

PROGRAMMATIC AGREEMENT

AMONG
THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
THE PHILADELPHIA HOUSING AUTHORITY (PHA)
THE
PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER (SHPO),
AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING THE REDEVELOPMENT OF THE QUEEN LANE APARTMENTS IN
PHILADELPHIA COUNTY, PENNSYLVANIA

WHEREAS, the United States Department of Housing and Urban Development (hereafter referred to as "HUD") and the Philadelphia Housing Authority (PHA) propose to demolish the existing Queen Lane Apartment building and construct five (5) new buildings containing 55 units of affordable housing along with a management office and a community space ("the Project"); and

WHEREAS, HUD plans to provide funding for the Project pursuant to their role as the lead federal agency thereby making the Project an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, and its implementing regulations, 36 CFR Part 800; and

WHEREAS, HUD has defined the Queen Lane Apartments Project's Area of Potential Effect (APE), as defined in 36 CFR 800.16(d), to being the area encompassed by the block bounded by West Queen Lane, Pulaski Street, Penn Street and Priscilla Street. This area encompasses the existing Queen Lane Apartment Complex, the Wissahickon Playground, and all associated land; and

WHEREAS, HUD has determined archaeological resources that may be eligible for the National Register of Historic Places may be located within the project's APE; and

WHEREAS, PHA has completed a Ground Penetrating Radar survey of a portion of the APE and has also completed a Phase I Archaeological Survey and Report on portions of the APE in accordance with the proposed development plans; and

WHEREAS, PHA has committed to not constructing any new buildings on the area historically used as a Potter's Field as identified through the ongoing archaeological investigations (subject to the conditions outlined in Stipulation II); and

WHEREAS, HUD has determined that the undertaking may result in adverse effects to unknown historic properties and has consulted with the Pennsylvania State Historic Preservation Officer (SHPO), who concurs with this finding; and

WHEREAS, since the full extent of effects to the Potter's Field cannot be determined prior to the implementation of the undertaking, HUD has elected to develop a Programmatic Agreement (PA) for the phased identification and evaluation of any historic properties as well as any necessary avoidance and mitigation measures; and

WHEREAS, HUD has consulted with the PHA regarding the effect of the undertaking on historic properties, and has invited them to sign this PA as an invited signatory; and

WHEREAS, HUD has invited the consulting parties, as represented by the following organizations: Philadelphia Archaeological Forum (PAF), Northwest Neighbors of Germantown; National Coalition of Blacks for Reparations in America (N'COBRA), Avenging the Ancestors Coalition, Philadelphia Historical Commission (PHC), Germantown Historical Society, the Preservation Alliance for Greater Philadelphia, the Queen Lane Residents Council, the Pulaski Town Community Association and the Westside Neighborhood Council, to be concurring parties to this PA; and

WHEREAS, in accordance with 36 CFR Part 800.6(a)(1), HUD has notified the Advisory Council on Historic Preservation of the potential adverse effects to historic properties as a result of the undertaking, and the ACHP has chosen to participate in consultation; and

WHEREAS, HUD has involved, and will continue to involve, the public and historic interest groups within the APE pursuant to 36 CFR 800.3 (f), using HUD's Public Involvement Procedures as stipulated under the National Environmental Policy Act (NEPA) of 1969, as amended; and

NOW, THEREFORE, HUD, PHA, SHPO and the ACHP agree that upon HUD's decision to proceed with the Queen Lane Apartment Project, the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effects of the undertaking on historic properties.

Stipulations

HUD shall ensure that the following stipulations are implemented:

I. Professional Qualifications

HUD shall ensure that all archaeological evaluations carried out pursuant to this Programmatic Agreement is carried out by or under the direct supervision of a person or persons meeting at a minimum the *Secretary of the Interior's Professional Qualification Standards* (48 FR 44738-9), and that all historic preservation work is carried out by or under the direct supervision of a person or persons meeting, at a minimum, the *Secretary of the Interior's Professional Qualification Standards for Architectural Historian Professionals* (48 FR 44738-9).

II. Archaeological Investigation

HUD shall ensure that PHA conducts appropriate archaeological studies for the Queen Lane Apartment Project. Archaeological studies will be conducted in a manner consistent with the *Secretary of the Interior's Standards and Guidelines for Identification* (46 FR 44720-23), also taking into account the National Park Service's publication *The Archaeological Survey: Methods and Uses* (1978: GPO stock #024-016-00091) and the Bureau for Historic Preservation/Pennsylvania Historical and Museum Commission's *Cultural Resource Management in Pennsylvania: Guidelines for Archaeological Investigations* (PHMC 2008).

Due to the nature of the project, the archaeological work will be completed in a phased

approach. The approach will consist of the following actions:

- a. Based on information provided in the Ground Penetrating Radar (GPR) report, (EnviroScan 2012) areas with a high potential for archaeology were identified within the areas identified by PHA for core borings and percolation testing. These areas were tested in the Phase I Archaeology Survey and Report (CHRS 2013), which revealed that features (both building walls and shaft features) are present in some of areas tested. The areas that contain shaft features lie in portions of the project that will not be further disturbed during the project. These areas will be filled in and not excavated further. Should project plans shift and affect these areas, the shaft features will be excavated and documented in an Archaeological Survey Report.
- b. Based on the results of the core borings and percolation tests, PHA will complete the design of the proposed housing development. The final design, which will include the buildings, landscape plans, utility locations and other ground disturbing activities, will be overlaid on historic maps of the APE by PHA in order to identify areas of the APE that retain high archaeological potential. Per correspondence from the PHMC (letter dating July 8, 2013) basement areas of historic buildings (that no longer extant) do not retain archaeological potential; however, areas that were historically the backyards of these buildings do retain high potential for archaeology. These areas will be identified on the overlaid mapping and will be provided to the PHMC by PHA for review and concurrence of the proposed testing areas. Prior to the construction of the proposed housing development these areas will be tested. This testing cannot be completed until the existing pavement and concrete have been removed, which will not occur until after the implosion of the existing high-rise. Therefore, this archaeological evaluation of the backyard areas that will be disturbed during the construction of the new housing development will occur after the implosion (see Stipulation VI for details on the implosion).
- c. Upon completion of the implosion of the building (see Stipulation VI for details on the implosion), archaeological monitors will be onsite during the removal of all building debris (due to safety constraints, monitors will not be on site at the time of the actual implosion). Archaeological monitors will work closely and carefully with the onsite contractors during the removal of all debris. Should any human remains be identified during this removal, Stipulation III will be implemented. Should any other artifacts be identified, they will be handled per standard guidelines and practices (as stated above).
- d. Upon the completion of the removal of the debris, the existing pavement and concrete will be stripped from the site. The areas identified for additional archaeological testing (Stipulation II.b) will be tested to determine the presence or absence of archaeological sites. Should any human remains be identified during this removal, Stipulation III (see below) will be implemented. All other artifacts and features will be excavated and documented per standard guidelines and practices.
- e. If eligible archaeological resources are identified within the APE as a result of the activities identified in Stipulation A, PHA will make a reasonable effort to avoid these resources. If the eligible resources cannot be avoided, HUD will apply the Criteria of Adverse Effect in accordance with 36 CFR 800.5. If the project will have an adverse

effect on the resources HUD will ensure that a data recovery plan or a plan for alternative mitigation is developed in consultation with the signatory parties. The data recovery plan will be consistent with the *Secretary of the Interior's Standards and Guidelines for Archaeological Documentation* (48 FR 44734-37) and also will take into account the Council's publication *Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites*. PHA will post the draft mitigation plans on the project website and will notify all of the consulting parties (via email) allowing all consulting parties and the public to have an opportunity to adequately comment on the proposed data recovery or alternative mitigation plan. Consulting Parties will have seven (7) days to comment on the proposed plan(s). PHA will summarize the comments received and will advise the consulting parties of the changes that have been incorporated into the final document. A copy of the revised plan will also be posted to the project website. The revised plan will be submitted to the SHPO by HUD. The SHPO will have 30 days for review and comment. After receiving the SHPO's comments, a copy of the final plan will be posted to the project website.

HUD shall ensure that all final archaeological reports and public information materials resulting from actions pursuant to this Agreement will be provided to the SHPO for review and comment. The SHPO will have 30 days to review and comment on the reports. The reports will meet professional standards set forth by the Department of the Interior's *Format Standards for Final Reports of Data Recovery Program* (42 FR 5377-79) and will be prepared in accordance with the Bureau for Historic Preservation/Pennsylvania Historical and Museum Commission's *Cultural Resource Management in Pennsylvania: Guidelines for Archaeological Investigations* (PHMC 2008). All final data recovery reports will be completed and provided to the SHPO within two years of the completion of archaeological fieldwork.

HUD, in coordination with PHA, will ensure that a copy of each archaeological report produced for this project is posted to the PHA Project website for review by the consulting parties (<http://www.pha.phila.gov/housing/development-initiatives/queen-lane-redevelopment.aspx>). HUD will notify the consulting parties via email each time a report is posted.

III. Human Remains

HUD shall ensure that any human remains and grave-associated artifacts encountered during the archaeological investigations are brought to the immediate attention of the SHPO and the ACHP. Notification will be within 24 hours of the discovery. The SHPO and, if applicable, any identified federally-recognized tribes will respond within one working day. No activities which might disturb or damage the remains will be conducted until all parties have determined whether excavation is necessary and/or desirable. All procedures will follow guidance outlined in the ACHP's Policy Statement regarding Treatment of Burial Sites, Human Remains and Funerary Objects, the National Park Service Publication, *National Register Bulletin 41 Guidelines for Evaluating and Registering Cemeteries and Burial Places*, and the Pennsylvania Historical and Museum Commission's *Policy for the Treatment of Burials and Human Remains* (1993).

Should a single human remain (or scattered disarticulated remains be found) the remains will be disinterred (in coordination with the parties identified in this Stipulation) and stored for reburial at a later time in accordance with the state guidelines. No unnecessary testing or evaluation of the human remains will be completed. Non-invasive observation necessary to determine if the

remains are Native American will be done in the field by a qualified archaeologist. The remains will be treated with the highest level of integrity and sensitivity.

Should significant human remains be identified that would indicate that the boundaries of the Potter's Field are larger than previously identified, HUD will work with PHA and the SHPO to determine the appropriate course for the project. Treatment of remains will be done in compliance with the ACHP's Policy Statement. The work will include consultation with descendants, culturally affiliated groups, descendant communities, and other parties.

IV. Curation

All records and materials resulting from the archaeological investigations will be curated in accordance with 36 CFR 79 and the curation guidelines developed by the Bureau for Historic Preservation/Pennsylvania Historical and Museum Commission (June 2003). PHA will ensure that all artifacts and materials excavated are curated at the State Museum of Pennsylvania/Pennsylvania Historical and Museum Commission.

V. Reporting

HUD, in coordination with PHA, will provide annual reports to the signatories and concurring parties of this Programmatic Agreement. The annual reports will provide information on what has, or hasn't, happened on the project for that calendar year. Reports will be prepared on an annual basis for the duration of this project. HUD will also provide email quarterly reports to the consulting parties.

VI. Implosion

The existing Queen Lane Apartment Complex will be imploded. Implosion was selected as the method of demolition that is least intrusive to the local public and the surrounding neighborhood. The implosion of a building consists of a controlled series of explosions designed so that the building collapses in on itself, minimizing damage and debris to the surrounding area. Implosions are complex multi-agency operations that require close coordination amongst contractors, the City of Philadelphia, and other stakeholders to ensure the health and safety of the public. All implosion activities will take place in full compliance with the City of Philadelphia's Emergency Management Response Guidelines for Blasting Operations (dated 5/5/2009) and the City of Philadelphia Department of Public Health Demolition Requirements (n.d.).

VII. Unanticipated Effects

If any unanticipated effects to historic properties are encountered during the implementation of this undertaking, HUD shall comply with 36 CFR 800.13 by consulting with the SHPO, interested Consulting Parties and, if applicable, identified federally-recognized tribes that attach religious and/or cultural significance to the affected property; and by developing and implementing actions with the concurrence of the PHA, SHPO and the ACHP and, if applicable, federally-recognized tribes.

VIII. Project Design Layout

Outside of the conditions outlined in Stipulation II HUD, in coordination with the PHA, has committed that no new buildings will be constructed within the known boundaries of the Potter's Field as identified through the ongoing archaeological investigations. The area that was historically utilized as a Potter's Field will be returned to green space upon completion of the project. The final configuration of the Potter's Field will be determined through coordination with HUD, the ACHP, the SHPO, the City of Philadelphia and the Consulting Parties for this project. The final coordination may result in additional mitigation for the site which could include, but is not limited to, a plaque or historic marker and public dissemination documents.

IX. Amendments

Any signatory and invited signatories to this PA may propose that this PA be amended, whereupon HUD shall consult with the other parties to this PA to consider such an amendment. This PA 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.

X. Dispute Resolution

Should any signatory or invited signatory to this PA object in writing to HUD regarding any actions carried out or proposed with respect to the undertaking or implementation of this Programmatic Agreement, HUD shall consult with the objecting party to resolve the objection. If after initiating such consultation HUD determines that the objection cannot be resolved, HUD shall:

A. Forward all documentation relevant to the dispute, including the HUD's proposed resolution, to the ACHP. The ACHP shall provide HUD with its advice on the resolution of the objection within 30 days of receiving adequate documentation. Prior to reaching a final decision on the dispute, HUD 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. HUD will then proceed according to its final decision.

B. If the ACHP does not provide its advice regarding the dispute within the 30 day time period, HUD may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, HUD 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. HUD's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

XI. Resolution of Objections by the Public

At any time during implementation of the measures stipulated in this PA, should an objection

pertaining to any such measure or its manner of implementation be raised by a member of the public, HUD shall notify the signatories in this PA and take the objection into account by consulting with the objector and, should the objector so request, with signatories any of the parties to this PA to resolve the objection.

XII. Duration

This PA will expire if its stipulations are not carried out within 5 years from the date of its execution. At such time, and prior to work continuing on the undertaking, HUD shall either (a) reinitiate consultation pursuant to 36 C.F.R. § 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 C.F.R. § 800.7. Prior to such time, HUD may consult with the other signatories to reconsider the terms of the PA and amend it in accordance with Stipulation IV. HUD shall notify the signatories as to the course of action it will pursue.

XIII. Termination

If any signatory to this PA 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 IV above. If within 30 days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the PA upon written notification to the other signatories.

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

Execution of this Programmatic Agreement by HUD, PHA, the SHPO, and the ACHP, and implementation of its terms, are evidence that HUD has taken into account the effects of the undertaking on historic properties and afforded the ACHP an opportunity to comment. This Agreement may be implemented in counterparts, with separate signature pages, and will become effective on the date of the final signature of the Signatory Parties.

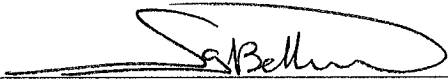
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UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

By: Monica Hawkins Date: 12/24/13

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PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER

By:  Date: Jan 23, 2014

Execution of this Programmatic Agreement by HUD, PHA, the SHPO, and the ACHP, and implementation of its terms, are evidence that HUD has taken into account the effects of the undertaking on historic properties and afforded the ACHP an opportunity to comment. This Agreement may be implemented in counterparts, with separate signature pages, and will become effective on the date of the final signature of the Signatory Parties.

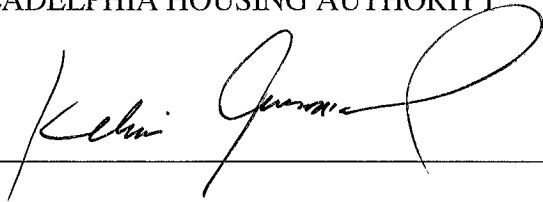
ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: John M. Fowler Date: 2/20/14

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INVITED SIGNATORY

PHILADELPHIA HOUSING AUTHORITY

By:  Date: 12/19/13

Execution of this Programmatic Agreement by HUD, PHA, the SHPO, and the ACHP, and implementation of its terms, are evidence that HUD has taken into account the effects of the undertaking on historic properties and afforded the ACHP an opportunity to comment. This Agreement may be implemented in counterparts, with separate signature pages, and will become effective on the date of the final signature of the Signatory Parties.

CONCURRING PARTY:

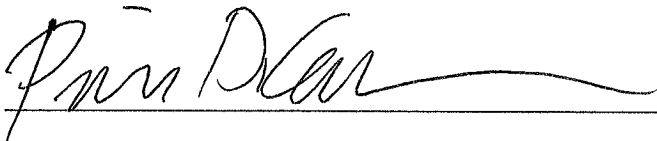
PHILADELPHIA HISTORICAL COMMISSION

By: Jonathan C. Farnham Date: 12/20/2013

Execution of this Programmatic Agreement by HUD, PHA, the SHPO, and the ACHP, and implementation of its terms, are evidence that HUD has taken into account the effects of the undertaking on historic properties and afforded the ACHP an opportunity to comment. This Agreement may be implemented in counterparts, with separate signature pages, and will become effective on the date of the final signature of the Signatory Parties.

CONCURRING PARTY:

GERMANTOWN HISTORICAL SOCIETY

By:  Date: 12/27/13

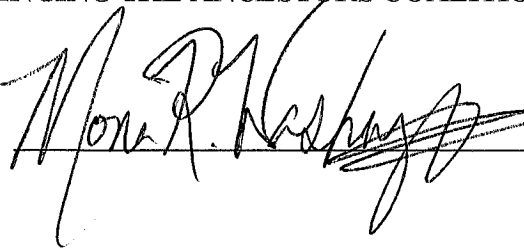
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Execution of this Programmatic Agreement by HUD, PHA, the SHPO, and the ACHP, and implementation of its terms, are evidence that HUD has taken into account the effects of the undertaking on historic properties and afforded the ACHP an opportunity to comment. This Agreement may be implemented in counterparts, with separate signature pages, and will become effective on the date of the final signature of the Signatory Parties.

CONCURRING PARTY:

AVENGING THE ANCESTORS COALITION

By:  Date: 12/23/13

December 16, 2013

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Execution of this Programmatic Agreement by HUD, PHA, the SHPO, and the ACHP, and implementation of its terms, are evidence that HUD has taken into account the effects of the undertaking on historic properties and afforded the ACHP an opportunity to comment. This Agreement may be implemented in counterparts, with separate signature pages, and will become effective on the date of the final signature of the Signatory Parties.

CONCURRING PARTY:

MT. MORIAH BAPTIST CHURCH

By: Nathan C. Heston, Pastor Date: 12-23-13

Execution of this Programmatic Agreement by HUD, PHA, the SHPO, and the ACHP, and implementation of its terms, are evidence that HUD has taken into account the effects of the undertaking on historic properties and afforded the ACHP an opportunity to comment. This Agreement may be implemented in counterparts, with separate signature pages, and will become effective on the date of the final signature of the Signatory Parties.

CONCURRING PARTY:

NORTHWEST NEIGHBORS OF GERMANTOWN

By Lisa Y. Hopkins Date: 12.20.13

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CONCURRING PARTY:

QUEEN LANE RESIDENTS COUNCIL

By: Colin Gray - President Date: 12-23-13

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CONCURRING PARTY:

PULASKI TOWN COMMUNITY ASSOCIATION

By: Neil Blunt Date: 12-23-13

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CONCURRING PARTY:

RESIDENT ADVISORY BOARD

By: Asia Corey Date: 12/19/13