



UNITED STATES DEPARTMENT OF COMMERCE
National Institute of Standards and Technology
Gaithersburg, Maryland 20899

January 17, 2024

MEMORANDUM FOR THE RECORD

From: Mark Liao
NEPA Coordinator

Subject: Categorical Exclusion

Project Title: Forsyth Library Renovation

Location: Fort Hays State University
600 Park Street
Hays, Kansas 67601

The National Environmental Policy Act (NEPA) and associated implementing regulations (40 CFR Parts 1500-1508) require that all major actions by federal agencies be reviewed with respect to the environmental consequences on the human environment. The National Institute of Standards and Technology (NIST) has selected the Forsyth Library Renovation at Fort Hays State University for a federal funding grant. Consequently, NEPA and the associated implementing regulations apply to this project.

This memorandum summarizes the determination that the Forsyth Library Renovation at Fort Hays State University has been found to be categorically excluded from further environmental review under NEPA.

Description of the Action

Constructed in 1967, the Forsyth Library is a three level, 105,000 square foot facility. This project calls for a complete interior renovation of the library building. The renovations include new electrical, plumbing, HVAC systems, as well as new interior partitions, finishes and furnishings. Renovations will be focused on the interior of the building; no work will be conducted on surrounding grounds of the building. Replacement of windows at the Forsyth Library will result in some modification of the building façade.

The goal of this project is to transform the library from a typical mid-century academic library into a learning common which will attract more students to services offered by the library and provide space for student study and learning, both for individuals and groups.

This project will be accomplished in accordance with all applicable state and federal environmental and safety regulations. All applicable regulatory permitting will be obtained.

Specific Considerations of this Action and any Extraordinary Circumstances

- Air Emissions, Stormwater, Wastewater, Critical Habitats

Since renovations are primarily to the interior of the building, and no changes in the general use of the building are planned, no significant impacts to air, water resources or critical habitats are expected.

- Building Staffing/Utilities

Staffing at the Forsyth Library is not expected to increase significantly; however, patronage of the library is expected to increase. Water consumption and energy use are not expected to increase. New lighting, heating, ventilation and air conditioning systems will be more energy efficient than the existing systems, and new plumbing fixtures will conserve water use.

- Greenhouse Gas Emissions

As discussed above, building renovations are expected to improve the energy efficiency of the building. Consequently, the greenhouse gas emissions resulting from the heating and cooling of the building will be reduced. The Fort Hays Campus currently receives 58% of its electricity from university owned wind mills.

- Flooding Potential and Resilience

Since renovations are focused on the interior of the building, there will be no impact to the flooding potential or flood resilience of this building. Forsyth Library (and most of the Fort Hays State Campus) is located within a Special Flood Hazard Area as defined by the Federal Emergency Agency, and designated 100-year flood zone. Since the project is primarily interior renovation, and the cost of the renovation is less than 50% of the building replacement cost, it is considered exempt from the flood plain management requirements of Executive Order 11988

- Hazardous Materials

Any hazardous materials (i.e., asbestos, lead based paint, polychlorinated biphenyls) that may be disturbed in the building renovations will be handled and disposed in accordance with State and Federal regulations.

- **Historic/Cultural Significance**

NIST has determined that the undertaking of this project will have an adverse effect on the Forsyth Library, which is potentially eligible for listing in the National Register of Historic Places. The adverse effect is related to the replacement of windows and the related façade change planned. The Kansas State Historic Preservation Officer (SHPO) concurred that the undertaking will have an adverse effect upon a historic resource (Fort Hays Library). NIST, the Kansas SHPO, and the Fort Hays State University have agreed that the undertaking shall be implemented in accordance with stipulations specified in a memorandum of agreement (Attachment A).

- **Environmental Justice**

This renovation project is not anticipated to have any disproportional adverse human health or environmental impacts to overburdened or underserved communities, including minority, Tribal, or low-income populations.

Effects of the Action

No significant adverse impacts on the environment are expected from this action.

Categorical Exclusion

The activities associated with this project fall within the criteria of the following Department of Commerce Categorical Exclusion:

A-1 Minor renovations and additions to buildings, roads, airfields, grounds, equipment, and other facilities that do not result in a change in the functional use of the real property (e.g. realigning interior spaces of an existing building, adding a small storage shed to an existing building, retrofitting for energy conservation, or installing a small antenna on an already existing antenna tower that does not cause the total height to exceed 200 feet and where the FCC would not require an environmental assessment or environmental impact statement for the installation). This CE does not apply in instances where the project must be submitted to the National Capital Planning Commission (NCPC) for review and NCPC determines that it does not have an applicable Categorical Exclusion.

This project is considered a minor renovation of a building that does not change functional use of the real property. The project does not require review by the NCPC.

The proposed activity: Forsyth Library Renovation at Fort Hays State University is categorically excluded from the need for further environmental review under NEPA. Any changes to the above project will require additional NEPA review.

Mark Liao
NIST NEPA Coordinator

Date

R.C. Vaughn
NIST Chief Facilities Management Officer

Date

Attachment A

MEMORANDUM OF AGREEMENT
BETWEEN
THE NATIONAL INSITUTE OF STANDARDS AND TECHNOLOGY,
THE FORT HAYS STATE UNIVERSITY, AND,
THE KANSAS STATE HISTORIC PRESERVATION OFFICER

**MEMORANDUM OF AGREEMENT
BETWEEN
THE NATIONAL INSITUTE OF STANDARDS AND TECHNOLOGY,
THE FORT HAYS STATE UNIVERISY, AND,
THE KANSAS STATE HISTORIC PRESERVATION OFFICER
REGARDING THE FORSYTH LIBRARY RENOVATION PROJECT
LOCATED AT
502, SOUTH CAMPUS DRIVE, HAYS, KANSAS 67601
FEDERAL PROJECT NUMBERS 60NANB23D017 AND
60NANB23D114**

WHEREAS the National Institute of Standards and Technology (NIST) intends to provide Congressionally mandated funds under the Consolidated Appropriations Act of 2022 [Public Law 117–103]and the Consolidated Appropriations Act of 2023 [Public Law 117–328] for the Fort Hays State University (FHSU) Forsyth Library Renovation Project (undertaking) pursuant to the 36 C.F.R. Part 800, of the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. § 470±); and

WHEREAS pursuant to the 36 C.F.R. Part 800, of the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. § 470±) the undertaking consists of renovating the interior and exterior of the existing building located at 502 South Campus Drive, Hays, Kansas 67601, in order to continue its present function as a library for the 21st century; and

WHEREAS NIST has defined the undertaking's area of potential effect (APE) as the area currently occupied by the building located at 502 South Campus Drive as well as the adjacent area of plaza to the north; and

WHEREAS the Forsyth Library is an example of mid-century modern collegiate architecture and exhibits character-defining features of the mid-century modern style, and the undertaking will remodel the existing limestone clad facades by the insertion of large window panels, thereby altering the otherwise closed feeling of the primary elevations; and

WHEREAS NIST has determined that the undertaking will have an adverse effect on the Forsyth Library, which is potentially eligible for listing in the National Register of Historic Places (NRHP) under NRHP criteria A and C, and

WHEREAS NIST has consulted on 17 November 2023 with the Kansas State Historic Preservation Officer (Kansas SHPO) pursuant to 36 C.F.R. Part 800, of the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. § 470±); and

WHEREAS, the Kansas SHPO, concurred in a meeting on 20 November 2023 that the undertaking will have an adverse effect upon an historic resource (Fort Hays Library) and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), NIST has on 17 November 2023 notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination.

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with specified documentation and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, NIST has consulted with Fort Hays University regarding the effects of the undertaking on historic properties and has invited them to sign this MOA as an invited signatory; and

WHEREAS, the Vice President for Administration and Finance be authorized to sign the agreement and perform those acts necessary to carry out and perform the terms of the agreement associated with the undertaking; and

WHEREAS, Fort Hays University posted on December 15, 2023 a public notice of the undertaking on its website on and

WHEREAS, NIST has identified the Kaw Nation of Oklahoma, Kiowa Tribe of Oklahoma, Kickapoo Tribe of the Kickapoo Reservation in Kansas, Iowa Tribe of Kansas and Nebraska, Osage Nation of Oklahoma, Prairie Band Potawatomi Nation and the Sac & Fox Nation of Missouri in Kansas and Nebraska as federally recognized tribes with potential interest in Fort Hays, Kansas and pursuant to 36 CFR § 800.3, sent a letter on November 17, 2023, inviting each to participate as a consulting party in the preparation of this Memorandum of Agreement (MOA); and

WHEREAS, The above noted Tribes did not express any interest to participate in the Section 106 process for the Project, including the preparation of this MOA; and

NOW, THEREFORE, NIST, the Kansas SHPO, and the Fort Hays State University agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

NIST shall ensure that the following stipulations are implemented:

I. DOCUMENTATION

1. Prior to initiation of demolition and renovation activities, Fort Hays University will contract with a 36CFR61 qualified Historian or Architectural Historian (consultant) who will complete the recordation report which will include the following:
 - a. At least ten (10) 8” x 10” photographs of the building. These will

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be exterior and interior photographs including views of each façade and significant architectural details. Photographs should include representative views of architectural details, and other significant features of the property including interior features listed as significant in the fourth whereas clause. The photo submission may be digital .TIF images, and photo key and map documenting the location and direction of each photo

- b. A legible scale digital scan copy of the historic plans;
 - c. A sketch site plan;
 - d. A narrative description of the building; and
 - e. A narrative report detailing the history of the building, its designer/builder, and use. This report shall establish the significance of the building and place it in context with the history and development of the university as appropriate. The research shall utilize historic source material including but not limited to maps, drawings, newspapers, and oral history if available.
 - f. The recordation report shall be submitted in draft form to the SHPO for review and comment. The SHPO will comment on the adequacy of the report within thirty (30) days of receipt or will be seen as accepting the report.
 - g. Once comments, if any, are received from the SHPO, FHSU will produce three physical and digital copies of the narrative building description and report, photographs, and floor and site plans. One copy will be provided to the SHPO and the others will be provided to the FHSU Archives.
2. FHSU may submit the physical documentation in a digital format (photographs, floor plans, and site plans) for acceptance in advance of the narrative report (Stipulations I a. to c.); selective demolition may proceed upon written notification by the SHPO after physical documentation has been reviewed.

II. PERMANENT EXHIBIT

- 1. In consultation with the Kansas SHPO, Fort Hays University shall develop a museum quality panel composed of graphics and narrative information that explains the significance of the architectural design Forsyth Library in the regional and national Mid Century modern style.
- 2. The new panel will be permanent and will be installed in a highly visible

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location within or outside the library building within the Duration (Section V) of this MOA.

3. A draft of the final panel design, content, and proposed building location shall be submitted by the university to the Kansas SHPO for its review, comment and approval prior to actual production.
4. All signatories will be notified when the exhibit is completed.

III. DURATION

This MOA will be null and void if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, NIST may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation IV below.

IV. UNANTICIPATED DISCOVERIES

In the event that archeological materials are encountered, work shall be halted and NIST and SHPO shall consult on procedures to follow to determine the Register eligibility of archaeological resources and to evaluate the adverse effects of the Project on such resources. For sites of Native American origin, this consultation shall include the Kaw Nation of Oklahoma, Kiowa Tribe of Oklahoma, Kickapoo Tribe of the Kickapoo Reservation in Kansas, Iowa Tribe of Kansas and Nebraska, Osage Nation of Oklahoma, Prairie Band Potawatomi Nation and the Sac & Fox Nation of Missouri in Kansas and Nebraska

1. NIST shall consult with the SHPO to develop and evaluate alternatives or modifications to the undertaking that could avoid, minimize or mitigate project adverse effects on archaeological sites eligible for the National Register.
2. NIST shall ensure that a determination, finding, or agreement is supported by sufficient documentation to enable any reviewing parties to understand its basis.
3. If human remains are discovered at any time during the implementation of this Project, the university shall follow the provisions of the Native American Graves Protection and Repatriation Act (25 USC Section 3001) and Kansas Unmarked Burials Act (K.S.A 75-2741 – 75-2754).

V. DISPUTE RESOLUTION

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Should any signatory or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, NIST shall consult with such party to resolve the objection. If NIST determines that such objection cannot be resolved, NIST will:

1. Forward all documentation relevant to the dispute, including NIST's proposed resolution, to the ACHP. The ACHP shall provide NIST with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, NIST 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. NIST will then proceed according to its final decision.
2. If the ACHP does not provide its advice regarding the dispute within the thirty (30) daytime period, NIST may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, NIST 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.
3. NIST'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.

VI. AMENDMENTS

Any party to this MOA may propose to NIST that the MOA be amended, whereupon NIST shall consult with the other parties to this MOA to consider such an amendment. 36 CFR Part 800.6(c)(7) shall govern the execution of any such amendment. The amendment will be effective on the date a copy signed by all the signatories is filed with the ACHP.

VII. TERMINATION

1. If any signatory to this MOA 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 **VII**, above. If within thirty

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

2. Once the MOA is terminated, and prior to work continuing on the undertaking, NIST must either:
 - (a) execute an MOA pursuant to 36 CFR § 800.6 or (
 - (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. NIST shall notify the signatories as to the course of action it will pursue.

VIII. ELECTRONIC SIGNATURE

Each party agrees a person may execute this document by electronic symbol or process attached to or logically associated with the document, with an intent to sign the document and by a method that must include a feature to verify the identity of the signer and the authenticity of the document, commonly referred to as verified electronic signature. Each party further agrees to accept in-person signature with ink for such party who agrees, but does not wish to or have access to adequate technology to sign electronically.

XI. COUNTERPARTS

This document may be signed in two or more counterparts, each of which shall be deemed an original for all purposes, and all of which when taken together shall be considered one and the same agreement.

X. EXECUTION

Execution of this MOA by NIST, the Kansas SHPO, and the FHSU, the submission of it to the ACHP with the appropriate documentation specified in 36 CFR 800.11(e) and (f), and implementation of its terms evidence that NIST has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

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SIGNED:

NATIONAL INSTITUTE OF STANDARDS & TECHNOLOGY (N.I.S.T.)

Phillip W. Neuberg

39"lcpwct{"4246
Date

By: Phillip W. Neuberg, FAIA
Federal Historic Preservation Officer

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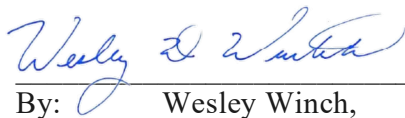
DSHPO for _____ Date 1/9/2024

By: Patrick Zollner
Kansas State Historic Preservation Officer

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Signed:

FORT HAYS STATE UNIVERSITY



By: _____
Wesley Winch,
Vice-President for
Administration and Finance

Date: 01/12/2024

Approved as to Form
1-12-24 JBB