



ASSESSMENT OF ACTIONS HAVING AN EFFECT ON CULTURAL RESOURCES

A. DESCRIPTION OF UNDERTAKING

1. Park: Independence NHP Park district (optional):
2. Project Description:
 - a. Project Name Land Exchange Date: December 28, 2009 PEPC project ID no. 28017
 - b. Describe project and area of potential effects (as defined in 36 CFR 800.2[c])

Undertaking Background and Description

On June 29, 2009 the National Park Service (NPS) and the National Center for the American Revolution (ARC) agreed in principle to initiate a land exchange that will affect two national parks: Valley Forge National Historical Park (NHP) and Independence NHP. By the terms of the agreement, ARC agrees to convey to the United States clear and marketable title to a tract of some 78 acres located within Valley Forge NHP (tract No. 101-60). Once acquired by the federal government, the Valley Forge parcel would be managed by the NPS and preserved for its cultural and natural values, further preserving the cultural landscape of the Valley Forge Revolutionary War encampment.

In exchange, the United States agrees to convey to ARC title to the Independence Living History Center and certain surrounding land currently within the boundaries of Independence NHP. The Independence Living History Center (ILHC) does not contribute to the National Register of Historic Places significance of the park, nor is it included on Independence NHP's List of Classified Structures. The surrounding tract of land is bounded by Third Street on the west, Chestnut Street on the north, American Street on the east and, on the south, a severance line that runs between discrete sections of the building. Once this exchange is complete, the ARC parcel would be a private inholding within the boundary of Independence NHP within which ARC intends to establish the American Revolution Museum. During the project period, each party will conduct all forms of due diligence including but not limited to appraisals, title searches, surveys, environmental site assessments, public and congressional notifications, inspections, and natural and cultural resource surveys. Upon satisfactory completion of due diligence and when the parties reach agreement on the equalization of the parcels' values, the NPS will prepare a binding Exchange Agreement. Upon ARC's acceptance of the Exchange Agreement, NPS will prepare a quitclaim deed from the United States to ARC for the ILHC, and a Special Warranty deed from ARC to the United States for the inholding in Valley Forge NHP. The NPS will also prepare closing documents and submit them to ARC for review. NPS is bound to complete this exchange within one year, or by June 29, 2010.

The NPS has determined that the proposed action is an undertaking as defined in 36 CFR Part 800.16 and that it is the type of activity that has the potential to cause effects on historic properties.

Area of Potential Effect

The area of potential effect (APE) is determined to be the land exchange parcel and all areas within its viewshed. This is bounded by the north side of Ranstead Street between the west side of Second Street and the east side of Sixth Street; the east side of Sixth Street from Ranstead Street to the south side of Walnut Street; the south side of Walnut Street to the west side of Second Street; the west side of Second Street from Walnut to Ranstead Streets (See Attachment A). The affected area includes three national historic districts and their contributing resources: Independence NHP, Old City National Historic District, and Society Hill National Historic District. Several National Historical Landmarks are included within the boundary of Independence NHP, including: the First Bank of the United States, the Merchants' Exchange Building, the Second Bank of the United States, Carpenters' Hall, and the American Philosophical Society. Also included in Independence NHP is Independence Hall, a World Heritage site. In addition, there are archeological resources below the present Independence Living History Center, the site of the undertaking.

Description of Affected Historic Properties

The ILHC parcel is immediately surrounded by Independence NHP, the section of Old City National Historic District once known as Bank Row to the north, and the Society Hill National Historic District to the south. The Old City section, once a financial district, includes Greek Revival and Italianate style buildings, typically four or five stories in height and consisting of brick, stucco, and/or cast iron facades. Tree-lined brick and bluestone sidewalks are typical throughout the area. Society Hill National Historic District lies entirely within the boundaries of William Penn's original plan for the city and includes a wide variety of architectural styles from Georgian, Federal, and Greek Revival homes to contemporary dwellings. While the Society Hill row homes continue the architectural palette and scale of Old City, the district is flanked on the eastern and western ends with modern residential and commercial high-rises. The dense development consistent throughout Old City and Society Hill within the APE is contrasted by the open space and scattered but treasured buildings of Independence NHP to the west and the towering United States Customs House to the east. The Art Deco style United States Customs House stands 13 stories tall and is composed primarily of brick and limestone. Opposite 3rd and Dock Streets respectfully, are the First Bank of the United States and the Merchants' Exchange, both located within the boundaries of Independence NHP. The First Bank is a three-story brick structure with a marble front and trim standing almost 82 feet tall. The Merchants' Exchange, a three-story, marble faced construction in the Classical Revival style, stands 115 tall. The large open spaces of Independence NHP allow for unobstructed views of the ILHC parcel from several additional historic properties, including the Second Bank of the United States, Carpenter's Hall, and Independence Hall.

Undertaking's Effects on Historic Properties:

The NPS has identified the following impacts that could affect the integrity of historic properties on the parcel and within the three districts:

- Adverse impacts to the architectural setting, feeling and association of the three historic districts
- Potential for subdividing parcel
- Potential for third party acquisition of the land exchange parcel
- Potential for loss of undiscovered archeological resources

First, any new construction that is insensitive to the scale and existing fabric of the surrounding historic districts within the APE may negatively impact the districts' setting, feeling, and association. Since the parcel is within the view shed of Independence NHP from 3rd Street to 6th Street, the scale of new construction also has the potential to negatively affect the park's historic context, including several National Historic Landmarks located in that section of the park. Second, the land exchange also has the potential to impact the historic character of the area if the property were to be intensively subdivided. Current uses of buildings in the area of the land exchange parcel include small businesses, restaurants, hotels, museums, and the recreational uses of the park. Any divergence from these uses could create patterns and atmospheric effects that are incompatible with the current historic setting. Third, should another party purchase the parcel at a later date, construction and uses may differ from the current, negotiated plans for development and could have a negative impact on the historic setting, feeling, and association of area. Finally, possible development on the parcel associated with the undertaking has the potential of adversely affecting archeological resources.

Determination of Effect

The National Park Service has applied the criteria of adverse effect and believes this undertaking has the potential for adverse effects on the setting, feeling, association and materials of the area's historic resources. This determination has been confirmed through the consultation and the public review process. We will address the likely adverse effects in legally enforceable deed restrictions to ensure long-term preservation of the property's historic significance. In addition, NPS plans to develop a programmatic agreement with its consulting parties that will record terms and conditions agreed upon to resolve potential adverse effects, including the deed restrictions and other measures to minimize harm.

Consultation Process

NPS has conducted the following consultation process:

- Issued press releases that described this proposed land exchange.
- Formally invited the Advisory Council on Historic Preservation (ACHP), the Pennsylvania State Historic Preservation Office (PASHPO), the Delaware Nation, the Delaware Tribe, and the Stockbridge Munsee to join consultation.
- Held one open house to which park partners, local traditionally-associated groups, neighboring historic districts and neighbors and the media were invited.
- Posted the project on Independence NHP's website and the NPS Planning, Environment, and Public Comment (PEPC) website for public comment.
- Consulted with the ACHP and the PASHPO regarding this undertaking.
- Invited other identified groups and organizations to join the process as consulting parties.
- Invited consulting parties to a work session on December 17, 2009.
- Will continue to consult with stakeholders per 36 CFR 800.6 to resolve adverse effects and seek the views of the public through the development of a Programmatic Agreement.

Supporting documentation for the land exchange Assessment of Effect, including the public comments and other correspondence to date, can be found on the following website: <http://parkplanning.nps.gov/inde>.

3. Has the area of potential effects been surveyed to identify cultural resources?

☐ No

☒ Yes, Source or reference: **Independence NHP Draft Archeological Overview and Assessment, List of Classified Structures, 1994 Cultural Landscape Inventory, National Register of Historic Places Nomination Form**

☐ Check here if no known cultural resources will be affected. (If this is because area has been disturbed, please explain or attach additional information to show the disturbance was so extensive as to preclude intact cultural deposits.)

4. Potentially Affected Resource(s):

Potentially affected resources include three national historic districts and their contributing resources: Independence NHP, Old City National Historic District, and Society Hill National Historic District. Several National Historical Landmarks are included within the boundary of Independence NHP, including: the First Bank of the United States, the Merchants' Exchange Building, the Second Bank of the United States, Carpenters' Hall, and the American Philosophical Society. Also included within Independence NHP is Independence Hall, a World Heritage site and the United States Customs House, a National Register property. The complete National Register Nomination Forms for Independence NHP, Old City National Historic District, and Society Hill National Historic District can be found on the following website: <http://parkplanning.nps.gov/inde>.

In addition, Chapter 7 of Independence's draft Archeological Overview and Assessment (O&A) has identified historic properties below the present ILHC structure. The O&A notes that the area of the undertaking was intensively developed beginning in the eighteenth century and identifies former properties which were demolished in 1957 in order to clear the land for construction of the present ILHC. No systematic archeological investigations were conducted at that time. Independence NHP has agreed to complete a Phase 1A Archeological Survey for the land exchange parcel to identify the possibility of archeological resources.

There is also the potential for remains of indigenous occupation prior to European contact in deeper or undisturbed areas as the site is located within the ancestral homelands of three federally recognized tribes: the Delaware Tribe, the Delaware Nation, and the Stockbridge Munsee.

5. The proposed action will: (check as many as apply)

☐ Destroy, remove, or alter features/elements from a historic structure

☐ Replace historic features/elements in kind

☐ Add non-historic features/elements to a historic structure

☐ Alter or remove features/elements of a historic setting or environment (inc. terrain)

Yes Add non-historic features/elements (inc. visual, audible, or atmospheric) to a historic setting or cultural landscape

Yes Disturb, destroy, or make archeological resources inaccessible

No Disturb, destroy, or make ethnographic resources inaccessible

Yes Potentially affect presently unidentified cultural resources

No Begin or contribute to deterioration of historic features, terrain, setting, landscape elements, or archeological or ethnographic resources

Yes Involve a real property transaction (exchange, sale, or lease of land or structures)

 Other (please specify)

6. Measures to prevent or minimize loss or impairment of historic/prehistoric properties:
(Remember that setting, location, and use may be relevant.)

- **Through internal and public scoping, the NPS has identified several potential impacts the land exchange could have on the historic and cultural resources defined above. Deed restrictions have been developed to avert these potential impacts and to preserve resources in the long term. Following are the potential impacts identified by the NPS and subsequent measures included in the deed restrictions to mitigate those impacts:**
 - ***Adverse impacts to the architectural character of the three historic districts*** – The deed restrictions include height regulations in the event that ARC chooses to remove the existing building and construct a new facility. The height restrictions are designed to keep any new construction within the existing scale of the surrounding historic districts. Also included in the deed restrictions are sign regulations that provide the NPS the right to review and approve/disapprove any exterior signage proposed by ARC.
 - ***Potential for subdividing parcel*** – Subdivision limitations are included in the deed restrictions which require any structure erected on the property to either remain under the ownership of a single entity or, if separate ownership is created, a single agent must be designated to be responsible for the deed restrictions.
 - ***Potential for third party acquisition of the land exchange parcel*** – To minimize the potential for third party acquisition of the parcel, the deed restrictions provide the NPS with the right of first offer in the event of resale.
 - ***Potential for loss of undiscovered archeological resources*** – The deed restrictions provide protection for any archeological resources that may be located beneath the existing Independence Living History Center. In the event that ground disturbing activities would occur, an archeological review and evaluation would be required and mitigation measures would be implemented to protect those archeological resources within the affected area. These restrictions also include procedures to follow in the event of the discovery of materials or remains that are potentially Native American. These procedures will be compatible with those required by the Native American Graves Protection Act [NAGPRA].

Please refer to the Attachment B for the complete text of the DRAFT deed restrictions.

- Once the federal government acquires the 78 acre tract located within Valley Forge NHP (tract No. 101-60) that parcel would be managed by the NPS and preserved for its cultural and natural values, helping to preserve the cultural landscape of the Valley Forge encampment.
- The NPS has agreed to complete a Phase 1A Archeological Survey for the inholding to identify the potential for undiscovered cultural resources.
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- The NPS will relocate the Living History Center and its collection to another location within the park and continue its research function and public outreach.

7. Supporting Study Data:

(Attach if feasible; if action is in a plan, EA or EIS, give name and project or page number.)

8. Attachments:

☒ Maps ☐ Archeological survey, if applicable ☐ Drawings ☐ Specifications ☐ Photographs
☐ Scope of Work ☐ Site plan ☐ List of Materials ☐ Samples ☒ Other: **Deed Restrictions**

Prepared by **Doris Fanelli** Date: **December 28, 2009** Title: Telephone: **215-597-7087**

B. REVIEWS BY CULTURAL RESOURCE SPECIALISTS

The park 106 coordinator requested review by the park's cultural resource specialist/advisors as indicated by check-off boxes or as follows: **Curator, Archeologist, Historical Architect, Historian, Anthropologist, Historical Landscape Architect**

[Cultural resource specialists are reviewing this undertaking concurrently with consulting parties.]

C. PARK SECTION 106 COORDINATOR'S REVIEW AND RECOMMENDATIONS

1. Assessment of Effect:

_____ No Historic Properties Affected _____ No Adverse Effect **X** Adverse Effect

2. Compliance requirements:

☐ A. STANDARD 36 CFR PART 800 CONSULTATION

Further consultation under 36 CFR Part 800 is needed.

☐ B. STREAMLINED REVIEW UNDER THE 2008 SERVICEWIDE PROGRAMMATIC AGREEMENT (PA)

The above action meets all conditions for a streamlined review under section III of the 2008 Servicewide PA for Section 106 compliance.

APPLICABLE STREAMLINED REVIEW Criteria

(Specify 1-16 of the list of streamlined review criteria.)

☐ C. PLAN-RELATED UNDERTAKING

Consultation and review of the proposed undertaking were completed in the context of a plan review process, in accordance with the 2008 Servicewide PA and 36 CFR Part 800.

Specify plan/EA/EIS: _____

☐ D. UNDERTAKING RELATED TO ANOTHER AGREEMENT

The proposed undertaking is covered for Section 106 purposes under another document such as a statewide agreement established in accord with 36 CFR 800.7 or counterpart regulations.

Specify: _____

☐ E. COMPLIANCE REQUIREMENTS SATISFIED BY USE OF NEPA

Documentation is required for the preparation of an EA/FONSI or an EIS/ROD has been developed and used so as also to meet the requirements of 36 CFR 800.3 through 800.6

☐ F. No Potential to Cause Effects [800.3(a)(1)]

☐ G. STIPULATIONS/CONDITIONS

Following are listed any stipulations or conditions necessary to ensure that the assessment of effect above is consistent with 36 CFR Part 800 criteria of effect or to avoid or reduce potential adverse effects.

Recommended by Park Section 106 coordinator:

Name: **Doris Fanelli**

Title: **NHPA Specialist**

Date:

D. SUPERINTENDENT'S APPROVAL

The proposed work conforms to the NPS *Management Policies* and *Cultural Resource Management Guideline*, and I have reviewed and approve the recommendations, stipulations, or conditions noted in Section C of this form.

Name/Signature of Superintendent Cynthia MacLeod

Date:

Attachment A

Independence-Valley Forge Exchange Independence National Historical Park

DRAFT - Area of Potential Effect
December 17, 2009



Draft - 12-23-2009
INDE Deed Restriction and Rights Reserved by USA

TO HAVE AND TO HOLD the above premises, subject to the following specified easements, exceptions, restrictions, conditions, covenants, and reservations reserved in and to the United States of America, herein enumerated and set forth, unto the Grantee, its successors and assigns, forever.

A. Restrictions imposed by the United States of America:

1. ~~**Height Limitation:** The maximum building height of any replacement or new structure is limited to a distance of not greater than forty seven (47' 0") / fifty two (52' 0") feet at the 3rd Street property line a building height of fifty nine (59' 0") feet at a setback of twenty (20' 0") feet east of the 3rd Street property line. The overall maximum height of a replacement or new structure shall be sixty five (65' 0") feet. BUT if a replacement or new structure is designed so that it is set back more than ten (10' 0") feet from the 3rd Street property line then the exterior wall facing 3rd Street shall not exceed fifty (50') / fifty two (52' 0") feet but may step up to a maximum height of sixty five (65') feet.~~

~~(NOTE: The draft maximum height limitation on 3rd Street is expressed as a range because the National Park Service (NPS) and the American Revolution Center (ARC) cannot develop conceptual design plans until the NPS survey is completed. The final deed restriction for height limitation will not be a range, but a specific height, which, in any event, will not exceed 52 feet on 3rd Street.)~~

Height Limitation: The maximum building height of any replacement or new structure is limited to a distance of not greater than sixty-five feet (65'-0") with the exception of the following areas (as depicted on Exhibit A). All references herein to height measurements will begin from average grade:

Area 1: The maximum height shall be no greater than fifty-two feet (52'-0") from the easterly property line of 3rd Street eastward to a setback of twenty-eight feet (28'-0").

Area 1 begins at the northwest corner of the property and continues southerly along the 3rd Street property line for 102.57 feet, more or less.

Area 2: The maximum height shall be no greater than fifty feet (50'-0") from the easterly property line of 3rd Street eastward to a setback of twenty-eight feet (28'-0").

Area 2 begins at the southwest corner of Area 1 and continues southerly along the 3rd Street property line for 102.57 feet, more or less.

Area 3: The maximum building height shall be no greater than seventy-five feet (75'-0") in the area delineated on Exhibit A. This area is intended as an area for clerestory to provide daylighting to the interior of the building.

Area 4: The maximum building height shall be no greater than eighty feet (80'-0") from the American Street property line west to a setback of sixty-five feet (65'-0"). This area shall be used as a mechanical penthouse, parapet wall, roof or any other

accessory structure. Area 4 begins fifty-three feet (53'-0") along the American Street property line from the northeast corner of the property and continues southerly 130.00 feet, more or less, along the American Street property line.

Area 5: The maximum building height shall be no greater than eighty-five feet (85'-0") from the American Street property line west to a setback of sixty-five feet (65'-0"). This area is intended for use as screened exterior rooftop area for required cooling towers, generator, and other mechanical/electrical rooftop appurtenances. Area 5 begins twenty-eight feet (28'-0") along the American property line from the northeast corner of the property and continues southerly 25.00 feet, more or less, along the American Street property line.

2. **Signage:** No exterior signs shall be placed on the premises without the prior review and approval in writing of the Grantor. Approval or comments will be provided within 30 days of submission of a proposed sign design package which will include specifications with respect to size, materials and location. In the event that the Grantor fails to provide notice of its approval or disapproval within thirty (30) days, the signs shall be deemed approved by Grantor. In the event that the Grantor does not approve a sign package submitted for approval, the Grantee may appeal to the National Park Service, Regional Director of the Northeast Region, who will review the sign submission package and the reasons for disapproval and attempt to resolve any differences.
3. **Subdivision Limitation:** The above premises shall not be subdivided for any purpose at any time provided that nothing contained herein shall be interpreted to apply to a lease or creation of a condominium within the premises hereby conveyed provided that the exterior surface of any structure or structures constructed or erected thereon shall either (i) be under the ownership, management and control of a single legal entity, or (ii) if under separate ownership, any instrument creating such separate ownership shall provide that all owners shall designate, in writing delivered to Grantor, a single agent or representative (who may but need not be an owner) expressly authorized to bind and act on behalf of all such owners with respect to all matters arising under these covenants.

B. Rights reserved by the Grantor:

1. **Right of First Offer:** (a) If at any time the Grantee, its successors and assigns (Grantee), elects, in its sole discretion, to convey the Property to an independent third party unrelated to Grantee, then, except as hereinafter provided, Grantee shall notify the Grantor by notice to the Superintendent of Independence National Historical Park, or its successor agency, in writing (the "Offer Notice") that the Property will be available for sale, which Offer Notice shall set forth the Purchase Price for the Property and the other terms and conditions to which the prospective purchasers shall be asked to agree.

(b) Within ten (10) days following receipt by Grantor of an Offer Notice, or within ten (10) days following receipt by Grantor of a writing notifying Grantor that Grantee expects to provide an Offer Notice and requesting Grantor's response under this

section B.1.(b), Grantor may request in writing that Grantee provide Grantor an appraisal (an "Appraisal") of the fair market value of the Property prepared by an MAI appraiser or an appraiser who has similar experience and education, provided that Grantor shall agree in such request to pay the fees and costs charged by such appraiser. Such Appraisal shall be prepared in accordance with the Interagency Land Acquisition Conference Uniform Standards for Federal Land Acquisitions (USFLA) or the current Federal Land Acquisition appraisal standard. Grantee shall not be obligated to provide such Appraisal unless (i) Grantor issues its written request within such 10-day period, and (ii) agrees in writing to pay the fees and costs charged by such appraiser (collectively, a "Qualifying Request").

(c) The Grantor may elect to purchase the Property upon the same terms and conditions as contained in the Offer Notice. If the Grantor shall elect to purchase the Property on the terms and conditions contained in the Offer Notice, the Grantor shall notify Grantee in writing ("Park Service Election Notice") within forty-five (45) days after the later of (i) receipt of the Offer Notice or (ii) receipt of the Appraisal if a Qualifying Request shall have been issued by Grantor, time being of the essence, of its election to so purchase the Property. If the Grantor timely delivers a Park Service Election Notice, then, subject to section B.1.(d) below, the Grantor shall be irrevocably obligated to purchase the Property in accordance with the provisions of this section. If the Grantor shall fail to notify Grantee of such election within such applicable forty-five (45) day period, the Grantor shall be deemed to have irrevocably waived its right to purchase the Property and Grantee shall have the right to offer the Property to a third party, on substantially the same terms as contained in the Offer Notice. Grantee shall have the right to sell the Property to a third party on such terms as Grantee may elect in its sole discretion; provided, however, such terms may include a Purchase Price of ninety percent (90%) of the Purchase Price contained in the Offer Notice and Grantee may sell the Property at a Purchase Price of ninety percent (90%) or more of the Purchase Price without Grantee first reoffering the Property to the Grantor pursuant to the terms and conditions contained in this section.

(d) If the Grantor elects to purchase the Property, then the parties shall close on the sale of the Property within one hundred and twenty (120) days after the date of the notice from the Grantor to Grantee so electing to purchase the Property, time being of the essence. Notwithstanding anything contained in this Agreement, if the Grantor shall fail to close on the purchase within the one hundred and twenty day (120) day period, the Grantor shall be irrevocably deemed to have waived its rights to any other first offer of the Property from Grantee to the Grantor.

(e) Should Grantee fail to enter into a contract to sell the Property at the purchase price permitted hereunder within a period of nine (9) months from the date that the Grantor fails to timely elect to purchase the Property at the Purchase Price contained in the Offer Notice, if Grantee is still desirous of selling the Property, Grantee shall then be obligated to re-offer the Property to the Grantor with a revised Offer Notice (Revised Offer Notice) at a price and on terms and conditions solely determined by Grantee which price may be the lower, the same or higher than that contained in the original Offer Notice. Thereafter, Grantee and the Grantor shall be obligated to repeat the process contained herein within the same time frames (time being of the

essence) until the Grantor purchases the Property or Grantee sells the Property to an independent third party.

(f) If Grantee does not desire to sell the Property after any such period, unless the Grantor has irrevocably waived its rights hereunder, Grantee shall nonetheless continue to provide the Grantor with a Right of First Offer in accordance with the terms and conditions of this Agreement.

(g) This section B.1., and the rights of Grantor and obligations of Grantee under this section B.1., shall be applicable only to a sale of the Property in its entirety, and specifically but without limitation shall not apply to (i) the granting of any mortgage, deed of trust or other security device or security interest in the Property or any part thereof, (ii) the creation of any lease and leasehold estate in all or any part of the Property, (iii) the granting of any easement(s) on or affecting the Property or any part thereof, (iv) the establishment of any condominium regime of ownership pertaining to the Property or any part thereof, or the conveyance of any common elements of any such condominium to any condominium association or similar entity, and (v) the sale of any one or more condominium units within such condominium unless such sale shall be a sale of all such condominium units, comprising all of the Property, to a single purchaser in a single transaction or a series of related transactions intended to result in the ownership of all such units by the single purchaser thereof.

(h) B.1. The rights granted to Grantor under this section B.1. are personal to and may be exercised only by Grantor. The rights granted to the Grantor under this section B.1 shall be extinguished automatically and in their entirety by and upon any foreclosure or exercise of any power of sale or similar right under or deed or other conveyance in lieu to the holder of any present or future mortgage or deed of trust upon the interest of Grantee in the Property (or to the assignee or designee of such holder or purchaser at any such foreclosure or sale), provided that the foregoing shall not apply if Grantee or any affiliate controlling, controlled by or under common control with Grantee is the holder of such mortgage or deed of trust at the time of such foreclosure, or the recipient of such deed in lieu of foreclosure.

2. **Right to Access Bell Tower:** As long as the Bell Tower is retained by the Grantee, the Grantor reserves the right to access the premises for the purpose of normal maintenance, repair and removal of the Bicentennial Bell, Portrait Plaque and Commemorative Plaque as described in ~~Attachment A~~ Exhibit B, but is not required to repair or maintain the "Bicentennial Bell", Portrait Plaque and "Commemorative Plaque. The Grantor will provide the Grantee with twenty-four (24) hours advanced notice of said access, except in event of an emergency situation that requires immediate access. The Grantee shall provide the Grantor not less than sixty (60) days notice in writing of Grantee's intention to remove the Bell Tower.
3. **Archeological Resources:** In the event the Grantee plans an undertaking requiring ground disturbing activities to a depth of greater than eight (8) inches, the Grantee shall identify all significant archeological resources which may be affected by these actions. The Grantee will determine if any identified or suspected archeological resources would meet the eligibility requirements for listing on the National Register

of Historic Places. The Grantee will consider ways to avoid the effects of ground disturbing activities on those archeological resources that are found to be eligible for listing on the National Register. If avoidance is not feasible the Grantee will mitigate the adverse effects of the proposed ground disturbing activities through archeological excavation and documentation, or other suitable alternative methods consistent with the definition of "mitigation" as used in the National Environmental Policy Act regulations of the Council on Environmental Quality [Section 1508.20(c)-(e)].

The aforementioned archeological review and evaluation will be conducted at the Grantee's sole expense by individuals meeting or exceeding the minimum professional qualifications in archaeology published in Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44716), as amended or updated. The review and evaluation of the Superintendent of Independence National Historical Park will include a written and well documented assessment of potential impacts on significant archeological resources (as defined above) and will include a work plan specifying proposed testing, mitigation, cataloging, and conservation of archeological resources within the affected area. All proposed actions will adhere to guidance provided in Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (48 FR 44716-740) and will result in the successful resolution of all potential adverse effects, as defined at 36 CFR PART 800.5, through avoidance or mitigation.

The Grantee will provide the Grantor with the opportunity to comment on documentation produced during review, identification and mitigation of ground disturbing activities. The Grantee will provide for Grantor review of the work plan for any proposed archeological mitigation measures at least sixty (60) calendar days in advance of execution of the mitigation measures. The Grantee and Grantor will endeavor in good faith to resolve any disagreement concerning any proposed action affecting archeological resources and the proposed mitigation of such actions.

In the event that Grantor and Grantee are unable to reach agreement upon the potential effect of proposed actions on archeological resources or on a mutually satisfactory plan to mitigate these effects, the Grantor or Grantee shall initiate arbitration proceedings pursuant to the Commercial Arbitration Rules of the American Arbitration Association. In these circumstances, the Grantor and Grantee shall each select an arbiter. The two arbiters, within ten (10) days of selection, must agree to the selection of a third arbiter to complete the arbitration panel. To the extent applicable to the matter presented for arbitration, the arbitration panel shall give effect to the requirement, set forth above, that all proposed actions will adhere to guidance provided in the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (48 FR 44716-740).

[Note: The following language on tribal consultation is currently being negotiated with the Delaware Nation, the Delaware Tribe of Indians, and the Stockbridge-Munsee tribe and other consulting parties and is subject to change.]

If previously unknown Native American human remains, funerary objects, objects of cultural patrimony and sacred objects are uncovered during the activity, work in the

immediate vicinity of the discovery would be halted, the discovery shall be reported immediately to the park superintendent, and the physical site of the discovery protected from further disturbance.

If human remains are exposed, measures will be taken to ensure their security and they will be covered with white muslin cloth. The inadvertently discovered items shall be identified, evaluated, and documented, and the human remains and funerary objects will be left in situ if possible. The land owner will immediately notify the Superintendent of Independence National Historical Park who will then inform the appropriate federally recognized tribal entities whose ancestral homelands include the subject plot about the discovery.

Prior to resuming the activity, consultations will be held with the appropriate federally recognized tribal entities whose ancestral homelands include the subject plot and, if necessary, an appropriate mitigation strategy shall be developed through consultation. If any human remains, associated and unassociated funerary objects, objects of cultural patrimony and sacred objects are removed from the ground, they will be conserved temporarily in the park collections until arrangements can be made for their return to the three tribes. These items will not be catalogued or accessioned.

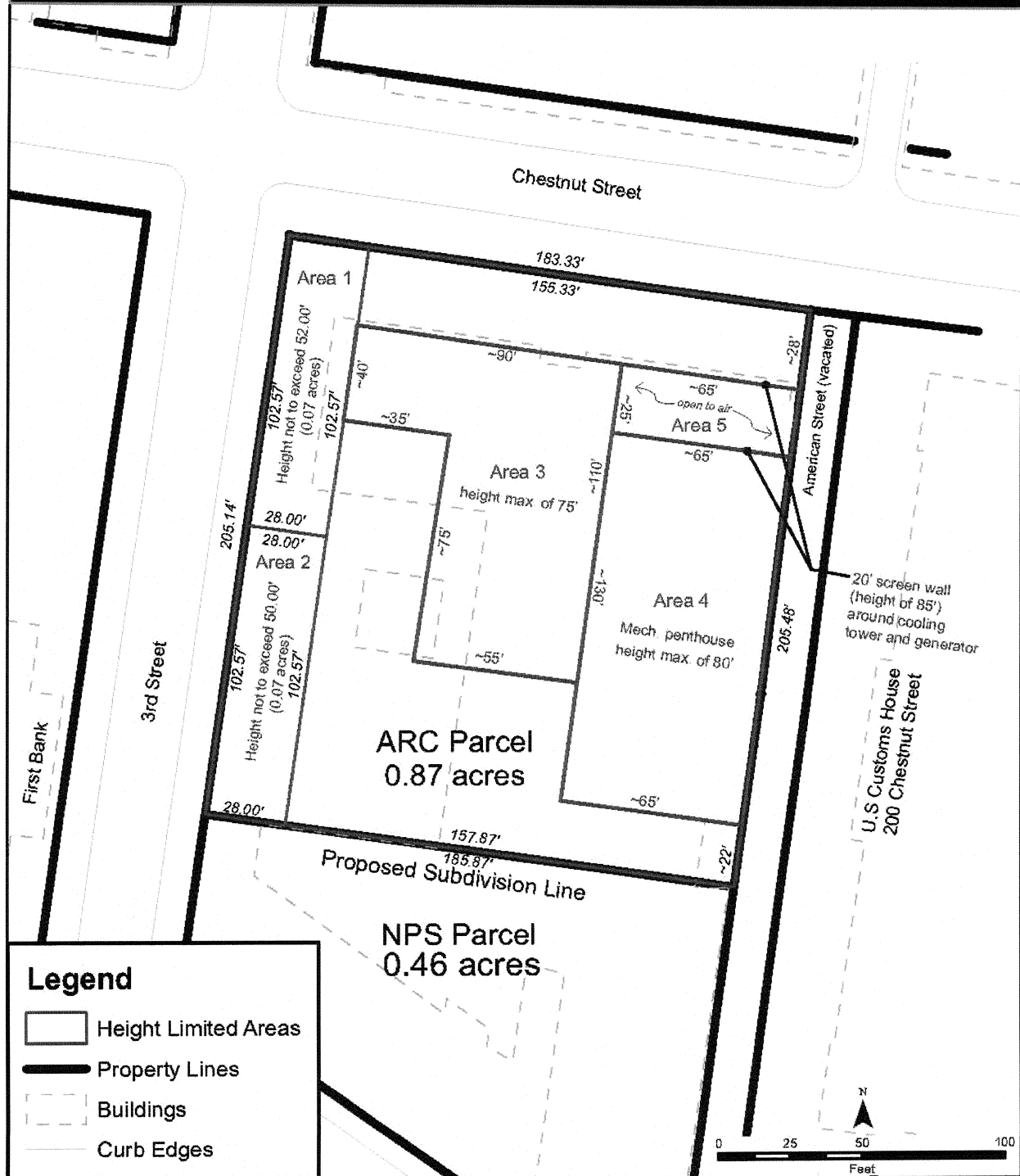
C. Definitions:

1. The term "GRANTOR" wherever used herein, and any pronouns used in place thereof, shall mean and include, unless repugnant to the context, the above named GRANTOR and its representatives, successors, and assigns. For the purposes of notifications and approvals required herein, the Grantor shall be represented by the Superintendent of Independence National Historical Park. The term "GRANTEE" wherever used herein, and any pronouns used in place thereof, shall mean and include, unless repugnant to the context, the above named GRANTEE and its authorized representatives, successors and assigns.
2. The words "Archeological Resources" as referenced herein shall mean any material remains of past human life or activities that are of archeological interest and are at least fifty (50) years of age. This term includes, but shall not be limited to, objects made or used by humans, such as pottery, bottles, weapons, weapon projectiles, tools, structures or portions of structures, or any portion or piece of the foregoing items, and the physical site, location or context in which they are found or human skeletal materials or graves. The words "Archeological Resources" as used herein shall not be construed to include historic items that were obtained from a source outside the Protected Property.
3. The words "ground disturbing activities" as referenced herein shall mean actions that dig into the soil more than eight (8) inches.
4. The term "Bicentennial Bell", "Portrait Plaque" and "Commemorative Plaque" wherever used herein, and any pronouns used in place thereof, shall mean and include, unless repugnant to the contract, those items described herein and shall be considered USA personal property and are identified in the INDE museum catalog:

Exhibit A

Independence-Valley Forge Exchange Independence National Historical Park

DRAFT - Height Limitations Diagram
December 17, 2009



Attachment A-Exhibit B

Bicentennial Bell Description:

- Cast at the Whitechapel Foundry in London, England
- Weighs 12,466 pounds
- Comprised predominantly of copper and tin
- Diameter 6 feet 10 inches; height 5 feet 6 inches
- Tuned to G below middle C
- Inscribed "For the People of the United States from the People of Britain 4 July 1976 Let Freedom Ring" and "Proclaim Liberty Throughout All the Land Unto All the Inhabitants Thereof"
- Installed 6/16/1976
- Dedicated by Queen Elizabeth II on 7/6/1976

Portrait Plaque Description:

- Bronze plaque measuring 28" wide x 33.5" high x 2 1/8" deep
- Haut relief, bust portrait in profile of Queen Elizabeth II. Subject faces left, wears crown, earring, necklace and draping below shoulder. Mottled background.
- Installed to commemorate the Queen's presentation of the Bicentennial Bell, July 16, 1976.

Commemorative Plaque Description:

- Bronze plaque measuring approximately 96" wide x 33.5" high x 2 1/8" deep.
- Installed to commemorate the Queen's presentation of the Bicentennial Bell, July 16, 1976.
- Queen Elizabeth II's remarks at the presentation are cast in base relief on the plaque:

HERE ON JULY 6, 1976, HER MAJESTY QUEEN ELIZABETH II OF GREAT BRITAIN PRESENTED THE BICENTENNIAL BELL TO THE PEOPLE OF THE UNITED STATES, IN THESE WORDS:

"I speak to you as the direct descendant of King George III. He was the last Crowned Sovereign to rule in this country, and it is therefore with a particular personal interest that I view those events which took place 200 years ago.

It seems to me that Independence Day, the Fourth of July, should be celebrated as much in Britain as in America. Not in rejoicing at the separation of the American colonies from the British Crown but in sincere gratitude to the Founding Fathers of this great Republic for having taught Britain a very valuable lesson.

We lost the American colonies because we lacked that statesmanship "to know the right time, and the manner of yielding, what is impossible to keep".