

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

**MEMORANDUM OF AGREEMENT
AMONG
THE UNITED STATES GENERAL SERVICES ADMINISTRATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
THE DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION,
THE DISTRICT OF COLUMBIA STATE HISTORIC PRESERVATION OFFICE,
THE UNITED STATES FEDERAL HIGHWAY ADMINISTRATION,
THE NATIONAL CAPITAL PLANNING COMMISSION,
THE NATIONAL PARK SERVICE,
AND
THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY
REGARDING CONSTRUCTION OF A PORTION OF AN ACCESS ROAD THROUGH
SHEPHERD PARKWAY, AND TRANSPORTATION IMPROVEMENTS SURROUNDING THE
I-295 INTERCHANGES AT SOUTH CAPITOL STREET AND MALCOLM X AVENUE, WHICH
ARE ADJACENT TO THE ST. ELIZABETHS NATIONAL HISTORIC LANDMARK,
WASHINGTON, D.C.**

18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

This Memorandum of Agreement (“MOA”) is made as of this 11 day of May 2012, by and among the United States General Services Administration (“GSA”), the Advisory Council on Historic Preservation (“ACHP”), the District of Columbia Department of Transportation (“DDOT”), the District of Columbia State Historic Preservation Office (“DCSHPO”), the United States Federal Highway Administration (“FHWA”), the National Capital Planning Commission (“NCPC”), the National Park Service (“NPS”), 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”), 16 U.S.C. §§ 470f and 470h-2(f), and the Section 106 implementing regulations at 36 CFR Part 800 and pursuant to the Programmatic Agreement (“PA”) (Exhibit 1) among GSA, ACHP, DCSHPO, FHWA, 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”) 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 is the second MOA for Phase II (“Phase II”) of the Redevelopment Project; and

36
37
38
39

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

40
41
42
43

WHEREAS, GSA has jurisdiction over the St. Elizabeths West Campus and is the lead agency for Section 106 purposes for this Undertaking (hereinafter defined), as designated by FHWA and NCPC; and

44
45
46
47
48
49

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 NHL contributing buildings, 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

50
51

WHEREAS, pursuant to the PA, a *Memorandum of Agreement among GSA, ACHP, DCSHPO, FHWA, NCPC, and DHS Regarding the Construction of the Access Road at St.*

52 *Elizabeths NHL, Washington, D.C.*, dated September 30, 2011 (“On-Site Access Road MOA”),
53 satisfied DHS’ transportation access and requirements to support Phase I of the Redevelopment
54 Project, and allowed for construction of the northern portion of the access road, which is on-site
55 within St. Elizabeths, as well as improvements at the Firth Sterling intersection; and
56

57 WHEREAS, pursuant to the PA, a forthcoming *Memorandum of Agreement among GSA,*
58 *ACHP, the Government of the District of Columbia acting by and through the District of Columbia*
59 *Office of the Deputy Mayor for Planning and Economic Development (“DMPED”), the District of*
60 *Columbia Office of Planning (“DCOP”), DDOT, DCSHPO, NCPC, and DHS Regarding*
61 *Transportation Improvements Along a Segment of Martin Luther King, Jr. Avenue and*
62 *Construction of the Federal Emergency Management Headquarters within the Federal Use*
63 *Parcel within the East Campus of the St. Elizabeths National Historic Landmark, Washington,*
64 *D.C.*, (“Master Plan Amendment MOA”), taken together with the Undertaking in this MOA shall
65 satisfy DHS’ program and transportation access requirements consistent with the Master Plan
66 Amendment (hereinafter defined); and
67

68 WHEREAS, GSA has entered into ten-year preliminary Occupancy Agreements (“OA”)
69 for Phase I of the Redevelopment Project and is reviewing additional preliminary OA’s for future
70 phases, wherein DHS anticipates they will occupy the West Campus together with the Federal
71 Use Parcel (“Federal Use Parcel”) located within the North Parcel of the East Campus of St.
72 Elizabeths, creating a high-security Interagency Security Committee (“ISC”) Level 5 facility that
73 meets DHS’ program and functional requirements consistent with the Master Plan and the
74 Master Plan Amendment (hereinafter defined); and
75

76 WHEREAS, NPS is the federal agency with jurisdiction over Shepherd Parkway, which is
77 a part of a unit of the National Park System (“National Park System”). The 205.5-acre Shepherd
78 Parkway (“Shepherd Parkway”), also known as “Reservation 421”, contributes to Fort Circle
79 Parks (“Fort Circle Parks”), also known as “Civil War Defenses of Washington.” The Civil War
80 Defenses of Washington is classified as both a site and a historic district, and was listed in the
81 National Register of Historic Places (“National Register” or “NR”) on July 15, 1974. Its
82 documentation was updated on September 13, 1978. Shepherd Parkway contains the remains
83 of two (2) Civil War fortifications, Fort Carroll (“Fort Carroll”) and Fort Greble (“Fort Greble”). The
84 Fort Circle Parks site and historic district is significant for the parks identified, as it contains the
85 remains of Civil War defense sites that effectively deterred the invasion of the nation’s capital
86 during the Civil War, includes the remains of forts that were engaged in the Battle of Fort
87 Stevens in July 1864, comprises a pattern of (greenbelt) public space that represents an element
88 of one of the earliest urban planning efforts in public recreation in the United States, and contains
89 significant natural features. The period of significance is 1800 – 1899. As a result of the
90 National Register update, the period of significance could be extended based on new research
91 and findings; and
92

93 WHEREAS, GSA has determined that the Area of Potential Effect (“APE”), revised on
94 April 26, 2011 and March 23, 2012 (Exhibit 3) as defined in 36 CFR § 800.16(d) for the
95 Undertaking (hereinafter defined), includes areas of both physical and visual effect, and which
96 GSA anticipates further revising in accordance with Stipulation II.A.1; and
97

98 WHEREAS, to satisfy the transportation access and requirements to support Phase II,
99 GSA proposes transportation improvements, within I-295, South Capitol Street, Malcolm X
100 Avenue, and the Shepherd Parkway Parcel (hereinafter defined) (together the “Site”), to the
101 southern portion of the access road (“Access Road”) and transportation improvements
102 surrounding the I-295 Interchanges at South Capitol Street and Malcolm X Avenue

103 (“Interchanges”). The Access Road is planned to connect to the northern portion of the access
104 road within St. Elizabeths as well as to the Malcolm X interchange, pursuant to the Design
105 Review Process defined in this MOA. The Access Road will not include any ramps or
106 components of the Malcolm X interchange or any DDOT public street, dedicated public space,
107 right of way or transportation infrastructure (collectively “ROW”). This Undertaking includes
108 construction, transfer of the Shepherd Parkway Parcel (hereinafter defined) from NPS to GSA for
109 transportation improvements, and transfer of portions thereof from GSA to DDOT that will
110 become DDOT ROW. These activities shall be collectively referred to as the Undertaking
111 (“Undertaking”); and

112
113 WHEREAS, the process is almost complete pursuant to Section 4(f) of the Department of
114 Transportation Act, 23 USC § 138 and 49 USC § 303 (Section 4(f)), to determine whether the
115 Shepherd Parkway Parcel will be used, and after FHWA issues its Record of Decision related to
116 this undertaking, the transfer of this parkland from NPS to GSA will be addressed via a separate
117 legal instrument, in accordance with 40 USC § 8124. The subsequent transfer of portions of the
118 Shepherd Parkway Parcel from GSA to DDOT will be addressed in a separate document; and
119

120 WHEREAS, GSA delineated the Limit of Disturbance (“LOD”) as the footprint associated
121 with this Undertaking and the immediately surrounding areas (Exhibit 4); and
122

123 WHEREAS, the PA stated that GSA and FHWA proposed to acquire defined sections of
124 Shepherd Parkway from the NPS, as GSA’s implementation of the Master Plan is dependent
125 upon GSA and FHWA completion of the Undertaking. That portion of the land for the
126 Undertaking, approximately 8.0 acres of Permanent Area (“Permanent Area”) and an additional
127 1.2 acres of Temporary Area (“Temporary Area”) for a total of 9.2 acres of NPS land, and not
128 including the Fort Carroll or Fort Greble, is referred to herein as the Shepherd Parkway Parcel
129 (“Shepherd Parkway Parcel”) (Exhibit 5), and is located in the APE; and
130

131 WHEREAS, GSA applied the Criteria of Adverse Effect (36 CFR § 800.5(a)(1)) and
132 determined that the Undertaking shall have an adverse effect on: the setting and feeling of
133 landscape within the historic Shepherd Parkway and the Shepherd Parkway Parcel, the
134 archaeological sites 51SE055 and 51SE065; and the setting and feeling of some of the Joint
135 Base Anacostia-Bolling Officers Quarters (hereinafter defined), which are contributing resources
136 to the Bolling Air Force Base Historic District (hereinafter defined) (Exhibit 6, Adverse Effects);
137 and
138

139 WHEREAS, in addition to the land transfer from NPS to GSA, GSA also anticipates that
140 permits from NPS will be necessary to complete the Undertaking. GSA consulted with and
141 notified NPS of GSA’s determination that the Undertaking shall have an adverse effect and
142 invited NPS to participate as a Signatory; and
143

144 WHEREAS, GSA also notified DCSHPO and ACHP of its adverse effect determination for
145 this Undertaking, in accordance with the PA, and GSA has continued its ongoing consultation
146 with the Signatories and the Consulting Parties (hereinafter defined) also in accordance with the
147 PA; and
148

149 WHEREAS, Department of Navy (“Navy”) is the federal agency with jurisdiction over Joint
150 Base Anacostia-Bolling (“JBAB”), which is adjacent to I-295 and South Capitol Street. JBAB
151 encompasses the Bolling Air Force Base Historic District (“Bolling AFB Historic District”), which
152 includes contributing Officer’s Quarters (“Officer’s Quarters”), and which was determined eligible
153 for listing in the National Register and identified in the APE; and

154
155 WHEREAS, GSA also notified the Navy of its adverse effect determination, and invited
156 the Navy to participate as a Consulting Party; and
157

158 WHEREAS, consultation for the Undertaking contemplated by this MOA was initiated by
159 GSA on October 9, 2009 (Exhibit 7) to ensure continued compliance with the NHPA and PA, the
160 latter of which states that GSA shall carry out consultation for each phase of development. With
161 GSA as the lead agency, in accordance with the PA, FHWA has consulted with the Consulting
162 Parties (hereinafter defined) with regard to the effects of the Undertaking. With GSA, FHWA has
163 also followed the process set forth in the PA for Archaeological Investigations and Compliance
164 with the Secretary of the Interior's Standards for the Treatment of Historic Properties -
165 Archeology and Rehabilitation Standards ("Secretary's Standards"); and
166

167 WHEREAS, this Undertaking is anticipated to be implemented by GSA and either FHWA
168 or DDOT, and is part of a larger undertaking delineated in *The DHS Headquarters Consolidation*
169 *at St. Elizabeths Final Master Plan, Washington, DC, November 10, 2008* ("Master Plan") and
170 further described in *The DHS Consolidation at St. Elizabeths Master Plan Amendment: Federal*
171 *Use Parcel of the East Campus, Washington, DC, March 30, 2012* ("Master Plan Amendment")
172 (Exhibit 8) and the *Consolidation at St. Elizabeths Master Plan Amendment – East Campus*
173 *North Parcel Environmental Impact Statement, March 2012* ("FEIS") (Exhibit 9). The Master
174 Plan Amendment and the FEIS also propose improvements, subject to the PA, which are not
175 part of this Undertaking and will be addressed separately in the Master Plan Amendment MOA;
176 and
177

178 WHEREAS, NCPIC will review the Master Plan Amendment and components of the
179 Undertaking pursuant to the National Capital Planning Act of 1952 and has designated GSA lead
180 agency for NCPIC's compliance pursuant to 36 CFR § 800.2(a)(2). NCPIC will rely upon the PA
181 and this MOA to fulfill its Section 106 obligation for any approval action taken associated with its
182 review; and
183

184 WHEREAS, GSA coordinated additional public outreach for the Master Plan Amendment,
185 in accordance with 36 CFR § 800.8(a)(1), at public meetings associated with the Environmental
186 Impact Statement ("EIS") for the Master Plan Amendment under provisions of the National
187 Environmental Policy Act ("NEPA"), 42 U.S.C. §§ 4321 et. seq. Specifically, public outreach was
188 associated with the FEIS (Exhibit 9) and shall result in the *Record of Decision Amended Master*
189 *Plan for the Department of Homeland Security Headquarters Consolidation at St. Elizabeths in*
190 *Southeast Washington, D.C.*, anticipated April 2012 ("ROD for the Amended Master Plan"); and
191

192 WHEREAS, the Secretary of the Interior ("Secretary") was invited to participate in the PA
193 consultation and NPS represented the Secretary concerning the NHL and Shepherd Parkway as
194 a consulting party, and NPS is a Signatory of this MOA without designating GSA as lead agency
195 for NPS's Section 106 compliance, as is provided for by 36 CFR § 800.2(a)(2); and
196

197 WHEREAS, upon transfer of the Shepherd Parkway Parcel, NPS will continue to
198 participate in this MOA for the protection of the Temporary Area and the balance of Shepherd
199 Parkway that is not part of the Undertaking, which is an area of approximately 195 acres of
200 federal parkland, a portion of which is within the APE; and
201

202 WHEREAS, GSA completed the *St. Elizabeths Hospital Shepherd Parkway Study Area*
203 *Landscape Assessment Plan* in November 2010 ("CLA")(Exhibit 10) to identify the character-
204 defining elements and historic contexts of Shepherd Parkway; and

205
206 WHEREAS, after obtaining permits from NPS, GSA completed the archaeological
207 assessments for the Shepherd Parkway Parcel: (a) *Phase 1A Archaeological Assessment of the*
208 *Shepherd Parkway Interchange/Access Road Alternative for the St. Elizabeths West Campus*
209 *Redevelopment Project, Washington, D.C.* by Greenhorne & O'Mara (November 2009), (b)
210 *Phase 1B Archaeological Assessment of the Expanded Primary Impact Area of the Shepherd*
211 *Parkway Interchange/Access Road Alternative for the St. Elizabeths Redevelopment Project* by
212 John Milner and Associates, Inc. (November 2010), (c) *Phase 1B Archaeological Survey of the*
213 *Shepherd Parkway Interchange/Access Road Alternative for the St. Elizabeths West Campus*
214 *Redevelopment Project* by Greenhorne & O'Mara (November 2010), and (d) *Phase II NRHP*
215 *Evaluation of Four Archaeological Sites within the Shepherd Parkway Interchange/Access Road*
216 *Alternative for the St. Elizabeths West Campus Redevelopment Project, Washington, D.C.* by
217 Greenhorne & O'Mara (August 2011), to which the DCSHPO concurred, as part of a phased
218 approach to the identification and evaluation of archaeological resources, pursuant to 36 CFR §
219 800.4(b)(2), and to the application of criteria of adverse effect, pursuant to 36 CFR § 800.5(a)(3),
220 as appropriate; and
221

222 WHEREAS, based on its assessments within the Shepherd Parkway Parcel, GSA
223 determined that the following historic properties contribute to Shepherd Parkway: landscape, a
224 65-year-old willow oak; a defined grove of trees; the Fort Carroll Covered Road archaeological
225 site also known as Site 51SE065 ("51SE065"), which was a historic entrance road to Fort Carroll
226 and is a contributing resource to the Fort Circle Parks site and historic district; and a multi-
227 component archaeological site ("51SE055"), that includes an ineligible pre-contact Native
228 American occupation dating to the Woodland period, and a NR-eligible historic period tenant
229 occupation that dates to the late nineteenth and twentieth centuries; and
230

231 WHEREAS, in accordance with the PA, GSA consulted with the DCSHPO to conclude
232 there are no federally recognized tribes in the District of Columbia, Maryland or Virginia, nor are
233 there any tribes that have relocated to a different area that reasonably have any documented
234 historic ties to the Site. If any federally recognized tribe should come forward to demonstrate
235 historic ties to the Site, and be interested in developing consultation procedures for projects
236 resulting from any undertaking that has not already been approved pursuant to the PA and this
237 MOA that may affect historic properties with which the tribe has historic ties, it may consult with
238 GSA to develop such procedures pursuant to 36 CFR § 800.2 (c)(2)(ii)(E); and
239

240 WHEREAS, GSA, in compliance with the PA, informed by the studies and consultation
241 noted above, and in consultation with the DCSHPO, developed an Archaeological Resources
242 Management Plan ("ARMP") which addresses sites within the Shepherd Parkway Parcel and is
243 anticipated to be finalized by spring 2012; and
244

245 WHEREAS, FHWA's decision to approve the improvements to the Interchanges, which is
246 part of this Undertaking, requires prior compliance with Section 4(f) of the Department of
247 Transportation Act, pursuant to 23 U.S.C. § 138 and 49 U.S.C. § 303, 23 CFR Part 774; and
248

249 WHEREAS, on December 8, 2008, FHWA initiated the Section 4(f) process by the public
250 release of its evaluation and then completed the *Draft Section 4(f) Evaluation, Department of*
251 *Homeland Security Headquarters Consolidation at St. Elizabeths, Washington, D.C., I-295 and*
252 *West Campus Access Roadway Improvements, U.S. Department of Transportation, Federal*
253 *Highway Administration, Eastern Federal Lands Highway Division* on December 3, 2010 ("Draft
254 Section 4(f)") utilizing Additional Detailed Traffic Studies (hereinafter defined) concluding that

255 there are “no prudent and feasible” alternatives to the use of portions of Shepherd Parkway to
256 provide access to the West Campus; and

257
258 WHEREAS, Department of Interior (“DOI”) concurred on the Draft Section 4(f) on January
259 31, 2011 that there was no feasible and prudent alternative to avoid the use of parkland; and
260

261 WHEREAS, FHWA has presented to DOI for coordination and comment the *Final Section*
262 *4(f) Evaluation, Department of Homeland Security Headquarters Consolidation at St. Elizabeths,*
263 *Washington, D.C., I-295 and West Campus Access Roadway Improvements, U.S. Department of*
264 *Transportation, Federal Highway Administration, Eastern Federal Lands Highway Division* (“Final
265 Section 4(f)”) and DOI has not yet commented; and
266

267 WHEREAS, FHWA plans to complete the Final Section 4(f) in May 2012; and
268

269 WHEREAS, in accordance with D.C. Official Code §§ 9-101.01, 9-101.02, 50-
270 921.04(1)(B), 50-921.05 and 50-921.06, DDOT is the District of Columbia agency with
271 jurisdiction of I-295, Malcolm X Avenue, and South Capitol Street ROW, and all other ROW in
272 the APE that may be associated with the Undertaking; and
273

274 WHEREAS, GSA informed the Signatories and Consulting Parties (hereinafter defined)
275 that the Undertaking also includes approximately 7.6 acres of DDOT-owned transportation ROW
276 in the LOD; and
277

278 WHEREAS, in consultation and coordination with FHWA, DDOT, and NPS, GSA
279 conducted Additional Detailed Traffic Studies (“Additional Detailed Traffic Studies”) included in
280 the FEIS (Exhibit 9) and which influenced the Master Plan Design (hereinafter defined); and
281

282 WHEREAS, GSA has consulted upon the Master Plan Design (“Master Plan Design”)
283 (Exhibits 8 and 9) for the Undertaking to reduce adverse effects. The Master Plan Design
284 reflects proposed road widths and alignments, and minimizations of adverse effects in the
285 Additional Detailed Traffic Studies. Within the Shepherd Parkway Parcel, the Master Plan
286 Design reflects that adverse effects to archaeological sites 51SE055 and 51SE065 will be
287 minimized. Further, the Master Plan Design reduces the area of the NPS parkland loss by ten
288 (10) percent, and reflects minimization of adverse effects to the landscape, which was
289 accomplished by reducing design speed, travel lane and shoulder widths, roadway profile,
290 retaining wall heights at certain locations, setbacks, and by employing an atypical compressed
291 bridge design. The Master Plan Design also includes a provision for the addition of landscaping
292 to minimize adverse effects of the Undertaking, and specifically the adverse effects of the
293 proposed improvements on the west side of I-295 on some of the Officer’s Quarters at JBAB;
294 and
295

296 WHEREAS, the Master Plan Design represents a comparable level of design in the
297 Master Plan Amendment, the FEIS and the forthcoming ROD for the Amended Master Plan; and
298

299 WHEREAS, GSA informed the Signatories and Consulting Parties (hereinafter defined)
300 during consultation that the Master Plan Design will be reflected in the FEIS and forthcoming
301 ROD for the Amended Master Plan, as well as in the Final Master Plan Amendment, which will
302 be submitted by GSA to NCPA and U.S. Commission of Fine Arts (“CFA”) as noted herein; and
303

304 WHEREAS, GSA informed the Signatories and the Consulting Parties (hereinafter
305 defined) that GSA’s ROD for the Amended Master Plan will identify GSA’s preferred interchange
306 alternative; and
307

308 WHEREAS, FHWA intends to adopt GSA’s FEIS and will issue a FHWA Record of
309 Decision (“FHWA ROD”), which will select the interchange alternative for implementation in
310 agreement with DDOT; and
311

312 WHEREAS, GSA, in accordance with Section III.C.1.c of the PA, consulted with NCP
313 and CFA, and anticipates consulting with both agencies to determine appropriate submittal dates
314 for the Final Master Plan Amendment and the eventual Access Road Final Design Submission
315 (“Final Design Submission”); and
316

317 WHEREAS, DDOT and FHWA shall have final approval of all transportation-related
318 facilities and activities related to the Interchanges and DDOT shall have final approval of all
319 transportation-related facilities and activities related to all ROW including proposed public streets
320 and ROW included in the Undertaking, and GSA informed the Signatories and the Consulting
321 Parties (hereinafter defined) of these approval rights; and
322

323 WHEREAS, pursuant to 36 CFR § 800.3(f), GSA identified and consulted with, in addition
324 to the Signatories identified above, the following Consulting Parties: Advisory Neighborhood
325 Commissions 8A, 8B, 8C, 8D, and 8E, American Society of Landscape Architects, Anacostia
326 Historical Society, Brookings Institution, Committee of 100 on the Federal City, Cultural
327 Landscape Foundation, D.C. Preservation League, DCOP, Friends of St. Elizabeths, Institute for
328 Public Representation at Georgetown University Law Center, the Navy, National Association of
329 Olmsted Parks, Medical and Professional Society of St. Elizabeths Hospital, National Coalition
330 to Save Our Mall, National Historic Landmark Stewards Association, National Museum of Civil
331 War Medicine, National Trust for Historic Preservation, Office of Councilmember Marion Barry,
332 Representative Eleanor Holmes Norton, St. Elizabeths Hospital (D.C. Department of Mental
333 Health), CFA and the Ward 8 Transportation Task Force (referred to collectively herein as the
334 "Consulting Parties"); and
335

336 NOW THEREFORE, the Signatories agree that the Undertaking shall be implemented in
337 accordance with the following Stipulations (“Stipulations”) in order to take into account the effect
338 of the Undertaking on historic properties inclusive of potential archaeological resources.
339

340 **STIPULATIONS**

341
342 GSA, in coordination with FHWA and DDOT, shall ensure that the following measures are
343 carried out:
344

345 **I. GENERAL REQUIREMENTS**

346 **A. Reference Documents and Documentation**

347 The Final Design shall be based upon the Master Plan Design (Exhibit 8: Master Plan
348 Amendment and Exhibit 9: FEIS). As the Master Plan Design advances through the
349 Review Process toward completion, the Preliminary Design, the Final Design, and the
350 implementation of the Undertaking will be informed by the CLA, the Fort Circle Parks
351 Final Management Plan (“Fort Circle Parks Final MP”), 1978 National Register
352 Nomination for Fort Circle Parks, and the Secretary’s Standards, and the final ARMP,
353

354 which shall be finalized by GSA. The Undertaking shall also be carried out in accordance
355 with: the Master Plan and Master Plan Amendment, FEIS and the forthcoming ROD for
356 the Amended Master Plan; as well as prevailing applicable DDOT, FHWA and American
357 Association of State Highway and Transportation Officials (“AASHTO”) codes, standards
358 and specifications. Collectively, the documents mentioned in this Stipulation shall be
359 referred to as governing documents (“Governing Documents”).
360

361 **B. Qualified Personnel**

362 GSA shall ensure that all historic preservation and archaeological work performed by
363 GSA or on its behalf pursuant to this MOA shall be accomplished by or under the direct
364 supervision of a person or persons who meet(s) or exceed(s) the pertinent qualifications
365 in the Secretary of the Interior’s Professional Standards formerly located at 36 CFR Part
366 61, and now located at http://www.nps.gov/history/local-law/arch_stnds_9.htm.
367

368 **II. REVIEW PROCESS**

369
370 **A. Master Plan Design Review** The development of the Master Plan Design for the
371 Undertaking shall advance, based on consultation with the Signatories and Consulting
372 Parties on additional minimization measures related to screening materials, as follows:
373

374 1. Revise APE

375 In consultation with the DCSHPO, GSA will revise the APE before proceeding with
376 design development so that the APE includes those portions of Shepherd Parkway
377 affected by the Undertaking.
378

379 2. Preliminary Design

- 380 a. The Master Plan Design shall be further developed into a Preliminary Design
381 that shall be consulted upon in accordance with this Stipulation II. and the
382 Governing Documents. Design development will take into account adverse
383 effect minimization measures for character-defining elements and historic
384 contexts, addressing screening materials, compatible materials, color, textures,
385 lighting, landscaping, signalization and signage.
- 386 b. GSA shall present the Preliminary Design to Signatories and Consulting Parties
387 at a Section 106 Consultation meeting and will provide them a ten (10)
388 business-day review and comment period. GSA shall take comments into
389 consideration and shall inform the Signatories and Consulting Parties how
390 comments were considered.
- 391 c. GSA shall submit the Preliminary Design to NCPC and CFA for their reviews,
392 which include an opportunity for the public to comment, along with a summary
393 and copies of the actual comments made through this process.
- 394 d. DDOT and FHWA shall have final approval of all transportation-related facilities
395 and activities related to the Interchanges and DDOT shall have final approval of
396 all transportation-related facilities and activities related to all ROW including
397 proposed public streets and ROW included in the Undertaking.
398

399 3. Final Design

- 400 a. The Preliminary Design shall be further developed into a Final Design that shall
401 be timely consulted upon in accordance with this Stipulation II. and the
402 Governing Documents. Design development will take into account adverse
403 effect minimization measures for character-defining elements and historic

- 404 contexts, addressing screening materials, compatible materials, color, textures,
405 lighting, landscaping, signalization and signage.
- 406 b. GSA shall incorporate into the Final Design any additional minimization or
407 mitigation measures identified during Section 106 Consultation and in
408 accordance with this Stipulation II and Stipulation III.A.
 - 409 c. GSA shall present the Final Design to Signatories and Consulting Parties at a
410 Section 106 Consultation meeting and will provide them a ten (10) business-day
411 review and comment period. GSA shall take comments into consideration and
412 shall inform the Signatories and Consulting Parties how comments were
413 considered.
 - 414 d. GSA shall submit the Final Design to NCPC and CFA for their reviews, which
415 include an opportunity for the public to comment, along with a summary and
416 copies of the actual comments made through this process.
 - 417 e. GSA shall issue one (1) copy of the NCPC Final Design Submission to each of
418 the Signatories for their records.
 - 419 f. DDOT and FHWA shall have final approval of all transportation-related facilities
420 and activities related to the Interchanges and DDOT shall have final approval of
421 all transportation-related facilities and activities related to all ROW including
422 proposed public streets and ROW included in the Undertaking.

423
424 4. DDOT Project Documentation

425 GSA shall coordinate with DDOT on all documentation, submissions and reviews
426 associated with this Undertaking pertaining to all transportation-related activities, and
427 such documentation, submissions and reviews shall meet all required AASHTO and
428 DDOT codes, standards and specifications.
429

430 **B. Construction Staging**

- 431
- 432 1. During the period of construction, in coordination with DDOT, GSA's Qualified
433 Personnel will participate in project meetings deemed necessary by the GSA Regional
434 Historic Preservation Officer or upon request of NPS, to ensure that protections are
435 being enacted to minimize adverse effects as determined herein and in the Design
436 Review Process. DDOT shall have final approval of the design, construction,
437 inspection, and quality assurance and quality control issues related to the Interchanges,
438 public streets, proposed public streets and ROW in the APE that may be associated
439 with the Undertaking.

- 440
- 441 2. As stipulated in the PA, and further stipulated in this MOA, GSA shall ensure that all
442 construction contractors and teams selected to perform work that may result in adverse
443 effects to historic properties inclusive of archaeological resources, develop and follow a
444 Construction Staging Plan ("Construction Staging Plan") consulted on with the
445 Signatories and Consulting Parties and approved by GSA.

446
447 The Construction Staging Plan for this Undertaking shall be consistent with Governing
448 Documents and construction best practices, and shall identify historic properties
449 inclusive of archaeological resources potentially affected by the Undertaking and
450 associated construction staging activities, and outline measures to avoid and minimize
451 harm to these resources, while providing the necessary access and flexibility to
452 efficiently and effectively complete the Undertaking. The Construction Staging Plan
453 shall address temporary construction trailers to ensure they are located within the

454 Permanent Area of disturbance and within loop ramp areas for the duration of
455 construction.

456
457 **C. Construction in Temporary Areas**
458

459 NPS lands being used as Temporary Areas (Exhibit 5) during construction (duration to be
460 determined by a construction schedule to be developed prior to construction) will still be
461 under NPS jurisdiction.

- 462
- 463 1. GSA, FHWA or DDOT shall obtain from NPS Special Use (“Special Use”) permits to
464 cross parkland and access and use these Temporary Areas.
465
 - 466 2. Whichever agency among GSA, FHWA or DDOT holds the permit, shall restore these
467 Temporary Areas to their pre-construction condition and pursuant to the terms and
468 conditions in the NPS permit.
469

470 **D. Alterations to Project Documents**
471

- 472 1. In accordance with Section IX.A of the PA, GSA shall carry forth the following
473 practices and procedures regarding Alterations to Project Documents (hereinafter
474 defined) associated with this Undertaking:
475

476 If GSA, in coordination with DDOT and in consultation with the DCSHPO, anticipates
477 an intensification of adverse effects from proposing any material or substantial
478 additions or deletions from the Final Design Submission, Construction Staging Plan
479 (inclusive of Site Area and LOD), or other documents that have been reviewed and
480 commented on pursuant to this MOA (“Project Documents”), GSA shall furnish the
481 Signatories and the Consulting Parties with a statement of the requested material
482 changes, additions and/or deletions, submitting with such statement appropriate
483 plans, specifications or other documentation showing in detail the nature of the
484 material changes, additions and/or deletions requested. The Signatories and
485 Consulting Parties shall have 10 (ten) business days to provide written objections to
486 GSA. If the changes are objected to by any Signatory or Consulting Party as
487 potentially causing or constituting adverse effects on historic properties inclusive of
488 potential archaeological resources GSA shall then consult further regarding these
489 potential effects in accordance with Section III.C.1 of the PA. Changes requiring the
490 use of additional temporary areas within NPS-managed areas, beyond the land
491 delineated in Exhibit 5, within Shepherd Parkway, shall be made only upon written
492 authorization of NPS in the form of an amended or new NPS-issued permit and in
493 accordance with Stipulation VII and applicable authorities including Section 4(f).
494

- 495 2. GSA shall notify the Signatories and the Consulting Parties of substantive
496 modifications to the Undertaking that GSA has determined either do not pose an
497 adverse effect, or that reduce an adverse effect already contemplated herein. GSA
498 shall then consult upon such substantive modifications with the Signatories and the
499 Consulting Parties.
500

501 GSA’s consultation, and, if applicable, the Signatories’ concurrence with GSA’s
502 determination, shall be documented via a letter from GSA and received by the
503 Signatories prior to commencement of associated work. Any attachments to this
504 MOA that are associated with such substantive modifications will be revised by GSA

505 and distributed to the Signatories for their records, as accompaniment to the above
506 mentioned letter from GSA to the Signatories, and the MOA will be amended
507 accordingly.
508

509 **E. Archaeology**
510

- 511 1. ARMP: GSA shall add the results of archeological investigations conducted within
512 Shepherd Parkway into the ARMP, which is anticipated to be finalized by spring 2012,
513 and the ARMP shall become a Governing Document.
514
- 515 2. Sites 51SE055 and 51SE065: As the Master Plan Design has minimized adverse
516 effects to these sites to the greatest extent practicable, GSA shall mitigate remaining
517 effects prior to any ground-disturbing activities per Exhibit 14 of the PA in consultation
518 with the DCSHPO. While data recovery (Phase III investigations defined as
519 archaeological data recovery) may be appropriate for some archaeological sites,
520 other mitigation treatments are possible, per Exhibit 14 of the PA. Any data recovery
521 investigations shall be conducted in accordance with the *Guidelines for*
522 *Archaeological Investigations in the District of Columbia* (D.C. Preservation League
523 1998, as amended). A data recovery plan that details the investigations, including
524 archival research, field studies, research questions, artifact analysis, report
525 preparation, and public education and interpretation activities, will be prepared and
526 submitted to DCSHPO for review and comment. The plan shall also define
527 arrangements made for permanent curation of all archaeological collections, related
528 records, and digital data in accordance with 36 CFR 79. Upon acceptance of the data
529 recovery plan by DCSHPO, GSA will implement said plan. An Archaeological
530 Resource Protection Act (ARPA) permit from NPS will be obtained for any ground-
531 disturbing activities proposed on NPS land in accordance with 16 U.S.C. § 470aa-
532 mm. Mitigation efforts other than data recovery shall be determined in consultation
533 with the DCSHPO, and shall be in accord with archaeological guidance as stipulated
534 in Exhibit 14 of the PA.
535
- 536 3. GSA shall afford the NPS and DCSHPO the opportunity to meet on-site to observe
537 and verify the completion of the fieldwork for the data recovery program(s) at
538 51SE055 and 51SE065 as stipulated in the PA. GSA shall submit a management
539 summary to the NPS and DC SHPO documenting the completion of the fieldwork at
540 archaeological site(s) 51SE055 and 51SE065, initiating a 30 day review. Upon receipt
541 of written concurrence from the NPS and DCSHPO, GSA may proceed with
542 construction activities in the 51SE055 and 51SE065 archaeological site area(s)
543 concurrently with completion of the remaining laboratory processing, analyses, and
544 reporting phases of the data recovery work. If no comments on the management
545 summary are received from the NPS and DCSHPO within 45 days, GSA will assume
546 concurrence and proceed with construction activities.
547
- 548 4. Unanticipated archaeological discoveries, including sites, features and artifacts, or
549 human remains, discovered during surface or ground-disturbing activities prior to or
550 during construction phases, shall be evaluated by a qualified archaeologist in
551 consultation with the DCSHPO, and in accordance with Exhibit 14 of the PA.
552
- 553 5. Artifacts resulting from data recovery efforts or unanticipated archaeological
554 discoveries within Shepherd Parkway, including the Shepherd Parkway Parcel, shall
555 be turned over to NPS, to become part of the NPS collection. Such artifacts shall be

556 processed and catalogued in a manner consistent with NPS curation standards.
557 Those in areas remaining under NPS jurisdiction shall be recovered pursuant to the
558 terms of the NPS issued permit for GSA use.

559

560 III. MITIGATION

561

562 A. GSA shall take the following actions to mitigate adverse effects to historic properties
563 associated with this Undertaking:

564

565 1. Prior to the transfer of the Shepherd Parkway Parcel or within one (1) year of the date
566 this MOA is effective, whichever occurs first, fund the update of the 1978 Fort Circle
567 Parks National Register Nomination, which will include a review of the existing
568 documentation and may include the potential for additional research and
569 documentation, the scope of which is to be agreed upon by NPS, GSA, and the
570 DCSHPO.

571

572 2. Prior to the transfer of the Shepherd Parkway Parcel or within two (2) years of the
573 date this MOA is effective, whichever occurs first, fund the conversion of the CLA to a
574 Cultural Landscape Inventory ("CLI") according to NPS's format and standards, which
575 may require additional analysis and research in order to meet NPS standards, to be
576 agreed upon by NPS and GSA.

577

578 3. Complete measures to mitigate adverse effects to NHRP-eligible archaeological sites
579 in consultation with DCSHPO, and also with NPS if the sites or portions of the sites
580 are on NPS parkland, as described in II.E.2 and in accordance with Exhibit 14 of the
581 PA.

582

583 4. Landscape areas disturbed within the Permanent Area of disturbance, except for the
584 roadway, in accordance with the Final Design. This will be indicated in the Final
585 Design and the Project Documents, and will also constitute minimizations of the
586 adverse effects of the Undertaking.

587

588 5. Install a ten-foot wide multi-use trail along the West Campus Access Road from South
589 Capitol Street (south end) to Malcolm X Avenue within the Shepherd Parkway Parcel,
590 notwithstanding the Fort Circle Parks Final MP which would prevent it. This trail will
591 add another north/south connection to the District of Columbia's trail system and
592 enhance access to historic properties and parkland.

593

594 B. GSA shall fund mitigation for the loss and use of NPS parkland and as consideration for
595 GSA's acquisition and NPS's transfer of the Shepherd Parkway Parcel to GSA pursuant
596 to 40 USC § 8124 and a separate, future transfer agreement between the agencies.
597 Simultaneous with the execution of the transfer, GSA shall pay NPS consideration based
598 on the value established by an appraisal paid for by GSA and agreed to by NPS. Within
599 180 days of the execution of this MOA, GSA and NPS shall enter into the aforementioned
600 agreement containing terms for the provision of funds and the transfer of the Shepherd
601 Parkway Parcel. GSA shall fund and carry out the consummation of this transfer through
602 NCPC. NPS has identified improvements to certain NPS parks including to nearby
603 historic parkland as benefits to the surrounding community by preserving park resources,
604 improving interpretation, and increasing park access. NPS will present the mitigation
605 measures as identified in this Stipulation III.B to the Signatories and Consulting Parties; if

606 an adverse effect is triggered, NPS will initiate consultation in accordance with 36 CFR §§
607 800.3 – 800.7, as applicable.
608

609 **IV. REPORTING**

610 Each January 31st following the execution of this MOA until it expires or is terminated,
611 GSA, in coordination with NPS, FHWA and DDOT as appropriate, shall provide all
612 Signatories and Consulting Parties to this MOA an annual report addressing the following
613 topics:
614

- 615 1. Progress in carrying forth and completing the Stipulations.
- 616 2. Any problems or unexpected issues encountered during the preceding year.
- 617 3. Any changes that GSA believes should be made in implementation of this MOA.
- 618 4. GSA shall make the annual report available for public inspection by posting it on the
619 project website and interested members of the public will be invited to provide
620 comments to the Signatories.
- 621 5. The annual report for this MOA will be coordinated with the annual reports required
622 for the PA, and while it will be distinctly acknowledged, it may be incorporated into
623 that annual report.
624
625
626
627
628
629

630 **V. EMERGENCY AND UNANTICIPATED ADVERSE EFFECTS** 631 **SITUATIONS**

632 **A. Emergency Undertakings**

633 GSA shall ensure that any emergency undertaking for immediate rescue and salvage
634 operations on the Site that are (a) required because of an emergency (e.g., a disaster or
635 emergency declaration by the President, the Mayor of Washington, D.C., or another
636 threat to life or property) that adversely affects a NR-eligible resource at the Site or (b)
637 necessary to preserve life or property shall be carried out in accordance with any
638 emergency orders or citations issued by the appropriate official of the D.C. or the United
639 States, as applicable. GSA shall use its best efforts to notify DCSHPO immediately and
640 ACHP of such operations within one (1) business day (not including a federal holiday)
641 after the commencement of such operations. GSA shall immediately notify NPS by
642 contacting the Superintendent, NPS National Capital Parks – East, (202) 690-5185
643 (contact information will be updated by NPS if necessary), if the GSA response will affect
644 NPS parkland and consult accordingly. Nothing in this MOA shall be deemed to prevent
645 GSA from taking immediate rescue and salvage operations on the Site as necessary in
646 an emergency to prevent the loss of life or property.
647
648
649

650 If GSA proposes an emergency undertaking which may have an adverse effect on NR-
651 eligible resources at the Site, GSA shall afford DCSHPO and the ACHP an opportunity to
652 comment within three (3) business days (not including a federal holiday) of such
653 notification. If GSA determines that circumstances do not permit three (3) business days
654 for comment, then GSA shall notify DCSHPO, the ACHP and invite comments within the

655 time available. GSA shall consider, as applicable in light of the urgency of the
656 circumstances, any comments received in reaching a decision on how to proceed with
657 the emergency undertaking. If DCSHPO or the ACHP objects to the proposed actions the
658 dispute will be resolved in accordance with Stipulation VI, Dispute Resolution.
659

660 These emergency procedures apply only to undertakings that may have an adverse
661 effect on NR-eligible resources at the Site and that will be implemented within thirty (30)
662 days or other agreed upon timeframe after the disaster or emergency occurs. GSA may
663 request an extension of the period of applicability from DCSHPO prior to the expiration of
664 the thirty (30) days.
665

666 B. Unanticipated Adverse Effects

667 An unanticipated adverse effect is accidental damage or destruction of historic property at
668 the Site. Should any contributing features be subject to unanticipated adverse effects,
669 GSA shall immediately notify the DCSHPO and ACHP. GSA shall ensure that the
670 Signatories and Consulting Parties are notified of the unanticipated adverse effect within
671 one (1) business day of its learning of such unanticipated adverse effects. GSA shall
672 enter into Consultation in accordance with Stipulation III.C of the PA.
673
674

675 VI. DISPUTE RESOLUTION

676 A. For Signatories

- 677 1. Objection: Should any of the Signatories to this MOA object in writing to GSA
678 regarding any action proposed to be carried out with respect to the Undertaking or
679 implementation of this MOA, GSA shall consult with the objecting Party, and DDOT
680 should the dispute involve transportation improvements, to resolve the objection. If,
681 after initiating such consultation, GSA determines that the objection cannot be
682 resolved through consultation, GSA shall forward all documentation relevant to the
683 dispute to the ACHP, including GSA's proposed response to the objection. Within
684 fourteen (14) calendar days or within an agreed upon timeframe after receipt of all
685 pertinent documentation, the ACHP shall:
 - 686 a. Advise GSA that the ACHP concurs in GSA's proposed response to the objection,
687 whereupon GSA shall respond to the objection accordingly;
 - 688 b. Provide GSA with recommendations. Once GSA takes these recommendations
689 into account and responds, GSA can proceed to make a final decision regarding
690 the dispute; or
 - 691 c. Refer the dispute to ACHP for Council comment pursuant to 36 CFR §800.7(c),
692 and shall notify GSA about such referral. GSA shall take into account, and
693 respond to, the resulting comment in accordance with 36 CFR § 800.7(c) and
694 Section 110(l) of the NHPA, and then proceed to make a final decision regarding
695 the dispute.
- 696 2. Failure to Comment: Should the ACHP not exercise one of the above options within
697 fourteen (14) calendar days or within an agreed upon timeframe after receipt of all
698 pertinent documentation, GSA may proceed with its proposed response to the
699 objection.
700
701
702
703
704

705
706 3. Subject of Dispute: GSA shall take into account any ACHP recommendation or
707 comment provided in accordance with this Stipulation with reference only to the
708 subject of the dispute; GSA's responsibility to carry out all actions under this MOA
709 that are not the subject of the objection shall remain unchanged and in full force and
710 effect.

711
712 B. For Consulting Parties

713 1. Objection: A Consulting Party may object in writing to GSA, with copies to the other
714 Signatories and Consulting Parties regarding any action proposed to be carried out
715 with respect to the Undertaking or implementation of this MOA. GSA shall take such
716 an objection into account and may consult about it with the objecting party, other
717 Consulting Parties and Signatories as it deems appropriate. GSA shall then respond
718 to the objecting party in writing, with copies to the Signatories. If GSA subsequently
719 determines that the objection cannot be resolved through consultation, GSA shall
720 notify the objecting party, the DCSHPO, and ACHP which of the following options it
721 shall exercise:

- 722
723 a. Seek the assistance of the ACHP in resolving the objection, pursuant to
724 Stipulation VI.A above; or
725
726 b. Provide a formal written response to the objection within thirty (30) calendar days
727 of notice to the objecting party.
728

729 **VII. AMENDMENTS**

730
731 Modifications to this MOA shall be carried forth in accordance with consultation
732 processes and procedures outlined in Stipulation III.C.I of the PA. This MOA may be
733 amended when such an amendment is agreed to in writing by all Signatories. The
734 Signatories to this MOA recognize that some modifications may be minor and may not
735 result in adverse effects. GSA shall ensure that the extent and effect of each modification
736 is identified and the appropriate level of review agency involvement is determined. The
737 amendment shall be effective on the date a copy signed by all of the Signatories is filed
738 with the ACHP.
739

740 **VIII. TERMINATION**

- 741
742 A. Proposal to Terminate: If for any reason, a Signatory determines that the terms of this
743 MOA cannot be implemented or that this MOA is not being properly implemented, in
744 accordance with the NHPA, the Signatory may propose that this MOA be terminated.
745
746 B. Notification: The Signatory proposing to terminate this MOA shall so notify all other
747 Signatories, explaining the reasons for the proposed termination and affording them at
748 least thirty (30) calendar days or within an agreed upon timeframe to consult and seek
749 alternatives to termination.
750
751 C. Termination Due to Failure to Agree: If such consultation fails and the Signatories cannot
752 agree on an alternative to termination, any Signatory may terminate this MOA in
753 accordance with this Stipulation VIII. and 36 CFR Part 800.6(c)(8). In the event of

754 termination, GSA shall ensure that each action that would otherwise be covered in this
755 MOA is reviewed in accordance with 36 CFR Part 800.

756
757 D. Responsibilities upon Termination: If this MOA is terminated, then the Signatories shall
758 take such actions as are necessary to respectively comply with all requirements of 36
759 CFR Part 800.

760
761 **IX. ADMINISTRATION OF AGREEMENT**

762
763 Cooperation: During the implementation of this MOA, and until the Signatories agree in
764 writing that the terms of this MOA have been fulfilled; each Party agrees to cooperate
765 with the other Parties to facilitate the satisfaction of their respective obligations under this
766 MOA. The Parties agree to work in good faith with the other Parties to meet their
767 respective obligations in a timely manner.

768
769 **X. EFFECTIVE DATE OF AGREEMENT**

770
771 This MOA shall become effective when executed by the last of the Signatories (“Effective
772 Date”).

773
774 **XI. DURATION OF AGREEMENT**

775
776 This MOA shall be in effect for ten (10) years from the date of its execution. If its terms
777 have not been carried out within that time, or if the Undertaking is not completed, or in the
778 event that mitigation related to necessary response actions for a new or previously
779 unknown security threat must be applied, GSA shall consult with the other Signatories to
780 reconsider the terms of this MOA and amend the MOA in accordance with Stipulation VII
781 herein, prior to its expiration.

782
783 **XII. MISCELLANEOUS**

784
785 A. Monitoring: The ACHP and the DCSHPO may monitor any activities carried out pursuant
786 to the MOA. GSA shall cooperate with the DCSHPO an ACHP in carrying out these
787 monitoring responsibilities.

788
789 B. Anti-Deficiency Act – Federal Parties: This MOA is subject to applicable laws and
790 regulations. As to the Signatories only, fulfillment of this MOA and all of the provisions
791 herein are subject, pursuant to the Anti-Deficiency Act, 31 U.S.C. § 1341 *et seq.*, to the
792 availability of funds. This MOA is not an obligation of funds in advance of an
793 appropriation of such funds, and it does not constitute authority for the expenditure of
794 funds. If a Signatory does not have sufficient funds available to fulfill the Stipulations of
795 this MOA, such Signatory shall so notify the other Signatories and shall take such actions
796 as are necessary to otherwise comply with 36 C.F.R. Part 800. GSA and DHS shall make
797 reasonable and good faith efforts to seek funding for implementing this MOA.

798
799 C. Anti-Deficiency Act – District of Columbia: All parties acknowledge and agree that the
800 District of Columbia’s obligations to fulfill financial obligations of any kind pursuant to any
801 and all provisions discussed in this MOA or any subsequent agreement entered into by
802 the parties pursuant to this MOA are and shall remain subject to the provisions of (i) the

803 federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349, 1351, (ii) the District of
804 Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01-355.08 (2001), (iii) D.C.
805 Official Code § 47-105 (2001), and (iv) D.C. Official Code § 1-204.26 (2006 Supp., as the
806 foregoing statutes may be amended from time to time, regardless of whether a particular
807 obligation has been expressly so conditioned.
808

809 D. Recitals and Exhibits: The recitals (Whereas clauses) and exhibits are incorporated
810 herein as a substantive part of this MOA.
811

812 E. Definitions: Certain capitalized terms' definitions that are not contained in this MOA may
813 be found in the PA for the DHS Headquarters of December 9, 2008 (Exhibit 1).
814

815 F. Authority of Signers: Each Signatory hereto represents that the person or persons
816 executing this MOA on behalf of such Signatory has full authority to do so.
817

818 **XIII. COMMUNICATIONS WITH CONSULTING PARTIES**

819 A. GSA shall provide Signatories and Consulting Parties with address and contact
820 information for the appropriate office within GSA for the receipt of any comments
821 provided by them under this MOA.
822

823 B. GSA shall maintain a list of Signatories and Consulting Party contacts, presumably by e-
824 mail, which shall be updated by the Signatories and Consulting Parties with changes
825 should they occur.
826

827 **XIV. OTHER AGENCIES COMPLIANCE WITH SECTION 106 FOR THE** 828 **UNDERTAKING**

829
830 A Federal agency, other than the original Signatories, that intends to provide funding or
831 approval(s) for the Undertaking may comply with its Section 106 responsibilities for the
832 Undertaking by sending a letter to the original Signatories. That letter must: (1) be signed
833 by that Federal agency's "agency official," as that term is defined in 36 CFR § 800.2(a)
834 and (2) state that the Federal agency agrees to the terms of this MOA. When the letter is
835 received by the original Signatories, the Federal agency will be deemed to be a Signatory
836 of this MOA. Any necessary modifications to the MOA will be considered in accordance
837 with Stipulation VII. (Amendments).
838

839 **XV. SIGNATURES**

840
841 Execution and implementation of this MOA by the Signatories, and implementation of its
842 terms, shall evidence that GSA and the Signatories with Section 106 and Section 110
843 responsibilities have afforded the ACHP an opportunity to comment on the Undertaking
844 and its effects, and that have taken into account the effects of the Undertaking on historic
845 properties in compliance with 36 CFR Part. 800 and Sections 106 and 110 of the NHPA.
846

847
848 [signatures follow]
849

850 GENERAL SERVICES ADMINISTRATION

851

852

853

854

855

856


857

858

859

860

By:


Cathleen C. Kronopolus
Regional Commissioner
Public Buildings Service
National Capital Region

Date:



861 GENERAL SERVICES ADMINISTRATION

862

863

864

865

866

867

868

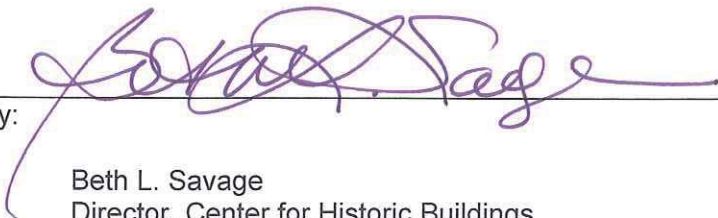
869

870

871

872

By:



Date:

5/2/12

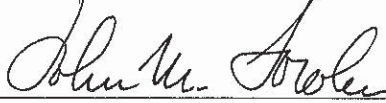
Beth L. Savage
Director, Center for Historic Buildings
Federal Preservation Officer

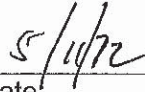
873 ADVISORY COUNCIL ON HISTORIC PRESERVATION

874

875

876





877

By:

Date:

878

John M. Fowler
Executive Director

879

880

881

882
883
884
885
886
887
888
889
890
891
892

DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

Terry Bellamy

By:

Terry Bellamy
Director

5/8/12
Date:

893
894
895
896
897
898
899
900
901
902
903
904

DISTRICT OF COLUMBIA STATE HISTORIC PRESERVATION OFFICER

By:  _____ Date:  _____
David Maloney
State Historic Preservation Officer

905 FEDERAL HIGHWAY ADMINISTRATION – EASTERN FEDERAL LANDS HIGHWAY DIVISION

906

907

908

909

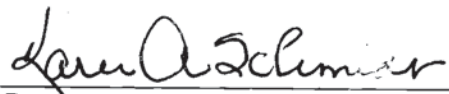
910

911

912

913

914



5/2/2012

By:

Date:

Karen A. Schmidt
Director of Program Administration

915 NATIONAL CAPITAL PLANNING COMMISSION

916

917

918

919

920

921

922

923



5/2/12

By:

Date:

Marcel C. Acosta
Executive Director

924 DEPARTMENT OF HOMELAND SECURITY

925

926

927

928

929

930

931

932

RMCGrunder

7 MAY 2012

By:

Date:

Richard K. McGruder

Director, Headquarters Management & Development

933
934
935
936
937
938
939
940
941
942
943
944

NATIONAL PARK SERVICE



By:

Stephen E. Whitesell
Regional Director, National Capital Region

5.3.12

Date:

EXHIBIT LIST

945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984

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

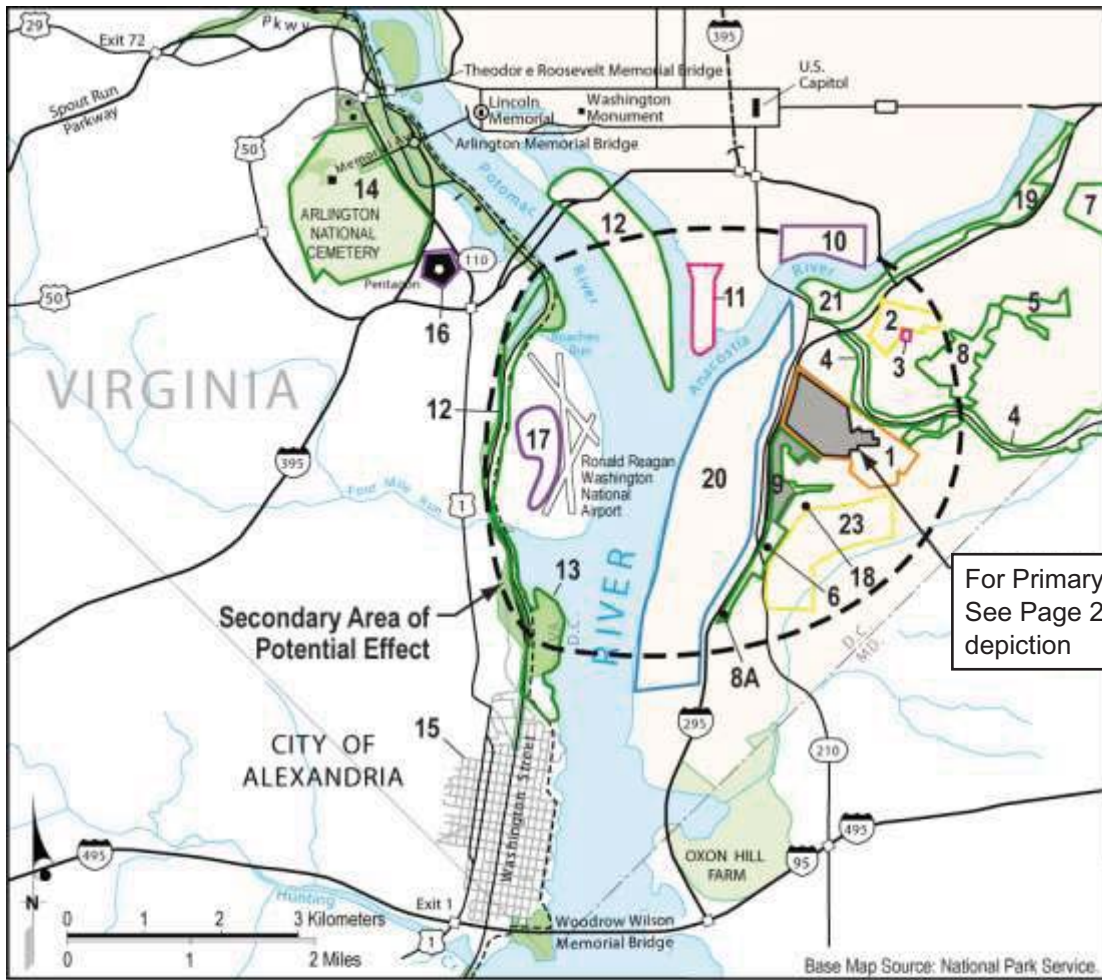
- Exhibit 1 Programmatic Agreement
(Exhibit can be found on the project website at http://www.stelizabethsdevelopment.com/document_center)
- Exhibit 2 Regional Plan
- Exhibit 3 Area of Potential Effect (APE)
- Exhibit 4 Site Area and Limits of Disturbance (LOD)
- Exhibit 5 Shepherd Parkway Parcel Temporary and Permanent Areas
- Exhibit 6 Adverse Effects
- Exhibit 7 October 9, 2009 Consultation Letter
- Exhibit 8 The DHS Consolidation at St. Elizabeths Master Plan Amendment: Federal Use Parcel of the East Campus, Washington, DC, March 30, 2012
- Exhibit 9 Consolidation at St. Elizabeths Master Plan Amendment – East Campus North Parcel Environmental Impact Statement, March 2012
- Exhibit 10 St. Elizabeths Hospital Shepherd Parkway Study Area Landscape Assessment Plan (November 2010)



1 Introduction and Background



Figure 1-3. St. Elizabeths in Relation to U.S. Capitol and the White House



Historic Resources and Areas of Potential Effect

National Register Listed

- 1 St. Elizabeths NHL
- 2 Anacostia Historic District
- 3 Frederick Douglass National Historic Site (Cedar Hill)
- 4 Suitland Parkway
- Civil War Fort Sites and Fort Circle Park System
 - 5 Battery Ricketts
 - 6 Fort Carroll
 - 7 Fort Dupont
 - 8 Fort Stanton
 - 8A Fort Greble
 - 9 Shepherd Parkway
- 10 Washington Navy Yard
 - Commandant's Office
 - Quarters A and Quarters B
 - Main Gate
 - Washington Navy Yard Annex Historic District

- 11 Fort McNair
 - Army War College
- 12 East Potomac Park
- 13 George Washington Memorial Parkway
- 14 Arlington Cemetery, Custis Lee Mansion
- 15 City of Alexandria Historic District
- 16 Pentagon
- 17 Ronald Reagan Washington National Airport
- 18 Congress Heights Firehouse
- National Register Eligible**
 - 19 Anacostia Freeway
 - 20 Bolling Air Force Base/Naval Annex
 - 21 Anacostia Park
 - 22 Congress Heights Historic District

(Color outlines are for clarity only.)

For Primary APE - See Page 2 for detail depiction

Primary APE
 St. Elizabeths West Campus
 St. Elizabeths East Campus

0 550 1,100 2,200
 Feet
 0 150 300 600
 Meters

Projection: Transverse Mercator
 UTM Zone 18N
 North American Datum of 1983

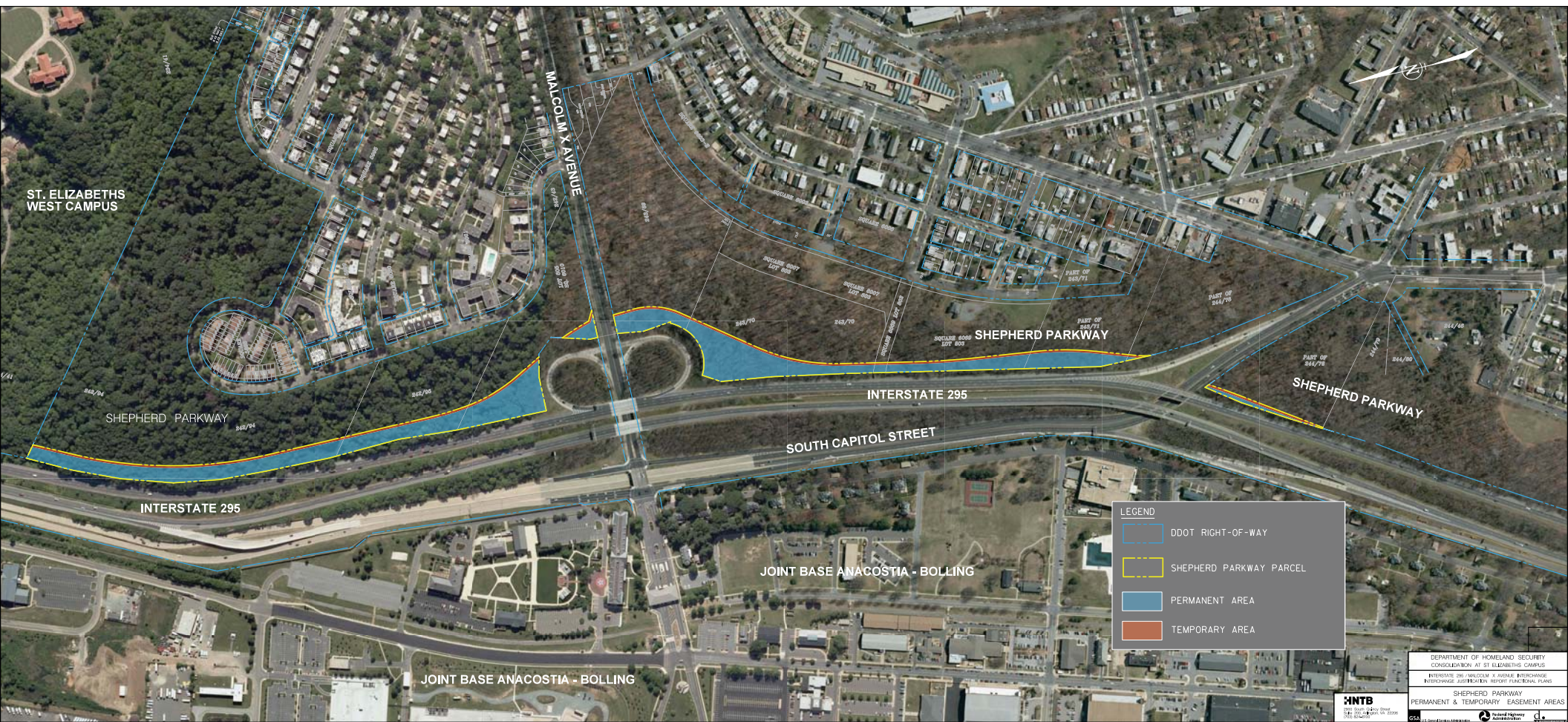


Source of aerial: Microsoft Virtual Earth

EXHIBIT 4 - SITE AREA AND LIMITS OF DISTURBANCE (LOD)



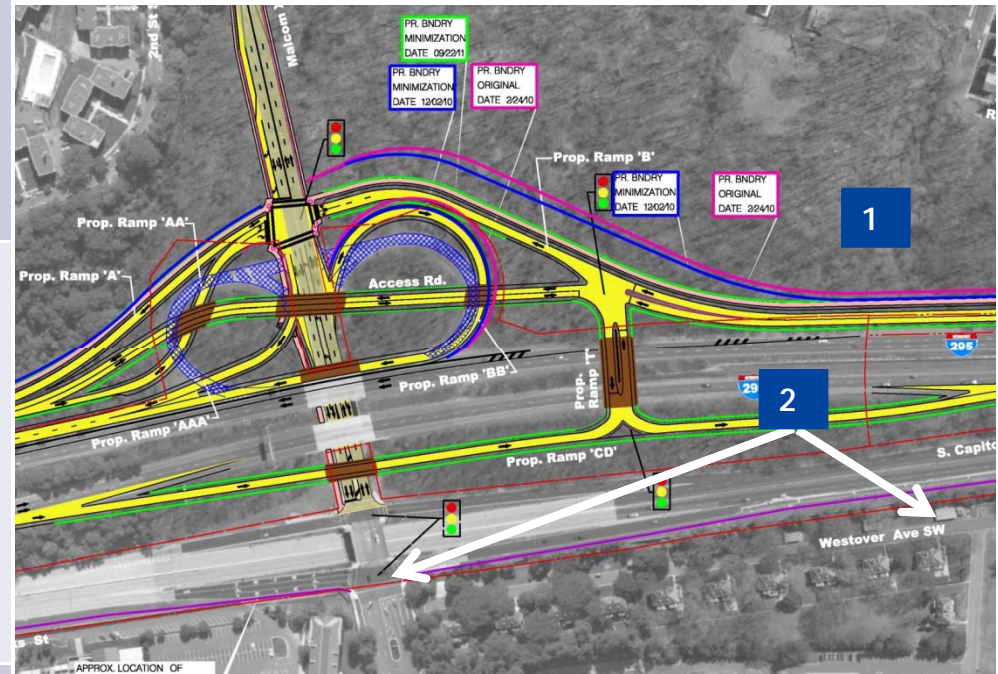
EXHIBIT 5 - SHEPHERD PARKWAY PARCEL - TEMPORARY AND PERMANENT AREAS



**I-295/Malcolm X Avenue Interchange
Transportation Improvement
Preferred Alternative (Alternative 2 Modified)**

Historic Buildings/Properties

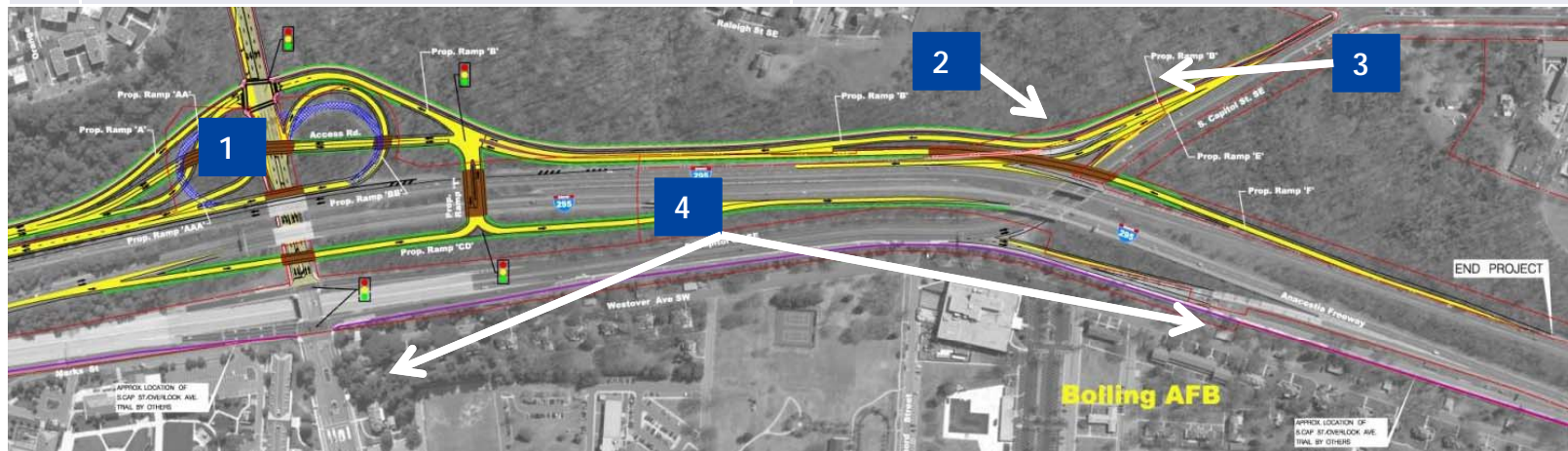
	Feature	Impacts /Effects
1	Shepherd Parkway	Construction of transportation improvements—direct, major, negative impacts on setting and feeling. Adverse effect
2	Bolling AFB eligible historic district on JBAB	West ramps—indirect, moderate, negative impact on the historic setting. Adverse effect.
3	Historic buildings in the primary APE	None—no effect.



I-296 Malcolm X Interchange

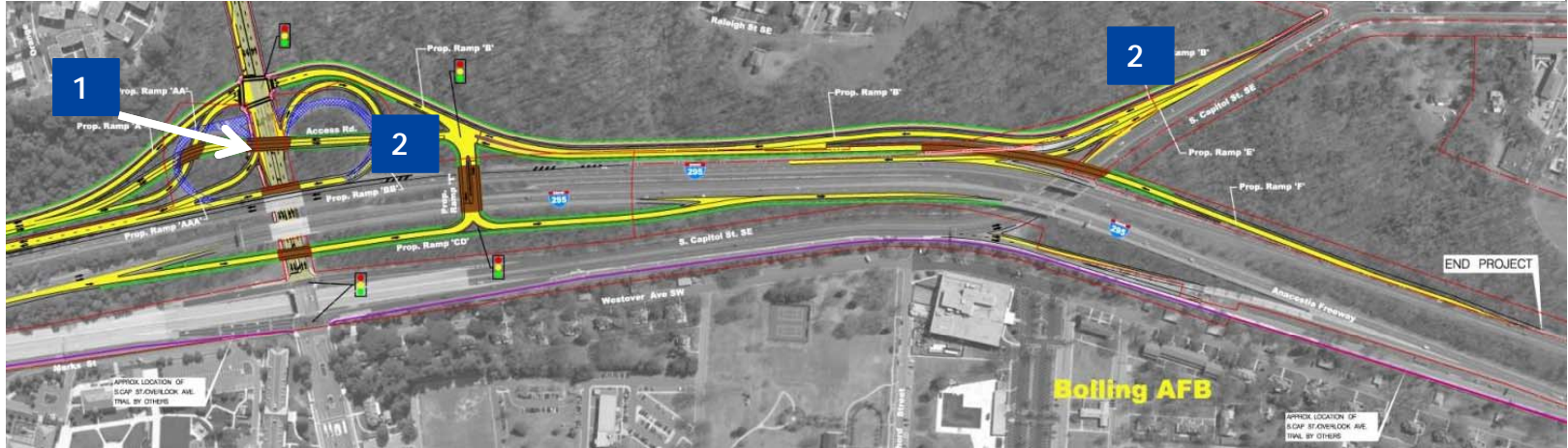
Cultural Landscape Features, Primary APE

	Feature	Impacts/Effects
1	65 " DBH willow oak in existing NE cloverleaf of interchange	Removal—direct, major, negative impact. Adverse effect.
2	Grove of 60 year-old trees	Partial removal—direct, major, negative impact. Impacts less severe than other alternative. Adverse effect.
3	Civil War road, a contributing feature of the NRHP Civil War Fort Sites and Fort Circle Park System	Ramp crossing—direct, major, negative impact. Impacts less severe than other alternative. Adverse effect.
4	Bolling AFB eligible historic district landscape	West-side ramps—indirect, negligible impacts on Bolling AFB’s historic district landscape. No adverse effect.



Cultural Landscape Features, Secondary APE & Archeological Resources

	Features	Impacts/Effects
1	Visual resources	Additional overpass at Malcolm X— increased negative impact on setting and feeling of Shepherd Parkway. Adverse effect. No other nearby historic properties would be adversely affected.
2	Two known significant archeological sites (one of which is the Civil War Road)	Improvements to the southeastern side of the interchange—direct, major, adverse impact. Impacts less severe than other alternative. Adverse effect.





GSA Public Buildings Service

October 9, 2009

John Fowler
Executive Director
Advisory Council on Historic Preservation
1100 Pennsylvania Ave., NW
Suite 809
Washington, DC 20004

Reference: St. Elizabeths Campus Master Plan Implementation, United States Coast
Guard Headquarters Building, Security Perimeter and Shepherd Parkway
Attention: Kirsten Brinker Kulis

Dear Mr. Fowler:

In accordance with 36 CFR Part 800, et seq. and the provisions of the Programmatic Agreement (PA) among the General Services Administration (GSA), the Advisory Council on Historic Preservation (ACHP), the District of Columbia Historic Preservation Office (DCHPO), the United States Federal Highway Administration (FHWA), the National Capital Planning Commission (NCPC) and the Department of Homeland Security (DHS), which was signed on December 9, 2008, GSA has seamlessly continued Section 106 consultations under the St. Elizabeths Master Plan inclusive of Shepherd Parkway, and is formally notifying you of its consultations for the sub-projects identified in this letter. The DCHPO, the ACHP and all the Consulting Parties have continued to actively participate in the consultation on the phased implementation of the St. Elizabeths Master Plan since its approval in January of 2009.

In accordance with the processes outlined in the PA, a reasonable bundling of undertaking scopes, or a definition of compartmentalized undertakings has been formulated and is scheduled in a logical sequence according to the general phases of the Master Plan and subsequent funding that has been secured. In that vein, on the immediate horizon is the development of a Memorandum of Agreement for the design of the United States Coast Guard Headquarters (USCG) Building, the adjacent parking structures and the security perimeter in the vicinity of the historic cemetery. We plan to conclude this MOA for a scheduled design submission to both the U.S. Commission of Fine Arts and NCPC in early November.

The next three upcoming MOAs planned are:

- Security Perimeter, inclusive of fencing design and monitoring system, guard posts and entry gates of the Security Perimeter, which is required to be constructed prior to USCG occupancy;
- Access Road and Shepherd Parkway, inclusive of the design of the transportation improvements for the access road, including improvements at the Firth Sterling intersection, the on-site access road for the DHS Headquarters and the Interstate



GSA Public Buildings Service

295 interchange improvements in Shepherd Parkway (note GSA is the lead agency for this effort, in which the FHWA will be cooperating); and

- Phase 1b Adaptive Reuse inclusive of the design and rehabilitation of ten of the existing buildings on the campus.

The construction of these security and transportation improvements, and the adaptive reuse and rehabilitation of the Phase 1b buildings will have an adverse effect on the historic qualities that define the St. Elizabeths National Historic Landmark (NHL) and Shepherd Parkway. We are eager to work with the ACHP, the DCHPO and all the consulting parties on the designs for these security, transportation and adaptive reuse improvements to avoid, minimize and mitigate potential adverse effects to the maximum extent possible and to achieve MOAs for these components of the project. At this point in time we hope to conclude an MOA for the Security Perimeter by January 2010, Access Road and Shepherd Parkway by February 2010 and the Phase 1b Adaptive Reuse in the Spring of 2010.

In cooperation with the FHWA and in coordination with the National Park Service, GSA formally invites the ACHP, DCHPO and all of the Consulting Parties to continue to participate in this important consultation process.

We appreciate your ongoing collaboration and guidance as we progress this complex consultation to implement the Master Plan.

Sincerely,

A handwritten signature in purple ink, appearing to read "Beth L. Savage".

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

cc: Identical letter sent to David Maloney, DCHPO, attn. Tim Dennee; Marcel Acosta, NCPC, attn. Christine Saum and Nancy Witherell; Peter May and Bill Bolger, NPS, attn. Tammy Stidham