

MEMORANDUM OF AGREEMENT

BETWEEN

GATEWAY NATIONAL RECREATION AREA, NATIONAL PARK SERVICE AND

NEW YORK STATE HISTORIC PRESERVATION OFFICER,

**FOR PARTIAL DECONSTRUCTION OF HANGAR 38,
MILLER FIELD, STATEN ISLAND, NY**

WHEREAS, Gateway National Recreation Area (the park) proposes to partially deconstruct Hangar 38 at Miller Field, Staten Island, New York, in response to Hurricane Sandy damage; and

WHEREAS, the Miller Army Air Field Historic District was listed on the National Register of Historic Places in 1980, and included Hangar 38 and the Elm Tree Light, and the concrete apron fronting the hangar was determined eligible in coordination with the SHPO at a later date; and

WHEREAS, in October 2012, Hurricane Sandy caused extensive damage to Hangar 38 which was heavily impacted by salt water flooding, high winds and wave action; and

WHEREAS, the National Park Service (NPS) proposes to partially deconstruct Hangar 38 by removing the Works Progress Administration (WPA) side-wing additions, the boiler room, chimney, and all exterior cladding from the hangar and to remove the asbestos roofing leaving only the original structural steel frame and corrugated steel sheathing in place;

WHEREAS, the NPS has determined that the Area of Potential Effect (APE) includes Hangar 38 and the Miller Army Air Field Historic District; and

WHEREAS, the NPS has consulted with the New York State Historic Preservation Officer (NYSHPO), in accordance with 36 C.F.R. part 800, the regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. 306108), and the NYSHPO agrees that the undertaking is an adverse effect; and

WHEREAS, the NPS has informed the ACHP of the adverse effect; and

WHEREAS, the park has provided the public an opportunity to comment on this undertaking during two public meetings held in conjunction with the City of New York on September 24 and October 21 of 2015 and by posting a draft of this agreement prior to signature on the NPS Planning, Environment, and Public Comment (PEPC) website for public review; and

NOW, THEREFORE, the NPS and NYSHPO agree that the project shall be implemented in accordance with the following stipulations:

STIPULATIONS

A. Mitigation of Adverse Effects

1. 3D Architectural Laser Scanning and recordation of Hangar 38.
2. Development of text and images for a new wayside educational signage about Hangar 38 to be

located on the nearby bike path with QR code (or similar) link to the above 3D modeling.

3. Photographic documentation of selective demolition process.

B. Inadvertent Resource Discoveries

If during construction or demolition activities previously unknown archeological resources are discovered, all work in the immediate vicinity of the discovery will be halted and the procedures of 36 CFR Part 800.13(c) followed. In the unlikely event that Native American human remains, funerary objects, sacred objects and objects of cultural patrimony are discovered, all work in the immediate vicinity of the discovery will be halted and the procedures of 43 CFR § 10.3 will be carried out including taking immediate steps to protect the discoveries in situ, notification of the three affiliated tribes, tribal consultation, and the development and execution of a Plan of Action.

C. Dispute Resolution

Disputes regarding the completion of the terms of this Agreement shall be resolved by the signatories. If the signatories cannot agree regarding a dispute, the NPS or SHPO may request the participation of ACHP to assist in resolving the dispute. Any recommendation or comment provided by the ACHP will be understood to pertain only to the subject of the dispute. The NPS's responsibility to carry out all actions under this Agreement that are not the subjects of dispute will remain unchanged.

At any time during implementation of the measures stipulated in this Agreement, should an objection to any such measure be raised by a member of the public, the NPS shall take the objection into account and consult as needed with the SHPO.

D. Amendment of Agreement

The Agreement may be modified by amendment at any time by mutual concurrence of all parties. Amendment of the Agreement as necessary shall be accomplished in the same manner as the original agreement. Amendments will be in writing and approved by the original signatories or their designated official.

E. Termination of Agreement

Either party to this Agreement may terminate it by providing thirty (30) calendar days notice to the other party, provided that the parties will consult during the period prior to termination to seek agreements on amendments or other actions that would avoid termination. In the event of termination by the SHPO, the NPS will request the comments of the ACHP, in accordance with 36 CFR Part 800.7(a).

F. Anti-Deficiency Act

All actions taken by the park in accordance with this MOA are subject to the availability of funds, and nothing in this MOA shall be interpreted as constituting a violation of the Anti-Deficiency Act.

G. Term of Agreement

This Agreement shall become effective after the date of the last signatory. The Agreement shall be null and void if its terms are not carried out within five (5) years from the date of its approval by the Park and SHPO, unless the signatories agree in writing to an extension for carrying out its terms. Otherwise, this Agreement shall become null and void when the project is complete, and all of the above stipulations are fulfilled. The Agreement and any amendments shall be binding upon the parties, their successors, and assigns.

Execution of this Agreement by the NPS and SHPO, and implementation of its terms, evidences that the NPS has taken into the account the effects of the project on historic properties and afforded the ACHP the opportunity to comment.

AUTHORIZING SIGNATURES

National Park Service

By: _____ Date: _____
Jennifer T. Nersesian
Superintendent, Gateway National Recreation Area

New York State Historic Preservation Office

By: _____ Date: _____
Ruth Pierpont
Deputy Commissioner/Deputy SHPO