or rehabilitate as required, GSA shall:

1. Engage in consultation with the Signatories and the Consulting Parties, as appropriate, on alternatives consistent with the Secretary's Standards;
2. Bear the cost and expense and responsibility of developing and implementing a construction and/or treatment plan;
3. If the Signatories and Consulting Parties fail to respond to GSA's request for comments on proposed treatment plans within thirty (30) calendar days, or within an agreed upon timeframe, assume consent to the proposed treatment/alternative.

C. Unanticipated Adverse Effects

An unanticipated adverse effect is the accidental damage or destruction of a Contributing Building or Landscape Feature or archaeological resource at the Site. Should any contributing features be subject to unanticipated adverse effects, GSA shall immediately notify the DCSHPO and ACHP. GSA shall ensure that the Signatories and Consulting Parties are notified of the unanticipated adverse effect within one (1) business day of its learning of such unanticipated adverse effects. GSA shall enter into Consultation in accordance with Stipulation III.C of the PA.

VI. DISPUTE RESOLUTION

A. For Signatories

1. Objection: Should any of the Signatories to this MOA object in writing to GSA regarding any action proposed to be carried out with respect to the Undertaking or implementation of this MOA, GSA shall consult with the objecting Party to resolve the objection. If, after initiating such consultation, GSA determines that the objection cannot be resolved through consultation, GSA shall forward all documentation relevant to the dispute to the ACHP, including GSA's proposed response to the objection. Within fourteen (14) calendar days or within an agreed upon timeframe after receipt of all pertinent documentation, the ACHP shall:
 - a. Advise GSA that the ACHP concurs in GSA's proposed response to the objection, whereupon GSA shall respond to the objection accordingly;
 - b. Provide GSA with recommendations. Such recommendations must be considered by GSA, but are not binding. Once GSA takes these recommendations into account and responds, GSA can proceed to make a final decision regarding the dispute; or

- c. Refer the dispute to ACHP for Council comment pursuant to 36 CFR § 800.7(c), and shall notify GSA about such referral. The resulting comment must be considered by GSA, but is not binding. GSA shall take into account, and respond to, the resulting comment in accordance with 36 CFR § 800.7(c) and Section 110(l) of the NHPA, and then proceed to make a final decision regarding the dispute.
2. Failure to Comment: Should the ACHP not exercise one of the above options within fourteen (14) calendar days or within an agreed upon timeframe after receipt of all pertinent documentation, GSA may proceed with its proposed response to the objection.
3. Subject of Dispute: GSA shall take into account any ACHP recommendation or comment provided in accordance with this Stipulation with reference only to the subject of the dispute; GSA's responsibility to carry out all actions under this MOA that are not the subject of the objection shall remain unchanged and in full force and effect.

B. For Consulting Parties

1. Objection: A Consulting Party may object in writing to GSA, with copies to the other Signatories and Consulting Parties regarding any action proposed to be carried out with respect to the Undertaking or implementation of this MOA. GSA shall take such an objection into account and may consult about it with the objecting party, other Consulting Parties and Signatories as it deems appropriate. GSA shall then respond to the objecting party in writing, with copies to the Signatories. If GSA subsequently determines that the objection cannot be resolved through consultation, GSA shall notify the objecting party, the DCSHPO, and ACHP which of the following options it shall exercise:
 - a. Seek the assistance of the ACHP in resolving the objection, pursuant to Stipulation VI.A above; or
 - b. Provide a formal written response to the objection within thirty (30) calendar days of notice to the objecting party.

VII. AMENDMENTS

Modifications to this MOA shall be carried forth in accordance with consultation processes and procedures outlined in Stipulation III.C.I of the PA. This MOA may be amended when such an amendment is agreed to in writing by all Signatories. The Signatories to this MOA recognize that some modifications may be minor and may not result in adverse effects. GSA shall ensure that the extent and effect of each modification is identified and the appropriate level of review agency involvement is determined. The amendment shall be effective on the date a copy signed by all of the Signatories is filed with the ACHP.

VIII. TERMINATION

- A. Proposal to Terminate: If for any reason, a Signatory determines that the terms of this MOA cannot be implemented or that this MOA is not being properly implemented, in accordance with the NHPA, the Signatory may propose that this MOA be terminated.
- B. Notification: The Signatory proposing to terminate this MOA shall so notify all other Signatories, explaining the reasons for the proposed termination and affording them at least thirty (30) calendar days or within an agreed upon timeframe to consult and seek alternatives to termination.
- C. Termination Due to Failure to Agree: If such consultation fails and the Signatories cannot agree on an alternative to termination, any Signatory may terminate this MOA in accordance with this Stipulation and 36 CFR § 800.6(c)(8). In the event of termination, GSA shall ensure that each action that would otherwise be covered in this MOA is reviewed in accordance with 36 CFR Part 800.
- D. Responsibilities upon Termination: If this MOA is terminated, then the Signatories shall take such actions as are necessary to comply with all requirements of 36 CFR Part 800.

IX. ADMINISTRATION OF AGREEMENT

Cooperation: During the implementation of this MOA, and until the Signatories agree in writing that the terms of this MOA have been fulfilled, each Party agrees to cooperate with the other Parties to facilitate the satisfaction of their respective obligations under this MOA. The Parties agree to work in good faith with the other Parties to meet their respective obligations in a timely manner.

X. EFFECTIVE DATE OF AGREEMENT

This MOA shall become effective when executed by the last of the Signatories (“Effective Date”).

XI. DURATION OF AGREEMENT

This MOA shall be in effect for ten (10) years from the date of its execution. If its terms have not been carried out within that time, or if the Undertaking is not completed, or in the event that mitigation related to necessary response actions for a new or previously unknown security threat must be applied, GSA shall consult with the other Signatories to amend the MOA in accordance with Stipulation VII. herein.

XII. MISCELLANEOUS

- A. Monitoring: The ACHP and the DCSHPO may monitor any activities carried out pursuant to the MOA. GSA shall cooperate with the DCSHPO and ACHP in carrying out these monitoring responsibilities.

- B. Anti-Deficiency Act: This MOA is subject to applicable laws and regulations. As to the Signatories only, fulfillment of this MOA and all of the provisions herein are subject, pursuant to the Anti-Deficiency Act, 31 U.S.C. § 1341 *et seq.*, to the availability of funds. This MOA is not an obligation of funds in advance of an appropriation of such funds, and it does not constitute authority for the expenditure of funds. If a Signatory does not have sufficient funds available to fulfill the Stipulations of this MOA, such Signatory shall so notify the other Signatories and shall take such actions as are necessary to comply with all requirements of 36 CFR Part 800. Nothing in this MOA shall be deemed to authorize an expenditure of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341 *et seq.* GSA and DHS shall make reasonable and good faith efforts to seek funding for implementing this MOA.
- C. Recitals and Exhibits: The recitals (Whereas clauses) and exhibits are incorporated herein as a substantive part of this MOA.
- D. Definitions: Certain capitalized terms' definitions that are not contained in this MOA may be found in the PA (Exhibit 1).
- E. Authority of Signers: Each Signatory hereto represents that the person or persons executing this MOA on behalf of such Signatory has full authority to do so.

XIII. COMMUNICATIONS

- A. GSA shall provide Signatories and Consulting Parties with address and contact information for the appropriate office within GSA for the receipt of any comments provided by them under this MOA.
- B. GSA shall maintain a list of Signatories and Consulting Party contacts, presumably by e-mail, which shall be updated by the Signatories and Consulting Parties with changes should they occur.

XIV. SIGNATURES

Execution and implementation of this MOA by the Signatories, and implementation of its terms, shall evidence that GSA and the Signatories with Section 106 responsibilities have afforded the ACHP and DCSHPO an opportunity to comment on the Undertaking and its effects, and have taken into account the effects of the Undertaking on historic properties in compliance with 36 CFR Part 800 and Sections 106 and 110 of the NHPA.

[signatures follow]

U.S. GENERAL SERVICES ADMINISTRATION

DJ Blue

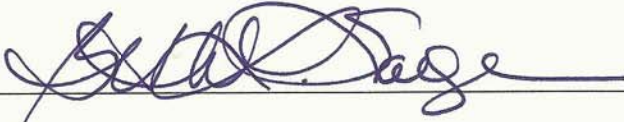
7 sept 2015

By:

Date:

Darren J. Blue
Regional Commissioner
Public Buildings Service
National Capital Region

GENERAL SERVICES ADMINISTRATION



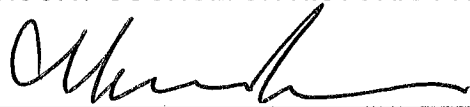
By:

9/8/2015

Date:

Beth L. Savage
Director, Center for Historic Buildings
Federal Preservation Officer

ADVISORY COUNCIL ON HISTORIC PRESERVATION



9/21/15

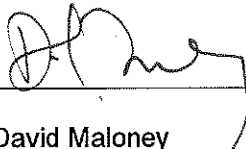
for

By:

John M. Fowler
Executive Director

Date:

DISTRICT OF COLUMBIA STATE HISTORIC PRESERVATION OFFICER


By: _____ Date: 9/15/2015
David Maloney
State Historic Preservation Officer

NATIONAL CAPITAL PLANNING COMMISSION



9/17/15

By:

Date:

Marcel C. Acosta
Executive Director

EXHIBIT LIST

Available online at www.stelizabethsdevelopment.com and in hard copy form from the Library and Archives at the U.S. General Services Administration, National Capital Region, Regional Office Building, 7th & D Streets SW, Room 2021, Washington D.C. 20407-000; Phone (202) 358-3086; Fax (202) 708-4925

- Exhibit 1 Programmatic Agreement
Exhibit can be found on the project website at
http://www.stelizabethsdevelopment.com/document_center.cfm
- Exhibit 2 Regional Plan
- Exhibit 3 The DHS Consolidation at St. Elizabeths Master Plan Amendment: Federal Use Parcel of the East Campus, Washington, DC, March 30, 2012
Exhibit can be found on the project website at
http://www.stelizabethsdevelopment.com/document_center.cfm
- Exhibit 4 Consolidation at St. Elizabeths Master Plan Amendment – East Campus North Parcel Environmental Impact Statement (March 2012)
Exhibit can be found on the project website at
http://www.stelizabethsdevelopment.com/document_center.cfm
- Exhibit 5 May 1, 2014 Consultation Letter
- Exhibit 6 GSA Workspace Standards

GSA National Business Space Assignment Policy as updated
<http://www.gsa.gov/portal/content/102002>

Implementation of Office of Management and Budget Memorandum M-12-12 Section 3: Reduce the Footprint (March 2015)
<https://www.whitehouse.gov/sites/default/files/omb/financial/memos/implementation-reduce-the-footprint.pdf>
- Exhibit 7 DHS Workspace Standards

DHS Instruction 119-02-003, DHS Workspace Standard Memorandum (Sept 2014)

DHS Workspace Standard, DHS & GSA Overview and Implementation Meeting Minutes (Dec 2014)
- Exhibit 8 Area of Potential Effect (APE)
- Exhibit 9 Site Area and Limits of Disturbance (LOD)
- Exhibit 10 July 31, 2015 NCPC Center Building Preliminary Design Submission
- Exhibit 11 Abatement and Removal of Non-Contributing Additions Correspondence to DCSHPO
- Exhibit 12 March 12, 2015 DCSHPO Concurrence on Abatement and Removal of Non-Contributing Additions
- Exhibit 13 Pre-Construction Activities Correspondence to DCSHPO
- Exhibit 14 June 22, 2015 DCSHPO Concurrence on Pre-Construction Activities

- Exhibit 15 Contributing Building Character Defining Features and Treatments
- Exhibit 16 Contributing Landscape Character Defining Features and Treatments
- Exhibit 17 Historic American Buildings Survey (HABS)
Exhibit can be found on the project website at
http://www.stelizabethsdevelopment.com/document_center.cfm
- Exhibit 18 Historic Structures Reports (HSRs)
Exhibit can be found on the project website at
http://www.stelizabethsdevelopment.com/document_center.cfm
- Exhibit 19 July 2014 Structural Recommendations Report
Exhibit is marked SBU. For permissions and access to this exhibit, in accordance with Exhibit 27, please contact GSA.
- Exhibit 20 Landscape Preservation and Management Plan (LPMP)
Exhibit can be found on the project website at
http://www.stelizabethsdevelopment.com/document_center.cfm
- Exhibit 21 Historic American Landscape Survey (HALS)
Exhibit can be found on the project website at
http://www.stelizabethsdevelopment.com/document_center.cfm
- Exhibit 22 Phase I Archaeological Survey
Exhibit can be found on the project website at
http://www.stelizabethsdevelopment.com/document_center.cfm
- Exhibit 23 August 2012 Archaeological Resources Management Plan (ARMP)
Exhibit is SBU. For permissions and access to this exhibit, in accordance with Exhibit 27, please contact GSA.
- Exhibit 24 Area N Determination of Eligibility
Exhibit is SBU. For permissions and access to this exhibit, in accordance with Exhibit 27, please contact GSA.
- Exhibit 25 Arch Site Area N and GPR area map
Exhibit is SBU. For permissions and access to this exhibit, in accordance with Exhibit 27, please contact GSA.
- Exhibit 26 Archaeological Resources Adjacent to the Center Building area map
Exhibit is SBU. For permissions and access to this exhibit, in accordance with Exhibit 27, please contact GSA.
- Exhibit 27 Sensitive But Unclassified (SBU) Guidelines and Procedures