

SOUTH CAROLINA DEPARTMENT OF ARCHIVES AND HISTORY COVENANT AGREEMENT

This agreement is made the ____ day of [MONTH], [YEAR], by the [ORGANIZATION THAT OWNS THE PROPERTY] (hereafter referred to as the "Owner") and in favor of the State acting through the State Historic Preservation Officer (hereafter referred to as the "Grantor") for the purpose of the preservation of a certain Property known as the [NAME OF PROPERTY], located at [ADDRESS], in the City of [CITY] and County of [COUNTY], South Carolina, which is owned in fee-simple by the Owner and is listed in the National Register of Historic Places.

The Property is comprised essentially of grounds, collateral, appurtenances, and improvements and is known as the [NAME OF PROPERTY]. The property is more particularly described as follows: Bearing Tax Map Number _____ on the [COUNTY] County Assessor's Rolls, filed in the [COUNTY] County Assessor's Office, [CITY], SC.

In consideration of the sum of [DOLLAR AMOUNT OF GRANT WRITTEN OUT] (\$_____) received in grant-in-aid assistance from the National Park Service, United States Department of the Interior, the Owner hereby agrees to the following for a period of fifty (50) years, until the ____ day of [MONTH], [YEAR 50 YEARS HENCE]:

1. There shall run with the land, described in Exhibit A, a covenant, in favor of and enforceable by the State of South Carolina, requiring the Owner to repair, maintain, and administer the features, materials, appearance, workmanship, and environment of the premises in the state of repair and condition as at the time of completion of the grant-assisted work, or as at any subsequent time approved in writing by the State Historic Preservation Officer. If the lease is broken for any reason, the Owner or any successors shall conform as stated in this document.
2. Any subsequent work, interior or exterior, undertaken on the property described in Exhibit A shall conform to the appropriate set of the Secretary of the Interior's "Standards for the Treatment of Historic Properties", Exhibit B, which is attached hereto and made a part of this agreement until the [COVENANT EXPIRATION DATE]. Until this date, the Owner and all successors in interest agree to submit to the State Historic Preservation Officer, for review and approval, a written notice of intent for any proposed changes to the property. This notice may include the construction plans and specifications along with 4"X6" or 5" X 7" photographs of the areas to be affected. The State Historic Preservation Officer will review the proposed plans. Proposed work shall not begin until receipt of written approval from the State Historic Preservation Officer.
3. As a condition of this covenant, representatives of the State Historic Preservation Officer may, upon reasonable notice, enter the property at reasonable times and in a reasonable manner to assure compliance with the terms of the agreement. In the event of a violation of any covenant or restriction herein, the State of South Carolina through its Attorney General shall have available all legal and equitable remedies to enforce the owner's obligations hereunder.
4. The Owner agrees to provide public access to view the grant-assisted work or property no less than 12 days a year on an equitably spaced basis. At the Owner's option, the property may also be open at other times by appointment, in addition to the scheduled 12 days a year. Nothing in this agreement will prohibit a reasonable nondiscriminatory admission fee, comparable to fees charged at similar facilities in the area.
5. The Owner agrees to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000 (d)), the Americans with Disabilities Act (42 U.S.C. 12204), and with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). These laws prohibit discrimination on the basis

of race, religion, national origin, or disability. In implementing public access, reasonable accommodation to qualified disabled persons shall be made in consultation with the State Historic Preservation Officer.

To comply with the Americans with Disabilities Act, and with Section 504 of the Rehabilitation Act when interior public access is required at least 12 days per year and at other times by appointment, it is not required that every part of the property be made accessible to and useable by disabled persons by means of physical alterations. That is, for public access periods, videos, slide presentations, and/or other audio-visual material and devices should be used to depict otherwise inaccessible areas or features. The intent of this optional paragraph is to communicate that the preservation/accessibility issue must be addressed, and that the solution is to take careful steps to determine what can be done to improve access without sacrificing historic fabric.

6. The Owner further agrees that when the Property is not open to the public on a continuing basis, and when the grant-assisted improvements are not visible from the public way, notification will be published in newspapers of general circulation in the community area in which the Property is located giving dates and times when the Property will be open. Documentation of such notice will be furnished annually to the State Historic Preservation Officer during the term of the agreement.
7. It is understood and agreed by the parties hereto that if any part, term, or provision of this agreement is held to be illegal by the courts, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular part, term, or provision held to be invalid.

In witness whereof, the Owner has caused this covenant to be duly executed in their behalf and seal to be hereunto affixed and attested; and, thereafter, the State has caused the same to be duly executed in its behalf, the [DATE OF AGREEMENT].

By: [ORGANIZATION NAME]

SOUTH CAROLINA DEPARTMENT OF ARCHIVES AND HISTORY by:

[NAME]
[TITLE]

Elizabeth Johnson
Deputy State Historic Preservation Officer

Signature

Signature

ATTEST:

ATTEST:

Date

Date

ATTEST:

ATTEST:

Date

Date

STATE OF SOUTH CAROLINA

COUNTY OF [COUNTY NAME]

PERSONALLY appeared before me the undersigned witness, who, first being duly sworn, says that (s)he was present and saw the South Carolina Department of Archives and History by its duly authorized Official sign, seal, and as its acts and deed deliver the within written document; and that (s)he, with the other witness whose name is subscribed below, witnessed the due execution thereof.

SWORN to before me this ____ day of _____, 20__

Witness

Notary Public for South Carolina (LS)

My commission expires _____.

STATE OF SOUTH CAROLINA

COUNTY OF [NAME OF COUNTY]

PERSONALLY appeared before me the undersigned witness, who, first being duly sworn, says that (s)he was present and saw _____ by its duly authorized Official sign, seal, and as its acts and deed deliver the within written document; and that (s)he witnessed the due execution thereof.

SWORN to before me this ____ day of _____, 20__

Witness

Notary Public for South Carolina (LS)

My commission expires _____.

(ATTACH COPY OF THE DEED HERE WITH TITLE:)

EXHIBIT A
Description of Property

THIS ORIGINAL COVENANT, DEED, AND STANDARDS MUST BE REGISTERED WITH YOUR COUNTY REGISTER OF MESNE CONVEYANCE OFFICE.

FOLLOWING REGISTRATION,
THE ORIGINAL SHOULD BE RETURNED TO:

SC DEPARTMENT OF ARCHIVES & HISTORY
STATE HISTORIC PRESERVATION OFFICE
8301 PARKLANE ROAD
COLUMBIA, SC 29223-4905

PLEASE RETAIN A PHOTOCOPY FOR YOUR GRANT RECORDS.

EXHIBIT B

SECRETARY OF THE INTERIOR'S STANDARDS FOR TREATMENT OF HISTORIC PROPERTIES

The Secretary of the Interior's Standards for the Treatment of Historic Properties apply to all proposed development grant-in-aid projects assisted through the National Historic Preservation Fund, and are intended to be applied to a wide variety of resource types, including buildings, sites, structures, objects, and districts. These Standards, developed in 1992, were codified as 36 CFR Part 68 in the July 12, 1995 Federal Register (Vol. 60, No. 133). They replace the 1978 and 1983 versions of 36 CFR 68 entitled, "The Secretary of the Interior's Standards for Historic Preservation Projects."

There are Standards for four distinct, but interrelated, approaches to the treatment of historic properties: Preservation, Rehabilitation, Restoration, and Reconstruction. *Preservation* focuses on the maintenance and repair of existing historic materials and retention of a property's form as it has evolved over time (Protection and Stabilization have now been consolidated under this treatment.) *Rehabilitation* acknowledges the need to alter or add to a historic property to meet continuing or changing uses while retaining the property's historic character. *Restoration* is undertaken to depict a property at a particular period of time in its history, while removing evidence of other periods. *Reconstruction* re-creates vanished or non-surviving portions of a property for interpretive purposes.

In summary, the simplification and sharpened focus of these revised sets of treatment Standards is intended to assist users in making sound historic preservation decisions. Choosing an appropriate treatment for a historic property, whether preservation, rehabilitation, restoration, or reconstruction is critical. This choice always depends on a variety of factors including the property's historical significance, physical condition, proposed used, and intended interpretation.

Standards for Preservation

1. A property will be used as it was historically, or be given a new use that maximizes the retention of distinctive materials, features, spaces, and spatial relationships. Where a treatment has not been identified, a property will be protected and, if necessary, stabilized until additional work may be undertaken.
2. The historic character of a property will be retained and preserved. The replacement of historic materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Work needed to stabilize, consolidate, and conserve existing historic materials and features will be physically and visually compatible, identifiable upon close inspection, and properly documented for future research.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property will be preserved.
6. The existing condition of historic features will be evaluated to determine the appropriate level of intervention needed. Where the severity of deterioration requires repair or limited replacement of a distinctive feature, the new material will match the old in composition, design, color, and texture.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

8. Archaeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

Standards for Rehabilitation

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
2. The historic character of a property will be retained and preserved. The removal of historic materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property will be preserved.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Standards for Restoration

1. A property will be used as it was historically or be given a new use which reflects the property's restoration period.
2. Materials and features from the restoration period will be retained and preserved. The removal of materials or alteration of features, spaces, and spatial relationships that characterize the period will not be undertaken.
3. Each property will be recognized as a physical record of its time, place, and use. Work needed to stabilize, consolidate and conserve materials and features from the restoration

period will be physically and visually compatible, identifiable upon close inspection, and properly documented for future research.

4. Materials, features, spaces, and finishes that characterize other historical periods will be documented prior to their alteration or removal.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize the restoration period will be preserved.
6. Deteriorated features from the restoration period will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials.
7. Replacement of missing features from the restoration period will be substantiated by documentary and physical evidence. A false sense of history will not be created by adding conjectural features, features from other properties, or by combining features that never existed together historically.
8. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
9. Archeological resources affected by a project will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
10. Designs that were never executed historically will not be constructed.

Standards for Reconstruction

1. Reconstruction will be used to depict vanished or non-surviving portions of a property when documentary and physical evidence is available to permit accurate reconstruction with minimal conjecture, and such reconstruction is essential to the public understanding of the property.
2. Reconstruction of a landscape, building, structure, or object in its historic location will be preceded by a thorough archeological investigation to identify and evaluate those features and artifacts which are essential to an accurate reconstruction. If such resources must be disturbed, mitigation measures will be undertaken.
3. Reconstruction will include measures to preserve any remaining historic materials, features, and spatial relationships.
4. Reconstruction will be based on the accurate duplication of historic features and elements substantiated by documentary or physical evidence rather than on conjectural designs or the availability of different features from other historic properties. A reconstructed property will re-create the appearance of the non-surviving historic property in materials, design, color, and texture.
5. A reconstruction will be clearly identified as a contemporary re-creation.
6. Designs that were never executed historically will not be constructed.