

1 **MEMORANDUM OF AGREEMENT**
2 **BETWEEN THE NATIONAL PARK SERVICE AND**
3 **THE ARIZONA STATE HISTORIC PRESERVATION OFFICER**
4 **REGARDING A WATER TANK AT HERMITS REST,**
5 **WITHIN THE MARY JANE COLTER NATIONAL HISTORIC LANDMARK**
6 **DISTRICT,**
7 **GRAND CANYON NATIONAL PARK, ARIZONA**

8 **WHEREAS**, in 2021, Grand Canyon National Park (GRCA), a unit of the National Park
9 Service (NPS), consulted with the Arizona State Historic Preservation Officer (SHPO)
10 regarding the in-kind replacement of a water tank adjacent to Hermits Rest (Building #853,
11 also known as the Hermits Rest Concession Building), hereafter referred to as the original
12 undertaking; and

13 **WHEREAS**, Hermits Rest is individually listed in the National Register of Historic Places
14 and is located within the Mary Jane Colter National Historic Landmark (NHL) District; and

15 **WHEREAS**, the original undertaking included replacement of the existing water tank in the
16 same location, together with associated improvements to the water system and fire safety
17 infrastructure, and was designed to minimize effects on historic properties, including visual
18 effects; and

19 **WHEREAS**, SHPO concurred with GRCA's finding that the original undertaking would
20 result in No Adverse Effect to historic properties; and

21 **WHEREAS**, the water tank was installed in 2022; however, safety features, including an
22 Occupational Safety and Health Administration (OSHA)-required ladder and landing
23 platform, were not addressed in the previous consultation; and

24 **WHEREAS**, pursuant to the National Historic Preservation Act, 54 U.S.C. Part 306108, and
25 its implementing regulations at 36 CFR Part 800, GRCA reinitiated consultation in 2023
26 regarding the revised undertaking and notified SHPO that the added ladder and landing
27 platform and a shiny cap on the top of the water tank, resulted in an Adverse Effect to historic
28 properties within the NHL District; and

29 **WHEREAS**, the area of potential effects (APE) for the revised undertaking includes the
30 water tank and the surrounding viewshed from which the ladder, landing platform, and shiny
31 water tank cap are visible. The affected viewshed extends approximately 1,500 feet northeast
32 from the tank along West Rim Drive, 500 feet west of the tank, and 800 feet southwest of the
33 tank. Views from the north are limited because the tank is largely obscured by Hermits Rest.
34 The APE encompasses approximately 3.47 acres, or 151,000 square feet; and

35 **WHEREAS**, the Adverse Effect results from the installation of a shiny, reflective metal
36 ladder and landing platform, which introduces visually prominent modern elements into the
37 historic setting at Hermits Rest and diminishes the integrity of setting, feeling, and
38 association; and

39 **WHEREAS**, GRCA has proposed this Memorandum of Agreement (MOA), pursuant to 36
40 CFR Part 800.6(b)(1)(iv), to resolve the Adverse Effect of the undertaking; and

41 **WHEREAS**, GRCA has consulted with SHPO on the development of this MOA pursuant to
42 36 CFR Part 800, the regulations implementing Section 106 of the National Historic
43 Preservation Act, 54 U.S.C. Part 306108; and

44 **WHEREAS**, SHPO is authorized to enter into this MOA in order to fulfill its role of advising
45 and assisting federal agencies in carrying out their Section 106 responsibilities pursuant to 36
46 CFR § 800.2(c)(1)(i), and SHPO is a signatory to this MOA pursuant to 36 CFR §
47 800.6(c)(1)(i); and

48 **WHEREAS**, in accordance with 36 CFR Part 800.10(c), GRCA notified the Heritage
49 Preservation Program in the Intermountain Region of the National Park Service, serving as
50 the National Park Service contact for National Historic Landmark review, of the Adverse
51 Effect to a National Historic Landmark on January 19, 2023, and invited the Heritage
52 Preservation Program to comment on ways to avoid, minimize, or mitigate the Adverse
53 Effect; and

54 **WHEREAS**, in accordance with 36 CFR Part 800.6(a)(1), GRCA formally notified the
55 Advisory Council on Historic Preservation (ACHP) of the Adverse Effect finding through the
56 ACHP's e106 system on July 2, 2026, and invited the ACHP to participate in the
57 consultation; the ACHP did not respond to the notification; and

58 **WHEREAS**, GRCA will provide the public with an opportunity to comment on the draft
59 MOA consistent with 36 CFR Part 800.2(d); and

60 **NOW, THEREFORE**, GRCA and SHPO agree that the undertaking shall be implemented in
61 accordance with the following stipulations in order to take into account the effects of the
62 undertaking on historic properties.

63

STIPULATIONS

GRCA shall ensure that the following measures are carried out:

I. PROFESSIONAL QUALIFICATIONS

All work carried out pursuant to this MOA shall meet the Secretary of the Interior's Standards for Archaeology and Historic Preservation, as applicable, and shall be carried out by or under the direct supervision of individuals who meet the Secretary of the Interior's Professional Qualification Standards, as appropriate to the work being performed.

II. RESOLUTION OF ADVERSE EFFECTS

A. To resolve the adverse visual effect of the ladder, landing platform, and water tank cap on the historic setting at Hermits Rest, GRCA shall apply a finish to these features that reduce reflectivity and visual contrast with the surrounding setting. No ground disturbance is anticipated as part of this treatment.

B. Prior to implementation, GRCA shall provide SHPO with the proposed finish and product information, including manufacturer specifications, proposed color or finish samples, and photographs showing the ladder, landing platform, and water tank cap in relation to Hermits Rest and the surrounding setting. GRCA is not required to provide a field mockup or sample application unless GRCA and SHPO agree in writing that one is necessary. SHPO shall have thirty (30) calendar days from receipt to review and comment on the submitted materials, unless GRCA and SHPO agree in writing to a different review period. If no comments are received within that time, GRCA may proceed. GRCA shall implement the treatment in accordance with the submitted materials, manufacturer specifications, and any comments timely provided by SHPO and accepted by GRCA through consultation.

C. Within sixty (60) calendar days of completing the treatment, or within another time period agreed to in writing by GRCA and SHPO, GRCA shall provide SHPO with post-treatment photographs and a brief memorandum documenting completion of the treatment.

III. CONSIDERATION OF SECRETARY OF THE INTERIOR COMMENTS

Because the undertaking affects a property within the Mary Jane Colter National Historic Landmark District, GRCA shall provide the draft MOA and supporting documentation to the Secretary of the Interior, through the National Historic Landmarks Program of the National Park Service, for review and comment in accordance with 36 CFR Part 800.10(c). Any comments or recommendations received from the Secretary of the Interior shall be shared with SHPO and taken into account by GRCA in finalizing and implementing the mitigation measures set forth in this MOA. GRCA shall document its consideration of any such comments in the administrative record.

IV. PUBLIC INVOLVEMENT

GRCA shall provide the public with an opportunity to review and comment on the draft MOA through the National Park Service Planning, Environment, and Public Comment (PEPC) website, consistent with 36 CFR Part 800.2(d). GRCA shall consider any comments received during that process in finalizing this MOA.

V. COMMUNICATION

Email shall serve as the official method of correspondence regarding this MOA and its implementation. Substantive correspondence, including transmittals of review materials, comments, and implementation documentation, shall be retained in the administrative record.

VI. CONFIDENTIALITY

To the extent permitted by federal and state law, GRCA shall maintain the confidentiality of sensitive information concerning historic properties, including information that could risk harm through looting, vandalism, or other disturbance. GRCA shall handle any disclosure of such information in accordance with applicable law, including Section 304 of the NHPA, the Archaeological Resources Protection Act, the Freedom of Information Act, and other applicable authorities.

VII. DURATION

This MOA shall remain in effect for five (5) years from the date of execution, unless extended in writing by the signatories. If the stipulations of this MOA are not carried out within that time, and the MOA is not extended, GRCA shall comply with 36 CFR Part 800 with regard to the undertaking.

VIII. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by the signatories. Any amendment shall become effective on the date of the last signature.

IX. DISPUTE RESOLUTION

Should any signatory object in writing to any action proposed or the manner in which the terms of this MOA are implemented, GRCA shall consult with the objecting party to resolve the objection. If GRCA determines that the objection cannot be resolved, GRCA shall forward all documentation relevant to the dispute, including GRCA's proposed resolution, to the ACHP. The ACHP shall provide GRCA with its advice on the resolution of the objection within thirty (30) calendar days of receiving adequate documentation. Prior to reaching a final decision on the dispute, GRCA shall take into account any timely advice or comments from the ACHP and the signatories and shall prepare a written response that explains its final decision. If the ACHP does not provide its advice within thirty (30) calendar days, GRCA may make a final decision on the dispute and proceed accordingly. GRCA's responsibility to

135 carry out all other actions under this MOA that are not the subject of the dispute shall remain
136 unchanged.

137 **X. TERMINATION**

138 If any signatory determines that the terms of this MOA cannot be carried out, that party shall
139 notify the other signatories in writing and consult with them to seek amendment of the MOA.
140 If the MOA is not amended within thirty (30) calendar days of such notice, or within another
141 time period agreed to by the signatories, any signatory may terminate the MOA upon written
142 notice to the other signatories. If this MOA is terminated, then prior to continuing the
143 undertaking, GRCA shall either execute a new MOA pursuant to 36 CFR Part 800.6 or
144 request, take into account, and respond to the comments of the ACHP pursuant to 36 CFR
145 Part 800.7.

146 **XI. ANTI-DEFICIENCY ACT**

147 NPS's obligations under this MOA are subject to the availability of appropriated funds, and
148 the stipulations of this MOA are subject to the provisions of the Anti-Deficiency Act, 31
149 U.S.C. Part 1341. NPS shall make reasonable and good faith efforts to secure the funds
150 necessary to implement this MOA in its entirety. If compliance with the Anti-Deficiency Act
151 alters or impairs NPS's ability to implement the stipulations of this MOA, NPS shall consult
152 in accordance with the amendment and termination provisions of this MOA.

153 **XII. ELECTRONIC AND COUNTERPART SIGNATURES**

154 This MOA may be executed in counterparts, each of which shall be deemed an original, and
155 all of which together shall constitute one and the same instrument. Electronic signatures shall
156 be treated as valid signatures for all purposes.

157 **Execution of this MOA by NPS and SHPO, and implementation of its terms,**
158 **demonstrates that NPS has taken into account the effects of the undertaking on historic**
159 **properties and has afforded the ACHP an opportunity to comment.**

160

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SIGNATORIES:

Dan Resmondo, Date
Chief of Planning, Environment, and Projects
Grand Canyon National Park

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SIGNATORIES:

182		
183	Kathryn Leonard	Date
184	Arizona State Historic Preservation Officer	

Hermits Rest MOA

Tank Visual Impact

Legend

- M.E.J. Colter NHLD
- West Rim Drive HD
- Hermits Rest Tank Visual Impact
- X Water Tank



Hermits Rest Water Tank Ladder and Platform Installation

Legend
8/29/2023

**X Water Tank
Ladder Location**

X

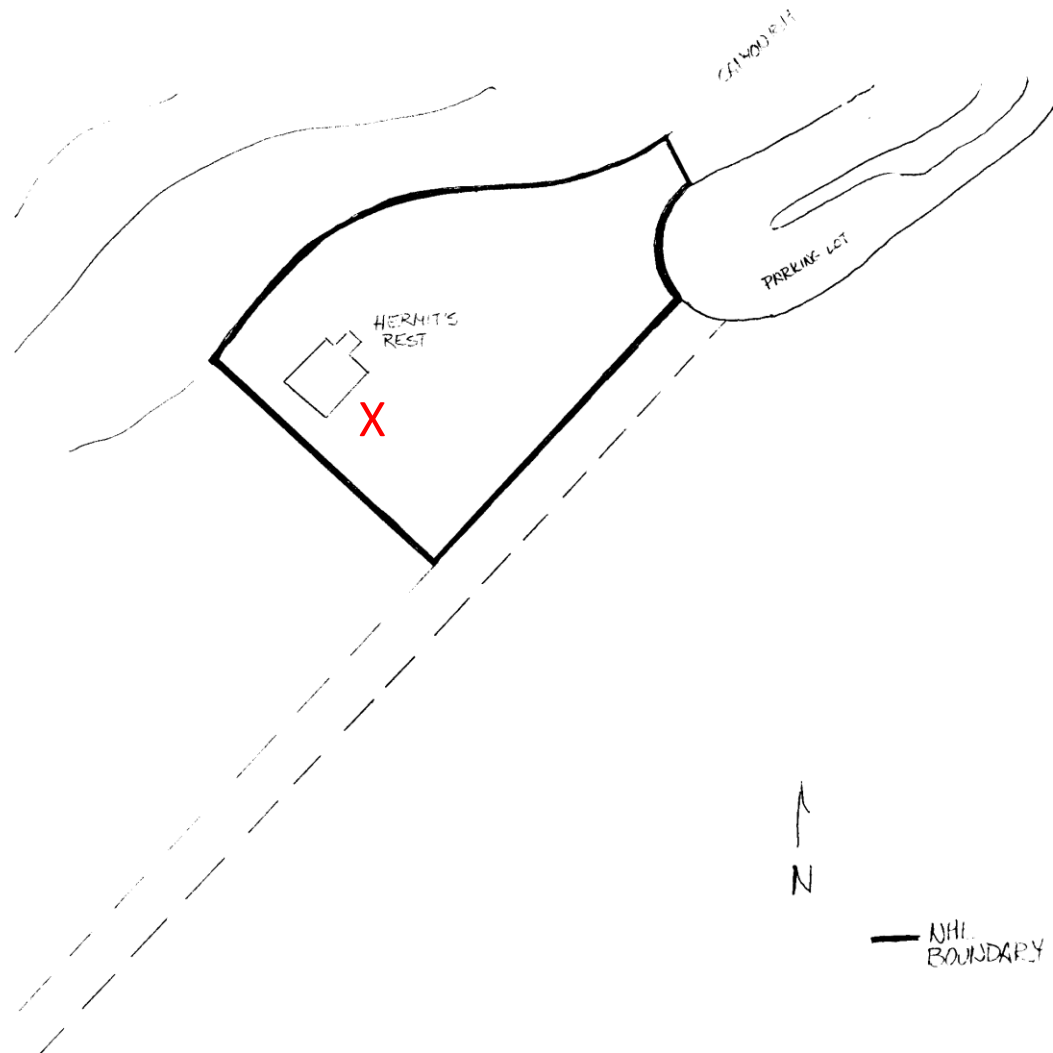
Google Earth

3

100 ft



M.E.J Colter Building National Historic Landmark Boundary





Looking Northeast from service road toward new tank with ladder and platform.



Looking Southeast from the west side of Hermits Rest toward the water tank. This is location is the most accessible view to the visiting public.