



MEMORANDUM OF AGREEMENT
AMONG
THE GENERAL SERVICES ADMINISTRATION,
FOOD AND DRUG ADMINISTRATION,
THE MARYLAND STATE HISTORIC PRESERVATION OFFICE, AND THE ADVISORY
COUNCIL ON HISTORIC PRESERVATION
REGARDING THE FOOD AND DRUG ADMINISTRATION CONSOLIDATION PROJECT
AT WHITE OAK, MARYLAND

This Memorandum of Agreement (MOA) amends and replaces the Memorandum of Agreement, dated December 5, 2000, for the Food and Drug Administration consolidation Project at White Oak, Maryland. The effective date of this MOA is the latest date of execution by any signatory hereto.

WHEREAS, the General Services Administration (GSA) has received \$146 million in Federal appropriations to design and build Phase I and II and to design Phase III of a five phase consolidation of 2.3 million square feet of laboratory and office space for the Food and Drug Administration (FDA) in the greater Washington, D.C. area, including over 6,500 employees, on 130 acres of the former U.S. Navy property currently administered as the Federal Research Center by the General Services Administration (GSA) at White Oak in Silver Spring, Maryland, and will request additional funding to construct subsequent phases of the Project from 2002 through completion (Project); and

WHEREAS, the overall design of the Project including the placement of laboratories, office buildings, and support facilities associated with the Center for Drug Evaluation and Research (CDER), the Center for Devices and Radiological Health (CDRH), the Center for Biologics Evaluation and Research (CBER), Office of the Commissioner (OC), and Office of Regulatory Affairs (ORA), is governed by the FDA Consolidation Revised Master Plan submitted by GSA and FDA to the National Capital Planning Commission for review on June 6, 2002, (attached as appendix 1-A); and

WHEREAS, this undertaking, which is the Project, will be constructed according to the general plan included in the FDA Consolidation Revised Master Plan, dated March 8, 2002, as seen in Appendix 1-A; and

WHEREAS, GSA, in its role as a custodian of the Federal Research Center and manager is assuming historic preservation responsibilities on behalf of FDA under 36 CFR Part 800; and

WHEREAS, GSA has received a separate \$10 million Federal appropriation to be used for demolition of buildings within the 130 acre Project area to facilitate construction of the Project; and

WHEREAS, GSA has determined that this undertaking will have an effect on the U.S. Naval Ordnance Laboratory (NOL) Historic District, a property that lies within the Federal Research Center and is eligible for inclusion in the National Register of Historic Places, and has consulted with the Maryland State Historic Preservation Office (MD SHPO) and the Advisory Council on Historic Preservation (Council) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

WHEREAS, through additional research and consultation, the planted buffer (1200 feet in depth, from the center line of New Hampshire Avenue to the front of the closest building of the U.S. NOL Historic District), established in 1945 to protect the Naval Ordnance Laboratory from electronic and other incursion, and to protect the surrounding residential community from what was considered an industrial facility, is determined to be a contributing element within the U.S. NOL Historic District, GSA will determine the effect of future Project phases on this buffer, and if the effect is found to be adverse, continue the consultation process to avoid or minimize the Project's effect, if possible, on this contributing element within the historic district. As a result of the Master Plan revisions, two buildings will be located in the historic buffer to create a forecourt with the remaining portion of Building One (the remaining portion of Building One is represented in Appendix 1-B). This forecourt will provide a space for the location of the redesigned circle, outdoor garden in honor of WOL achievements, and flagpole. Consultation with the MD SHPO, the Council, FDA, WOLAA and LABQUEST has been conducted and is the basis for the revisions to this MOA; and

WHEREAS, a number of umbrella citizen and related historic preservation groups, including LABQUEST and the White Oak Laboratory Alumni Association, Inc. (WOLAA) have participated in the consultation and have been invited to concur in this MOA. The LABQUEST Resolution concerning the revised Master Plan is included in this amended MOA as Appendix 3; and

NOW THEREFORE, GSA, FDA, the MD SHPO, the Council, WOLAA and LABQUEST agree that the undertaking shall be administered in accordance with the following stipulations to satisfy GSA's and FDA's Section 106 responsibilities for all aspects of the Project.

STIPULATIONS

The GSA and the FDA will ensure that the following measures are carried out:

I. ADMINISTRATION

- A. The GSA shall ensure that in completing the necessary provisions of this MOA that it will employ or contract with the appropriate qualified professionals who meet *The Secretary of Interior's Professional Qualifications Standards* at 36 CFR 61 (Professional Qualifications).

II. RETENTION OF CONTRIBUTING RESOURCES

The GSA will retain the following contributing resources: the remaining portion of Building One as depicted in Appendix 1-B, the fire station portion of Building 100, and the flagpole within a redesigned circle to be located in the new forecourt. It should be noted that the wings of Building One will not be preserved and will be removed. It should also be noted that the front entrance of the remaining portion of Building One will be modified to provide a visitor's entrance from the basement underneath the current entry steps and decks. The main lobby of Building One will be preserved. The remaining portion of Building One and the Fire House portion of Building 100 are represented in Appendix 1-B.

III. RECORDATION

- A. Prior to demolition or alteration of any of the contributing buildings in the NOL Historic District, the GSA shall ensure that each of these buildings are documented to Historic American Buildings Survey (HABS)/Historic American Engineering (HAER) standards. The GSA will contact the National Park Service (NPS) to determine the level and kind of documentation required:

Ms. Kathleen Catalano Milley, National Park Service, Philadelphia
Support Office, U.S. Custom House, 200 Chestnut Street, 3rd Floor,
Philadelphia, PA 19106

- B. All documentation must be accepted by the NPS. The GSA will notify the Advisory Council and the MD SHPO of HABS/HAER documentation acceptance, prior to the demolition and/or alteration of the contributing buildings. Copies of the HABS/HAER documentation will be provided to the MD SHPO and to the Montgomery County Historical Society within thirty (30) days of acceptance of the HABS/HAER documentation by NPS.

IV. ARCHITECTURAL SALVAGE

- A. Prior to implementation of Project activities involving the demolition of the wings of Building One and the demolition of Buildings 2, 3, and 4 (scheduled for demolition in 2002), and the demolition of Building 5 (scheduled for demolition in 2005), GSA shall determine whether any architectural or decorative elements, such as wood wall paneling, flooring, fireplace mantles, granite stairs and marble may be salvaged for possible re-use.
- B. To determine which elements are salvaged, GSA will conduct an on-site inspection of Buildings 1, 2, 3, 4, and 5 with representatives of the MD SHPO to identify elements that may be potential candidates for salvage. The WOLAA has provided GSA and the MD SHPO with an updated candidate list of items to be

considered for architectural salvage. The previous and updated lists are provided in Appendix 4.

- C. Prior to the implementation of this MOA it has been determined that such architectural elements do exist. The GSA will submit a salvage plan to the MD SHPO including an inventory of all the elements that it proposes to salvage, the manner in which they will be salvaged, and how they will be stored and eventually used. Within 20 days, the MD SHPO will provide its review comments in writing to the GSA. WOLAA and LABQUEST will be invited to review this plan and provide comments to GSA and WOLAA. GSA shall ensure that any elements that are removed are done so in a manner that minimizes damage. Following their removal, GSA shall further ensure that all salvaged elements are properly secured from vandalism and weather until such time as they can be used.

V. DESIGN REVIEW

- A. All design elements of the Food and Drug Administration Consolidation at White Oak will conform to the March 2002 revised master plan as seen in Appendix 1-A, with the understanding that specific design elements may be modified and/or refined over time.
- B. GSA will submit to the MD SHPO the proposed design plans for all phases of the project to ensure that the design of the proposed buildings will be compatible with neighboring historic buildings in terms of their height, scale, massing, and materials.
- C. GSA shall ensure that the rehabilitation of remaining portion of Building One including its exterior and interior, any new construction added to the building, and all site improvements surrounding the building will adhere to *The Secretary of the Interior's Standards for the Treatment of Historic Properties*. Key character-defining features, as more fully described in Appendix 2, will be retained "in situ." Appendix 2, Character-defining features, has been amended to include notes regarding the exclusion of elements that will no longer be retained due to the removal of the wings of Building One.
- D. Prior to any alteration of Building One, GSA will prepare a Historic Building Preservation Plan (HBPP) reflecting these character-defining features, according to GSA's approach described in "Historic Building Preservation Plan – Comprehensive Building Report" (1992). GSA will ensure that the MD SHPO is invited to review and comment on the HBPP and will request comments from LABQUEST and WOLAA that will be forwarded to the MD SHPO.

- E. GSA shall further ensure that the GSA's Project Architect will submit to the MD SHPO for its review and comment complete Project plans and specifications for the rehabilitation of the remaining portion of Building One including its exterior (which includes new entries at the sides and a new basement entry way for visitors under the front of the existing main entrance) and interior (which includes a memorial room for the WOL achievements), any new construction added to the building including plans for the redesigned entrance and canopy, all site improvements surrounding the remaining portion Building One, and the approved commemoration and interpretation plan referenced in stipulation VI.-B. GSA's Project Architect will submit such plans to the MD SHPO at the schematic and at the 30 percent design development levels of completion. GSA will also ensure that the MD SHPO is invited to participate in a multi-agency review of the design at the approximately 75 percent level of design development. GSA will request comments from LABQUEST and WOLAA, and such comments if any, will be forwarded to the MD SHPO. LABQUEST and WOLAA will provide such comments to GSA in a timely manner.
- F. GSA shall ensure that the exterior rehabilitation of the fire station portion of Building 100 will adhere to *The Secretary of the Interior's Standards for the Treatment of Historic Properties*. Prior to any alteration of the fire station, GSA will prepare a Historic Building Preservation Plan according to GSA's approach for the preparation of such reports, as referenced in Stipulation V. C above. GSA will request comments from LABQUEST and WOLAA, and such comments if any, will be forwarded to the MD SHPO. LABQUEST and WOLAA will provide such comments to GSA in a timely manner.
- G. GSA shall further ensure that the Project Architect will submit to the Maryland SHPO for its review and comment Project plans and specifications for the exterior rehabilitation of the fire station portion of Building 100. GSA's Project Architect will submit such plans at the schematic and at 30 percent design development levels of completion. GSA will also ensure that the MD SHPO is invited to participate in a multi-agency review of the design at the approximately 75 percent level of design development. GSA will request comments from LABQUEST and WOLAA, and such comments if any, will be forwarded to the MD SHPO. LABQUEST and WOLAA will provide such comments to GSA in a timely manner.
- H. GSA will also submit a copy of the proposed landscaping plan for the entire Project site to the MD SHPO for review and comment. The GSA will submit these plans for review and comment at a 30 percent and 75 percent level of design development. GSA will request comments from LABQUEST and WOLAA, and such comments if any, will be forwarded to the MD SHPO. LABQUEST and WOLAA will provide such comments to GSA in a timely manner.

VI. COMMEMORATION AND INTERPRETATION/EDUCATION ACTIVITIES

- A. Within one month of effective date of this MOA, the GSA shall form a committee to guide the development of a plan for the commemoration and interpretation of the history of the NOL and its personnel. At a minimum, the committee will include representatives of the following: GSA, FDA, the MD SHPO, LABQUEST, and the WOLAA.
- B. Development of the commemoration and interpretation plan (Plan) will be guided by principles included in the National Register Bulletin "Telling the Stories: Planning Effective Interpretive Programs for Properties Listed in the National Register of Historic Places" (2000), the NPS's "Planning for Interpretation and the Visitor Experience" (1998), and the National Park Service's Director's Order # 28 "Cultural Resource Management Guideline" (1997). Components of this Plan will be passive, i.e. not staffed, rather than active (i.e., staffed). These components will be limited to indoor exhibits, exterior exhibits and signs, publications (e.g., brochures) and may include indoor exhibits, exterior exhibits and signs, publications (e.g., brochures), and electronic media (e.g., web page).
- C. The GSA shall ensure that the Plan will be developed within three to six months of the effective date of the MOA. One portion of the Plan will outline how a commemorative area for the White Oak Laboratory personnel should be developed. The Plan will provide details about an outdoor garden and indoor memorial space, and about the number, type, and content of interpretive panels to be erected in the commemoration. The interpretive section of the Plan will outline how artifacts associated with the property, including salvaged architectural elements, tools, objects, and other historical source materials from the NOL Historic District along with the recordation photographs described in Stipulation III should be incorporated into an interpretive exhibit or exhibits. The Plan will also describe how information about the historic and architectural context of the NOL Historic District will be included in the interpretive exhibit or exhibits. The plan for an indoor memorial space will be prepared to include public access to the remaining portion of Building One.
- D. The GSA shall ensure that the Plan incorporates recommendations about how related public education materials about the NOL will be developed including the The Legacy of the White Oak Laboratory book that was written by the White Oak History Corporation, published by the Naval Surface Warfare Center, Dahlgren Division, and printed by the Government Printing Office in 2000.
- E. The GSA shall ensure that the Plan incorporates the recommendations of the committee such as in what buildings and spaces the commemorative exhibit or exhibits will be placed, what artifacts and other materials should be exhibited, and

exhibited, and how the public may gain access to the exhibit. GSA will coordinate the commemorative plan with other design programs, such as Art in Architecture.

- F. The GSA shall notify the Council of the measures that will be taken to fulfill this stipulation and provide progress updates to the Council as work is completed.
- G. The GSA shall ensure that the Plan will be installed prior to the completion of the Project.

VII. DISCOVERY

- A. During the course of this undertaking, the GSA will ensure that the MD SHPO is informed of any newly identified potential historic properties discovered within the Project's area of potential effect during the construction. Potential historic properties are herein considered to be any building, structure, object, or archaeological site to which the National Register of Historic Places Criteria of Eligibility (36 CFR 60.4) has not already been applied. The GSA will not take any actions that would adversely affect such properties until such time as it has taken the following actions and resolved or mitigated all of its Section 106 responsibilities regarding such late-identified sites:
 - 1. Upon notification that a potential historic site or object previously unidentified during the course of its Section 106 compliance has been identified within the undertaking's area of effect during the implementation of the undertaking, the GSA will undertake the steps outlined in 36 CFR 800.13(b through d) in order to ensure compliance with Section 106 of the National Historic Preservation Act.
 - 2. In accordance with 36 CFR 800.13(b), the identification of additional, late-identified historic resources discovered during the implementation of the undertaking does not require the GSA to stop work on the overall undertaking, but to make reasonable efforts to avoid or minimize harm to the property until the requirements of 36 CFR 800.13 are met.

VIII. DISPUTE RESOLUTION

- A. If the MD SHPO objects within 30 days to any plans and documents required pursuant to the terms of this MOA, the GSA shall consult with the MD SHPO and other Parties to resolve the objection. If the GSA determines that the objection cannot be resolved through consultation, the GSA shall forward all documentation relevant to the dispute to the Council. Within 30 days after receipt of pertinent documentation, the Council will either:
 - 1. Provide the GSA with recommendations, which the GSA shall take into account in reaching a final decision regarding the dispute; or

2. Notify the GSA that it will comment pursuant to 36 CFR Part 800.6(b), and proceed to comment. Any Council comment provided in response to such a request will be taken into account by the GSA in accordance with 36 CFR Part 800.6(b)(2) with reference to the subject of the dispute.
3. Any recommendations or comment provided by the Council will be understood to pertain only to the subject of the dispute; the GSA's responsibility to carry out all actions under this MOA that are not the subject of the dispute will remain unchanged.

IX. REVIEW OF PUBLIC OBJECTIONS

- A. At any time during implementation of the measures stipulated in this MOA, if any objection to any such measure or its manner of implementation be raised by a member of the public, LABQUEST, or WOLAA, the GSA shall take the objection into account, notify the MD SHPO of the objection, and consult as needed with the objecting party, the MD SHPO, and the Council to resolve the objection.

X. MONITORING AND REPORTING

- A. The MD SHPO may monitor any activities carried out pursuant to this MOA and the Council may review any activities if requested. The GSA will cooperate with the MD SHPO and the Council if they request to monitor or to review Project files or visit Project sites for activities at specific Project sites.
- B. The GSA shall provide the MD SHPO, LABQUEST, and WOLAA with a report that summarizes activities carried out under the terms of this MOA six (6) months from the effective date of the MOA's execution and again at one (1) year from the effective date of execution. Thereafter, the GSA shall provide the MD SHPO, LABQUEST and WOLAA with an annual report until completion of the Project. Reports shall include information regarding preservation activities, information on any public objections and their status, any other activities undertaken pursuant to this MOA, and information on overall project funding and construction phases.

XI. RECORD KEEPING

- A. The GSA shall maintain records of all activities undertaken pursuant to this MOA which shall become part of the Environmental Review Record for the Project including:
 1. All records related to the selection of professionals who perform the work stipulated in the provisions of this MOA, in order to clearly document adherence to the Professional Qualifications (36 CFR 61);

2. All records of correspondence and findings letters provided by the MD SHPO to the GSA;
3. All records indicating all mitigation measures taken in accordance with the provisions of this MOA;
4. All records related to consultations GSA has with the MD SHPO and/or the Advisory Council following the ratification of this MOA;
5. All records of public comments received during public hearings and written or telephonic comments received from the public at all other times; and
6. All of the above records shall be maintained for a minimum of three (3) years after completion of the Project and shall be made available to the general public and additional parties with a demonstrated interest in the undertaking upon request during this time frame.

XII. AMENDMENTS

- A. Any party to this MOA may request that it be amended or modified, whereupon the GSA, the SHPO, and the Council will consult in accordance with 36 CFR Part 800.6(c) (7) & (8) to consider such revisions.
- B. Any resulting amendments or modifications shall be developed and executed among GSA, FDA, the MD SHPO, the Council, LABQUEST, and WOLAA in the same manner as this MOA.

XIII. TERMINATION

FDA, GSA, the Council and the MD SHPO may terminate the MOA by providing thirty (30) days notice to the other Parties, provided that the Parties to the MOA will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination.

XIV. FAILURE TO COMPLY WITH THIS AGREEMENT

In the event that the GSA does not carry out the terms of this MOA, the GSA will comply with 36 CFR Parts 800.4 through 800.6 with regard to individual undertakings covered by this MOA.

XV. SUNSET

Provisions of this MOA will be carried out from the date of execution of this MOA through completion of the FDA Consolidation.

XVI. COMPLIANCE WITH 106

Execution of this MOA by the GSA, FDA, the MD SHPO, and the Council, and the implementation of its terms by GSA, evidence that GSA and FDA have afforded the Council an opportunity to comment on the proposed FDA Consolidation Project and its effects on historic properties, that the GSA and FDA have taken into account the effects of the proposed Project on historic properties, and that GSA has complied with Section 106.

GENERAL SERVICES ADMINISTRATION

By: 

Anthony E. Costa
Assistant Regional Administrator

Date: 2 July 2002

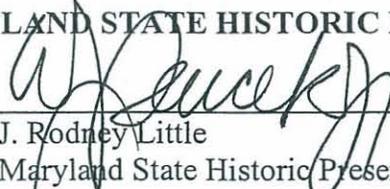
FOOD AND DRUG ADMINISTRATION

By: 

Jeffrey M. Weber
Senior Associate Commissioner for Management and Systems

Date: 7/2/02

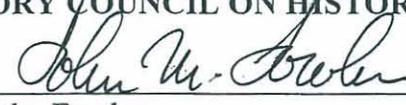
MARYLAND STATE HISTORIC PRESERVATION OFFICE

By: 

J. Rodney Little
Maryland State Historic Preservation Officer

Date: 7-3-02

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: 

John Fowler
Executive Director

Date: 7/10/02

CONCURRING PARTIES

LABQUEST
By: M. J. Levin
Meyer J. Levin
Date: 7/02/02

WHITE OAK LABORATORY ALUMNI ASSOCIATION, INC
By: James J. Pinto
M. John Tiro
Date: 7/2/02

APPENDIX 1

- A. Revised Master Plan (May 2002)
- B. Site Plan depicting the Remaining Portion of Building One and the Fire Station Portion of Building 100

APPENDIX 2

- Character-Defining features-amended

APPENDIX 3

- LABQUEST Resolution

APPENDIX 4

- WOLAA updated candidate list for architectural salvage
- WOLAA original candidate list for architectural salvage