

MEMORANDUM OF AGREEMENT
AMONG THE NATIONAL PARK SERVICE, STATUE OF LIBERTY NATIONAL MONUMENT;
NEW YORK STATE HISTORIC PRESERVATION OFFICER;
AND THE
NEW JERSEY HISTORIC PRESERVATION OFFICER;
REGARDING THE PROPOSED REHABILITATION OF EXHIBITS IN THE ELLIS ISLAND
NATIONAL MUSEUM OF IMMIGRATION
IN NEW YORK

WHEREAS, the National Park Service (NPS), Statue of Liberty National Monument (Park), in partnership with the Statue of Liberty-Ellis Island Foundation, Inc. (SOLEIF), proposes to design and install new exhibits in the Ellis Island National Museum of Immigration thereby making the undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA) 54 U.S.C. § 306108, and its implementing regulations, 36 C.F.R. Part 800; and

WHEREAS, SOLEIF will also endow the continued operation and maintenance of the proposed new exhibit; and

WHEREAS, the undertaking consists of the design and installation of new museum exhibits as well as upgrades to existing exhibits, removal of non-historic material, installation of a 120-foot-long digital media frieze at the rear of the Baggage Room, construction of new publicly accessible restrooms, and replacement of the non-functional escalator in the east atrium with a grand staircase; and

WHEREAS, the NPS has defined the undertaking's area of potential effect (APE) as the Main Immigration Building on Ellis Island; and

WHEREAS, the National Park Service has determined that the undertaking, specifically the addition of a 120-foot-long media frieze, ten feet from the floor in the Baggage Room, will adversely affect the Main Immigration Building, a contributing resource to the Statue of Liberty National Monument, Ellis Island, and Liberty Island Historic District, which is listed on the National Register of Historic Places (NRHP), and

WHEREAS, alternatives to the original 170-foot-long media frieze were considered, including eliminating the frieze, a segmented series of separate screens, or decreasing the size to 120 continuous feet. The NPS determined that the 120-foot screen would serve the project best as it will provide a dramatic, impressive, and educational introduction to the beginning of the visitor experience. This element of the project is critical to the interpretive and visitor experience goals of the project. A truncated version or absence of the media frieze would negatively impact the visitor experience of the exhibit; and

WHEREAS, the NPS has consulted with the New York and New Jersey Historic Preservation Officers (SHPOs) pursuant to 36 CFR Part 800, the regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108); regarding the effects of the undertaking on historic properties and has invited them to sign this MOA as signatories; and

WHEREAS, the NPS did not invite the Delaware Nation, the Delaware Tribe of Indians, and the Stockbridge-Munsee Community to consult with the NPS, NY SHPO, and NJ HPO on this MOA since there will be no ground disturbance during this undertaking; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), the NPS has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect finding with specified documentation, and the ACHP did not choose to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, collectively, the New York SHPO, and NJ HPO will be referred to as consulting parties in this document; and

WHEREAS, the *Programmatic Agreement Among the National Park Service, ACHP, and National Conference of Historic Preservation Officers (NCSHPO) for Compliance with Section 106 of the NHPA* (Nationwide PA) was executed in 2008; and the 2008 Nationwide PA defines responsibilities and qualifications of NPS staff contributing to Park's compliance with Section 106 for this undertaking; and the operation and maintenance of the new exhibits will be subject to compliance with the 2008 Nationwide PA; and

NOW, THEREFORE, the NPS, New York SHPO, and NJ HPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The NPS shall ensure that the following measures are carried out:

I. DESIGN CONSIDERATIONS

The NPS shall ensure that the installation of the media frieze will not damage historic materials, including plaster, trim or molding, and shall be in keeping with the Secretary of the Interior's *Standards for the Treatment of Historic Properties* to the greatest extent possible. The NPS shall submit final plans and specifications for the proposed frieze installation to the NJ HPO and NYSHPO for review and approval at least 30 days prior to the bidding of the project.

II. MITIGATION OF ADVERSE EFFECT

A. Recordation

Prior to the removal, demolition, alteration or installation of any components in the Main Immigration Building, the NPS, using the services of an Architectural Historian who meets the Secretary of the Interior's Professional Qualifications Standards [48 FR 44738-9] in Architectural History, shall document the existing conditions of the interior of the Main Immigration Building with a focus on the Baggage Room, to Level III equivalent standards of the Historic American Building Survey (HABS). In lieu of large format photography, the permittee shall include high-resolution digital photos that meet the National Park Service National Register Digital Photo Standards. The Standards can be found at the following web address:
<https://www.nps.gov/subjects/nationalregister/upload/NR-NHL-photo-policy-2024->

The recordation shall include both archivally stable, 4-inch by 6-inch black and white prints and high-resolution digital RAW and/or TIFF files on an archival CD-R. A minimum of 10 views of the Baggage Room shall be produced as part of the recordation. Photography shall include, but not be limited to, documentation of the spatial relationships between the Baggage Room and adjacent spaces, including the Railroad Ticket Room. The recordation shall also include high-resolution digital copies of historic photographs, if available.

The NPS shall ensure that all documentation is completed and accepted by the SHPOs prior to any removal, demolition, or alteration of any components of the Main Immigration Room or new construction. The NPS shall provide one original archival copy of the recordation to the NY SHPO and NJ HPO and duplicate copies, with original photographs, shall be provided to the appropriate repositories as identified in consultation with NY SHPO and NJ HPO staff.

The final HABS documentation shall be submitted to the NY SHPO and NJ HPO for review and approval within 6 months of the initiation of construction.

B. Removal of Media Frieze

The media Frieze in the Baggage Room will be dismantled and removed when it becomes programmatically obsolete. Brackets for media frieze will be removed at level of exposure from bottom of finished plaster ceiling and the resultant ceiling patched in kind to match existing.

III. DURATION

This MOA will expire if its terms are not carried out within eight (8) years from the date of its execution. Prior to such time, NPS may consult with the other signatories to reconsider the terms of the MOA and to amend it in accordance with Stipulation VII below.

IV. POST-REVIEW DISCOVERIES

If a potential historic property is discovered or an unanticipated effect on a historic property is found during the implementation of this MOA, the NPS shall notify the SHPOs within 3 days and reinstate consultation with the New York City Landmarks Preservation Commission and Jersey City Historic Preservation Commission to determine how to proceed.

V. MONITORING AND REPORTING

The NPS shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms by June 30th of each year following the execution of this MOA until it expires or is terminated, Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in NPS's efforts to carry out the terms of this MOA.

VI. DISPUTE RESOLUTION

Should any signatory or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the

NPS shall consult with such party to resolve the objection. If the NPS determines that such objection cannot be resolved, the NPS will:

- A. Forward all documentation relevant to the dispute, including the NPS's proposed resolution, to the ACHP. The ACHP shall provide the NPS with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the NPS shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. The NPS will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the NPS may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the NPS shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA and provide them and the ACHP with a copy of such written response.
- C. The NPS's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remains unchanged.

VII. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

VIII. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation VII., above. If within thirty (30) days or another time period agreed to by all signatories an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, the NPS must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. The NPS shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by the NPS, New York SHPO, and NJ HPO, and implementation of its terms is evidence that the NPS has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

[Signatures begin on next page.]

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IN NEW YORK

SIGNATORY:

NATIONAL PARK SERVICE

STATUE OF LIBERTY NATIONAL MONUMENT



John Pitzzecker, Superintendent

Date 3/7/24

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SIGNATORY:

NEW YORK STATE HISTORIC PRESERVATION OFFICER

R. Daniel Mackay Date 2/29/2024

R. Daniel Mackay, Deputy SHPO

New York State Historic Preservation Office

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SIGNATORY:

NEW JERSEY HISTORIC PRESERVATION OFFICER

Katherine J. Marcopul Date 5/12/2024

Katherine J. Marcopul, Deputy SHPO and Administrator

New Jersey Historic Preservation Office