

**MEMORANDUM OF AGREEMENT
AMONG
THE NATIONAL PARK SERVICE,
THE NEW YORK STATE HISTORIC PRESERVATION OFFICE
AND
THE NEW YORK CITY DEPARTMENT OF PARKS AND RECREATION
REGARDING
THE YANKEE STADIUM PROJECT
BRONX COUNTY**

WHEREAS, the New York City Department of Parks and Recreation (“NYCDPR”) proposes to allow for the development of a proposed stadium by the New York Yankees on portions of Macomb’s Dam and John Mullaly Parks, and proposes to develop new parking and recreational facilities on other adjoining and nearby sites (the “Project”);

WHEREAS, the Project would require approvals from City and State agencies, and NYCDPR is the lead agency in the preparation of the Environmental Impact Statement (“EIS”) for the Project under the State Environmental Quality Review Act (“SEQRA”) and the City Environmental Quality Review (“CEQR”);

WHEREAS, the Project would require approvals from Federal agencies, including approval from the National Park Service (“NPS”), to convert a portion of Macomb’s Dam Park to non-recreational uses and to create substitute replacement facilities pursuant to Section 6(f) of the Federal Land and Water Conservation Fund Act (“LWCF”), and authorization to proceed under a Nationwide Permit from the U.S. Army Corps of Engineers (“USACOE”) for certain activities related to the construction of a new waterfront park along the Harlem River, and therefore the Project is subject to review under Section 106 of the National Historic Preservation Act;

WHEREAS, NPS and the ACOE have agreed that NPS is the lead agency for review of the Project under the National Environmental Policy Act and for the Section 106 review;

WHEREAS, NPS has invited the Advisory Council on Historic Preservation (“ACHP”) to participate in the Section 106 process for the Project and ACHP has declined;

WHEREAS, NPS, in consultation with the New York State Historic Preservation Office (“SHPO”), has determined the Areas of Potential Effect (“APE”) for the Project for archaeological and historic resources as defined by 36 CFR 800.16(d), as depicted on the map presented as Exhibit A hereto;

WHEREAS, the Project received a number of comments on the plan for replacing recreational facilities and adding parkland and has resulted in the development of the Alternative Park Plan, which is the preferred park plan presented in Chapter 22, “Alternatives,” of the Final EIS for the Project, and is the plan that was approved by NYCDPR, the New York City Planning Commission and the New York City Council;

WHEREAS, this Agreement was developed with appropriate public involvement (pursuant to 36 CFR 800.2[d] and 800.6[a]) through scoping, public review and public hearings conducted to comply with all applicable legal requirements;

WHEREAS, NYCDPR recognizes that the Delaware Nation represents the descendents of the aboriginal inhabitants of New York and has an affiliation with prehistoric properties in the state, including some with religious and cultural significance and will be a consulting party to this Agreement;

WHEREAS, the New York City Landmarks Preservation Commission (“NYCLPC”), representing the City of New York, is a consulting party in the Section 106 review process but not a signatory to this Agreement;

WHEREAS, SHPO has requested to be kept informed as plans are progressed for the entire project;

WHEREAS, the Project would result in the demolition of Yankee Stadium, which has been determined not eligible for listing on the State and National Registers of Historic Places by the New York State Historic Preservation Officer (“SHPO”), and therefore, its demolition would not adversely affect National Register listed and eligible properties;

WHEREAS, the Project would result in the demolition of the Macomb’s Dam Park District Office, which has been determined not eligible for listing on the State and National Registers of Historic Places by the SHPO, and, therefore, its demolition would not adversely affect Register listed and eligible properties;

WHEREAS, NYCDPR has consulted with the SHPO and NYCLPC, and SHPO and NYCLPC have concluded that there are no archaeological concerns for the Project;

WHEREAS, the APE contains five National Register eligible properties: the Macomb’s Dam Bridge, Macomb’s Dam Bridge Approach and Buildings G, H, and J of the Bronx Terminal Market located west of Exterior Street;

WHEREAS, the Macomb’s Dam Bridge Approach is a New York City Landmark;

WHEREAS, the Project would affect the Macomb’s Dam Bridge Approach through modifications to create connections to proposed parking garages A and C and to widen the east sidewalk at East 161st Street, and NYCDPR in consultation with SHPO has determined that these proposed alterations will affect this historic structure, but are not expected to result in an Adverse Effect;

WHEREAS, Building J of the Bronx Terminal Market would be retained and rehabilitated to serve as a tennis clubhouse, fitness center, catering room, as well as for other NYCDPR purposes such as maintenance and storage, and NYCDPR in consultation with the SHPO has determined that the Project’s plan to retain and adaptively reuse Building J will affect this historic resource, but is not expected to result in an Adverse Effect;

WHEREAS, the Project would result in the demolition of Buildings G and H to create new parkland, and in consultation with the SHPO, NYCDPR has determined that their demolition would constitute an Adverse Effect on historic properties;

WHEREAS, all alternatives have been explored for the reuse of Buildings G and H in conjunction with the proposed new parkland in order to avoid, minimize and mitigate the adverse effect on these properties; and

WHEREAS, the purpose of this Memorandum of Agreement (“MOA”) is to ensure that appropriate mitigation measures are undertaken in conjunction with the development of the preferred park plan;

NOW, THEREFORE, as referenced in the EIS and in accordance with Section 106 of the National Historic Preservation Act, NYCDPR, NPS and SHPO agree that the Project shall be implemented in accordance with the Stipulations specified below:

STIPULATIONS

1. NYCDPR will consult with the SHPO regarding the proposed modifications of the Macomb’s Dam Bridge Approach, including providing for SHPO review drawings and other appropriate materials. Design plans shall be submitted to SHPO at the preliminary (35%) and pre-final (75%) completion stages for SHPO comment. NYCDPR will also consult with NYCLPC regarding the proposed modifications to the Macomb’s Dam Bridge Approach.
2. NYCDPR will consult with the SHPO as the design for the rehabilitation and adaptive reuse of Building J of the Bronx Terminal Market is advanced, including providing the SHPO with drawings and other appropriate materials. Design plans shall be submitted to the SHPO at the preliminary (35%) and pre-final (75%) completion stages for SHPO comment.
3. The City of New York will undertake a Historic American Building’s Survey (“HABS”) level photographic documentation of Bronx Terminal Market Buildings G and H. This documentation will be undertaken by a professional credentialed for preparing such reports. The HABS report will be submitted to the SHPO for review and approval. Copies of the document will be provided to the Bronx Historical Society, the Museum of the City of New York, and two copies to the SHPO (one for their records and one to be forwarded to the New York State Archives). Documentation shall include:
 - a. Medium format photographs and negatives with the following views: Overall views of the complex showing the relationships of the buildings and the overall setting (Views may contain more than one building.); sufficient exterior views of each building to illustrate general views of the building within its setting; elevation views (more than one elevation may be shown in one view); exterior

architectural details; functional details; and sufficient interior views to illustrate typical spaces and interior architectural details.

- b. A chronological series of 8 ½” x 11” historic site plans showing key periods in the evolution of the complex, including a current plan with the location of the complex and each documented building clearly identifiable within it.
 - c. Sketch floor plans of Buildings G, H and J. These need not be to scale but should include overall exterior dimensions.
 - d. A summary of the overall Bronx Terminal Market. This should stress landscape architectural, architectural and historical significance of the overall complex at the appropriate local, state or national level. The report should address the following issues: Physical context of the complex (how it relates to the surrounding environment); Historical context of the complex (its relationship to the historical development of the surrounding area and to trends in local and American history); Specific history of the complex including the dates of initial planning and development, the changes in plan and evolution of the complex, individuals associated with the complex (including architects, planners, etc.), and historical events or developments associated with the complex; Physical description of the complex according to the original plan, as it changed over time, and at present. The City of New York will coordinate this effort with the applicant for the Gateway Center at the Bronx Terminal Market Project.
4. NYCDPR will include historical interpretation of the Bronx Terminal Market in its design of the waterfront park through a) the design of fencing along Exterior Street, and b) the use of historic plaque(s) or markers to illustrate the history and use of Buildings G, H, and J. Design plans for the fencing and interpretive markers shall be submitted to the SHPO at the preliminary (35%) and pre-final (75%) completion stages for SHPO comment.
 5. A Construction Protection Plan will be prepared for historic resources as identified in the EIS, in coordination with a licensed professional engineer, and developed and implemented in consultation with the SHPO and NYCLPC.
 6. Any party to this MOA may propose an amendment hereto, whereupon the parties will consult to consider such amendment. Any amendment must be agreed upon in writing by all parties to this agreement.
 7. Amendments. Any signatory to this Agreement may propose to NPS that the Agreement be amended, whereupon NPS shall consult with the other signatories to this Agreement to consider such an amendment. 36 CFR 800.5(c) shall govern the execution of any such amendment.
 8. Termination of the Agreement will be governed by 36 CFR 800.5(c): “If any signatory determines that the terms of a memorandum of agreement cannot be carried out, the

signatories shall consult to seek amendment of the agreement. If the agreement is not amended, any signatory may terminate it. The Agency Official shall either execute a memorandum of agreement with signatories under paragraph (c) (1) of this section or request the comments of the Council under Section 800.7(a).”

This MOA shall take effect on the date it is signed by the last signatory and will remain in effect until the Stipulations set forth herein have been met.

EXECUTION OF THIS MEMORANDUM OF AGREEMENT and implementation of its Stipulations evidences that the NPS, SHPO, and NYCDPR have satisfied their Section 106 responsibilities for all individual undertakings of the program.

NATIONAL PARK SERVICE

BY: Mary A. Bomar
Mary A. Bomar, Regional Director, Northeast Region

DATE: 6/20/2006

NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION

BY: Bernadette Castro
Bernadette Castro, Commissioner, and State Historic Preservation Officer

DATE: 6/27/06

NEW YORK CITY DEPARTMENT OF PARKS AND RECREATION

BY: Liam Kavanagh
Liam Kavanagh, First Deputy Commissioner

DATE: 6/29/06

DELAWARE NATION

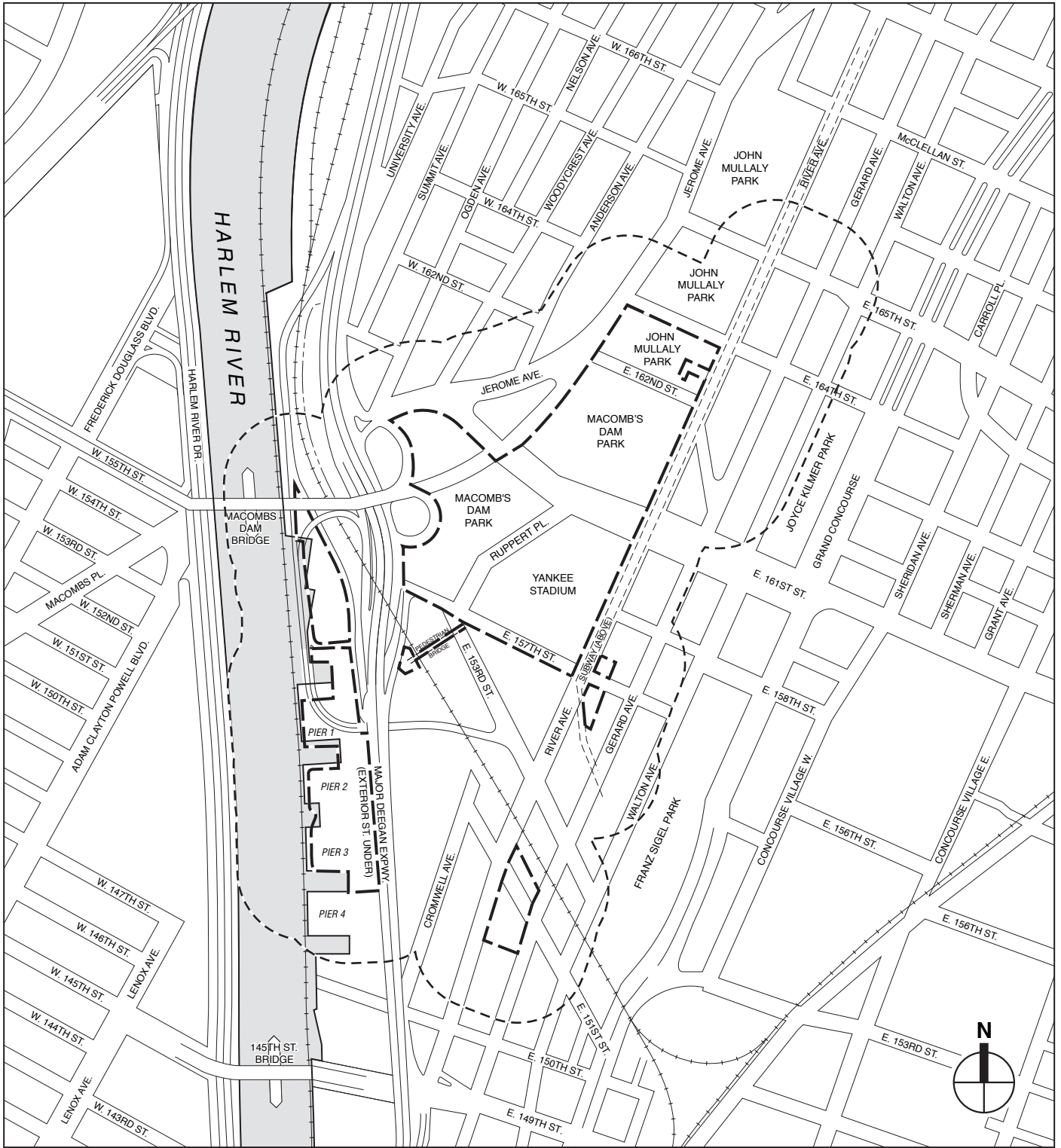
BY: Edgar L. French
Edgar L. French, President

DATE: 6-23-06

DELAWARE NATION

BY: Tamara Francis
Tamara Francis, NAGPRA/Cultural Preservation Director

DATE: 6/23/06



- Project Area Boundary and Archaeological Resources APE
- - - Historic APE (400-Foot Perimeter)



Archaeological and Historic Resources
Areas of Potential Effect (APEs)
Exhibit A