

STAFF RECOMMENDATION



Hinkle
NCPC File No. 6887

FORT DUPONT PARK

TRANSFER OF JURISDICTION OF APPROXIMATELY 15 ACRES OF
FORT DUPONT PARK (U.S. RESERVATION 405) TO THE
DISTRICT OF COLUMBIA GOVERNMENT FOR
EXPANSION OF THE FORT DUPONT ICE ARENA AND
CONSTRUCTION OF A YOUTH BASEBALL ACADEMY

Southeast Washington, D.C.

Submitted by the National Park Service

May 27, 2010

Abstract

The National Park Service proposes to transfer jurisdiction of an approximately 15-acre parcel within Fort Dupont Park (U.S. Reservation 405) in Southeast Washington, D.C. to the District of Columbia to facilitate the District's proposed expansion of the existing ice rink and construction of a youth baseball academy. The area proposed for jurisdictional transfer is situated in the northern portion of Fort Dupont Park, bounded by Ely Place SE to the north, Minnesota Avenue SE to the west, and Ridge Road SE to the east. Title to the underlying property will remain vested in the United States.

Commission Action Requested by Applicant

Recommendation of the transfer of jurisdiction, pursuant to 40 U.S.C. § 8124(a).

Executive Director's Recommendation

The Commission:

Recommends the transfer of jurisdiction of an approximately 15-acre parcel within Fort Dupont Park to the District of Columbia Government as shown on NCPC Map File No. 81.00(63.00)43073, contingent upon the conditions set forth in the May 26, 2010 Transfer of Jurisdiction and Declaration of Covenants between the National Park Service and the District of Columbia government.

Notes that the projects proposed to be developed on this parcel constitute District of Columbia public projects, including any new building, site or structure or the modification of any existing building, site or structure, and are required to be submitted to the National Capital Planning Commission for review prior to their construction.

Recommends that the District strongly consider a site plan and programming option that retains a publicly accessible multi-purpose sports field on the project site.

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PROJECT DESCRIPTION

Site

The National Park Service (NPS) proposes to transfer jurisdiction of an approximately 15-acre parcel of Fort Dupont Park, a 376-acre park in Southeast Washington, D.C., to the District of Columbia (District) to facilitate the District's proposed expansion of the existing ice rink and construction of a youth baseball academy. Only administrative jurisdiction of the project site is proposed to be transferred; title to the underlying property will remain vested in the United States. The area proposed for jurisdictional transfer (the project area) is situated in the northern portion of the park, bounded by Ely Place SE to the north, Minnesota Avenue SE to the west, and Ridge Road SE to the east. Sousa Middle School is located on Ely Place SE across from the project area; Kimball Elementary School is located directly west of the project area. NPS maintenance facilities and U.S. Park Police stables are within Fort Dupont Park immediately south of the site. The project area is currently developed and contains the Fort Dupont Ice Arena, two baseball fields, a multi-purpose field, tennis and basketball courts, and associated parking that are under the administration of the NPS. These facilities are open for use by the general public. The existing tennis and basketball courts are planned to be retained in their existing configuration following the transfer. The project area is currently within both a Recreational Zone (the location of the existing fields and courts) and a Special Use Zone (the location of the ice rink) as delineated in the NPS 2004 *Fort Circle Parks Final Management Plan*.

Proposal

NPS proposes to transfer jurisdiction of the project area to facilitate development of the proposed ice rink expansion and construction of a youth baseball academy; all the proposed development is on previously disturbed land. Once transferred, the project area will no longer be managed or administered by the NPS as part of Fort Dupont Park. The District, however, expects to enter into leases with not-for-profit organizations that will be responsible for the development and management of the improved recreational facilities and programs that are planned for the project area.



Project area

The proposed improvements and expansion of the recreational facilities within the project area address the growing need and sentiment within the city to provide organized recreational opportunities for the adjacent communities in Ward 7 and the District as a whole. The proposed improvements include expanding the Fort Dupont Ice Arena (FDIA) and replacing the existing baseball and multi-purpose fields with facilities to support the programming requirements of the Washington National's Youth Baseball Academy described below and consisting of an administrative building and three ball fields. Public access to all existing and future recreational facilities within the project area as well as recreational programs conducted in or associated with the existing or future facilities, subject to private uses of the facilities for recreational purposes, will be maintained. Conceptual site plan options have been developed to study the layout of these proposed facilities on the project area; however, a final decision on a site plan has not been made. One site option studied considers maintaining a multi-purpose sports field within the project; all site options retain the existing tennis and basketball courts.

Fort Dupont Ice Arena

The Fort Dupont Ice Arena is the only public indoor ice arena located within the District. It is owned by the NPS, but is leased to the Friends of Fort Dupont Ice Arena, a not-for-profit 501(c)3 formed in 1996 in response to the then pending closure of the rink by the NPS. The organization partners with public and private schools, summer camps, churches and local community organizations to promote and deliver the arena's many programs such as Kids on Ice, which provides free figure skating, and hockey and speed skating lessons to economically disadvantaged children. In addition, the arena maintains a public skating schedule that allows for all in the community to use the facility; a public skating schedule will be maintained when the proposed expansion is complete.



Project area – looking east toward the Fort Dupont Ice Arena

Over the past 14 years, the Friends of Fort Dupont Ice Arena has revitalized the facility through major repairs, including a new addition to house offices and an educational meeting room, a refurbished lobby and concession stand, and an expanded skate shop. The ice arena effectively functions as a safe community center for the surrounding neighborhood. The Friends of Fort Dupont Ice Arena has been planning to expand its facilities over the past several years to include a second rink and other amenities to meet the high and growing demand for its services.

Under the proposal, the FDIA would be expanded to approximately twice its current size and the current structure would be renovated to meet the increased demand at the facility. The expanded facility would provide: a second pad of ice; additional locker rooms; additional office, concessions, and maintenance space; and an increased number of multi-purpose rooms. Expansion of the FDIA is planned to occur where the existing ice arena and parking lot in the project area are located.

Following approval of the transfer of jurisdiction, the existing lease is to be assigned by the NPS to the District and the District will become the lessor of the FDIA to the Friends of Fort Dupont Ice Arena.

Youth Baseball Academy

In January of 2006, the District signed a lease agreement with the Washington Nationals major league baseball team that included a community benefit to fund a youth baseball academy for District school children. As part of this agreement, the Nationals and the District committed to a partnership to build the Washington Nationals Youth Baseball Academy to teach the fundamentals of baseball and to provide after-school educational programs for children in the Washington metro region. The Nationals and the District government collaborated on a preliminary action plan, which identified Fort Dupont Park as a potential venue for the baseball academy. The proposed project site was selected for several reasons, including: the amount of land available; the accessibility of the site to roads and adjacent parking and public transportation; its location east of the Anacostia River and in proximity to three public schools; and its location in a residential area with a large concentration of youth currently underserved by educational and recreational enrichment programs and facilities.

The program and facilities proposed for the baseball academy are modeled after the Reviving Baseball in Inner Cities (RBI) program operated by Major League Baseball (MLB) in the East Harlem neighborhood of New York City, and MLB's Urban Youth Academy in Compton, California. Like these successful programs, it is envisioned that the academy will use baseball and softball to provide District youth (ages 7-18) with a year-round opportunity to learn athletic and life skills and gain experience in playing these sports as part of a team. The academy will also provide the opportunity for youth to learn educational and vocational skills and to experience jobs and activities related to these sports, such as umpiring, coaching, sports medicine, sports broadcasting, journalism, and groundskeeping. In addition, the academy will offer youth mentoring, counseling, and academic tutoring programs.

To accommodate the baseball academy's program on the project area, an administration building, a regulation-sized hardball field, and two softball fields are required. These facilities are planned to be developed where the existing fields in the project area are located. The administration building will contain staff offices, classrooms, a lunchroom, and training areas. It

is proposed to be a two-story facility, placed in the center of the project area, and will be between 12,000-16,000 gross square feet in size. The regulation hardball field will have dimensions comparable to a high school field (with dimensions from home plate to the foul line typically 350 feet, and the distance from home plate to the center field wall typically 375 feet). The two softball fields will accommodate youth baseball as well as softball (these typically have dimensions from home plate to the foul line of 190 feet, and from home plate to the center field wall of 220 feet).



Project area – looking southeast across existing baseball field

Subsequent Federal Actions Required

The subject of this review is the transfer of jurisdiction of the project area from the NPS to the District. Upon approval of this transfer by the Commission and by the Council of the District of Columbia, and upon the completion of all transfer documents and agreements by the NPS and the District, the project can begin. District authorities will be responsible for reporting this transfer of jurisdiction to Congress in accordance with 40 U.S.C. § 8124(b). Subsequent actions that the District government takes to expand and improve the sports related recreational facilities on the project area will require further Commission review pursuant to 40 U.S.C. § 8722.

Prior to the consummation of any short-term or long-term lease of any portion of the project area or structure located upon the project area, the District will submit the lease to the NPS for review and concurrence. The NPS's sole purpose in reviewing the lease is to acknowledge that the proposed use of the project area specified within the lease complies with the uses allowed within the Transfer of Jurisdiction agreement discussed below.

PROJECT ANALYSIS

In accordance with 40 U.S.C. § 8124(a), federal and District of Columbia authorities that administer properties within the District of Columbia that are owned by either the federal government or by the District may transfer jurisdiction over any part of the property, among or between themselves, and for purposes of administration and maintenance under agreed-upon conditions by all parties.

In October of 2008, the National Park Service completed an Environmental Assessment (EA) of the proposed transfer and determined that, with mitigation in terms of covenants to be recorded upon the deed to the property, no significant impacts to resources would occur as a result of the proposal. The NPS, therefore, determined that an Environmental Impact Statement would not be required.

On December 15, 2008, the NPS executed a Finding of No Significant Impact (FONSI) wherein the environmentally preferred alternative of transferring administrative jurisdiction of the project site to the District for recreational purposes was selected and with mitigation was further determined not to constitute a major federal action significantly affecting the quality of the human environment as defined by the National Environmental Policy Act.

A Transfer of Jurisdiction and Declaration of Covenants was then agreed upon between the NPS and the District government on May 26, 2010 that incorporates conditions including: 1) retaining the transfer property for recreational purposes, 2) retaining public accessibility of the project site, 3) retaining public access through the project site, 4) retaining public access to parking on the project site, and 5) ensuring the protection of the scenic, historic and natural characteristics of Fort Dupont Park. These conditions, and the bases for them, are described below.

Conditions within the Transfer of Jurisdiction and Declaration of Covenants

1) Retention of the transfer property for recreational purposes

The NPS and the District have agreed within the Transfer of Jurisdiction and Declaration of Covenants that the District will use the project site for the current recreational purposes, and within five years the District shall have made reasonable progress towards the development of either or both of those specific uses identified in Alternative 2 in the EA (improving the Fort Dupont Ice Arena and constructing a Youth Baseball Academy). The Declaration of Covenants includes a reversion of the transfer if the Secretary of the Interior determines that the project site is not being used for the current recreational purposes and, within five years, for the specific recreational purposes of either or both of those specific uses identified as Alternative 2 in the EA.

Background

The Parks and Open Space Element of the *Comprehensive Plan for the National Capital: Federal Elements* observes that the federal government has placed a high value on the recreational use provided by the natural and cultural landscapes of the National Capital Region and that the federal government has, over the years, amassed a significant inventory of natural and historic parks to complement the more formal open space settings for the national capital's monuments and memorials. The Element includes the policy: "The federal government should preserve the important scenic, historic, and

natural elements of the Fort Circle Parks." Further, the Element provides that "Development and enhancement of the Fort Circle Parks should protect their cultural resources and be compatible with their important natural landscape features, which are visible from the monumental core. Community-oriented recreational opportunities, interpretation of fort sites, and a well-delineated connecting trail in a park-like setting - utilizing the McMillan Plan connections - should be provided throughout the system." Today however, many of these federal parks and open spaces are threatened by adjacent development pressures, or the conversion of the park space itself to another use. Since it remains in the federal government's interest to preserve the important scenic, historic, and natural elements of the Fort Circle Parks, the project site should only be used for the expansion and improvement of the sports related recreational facilities identified in this transfer of jurisdiction proposal. In addition, all existing and future facilities located on the project site and all recreational programs conducted in or associated with the existing or future facilities located on the project site should remain available to the public.

In addition, NCPC has partnered with the NPS and the District on the CapitalSpace initiative, which is a current collaborative effort to promote, protect, enhance, and grow the District's parks and open space system. Some of the broad objectives of Capitalspace include addressing the shortage of outdoor regulation-sized playing fields accessible to District residents and attracting scarce resources to maintain and operate facilities at a high standard. A CapitalSpace analysis of access to park and open space within the District finds that: Fort Dupont Park is extremely important in providing park services to Ward 7 within the District; that this area of the District has one of the greatest concentrations of children; and that many areas in this neighborhood have comparatively less access to park and active recreational resources than the rest of the District. This analysis also found that many of the active recreational resources in this area are in need of enhancement.

Retention of the project area for recreational purposes will preserve the existing land uses and be consistent with the designated management zones delineated in the NPS 2004 *Fort Circle Parks Final Management Plan* (FMP). Within the FMP, the project area is within both a Recreational Zone (the location of the existing fields and courts) and a Special Use Zone (containing the ice rink).

The FMP identifies the Recreation Zone as an area that contains recreational facilities that have been developed or that have been designated appropriate (such as picnic areas, community gardens, or baseball, basketball, or softball/soccer fields). These areas are also identified as small nodes of intense activity in portions of the Fort Circle Parks that are not associated with the Civil War defenses and that do not contain earthworks or other historic or archeological resources. Recreational Zones include manicured lawns and vegetation and a variety of structures and are areas designated for intense activity, where large groups of people can actively use the facilities. Within the Recreation Zones there is to be a high tolerance for noise and activity around ballfields and other recreational activities. Per the FMP, most of the visitation in Recreation Zones will be local or regional, with national visitors passing through on designated trails. Organized and informal recreational activities are to be the primary use of the Recreation Zones, and facilities are to be highly specialized and designed for high use. Parking and restroom facilities are also appropriate in Recreation Zones.

Special Use Zones encompass the areas of the Fort Circle Parks that are given over to facilities or uses not fully under the control of the NPS. Examples are the water reservoirs at Forts Reno and Stanton, schools and playgrounds, the Anacostia Museum, and recreational centers operated by the District. To the extent possible, facilities within Special Use Zones are to be designed to be compatible with surrounding park landscape and historic and natural features. Appropriate activities within Special Use Zones are those that are already permitted.

Since it remains in the federal government's interest to preserve park space for community recreation, the project site should be used only for the expansion and improvement of the sports related recreational facilities identified in this transfer of jurisdiction proposal and in accordance with Alternative 2 of the EA.

2) Retention of public accessibility of the project site

Within the Transfer of Jurisdiction and Declaration of Covenants the NPS and the District have agreed that provisions shall be made for public access to the project site and all existing and future facilities located on the project site as well as recreational programs conducted in or associated with the existing or future facilities, subject to private uses of the facilities for recreational purposes consistent with current uses or those specific uses identified as Alternative 2 in the EA. The Transfer of Jurisdiction and Declaration of Covenants includes a condition that if, in the opinion of the NPS, facts or circumstances arise which appear to be a material violation of this measure, the NPS shall promptly notify the District in writing. The NPS and the District shall then use diligent, good-faith efforts to reach agreement regarding what, if any, corrective actions are necessary and a schedule for completing such corrective actions, and the District shall initiate corrective action within one-hundred and twenty (120) days of the notice of violation.

Background

The EA notes that there will be long-term beneficial impacts to those who will utilize the proposed Youth Baseball Academy and expanded ice rink facilities, and that implementation of Alternative 2 in the EA will also result in long-term beneficial impacts to the local community and economy as recreational facilities within the project site are improved and expanded. However, the proposal for these facilities within the EA is for a third party, not the District, to develop and manage the Youth Baseball Academy and expanded ice rink facilities after entering into a lease with District. The EA does not identify any assurances that these facilities will remain accessible to the public.

Since Fort Dupont Park is extremely important in providing park services to the District's Ward 7, which, as noted above, is an area that has one of the greatest concentrations of children and comparatively less access to park and active recreational resources than the rest of the District, it remains in the federal government's interest to ensure public accessibility to the recreational opportunities on the project site.

3) Retention of public access through the project site

The NPS and the District have agreed within the Transfer of Jurisdiction and Declaration of Covenants that public access will be maintained through the project site to the adjacent park land and the District will consult with the NPS in advance of any addition, modification or removal of walking and biking trails within the project site. The Transfer of Jurisdiction and Declaration of

Covenants includes a condition that if, in the opinion of the NPS, facts or circumstances arise which appear to be a material violation of this measure, the NPS shall promptly notify the District in writing. The NPS and the District shall then use diligent, good-faith efforts to reach agreement regarding what, if any, corrective actions are necessary and a schedule for completing such corrective actions, and the District shall initiate corrective action within one-hundred and twenty (120) days of the notice of violation.

Background

As previously noted, the Parks and Open Space Element of the Federal Elements of the Comprehensive Plan provides that community-oriented recreational opportunities should be provided throughout the Fort Circle parks system. Currently, the northern border of Fort Dupont Park has limited restrictions on access to the park for the residents north of the project site. It is not clear within the description of the development of the proposed project (Alternative 2 in the EA) if the project site will be fenced or if public access will be restricted. To ensure continued community access to Fort Dupont's many recreational opportunities, it is in the federal government's interest to ensure that public access is maintained through the project site, connecting Fort Dupont Park and the adjoining neighborhoods.

4) Retention of public access to parking on the project site

Within the Transfer of Jurisdiction and Declaration of Covenants the NPS and the District have agreed that the existing parking and any additional parking to be developed on the project site will generally be available to individual adjacent park users on a first come first serve basis. The Transfer of Jurisdiction and Declaration of Covenants includes a condition that if, in the opinion of the NPS, facts or circumstances arise which appear to be a material violation of this measure, the NPS shall promptly notify the District in writing. The NPS and the District shall then use diligent, good-faith efforts to reach agreement regarding what, if any, corrective actions are necessary and a schedule for completing such corrective actions, and the District shall initiate corrective action within one-hundred and twenty (120) days of the notice of violation.

Background

Currently there are approximately 188 parking spaces available to the public at the project site (adjacent to the FDIA). Within Alternative 2, the EA identifies four options (conceptual site plans) to configure the expansion of the ice rink and reconfigure the existing parking area. In addition, within Alternative 2, the EA identifies three options (conceptual site plans) to configure the Youth Baseball Academy, all of which include additional parking areas. The amount of parking proposed within all options varies; however, the EA notes that parking capacity throughout the entire project site would increase from the current number by 50-120 cars. The EA does not identify whether parking on the project site following development of Alternative 2 will continue to be available to users of Fort Dupont Park.

Since Fort Dupont Park is a national park that attracts both local and national visitors, and the current available parking spaces on the project site are used by visitors to the park, it remains in the federal government's interest to ensure public accessibility to available parking spaces within the project site following the transfer of jurisdiction.

5) Ensure the protection of the scenic, historic and natural characteristics of Fort Dupont Park

The Transfer of Jurisdiction and Declaration of Covenants between the NPS and the District notes that the NPS FONSI found that the transfer of the project site for the development of Alternative 2 in the EA does not constitute a major federal action significantly affecting the quality of the human environment as defined by the National Environmental Policy Act if the specified mitigation within the NPS FONSI is carried out. The specified mitigation set forth in the NPS FONSI are:

- Installing a construction fence along the border of the Natural Resource Zone and project area to protect park resources, such as the forested areas, that delineates the limits of construction and ensures construction vehicles do not encroach on NPS property.
- Regular monitoring of the Natural Resource Zone within the park by an NPS biologist during construction to ensure construction activities are not impacting the trees and other park resources. If it is determined that any of these activities could cause adverse impacts to these resources, construction would be halted until mitigations are established to avoid or minimize adverse impacts to the greatest extent possible.
- The District will ensure compliance with all appropriate District regulations and that Covenant requirements are implemented and are achieving their intended results. These include those for soil and water resources, and for cultural resources as described as mitigation in the EA on pages 26-27. The District necessarily must also abide by other requirements, such as those to protect what are defined as "Special Trees" in the District's Urban Forest Preservation Act of 2002, to the extent these types of trees are located within the transferred property. All trees removed during the construction of the new Youth Baseball Academy and expansion of the Fort Dupont Ice Arena would be replaced with native tree species.
- Prior to construction, a stormwater management plan would be developed for the operation of the proposed facilities. This plan would address any increase in impervious surfaces and subsequent increases in overland runoff by incorporating stormwater control designs into the project to manage the rate at which runoff leaves the site. To ensure no additional runoff is introduced into the Natural Resource Zone, the stormwater control design would be directed to appropriate stormwater outfalls.
- If required, application of fertilizers and pesticides to the new ballfields would be done according to manufacturer's guidelines using proper methods and correct quantities and only when weather conditions are suitable. This would ensure that only the targeted area is treated, and areas outside of the project area would not be impacted.

To further the federal government's interest in protecting the scenic, historic and natural characteristics of Fort Dupont Park, planning, design, construction, operation, and maintenance of any buildings and their surrounding landscapes developed on the project site should be in accordance with green building standards and other laws and regulations. In particular, the levels and orientation of any future lighting on the project site should not negatively impact the scenic, historic, and environmental resources of Fort Dupont Park. As such, the NPS and the District have also agreed within the Transfer of Jurisdiction and Declaration of Covenants that new

facilities developed in conjunction with the proposed baseball academy specified in Alternative 2 of the EA, including the ball fields and buildings, will comply with the provisions of the D.C. Green Building Act, as amended, regarding the new construction of District government facilities whether or not these are in fact District government facilities (constructed and operated by the District government). In addition, the NPS and the District have agreed within the Declaration of Covenants that the development, construction and maintenance of any new and/or modified facilities erected on the project site should be done in such a manner as to minimize negative environmental impacts on adjoining NPS property. The Transfer of Jurisdiction and Declaration of Covenants includes a condition that if, in the opinion of the NPS, facts or circumstances arise which appear to be a material violation of this measure, the NPS shall promptly notify the District in writing. The NPS and the District shall then use diligent, good-faith efforts to reach agreement regarding what, if any, corrective actions are necessary and a schedule for completing such corrective actions, and the District shall initiate corrective action within one-hundred and twenty (120) days of the notice of violation.

Background

Authorized by Congress in 1912, Fort Dupont Park is one of the Fort Circle Parks, a corridor of parks created when several former Civil War fortifications that circled the city of Washington were linked. The actual earthen Fort Dupont, located on strategically important high ground near the eastern-most corner of the Park, was completed in January 1862 on private farm land. The earthwork remains of Fort Dupont are mostly covered with vegetation, however, they are still visible today.

The Fort Circle grew from the plan to improve the park system of the District of Columbia described in the McMillan Commission Report of 1902. The lands that make up Fort Dupont Park were acquired partially by donation as part of the comprehensive development of parkland for the nation's capital. This donation fulfilled the comprehensive plan's mandate to preserve the forests and natural scenery in and about the District and to prevent pollution of the Anacostia and Potomac Rivers, as stated in authorizing legislation.

Today the 376-acre Fort Dupont Park is a significant open space and recreational resource within the District. As noted above, the Parks and Open Space Element of the Federal Elements of the Comprehensive Plan includes the policy: "The federal government should preserve the important scenic, historic, and natural elements of the Fort Circle Parks." In assessing this proposed transfer of jurisdiction, staff considered the District's general plan to expand and improve the sports-related recreational facilities to the extent these details are presently known and presented within the EA to assess the impact of the transfer on the scenic, historic and natural characteristics of Fort Dupont Park.

Site plans presented in the EA were conceptual and did not represent any final decisions on the facilities layout within the project area. These conceptual site plan options, however, were used as a means of determining the feasibility of the program on the project site (i.e., requirements of the Youth Baseball Academy and Fort Dupont Ice Arena, the size of the athletic fields, administrative building, and parking), the physical constraints of the site (i.e., the Natural Resource Zone south of the site as identified in the *Fort Circle Parks Final Management Plan*, NPS maintenance buildings, Kimball

Elementary School fields, and the existing tennis/basketball courts), and the proposal's potential impacts. Detailed design drawings of the new facilities will be developed by the District after the transfer. The impact analysis in the EA does, however, take into account a reasonable range of options to serve as the program elements of the Youth Baseball Academy and FDIA.

The EA presented three options being considered by the District to establish the Youth Baseball Academy within the center of the project area, immediately west of the existing ice rink parking lot. One of the options maintains a multi-purpose sports field within the project area. Two of the options presented in the EA would require the U.S. Park Police horse lunge area to be relocated approximately 100 feet from its current location to the south. Parking for each of these options ranged from 76 to 160 spaces.

The EA presented four site plan options being considered by the District to expand the FDIA to approximately twice its current size. All these options would retain the expanded facility within the footprint of the existing facility and parking lot. Parking for each of these options ranged from 123 to 168 spaces. The configuration of the ice rink expansion avoids impacts to the forested area located directly adjacent to the southern edge of the facility, designated as a Natural Resource Zone in the FMP. Areas designated as natural resource zones are primarily managed by the NPS to maintain forests and natural scenery, but they may also contain cultural resources. Such areas might be stream valleys, woods, prominent forest corridors, and other sensitive natural areas not included in the cultural resource zone. This Natural Resource Zone will remain a part of Fort Dupont Park and is not being transferred to the District.

As noted in the EA, one FDIA site plan option considered during scoping for the EA did expand the ice arena in an end-to-end configuration, which would necessitate the removal of approximately one acre of the adjacent forested area in the Natural Resource Zone. According to the EA, the area proposed for the expansion of the ice arena is part of one of the largest remnants of intact coastal plain forest in the District of Columbia, and the ancient deposition of gravel terraces and the resulting soil conditions in this area have given rise to a unique forest ecosystem referred to as the "Terrace Gravel Forest Plan Community". Because of the potential loss of up to one acre coastal plain forest, among other factors, this option was dismissed from further consideration by the NPS and this portion of land is not being transferred.

In addition to the establishment of a Youth Baseball Academy and the expansion of the FDIA, the project area would include the existing basketball and tennis courts. In accordance with the EA, no physical changes will occur to the current configuration of these facilities.



**Project area – looking east
(toward Fort Dupont Ice Arena, the forested area is not a part of the project area)**

As noted in the EA, after the transfer of jurisdiction takes place, implementation of any of the options proposed by the District under Alternative 2 will result in short-term and long-term negligible to minor adverse impacts to soils from both construction and recreational activities. Long-term negligible to minor adverse impacts to topography will also occur near the southern end of the project area as grading will be necessary to provide level ball fields. The EA finds that no impacts to geology will result from implementation of this alternative. The EA also states that no significant impacts are expected for physiographic resources, such as topography and soils; visitor use and experience; socioeconomics; and park operations and management as a result of the proposed transfer of jurisdiction and the subsequent development proposed by the District. In addition, no wetlands, prime farmlands, wild and scenic rivers, ecologically critical areas, sites sacred to American Indians, or other significant ethnographic resources that occur within or adjacent to the project area are expected to be impacted by the proposed improvements and expansion of the recreational facilities on the project area.



**Project area
(existing multi-purpose play field and basketball/tennis courts)**

As described in the EA, no properties listed in or eligible for listing in, the National Register of Historic Places (NRHP) occur within the project site. Many alterations have occurred to the Park in the last 50 years, and the historic appearance of the Park from the 1930s and 1940s no longer survives. A 2004 Historic Resource Study (HRS) on Fort Dupont Park evaluated the historic context of the Park and concluded that the cultural landscape did not possess the historical significance and integrity to qualify for listing in the NRHP under Criteria A, B, or C. These criteria generally pertain to significant events,

persons, and architectural qualities of the property. The Fort Dupont HRS did not evaluate the Park for NRHP eligibility under Criterion D, which generally is used for archeological resources and pertains to a property's ability to provide information important in history or prehistory.

The area to be transferred is designated as a Recreation Zone in the *Fort Circle Parks Final Management Plan* and does not contain any historic structures or districts. It is approximately 0.30 miles northwest of the NRHP eligible Fort Davis Drive, and nearly one mile from Fort Dupont earthworks. The distance from Fort Davis Drive and the Fort Dupont earthworks to the area to be transferred is too great for the proposed land transfer to cause any effects. Views between Fort Davis Drive and Fort Dupont to the project area are obstructed by vegetation and the area's natural topography.

The distance from the project area to Fort Davis Drive or Fort Dupont earthworks and the lack of a viewshed suggest there would be no impact from the undertaking upon these properties. The District's future use of the property will be comparable to the site's existing recreational functions and will preserve the current setting. In addition, no archeological resources have been identified within the proposed project area and impacts to undiscovered subsurface resources, if present, are not anticipated. No sites sacred to American Indians or other significant ethnographic resources are known to occur within Fort Dupont Park.

The District Historic Preservation Office, on November 7, 2008, stated that the actual transfer of jurisdiction will constitute "no adverse effect", however, the requirements of Section 106 of National Historic Preservation Act would remain applicable to the District's proposed improvement and expansion of the sports-related recreational facilities that are currently located on the parcel and to all future actions proposed for the site. The NPS would participate in any such compliance as the adjacent land manager with potentially affected resources.

Because of circumstances unique to this parcel of land, its location in an area of the District underserved by park and recreation space, its capacity for use to promote expanded and improved recreational opportunities on public park land within the District, and the commitment by the District to improve the Fort Dupont Ice Arena and construct a Youth Baseball Academy, **staff recommends that the Commission recommend the transfer of jurisdiction, contingent upon the conditions set forth in the May 26, 2010 Transfer of Jurisdiction and Declaration of Covenants agreement between the NPS and the District government.**

Staff also recommends that the Commission note that the projects proposed to be developed on this parcel constitute District of Columbia public projects, including any new building, site or structure or the modification of any existing building, site or structure, and are required to be submitted to NCPC for review prior to their construction.



**Project area - looking west
(from Fort Dupont Ice Arena parking lot toward existing ball fields)**

Further Design Consideration

As noted above, the EA presented three options being considered by the District to establish the Youth Baseball Academy within the center of the project area, immediately west of the existing ice rink parking lot. One of the options maintains a multi-purpose sports field within the project area. To help address the shortage of outdoor regulation-sized playing fields accessible to District residents overall, **staff recommends that the Commission recommend that the District strongly consider a site plan and programming option that retains a publicly-accessible multi-purpose sports field on the project site.**

PREVIOUS COMMISSION ACTION

At its January 8, 2009 meeting the Commission postponed review of the proposed transfer of jurisdiction of an approximately 15-acre parcel of Fort DuPont Park from the National Park Service to the District of Columbia Government until such time that the transfer of jurisdiction agreement between the NPS and the District government is finalized and available for evaluation by the Commission.

CONFORMANCE

Comprehensive Plan for the National Capital

Staff has determined that the proposed transfer of jurisdiction is not inconsistent with the *Comprehensive Plan for the National Capital: Federal Elements*. The proposal is consistent with

the Parks and Open Space Element, which recognizes that the federal government has placed a high value on the environmental benefits, recreational use, and scenic beauty provided by the monumental, natural and cultural landscapes of the National Capital Region and that the federal government has, over the years, amassed a significant inventory of natural and historic parks to complement the more formal open space settings for the national capital's monuments and memorials. The Element includes the policy: "The federal government should preserve the important scenic, historic, and natural elements of the Fort Circle Parks." Further, the Element provides the following: "Development and enhancement of the Fort Circle Parks should protect their cultural resources and be compatible with their important natural landscape features, which are visible from the monumental core. Community-oriented recreational opportunities, interpretation of fort sites, and a well-delineated connecting trail in a park-like setting - utilizing the McMillan Plan connections - should be provided throughout the system."

Relevant Federal Facility Master Plan

The proposed transfer of jurisdiction of the project area from the National Park Service to the District of Columbia government for recreational purposes would preserve the existing land uses and would be consistent with the designated management zones delineated in the NPS 2004 *Fort Circle Parks Final Management Plan*. However, the project area would no longer be managed by the NPS as a part of Fort Dupont Park. Because the NPS did not anticipate the transfer of jurisdiction and change of management at the time the FMP was completed, the FMP is amended with the relative NPS Environmental Assessment and transfer documents.

National Environmental Policy Act (NEPA)

In October 2008, the National Park Service released an Environmental Assessment for the proposed transfer of jurisdiction. The EA examined in detail two alternatives: the no action alternative (Alternative 1) and the proposed action to transfer jurisdiction of the project area to the District of Columbia (Alternative 2). The EA was made available for a 30-day public comment period ending on November 17, 2008. On December 15, 2008, NPS executed a Finding of No Significant Impact wherein the environmentally preferred alternative of transferring administrative jurisdiction of the project site to the District was selected and with mitigation was further determined not to constitute a major federal action significantly affecting the quality of the human environment as defined by National Environmental Policy Act.

On January 2, 2009, NCPC issued a FONSI for the transfer of jurisdiction containing mitigation measures described below:

- a. The project site will be used for: 1) the current recreational purposes, and 2) for the specific recreational purposes of either or both of those specific uses identified as Alternative 2, the "Preferred Alternative", in the Environmental Assessment prepared by the NPS dated October 2008. The uses in Alternative 2 are to improve the Fort Dupont Ice Arena and to construct a Youth Baseball Academy.
- b. The project site and all existing and future facilities located on the project site, as well as recreational programs conducted in or associated with the existing or future facilities located on the project site, are to remain available to the public.

- c. Public access will be maintained through the project site to the adjacent NPS property.
- d. Existing parking and any additional parking to be developed on the project site will be available to the public.
- e. New facilities developed in conjunction with the proposed Youth Baseball Academy (including ball fields and the Youth Baseball Academy building) and the expanded ice rink will comply with the provisions of the D.C. Green Building Act, including provisions for storm water management and lighting, regarding the new construction of District government facilities whether or not these are in fact District government facilities, and any new and/or modified facilities erected on the project site will be developed in such a manner as to minimize negative environmental impacts on the adjoining NPS property.

On April 23, 2009, a complaint was filed against the NPS in the U.S. District Court for the District of Columbia by the Maryland Native Plant Society, Inc., the Virginia Native Plant Society, Inc., and David Culp (a private citizen). The complaint alleges that NPS failed to consider and disclose adverse effects of the proposed transfer upon the adjacent forest and seeks a judgment that the NPS violated NEPA in its preparation of the EA and execution of its FONSI. The complaint also seeks to enjoin the transfer of jurisdiction until the NPS complies with its alleged legal duty to consider the effect that the transfer will have on the forest bordering the proposed development.

On May 26, 2010, a Transfer of Jurisdiction and Declaration of Covenants was agreed upon between the NPS and the District government that incorporates the mitigation measures described in the January 2, 2009 NCPC issued FONSI. Following an evaluation of the Transfer of Jurisdiction and Declaration of Covenants agreement between the NPS and District, on May 27, 2010 NCPC issued a new FONSI for the transfer of jurisdiction that acknowledges that the Transfer of Jurisdiction and Declaration of Covenants agreement between the NPS and the District of Columbia government incorporates the mitigation measures specified in the January 2, 2009 NCPC issued FONSI.

National Historic Preservation Act (NHPA)

Consultation in accordance with Section 106 of the National Historic Preservation Act of 1966 was conducted in conjunction with the Environmental Assessment process performed by National Park Service for the proposed transfer of jurisdiction. In a letter dated July 15, 2008, the District of Columbia Historic Preservation Office (DCHPO) and the Advisory Council on Historic Preservation were notified that the NPS has determined that there are no historic properties affected by the action and were provided documentation of this determination. The DCHPO responded on November 7, 2008, and stated that while the actual transfer of jurisdiction will constitute "no adverse effect," the requirements of the NHPA would remain applicable to the District's proposed improvement and expansion of the sports-related recreational facilities that are currently located on the parcel and to all future actions proposed for the project area. The NPS would participate in any such compliance as the adjacent land manager with potentially affected resources.

CONSULTATION

Coordinating Committee

The Coordinating Committee reviewed the proposal on December 17, 2008, and forwarded the proposal to the Commission with the statement that the project has been coordinated with all agencies represented. The participating agencies were: NCPC, the National Park Service; the District of Columbia Department of Transportation; the District of Columbia Department of Housing and Community Development; the District of Columbia Fire and Emergency Medical Services; the General Services Administration; and the Washington Metropolitan Area Transit Authority.

**TRANSFER OF JURISDICTION
AND
DECLARATION OF COVENANTS
REGARDING A PORTION OF
FORT DUPONT PARK (U.S. RESERVATION 405)**

THIS TRANSFER OF JURISDICTION and DECLARATION OF COVENANTS REGARDING A PORTION OF FORT DUPONT PARK (U.S. RESERVATION 405) IN THE DISTRICT OF COLUMBIA (Declaration), by and between the DISTRICT of COLUMBIA, hereinafter referenced as the “**District**,” and the UNITED STATES of AMERICA, acting in this instance by and through the Department of the Interior, by and through the Regional Director, National Capital Region, National Park Service, hereinafter referenced as “**NPS**.”

WITNESSETH:

WHEREAS, Fort Dupont Park (U.S. Reservation 405), which is composed of land owned by the United States, is designated as a part of the Park System of the Nation’s Capital, and is administered by the NPS; and

WHEREAS, to promote expanded and improved recreational opportunities on public parkland within the District, the District has proposed assuming administrative jurisdiction of a portion of Fort Dupont Park in order to expand the existing Fort Dupont Ice Arena and construct a Youth Baseball Academy; and

WHEREAS, the portion of Fort Dupont Park to be transferred to the District, hereinafter referred to as the “Transfer Property,” is generally described and depicted on the site plan labeled Exhibit A, attached hereto and made a part hereof, and a Transfer of Jurisdiction Plat that shall be prepared by the District of Columbia Office of the Surveyor which depicts the Transfer Property as shown on Exhibit A; and

WHEREAS, the Transfer Property is currently used for recreational purposes and the District will maintain the area and provide for its continued use for these recreational purposes while the District is pursuing the “Selected Alternative” (hereinafter defined in Paragraph 1 below), subject to such modifications or closures as are required to develop the Selected Alternative facilities; and

WHEREAS, the Transfer Property consists of the real property as described and depicted on Exhibit A and ultimately the aforesaid Transfer of Jurisdiction Plat and all existing structures, fixtures, equipment and utility infrastructure located within the boundaries of the Transfer Property, including but not limited to the Fort Dupont Ice Arena; and

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WHEREAS, the maintenance and operational responsibilities associated with the Fort Dupont Ice Arena are more specifically defined in an existing Lease Agreement between the NPS and Friends of Fort Dupont Ice Arena, Inc., dated July 16, 1999, as amended by Amendment 1, dated June 27, 2001 (“Lease”). Said Lease is to be assigned by the NPS to the District with the District to become the Lessor; and

WHEREAS, in recognition of the potential efficiencies that would result from such an assumption of administrative jurisdiction by the District, and circumstances unique to this parcel of land, in particular, its location in an area of the District underserved by park and recreation space, its capacity for use to promote expanded and improved recreational opportunities on public parkland within the District, and the commitment by the District to both improve the Fort Dupont Ice Arena and construct a Youth Baseball Academy, the NPS, in compliance with the National Environmental Policy Act (NEPA), completed an Environmental Assessment dated October 2008 (EA) that evaluated the potential impacts associated with the District’s proposed assumption of administrative jurisdiction and development of the Transfer Property to expand and improve recreational opportunities on public parkland within a portion of Fort Dupont Park; and

WHEREAS, the NPS concluded its compliance with NEPA with a “Finding of No Significant Impact” selecting the Selected Alternative of transferring a portion of Fort Dupont Park to the District to effect the expansion and improvement of recreational opportunities on public parkland in the District, which was also determined to be the environmentally preferable alternative. The Selected Alternative was further determined not to constitute a major federal action significantly affecting the quality of the human environment as defined by NEPA moreover if the specified mitigation is carried out; and

WHEREAS, the NPS and the District desire to enter into the Covenants set forth below and cause the Transfer of Jurisdiction and Declaration of Covenants and the Transfer of Jurisdiction Plat to be recorded with the District of Columbia’s Office of the Recorder of Deeds; and

WHEREAS, the District and the NPS are conducting this transfer pursuant to 40 U.S.C. § 8124 and D.C. Official Code Section 10-111 (the “Transfer Authority”), which authorize such transfers of jurisdiction and require they be recommended by the National Capital Planning Commission (NCPC); and

WHEREAS, while title to the Transfer Property shall remain vested in the United States, the NPS and the District intend this transfer of administrative jurisdiction to be subject to the Covenants set forth below, whereby administrative jurisdiction over the Transfer Property is transferred from the NPS to the District so long as the Transfer Property is used for recreational purposes in compliance with the Covenants recited herein; and

NOW, THEREFORE, in accordance with the Transfer Authority and pursuant to the foregoing recitals, which are hereby incorporated as if fully set forth below; and in consideration of the mutual promises herein expressed, the NPS hereby transfers to the District, and the District hereby accepts from the NPS administrative jurisdiction of the

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Transfer Property, as depicted and described on Exhibit A, so long as the Transfer Property is used for recreational purposes, consistent with and subject to the Covenants set forth hereinafter as follows:

1. The District agrees that, consistent with the terms of this Declaration, the Transfer Property will be used for: (i) the current recreational purposes, and (ii) within five years the District shall have made reasonable progress toward the development of either or both of those specific uses identified in the Selected Alternative (Alternative 2 in the EA), which was subject to a thirty (30) day public review and comment period.
2. The District acknowledges that pursuant to the Transfer Authority only administrative jurisdiction of the Property is hereby transferred and that title to the Transfer Property remains vested in the United States of America.
3. The District shall not transfer administrative jurisdiction of the Transfer Property without the prior written approval of the NPS. The District agrees that prior to the consummation of any short-term or long-term lease of any portion of the Transfer Property or structure located upon the Transfer Property, it will submit such lease to the NPS for review and concurrence for the sole purpose of confirming that the proposed use of the Transfer Property as specified within that lease complies with the uses of the Transfer Property identified in the Selected Alternative. The NPS shall concur or object in writing within 45 days of receipt of any such lease.
4. The District agrees to assume jurisdiction of the Transfer Property, a portion of which is subject to the terms and conditions of the existing Lease. An assignment of lease is to be executed between the NPS and the District in a mutually acceptable form, wherein the District will become the Lessor and the NPS will no longer retain any responsibility or involvement in the Lease.
5. The District agrees that provisions shall be made for public access to the Transfer Property and all existing and future facilities located on the Transfer Property as well as recreational programs conducted in or associated with the existing or future facilities, subject to private uses of the facilities for recreational purposes that are consistent with its current uses or those identified in the Selected Alternative. The District further agrees to maintain public access through the Transfer Property to the adjacent parkland and to consult with the NPS in advance of any addition, modification or removal of walking and biking trails within the Transfer Property. The District agrees that existing parking and any additional parking to be developed on the Transfer Property will be made generally available to individual adjacent park users on a first come first served basis.

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6. The District agrees that new facilities developed in conjunction with the proposed Youth Baseball Academy, including the ballfields and buildings, will comply with the provisions of the DC Green Building Act, as amended, regarding the new construction of District government facilities whether or not these are in fact District government facilities. The District further agrees to endeavor to develop, construct and maintain any new and/or modified facilities erected on the Transfer Property in such a manner as to minimize negative environmental impacts on adjoining NPS property. The District agrees that the “Construction Activity Pollution Prevention” requirements cited in the LEED Standards will be met during the construction of new facilities on the Transfer Property.
7. In the event that the Secretary of the Interior (the “Secretary”) determines that the Transfer Property is not being used for at least one of the uses identified in the Selected Alternative, and/or is not otherwise in compliance with the Covenant described in Paragraph 3 above, the Secretary shall provide the District written notice of this determination of non-compliance (“Notice to Cure”); provided however, the Secretary may not exercise any reversion rights with respect to the non-implementation of the Selected Alternative during the first five (5) years after this Declaration is recorded, so long as the Transfer Property is being used for the purpose specified in clause (i) of Paragraph 1 during that time, subject to such modifications or closures as are required to develop the facilities required for the uses identified as the Selected Alternative and the District is making reasonable progress on the site toward the development of at least one of the two facilities in the Selected Alternative. If after receipt of a Notice to Cure, the District does not materially address the Secretary’s determination to the Secretary’s reasonable satisfaction within one hundred twenty (120) days of the date the Notice to Cure was delivered to the District (the “Cure Period”), the Secretary shall, if he/she elects to move forward with pursuing a reversion of the Transfer Property, deliver a written notice to the District that the Secretary is exercising NPS’ right of reversion (“Reversion Notice”) and the Transfer Property shall revert to NPS on the sixtieth (60th) day after the date the Reversion Notice was delivered to the District if the District has not, to the reasonable satisfaction of the Secretary, materially cured the non-compliance within such sixty (60) day period. The Secretary’s election to not issue a Reversion Notice shall not waive or in any way affect his or her right to issue a subsequent Notice to Cure or Reversion Notice.
 - (a) During the Cure Period, the Secretary has the option of entering a written agreement with the District that sets forth modified terms for the District’s continued administration of the Transfer Property. The District may request such an agreement from the Secretary, but the Secretary is not required to grant this request.

- (b) There is no limit on the number of times the Secretary may issue a Notice to Cure pursuant to this Paragraph 7, and no limit on the number of times the Secretary may attempt to negotiate and potentially enter into an agreement with the District pursuant to Paragraph 7(a) to avert a reversion.
 - (c) Should the reversion become effective, NPS shall have no responsibility for the costs associated with the reversion including but not limited to: (i) those expenses to eliminate any activities on and interests in the Transfer Property that the NPS reasonably determines cannot be conducted on parkland administered by the NPS or that the NPS decides not to continue, and/or terminating any contracts and agreements with third parties for which the NPS is reasonably unwilling or unable to take assignment; *provided however*, the District shall not be responsible for such expenses associated with any uses of the Transfer Property as of the date of this transfer of administrative jurisdiction; and (ii) for revising the plats and recording documents in the D.C. Lands Records and changing signage.
- 8. If, in the opinion of the NPS, facts or circumstances arise which appear to be a material violation of any provision of this Declaration, except material violations of Paragraph 1 and Paragraph 3 which are subject only to Paragraph 7 hereof, the NPS shall promptly so notify the District in writing. The NPS and the District shall then use diligent good-faith efforts to reach agreement regarding what, if any, corrective actions are necessary and a schedule for completing such corrective actions, and the District shall initiate corrective action within one hundred twenty (120) days of the notice of violation.
- 9. Anti-Deficiency Act. Nothing in this Declaration shall be construed as binding the United States or the District to expend in any one fiscal year any sum in excess of appropriations made by Congress for this purpose or to involve the United States or the District in any contract or other obligation for this further expenditure of money in excess of such appropriations, 31 U.S.C. §1341(a)(1). In addition, all obligations of the District provided herein shall be subject to the limitations set forth in applicable federal law, D.C. Official Code § 47-105; the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01 et seq. (as the foregoing statutes may be amended from time to time) and § 446 of the District of Columbia Home Rule Act.
- 10. The District agrees that no commemorative work which means any statue, monument, sculpture, memorial, plaque, or other structure or landscape feature, including a garden or memorial grove intended to perpetuate in a permanent manner the memory of a person, organization, place, or event shall be erected on the Transfer Property without the prior written approval of the Director of the NPS; provided

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however, that such a work may be erected on the interior of a structure on the Transfer Property without NPS approval; provided further, that such a work may be displayed on a temporary basis on the exterior of a structure on the Transfer Property without NPS approval.

11. The District agrees that no facilities shall be named for donors or commercial sponsors, except for any then-current facility operators, (i.e., "Washington Nationals Youth Baseball Academy," or "Welcome to MLB Baseball Academy," or "Friends of Fort Dupont Ice Arena"). Signage containing the names of the facility operator(s) shall be placed in such a manner as to not face Fort Dupont Park.
12. The Covenants contained herein shall bind the NPS and the District and their assigns.
13. The NPS and the District have the right specifically to enforce these Covenants. This Transfer of Jurisdiction and Declaration of Covenants is not intended to confer upon any entity other than the NPS and the District and their assigns any rights or remedies hereunder.
14. All notices shall be given in writing and delivered either by overnight courier or certified mail. Notices to the parties shall be effective on delivery (or refusal thereof) and, until notice of a change of address is duly given, shall be delivered to the following addresses:

If to the NPS: Regional Director, National Capital Region
1100 Ohio Drive, S.W.
Washington, D.C. 20242
Fax: (202) 619-7220

With a copy to: Office of the Solicitor
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240
Attn: Associate Solicitor
Division of Parks and Wildlife
Fax: (202) 208-3877

If to the District: Deputy Mayor for Planning and Economic
Development
1350 Pennsylvania Avenue, N.W., Suite 317
Washington, D.C. 20004
Attention: Judith Greenberg
Facsimile: 202-727-6703

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with a copy to: Office of the Attorney General for the District of
Columbia
1100 15th Street, N.W., Suite 800
Washington, D.C. 20001
Attention: Commercial Division, Real Estate
Section
Facsimile: 202-727-6014

15. Effective date. The Transfer of Jurisdiction and Declaration of Covenants is effective on the date it is recorded in the lands records of the District of Columbia following the recommendation of approval by the NCPC pursuant to 40 U.S.C. § 8124(a).

SIGNATURES APPEAR ON NEXT PAGE

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IN WITNESS WHEREOF, on the 26 day of May, 2010, Margaret O'Dell, Regional Director, National Capital Region, National Park Service, having first considered and approved the foregoing Transfer of Jurisdiction and Declaration of Covenants, has directed the execution thereof in the name of said National Park Service, by hereunto setting her hand hereto.

WITNESS:

NATIONAL PARK SERVICE

Darcy Young

By: Margaret O'Dell

DISTRICT OF COLUMBIA, SS.:

I, Julia S. Young, a Notary Public in and for the District of Columbia, do hereby certify that Margaret O'Dell, who is personally known to me as the person named as Regional Director, National Capital Region, National Park Service, in the foregoing Transfer of Jurisdiction and Declaration of Covenants bearing the date of the 26th day of May, 2010, and hereunto annexed, personally appeared before me in said District, and as Regional Director aforesaid, and by virtue of the authority vested in her acknowledged the same to be the act and deed of the National Park Service.

GIVEN under my hand and seal this 26th day of May, 2010.

Julia S. Young
Notary Public, District of Columbia

My Commission expires:

May 31, 2014

Julia S. Young
Notary Public
District of Columbia
My Commission Expires May 31, 2014

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IN WITNESS WHEREOF, on the day and year first written above,

NEIL ALBERT, CITY ADMINISTRATOR of the District of Columbia, having first considered and approved the foregoing Transfer of Jurisdiction and Declaration of Covenants, has directed the execution thereof in the name of said District of Columbia, by hereunto setting his or her hand hereto on the 26 day of MAY, 2010.

WITNESS:

DISTRICT OF COLUMBIA

Judith C. Queen

By: Neil O. Albert
CITY ADMINISTRATOR

DISTRICT OF COLUMBIA, SS.:

I, XZAQUOINETT Y. WARRICK, a Notary Public in and for the District of Columbia, do hereby certify that NEIL O. ALBERT, who is personally known to me as the person named as CITY ADMINISTRATOR of the District of Columbia, in the foregoing Transfer of Jurisdiction and Declaration of Covenants bearing the date of the 26 day of MAY, 2010, and hereunto annexed, personally appeared before me in said District of Columbia, and as CITY ADMINISTRATOR aforesaid, and by virtue of the authority vested in him or her acknowledged the same to be the act and deed of the District of Columbia.

GIVEN under my hand and seal this 26 day of MAY, 2010.

XZAQUOINETT Y. WARRICK
Notary Public
District of Columbia
My Commission Expires November 2013

Xzaquoinett Y. Warrick
Notary Public, District of Columbia

My Commission expires: NOVEMBER 2013

This Declaration of Covenant has been reviewed and approved for legal sufficiency as of May 26, 2010.


Susan C. Longstreet
Deputy Attorney General

Exhibit A - Site plan for Transfer of Administrative Jurisdiction

Fort Dupont
National Capital Parks - East

Washington, D.C.

