

**FBI HEADQUARTERS CONSOLIDATION AND EXCHANGE
PROGRAMMATIC AGREEMENT
Preliminary Draft Outline
REVISED 14 January 2015**

Please note that for the purposes of review only, the following outline has been presented in sections (I, II, III...), simply to best chart content organization and to make referencing content easier in discussion. Content will not necessarily be represented/identified as such in the Programmatic Agreement, though order will remain similar to proposed.

PREAMBLE

- I. Definition of Undertaking
 - A. FBI Headquarters Consolidation and Exchange
 - i. Project Scope and Regulatory Authorities
 - 1. New Construction:
 - a. Suburban Sites (Maryland and Virginia)
 - 2. Exchange:
 - a. Exchange Definition/40 USC § 581 (c)
 - b. Squares 378 and 379, Washington, D.C.
 - i. GSA as lead agency under NHPA
 - ii. Selection and Exchange Process
 - 1. Selection of Exchange Partner
 - 2. Conclusion of NHPA and NEPA
 - 3. Construction of FBI Consolidated Headquarters
 - 4. Exchange of Squares 378 and 379
- II. Programmatic Agreement
 - A. 36 CFR § 800.14(b)(1)(ii-iii,v)
 - i. Complex project situations
 - ii. Multi-state/Regional
 - iii. Federal Agency Program Alternatives
 - 1. Negotiation of Agreement
 - 2. Effects that cannot be fully determined prior to approval of Undertaking
 - 3. Major decision-making by non-federal parties
 - 4. Where circumstances warrant departure from the normal Section 106 process
- III. Regulatory Environment [IDENTIFY ATTACHMENTS]
 - A. National Historic Preservation Act (NHPA)
 - B. National Environmental Policy Act (NEPA)
 - C. 1996 Non Section 106 MOA between GSA, DOI/NPS and NCPC
 - D. Public Law 104-134
 - E. Shipstead-Luce

- F. Respective Local Codes (DC, Maryland, Virginia)
 - G. Respective Local Commission Regulations (DC, Maryland, Virginia)
 - H. D.C. Zoning
 - I. Height of Buildings Act
 - J. Secretary of the Interior's Standards
 - K. INSERT ADDITIONAL
- IV. Identification of Historic Properties
- A. Exchange Site (Squares 378 and 379): Area of Potential Effect (APE)
 - i. Plan for the City of Washington (L'Enfant and McMillan Plans)
 - ii. Sites, Districts, NHLs, Cultural Landscapes within APE
 - iii. J. Edgar Hoover Building
 - 1. Determination of Eligibility
 - a. DCSHPO Concurrence
 - B. Potential New Construction Sites: Areas of Potential Effect
 - i. Greenbelt, Maryland
 - ii. Landover, Maryland
 - iii. Springfield, Virginia
- V. Findings of Effect
- A. Cultural Resource Evaluations
 - i. District of Columbia
 - ii. Greenbelt, Maryland
 - iii. Landover, Maryland
 - iv. Springfield, Virginia
- VI. Section 106 Consultation
- A. Public Notice
 - B. Section 106 Initiation
 - i. Advisory Council
 - ii. District of Columbia SHPO
 - iii. Maryland SHPO
 - iv. Virginia SHPO
 - C. Federal Partnership Coordination
- VII. Consulting Parties
- A. Identification
 - B. Outreach and Communication
 - i. Scoping Meetings
 - ii. Consultation Meetings
 - iii. Project Website Development
 - C. Participating Consulting Parties
 - D. Coordination with actions undertaken by other Federal agencies as a result of Undertaking

E. Ongoing Opportunities for Comment and Communication

STIPULATIONS

VIII. General Requirements [IDENTIFY ATTACHMENTS]

A. Reference Documents, Evaluations and Other Analyses

- i. Pennsylvania Avenue Plan of 1974
- ii. Amendment to Pennsylvania Avenue Plan of 1974 (Squares 378 and 379)
- iii. Pennsylvania Avenue National Historic Site National Register Nomination, 2007
- iv. Cultural Landscape Inventory, Pennsylvania Avenue National Historic Site
- v. INSERT OTHER

IX. Roles and Responsibilities

A. Federal Agencies

- i. U.S. General Services Administration
 1. Jurisdiction/Governance
 - a. Lead Agency under Section 106
 2. Specific Obligations as Lead Agency under NHPA
 - a. Regulations, Code, Agreements
- ii. National Capital Planning Commission
 1. Jurisdiction/Governance
 - a. Plan of the City of Washington
 - b. Pennsylvania Avenue Plan
 - c. Review of the Master Plan and Transportation Management Plan for the selected site
 - d. Section 106 Responsibilities associated with Greenbelt site (per NCPC Section 106 legal memo)
 2. Cooperating Agency under NEPA
 3. Specific Obligations
 - a. Regulations, Code, Agreements
- iii. National Park Service
 1. Jurisdiction/Governance
 - a. Pennsylvania Avenue National Historic Site
 - b. National Historic Landmark Properties
 2. Cooperating Agency under NEPA
 3. Specific Obligations
 - a. Regulations, Code, Agreements
- iv. Commission of Fine Arts
 1. Jurisdiction/Governance
 - a. Shipstead-Luce Act
 - b. Design Review/Permitting
- v. Advisory Council on Historic Preservation
 1. Jurisdiction/Governance
 - a. National Historic Preservation Act

- B. District of Columbia State Historic Preservation Office
 - 1. Jurisdiction/Governance
 - a. D.C. Historic Preservation Law 2-144
 - b. Design Review/Permitting
 - C. Maryland
 - 1. Local Codes and Commission Regulations
 - 2. State Historic Preservation Office/Maryland Historic Trust
 - 3. Prince George's County Planning Commission/MNCPPC
 - D. Virginia
 - 1. Local Codes and Commission Regulations
 - 2. State Historic Preservation Office, Virginia Department of Historic Resources
 - 3. Fairfax County History Commission
- X. FBI Consolidated Headquarters Undertaking Activities in Maryland or Virginia
- A. Site Selection:
 - i. GSA Section 106 Compliance Responsibilities
 - 1. Review Process and Resultant Effect Determination
 - B. Design and Construction:
 - i. GSA Section 106 Compliance Responsibilities
 - 1. Review Process and Resultant Effect Determination
 - 2. Design Review and Resultant Processes
- XI. Squares 378 and 379 Undertaking Activities in Washington, D.C.
- A. Review Processes for Retention of Structure or Redevelopment of Site
 - i. 1996 Non Section 106 MOA between GSA, DOI/NPS and NCPC
 - 1. Plan Amendment
 - a. NCPC Roles, Responsibilities, Process
 - b. NPS Roles, Responsibilities, Process
 - c. GSA Section 106 Compliance and Reinforcement of Federal and Local Preservation Processes
 - i. Transmit to Congress
 - ii. Amendment of Plan
 - 1. Retention of Structure
 - 2. Redevelopment of Site
 - iii. Public Comment and Notification
 - 2. Square Guidelines
 - a. NCPC Roles, Responsibilities, Process
 - b. NPS Roles, Responsibilities, Process
 - c. GSA Section 106 Compliance and Reinforcement of Federal and Local Preservation Processes
 - i. Accept/Approve Guidelines
 - d. Public Comment and Notification
 - 3. Redevelopment Plan

- a. NCPC Roles, Responsibilities, Process
- b. NPS Roles, Responsibilities, Process
- c. GSA Section 106 Compliance and Reinforcement of Federal and Local Preservation Processes
 - i. Submit to NCPC
 - ii. Approve Proposal
- d. Public Comment and Notification

XII. Stewardship Responsibilities

- A. GSA Ownership until Exchanged
 - i. Existing Condition
 - ii. Maintenance, Operations, Evaluation

XIII. Exchange Partner/Developer Responsibilities

- A. GSA Oversight
- B. Retention of Structure
 - i. In accordance with Pennsylvania Avenue Plan of 1974, as amended
- C. Redevelopment of Site
 - i. 1996 Non Section 106 MOA between GSA, DOI/NPS and NCPC
 - 1. Design Review Coordination
 - 2. Concept Development
 - 3. Redevelopment Plan
 - a. Effect Determination (See OPO PA, Section II.A(3) re in accordance with 1974 Plan, as amended
 - i. Reference appropriate Standard clause(s) below regarding re-opening of consultation, if necessary
 - ii. Other Regulatory Authorities and Permitting Processes
 - 1. D.C. Historic Landmark and Historic District Protection Act
 - 2. Shipstead-Luce
 - 3. Proposed D.C. Zoning
 - 4. Height of Buildings Act

STANDARD CLAUSES

XIV. Definitions

XV. Public Involvement and Communication with Consulting Parties

XVI. Administration of Agreement

XVII. Annual Reporting

XVIII. Dispute Resolution

- XIX. Unanticipated Discoveries
- XX. Project Signage
- XXI. Amendments
- XXII. Termination
- XXIII. Alterations to Project
- XXIV. Emergency Situations
- XXV. Security
- XXVI. Effective Date of Agreement
- XXVII. Duration
- XXVIII. Electronic Copies
- XXIX. Attachments
- XXX. Signatures

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