

MEMORANDUM OF AGREEMENT

Among the

**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION**

And

**DISTRICT OF COLUMBIA
DEPARTMENT OF TRANSPORTATION**

And

THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

And

**U.S. DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
NATIONAL CAPITAL REGION**

And

NATIONAL CAPITAL PLANNING COMMISSION

And

COMMISSION OF FINE ARTS

For

**PLANNING, DESIGN, ENGINEERING AND CONSTRUCTION
OF THE JOHN F. KENNEDY CENTER PLAZA PROJECT**

In

WASHINGTON, DC

This Memorandum of Agreement ('Agreement') entered into by and among the United States Department of Transportation, Federal Highway Administration, Eastern Federal Lands Highway Division ('EFLHD'), and the District of Columbia Division ('FHWA-DC'); the District of Columbia Department of Transportation ('DDOT'); The John F. Kennedy Center for the Performing Arts ('Kennedy Center'); the United States Department of the Interior, National Park Service, National Capital Region ('NPS'); the National Capital Planning Commission ('NCPC'); and the Commission of Fine Arts ('CFA'), collectively known as the 'Parties', is for the purpose of establishing the roles, responsibilities, and procedures under which work shall be performed by the Parties to complete the planning, design, engineering, and construction of improvements to The John F. Kennedy Center for the Performing Arts in Washington, DC, hereinafter called the 'Plaza Project'. For the purposes of this Agreement, the following terms are defined:

Air rights - The term 'air rights' means real property interests conveyed by deed, lease, or permit for the use of space between streets and alleys within the boundaries of the Project.

Buildings Project – The term 'Buildings Project' means the part of the Plaza Project to be undertaken and managed by the Kennedy Center, including planning, design, engineering, and construction for the buildings on the Plaza; and utilities to be installed or relocated to serve the buildings and fountain pump rooms.

Center - The term 'Center' means The John F. Kennedy Center for the Performing Arts.

Field reviews – The term 'field reviews' means an inspection held in the field for the purposes of discussing design or construction issues. These reviews commonly require both an on-site inspection and in-office discussions.

Green spaces - The term 'green spaces' means areas within the boundaries of the Project or affected by the Project that are covered by grass, trees, or other vegetation.

Plaza - The term 'Plaza' means improvements to the area surrounding The John F. Kennedy Center building carried out under the Project and comprised of transportation elements (including roadways, sidewalks, and bicycle lanes) and non-transportation elements (including landscaping, green space, open public space, water, sewer, and utility connections).

Plaza Project - The term 'Plaza Project' means the project as described in the TEA-21 report, providing for the construction of a Plaza adjacent to the Kennedy Center and for improved bicycle, pedestrian, and vehicular access to and around the Kennedy Center. The term includes planning, design, engineering, and construction of the Plaza, buildings to be constructed on the Plaza, and related transportation improvements and may include any other elements of the Project identified in the TEA-21 report.

Project Agreement – The term 'Project Agreement' refers to a document between two or more agencies that identifies the roles and responsibilities of each party relative to a specific project. This document generally addresses issues such as, but is not limited to, funding transfers or billing, job specific working relationships and responsibilities, and means and methods to be used in the execution or implementation of a project focused toward final completion of the project.

Secretary - The term 'Secretary' means the Secretary of Transportation.

TEA-21 report - The term 'TEA-21 report' means the report of the Secretary submitted to Congress under Section 1214 of the Transportation Equity Act for the 21st Century (20 U.S.C. 76j note; 112 Stat. 204).

Transportation Access Project – The term 'Transportation Access Project' means the part of the 'Plaza Project' comprised of the transportation elements--including improving vehicular, pedestrian, and bicycle access--and the construction of the Plaza deck supporting the buildings, initial plaza improvements, and the green spaces.

WHEREAS, the John F. Kennedy Center Plaza Authorization Act of 2002, Public Law 107-224, Sections 12 and 13, amends the John F. Kennedy Center Act (20 U.S.C. 76h *et seq.*) to authorize the planning, design, engineering, and construction of the Plaza and related transportation improvements, and the total appropriation of \$400,000,000 from fiscal years 2003 to 2010, available until expended.

WHEREAS, the FY 2001 Department of Transportation Appropriations Bill, Public Law 106-346, Section 378, appropriated funding of \$10,000,000 from the Highway Trust Fund for planning, environmental work, and preliminary engineering of highway, pedestrian, vehicular, and bicycle access to The John F. Kennedy Center for the Performing Arts in the District of Columbia;

WHEREAS, 23 U.S.C. §308(a) authorizes the FHWA to perform engineering and other services for other Federal or State Cooperating agencies in connection with the survey, design, construction, and improvements of highways;

WHEREAS, the FHWA-DC is the Federal agency with administrative, financial and project implementation, and management oversight of the District of Columbia's Federal-aid Highway Program;

WHEREAS, the DDOT has the jurisdictional and maintenance responsibility for the Potomac Freeway (Interstate I-66); Whitehurst Freeway; Virginia and New Hampshire Avenues NW.; E and F Streets NW.; and 23rd, 25th and 27th Streets NW., in the vicinity of the Kennedy Center;

WHEREAS, the FHWA and the DDOT are authorized to enter into this Agreement pursuant to the authority contained in 31 U.S.C. §1535 and §1537, and 20 U.S.C. 76h *et seq.*;

WHEREAS, the Kennedy Center has the responsibility for planning, design, and construction of capital repairs; for replacement, improvements, alteration, and modifications to the buildings and grounds; for ensuring safe and convenient access for vehicles and pedestrians; and for managing and operating the grounds of The John F. Kennedy Center for the Performing Arts;

WHEREAS, the Kennedy Center is authorized to enter into this Agreement pursuant to the authority contained in the 20 U.S.C. §76h-s;

WHEREAS, Congress has recognized the role of the Secretary of the Interior with respect to certain aspects of the Center, and the NPS, an agency of the U.S. Department of the Interior, administers certain Federal lands in the vicinity of the Center;

WHEREAS, the NPS is authorized to enter into this Agreement pursuant to the authority contained in the Organic Act of 1916, 16 U.S.C. §1 *et seq.*;

WHEREAS, the NCPC, as the central planning agency for the Federal Government in the Nation's Capital, has review and approval authority for development projects on public lands;

WHEREAS, the NCPC is responsible for coordinating the Federal interest and preparing a comprehensive plan for the Nation's Capital, authorized to approve the exterior structure of the Kennedy Center and the provision of open space in and around the same in accordance with 40 U.S.C. §8722(d) and 40 U.S.C. §8722(b)(1), and is authorized to approve certain land transfers between and among Federal and District agencies in accordance with 40 U.S.C. §8124(a);

WHEREAS, the NCPC is authorized to enter into this Agreement pursuant to the authority contained in Section 5 of the National Capital Planning Act of 1952, as amended;

WHEREAS, the CFA has the review and approval authority of the design and location of all Commemorative Works, including the exterior of the Kennedy Center; and has the responsibility to review and advise on the design and location of public buildings, statues, fountains, monuments, and new structures that affect in any important way the appearance of the City in the District of Columbia; and advise on the design of private or semipublic buildings adjacent to public buildings and grounds of major importance;

WHEREAS, the CFA is authorized to enter into this Agreement pursuant to the authority contained in 40 U.S.C. §104, 36 Stat. 371, and Executive Order 1259 of 25 October 1910, and Executive Order 1862 of 28 November 1913, and Executive Order 3524 of 28 July 1921, and the Shipstead-Luce Act, 40 U.S.C. §121, 46 Stat. 366, and the National Capital Planning Act of 1952, 40 U.S.C. §8701 *et seq.*, and the Commemorative Works Act, 40 U.S.C. §8901;

NOW, THEREFORE, pursuant to the authority contained in The John F. Kennedy Center Plaza Authorization Act of 2002, Public Law 107-224; the Economy Act, 31 U.S.C. §1535 and §1537; the Organic Act of 1916, 16 U.S.C. §1 *et seq.*; 20 U.S.C. §76h-s; 40 U.S.C. §104, 36 Stat. 371, and Executive Order 1259 of 25 October 1910, and Executive Order 1862 of 28 November 1913, and Executive Order 3524 of 28 July 1921; the Shipstead-Luce Act, 40 U.S.C. §121, 46 Stat. 366; the National Capital Planning Act of 1952, 40 U.S.C. §8701 *et seq.*, and the Commemorative Works Act, 40 U.S.C. §8901, the Parties in consideration of the mutual promises herein expressed, do hereby agree as follows:

ARTICLE I: SCOPE OF WORK (Obligations, Responsibilities, and Funding)

A. The EFLHD agrees to:

1. With regard to the Plaza Project:
 - a. Act as the lead Federal agency, and be responsible for the management of the overall improvements to the Plaza Project (with the exception of the buildings);
 - b. Consult and coordinate with the Kennedy Center and all other Parties in the preparation of design plans for the Plaza Project, to maximize efficiencies in planning and executing the Plaza Project;
 - c. With the Kennedy Center, jointly prepare a supplemental Project Agreement for administrative issues associated with the management of the overall Plaza Project, including funds management and project coordination;
 - d. In conjunction with the Kennedy Center, and on behalf of the NPS or any other involved Federal agency, submit to NCPC for review and approval: (i) schematic, preliminary, and final plans for the Plaza Project, including the Buildings Project and the Transportation Access Project, in accordance with 40 U.S.C. § 8722(d), 40 U.S.C. § 8722(b)(1), and NCPC's Project Plan Submission Requirements, and (ii) transfers of property jurisdiction between and among Federal and District agencies necessary to implement the Plaza Project, in accordance with 40 U.S.C. § 8124(a);
 - e. Prepare periodic project and funding status reports (written or oral) on the Plaza Project for all parties as appropriate; and
 - f. Work with relevant parties to develop an Ownership and Maintenance Agreement for the proposed Plaza. Funding for the initial construction contract for the Plaza Project will not be obligated until such Agreement is completed.
2. With regard to the Transportation Access Project:
 - a. Perform planning, design, engineering, and construction services;
 - b. Administer all surveying, mapping, and subsurface investigations for final design activities;
 - c. Design the Transportation Access Project in accordance with applicable NPS, AASHTO, and DDOT standards and guides, and the Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects, current edition, as amended;
 - d. Conduct design field reviews with DDOT, FHWA-DC, NPS, Kennedy Center, NCPC, CFA, and other appropriate agency's representatives attending;

- e. Prepare necessary right-of-way and other plans necessary for the review and approval of the realignment of National Highway System boundaries related to the construction of the northern and southern interchanges and E Street approach to the Plaza Project;
- f. Prepare necessary plan information for review and prepare the request for approval of direct access and egress between Interstate Route 66 and the Kennedy Center, and its garages;
- g. Prepare documents for Coast Guard permit; permit for Section 404 of the Clean Water Act, 33 USC 1251, *et seq.*; compliance for Section 106 of the National Historic Preservation Act of 1966, as amended 16 USC 470, *et seq.*, in consultation with the State Historic Preservation Officer ('SHPO') and the NPS; NPS permits; and any construction permits required;
- h. Coordinate and acquire any necessary utility permits. For the purposes of utility adjustments or relocations, the EFLHD will act for and on behalf of the DDOT, and all prior rights shall be considered to be continuing to be under the jurisdiction of the DDOT. Since the EFLHD is acting on behalf of the DDOT with regard to adjustment or relocation, the same rights will apply with regard to adjustment or relocation costs and to the waiver of inspection fees incurred by the EFLHD on behalf of the DDOT;
- i. Coordinate and incorporate, as necessary, requirements of the Advisory Neighborhood Commission, SHPO, DC Department of Health, DC Department of Consumer and Regulatory affairs, utilities, business, and civic associations; and regulatory Parties to this Agreement;
- j. Procure and administer consulting services and construction contracts, including necessary construction inspections, as appropriate, in accordance with the Federal Acquisition Regulation (FAR), and the Transportation Acquisition Regulation (TAR);
- k. Assume responsibility for the administrative settlement or adjudication of any claims arising from any contracts awarded by the EFLHD, in accordance with the FAR and TAR, and subject to the availability of funds;

B. The FHWA-DC agrees to:

- 1. Act as a cooperating agency with regard to the review and approval of the realignment of National Highway System boundaries related to the construction of the northern and southern interchanges and E Street approach to the Plaza Project;
- 2. Review plan information and requests for direct access and egress between Interstate Route 66 and the Kennedy Center, and its garages, and forward to FHWA Headquarters for approval as required or appropriate;

3. Participate as necessary in all design activities and field reviews for the Transportation Access Project;
4. Review and concur in the approval of right-of-way plans, right-of-way acquisition, and utility relocation activities.
5. Review and concur in the approval of the final plans, specifications, and estimates (PS&E) packages for advertisement;
6. Participate in the final inspection of the Transportation Access Project; and
7. With regard to the Plaza Project, be a party to any other Project Agreements as necessary.

C. The DDOT agrees to:

1. Amend or modify, in consultation with NCPC, the permanent system of highways of the District of Columbia as necessary to meet the requirements of the Transportation Access Project;
2. Act as a cooperating agency and be responsible for guiding the decisions associated with improvements to DC-owned or maintained roadways or where DDOT interests are involved;
3. At the direction of the Mayor and in accordance with the John F. Kennedy Center Plaza Authorization Act of 2002, Public Law 107-224, Section 12 and 13, and in consultation with the DC Office of Property Management and NCPC, convey or dispose of any interests in real property (including air rights and air space as defined by District of Columbia law) owned or controlled by the District of Columbia, as may be necessary to meet the requirements and needs of the Plaza Project;
4. Within 90 days following the receipt of notification of the requirements and needs of the Plaza Project from the FHWA-DC, and with consent of the Office of Property Management, convey or dispose, without compensation, interests in real estate as described in subparagraph C3 above to the Kennedy Center, or to the NPS as described in subparagraph E8 below;
5. Review and concur in approval for direct access and egress between Interstate Route 66 and the Kennedy Center, and its garages;
6. Participate in design activities and field reviews, as applicable;
7. Approve the final design standards for all improvements related to DC-owned right-of-way;

8. Assign and identify a DDOT employee as the Project Manager for the Plaza Project so that all communication regarding the design and construction of the Project will be coordinated and managed through that identified person;
9. Notify the Council of the District of Columbia members and Advisory Neighborhood Commissions of impending work within jurisdictional ward;
10. Cooperate in applicable project activities to ensure satisfactory completion of the Plaza Project;
11. Assist with obtaining review and approval of land transfers of DC-owned property prior to construction from the Office of Planning, Department of Consumer and Regulatory Affairs, and the Office of Property Management;
12. Participate in the final inspection of the Plaza Project;
13. Upon completion, accept maintenance of all improvements made to DC-owned right-of-way;
14. Work with relevant parties to develop an Ownership and Maintenance Agreement for the proposed Plaza; and
15. With regard to the Plaza Project, be a party to any other Project Agreements as necessary.

D. The Kennedy Center agrees to:

1. Act as a cooperating agency for the Plaza Project and be responsible for guiding decisions associated with the Buildings Project;
2. Act as the lead agency for those activities relating to any utilities in connection with the Buildings Project, including acquiring any necessary permits;
3. Receive transfers of air rights from the District of Columbia as may be necessary for the planning, design, engineering, and construction of the Buildings Project;
4. Be responsible for the management of the planning, design, engineering, and construction of buildings on the Plaza for the Buildings Project with non-appropriated funds;
5. Assign and identify a Kennedy Center employee as the Project Executive for the overall Plaza Project so that all communication regarding the design and construction of the Plaza Project will be coordinated and managed through that identified person;
6. With the FHWA, jointly prepare a supplemental Project Agreement for administrative issues associated with the management of the overall Plaza Project including funds management and project coordination;

7. Participate in the design and construction activities, as applicable, and coordinate with the EFLHD for facility and site improvements with design and construction activities, to the extent reasonable;
8. Approve the final design standards for all improvements related to Kennedy Center maintained facilities;
9. Procure and administer design and construction contracts for the Buildings Project;
10. Participate in all design and construction field reviews;
11. Participate in the final inspection of the Plaza Project;
12. Assume responsibility for the administrative settlement or adjudication of claims arising from contracts awarded by the Kennedy Center in connection with this Agreement;
13. Work with relevant parties to develop an Ownership and Maintenance Agreement for the proposed Plaza; and
14. With regard to the Plaza Project, prepare and/or be a party to any other Project Agreements as necessary.

E. The NPS agrees to:

1. Act as a cooperating agency and be responsible for guiding the decisions associated with NPS lands for improvements to the Rock Creek and Potomac Parkway, Ohio Drive, and Constitution Avenue, or where NPS interests are involved;
2. Participate in the design and construction activities and field reviews, as applicable;
3. Approve, in writing, the final design standards for all improvements related to NPS-owned rights-of-way;
4. Assist with necessary permits;
5. Secure written approval from the Secretary of the Interior, where and if required by law, with respect to the management and operation of the Center's grounds. As used in this provision, the term "grounds" has the meaning set forth in 16 U.S.C. § 76s;
6. Participate in the final inspection of the Plaza Project;
7. Upon completion, accept maintenance of all improvements made to NPS-owned rights-of-way;

8. Receive transfer of jurisdiction from the District of Columbia as may be necessary or result from the removal or relocation of transportation infrastructure by the requirements of the Transportation Access Project on NPS-owned rights-of-way; and
9. With regard to the Plaza Project, be a party to any other Project Agreements as necessary.

F. The NCPC agrees to:

1. Act as a cooperating agency, under existing statutory authority;
2. Consult and coordinate with the Parties during all phases of the Plaza Project, and review and participate as necessary;
3. Participate in all design and construction field reviews, as applicable;
4. Review and approve Federal land transfers prior to construction;
5. Assist with the activities necessary to provide the required final environmental and Section 106 compliance measures and the requisite coordination and approval process;
6. Participate in the final inspection of the Plaza Project; and
7. With regard to the Plaza Project, be a party to any other Project Agreements as necessary.

G. The CFA agrees to:

1. Act as a cooperating agency and be responsible for providing recommendations associated with Federal land acquisition and construction;
2. Participate in the design and construction field reviews, as applicable;
3. Review any changes to the final design standards;
4. Advise on Federal land transfers and acquisition;
5. Review and approve all final designs effecting a Commemorative work;
6. Participate in the final inspection of the Plaza Project; and
7. With regard to the Plaza Project, be a party to any other Project Agreements as necessary.

All of the parties shall perform such other actions as are reasonably necessary to complete the design and construction as set forth in Public Law 107-224, Sections 12 and 13, subject to the availability of funds.

ARTICLE II: TERM OF AGREEMENT

This Agreement shall remain in effect until the work, including payment, has been completed to the mutual satisfaction (written acceptance) of all Parties. The Agreement may be modified by written consent of all of the Parties.

All Parties to the Agreement will be afforded the opportunity to inspect, review and comment on, at any time, work in progress; and to participate in all meetings and field reviews relating to the Plaza Project.

ARTICLE III: KEY OFFICIALS AND CONTACTS

A. For the FHWA:

KEY OFFICIAL:

Mr. Gary L. Henderson
Division Administrator
District of Columbia Division
Federal Highway Administration
1990 K Street, NW, Suite 510
Washington, D.C. 20006
(202) 219-3536 (phone)
(202) 219-3545 (fax)
gary.henderson@fhwa.dot.gov

Ms. Melisa L. Ridenour, P.E.
Division Engineer
Eastern Federal Lands Highway Division
Federal Highway Administration
21400 Ridgetop Circle
Sterling, VA 20166-6511
(703) 404-6201 (phone)
(703) 404-6217 (fax)
melisa.ridenour@fhwa.dot.gov

CONTACT PERSON:

Mr. Edward Sheldahl
Field Operations Engineer
District of Columbia Division
Federal Highway Administration
1990 K Street, NW, Suite 510
Washington, D.C. 20006
(202) 219-3514 (phone)
(202) 219-3545 (fax)
edward.sheldahl@fhwa.dot.gov

Mr. Paul Nishimoto
Project Manager
Eastern Federal Lands Highway Division
Federal Highway Administration
21400 Ridgetop Circle
Sterling, VA 20166-6511
(571) 434-1598 (phone)
(703) 404-6217 (fax)
paul.nishimoto@fhwa.dot.gov

B. For the DDOT:

KEY OFFICIAL:

Mr. Daniel Tangherlini
Director
District of Columbia
Department of Transportation
2000 14th Street, NW, 6th Floor
Washington, DC 20009
(202) 673-6813 (phone)
(202) 671-0642 (fax)
dan.tangherlini@dc.gov

CONTACT PERSON:

Ms. Kathleen Penney
Project Manager
District of Columbia
Department of Transportation
64 New York Avenue, NE
Washington, DC 20002
(202) 671-4608 (phone)
(202) 671-4710 (fax)
kathleen.penney@dc.gov

C. For the Kennedy Center:

KEY OFFICIAL:

Mr. Michael M. Kaiser
President
The John F. Kennedy Center
for the Performing Arts
2700 F Street, NW
Washington, DC 20566-0001
(202) 416-8010 (phone)
(202) 416-8018 (fax)
mmkaiser@kennedy-center.org

CONTACT PERSON:

Mr. Daniel J. Feil
Project Executive
The John F. Kennedy Center
for the Performing Arts
2700 F Street, NW
Washington, DC 20566-0001
(202) 416-8323 (phone)
(202) 416-8018 (fax)
djfeil@kennedy-center.org

D. For the NPS:

KEY OFFICIAL:

Mr. Terry R. Carlstrom
Regional Director
National Park Service
National Capital Region
1100 Ohio Drive, SW
Washington, DC 20242
(202) 619-7000 (phone)
(202) 619-7220 (fax)
terry_carlstrom@nps.gov

CONTACT PERSONS:

Ms. Susan Hinton
Regional Transportation Liaison
Office of Lands, Resources and Planning
National Park Service
National Capital Region
1100 Ohio Drive, SW
Washington, DC 20242
(202) 619-7106 (phone)
(202) 401-7420 (fax)
susan_hinton@nps.gov

E. For the NCPC:

KEY OFFICIAL:

Ms. Patricia E. Gallagher
Executive Director

National Capital Planning Commission
401 9th Street, NW
North Lobby, Suite 500
Washington, DC 20576
(202) 482-7211 (phone)
(202) 482-7272 (fax)
patricia.gallagher@ncpc.gov

CONTACT PERSON:

Mr. David W. Levy
Project Manager
Urban Design and Plan Review Division
National Capital Planning Commission
401 9th Street, NW
North Lobby, Suite 500
Washington, DC 20576
(202) 482-7247 (phone)
(202) 482-7272 (fax)
david.levy@ncpc.gov

F. For the CFA:

KEY OFFICIAL:

Mr. Charles H. Atherton
Secretary
Commission of Fine Arts
401 F Street, NW, Suite 312
National Building Museum
Washington, DC 20001-2728
(202) 504-2200 (phone)
(202) 504-2195 (fax)
chatherton@cfa.gov

CONTACT PERSON:

Mr. Frederick Lindstrom
Assistant Secretary
Commission of Fine Arts
401 F Street, NW, Suite 312
National Building Museum
Washington, DC 20001-2728
(202) 504-2200 (phone)
(202) 504-2195 (fax)
flindstrom@cfa.gov

ARTICLE IV: EXPIRATION

This Agreement will expire when all transfers of funds are completed and all work associated with this Agreement has been inspected and approved in writing by the Parties with written notification to the FHWA.

The Parties to this Agreement do hereby agree to cooperate in the performance of the Agreement and to meet all of the requirements set on them by this Agreement.

ARTICLE V: ASSIGNMENT

No transfer or assignment of this Agreement, or any part thereof or interest therein, directly or indirectly, voluntarily or involuntarily, shall be made unless such transfer or assignment is first approved in writing by all Parties.

ARTICLE VI: LIABILITY

Each Party accepts full responsibility for any property damage, injury, or death caused by the acts or omissions of their respective employees, acting within the scope of their employment, or their contractors' scope of work, to the fullest extent of the law. All claims shall be processed pursuant to applicable governing law.

TORT CLAIMS:

Any claim filed under the Federal Tort Claims Act (28 U.S.C. §2671 *et seq.* (1994)), alleging an injury during the performance of this Agreement, which may be traced to a Party, shall be received and processed by the Party having responsibility for the particular injury-causing condition.

ARTICLE VII: REQUIRED AND STANDARD CLAUSES

- A. Nothing in this Agreement shall be construed as limiting or affecting the legal authorities of the Parties, or as requiring the Parties to perform beyond their respective authorities. Nothing in this Agreement shall be deemed to bind any Party to expend funds in excess of available appropriations.
- B. **NON-DISCRIMINATION:** The Parties shall not discriminate in the selection of employees or participants for any employment or other activities undertaken pursuant to this Agreement on the grounds of race, creed, color, sex, age, disability, or national origin, and shall observe all of the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. §2000(d) *et seq.*). The Parties shall take positive action to ensure that all applicants for employment or participation in any activities pursuant to this Agreement shall be employed or involved without regard to race, creed, color, sex, age, disability, or national origin.
- C. **ANTI-DEFICIENCY ACT:** Pursuant to the Anti-Deficiency Act, 31 U.S.C. §1341(a)(1) (2003), nothing contained in this Agreement shall be construed as binding the United States or the District of Columbia to expend any sum in excess of appropriations made by Congress for the purposes of this Agreement, or as involving the United States or the District of Columbia in any contract or other obligation for the further expenditure of money in excess of such appropriations.
- D. **INTEREST OF MEMBERS OF CONGRESS:** No member of, or Delegate to, or Resident Commissioner in Congress shall be admitted to any share or part of this Agreement, or to any benefits that may arise therefrom, unless the share or part or benefit is for the general benefit of a corporation or company.

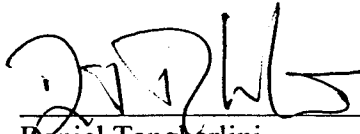
- E. **LOBBY PROHIBITION:** The Parties will abide by the provisions of Section 1913 (Lobbying with Appropriated Monies) of 18 U.S.C., which states:

No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to any such Member or official, at his request, or to Congress or such official, through the proper official channels, requests for any legislation, law, ratification, policy, or appropriations which they deem necessary for the efficient conduct of the public business, or from making any communication whose prohibition by this section might, in the opinion of the Attorney General, violate the Constitution or interfere with the conduct of foreign policy, counter-intelligence, intelligence, or national security activities. Violations of this section shall constitute violations of section 1352(a) of title 31.

- F. This Agreement is subject to all laws governing Federal and District procurement and to all regulations and rules promulgated thereunder, whether now in force or hereafter enacted or promulgated, except as specified in this Agreement. Nothing in this Agreement shall be construed as in any way impairing the general powers of the Parties for supervision, regulation, and control of its property under such applicable laws, regulations, and rules.


IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives.

**DISTRICT OF COLUMBIA
DIVISION OF TRANSPORTATION**

 4/7/04


Daniel Tangherlini Date
Director

**THE JOHN F. KENNEDY CENTER
FOR THE PERFORMING ARTS**

 4/22/04

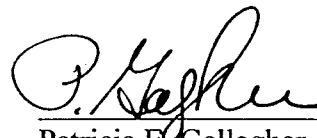
Michael M. Kaiser Date
President

COMMISSION OF FINE ARTS

 15 Apr 04


Charles H. Atherton Date
Secretary

**NATIONAL CAPITAL PLANNING
COMMISSION**

 4.13.04

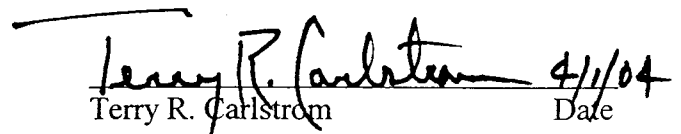
Patricia E. Gallagher Date
Executive Director

**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
DISTRICT OF COLUMBIA DIVISION**

 4/8/04

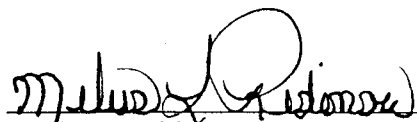
Gary L. Henderson Date
Division Administrator

**U.S. DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
NATIONAL CAPITAL REGION**

 4/1/04

Terry R. Carlstrom Date
Regional Director

**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
EASTERN FEDERAL LANDS HIGHWAY DIVISION**

 4-29-04

Melisa L. Ridenour, P.E. Date
Division Engineer