



Preserving America's Heritage

November 5, 2010

Ms. Susan Spain
Project Executive, The National Mall Plan
National Mall & Memorial Parks
900 Ohio Drive
Washington, DC 20024

**REF: *Development of the National Mall Plan
Washington, District of Columbia***

Dear Ms. Spain:

Enclosed is your copy of the fully executed Programmatic Agreement for the referenced project. By carrying out the terms of the Agreement, you will fulfill your responsibilities under Section 106 of the National Historic Preservation Act and the regulations of Advisory Council on Historic Preservation. The original Agreement will remain on file at our office.

We commend the National Park Service for working closely with the ACHP and the DC State Historic Preservation Officer and others toward preservation of this important historic property.

If we may be of further assistance as the Agreement is implemented, please contact Louise D. Brodnitz at (202) 606-8527, or via e-mail at lbrodnitz@achp.gov.

Sincerely,

Caroline D. Hall
Assistant Director
Office of Federal Agency Programs
Federal Property Management Section

Enclosure

**Programmatic Agreement
Among
The National Park Service
The District of Columbia State Historic Preservation Officer
The Advisory Council on Historic Preservation
Regarding
The National Mall Plan
Washington, D.C.**

WHEREAS, the National Park Service (NPS), manages the National Mall for the American public; and

WHEREAS, the National Mall is the nation’s primary civic space and serves as our democratic stage and also serves as open space for visitors and local residents; and

WHEREAS, the National Mall exists within an urban context and incorporates properties with national and local significance; and

WHEREAS, there is a series of maps in Attachment 1 that illustrate this area; and

WHEREAS, the National Mall is increasingly in the center of a wide variety of activities in central Washington and whereas the linkages and relationships between the National Mall and nearby areas will increase in the future, it is important that future detailed planning for the National Mall continue to consider and be integrated with plans and programs for adjacent areas; and

WHEREAS, the National Mall, which dates from 1791 and the founding of the federal city is one of the most historic and important public spaces in our nation, is a place of great significance in our nation’s history and is at the heart of our capital city; and

WHEREAS, The Plan for the City of Washington (L’Enfant, McMillan and Olmsted plans) is listed in the National Register of Historic Places (National Register); and

WHEREAS, the National Mall and surrounding areas contain implemented portions of historic plans commonly referred to as the L’Enfant (1791), McMillan (1901), and National Capital Planning Commission plans of the 1930s including the Olmsted Plan, the Skidmore Owings and Merrill plans of the 1960s and 1970s; and is addressed by current plans – *Extending the Legacy* (1997), *Memorials and Museums Master Plan* (2001); and

WHEREAS, NPS-managed lands of the National Mall include National Register-listed and eligible cultural landscapes relating to distinct places and development in our nation’s history; and

WHEREAS, the National Mall contains commemorative works, some of which are historic resources or contributing resources to an historic district, and all of which are managed pursuant to the laws and regulations that are specific to them; and

WHEREAS, the important symbolic, democratic and civic purpose of the National Mall warrants exemplifying and incorporating universal access principles to buildings and landscapes to welcome all citizens inclusively; and

WHEREAS, the NPS initiated a planning process for the National Mall in 2006 and subsequently developed the National Mall Plan (the Plan); and

WHEREAS, the Plan was developed to address a number of critical planning needs; and

WHEREAS, the National Mall was not designed for the level of use it receives with more than 25 million visits annually resulting in an unacceptable level of wear and tear on historic and cultural resources and landscapes, with future visitation projected to continue to increase; and

WHEREAS, the needs of visitors to the National Mall are not entirely met for amenities, facilities, services, group visitation, circulation/transportation, accessibility or recreation; and

WHEREAS, NPS has identified a backlog of deferred maintenance repairs of over \$400 million; and

WHEREAS the Trust for the National Mall is the official NPS fundraising partner for the National Mall and seeks to work with the NPS to address needs identified in the Plan; and

WHEREAS, the Plan has been developed in accordance with Section 106 of the National Historic Preservation Act (NHPA) and 36 CFR 800, the regulations that implement NHPA Section 106; and

WHEREAS, NPS provided numerous and continual opportunities for public input in the development of the Plan, through compliance with NHPA Section 106 and the National Environmental Policy Act (NEPA) and participation by NEPA Cooperating Agencies (federal and local government agencies), and NHPA Section 106 Consulting Parties, and the public; and

WHEREAS, pursuant to 36 CFR 800.14 (b), this Programmatic Agreement (PA) between NPS, the Advisory Council on Historic Preservation (ACHP), the District of Columbia State Historic Preservation Officer (SHPO) and other invited signatories and concurring parties establishes the processes and procedures that will be used for the purposes of NHPA Section 106 during implementation of the Plan, including individual design and construction projects outlined in the Plan; and

WHEREAS, NPS has invited the National Capital Planning Commission (NCPC); U.S. Commission of Fine Arts (CFA); and District of Columbia Office of Planning (DCOPO); and Trust for the National Mall; to participate in this PA as invited signatories; and

WHEREAS, NPS has invited the Architect of the Capitol; the National Gallery of Art; the Department of Agriculture (USDA); the Smithsonian Institution; and the General Services Administration (GSA) to participate in this Programmatic Agreement as concurring parties; and

WHEREAS, those who requested and were granted consulting party status are listed in Attachment 2; and

WHEREAS, beginning in 2008 NPS invited and engaged NHPA Section 106 consulting parties in activities including a bus tour of the National Mall and 13 consultation meeting discussions to identify historic resources and property requiring preservation and protection. NPS provided opportunities for comment on the range of Plan alternatives, prior to the development of newsletter 4 and the *Draft Environmental Impact Statement* (DEIS); provided information about NPS policies, criteria and guidelines; posted information on the Plan website including Cultural Landscape Inventories for Union Square, the Mall, Constitution Gardens, Washington Monument, the District of Columbia War Memorial, the McMillan Commission report, National Register nominations, cultural landscape reports, and consultation meeting notes. The NPS also developed maps showing the APE, historic resources and districts, cultural landscapes, and a comparison with the McMillan Plan Mall Systems and the Plan area; and created a graphic timeline of the development of critical plans (Attachment 1); and

WHEREAS, NPS considered and addressed consulting party comments in meetings; posted annotated meeting notes online; incorporated consulting party ideas in alternatives including the preferred alternative or analyzed and explained in consultation and in the DEIS and EIS why an idea was considered but dismissed from further analysis; and

WHEREAS, the Area of Potential Effect (APE) for the Plan in Attachment 1 was defined through the NHPA Section 106 consultation process; and

WHEREAS, the APE includes the National Mall, the Plan study area and surrounding areas where the indirect effects on historic properties can be reasonably anticipated; and

WHEREAS, the APE includes numerous historic buildings and museums which are individually listed in the National Register and/or have been designated as National Historic Landmarks; and

WHEREAS, the APE also includes historic districts that are listed in, or have been determined eligible for listing in the National Register including, but not limited to National Mall Historic District; the Washington Monument and Grounds; the East and West Potomac Park Historic District; the Northwest Rectangle Historic District; the Fifteenth Street Financial Historic District; the Seventeenth Street Historic District; the Lafayette Square Historic District; the Federal Triangle Historic District; the Downtown Historic District; the Rock Creek and Potomac Parkway; and the Pennsylvania Avenue National Historic Site/District and

WHEREAS, within the APE there are significant portions of the western end of the National Mall constructed of fill which are unlikely to contain significant archaeological resources but there are identified archaeological sites in other areas of the National Mall with the potential for additional unidentified archaeological sites to be discovered; and

WHEREAS, the documentation of historic properties in the APE is incomplete and further identification and evaluation may be required, and the APE could be altered and require further consultation in order to amend the APE and evaluate properties and effects with the revised APE; and

WHEREAS, the consultation process included the development of this PA and the consulting parties participated, and they will continue to be invited to participate in subsequent individual project consultations associated with recommendations in the EIS that have the potential to affect historic properties; and

WHEREAS, the NEPA cooperating agencies (40 CFR 1501.6) that participated may continue to participate in subsequent individual projects are listed in Attachment 3; and

WHEREAS, the NEPA cooperating agencies participated in 11 multi-day workshops, providing NPS with data, defining planning principles, discussing common issues, developing and refining the range of alternatives to be analyzed; and ultimately the preferred alternative; and

WHEREAS, NPS considered the information provided by the public including the important public values of the National Mall, in the development in the both the NEPA and NHPA processes; and

WHEREAS, public engagement included a symposium, nine public meetings, walking tours, the development of a dedicated planning website, four newsletters and a Draft National Mall Plan Environmental Impact Statement (EIS), and EIS developed pursuant to NEPA; and

WHEREAS, NPS received more than 30,000 comments, nationwide including those from participants attending public meetings and presentations; comments from planning and design

professionals including university students; and comments from a blue ribbon panel of planning, architecture, and landscape architecture professionals (APA, ASLA and AIA); and

WHEREAS, as a result of the public comment process, NPS highlighted in its planning: the protection and unchanged nature of First Amendment rights through a brochure, “The First Amendment on the National Mall”; the definition of the planning area and the extent of cooperative planning with other agencies; the importance of historic plans; and the role of the 1997 National Capital Planning Commission (NCPC) plan “Extending the Legacy,” which builds upon the capital city’s most important historic plans – the 1791 L’Enfant Plan and the 1901 McMillan Plan as today’s successor to the L’Enfant and McMillan plans; the distinction between planning concepts never implemented, such as portions of the McMillan Plan for the Washington Monument, and those that were implemented; and the importance of clarifying the definition of the NPS National Mall to include all of the resources such as the Mall, Washington Monument and West Potomac Park; and

WHEREAS, it is essential that the plans of the signatories and invited signatories and concurring parties related to the National Mall be integrated, coordinated and planned in a comprehensive manner and that this integration and comprehensive planning be visible and understandable in the Plan as it goes forward; and

WHEREAS, several cooperating agencies coordinated their respective planning efforts resulting in a brochure, “Planning Together for Central Washington.” Coordinated plans include the District of Columbia’s *Center City Action Agenda*, NCPC/U.S. Commission of Fine Arts *Monumental Core Framework Plan*; Architect of the Capitol’s draft *Capitol Complex Master Plan*; and the *Plan*; and

NOW THEREFORE, NPS, DC SHPO, and ACHP agree that NPS shall implement the Plan in accordance with the following stipulations in order to take into account the effects of the Plan undertakings on historic properties and satisfy NPS’ NHPA Section 106 responsibility.

STIPULATIONS

NPS shall ensure that the following measures are carried out:

- 1) Update the National Mall National Register Historic District Nomination.
 - a) The NPS shall request funding, seek grants or partnership funds and, within one year of the date that funds become available, begin to update the National Mall Historic District nomination to include all areas of the NPS-managed National Mall, as the current nomination describes only a component of the entire National Mall - the Mall (3rd to 14th), including Union Square (1st to 3rd). The target for completion of the National Register revised nomination date is three years after acquisition of funds, and subject to availability of funds. NPS shall continue to request funding until funding is made available.
 - b) The revised nomination will evaluate and document the contributing and non-contributing status of the following NPS-managed properties located on the National Mall. These include but are not limited to: the Washington Monument and Grounds and areas within West Potomac Park, including the World War II Memorial, Constitution Gardens and the 56 Signers of the Declaration of Independence Memorial, Vietnam Veterans Memorial, Korean War Veterans Memorial, District of Columbia War Memorial, Ash Woods, Lincoln Memorial/Circle and Radial Roads, Lincoln Memorial Reflecting Pool, the Watergate

Steps, the Tidal Basin, Thomas Jefferson Memorial, FDR Memorial, MLK, Jr. Memorial, George Mason Memorial and sections of the Potomac Riverfront. The process for undertaking the revision will be decided by the NPS after considering the comments of the other signatories, invited signatories, concurring parties, consulting parties and the public.

- c) The NPS shall identify all contributing and non-contributing properties within the boundaries of the updated National Register nomination and identify National Historic Landmarks.

2) Evaluate and Nominate Historic Resources in the Monumental Core.

- a) Within one year of signing the PA, NPS shall lead a process to devise the most thorough and efficient approach to completing a new historic district nomination to include non-NPS historic properties on or adjacent to the National Mall, such as, but not limited to, the museums of the National Gallery of Art and Smithsonian Institution, and the Department of Agriculture. The NPS shall begin this process by convening a meeting of the Federal Preservation Officers (FPO) and/or appropriate representatives from relevant property owners, the SHPO and the ACHP. This approach will result in NPS developing the framework for a multiple property nomination based upon the historic context of the Monumental Core unless the group agrees that another approach would be more thorough and efficient. As part of this effort this group will develop a transparent public involvement process.
- b) The NPS shall request that the FPOs and/or other representatives of the properties on or adjacent to the National Mall but not under NPS jurisdiction to update or prepare nominations for their properties that appear to qualify for inclusion on the National Register. These nominations will be completed under the multiple property nomination or other agreed upon nomination mechanism. NPS will then work with the FPOs and other representatives to revise the boundaries of the existing National Mall historic district or to establish a new historic district based upon the nature of historic resources and the historic context of resources within the Monumental Core, including adjacent properties as appropriate.
- c) NPS will consider amending the PA so that the other FPOs and appropriate property owners can join as signatories in recognition of their responsibilities pursuant to the NHPA and/or their interest in nominating their properties to the National Register.
- d) As part of this process, this group shall identify all eligible and listed National Register properties within the Monumental Core and signify which are National Historic Landmarks.

3) Potential National Historic Landmark Nomination or Nominations.

- a) NPS shall assess and consider preparing a National Historic Landmark nomination or nominations, based upon the information gathered in the processes under stipulations 1 and 2.

- b) As part of this NHL assessment, the NPS will actively seek, consult and consider the views of the other signatories, invited signatories, FPOs, property owners, concurring parties, consulting parties and the public on this NHL nomination.
 - c) Should the NPS decide to proceed with the nomination, then within one year of this determination, the NPS will convene a meeting of the FPOs, property owners, SHPO, ACHP and NCPC. The purpose of said meeting will be to determine how property-managing entities will collectively fund and complete this process.
 - d) The decision by one agency or property owner to not participate in the NHL nomination process will not preclude the other agencies and/or property owners from nominating their properties. The NPS may also elect to nominate its properties if no other parties elect to do so.
 - e) Should the NPS decide to not proceed with an NHL nomination, NPS will provide the FPOs, property owners, SHPO, ACHP and NCPC with written notification explaining the reasons for the decision.
- 4) Implementation of the National Mall Plan.
- a) The Plan will be implemented over time as individual projects are designed and constructed in accordance with the Plan vision, broad outlines, program criteria, and through consultation. Projects will conform to the planning principles in EIS Appendix F and will be undertaken as funding is requested and becomes available. The NPS will consider the project priority listings in Attachment 4 that address categories of priority levels for individual projects, and their associated compliance needs, costs, and the degree of resource or visitor experience improvements anticipated, as well as any work or projects necessary before an individual project can proceed.
 - b) At the beginning of each project, the NPS will provide the contractor with background information, including Plan, the summary plan, plan actions proposed (from alternatives matrix), and EIS appendix F; cultural resources documentation; information about potentially affected historic resources; cultural landscape and pertinent historic structures inventories or reports and recommended treatment goals; maps, photos and other data.
 - c) The NPS will consider revising the APE as warranted as the Plan is implemented after considering the comments of the other signatories, invited signatories, concurring parties, consulting parties and the public.
- 5) Individual Projects.
- a) Project Planning and Design.
 - i) The Section 106 process set out in the regulations at 36 CFR Part 800 will be followed.
 - ii) Design criteria will be developed and/or refined during consultation for each individual project and include:
 - iii) Identification of the character-defining elements and historic contexts in consultation with signatories and consulting parties

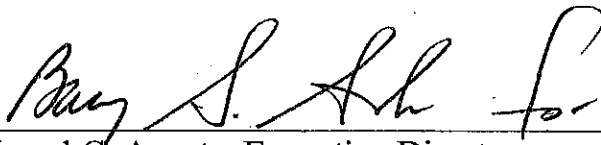
- iv) Adherence to The Secretary of the Interior's Standards for the Treatment of Historic Properties.
 - v) Take into account character-defining elements and historic contexts identified with respect to sensitive design, appropriate scale, contextually compatible materials, colors and textures, even as the design program responds to the greatly differing needs of today and tomorrow and maximizes sustainable approaches.
 - vi) Views and vistas will be protected, as appropriate, and the condition of vegetation that defines views will be improved consistent with the character-defining features of these elements.
 - vii) New views and vistas will be considered in order to better connect the National Mall with adjacent areas, or to better link different areas within the National Mall. Existing vegetation could be changed to improve the visual connections, consistent with the character-defining features of these elements.
 - viii) NPS will make every effort to ensure that individual projects meet planning principles and objectives defined in the EIS to:
 - (a) Provide a welcoming environment that can sustain very high levels of use;
 - (b) Protect cultural resources and respect the legacy of historic plans even while the designed historic landscape will evolve to accommodate contemporary and compatible uses in a sustainable manner;
 - (c) Improve natural resource conditions of the designed landscape;
 - (d) Enhance the ability of the National Mall to function as our national civic stage;
 - (e) Improve access and circulation; Improve visitor experiences and convenience by including visitor information, opportunities for education and enjoyment; visitor amenities and services; address health, safety and security concerns; and provide for sustainable park operations.
- b) Review
- i) Review timeframes will depend on the complexity of the individual undertaking, the level of public interest and consultation, and funding-related matters.
 - ii) Consultation will occur during the development of the planning documents, schematic design, and design development. NPS will seek public comment and Consulting Party comments during the development of the planning documents;
 - (a) These comments will be submitted to the NPS online, through Consulting Party meeting notes, or in live-media discussions such as webcasts. NPS will continue to consider all comments from the public and Consulting Parties in the decision making process. There will be at least one 30-day public comment period for each project under review.
 - iii) Signatory, invited signatory and concurring party review will include the review of early concepts in planning documents, such as Environmental Assessments (EA), and schematic design;

- iv) Materials generated in these reviews will be treated as internal and pre-decisional although by law they may need to be released if requested.
 - v) CFA and NCPC Review of Projects. Many projects will be subject to reviews by the NCPC and CFA which provide additional opportunities for public involvement. These Commission reviews will be scheduled to the extent possible to ensure that issues identified in all review processes such as NHPA Section 106 and NEPA are addressed and incorporated into the projects to the maximum extent feasible.
 - vi) Avoidance, Minimization and Mitigation of Adverse Effects.
 - (a) NPS shall consult with the signatories, invited signatories, concurring parties, and consulting parties and the public to identify as many reasonable approaches as possible to avoid adverse effects in project designs, and when adverse effects cannot be completely avoided, to minimize the adverse effects and to identify appropriate mitigation measures.
 - (b) The scope, timeframes for implementation and other matters relating to the mitigation measures may be identified in individual project agreement documents.
 - (c) Mitigation may include interpretation and education materials about the resource, the undertaking, and the preservation and protection of the resources such as new or revised wayside signs, NPS style brochures, and internet based content or other measures as agreed to by the signatories, invited signatories, and concurring parties.
 - vii) Archeology. Many areas on the National Mall were constructed on fill and are not known to contain any archaeological resources. However, the remaining naturally occurring areas do include known sites and may have potential to include additional sites. NPS will follow all applicable procedures.
 - viii) Reporting and Notification. NPS will provide updates on the status of projects and compliance on the National Mall Plan website.
- 6) Dispute Resolution. Should any signatory or invited signatory object to NPS in writing regarding an action carried out in accordance with this PA or the lack of compliance with the terms of this PA, the signatories will consult to resolve the objection. Should the signatories be unable to resolve the disagreement, NPS shall forward its background information on the dispute as well as its proposed resolution of the dispute to the ACHP. Within 45 days after receipt of all pertinent documentation, ACHP will either: provide the NPS with written recommendations, which NPS will take into account in reaching a final decision regarding the dispute, or notify NPS that it will comment pursuant to 36 CFR 800.7 (c), and proceed to comment. This ACHP comment shall be taken into account by NPS in accordance with 36 CFR 800.7 (c)(4). Any ACHP recommendation or comment will be understood to pertain only to the subject matter of the dispute; NPS's responsibility to carry out all actions under this PA that are not subjects of dispute will remain unchanged.

- 7) Duration. The PA shall be in effect for fifteen (15) years from the date of the last signature of a signatory and may be renewed for ten year periods until the next approved plan for the National Mall is completed.
- 8) Amendments. This PA may be amended when agreed to in writing by all signatories. The amendment shall be effective on the date a copy signed by all of the signatories is filed with ACHP.
- 9) Termination. If any signatory or invited signatory to this PA determines that the terms of the PA cannot or are not being carried out, that objecting party shall so notify the other signatories and invited signatories in writing and consult with them to seek amendment of the PA. If within sixty (60) days, an amendment cannot be reached, any signatory or invited signatory may terminate the PA upon written notice to the other signatories and invited signatories.

National Mall Plan Programmatic Agreement

INVITED SIGNATORIES:

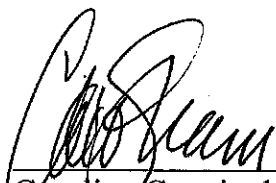


Marcel C. Acosta, Executive Director
National Capital Planning Commission

11/5/10
Date

National Mall Plan Programmatic Agreement

INVITED SIGNATORIES:



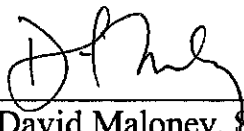
Caroline Cunningham, President
Trust for the National Mall

8 November 2010

Date

National Mall Plan Programmatic Agreement

SIGNATORIES:



David Maloney, State Historic Preservation Officer
District of Columbia

11/5/2010
Date

National Mall Plan Programmatic Agreement

SIGNATORIES:

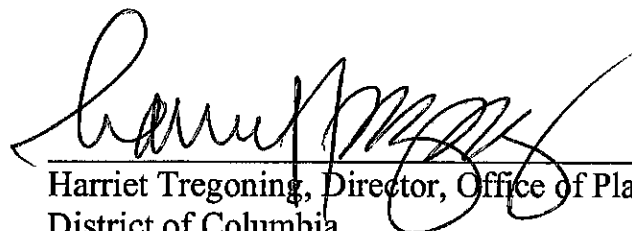


John Fowler, Executive Director
Advisory Council on Historic Preservation

11/8/10
Date

National Mall Plan Programmatic Agreement

INVITED SIGNATORIES:




Harriet Tregoning, Director, Office of Planning
District of Columbia

NOV. 5, 2010

Date

National Mall Plan Programmatic Agreement

SIGNATORIES:

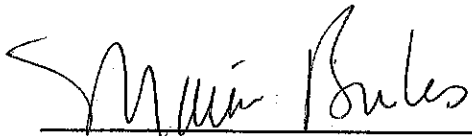


Peggy O'Dell, Regional Director
National Capital Region, NPS

11/4/10
Date

National Mall Plan Programmatic Agreement

SIGNATORIES:



**Maria Burks, Superintendent
National Mall and Memorial Parks**

11/4/2010
Date