

**AMENDMENT NO. 1
TO THE
PROGRAMMATIC AGREEMENT
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION
THE DISTRICT DEPARTMENT OF TRANSPORTATION
THE DISTRICT OF COLUMBIA STATE HISTORIC PRESERVATION OFFICER
AND
THE NATIONAL PARK SERVICE
REGARDING
THE 11TH STREET BRIDGES PROJECT,
WASHINGTON, DC**

WHEREAS, the Federal Highway Administration (FHWA), the District Department of Transportation (DDOT), the District of Columbia State Historic Preservation Officer (DC SHPO), and the National Park Service (NPS) (hereinafter Signatories) entered into a Programmatic Agreement (PA) in September 2007 to fulfill the requirements of Section 106 of the National Historic Preservation Act for the 11th Street Bridges Project (Project); and

WHEREAS, the Advisory Council on Historic Preservation (ACHP) was notified of the PA and elected not to participate in the consultation;

WHEREAS, financial constraints that occurred subsequent to execution of the PA necessitated design revisions to the Project, including realignment of the proposed bridges to new locations between the existing 11th Street Bridges; and

WHEREAS, FHWA has consulted with the Signatories and has proposed this amendment to the PA (Amendment No.1) pursuant to Stipulation X of the PA to take into account the effects of the design revisions on historic properties; and

WHEREAS, the Signatories agree that most of the design revisions will have no adverse effect on historic properties because the tallest proposed ramp will be relocated further away from the Anacostia Historic District, other ramps will be lowered, less overall construction will be undertaken and no archaeological sites will be directly effected; and

WHEREAS, however, other design revisions, namely the construction of new bridge abutments, will require a NPS Special Use Permit for the use of 0.3 acres of Anacostia Park on the east side of the Anacostia River and the demolition of the Anacostia Community Boathouse Association Buildings (Boathouse Buildings) on the west side of the Anacostia River; and

WHEREAS, FHWA has determined that the construction of the new bridge abutments will constitute adverse effects on Anacostia Park and the Boathouse Buildings, properties which have been determined eligible for listing in the National Register of Historic Places (National Register); and

WHEREAS, FHWA has consulted with the Signatories, the Anacostia Community Boathouse Association, the DC Office of Planning (OP) and the DC Deputy Mayor for Planning and Economic Development (DMPED)-regarding the proposed demolition of the Boathouse Buildings and has received no objections; and

WHEREAS, opportunities for public comment regarding the Special Use Permit for 0.3 acres of Anacostia Park land will be provided through development of an Environmental Assessment pursuant to the National Environmental Policy Act (NEPA); and

WHEREAS, FHWA anticipates that additional design revisions will be required for future phases of the Project and that further consultation with the Signatories and, possibly, other parties, will be required;

NOW, THEREFORE, the Signatories agree that the following measures will be implemented in order to take into account the effects of the current and future design revisions to the Project on historic properties.

Stipulations

FHWA shall ensure that the following measures are carried out:

- I. Mitigation Measures. As mitigation for the adverse effects on Anacostia Park and the Boathouse Buildings associated with the construction of the new bridge abutments, FHWA and DDOT shall:
 - A. Revise the Anacostia Park National Register nomination package referenced in Stipulation I.B. of the PA and consult with the DC SHPO until such time that the DC SHPO determines the nomination package is sufficient to forward to the Keeper of the National Register.
 - B. Consult with the other Signatories to evaluate and make a reasonable effort to retain the existing downstream bridge for recreational use by pedestrians and to provide views to the surrounding historic districts. If the bridge cannot be retained in its entirety, alternative approaches such as retaining portions of the bridge or re-decking the area between the existing piers shall be evaluated. Consultation to retain the existing downstream bridge shall also involve OP, DMPED, the Coast Guard, the Army Corps of Engineers and other entities and organizations that have a demonstrated interest in or approval authority related to retain the bridge.
- II. Future Consultation: In order to ensure that the effects of future design revisions on historic properties are taken into account, FHWA and DDOT shall:
 - A. Consult further with the Signatories regarding the sufficiency of the mitigation measures specified in this Amendment No. 1 should any objections to the NPS Special Use Permit for the 0.3 acres of Anacostia Park be raised.

- B. Provide the DC SHPO with a minimum of twenty-one (21) days advanced written notice for each instance in which a substantial design revision is proposed for the Project. A substantial design revision shall mean any change in the alignment, materials, height, length or width of any proposed element (e.g. ramps, traffic lanes, piers, bridges, sidewalks, retaining walls, abutments, footings, etc.), the introduction of new Project elements or any action that would trigger a reevaluation of the Project pursuant to 23 CFR 771.129. Written notice shall mean a narrative description of the proposed design revision and any maps, renderings, plans, diagrams, data and/or photographs necessary to explain the design revision, any changes in ground disturbance and any potential to affect historic properties.
- C. Ensure that construction does not commence during the 21-day period discussed in Stipulation II.B, above. If the DC SHPO determines that the proposed design revision will not have an adverse effect on historic properties within 21 days of receipt of the written notice discussed in Stipulation II.B, above, or fails to respond within the 21-day period, no further action will be required and the Project may proceed as proposed. If any Signatory determines within the 21-day period discussed in Stipulation II.B, above, that a design revision will constitute an adverse effect, the Signatories will consult pursuant to 36 CFR 800.5(b) to determine if conditions can be imposed to avoid the adverse effect. If the adverse effect cannot be avoided, the Signatories will consult to identify measures that will minimize and mitigate the adverse effect and document the agreed upon measures in a subsequent amendment to the PA.
- III. Capitalized terms used but not defined in this Amendment No. 1 shall have the same meaning as defined in the PA.
- IV. Except as amended by this Amendment No. 1, the PA remains in full force and effect in accordance with its terms.
- V. Execution of this Amendment No.1, implementation of its terms and filing a copy with the ACHP evidences that FHWA has taken into account the effects of the Project on historic properties and provided the ACHP a reasonable opportunity to comment.

Signatures follow on subsequent pages

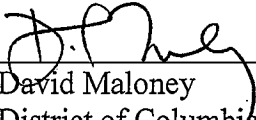
THE FEDERAL HIGHWAY ADMINISTRATION

By: Joseph C. Lawson
Joseph C. Lawson
Federal Highway Administrator
District of Columbia Division

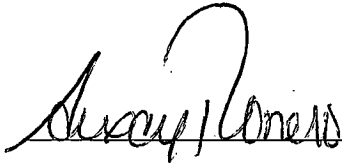
Date: 6/24/2010



THE DISTRICT OF COLUMBIA STATE HISTORIC PRESERVATION OFFICER

By:  Date: 6/22/2010
David Maloney
District of Columbia State Historic Preservation Officer

THE NATIONAL PARK SERVICE

By: 

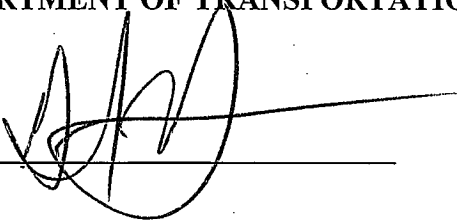
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Acting Superintendent – National Capital Parks – East

INVITED SIGNATORY:

DISTRICT DEPARTMENT OF TRANSPORTATION

By: _____


Gabe Klein
Director
District Department of Transportation

Date: _____

6/23/10