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DEPARTMENT OF THE INTERIOR (DOI)

National Park Service (NPS)

NATIONAL CAPITAL PLANNING COMMISSION

GENERAL SERVICES ADMINISTRATION (GSA)

**Memorandum of Agreement Among the General Services Administration, the Department of the Interior--
National Park Service and the National Capital Planning Commission**

61 FR 41789

DATE: Monday, August 12, 1996

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This Memorandum of Agreement (Memorandum) is entered into by and among the General Services Administration (GSA), the Department of the Interior-National Park Service (NPS), and the National Capital Planning Commission (NCPC) for the purpose of ensuring that development and redevelopment within the Pennsylvania Avenue area (as defined in *40 U.S.C. 871(f)*) complies with the Pennsylvania Avenue Plan of 1974 (Plan), as amended, and the Pennsylvania Avenue Development Corporation's General Guidelines and Square Guidelines.

Whereas, Public Law 104-134 abolishes the Pennsylvania Avenue Development Corporation (PADC) as of April 1, 1996,

Whereas, Public Law 104-134 requires that all rights, title and interest in and to all property held in the name of the Pennsylvania Avenue Development Corporation be transferred to the General Services Administration or the Department of the Interior-National Park Service,

Whereas, Public Law 104-134 transfers PADC's responsibilities with respect to amending, completing, redeveloping, and ensuring compliance with the Plan to GSA and NCPC,

Whereas, GSA, NPS, and NCPC intend to encourage and facilitate the continued development of the Pennsylvania Avenue area in a manner that builds on and reinforces the past achievements of PADC in restoring Pennsylvania Avenue and its environs,

Whereas, GSA, NPS, and NCPC wish to work in partnership to ensure that the supervision of the Plan is carried out in a responsible and efficient manner and with appropriate public participation,

The Parties to This Memorandum Do Hereby Agree:

I. Property Development-If GSA decides to develop any property subject to the Plan, the following procedures shall apply:

A. GSA shall prepare (with the advice of NCPC) the Request for Proposals (RFP);

B. GSA shall convene a panel that shall include a representative from NCPC staff to review submitted proposals. The panel, before making its final determination, shall ensure that the selected proposal has been evaluated by a design committee assembled by GSA to ensure high quality building and urban design. The design committee shall include a representative from NCPC. Once GSA has made a selection, GSA shall transmit a copy of the selected proposal to NCPC prior to contract award. NCPC staff will have 10 calendar days to consider whether the proposed selection conforms to the Plan and the General and Square Guidelines. In this document, whenever a review period ends on a Saturday, Sunday or a legal holiday, the review shall conclude on the next day which is not a Saturday, Sunday or legal holiday.

1. If, within the 10 calendar day review period, NCPC staff informs GSA in writing that NCPC believes that the proposed selection conforms with the Plan, the General and Square Guidelines, GSA may proceed to contract award. Unless otherwise agreed, failure of NCPC to act within 10 calendar days shall be construed to mean that NCPC finds that the proposed selection conforms with the Plan, the General and Square Guidelines.

2. If, within the 10 calendar day review period, NCPC staff informs GSA that NCPC believes that the proposed selection does not conform with the Plan, the General and/or Square Guidelines, NCPC shall provide GSA with a written statement explaining NCPC's reasons for so concluding. GSA, upon consideration of NCPC's written statement may either:

a. Accept NCPC's view and either reject the proposal or require the selected offeror to submit a proposed amendment of the Plan, the General and/or Square Guidelines and follow the procedures set forth below in paragraphs I.C. (Plan amendment) and I.D. (General and Square Guidelines amendment), as appropriate, or

b. Work with NCPC staff to reconcile differences in view regarding the need for amendment of the Plan, the General [*41790] and/or Square Guidelines. If, after good faith efforts, no resolution is reached, GSA may reject NCPC's view and provide a written memorandum that explains GSA's reasons for rejecting NCPC's view and proceed to contract award.

C. If the proposal that GSA selects requires an amendment to the Plan, GSA shall transmit the selected offeror's proposal for Plan amendment (along with all relevant documentation) to NPS and NCPC for review and comment. GSA's selection of a proposal that will require Plan amendment and referral to NPS and NCPC shall constitute GSA support for Plan amendment.

1. Within 30 calendar days of receiving a proposal for a Plan amendment, NPS shall advise GSA and NCPC whether the proposed Plan amendment affects the Secretary of Interior's responsibilities for the administration, protection, and development of the areas within the Pennsylvania Avenue National Historic Site. If NPS determines that a proposed Plan amendment affects these responsibilities, NPS shall notify GSA and NCPC of its support of, recommended modifications to or opposition to the proposed Plan amendment from the standpoint of the compatibility of the Plan amendment with the Secretary's responsibilities for the administration, protection, and development of the areas within the Pennsylvania Avenue National Historic Site. Unless otherwise agreed, GSA and NCPC may deem a failure of NPS to act within 30 calendar days as a determination that the proposal does not affect the Secretary of the Interior's responsibilities for the administration, protection, and development of the areas within the Pennsylvania Avenue National Historic Site.

2. Within 45 calendar days of receiving a proposal for a Plan amendment and after consideration by NCPC in public session, NCPC shall advise GSA of its views on the proposed Plan amendment. NCPC may support, recommend modification of or oppose the proposed amendment. Unless otherwise agreed, failure of NCPC to act within 45 calendar days shall be deemed acceptance of the proposed Plan amendment.

3. If NPS and NCPC support an amendment to the Plan or if GSA accepts the proposed modifications to the Plan amendment proposal, GSA shall transmit the proposed Plan amendment to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Environment and Public Works and the Committee on Appropriations of the Senate. If after 60 legislative days, none of

the committees has disapproved of the proposed amendment of the Plan, GSA shall amend the Plan, transmit a copy of the amendment to the Plan to NPS and NCPC, and award the contract.

4. If NPS and/or NCPC does not support amendment of the Plan or if GSA does not accept the proposed modifications to the Plan amendment proposal, GSA, NPS and NCPC will meet and attempt to reconcile their views. If no resolution can be reached, GSA may transmit the proposal for a Plan amendment to the Congressional committees named in paragraph I.C.3. In its submission to the Congressional committees, GSA shall include a written statement from NPS and/or NCPC explaining the reasons for opposing the proposal for Plan amendment and a written statement from GSA and, when appropriate, either NPS or NCPC explaining the reasons for supporting the Plan amendment. If after 60 legislative days, none of the committees has disapproved of the proposed amendment of the Plan, GSA shall amend the Plan, transmit a copy of the amendment to the Plan to NPS and NCPC, and award the contract.

D. If the proposal that GSA selects requires an amendment to the General and/or Square Guidelines, GSA shall transmit the selected offeror's proposal for amendment (along with all relevant documentation) to NCPC for review and comment. GSA's selection of a proposal that will require amendment of the General and/or Square Guidelines and referral to NCPC shall constitute GSA support for the proposed amendment. In considering amendments to the General and/or Square Guidelines, GSA and NCPC shall follow the same procedures and time frames that apply to proposals to amend the Plan (set forth above in I.C.) with the exception that proposed amendments to General and Square Guidelines need not be submitted either to NPS or to the Congressional committees named in paragraph I.C.3.

E. After a contract has been awarded, the selected developer shall work closely with GSA. All designs, drawings, schematics, legal documents or other documents associated with the project shall be submitted to GSA, unless otherwise specified in the contract.

II. Property Redevelopment (Major Modifications)-If a property owner wishes to redevelop property or make any renovations that will change the existing character or use of a building, structure, or site within the Plan area (including substantial remodeling, conversion, rebuilding, enlargement, extension, or major structural improvement of property, but not including ordinary maintenance or remodeling or changes necessary to continue occupancy):

A. The property owner shall submit its proposed redevelopment plan to GSA and NCPC in writing.

B. GSA shall make an initial determination of whether the proposal conforms to the Plan, the General and Square Guidelines.

1. If GSA believes that the proposal conforms to the Plan, the General and Square Guidelines, GSA shall notify NCPC of its determination. NCPC staff will have 10 calendar days to consider whether the proposal conforms to the Plan, the General and Square Guidelines. Unless otherwise agreed, failure of NCPC to act within 10 calendar days shall be considered agreement with GSA's view.

a. If within the 10 calendar day review period, NCPC staff informs GSA in writing that NCPC believes that the proposal will not require an amendment to the Plan, the General and/or Square Guidelines, GSA may approve the proposal.

b. If within the 10 calendar day review period, NCPC staff informs GSA that NCPC believes that the proposal will require amendment of the Plan, the General and/or Square Guidelines, NCPC shall provide GSA with a written statement explaining NCPC's reasons for concluding that an amendment is necessary. GSA, upon consideration of NCPC's written statement may, at its discretion, either:

(1) Accept NCPC's view and either reject the proposal or require the property owner to submit a proposed amendment to the Plan, the General and/or Square Guidelines (along with all relevant documentation) and follow the procedures set forth in paragraphs I.C. (Plan amendment) and I.D. (General and Square Guidelines amendment), or

(2) Work with NCPC staff to attempt to reconcile differences in view regarding the need for amendment of the Plan, the General and/or Square Guidelines. If, after good faith efforts, no resolution is reached, GSA may reject NCPC's view and approve the proposal. GSA shall provide to NCPC a written memorandum explaining its reasons for rejecting NCPC's view.

2. If GSA believes that the proposal will require amendment of the Plan, the General and/or Square Guidelines and GSA does not support the proposed amendment, the property owner may not proceed with the proposal. If GSA believes that the proposal will require an amendment of the Plan, the General [*41791] and/or Square Guidelines and GSA supports such an amendment, GSA shall transmit the proposal (along with all relevant documentation) to NCPC

which shall follow the procedures described above in paragraphs I.C. (Plan amendment) and I.D. (General and Square Guidelines amendment), as appropriate. If GSA believes that the proposal will require an amendment of the Plan, GSA will also transmit the proposal (along with all relevant documentation) to NPS and follow the procedures described above in paragraph I.C. (Plan amendment).

III. Priority Redevelopment (Minor Modifications)-If a property owner wishes to make any modifications to a building, structure, or site within the Plan area that will not significantly change the existing character or use of the property (e.g., installation of awnings, outdoor cafe tables), the property owner shall notify GSA and NCPC in writing prior to applying for a D.C. building permit. If, within five calendar days after receiving notification from the property owner, NCPC staff does not notify GSA of its view that the proposed modification does not conform with the Plan, the General and/or Square Guidelines, GSA may proceed with its review of the proposal. If NCPC staff believes that the proposed modification will require an amendment to the Plan, the General and/or Square Guidelines, NCPC and GSA shall follow the procedures set forth in paragraph II.B.1.b. (Property Redevelopment-Major Modification). If GSA determines that the proposed change does not conform to the Plan, the General and/or Square Guidelines, GSA, NPS and NCPC shall follow the procedures set forth above in paragraphs I.C. (Plan amendment) and I.D. (General and Square Guidelines amendment), as appropriate.

IV. GSA Proposals for Plan, General and/or Square Guidelines Amendment-If GSA wishes to amend the Plan, the General and/or Square Guidelines:

A. GSA shall transmit a proposal to amend the Plan (along with all relevant documentation) to NPS and NCPC and follow the procedures set forth in paragraph I.C. Any proposals by GSA to amend the Plan shall be consistent with and respect the goals and objectives stated in Chapter 2 of the original 1974 Plan. These goals include, but are not limited to: Reinforcing Pennsylvania Avenue's role as the physical and symbolic link between the White House and the Capital; making Pennsylvania Avenue function as a bridge between the federal core and the city's downtown areas; encouraging residential as well as commercial occupancy of Pennsylvania Avenue; encouraging cultural activities along Pennsylvania Avenue; and maintaining a sense of historic continuity and evolution.

B. GSA shall transmit a proposal for an amendment to the General and/or Square Guidelines (along with all relevant documentation) to NCPC and follow the procedures set forth above in paragraph I.D.

V. NCPC Proposals for Plan, General and/or Square Guidelines Amendments-If NCPC wishes to amend the Plan, the General and/or Square Guidelines, NCPC shall transmit a proposal to NPS and GSA (along with all relevant documentation) for consideration. NPS and GSA shall have 45 calendar days to consider proposals for Plan amendment. GSA shall have 30 days to consider proposals for amendment of General and/or Square Guidelines.

A. If NPS and GSA accept NCPC's proposal for Plan amendment, GSA shall transmit the proposal to the Congressional committees named in paragraph I.C.3. If after 60 legislative days, none of the committees has disapproved of the proposed amendment of the Plan, GSA shall amend the Plan and transmit a copy of the amendment to the Plan to NPS and NCPC. If NPS and/or GSA does not accept NCPC's proposal for Plan amendment, NPS, GSA and NCPC shall work together to reconcile differences in view. If, after good faith efforts, no mutually acceptable resolution is reached, GSA may, at its discretion, take no further action with respect to the proposal or transmit the proposal for a Plan amendment to the Congressional committees named in paragraph I.C.3. along a written statement from NPS and/or GSA explaining the reasons for opposing NCPC's proposed Plan amendment and a written statement from NCPC explaining its reasons for supporting its proposed Plan amendment.

B. If GSA accepts NCPC's proposal for amendment of the General and/or Square Guidelines, GSA shall make the amendments and transmit a copy of the amendment to the General and/or Square Guidelines to NCPC. If GSA does not accept NCPC's proposal for amendment of the General and/or Square Guidelines, GSA shall work with NCPC staff to reconcile differences in view. If after good faith efforts, no resolution is reached, GSA may elect to take no further action with respect to the proposal.

VI. NPS Proposals for Plan Amendment-If NPS wishes to amend the Plan, it shall transmit a proposal to GSA and NCPC (along with all relevant documentation) for consideration. NCPC and GSA shall have 45 calendar days to consider NPS proposals for Plan amendment.

A. If NCPC and GSA accept NPS's proposal for Plan amendment, GSA shall transmit the proposal to the Congressional committees named in paragraph I.C.3. If after 60 legislative days, none of the committees has disapproved of the proposed amendment of the Plan, GSA shall amend the Plan and transmit a copy of the amendment to the Plan to NPS and NCPC. If NCPC and/or GSA does not accept NPS's proposal for Plan amendment, NPS, GSA

and NCPC shall work together to reconcile differences in view. If, after good faith efforts, no mutually acceptable resolution is reached, GSA may, at its discretion, take no further action with respect to the proposal or transmit the proposal for a Plan amendment to the Congressional committees named in paragraph I.C.3. along with a written statement explaining NCPC and/or GSA's reasons for not supporting NPS's proposed Plan amendment and a written statement from NPS explaining its reasons for supporting its proposed Plan amendment.

VII. Review of Building Permits-NCPC staff shall review D.C. building permit applications for non-federal buildings and, where appropriate, certify to the D.C. government, prior to issuance of a building permit, that the work for which the building permit application has been made is not inconsistent with the Plan.

VIII. Savings Provision-Nothing in this agreement should be construed to alter or amend any of NCPC's previously existing responsibilities or authorities, including Section 5 of the National Capital Planning Act, *40 U.S.C. 71d* or the Zoning Act, D.C. Code § 5-432, and all applicable NCPC submission requirements.

Dated: July 25, 1996.

General Services Administration.

William R. Lawson,

Assistant Regional Administrator, Public Buildings Service.

Dated: July 25, 1996.

National Capital Planning Commission.

Reginald W. Griffith,

Executive Director, National Capital Planning Commission.

Dated: July 24, 1996. [*41792]

National Park Service, Department of the Interior.

Robert G. Stanton,

Field Director, National Capital Area, National Park Service, Department of Interior.

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