

**PROGRAMMATIC AGREEMENT
AMONG
THE UNITED STATES GENERAL SERVICES ADMINISTRATION
THE NATIONAL PARK SERVICE
THE NATIONAL CAPITAL PLANNING COMMISSION
THE FEDERAL BUREAU OF INVESTIGATION
THE DISTRICT OF COLUMBIA STATE HISTORIC PRESERVATION OFFICER
THE MARYLAND STATE HISTORIC PRESERVATION OFFICER
THE VIRGINIA STATE HISTORIC PRESERVATION OFFICER
AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING
THE FBI HEADQUARTERS CONSOLIDATION,
EXCHANGE, AND REDEVELOPMENT**

This Programmatic Agreement ("Agreement") is made as of this 18th day of November, 2016, by and among the United States (U.S.) General Services Administration ("GSA"), the National Park Service ("NPS"), the National Capital Planning Commission ("NCPC"), the Federal Bureau of Investigation ("FBI"), the District of Columbia State Historic Preservation Officer ("DCSHPO"), the Virginia Historic State Historic Preservation Officer ("VASHPO"), the Maryland State Historic Preservation Officer ("MDSHPO"), and the Advisory Council on Historic Preservation ("Council") (referred to collectively herein as the "Signatories" or individually as a "Signatory") pursuant to Section 106 of the National Historic Preservation Act ("NHPA"), 54 U.S.C. § 306108, NHPA's implementing regulations at 36 C.F.R. Part 800, and the provisions of 36 C.F.R. § 800.14(b) authorizing the negotiation of a programmatic agreement to resolve adverse effects from certain complex project situations.

WHEREAS GSA and FBI agree that GSA is the lead agency for the Undertaking (hereinafter defined); and

WHEREAS the current headquarters of the FBI ("FBI HQ") is housed in the J. Edgar Hoover Federal Bureau of Investigation Building ("JEH Building") at 935 Pennsylvania Avenue, NW, in downtown Washington, District of Columbia ("DC"); on a parcel of land bounded to the south by Pennsylvania Avenue, NW; to the west by 10th Street, NW; to the east by 9th Street, NW; and to the north by E Street, NW ("Squares 378 and 379"); and the Government of the United States of America ("U.S. Government") has right, title, and interest in Squares 378 and 379; and

WHEREAS a Consolidated FBI HQ ("Consolidated FBI HQ") is needed to support consolidation and integration of agency functions, provide facilities that conform to Interagency Security Committee Security Standards, and efficiently accommodate the staff currently housed at the JEH Building and at multiple locations in the National Capital Region; and

WHEREAS Congress has appropriated \$390 million in construction and associated project funding for the Consolidated FBI HQ through the Omnibus Consolidated Appropriations Act, 2016 (P.L. 114-113), dated December 18, 2015; and

WHEREAS under 40 U.S.C. § 581(c) among its other general authorities, GSA is authorized to acquire real estate and interests in real estate through purchase, condemnation, or otherwise, including land exchanges; and

WHEREAS pursuant to its general authorities, GSA intends to carry out an undertaking that it has determined is subject to Section 106 of the NHPA (“Undertaking”), and this Undertaking includes the following three separate actions, which may occur in any sequence:

1) GSA proposes to consolidate FBI HQ functions currently housed in the JEH Building and multiple leased locations to a consolidated campus, owned by the U.S. Government and under GSA’s custody and control, at new facilities in a yet to be determined permanent location in suburban Maryland or Northern Virginia, to be constructed by a private development team, or its successors and assigns, selected by GSA and FBI (“Exchange Partner”) in exchange for Squares 378 and 379, and that exchange will be executed pursuant to GSA’s authority under 40 U.S.C. § 581(c); and

2) pursuant to 40 U.S.C. § 6701 *et seq.*, GSA proposes to accept Square Guidelines (hereinafter defined) for Squares 378 and 379; and

3) GSA proposes to determine the conformance of the Exchange Partner’s comprehensive site development plan for Squares 378 and 379, including circulation and parcelization (“Redevelopment Plan”) with the Pennsylvania Avenue Plan of 1974, as amended (“Pennsylvania Avenue Plan”, Exhibit 1), the General Guidelines (hereinafter defined), and the Square Guidelines (hereinafter defined), consistent with the 1996 Agreement (hereinafter defined); and

WHEREAS GSA formally initiated consultation with DCSHPO for this Undertaking on February 6, 2015, with MDSHPO and VASHPO on May 14, 2015, and with the Council on June 4, 2015; and

WHEREAS GSA formally initiated consultation with the Delaware Nation and the Pamunkey Indian Tribe on July 5, 2016; and continues to provide the Delaware Nation and the Pamunkey Tribe opportunities to participate as Consulting Parties (hereinafter defined) per 36 C.F.R 800.2(c)(2)(ii); and

WHEREAS pursuant to 36 C.F.R. § 800.3(c)(1), GSA has engaged NPS, NCPC, DCSHPO, MDSHPO, VASHPO, Council, and FBI as Signatories to this Agreement, and concurrently, pursuant to 36 C.F.R. § 800.3(f), GSA has engaged the following entities as Consulting Parties (“Consulting Parties,” or individually, “Consulting Party”) in Section 106 consultation on the Undertaking: the United States Commission of Fine Arts (“CFA”), the Penn Quarter Neighborhood Association; the Committee of 100 on the Federal City; the DC Preservation League; the DC Department of Transportation; the Council of the District of Columbia; the DC Office of Planning; the National Trust for Historic Preservation; the federally recognized Delaware Nation and Pamunkey Indian Tribes; the Smithsonian Institution; the Downtown DC Business Improvement District; Advisory Neighborhood Commission 2C, the National Mall Coalition; the Historical Society of Washington, DC; Fairfax County Park Authority, Fairfax County Department of Planning and Zoning, Virginia; and the Maryland-National Capital Park and Planning Commission; and

WHEREAS GSA coordinated with the Consulting Parties on scheduling and held its first formal Consulting Party meeting on June 16, 2015, and subsequent meetings on January 19, April 12, May 17, June 14 and 15, and October 4, 2016; and

WHEREAS NCPC and NPS have responsibilities under PUB. L. 104-134 (40 U.S.C. § 6701 et seq.) and the 1996 Agreement, and are therefore Signatories to this Agreement; and

WHEREAS NPS and/or NCPC may be the lead agency for additional jurisdictional actions related to the Undertaking as it involves Square 379 and/or potential site selection in the State of Maryland, that are also subject to Section 106 the NHPA; and

WHEREAS upon completion of construction and acceptance by GSA of the new Consolidated FBI HQ, Squares 378 and 379 will be conveyed by GSA to the Exchange Partner; and

WHEREAS the selected Exchange Partner will participate in the applicable Section 106 activities described in Stipulations II, III, and IV of this Agreement as a Consulting Party; and

WHEREAS the first part of the Undertaking includes site selection and the acquisition of property by GSA, and construction of the new Consolidated FBI HQ by the Exchange Partner on one of the three sites identified by GSA, specifically: the site known as the Greenbelt Metro Station ("Greenbelt Consolidated FBI HQ Site"), located near the intersection of Interstate 495 (I-495) and the Greenbelt Metro Station in Prince George's County, Maryland; the site known as the former Landover Mall ("Landover Consolidated FBI HQ Site"), near the intersection of I-495 and Landover Road in Prince George's County, Maryland; or the site known as the GSA Franconia Warehouse Complex ("Springfield Consolidated FBI HQ Site"), located near the intersection of I-95 and the Franconia-Springfield Parkway in Springfield, Virginia; and

WHEREAS in consultation with MDSHPO, GSA determined the Areas of Potential Effect ("APE"), as defined in 36 C.F.R. § 800.16(d), for the Landover Consolidated FBI HQ Site ("Landover APE," Exhibit 2) and the Greenbelt Consolidated FBI HQ Site ("Greenbelt APE," Exhibit 3), which the MDSHPO, via letter dated August 17, 2015, requested reexamining once information on the height of the Consolidated FBI HQ is known, and within which historic properties, as defined in 36 C.F.R. § 800.16(l), have not yet been identified; and

WHEREAS in consultation with VASHPO, GSA determined the APE, as defined in 36 C.F.R. § 800.16(d), for the Springfield Consolidated FBI HQ Site ("Springfield APE," Exhibit 4), with which the VASHPO concurred via letter dated June 12, 2015 and within which historic properties, as defined in 36 C.F.R. § 800.16(l), have not yet been identified; and

WHEREAS in consultation with DCSHPO, GSA determined the APE, as defined in 36 C.F.R. § 800.16(d), for Squares 378 and 379 ("DC APE," Exhibit 5) and identified historic properties, as defined in 36 C.F.R. § 800.16(l), that include but are not limited to the Plan of the City of Washington (1791 L'Enfant and 1901-02 McMillan plans), the Downtown Historic District, the Federal Triangle Historic District, the Fifteenth Street Financial Historic District, the Lafayette Square Historic District, the Ford's Theatre National Historic Site, the National Mall Historic District; and the Pennsylvania Avenue National Historic Site ("Pennsylvania Avenue Historic District"), designated on September 30, 1965, administratively added to the National Register

of Historic Places ("NRHP") on October 15, 1966, and documented as a historic district in the NRHP on October 12, 2007; and

WHEREAS in 1965 the Secretary of the Interior, under the authority of the Historic Sites Act of 1935, designated the Pennsylvania Avenue National Historic Site as "a fitting memorial to the great personages of this Nation who have lived and worked in the area; and to the monumental events of national importance which have occurred therein"; and

WHEREAS in 2016, NPS completed a Cultural Landscape Inventory ("CLI") for Pennsylvania Avenue, NW-White House to the Capitol (CLI Identification No. 600217), which evaluated the designed public streetscape and parkland along the avenue administered by the NPS and found that the cultural landscape was eligible for listing in the NRHP under Criteria A and C with a period of significance from 1791 to 1996; and DCSHPO concurred with these findings via letter dated February 11, 2016 (Exhibit 6); therefore, for the purposes of this Agreement, the cultural landscape as described in the CLI is considered a historic property as defined in 36 C.F.R. § 800.16(l); and

WHEREAS for the purposes of this Undertaking, NPS administers the public right-of-way between the face of the JEH Building and the curb line along Pennsylvania Avenue ("NPS Land," Exhibit 7), and administers the NPS Land as part of the National Mall and Memorial Parks, a unit of the National Park System; and

WHEREAS the exchange and anticipated redevelopment of Squares 378 and 379 may require a transfer of jurisdiction of a portion of the NPS Land within Square 379 to GSA, with NCPD approval, which may occur prior to the transfer of these squares from GSA to the Exchange Partner, pursuant to 40 U.S.C. § 8124; and

WHEREAS should such a transfer of jurisdiction from NPS to GSA be deemed necessary, NPS and NCPD will consult under Section 106 of the NHPA for the transfer of jurisdiction, and the resolution of any adverse effects that may result from this action will be accomplished through a separate MOA or through an amendment to this Agreement if all Signatories to this Agreement concur to such amendment; and

WHEREAS in accordance with GSA stewardship policy, and in consultation per 36 C.F.R. § 800.4(a)(3), GSA applied NRHP Criteria A, B, C, and D and Criteria Consideration G to the JEH Building and found that it is not eligible for listing, and DCSHPO concurred via letter dated March 6, 2014; and

WHEREAS the Consulting Parties agree that the Undertaking anticipates the demolition of the JEH Building; and

WHEREAS the Pennsylvania Avenue Development Corporation ("PADC") Act of 1972 (PUB. L. 92-578, 86 STAT. 1266) provided for the preparation and oversight of a development plan for certain areas between the White House and the Capitol ("Pennsylvania Avenue Development Area") to ensure it would be developed, maintained, and used in a manner consistent with their inclusion in the Pennsylvania Avenue Historic District and for other purposes defined in the legislation; and

WHEREAS PADC issued the Pennsylvania Avenue Plan in 1974 and executed a Memorandum of Agreement with the Council and DCSHPO in 1978 ("1978 MOA," Exhibit 8) to fulfill its Section 106 responsibilities for implementation of the Plan; and

WHEREAS the 1978 MOA, which only applied to PADC actions, and among other things required PADC to develop general design and construction guidelines for new construction on land under PADC's jurisdiction, to submit them to the Council and DCSHPO for review and approval, and to follow them to the fullest extent of its authority; and further stipulated that construction following the design guidelines would have no adverse effect on the Pennsylvania Avenue Historic District; and

WHEREAS PADC published approved General Guidelines and Uniform Standards for Urban Planning and Design Development within the Pennsylvania Avenue Development Area in 1982 at 36 C.F.R. Part 910 ("General Guidelines", Exhibit 9), that established their integral connection to square guidelines ("Square Guidelines") as a necessary component of the process of development within the Pennsylvania Avenue Development Area, and renders such Square Guidelines appropriate for review by the Council and DCSHPO under the 1978 MOA; and

WHEREAS in 1982 PADC made changes to the Pennsylvania Avenue Plan in response to PUB. L. 96-515 (94 STAT. 3005), which directed PADC to "review the development plan for those parts of the Pennsylvania Avenue Development Area which are not under development or committed for development as of the date of the enactment of this Act, to identify means by which the historic values of such parts of the Pennsylvania Avenue Development Area may be preserved and enhanced to the maximum extent feasible"; and

WHEREAS in 1996 PUB. L. 104-134 (40 U.S.C. § 6701 *et seq.*) dissolved the PADC and transferred responsibilities with respect to amending, completing, redeveloping and ensuring compliance with the Pennsylvania Avenue Plan to GSA, NPS, and NCPC; and in 1996 those agencies executed a Memorandum of Agreement (F.R. Doc. 96-20454, "1996 Agreement," Exhibit 10) that established procedures for property redevelopment ("Property Development (Major Modifications)"); priority redevelopment (minor modifications); amendments to the Pennsylvania Avenue Plan, General Guidelines, and Square Guidelines; and review of building permits; and

WHEREAS neither the 1978 MOA nor the Section 106 regulations in place at the time of its execution set forth how the 1978 MOA would be amended, and DCSHPO and the Council have agreed, in consultation with the Signatories and other Consulting Parties, to execute this Agreement in accordance with 36 C.F.R. §§ 800.14(b)(1)(ii-iii, v) to establish processes by which GSA will fulfill its Section 106 responsibilities for the second and third parts of the Undertaking, including identification of historic properties; assessment of effects on historic properties; consultation and communication with Signatories, Consulting Parties, and the public; and resolution of adverse effects and potential disputes; and

WHEREAS in accordance with the 1996 Agreement, NCPC developed an amendment to the Pennsylvania Avenue Plan ("Plan Amendment," Exhibit 11) in anticipation of the redevelopment of Squares 378 and 379 that was submitted to GSA and NPS; upon agreement by both agencies, GSA transmitted the proposed Plan Amendment to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives, and the Committee on Environment and Public Works and the

Committee on Appropriations of the Senate on January 13, 2016, and in accordance with 40 U.S.C. § 6701 *et seq.*, the proposed Plan Amendment became effective on March 13, 2016, sixty (60) days after transmission to Congress, and therefore the Pennsylvania Avenue Plan is so amended; and

WHEREAS pursuant to 36 C.F.R. § 800.5(b), DCSHPO concurred via letter dated December 15, 2015, with GSA's finding of no adverse effect on historic properties for GSA's transmittal of the proposed Plan Amendment to Congressional Committees, an action determined to be a Section 106 undertaking by GSA, provided that certain conditions are met, namely, the development of Square Guidelines and execution of this Agreement; and

WHEREAS any future GSA actions to transmit proposed Plan Amendments to Congress for this Undertaking would be considered Undertakings subject to Section 106 of the NHPA, and any adverse effects that may result from such an Undertaking may be resolved through a separate MOA or through an amendment to this Agreement if all Signatories to this Agreement concur to such amendment; and

WHEREAS PADC prepared Square Guidelines in anticipation of development, and routinely amended the Pennsylvania Avenue Plan to address development, historic preservation, and planning concerns that arose in conjunction with such development, but because the JEH Building was being constructed concurrent with the preparation of the Pennsylvania Avenue Plan, it did not contemplate redevelopment of Squares 378 and 379, and thus PADC did not prepare Square Guidelines for Squares 378 and 379; and

WHEREAS pursuant to the 1996 Agreement, NCPD is preparing Square Guidelines for Squares 378 and 379 for transmittal to GSA for their consideration and acceptance; NCPD has determined that neither its development of the Plan Amendment nor its development of Square Guidelines is an undertaking subject to Section 106 of the NHPA, as defined in 36 C.F.R. § 800.16(y); and

WHEREAS pursuant to the 1996 Agreement, the Exchange Partner may propose amendments to the Square Guidelines for Squares 378 and 379, and GSA's acceptance of those amendments would be an action subject to Section 106 of the NHPA as outlined in Stipulations III.A.2.b and IV.C.3. of this Agreement; and

WHEREAS redevelopment of Squares 378 and 379 is subject to other applicable laws and regulations, which include but are not limited to 40 U.S.C. § 6701 *et seq.*, the Shipstead-Luce Act (PUB. L. 71-231, 456 STAT. 366, 40 U.S.C. § 9101); the District of Columbia Zoning Regulations (DCMR Title 11); the Height of Buildings Act of 1910 (36 STAT. 452, DCMR § 5-405); and the District of Columbia Historic Landmark and Historic District Protection Act (DC Law 2-144, DC Code §§ 6-1101 *et seq.*); and

WHEREAS consistent with 36 C.F.R. §§ 800.14(b)(1)(ii-iii, v), the effects of the Undertaking on historic properties cannot be fully determined at this time, but it is anticipated that adverse effects shall be avoided, minimized, or mitigated via: (a) concept-level design review detailed herein for the site that is selected for the Consolidated FBI HQ; (b) the development and acceptance of Square Guidelines, which shall be developed in conformance with the Pennsylvania Avenue Plan and its goals and objectives; (c) GSA's determination of the Redevelopment Plan's conformance to the Pennsylvania Avenue Plan, General Guidelines, and Square Guidelines; and (d) the binding of the Exchange Partner to the provisions of this

Agreement in the Design-Build Exchange Agreement (“DBEA”) to be executed between the Exchange Partner and GSA, and (e) the quitclaim deed (a form of which is included as Exhibit 12) conveyed from GSA to the Exchange Partner for Squares 378 and 379 in exchange for the new Consolidated FBI HQ (“Quitclaim Deed”). Any remaining adverse effects of the Undertaking on historic properties, should such be identified, will be resolved in accordance with the processes set forth in this Agreement; and

WHEREAS GSA is coordinating its Section 106 compliance with the applicable requirements of the National Environmental Policy Act (“NEPA,” 42 U.S.C. 4321-4347) pursuant to 40 C.F.R. § 1500-1508; and

WHEREAS GSA will continue to provide an opportunity for public involvement in the development of this Undertaking through the public participation process under NEPA, in accordance with 36 C.F.R. § 800.8(a), and through Stipulation V of this Agreement; and

NOW THEREFORE GSA, FBI, NPS, NCPC, DCSHPO, MDSHPO, VASHPO, and the Council agree that the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the Undertaking on historic properties.

STIPULATIONS

GSA shall ensure that the following measures are carried out.

I. Governing Standards

A. Governing Documents

1. Consolidated FBI HQ: The design for the Consolidated FBI HQ for the first part of the Undertaking will be governed by the Federal Urban Land Use Act (40 U.S.C. § 901 and § 903), GSA PBS-P100, Facilities Standards for the Public Buildings Service, and the Consolidated FBI HQ Program of Requirements, and other applicable laws and regulations and in compliance with this Agreement.
2. Squares 378 and 379: The second and third parts of the Undertaking will be completed in compliance with this Agreement, such that the Undertaking is in accordance with the Pennsylvania Avenue Plan, the General Guidelines, the Square Guidelines for Squares 378 and 379, and the 1996 Agreement, and is not inconsistent with the 1978 MOA.

If the 1978 MOA or the 1996 Agreement are terminated or substantively changed in a way that may affect a Signatory’s ability to carry out its responsibilities in this Agreement, this Agreement may be amended pursuant to Stipulation VIII of this Agreement.

B. Consulting Parties

1. In accordance with 36 C.F.R. § 800.3(f)(3), should GSA receive written requests of individuals and organizations to participate as Consulting Parties during the term of this Agreement, GSA shall consider each request and, in consultation with

- the appropriate State Historic Preservation Officer ("SHPO"), identify additional Consulting Parties.
2. GSA will provide the Consulting Parties with the address and contact information for the office within GSA that will receive their comments under this Agreement.
 3. GSA will maintain a list of Consulting Party contacts and will provide this list to the Consulting Parties upon request and in its annual reporting under this Agreement.

C. Qualified Personnel

1. All work carried out pursuant to this Agreement will meet the Secretary of the Interior's Standards for Archaeology and Historic Preservation ("SOI's Standards") taking into account the suggested approaches to new construction in the SOI's Standards for Rehabilitation.
2. GSA shall ensure that all technical work carried out pursuant to this Agreement will be done by or under the direct supervision of professionals who meet the Secretary of the Interior's Professional Qualifications Standards ("Qualified Personnel") in their respective disciplines, and that consultants retained for technical work pursuant to this Agreement meet these standards.

D. Other Standards

Unless otherwise specified in this Agreement:

1. "Days" means calendar days; and
2. Except where otherwise specified in this Agreement, review periods and consultations shall not exceed thirty (30) calendar days from the date that each Signatory and/or Consulting Party receives sufficient information to conduct the required review or consultation; and
3. "Written" and "in writing" includes hardcopy letters delivered via traditional means and electronic documents transmitted via electronic mail ("email") or electronic storage device such as a CD; and
4. GSA will provide its notifications, determinations, and formal findings in writing to the appropriate party or parties, and will copy the Signatories, and Consulting Parties or Consolidated HQ Consulting Parties (hereinafter defined) as applicable to the respective part of Undertaking.

II. Consolidated FBI HQ Undertaking Activities

A. Initiation of Consultation for the Selected Site

1. GSA will fulfill its obligations in accordance with this Agreement and other governing documents and regulations, continuing consultation with the appropriate SHPO for the site selected ("Selected Site") for the Consolidated FBI HQ ("Selected Site SHPO").

2. Within sixty (60) days of the public issuance of GSA's Record of Decision under NEPA ("ROD") for the FBI HQ Consolidation, GSA will reopen consultation per 36 C.F.R. § 800.3 via written notification to the Selected Site SHPO, copying the Signatories and Consulting Parties. GSA will then proceed with consultation as stipulated in the following sections, pursuant to 36 C.F.R. § 800.2(c)(2)(ii), the Archeological Resources Protection Act of 1979 (16 U.S.C. § 470aa-470mm, PUB. L. 96-95), NHPA, Executive Order 13084, and GSA ADM 1072.1.
3. Identification of Consulting Parties: Subsequent to the activities in Stipulation II.A.2 of this Agreement, GSA will consult with the Selected Site SHPO to identify consulting parties for these activities outlined in Stipulations II.A.4, II.B, and II.C of this Agreement ("Consolidated HQ Consulting Parties") pursuant to 36 C.F.R. § 800.2(c). The Consolidated HQ Consulting Parties will consist of a subset of the Signatories and Consulting Parties to this Agreement, the Exchange Partner, and parties not previously identified, all of whom will have a demonstrated interest in the Selected Site.

The Consolidated HQ Consulting Parties shall be considered Consulting Parties in the Standard Clauses of this Agreement, being Stipulations V through XVI, only when those stipulations are applied pursuant to Stipulation II of this Agreement regarding the Selected Site.

- a. Signatories: Signatories to this Agreement, with the exception of the SHPOs outside of the state in which the Selected Site is located, will be copied on the notifications and findings issued in Stipulation II of this Agreement.
 - b. Upon identification of the Consolidated HQ Consulting Parties by GSA and the Selected Site SHPO, GSA will notify the Consolidated HQ Consulting Parties, inviting them to participate in consultation.
 - c. GSA will consider written requests to participate as Consolidated HQ Consulting Parties by parties not previously identified, pursuant to 36 C.F.R. § 800.2(c)(5).
4. Identification of Historic Properties: GSA will work with the Selected Site SHPO to confirm the APE and to identify historic properties within the APE for the Selected Site. GSA shall be responsible for determining the scope of identification efforts and for completing the identification of historic properties within the APE for the Selected Site, in accordance with 36 C.F.R. § 800.4(a) 800.4(b), and 800.4(c), the Selected Site SHPO's survey guidelines, and the Secretary of the Interior's Standards and Guidelines (Federal Register 48:44716-44742), and 36 C.F.R. 63.

GSA shall report the results of its identification efforts to the Selected Site SHPO and Consolidated HQ Consulting Parties, and will proceed according to either Stipulation II.A.4.a or II.A.4.b of this Agreement.

- a. No historic properties in the APE: If GSA, informed by Qualified Personnel, makes a finding of no historic properties affected, and the Selected Site SHPO concurs in writing or fails to respond in writing within thirty (30) days pursuant to 36 C.F.R. § 800.4(d)(1), GSA will have no further responsibilities with regard to this part of the Undertaking.

- i. If the Selected Site SHPO responds in writing within the thirty (30) day period that it does not concur with the finding, GSA will consult with that SHPO and attempt to resolve the disagreement pursuant to 36 C.F.R. § 800.4(d)(1)(ii). If the disagreement is resolved, then GSA will proceed with Stipulation II.A.4.a or Stipulation II.A.4.b of this Agreement, as appropriate. If GSA and the Selected Site SHPO cannot resolve the disagreement, GSA will proceed according to Stipulation VII of this Agreement.
- b. Historic Properties in the APE: If GSA, informed by Qualified Personnel, identifies buildings, structures, districts, objects, or sites 50 years of age or greater, or properties less than 50 years of age but of potential exceptional significance (36 C.F.R. § 60.4, Criteria Consideration G) within the APE for the Selected Site, GSA shall consult with the Selected Site SHPO and Consolidated HQ Consulting Parties to determine if properties are historic in accordance with 36 C.F.R. § 800.4(c). GSA shall use the resulting documentation to proceed with consultation as described in Stipulation II.B of this Agreement.

B. Concept-Level Design Review

If GSA finds that the Consolidated FBI HQ has the potential to adversely affect historic properties identified under Stipulation II.A.4 of this Agreement, GSA shall consult with the Selected Site SHPO and the Consolidated HQ Consulting Parties to identify ways to avoid, minimize, and mitigate adverse effects on historic properties as stipulated in this section.

1. Submissions: GSA shall provide the Selected Site SHPO and the Consolidated HQ Consulting Parties with the concept-level design documents for the Consolidated FBI HQ as well as construction plans outlining the location of any ground disturbing locations outside of the Selected Site. These materials shall be provided in electronic or print format as requested. GSA's Qualified Personnel will advise if special procedures are required for submissions that include sensitive security information.
2. Scope of review: The Selected Site SHPO and the Consolidated HQ Consulting Parties shall review and comment to GSA in writing on the concept design within thirty (30) days of receipt, or an alternate period agreed upon by GSA, the Selected Site SHPO, and the Consolidated HQ Consulting Parties. The purpose of the design review consultation process is to identify and consider design alternatives or modifications to the design of the Consolidated FBI HQ that will avoid and minimize adverse effects on historic properties.
3. Public involvement: GSA will engage the public as appropriate per 36 C.F.R. § 800.3(e).
4. GSA finding of effect: Once GSA has taken the comments into consideration and determined a preferred design alternative, defined as Preliminary Submission in Exhibit F1 – Design Process of the DBEA, GSA will notify the Selected Site SHPO and Consolidated HQ Consulting Parties, in writing, of its selection with a finding of effect, informed by Qualified Personnel, and will seek concurrence on its finding in accordance with 36 C.F.R. § 800.5.

- a. No adverse effect: If GSA finds that the preferred design alternative will have no adverse effect on historic properties, and the Selected Site SHPO concurs in writing or fails to respond in writing within thirty (30) days from its receipt of GSA's finding, and no objection is received from the Consolidated HQ Consulting Parties, GSA will have no further responsibilities with regard to this part of the Undertaking, being the Consolidation of FBI HQ.
 - i. If the Selected Site SHPO notifies GSA in writing within the thirty (30) day period that it does not concur with GSA's finding of no adverse effect on historic properties, or a Consolidated HQ Consulting Party objects, GSA will consult and attempt to resolve the disagreement. If the disagreement is resolved, then GSA will proceed with Stipulation II.B.4.a or Stipulation II.B.4.b of this Agreement, as appropriate. If the disagreement cannot be resolved, GSA will proceed according to Stipulation VII of this Agreement.
 - b. Adverse effect: If GSA finds that the preferred design alternative will result in adverse effects on historic properties, then GSA shall continue to identify minimization and mitigation measures that resolve adverse effects of the preferred design alternative on historic properties per with 36 C.F.R. § 800.6(c).
 - i. MOA: If consultation results in an MOA, executed pursuant to 36 C.F.R. § 800.6(c), GSA will finalize the preferred design alternative and proceed with the consolidation of FBI HQ. GSA will have no further Section 106 responsibilities for the construction of the Consolidated FBI HQ, beyond its responsibilities in such an MOA.
 - ii. Failure to resolve adverse effects: If resolution cannot be reached on the terms of an MOA, then GSA will proceed in accordance with 36 C.F.R. § 800.7. Following receipt of Council comment and response by the head of the agency pursuant to 36 C.F.R. § 800.7(c), GSA shall notify the Selected Site SHPO and Consolidated HQ Consulting Parties of its intent to proceed with the preferred design alternative, having considered effects on historic properties. This Agreement will remain in effect for all other aspects of the Undertaking.
 - c. The Exchange Partner shall not commence construction of the Consolidated FBI HQ until the completion of the activities in Stipulations II.B.1-4 of this Agreement.
5. Design changes: The Exchange Partner shall notify GSA if, at any point prior to or during construction, the Consolidated FBI HQ design is modified in a manner that is materially inconsistent with the preferred design alternative as defined in Preliminary Submission in Exhibit F1 – Design Process of the DBEA reviewed under Stipulations II.B.1-4 of this Agreement. Upon notification, GSA, informed by Qualified Personnel, will determine whether these modifications have the potential to adversely affect historic properties in a manner not anticipated and/or resolved under consultation that occurred per Stipulations II.B.1-4 of this Agreement.
- a. Should GSA determine that the modified design does not have the potential to adversely affect historic properties in a manner not anticipated and/or resolved

under the consultation that occurred per Stipulations II.B.1-4 of this Agreement, then GSA will have no further responsibilities with regard to this part of the Undertaking.

- b. Should GSA determine that the modified design has the potential to adversely affect historic properties in a manner not anticipated and/or resolved under the consultation that occurred per Stipulations II.B.1-4 of this Agreement, then GSA will reopen consultation per Stipulation II.B of this Agreement.

C. Archeology and Data Recovery

For each step of the consolidation of FBI HQ involving ground disturbance, GSA shall ensure that an archeological survey program for identification of archeological sites within the APE for the Selected Site is developed in consultation with the Selected Site SHPO and the Consolidated HQ Consulting Parties. Prior to affecting any potentially eligible archeological site, GSA shall undertake investigation to evaluate NRHP eligibility following the regulations outlined in 36 C.F.R. § 800.4(c).

1. Identification of Archeological Resources: If, as a result of the investigations, archeological sites are identified within the APE for the Selected Site that are eligible for listing in the NRHP, GSA shall develop a plan for their avoidance, protection, or recovery of information in consultation with the Selected Site SHPO and the Consolidated HQ Consulting Parties. The plan shall be submitted to the Selected Site SHPO and the Consolidated HQ Consulting Parties for review and comment prior to implementation.
2. Data Recovery Plans: All data recovery plans prepared under the terms of this Agreement shall include the following elements:
 - a. Information on the archeological property or properties where data recovery is to be carried out, and the context in which such properties are eligible for listing in the NRHP; and
 - b. Information on any property, properties, or portions of properties that will be destroyed without data recovery; and
 - c. Discussion of the research questions to be addressed through the data recovery with an explanation/justification of their relevance and importance; and
 - d. Description of the recovery methods to be used, with an explanation of their pertinence to the research questions; and
 - e. Information on regular progress reports or meetings to keep the Selected Site SHPO and Consolidated HQ Consulting Parties apprised on the course of the work. The plan should contain the expected timetable for excavation, analysis and preparation of the final report; and
 - f. The proposed curation plan for artifacts recovered, including final ownership, will be consistent with Federal and the respective State requirements.

III. Squares 378 and 379 Undertaking Activities: Square Guidelines Acceptance

A. Development of Square Guidelines

At the time of the execution of this document, NCPC is preparing Square Guidelines for Squares 378 and 379 to guide their redevelopment in a manner consistent with the Pennsylvania Avenue Plan (40 U.S.C. § 6702(d)). NCPC will transmit its proposed Square Guidelines to GSA per the 1996 Agreement.

GSA will have thirty (30) days from its receipt of the Square Guidelines and all relevant documentation from NCPC to review them internally and decide if they will proceed with consultation on the Square Guidelines as received. GSA will consider, among other factors, whether the Square Guidelines adequately address potential effects on historic properties such that a preliminary finding of effect can be made, and will proceed in one of two ways, outlined in Stipulations III.A.1 and III.A.2 of this Agreement.

1. GSA intends to accept the Square Guidelines: If GSA intends to accept the Square Guidelines as proposed by NCPC, it will proceed with Stipulation III.B of this Agreement.
2. GSA does not intend to accept the Square Guidelines: If GSA does not intend to accept the Square Guidelines as proposed by NCPC, it will notify NCPC in writing of its intent to do one of the following within thirty (30) days from the date of the notification.
 - a. Revise with NCPC: GSA will work cooperatively with NCPC to reconcile differences and devise mutually agreeable Square Guidelines consistent with this Agreement and in accordance with Stipulation V.B of the 1996 Agreement.
 - i. If differences are reconciled, GSA will initiate consultation per Stipulation III.B of this Agreement.
 - ii. If differences are not reconciled, then GSA will proceed according to Stipulation III.A.2.b of this Agreement.
 - b. Revise in house: GSA, considering the comments made by the Signatories and Consulting Parties under the activities that have occurred in Stipulation III.A of this Agreement, the record of public and agency stakeholder comments in the development of NCPC-prepared Square Guidelines (outside the Section 106 process for this Undertaking), and in consideration of its statutory responsibilities to protect Federal interests and to carry out the Pennsylvania Avenue Plan, will prepare Square Guidelines in accordance with Stipulation IV of the 1996 Agreement (“GSA Proposals or Plan, General and/or Square Guidelines Amendment”).

B. Consultation on Square Guidelines

1. GSA finding of effect: GSA will initiate consultation on the proposed Square Guidelines by transmitting them to DCSHPO, the Signatories, and Consulting

Parties, with a written finding of effect informed by Qualified Personnel, and will seek concurrence on its finding in accordance with 36 C.F.R. § 800.5.

- a. No adverse effect: If GSA finds that the proposed Square Guidelines will have no adverse effect on historic properties, and DCSHPO concurs in writing or fails to respond within the review period, and no objection is received from a Signatory or Consulting Party, then upon completion of the applicable provisions of the 1996 Agreement, GSA shall accept the Square Guidelines and transmit a final copy to NCPC, copying the Signatories and Consulting Parties. This shall conclude GSA's Section 106 responsibilities for this part of the Undertaking, being GSA's acceptance of Square Guidelines.
 - i. If DCSHPO notifies GSA in writing within the review period that it does not concur with GSA's finding of no adverse effect on historic properties, or a Signatory or Consulting Party objects, GSA will consult to resolve the disagreement. If the disagreement is resolved, then GSA will proceed with Stipulation III.B.1.a or Stipulation III.B.1.b, as appropriate. If the disagreement cannot be resolved, GSA will proceed according to Stipulation VII of this Agreement.
 - b. Adverse effect: If GSA finds that the Square Guidelines will have an adverse effect on historic properties, then GSA will proceed with Stipulation III.B.2 of this Agreement.
2. Consultation to resolve adverse effects: GSA will invite the Signatories and Consulting Parties to consult on the effect of the proposed Square Guidelines on historic properties, and to identify and consider revisions to the proposed Square Guidelines that will avoid or minimize and mitigate adverse effects on historic properties per 36 C.F.R. § 800.6(a).
- a. No Adverse Effect: If consultation results in revisions to the Square Guidelines that avoid adverse effects on historic properties, then GSA will revise the Square Guidelines accordingly. GSA will transmit the revised version to DCSHPO, the Signatories, and Consulting Parties with a written finding of no adverse effect on historic properties, informed by Qualified Personnel, and will seek concurrence on its finding per 36 C.F.R. § 800.5.

If DCSHPO concurs in writing or fails to respond within the thirty (30) day review period, and no objection is received from a Signatory or Consulting Party, then upon completion of the applicable provisions of the 1996 Agreement, GSA shall accept the Square Guidelines and transmit a final copy to NCPC, copying the Signatories and Consulting Parties. This shall conclude GSA's Section 106 responsibilities for this part of the Undertaking, being GSA's acceptance of Square Guidelines.

- i. If DCSHPO notifies GSA in writing within the thirty (30) day period that it does not concur with GSA's finding of no adverse effect on historic properties, or a Signatory or Consulting Party objects, GSA will consult to resolve the disagreement. If the disagreement is resolved, then GSA will proceed with Stipulation III.B.2.a or Stipulation III.B.2.b of this Agreement,

as appropriate. If the disagreement is not resolved, GSA will proceed according to Stipulation VII of this Agreement.

- b. Adverse effect: If consultation does not result in revisions to the Square Guidelines such that GSA can determine that adverse effects on historic properties have been avoided, then GSA will proceed with Stipulation III.B.3 of this Agreement.
3. Resolution of adverse effects: GSA shall continue to identify minimization and mitigation measures that will resolve adverse effects from the proposed Square Guidelines in accordance with 36 C.F.R. § 800.6(c).
 - a. MOA: If consultation results in an MOA, executed pursuant to 36 C.F.R. § 800.6(c), and upon completion of the applicable provisions of the 1996 Agreement, GSA will accept the Square Guidelines and will transmit the final version, along with a copy of the executed MOA, to NCPD, copying the Signatories and Consulting Parties. GSA will have no further Section 106 responsibilities for its acceptance of Square Guidelines, beyond its responsibilities in such an MOA.
 - b. Failure to resolve adverse effects: If resolution cannot be reached on the terms of an MOA, then GSA will proceed in accordance with 36 C.F.R. § 800.7. Following receipt of Council comment, response by the head of the agency pursuant to 36 C.F.R. § 800.7(c), and upon completion of the applicable provisions of the 1996 Agreement, GSA shall accept the Square Guidelines, having adequately considered effects on historic properties, and will transmit the final version, along with its response to Council comment to NCPD, copying the Signatories and Consulting Parties. This shall conclude GSA's Section 106 responsibilities for its acceptance of Square Guidelines. This Agreement will remain in effect for all other aspects of the Undertaking.

IV. Squares 378 and 379 Undertaking Activities: Redevelopment Plan Approval

A. GSA Oversight

For purposes of its conveyance of Squares 378 and 379, GSA shall record a Quitclaim Deed (a form of which is included as Exhibit 12) for the aforementioned squares. Therein GSA will bind the Exchange Partner to comply with the applicable terms of this Agreement and any subsequent agreement(s) developed pursuant to 36 C.F.R. § 800.6 that result from the processes outlined in this Agreement, the NEPA ROD, and the applicable provisions of the 1996 Agreement for Property Redevelopment (Major Modifications). GSA's Qualified Personnel will be responsible for the Section 106 process as the project progresses.

The Exchange Partner shall follow all applicable laws, regulations, and building codes, as enforced by the District of Columbia Government, during construction and shall take the necessary steps to avoid adverse effects on adjacent historic properties, including, for example, those caused by vibration from construction activities.

B. NRHP Re-Evaluation of the JEH Building

While not eligible for listing in the NRHP under Criteria Consideration G at the time of the execution of this Agreement, should GSA expect that the JEH Building will still be in the inventory of the U.S. Government on January 5, 2025, GSA will engage Qualified Personnel to re-evaluate its NRHP eligibility as a resource over fifty years of age, in accordance with GSA stewardship policy and this Agreement. GSA will submit the completed evaluation to DCSHPO, the Signatories, and Consulting Parties in writing and seek concurrence from DCSHPO on its findings. The DCSHPO will have thirty (30) days to review GSA's finding and respond in writing, and will consider the comments of the Signatories and Consulting Parties in its response.

1. Finding of NRHP ineligibility: If GSA finds that the JEH Building is not eligible for listing in the NRHP, and DCSHPO concurs or fails to respond in writing within thirty (30) days, then the resource will not be treated as a historic property and GSA shall have no further Section 106 responsibilities with respect to this resource other than those specified in this Agreement. GSA's Section 106 review of the Redevelopment Plan will proceed according to Stipulation IV.C of this Agreement.

DCSHPO's expressed or deemed concurrence per this Stipulation will re-affirm its concurrence as documented in its letter to GSA dated in March 6, 2014.

2. Finding of NRHP eligibility: As follows and as discussed in consultation on June 15, 2016, if GSA finds that the JEH Building is eligible for listing in the NRHP, and DCSHPO concurs or fails to respond in writing within thirty (30) days, GSA shall ensure that the JEH Building is recorded as follows: in conformance with the Secretary of the Interior's Standards for Architectural and Engineering Documentation, meeting the Historic American Buildings Survey (HABS) Level II documentation standards (as published in the Federal Register Vol. 48, No. 190, Thursday, September 29, 1983, pp. 44731-34, and amended since); consistent with GSA's responsibilities under 54 U.S.C. § 306103 ("Recordation of Historic Property prior to alteration or demolition") and GSA ADM 1020.2 ("Procedures for Historic Properties"); and submitted to the appropriate NPS office. Execution of this Agreement is evidence that the Signatories agree that completion of this recordation as stipulated herein will resolve adverse effects of demolition of the JEH Building.

C. GSA Review of Redevelopment Plan

The Exchange Partner shall submit its proposed Redevelopment Plan for Squares 378 and 379 to GSA and NCPC in writing, in accordance with Stipulation II.A of the 1996 Agreement for Property Redevelopment (Major Modifications). The proposed Redevelopment Plan will include the entirety of Squares 378 and 379. Following the completion of the processes outlined in Stipulation IV.C and Stipulation IV.D of this Agreement, GSA will have no further Section 106 responsibilities with regards to Stipulation IV.C and VI.D of this Agreement. Upon execution of the Quitclaim Deed and consistent with its obligations as specified therein, the Exchange Partner may proceed with redevelopment of both squares, either square, or portions thereof in accordance with the approved Redevelopment Plan. The Exchange Partner shall

follow applicable local and Federal law, provided that, as defined in 40 U.S.C. § 6712 [“Powers of other agencies and instrumentalities in the development area”]:

“This subchapter and the Pennsylvania Avenue Development Corporation Act of 1972 (P.L.92-578, 86 STAT. 1266) do not preclude other agencies or instrumentalities of the Federal Government or of the District of Columbia from exercising any lawful powers in the development area consistent with the [Pennsylvania Avenue Plan] or the provisions and purposes of this subchapter [40 U.S.C. §§ 6711 *et seq.*] and the Act. However, the agency or instrumentality shall not release, modify, or depart from any feature or detail of the development plan without the prior approval of the Administrator of General Services.”

Upon GSA’s receipt of the Exchange Partner’s proposed Redevelopment Plan, GSA will have thirty (30) days to review the Redevelopment Plan, and make one of the following findings.

1. Redevelopment Plan conforms to the Pennsylvania Avenue Plan, General Guidelines, and Square Guidelines: If GSA believes that the Redevelopment Plan conforms to the Pennsylvania Avenue Plan, the General Guidelines, and Square Guidelines, GSA will initiate consultation per Stipulation IV.D of this Agreement.
2. Redevelopment Plan does not conform to the Pennsylvania Avenue Plan, General Guidelines, and/or Square Guidelines; GSA does not support an amendment: If GSA believes that the Redevelopment Plan will require an amendment of the Pennsylvania Avenue Plan, the General Guidelines and/or Square Guidelines, and GSA does not support such an amendment, the Exchange Partner may not proceed with the Redevelopment Plan per Stipulation II.B.2 of the 1996 Agreement for Property Redevelopment (Major Modifications). The Exchange Partner may submit a modified Redevelopment Plan to GSA and NCPC. Thereafter GSA will repeat the process outlined in Stipulation IV.C of this Agreement.
3. Redevelopment Plan does not conform to the Pennsylvania Avenue Plan, General Guidelines, and/or Square Guidelines; GSA supports an amendment: If GSA believes that the Redevelopment Plan will require an amendment of the Pennsylvania Avenue Plan, the General Guidelines, and/or the Square Guidelines, and GSA supports such an amendment, GSA will initiate consultation on the Redevelopment Plan and the proposed Square Guidelines amendment per Stipulation IV.D of this Agreement.

D. Signatory and Consulting Party Review of Redevelopment Plan

1. GSA finding of effect: Based upon GSA’s review of the Redevelopment Plan per Stipulations IV.C.1 or IV.C.3, as applicable, GSA will initiate consultation by transmitting to DCSHPO, the Signatories, and Consulting Parties the “Redevelopment Proposal” consisting of one or more of the following: the proposed Redevelopment Plan; proposed amendments to the Pennsylvania Avenue Plan, the General Guidelines, and/or the Square Guidelines; and/or proposed new Square Guidelines. The transmittal will include a written finding of effect informed by Qualified Personnel and will seek concurrence on GSA’s finding in accordance with 36 C.F.R § 800.5, with the exception that the review

period(s) will be determined by GSA in consultation with DCSHPO to allow for concept review of the proposed Redevelopment Plan by the DC Historic Preservation Review Board (HPRB).

- a. No adverse effect: If GSA finds that the Redevelopment Proposal will have no adverse effect on historic properties, and DCSHPO concurs or fails to respond within fifteen (15) days after concept approval of the Redevelopment Plan by the HPRB, and no objection is received from a Signatory or Consulting Party, then GSA will have no further Section 106 responsibilities with regard to this part of the Undertaking, being GSA's determination of the Redevelopment Plan's conformance with the Pennsylvania Avenue Plan, the General Guidelines, and the Square Guidelines, and if applicable, GSA's acceptance of Square Guidelines. GSA will proceed in accordance with Stipulation II of the 1996 Agreement for Property Redevelopment (Major Modifications) and/or Stipulation IV ("GSA Proposals for Plan, General and/or Square Guidelines Amendment") of the 1996 Agreement.
 - i. If DCSHPO notifies GSA in writing within the fifteen (15) day period following HPRB concept review of the Redevelopment Plan that it does not concur with GSA's finding of no adverse effect on historic properties, or a Signatory or Consulting Party objects, GSA will consult to resolve the disagreement. If the disagreement is resolved, then GSA will proceed with Stipulation IV.D.1.a or Stipulation IV.D.1.b of this Agreement, as appropriate. If the disagreement cannot be resolved, GSA will proceed according to Stipulation VII of this Agreement.
 - b. Adverse effect: If GSA finds that the Redevelopment Proposal will have an adverse effect on historic properties, then GSA will proceed with Stipulation IV.D.2 of this Agreement.
2. Consultation to resolve adverse effects: GSA will invite the Signatories and Consulting Parties to consult on the effect of the Redevelopment Proposal on historic properties, and to identify and consider revisions to the Redevelopment Proposal that will avoid or minimize and mitigate adverse effects on historic properties per 36 C.F.R. § 800.6(a).
- a. No Adverse Effect: If consultation results in the Exchange Partner revising the Redevelopment Proposal so that adverse effects on historic properties will be avoided, then the Exchange Partner will revise the Redevelopment Proposal accordingly and submit the revised version to GSA.

GSA will transmit the revised Redevelopment Proposal to the DCSHPO, Signatories, and Consulting Parties with a written finding of no adverse effect on historic properties, informed by Qualified Personnel, and will seek concurrence on its finding in accordance with 36 C.F.R § 800.5, with the exception that GSA will determine the review period in consultation with DCSHPO to allow for concept review of the proposed Redevelopment Plan by HPRB.

If DCSHPO concurs in writing or fails to respond within fifteen (15) days after HPRB concept approval of the revised Redevelopment Plan, and no objection

is received from a Signatory or Consulting Party, then GSA will have no further responsibilities with regard to this part of the Undertaking, being GSA's determination of the Redevelopment Plan's conformance with the Pennsylvania Avenue Plan, the General Guidelines, and Square Guidelines, and if applicable, GSA's acceptance of Square Guidelines. GSA will proceed in accordance with Stipulation II for Property Redevelopment (Major Modifications) and/or Stipulation IV ("GSA Proposals for Plan, General and/or Square Guidelines Amendment") of the 1996 Agreement.

- i. If DCSHPO notifies GSA in writing within fifteen (15) days after HPRB concept review of the revised Redevelopment Plan that it does not concur with GSA's finding of no adverse effect on historic properties, or a Signatory or Consulting Party objects, GSA will consult to resolve the disagreement. If the disagreement is resolved, then GSA will proceed with Stipulation IV.D.2.a or Stipulation IV.D.2.b of this Agreement, as appropriate. If the disagreement cannot be resolved, GSA will proceed according to Stipulation VII of this Agreement.
 - b. Adverse Effect: If the Exchange Partner does not support revisions to the Redevelopment Proposal as determined in Stipulation IV.D.2.a of this Agreement, or if consultation does not otherwise result in revisions to the Redevelopment Proposal that will avoid adverse effects on historic properties, then GSA will proceed with Stipulation IV.D.3 of this Agreement.
 3. Resolution of adverse effects: GSA shall continue consultation to identify minimization and mitigation measures that will resolve adverse effects from the Redevelopment Proposal in accordance with 36 C.F.R. § 800.6(c).
 - a. MOA: If consultation results in an MOA executed pursuant to 36 C.F.R. § 800.6(c), GSA will have no further Section 106 responsibilities, beyond its responsibilities in such an MOA, with regard to this part of the Undertaking, being GSA's determination of the Redevelopment Plan's conformance with the Pennsylvania Avenue Plan, the General Guidelines, and the Square Guidelines, and if applicable, GSA's acceptance of Square Guidelines. GSA will proceed in accordance with Stipulation II of the 1996 Agreement for Property Redevelopment (Major Modifications) and/or Stipulation IV ("GSA Proposals for Plan, General and/or Square Guidelines Amendment") of the 1996 Agreement.
 - b. Failure to resolve adverse effects: If resolution cannot be reached on the terms of an MOA, then GSA will proceed in accordance with 36 C.F.R. § 800.7. Following receipt of Council comment and response by the head of the agency pursuant to 36 C.F.R. § 800.7(c), GSA shall notify the Signatories and Consulting Parties of its intent to proceed with the Redevelopment Proposal in accordance with Stipulation II of the 1996 Agreement for Property Redevelopment (Major Modifications) and/or Stipulation IV ("GSA Proposals for Plan, General and/or Square Guidelines Amendment") of the 1996 Agreement, and shall provide a copy of its response to Council comments. This shall conclude GSA's Section 106 responsibilities for this part of the Undertaking, being GSA's determination of the Redevelopment Plan's conformance with the Pennsylvania Avenue Plan, the General Guidelines, and

the Square Guidelines, and if applicable, GSA's acceptance of Square Guidelines. This Agreement will remain in effect for all other aspects of the Undertaking. GSA will proceed in accordance with Stipulation II of the 1996 Agreement for Property Redevelopment (Major Modifications) and/or Stipulation IV ("GSA Proposals or Plan, General and/or Square Guidelines Amendment") of the 1996 Agreement.

E. Final Design Redevelopment Plan Revisions

Prior to acting upon any building permit applications submitted by or on behalf of the Exchange Partner, DCSHPO will review the proposed final design for conformance with the approved Redevelopment Plan in accordance with applicable local law. Existing law dictates that building permits for work within Squares 378 and 379 will be reviewed by: the DCSHPO and Historic Preservation Review Board per DC Historic Landmark and Historic District Protection Act (DC Law 2-144, DC Code § 6-1101 *et seq.*), NCPC per 40 U.S.C. § 6702(d), and CFA per the Shipstead-Luce Act (Square 379, only). If DCSHPO finds that the final design is materially inconsistent with the approved Redevelopment Plan and/or results in previously undetermined adverse effects on historic properties, DCSHPO will notify GSA and NCPC in writing, copying the Exchange Partner, Signatories, and Consulting Parties. In accordance with GSA's responsibilities for the Redevelopment Plan under the 1996 Agreement and this Agreement, the Exchange Partner may be required to submit a revised final design to HPRB in conformance with the approved Redevelopment Plan and/or a revised Redevelopment Plan to GSA for consideration per Stipulation IV.C of this Agreement and Stipulation II of the 1996 Agreement.

STANDARD CLAUSES

V. Public and Consulting Party Communications

A. Public Notice

1. Public Notice: GSA will continue to coordinate NEPA and Section 106 compliance and public participation in accordance with 36 C.F.R. § 800.8(a). Specifically, GSA will, at a minimum:
 - a. Publish a Notice of Availability ("NOA") of this Agreement in the Federal Register, and a copy of this Agreement on the GSA Website; and
 - b. Publish a NOA of the Final EIS in the Federal Register and initiate a thirty (30) day public review period; and
 - c. Publish a NOA of the ROD in the Federal Register.
2. GSA Website: GSA will regularly update its project website with information, documents, and correspondence related to the Undertaking throughout the duration of this Agreement.

B. Contact Information

It is the responsibility of each Consulting Party to immediately inform GSA's Regional Historic Preservation Officer of any change in name, address, email address, or phone number of any point-of-contact. GSA will maintain a list of Consulting Party contact information, and will provide this information upon request and in its annual reporting.

VI. Administration of Agreement

A. Cooperation

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

B. Annual Reporting

1. On or before January 31 of each year or until the Signatories agree in writing that the terms of this Agreement have been fulfilled, or the Agreement is terminated or expires, GSA shall prepare and provide an annual report to the Signatories and the Consulting Parties addressing the following topics:
 - a. Progress in carrying forth and completing Stipulations; and
 - b. Any problems or unexpected issues encountered during the preceding year; and
 - c. Any changes that GSA believes should be made in implementation of this Agreement.
2. GSA shall make this annual report available for public review by posting it on the GSA website referenced in Stipulation V.A.2, and Signatories, Consulting Parties, and interested members of the public will be invited to provide comments to GSA.

VII. Dispute Resolution

A. Objections

Should any Signatory to this Agreement object in writing to GSA regarding any action carried out in accordance with this Agreement, exclusive of the processes set forth in the 1996 Agreement, GSA shall consult to resolve the objection. If GSA determines that such objection cannot be resolved after consulting for thirty (30) days or other mutually agreeable timeframe, GSA shall forward all documentation relevant to the dispute, including GSA's proposed resolution of the dispute, to the Council, copying the Signatories and Consulting Parties. Within forty-five (45) days after receipt of all adequate documentation, the Council will do one of the following.

1. Provide GSA with advice on the resolution of the objection. If the Council does not provide its advice regarding the dispute within the forty-five (45) day time period, GSA may proceed with its proposed resolution of the dispute.
2. Notify GSA that it will comment pursuant to 36 C.F.R. § 800.7(c), and proceed to comment. Any Council comment provided in response to such a request shall be taken into account by the head of GSA in accordance with 36 C.F.R. § 800.7(c) (4). Any Council recommendation or comment will be understood to pertain only to the subject of the dispute. GSA's responsibility to carry out all actions under this Agreement that are not subjects of the dispute will remain unchanged.

B. Documentation of Response

Prior to reaching a final decision on the dispute, the head of GSA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the Council, Signatories, and Consulting Parties, and provide them with a copy of this written response.

VIII. Amendments

This Agreement may be amended when an amendment is agreed to in writing by all Signatories. The amendment shall be effective on the date a copy signed by all of the Signatories is filed with the Council, with notification to the Signatories and Consulting Parties. This Agreement may not otherwise be amended.

IX. Termination

A. Proposal to Terminate

If any Signatory to this Agreement determines that it cannot or will not fulfill its responsibilities under this Agreement, that Signatory shall immediately consult with the other Signatories in an attempt to develop an amendment per Stipulation VIII of this Agreement. If within thirty (30) days, or another time period agreed to by all Signatories in writing, an amendment cannot be reached, any Signatory may terminate this Agreement upon written notification to the other Signatories.

B. Responsibilities upon Termination

If this Agreement is terminated per Stipulation IX.A., then prior to work continuing on the Undertaking, GSA must either: (a) execute a new programmatic agreement under 36 C.F.R. § 800.14(b); or (b) follow the process under 36 C.F.R. §§ 800.3 through 800.7 to individually and separately review the three actions that comprise the Undertaking.

GSA shall notify the Consulting Parties in writing as to the course of action it will pursue.

C. SHPOs Considered "Signatories" for the Purposes of this Stipulation

Upon selection of the site for the new Consolidated FBI HQ, the only SHPOs considered Signatories for purposes of this Stipulation will be the Selected Site State

SHPO and the DC SHPO.

X. Alterations to Project Plans, Scope of Services, or Design and Construction Documents

If, after receiving comments on any project plan, scope of services, or other document that has been reviewed and commented on pursuant to this Agreement, GSA desires any material or substantive additions thereto or deletions therefrom, and GSA determines that those material or substantial changes, additions, and/or deletions may affect the integrity of an NRHP-listed or -eligible property and may result in adverse effects, GSA shall furnish the Signatories and the Consulting Parties with a statement of the requested material changes, additions, modifications 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 GSA, informed by Qualified Personnel, and in consultation with the respective SHPO, finds the changes cause or constitute adverse effects on historic properties, then GSA shall consider whether an amendment to this Agreement under Stipulation VIII is warranted, and if so, will proceed accordingly.

XI. Emergency and Unanticipated Adverse Effects Situations

A. Emergency Actions

1. Emergency actions are those actions deemed necessary by GSA as an immediate and direct response to an emergency situation, which is a disaster or emergency declared by the President, tribal government, or the governor of the state, or other immediate threats to life or property. Emergency actions under this Agreement are only those implemented within thirty (30) days from the initiation of the emergency situation.
2. If the emergency action has the potential to affect historic properties, GSA shall notify the appropriate SHPO, interested Indian tribes, Signatories, and Consulting Parties as appropriate prior to the emergency action, when feasible. As part of the notification, GSA shall provide a plan to address the emergency. The SHPO, Signatories, and Consulting Parties shall have seven (7) days to review and comment on the plan to address the emergency. If the SHPO, Signatories, or Consulting Parties do not comment or object to the plan within the review period, GSA may implement the proposed plan. If the SHPO, Signatory, or a Consulting Party objects to the plan, then they will notify GSA, the Signatories, and Consulting Parties of their objection and offer an alternate approach within the seven (7) day review period, unless the agency official determines that circumstances do not permit seven (7) days for comment, in which case GSA will proceed in accordance with 36 C.F.R. 800.12(b)(2). Following its consideration of comments received, GSA will provide notification to the SHPO, Signatories, and Consulting Parties of its decision to proceed with the plan as proposed or an amended plan and may proceed accordingly after the seven (day) review period. If adverse effects result, GSA will resolve them after-the-fact per 36 C.F.R. §800.6.
3. If GSA is unable to consult with the appropriate SHPO, Signatories, and Consulting Parties prior to carrying out emergency actions, GSA shall notify the

SHPO, Signatories, and Consulting Parties as appropriate within forty-eight (48) hours after the initiation of the emergency action. This notification shall include a description of the emergency action taken, the effects of the action(s) on historic properties, and, where appropriate, any further proposed measures to avoid, minimize, or mitigate potential adverse effects on historic properties. The SHPO, Signatories, and Consulting Parties shall have seven (7) days to review and comment on the proposal where further action is required to address the emergency. If the SHPO, a Signatory, or a Consulting Party do not object to the plan within the review period, GSA may implement the further action. If the SHPO, a Signatory, or a Consulting Party objects to the plan, then they will notify GSA and the other Consulting Parties of their objection and offer an alternate approach within the seven (7) day review period unless the agency official determines that circumstances do not permit seven (7) days for comment, in which case GSA will proceed in accordance with 36 C.F.R. 800.12(b)(2). Following its consideration of comments received, GSA will provide notification to the SHPO, Signatories, and Consulting Parties of its decision to proceed with the plan as proposed or an amended plan and may proceed accordingly after the seven (day) review period. If adverse effects result, GSA will resolve them after-the-fact per 36 C.F.R. §800.6.

4. Where possible, GSA shall ensure that such emergency actions shall be undertaken in a manner that does not foreclose future preservation or restoration of historic properties. Where such emergency actions may affect historic buildings, they shall be undertaken in a manner that is consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties. In addition, where possible, GSA shall ensure that such actions shall be done with on-site monitoring by Qualified Professionals.
5. Where the SHPO, a Signatory, or a Consulting Party has reason to believe that a historic property may be adversely affected by an emergency action, the party shall submit a request to review and comment on that action.
6. Immediate rescue and salvage operations conducted to preserve life or property are exempt from these and all other provisions of this Agreement.

B. Unanticipated Adverse Effects

An unanticipated adverse effect is accidental damage or destruction of an NRHP-eligible resource. Should any NRHP-eligible resource be subject to unanticipated adverse effects, work shall cease in the immediate vicinity, and GSA shall immediately notify the respective SHPO and the Council. 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 thereafter enter into consultation with the Signatories and Consulting Parties to resolve adverse effects per 36 C.F.R. § 800.6(b).

XII. Unanticipated Archeological Discoveries

In the event that unanticipated archeological sites, features, artifacts, or human remains are discovered during surface- or ground-disturbing activities, work shall cease in the

immediate vicinity, and the area shall be secured from the elements and from potential vandalism. GSA shall notify the SHPO of the jurisdiction in which the work is being completed, in writing, within two (2) business days of the discovery and shall consult with the SHPO to determine the appropriate level of effort for evaluation, documentation, treatment, and, if warranted, mitigation. GSA shall notify other agencies with responsibilities as appropriate. If human remains are discovered at any time during the implementation of the Undertaking, the agency shall follow the provisions of the Native American Graves Protection and Repatriation Act (25 U.S.C. § 3001) and state and local laws as appropriate. If GSA is unable to resolve the unanticipated adverse effect, GSA will seek the comments of the Council in accordance with the Dispute Resolution process in Stipulation VII of this Agreement.

XIII. Effective Date of Agreement

This Agreement shall become effective when executed by the last of the Signatories ("Effective Date").

Execution of this Agreement by the Signatories, and implementation of its terms, will evidence that GSA has afforded the Signatories and Consulting Parties an opportunity to comment on the Undertaking and its effects, provided that further consultation and resolution of potential adverse effects will occur following execution of this Agreement in accordance with its terms, and that GSA will thereby have taken into account the effects of the Undertaking.

XIV. Duration of Agreement

This Agreement shall remain in effect for a period of twenty (20) years. One year prior to its expiration, the Signatories shall consult to determine whether it should be extended through an amendment per Stipulation VIII.

XV. Miscellaneous

A. Other Federal Agency Section 106 Responsibilities

In the event that another Federal agency not initially a party to or subject to this Agreement receives an application for funding/license/permit for the Undertaking as described in this Agreement, that agency may fulfill its Section 106 responsibilities by stating in writing it concurs with the terms of this Agreement and notifying GSA, the relevant SHPO, and the Council that it intends to do so. Such concurrence shall be evidenced by a letter filed with the Council, copied to the Signatories and Consulting Parties.

B. Anti-Deficiency Act – Federal Parties

This Agreement is subject to applicable laws and regulations. As to the Federal Signatories only, fulfillment of this Agreement and all of the provisions herein are subject to the availability of funds, pursuant to the Anti-Deficiency Act, 31 U.S.C. § 1341 *et seq.* This Agreement 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 Federal Signatory does not have sufficient funds available to fulfill the Stipulations of this Agreement, such Signatory shall so notify the other Signatories

and Consulting Parties in writing and shall take such actions as are necessary to comply with all requirements of 36 C.F.R. Part 800. Nothing in this Agreement shall be deemed to authorize an expenditure of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341 *et seq.*

GSA shall make reasonable and good faith efforts to secure the necessary funds to implement this Agreement in its entirety. If compliance with the Anti-Deficiency Act alters or impairs GSA's ability to implement the Stipulations of this Agreement, GSA shall consult in accordance with the amendment and termination procedures found at Stipulations VIII and IX of this Agreement.

C. Recitals and Exhibits

The recitals (whereas clauses) and exhibits are incorporated herein as a substantive part of this Agreement and will be maintained by GSA in the agency's project files.

D. Authority of Signers

Each Signatory hereto represents that the person or persons executing this Agreement on behalf of such Signatory has full legal authority to do so.

E. Severability

If any provision of this Agreement, or its applications to any person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Agreement or the application of such provision to any other person or circumstance, and the remaining portions of this Agreement shall continue in full force and effect.

F. Non-Waiver

No waiver made by any Signatory with respect to the performance, or manner or time of performance, of any obligation of the other Signatory, or any condition to its own obligation under this Agreement, will be considered a waiver with respect to the particular obligation of the other Signatory or condition to its own obligation beyond those expressly waived.

G. Interpretation of this Agreement

1. Captions: Whenever a section, article, or paragraph is referenced, it refers to this Agreement unless another document is specifically identified. The captions preceding the articles and sections of this Agreement have been inserted for convenience of reference only and shall not define or limit the scope or intent of any provision of this Agreement.
2. References: Wherever reference is made to any provision, term, or matter "in this Agreement," "herein," or "hereof," or words of similar import, the reference shall be deemed to refer to any and all provisions of this Agreement reasonably related thereto in the context of such reference, unless such reference refers solely to a specific numbered or lettered section or paragraph of this Agreement or any specific subdivision thereof.

H. Entire Agreement

This Agreement contains all the representations and the entire agreement among the Signatories with respect to the subject matter of this Agreement. In the event of a conflict or inconsistency between this Agreement and the ROD with respect to obligations pursuant to Sections 106 and 110 of the NHPA, the terms of this Agreement shall govern. In the event of a conflict or inconsistency between this Agreement and the 1996 Agreement, or in the absence of a defined process in this Agreement or the 1996 Agreement relevant specifically to GSA's compliance with Section 106 of the NHPA, the terms of this Agreement shall govern. In the event of a conflict or inconsistency between the 1978 MOA and this Agreement, the terms of this Agreement shall govern.

I. Conflict of Laws

This Agreement shall be governed by the Federal laws of the United States of America.

J. Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement.

K. Electronic Copies

Within one (1) week of the last signature on this Agreement, GSA shall provide each Signatory with one (1), legible, full-color, electronic copy of this fully executed Agreement and all of its exhibits. Internet links shall not be used as a means to provide copies of exhibits because web-based information is subject to frequent change. If the electronic copy is too large to send via email, GSA shall provide each Signatory with a copy of this Agreement on a compact disc or other appropriate electronic media device.

XVI. Signatures

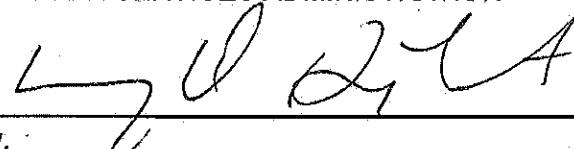
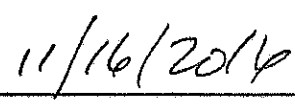
Execution of this Agreement by GSA, NPS, NCPC, FBI, DCSHPO, MDSHPO, VASHPO and the Council and implementation of its terms evidence that GSA has taken into account the effects of the Undertaking on historic properties and afforded the Council an opportunity to comment.

[signatures follow]

SIGNATURE PAGE

**PROGRAMMATIC AGREEMENT
REGARDING
THE FBI HEADQUARTERS CONSOLIDATION,
EXCHANGE, AND REDEVELOPMENT**

GENERAL SERVICES ADMINISTRATION

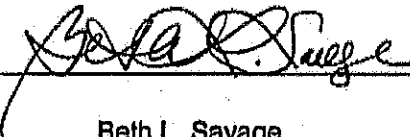
By: Date:

Mary D. Gibert
Regional Commissioner
Public Buildings Service

SIGNATURE PAGE

**PROGRAMMATIC AGREEMENT
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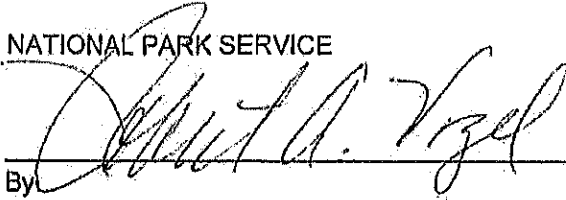
GENERAL SERVICES ADMINISTRATION

By.  _____ Date: 11/4/2016

Beth L. Savage
Federal Preservation Officer

SIGNATURE PAGE
PROGRAMMATIC AGREEMENT
REGARDING
THE FBI HEADQUARTERS CONSOLIDATION,
EXCHANGE, AND REDEVELOPMENT

NATIONAL PARK SERVICE



11/14/16

By

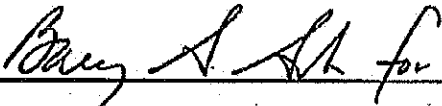
Date:

Robert A. Vogel
Regional Director
National Capital Region

SIGNATURE PAGE

**PROGRAMMATIC AGREEMENT
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EXCHANGE, AND REDEVELOPMENT**

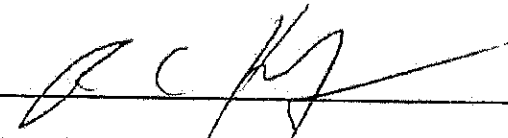
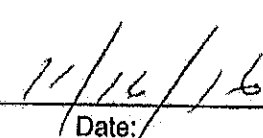
NATIONAL CAPITAL PLANNING COMMISSION

By.  _____ Date: 11-9-16
Marcel Acosta
Executive Director

SIGNATURE PAGE

**PROGRAMMATIC AGREEMENT
REGARDING
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EXCHANGE, AND REDEVELOPMENT**


FEDERAL BUREAU OF INVESTIGATION

By.  _____ Date: 

Richard L. Haley II
Assistant Director
Facilities and Logistics Services Division
FBI Real Property Officer

SIGNATURE PAGE
PROGRAMMATIC AGREEMENT
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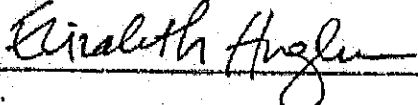
DISTRICT OF COLUMBIA STATE HISTORIC PRESERVATION OFFICER

By.  _____ Date: 11/9/2016

David J. Maloney
State Historic Preservation Officer

SIGNATURE PAGE
PROGRAMMATIC AGREEMENT
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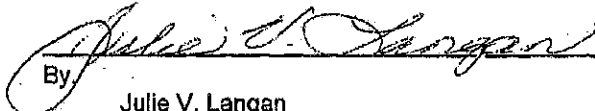
MARYLAND HISTORICAL TRUST

 11.9.16
By: _____ Date: _____
Elizabeth Hughes
Director / State Historic Preservation Officer

SIGNATURE PAGE

**PROGRAMMATIC AGREEMENT
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EXCHANGE, AND REDEVELOPMENT**

VIRGINIA DEPARTMENT OF HISTORIC RESOURCES

 _____ *11-8-16*
By: Julie V. Langan Date:
Director / State Historic Preservation Officer

SIGNATURE PAGE
PROGRAMMATIC AGREEMENT
REGARDING
THE FBI HEADQUARTERS CONSOLIDATION,
EXCHANGE, AND REDEVELOPMENT

ADVISORY COUNCIL ON HISTORIC PRESERVATION



11/19/16

John
By.

John M. Fowler
Executive Director

Date:

EXHIBIT LIST

Available online and in hard copy 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, DC 20407-0000; 202-260-0663.

- Exhibit 1 1974 Pennsylvania Avenue Plan and 1977 Pennsylvania Avenue Historic Preservation Plan
- Exhibit 2 Area of Potential Effect (APE) for the Landover Site
- Exhibit 3 Area of Potential Effect (APE) for the Greenbelt Site
- Exhibit 4 Area of Potential Effect (APE) for the Springfield Site
- Exhibit 5 Area of Potential Effect (APE) for Squares 378 and 379
- Exhibit 6 February 11, 2016 Letter from DCSHPO to NPS regarding the Pennsylvania Avenue NW Cultural Landscape Letter
- Exhibit 7 National Park Service Jurisdictional Maintenance Boundary (NPS Land)
- Exhibit 8 1978 Memorandum of Agreement between PADC, the Advisory Council for Historic Preservation, and the District of Columbia state Historic Preservation Officer
- Exhibit 9 General Guidelines and Uniform Standards for Urban Planning and Design of Development with the Pennsylvania Avenue Development Area [36 C.F.R. § 910]
- Exhibit 10 1996 Memorandum of Agreement Among the General Services Administration, the Department of the Interior—National Park Service and the National Capital Planning Commission
- Exhibit 11 Pennsylvania Avenue Plan Amendment for Squares 378 and 379
- Exhibit 12 Form of Quitclaim Deed