

**MEMORANDUM OF AGREEMENT
AMONG
THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT,
THE MARYLAND HISTORICAL TRUST,
AND
THE CITY OF FREDERICK
REGARDING
THE DOWNTOWN FREDERICK HOTEL AND CONFERENCE CENTER**

WHEREAS, The City of Frederick (City) intends to use Fiscal Year 2016 Strategic Demolition Fund awards provided by the Maryland Department of Housing and Community Development (DHCD) for acquisition and predevelopment of the properties located at 200 and 212 East Patrick Street in Frederick, Maryland, which together with other adjacent parcels forms the project site for the Downtown Frederick Hotel and Conference Center site (Site); and

WHEREAS, The City also intends to use Fiscal Year 2018 Capital Grants and any future pre-authorized Capital Grants awarded by the Maryland Legislature for “acquisition, planning, design, construction, repair, renovation, and reconstruction of the Downtown Frederick Hotel and Conference Center;” and

WHEREAS, the project is located in the Frederick Historic District and involves rehabilitation of the News Post Building, demolition of a non-historic addition to the News Post Building, demolition of the Birely Tannery and its associated archeological site, and construction of a parking garage and full-service hotel and conference center (the Undertaking); and

WHEREAS, The City has selected Plamondon Hospitality Partners (PHP) through a competitive process as its development partner to design and construct the entire Undertaking, the costs of which are to be shared equitably, and for the purposes of implementation of this MOA the City and PHP are collectively the project development team (Development Team); and

WHEREAS, The City intends to own the land comprising the development site and the public parking garage, and will be the recipient of DHCD Strategic Demolition Fund awards and Maryland Capital Grants; and

WHEREAS, Plamondon Hospitality Partners (PHP) will construct, own and operate the hotel and conference center solely at its own cost utilizing a condominium arrangement, ; and

WHEREAS, Pursuant to The Maryland Historical Trust Act of 1985, State Finance and Procurement Article §§ 5A-325 and 5A-326 of the Annotated Code of Maryland (the Act); as amended, DHCD has consulted with the Maryland Historical Trust (MHT) regarding the identification of historic properties in the vicinity of the Undertaking; the expected effects of the Undertaking on historic properties; and ways to avoid, reduce, or mitigate adverse effects to historic properties; and

WHEREAS, the News Post Building (FHD-473) and Birely Tannery (FHD-1303) are contributing elements of the Frederick Historic District (F-3-39) which is listed in the National Register of Historic Places; and

WHEREAS, the Birely Tannery Archeological Site (18FR575) was evaluated and determined to be eligible for inclusion in the National Register of Historic Places; and

WHEREAS, DHCD has determined that the Area of Potential Effect (APE) for the Undertaking, in consultation with MHT, consists of the Frederick Historic District, including buildings and sites that contribute to the significance of the historic district; and

WHEREAS, the Development Team and DHCD have demonstrated that the Birely Tannery cannot be incorporated into the design of the hotel and conference center due to its size, design, condition and location on the site and the City of Frederick Historic Preservation Commission (HPC) has conditionally approved its demolition (insert date); and

WHEREAS, DHCD has consulted with PHP as a member of the Development Team regarding the effects of the Undertaking on historic properties, and its responsibilities for implementing stipulations under this Memorandum of Agreement (Agreement) and is signing this Agreement as an Invited Signatory; and

WHEREAS, DHCD has identified and consulted with the following parties: The Archaeological Conservancy, East Frederick Rising, Downtown Frederick Hotel Advisory Committee, Downtown Frederick Partnership, Frederick County Landmarks Foundation, Frederick County Chamber of Commerce, Frederick Preservation Trust, Friends of Frederick County, Heart of the Civil War Heritage Area, Heritage Frederick, Maryland National Road Association, Monocacy Archeological Society, Preservation Maryland, and the Tourism Council of Frederick County as Consulting Parties regarding the effects of the Undertaking on historic properties; and

WHEREAS, the Development Team has solicited comments of the public, nearby property owners and other potentially-interested parties, and have taken their comments into account during project planning and the decision to proceed with the Undertaking; and

WHEREAS, DHCD, in consultation with MHT, has determined the Undertaking will have an adverse effect on the Frederick Historic District and the Birely Tannery Archeological Site; and

WHEREAS, DHCD, MHT, and the City of Frederick (the Signatories), and PHP (Invited Signatory) agree to execute this Agreement in counterparts with a separate signature page for each Signatory. The exchange of copies of this Agreement and of signature pages by facsimile or by electronic transmission shall constitute effective execution and delivery of this Agreement to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile or electronic transmission shall be deemed to be their original signatures for all purposes; and

WHEREAS, this Agreement stipulates the measures that the Signatories and Invited Signatory to this Agreement agree to carry out in order to mitigate the adverse effects of the Undertaking;

NOW, THEREFORE, the Signatories and invited Signatory agree that the Undertaking shall be carried out in accordance with the following stipulations in order to take into account the effects of the Undertaking on historic properties.

STIPULATIONS

DHCD shall ensure the following measures are carried out:

1. MITIGATION:

A. Archeological Site 18FR575

- a. The Development Team shall conduct a targeted Phase III archeological investigation at site 18FR575.
- b. The Treatment Plan for Archeological Data Recovery at the Birecly Tannery Site (18FR575), Frederick, Maryland is appended hereto as Exhibit A for review by MHT.
- c. The Phase III archeological investigation must be carried out by a qualified professional archeologist and performed in accordance with the *Standards and Guidelines for Archeological Investigations in Maryland* (Shaffer and Cole 1994).
- d. The Development Team shall ensure that all materials and records (including recovered artifacts, documentation, maps, and photographs) generated by the Phase III archeological investigation are processed and boxed in accordance with the Technical Update No. 1 of the *Standards and Guidelines for Archeological Investigations in Maryland* (MHT, revised 2005) and are submitted to the Maryland Archeological Conservation (MAC) Laboratory for curation, unless clear title or Deed of Gift to the collection cannot be obtained. Any artifacts to be used in an interpretive program shall require a separate loan agreement.
- e. The Development Team shall submit a draft and final report detailing the results of the Phase III archeological investigation. The report shall be written in accordance with the *Standards and Guidelines for Archeological Investigations in Maryland* (Shaffer and Cole 1994) and shall be submitted to MHT for review and comment. The comments of MHT shall be addressed in the final report. The Development Team shall provide two copies of the final report to the Trust.
- f. The Development Team shall submit to the Trust an updated Maryland Archeological Site Inventory form for the Birely Tannery Archeological Site (18FR575).
- g. Execution of the Treatment Plan for Data Recovery of Site 18FR575 in accordance with this Agreement will satisfy the requirements for archeological consideration under Section 603 of the City of Frederick Land Management Code.

B. Research and Documentation

- a. All existing and new research pertaining to the Birely Tannery site will be synthesized and organized into an easily referenced format.
- b. Digital photos of the tannery building will be prepared prior to demolition. The photographs should be sufficient to portray the resource's elevations, architectural details and contexts in order to provide an accurate record of the resource and its settings. The photography shall meet the National Park Service photographic standards for digital photography.
- c. Copies of the documentation package, including photographs, will be provided to Heritage Frederick and the Maryland Room of the Frederick County Public Library to be archived as part of their collections.

C. Public Interpretation Program

- a. Public Outreach: The Development Team shall prepare and implement a didactic integrated public interpretation program as part of the mitigation effort at Site 18FR575. The Treatment Plan for Archeological Data Recovery at the Birely Tannery Site (18FR575), Frederick, Maryland, which is appended to this MOA as Exhibit A, includes discussion of the components of the public interpretation program.

- b. Hotel and Conference Center Displays: In addition to the public interpretation plan, PHP agrees to install historic photographs highlighting Frederick's industrial history, including the Birely Tannery, in high-traffic publicly accessible areas of the hotel. A publicly accessible interpretive display will be installed by PHP at the hotel roof level interpreting the evolving Frederick townscape.
 - c. The Development Team shall submit schematic plans for public interpretive displays to DHCD and MHT showing the proposed locations, designs, description of the content, and a schedule for implementation by January 1, 2020 for review and comment.
 - d. If MHT makes comments about the appropriateness of the public interpretation effort, the Development Team shall respond to MHT's comments and revise the design to incorporate the comments as appropriate.
 - e. The Development Team shall submit the final design plans, including all written and photographic content, to DHCD and MHT to ensure that the design intent of the schematic plan was carried out.
 - f. The Development Team will provide DHCD and MHT with photographs of the completed public interpretation effort upon installation but no later than six months following issuance of the Use and Occupancy (U&O) Permit by the City for the Undertaking.
 - g. The City of Frederick and its partners are responsible for the ongoing maintenance and repair of exhibits and displays located on public land.
- D. Architectural Salvage and Reuse: If in reasonably salvageable condition by the Development Team, the stone in the existing stone retaining wall shall be reused in portions of the Carroll Creek Park facing terrace walls.
- E. Public Art: The City of Frederick will utilize public art to celebrate Frederick's history. The artwork will be located in the immediate vicinity of the Undertaking with a focus on Carroll Creek Park and/or the courtyard area off Carroll Street.
- a. The theme and selection will be overseen by the City Public Art Commission utilizing a competitive process to determine the location and artwork design.
 - b. Schematic plans for the artwork will be submitted to DHCD and MHT for review and comment.
- 2. DESIGN REVIEW:**
- a. The HPC will review and approve all plans for new construction (hotel, conference center, parking garage, etc.) and the rehabilitation of the News Post Building (FHD-473) in accordance with the Frederick Town Historic District Design Guidelines. The City of Frederick HPC has reviewed and approved the initial Level 1 design for the Undertaking on [Insert Date].
 - b. PHP must submit final plans for the rehabilitation of the News Post Building and for construction of the Hotel, Conference Center, and parking garage along with HPC approvals to MHT for review and comment.
- 3. DEMOLITION:** The Development Team may proceed with the demolition of 212 East Patrick Street without further coordination with MHT once Stipulation 1.A and 1.B.b. are complete.
- 4. RESOLUTION OF OBJECTIONS BY THE PUBLIC:** During implementation of the measures stipulated in this Agreement, should an objection pertaining to this Agreement or the

effect of the Undertaking on historic properties be raised by a member of the public, DHCD shall notify the Signatories to this Agreement and take the objection into account, consulting with the objector and, should the objector so request, with any of the Signatories to this Agreement to attempt to resolve the objection. [may need additional language to clarify]

5. **COORDINATION WITH OTHER MARYLAND STATE AGENCIES:** MHT agrees that the fulfillment of the terms of this Agreement will satisfy the responsibilities of any Maryland state agency under the requirements of the Act for the components of the Undertaking that require licensing, permitting, and/or funding from Maryland state agencies.
6. **AMENDMENTS:** The Signatories may amend this Agreement by proposing such amendments in writing. No amendment to the Agreement will be effective until signed by all Signatories to the Agreement.
7. **DISPUTE RESOLUTION:** Should any Signatory of this Agreement object to any actions carried out pursuant to this Agreement or any actions which are not being carried out as required by this Agreement, the signatories will consult to resolve the dispute. If the dispute cannot be resolved, the Director of MHT and the Secretary of DHCD will consult and identify a resolution in accordance with the requirements of the Act and in consideration of the conditions of the Undertaking. All other requirements of this Agreement which are not the subject of the dispute will remain unchanged.
8. **TERMINATION:** DHCD, MHT, and The City of Frederick may terminate this Agreement, for cause, by providing thirty (30) days notice to the other Signatories, provided the Signatories consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, DHCD and the Director of MHT will consult in accordance with Stipulation 7 of this Agreement to determine if any additional actions are necessary to comply with the Act.
9. **DURATION:** This Agreement shall be null and void if its terms are not carried out within five (5) years from the date of last signature, unless the Signatories agree in writing to an extension for carrying out its terms.

Execution of this Agreement and implementation of its terms evidences that the requirements of the Act have been met for the Undertaking.

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THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

BY: _____ DATE: _____
Kenneth C. Holt
Secretary
Maryland Department of Housing and Community Development

Approved as to form and legal sufficiency
this ____ day of _____, 20____.

Assistant Attorney General

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MARYLAND HISTORICAL TRUST

BY: _____ DATE: _____
Elizabeth Hughes
Director, Maryland Historical Trust
State Historic Preservation Officer

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CITY OF FREDERICK

BY: _____ DATE: _____
Michael O'Connor
Mayor, City of Frederick

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INVITED SIGNATORY:

PLAMONDON HOSPITALITY PARTNERS

BY: _____ DATE: _____
Peter Plamondon, Jr.
President, Plamondon Hospitality Partners