

No. 26-1348

**IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

CITY OF PHILADELPHIA,

Plaintiff/Appellee,

v.

SECRETARY U.S. DEPARTMENT OF INTERIOR, ET AL.,

Defendant/Appellant.

On Appeal from the February 16, 2026, Memorandum Opinion & Order Granting
Appellee's Motion for Preliminary Injunction in the
United States District Court for the Eastern District of Pennsylvania
Case No. 2:26-cv-00434, Hon. Cynthia M. Rufe

**BRIEF OF HISTORIANS, ARCHAEOLOGISTS, AND SCHOLARS AS
AMICUS CURIAE SUPPORTING APPELLEE**

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CORPORATE DISCLOSURE STATEMENT

Amici curiae are the individual historians, archaeologists, and scholars listed in the Appendix, who are appearing in their personal capacities. They are not corporations, partnerships, associations, or other business entities. Institutional affiliations are listed for identification purposes only and do not reflect any institutional endorsement.

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INTERESTS OF THE AMICUS CURIAE

Amici curiae are historians, archaeologists, and scholars who have specific expertise in excavating, uncovering, and otherwise unearthing the stories of our past, and in presenting that history for the wider public. Several of them directly participated in the deliberate, collaborative process that culminated in the creation of the display panels that the National Park Service removed from the President’s House site in January 2026. *Amici* are interested in the outcome of this case both because it implicates their own work and because it raises important questions about how we convey history at public sites—and about who wields the authority to communicate that history.¹ A full list of *Amici* appears as an Appendix to the brief.

¹ No counsel for a Party authored this brief in whole or in part. No person or entity, other than *Amici* or their counsel, made a monetary contribution for the preparation or submission of this brief. *Amici* file this brief with the consent of the Parties.

INTRODUCTION AND SUMMARY OF ARGUMENT

Prior to its partial dismantling in late January 2026, the President's House site within Independence Historical National Park (INHP) represented an accomplishment of uncommon distinction. It featured exceptionally rigorous scholarship, built on years of original archival research and corroborated by a public archaeological excavation. But it married that scholarship with genuinely consequential civic engagement. It emerged from a sustained, often contentious process of public deliberation and institutional negotiation that lasted nearly a decade, and ultimately arrived at a hard-won consensus with broad legitimacy and public buy-in.

That process had key structures in place from the very beginning. The initial legal agreements between the City of Philadelphia and the National Park Service (NPS) scaffolded the working relationship between the institutions, requiring cooperation and mutual consent to changes impacting the park. Within that framework, the City initially took a more passive role in the process of addressing the President's House site, allowing NPS to lead the study of and decision-making regarding the site as it executed a massive renovation of the three-block park in the late 1990s. But in early 2002, after the site was rediscovered by historian Edward Lawler, Jr., historians, community organizations, journalists, activists, and community members challenged NPS and pressed both the City and NPS to commemorate and interpret the President's House and its enslaved residents. These groups, through continuous engagement and advocacy, demanded that the history of the President's House be

told honestly and accurately, and that the institutions responsible for doing so be held accountable.

As the voices of its community and constituents rose, the City answered by taking an increasingly active role in the site's development. First, as a quiet negotiator and a funder, it committed \$1.5 million in city funds to the project in 2003; then through the early design stages, it served as the project's *de facto* supervisor; and later, as a governance partner with NPS, it co-established the formal President's House Oversight Committee in 2005. At that pivotal juncture in the site development process, the City and NPS executed the 2006 Cooperative Agreement, which served as the legal spine of the relationship between them. It governed how decisions about the site would be made, allocated responsibilities between the two Parties—including responsibilities for the City-funded archaeological excavation to follow—and confirmed the Parties' shared understanding that the project required mutual commitment and consent. Then, once the project was fully designed and funding secured, the City became the project lead, designated under the 2009 amendment to the 2006 Cooperative Agreement as the party responsible for the project's design, fabrication, installation, and completion.

The editorial authority the City now claims over the President's House interpretive exhibit panels reflects not just contract language, but the reality of the site's development and evolution. The City earned this authority through nearly a decade of sustained engagement, substantial financial investment, and a carefully-negotiated legal framework that still binds both Parties. As *Amici* explain from personal experience, the process that produced the President's House site reflects

close collaboration, and NPS's unilateral alteration of the exhibit repudiates not just a contract, but the long process that produced the site and the communities whose advocacy made it possible.

ARGUMENT

I. The President's House site development process depended upon the City.

A. The President's House site, once lost, was first rediscovered through independent scholarship.

The three-block area in Old City that encompasses the President's House site now called Independence Mall took shape thanks to overlapping efforts of the Commonwealth of Pennsylvania, the federal government, and the City of Philadelphia. Interest in creating a public park by clearing land north of Independence Hall had percolated since before World War I, gaining momentum in the late 1930s when “[d]rawings of a vast three-block mall were unveiled.”² Still, little progress toward creating a national park happened during World War II, so after “years of waiting for federal legislation, the supporters of the mall took their proposal to the Pennsylvania governor and legislature in 1945.”³ That year, the Commonwealth and the City established the area as Independence Mall State Park,

² Edward Lawler, Jr., *The President's House in Philadelphia: The Rediscovery of a Lost Landmark*, 126 Pa. Mag. Hist. & Biography 5, 77 (2002); see also Roger C. Aden, *Upon the Ruins of Liberty: Slavery, the President's House at Independence National Park, and Public Memory* 32 (Temple University Press 2015).

³ Lawler 2002, *supra* note 2, at 77-78.

but planned to transfer the land to the national park upon retirement of the site's development bonds.⁴

In 1948, Congress authorized INHP to preserve and interpret the historic sites of the American founding in Philadelphia.⁵ An NPS architect and an NPS historian assigned to help plan the newly authorized park argued that the Presidential Mansion site (now known as the President's House) warranted inclusion within the national park boundaries.⁶ But the commission tasked with recommending the park's scope to Congress rejected that recommendation, acknowledging the site's historical significance but betting—correctly—that someone else would eventually fund the full three-block mall complex that would include the President's House site.⁷

This boundary decision had meaningful and irreversible consequences for the President's House. Having been altered and demolished in piecemeal fashion over decades, what remained of the site was no longer commonly recognized as a significant structure.⁸ And because the site remained under Commonwealth control and outside of the new national park, federal preservation requirements did not

⁴ *Id.* at 78; Aden, *supra* note 2, at 32-33.

⁵ An Act to Provide for the Establishment of Independence National Historical Park and for Other Purposes, Pub. L. no. 80-795, 62 Stat. 1061 (codified as amended at 16 U.S.C. §§ 407m, 407n).

⁶ Edward Lawler, Jr., *The President's House Revisited*, 129 Pa. Mag. Hist. & Biography 371, 371-72 (2005).

⁷ *Id.*

⁸ Lawler 2002, *supra* note 2, at 6, 59, 77, 90, 94; Sharon Ann Holt, *What Happened, and What Did Not, at the President's House on Independence Mall*, 93 Pa. Hist.: J. Mid-Atlantic Stud. 5, 6 (2026).

apply. Consequently, in late 1951, as part of the creation of Independence Mall, Pennsylvania demolished the last surviving walls of the President's House to create an open green space in front of Independence Hall without any archaeological study or preservation effort.⁹ Soon thereafter, a public restroom was erected atop the footprint of the main house. Beginning in 1954, the only commemoration of the President's House on site in INHP was a bronze plaque affixed to a wall outside of that restroom; a sole wayside marker was erected in 1986.¹⁰

In the meantime, “[d]ue to business, neighborhood, and political concerns,” it took twenty years for the Commonwealth and the City to complete demolition and construction of the three-block Independence Mall in 1969.¹¹ INHP assumed administrative control of Independence Mall State Park from the Commonwealth in the mid-1970s, and it integrated the land into the national park complex.¹² By 1976, NPS had logged a quarter-century of research on the area in and around INHP, but there was little interest in the President's House specifically without a historic structure present or physical remains or collections available to study.¹³

⁹ Holt, *supra* note 8, at 6; Lawler 2005, *supra* note 6, at 372-73.

¹⁰ City of Philadelphia, Request for Qualifications (RFQ): President's House Exhibit (Oct. 25, 2005), JA594, 596; Aden, *supra* note 2, at 40; Lawler 2005, *supra* note 6, at 374-75.

¹¹ Aden, *supra* note 2, at 33.

¹² *Id.* at 33; Lawler 2005, *supra* note 6, at 372; Doris Fanelli, *History, Commemoration, and an Interdisciplinary Approach to Interpreting the President's House Site*, 129 Pa. Mag. Hist. & Biography 445, 446 (2005).

¹³ Fanelli, *supra* note 12, at 446.

In the mid-1990s, independent historian Edward Lawler, Jr. “initiated an archival expedition that eventually produced a historical treasure: the exact location and floor plans” of the once elegant but near-forgotten structure that would come to be known as the President’s House.¹⁴ Lawler’s research process also “unearthed a generally overlooked historical fact” that Washington held slaves in the President’s House throughout his time in Philadelphia.¹⁵ In late 1997, Lawler began quietly sharing these findings with an INHP historian.¹⁶

By 1998, the development bonds issued to fund the mall were retired, and NPS purchased the land from the Commonwealth for one dollar.¹⁷ INHP then redesigned the three-block mall, and spent years planning a \$314 million transformation that included a new Independence Visitor Center, the National Constitution Center, and a new, \$12.9 million home for the Liberty Bell Center (LBC).¹⁸ In late November 2000, archaeologists from John Milner Associates (JMA), working at the site in connection with the planned LBC construction, discovered the stone pit of an icehouse at the southwest corner of the President’s House property. This corroborated Lawler’s independent research suggesting the same location for the icehouse and prompted

¹⁴ Aden, *supra* note 2, at 2.

¹⁵ *Id.*

¹⁶ Independence Hall Association (IHA), The President’s House in Philadelphia, available at <https://www.ushistory.org/presidentshouse/controversy/index.php> (last visited April 25, 2026).

¹⁷ Aden, *supra* note 2, at 33.

¹⁸ *Id.* at 2, 33.

JMA and Lawler to begin sharing their findings.¹⁹ Their combined work revealed a bombshell: a smokehouse, which Washington's archived correspondence revealed he had remodeled to house enslaved stable workers, once sat directly outside the planned front door of the forthcoming LBC.²⁰

Lawler contacted NPS directly with these findings. He expected that "they would be overjoyed to be able to add the Executive Branch to their existing interpretation of Congress and the Supreme Court" at Independence Mall and take note of the significance of the location of the smokehouse and slave quarters relative to the planned LBC entrance.²¹ Instead, an INHP official challenged Lawler's findings and cut off communication, and INHP doubled down on its plan to focus on the story of the Liberty Bell.²² In Lawler's view, INHP's reaction to his work reflected a choice to simply ignore the "slave quarters' issue" and its potential effect on the LBC building, rather than deal with it.²³

B. Public pressure forced the question of commemoration at the President's House, and prompted the City's more active involvement.

Realizing that INHP had no intention of acting on his research, Lawler published it. The January 2002 publication of Lawler's article in the *Pennsylvania Magazine of*

¹⁹ Lawler 2005, *supra* note 6, at 404-05; Lawler 2002, *supra* note 2, at 89.

²⁰ Aden, *supra* note 2, at 2; Lawler 2002, *supra* note 2, at 404; Oglie, Jill, "Creating Dissonance for the Visitor": *The Heart of the Liberty Bell Controversy*, 26 *The Public Historian* 49, 50-51 (2004).

²¹ Holt, *supra* note 8, at 7; Lawler 2005, *supra* note 6, at 404-05.

²² Lawler 2005, *supra* note 6, at 404-05.

²³ *Id.* at 404.

History and Biography—a 95-page work that “painstakingly reconstructed the history, precise location, layout and features of the residence, and well as the uses to which individual rooms were put”—ultimately set in motion an intensive eight-year process that drew an ever-widening circle of scholars, activists, public officials, and community members into the effort that ultimately produced the President’s House site.²⁴ The article addressed the enslaved men and women who had worked at the house, and concluded that “[a]n extraordinary juxtaposition will be in place when the LBC is completed, one which seems to have occurred by accident . . . The last thing that a visitor will walk across or pass before entering the Liberty Bell Center will be the slave quarters that George Washington added to the President’s House.”²⁵

As INHP broke ground on the new LBC, prominent UCLA historian Gary Nash brought the President’s House issue to the wider public. In a March 2002 interview on WHYY’s *Radio Times* program, Nash told listeners that “millions of visitors are going to go into the Liberty Bell not knowing they are walking over the site of Washington’s executive mansion, indeed walking over the slave quarters he built at the rear of the house.”²⁶ Local media coverage in the *Philadelphia Inquirer* followed

²⁴ JA596; Holt, *supra* note 8, at 8; Fanelli, *supra* note 12, at 450; Dinitia Smith, *Slave Site for a Symbol of Freedom*, N.Y. Times, Apr. 20, 2002, at B7; *see generally* Lawler 2002, *supra* note 2.

²⁵ Lawler 2002, *supra* note 2, at 93.

²⁶ IHA, *supra* note 16; Aden, *supra* note 2, at 2; Gary B. Nash, *For Whom Will the Liberty Bell Toll? From Controversy to Collaboration*, 21 George Wright Forum 39, 44 (2004).

days later, reflecting the attention of the city, and Philadelphia Mayor John Street began dialogue with NPS officials about the site.²⁷

Scholars, community organizations, journalists, and ordinary citizens who shared a conviction that the history of the President’s House could not be ignored coalesced into a broad and spontaneous civic mobilization. Nash and St. Joseph’s University history professor and *amicus curae* Randall Miller organized a group of “well-known historians and Philadelphia institutional leaders,” who called themselves the Ad Hoc Historians, to hold NPS accountable for their decisions on the site and to work with them to “rethink their plans” for the site.²⁸ The group “publicize[d] the reluctance of [INHP’s] superintendent to take hold of the problem and urge[d] action on treating fully and frankly one of the nation’s most history-soaked pieces of urban real estate.”²⁹ Community pressure quickly translated into legislative action; by March 26, 2002, the Pennsylvania legislature passed House Resolution No. 490, urging NPS “to facilitate the placement of a permanent commemorative plaque recognizing the site of the slave quarters and to work for continuing recognition of this historic site . . .”³⁰ Shortly thereafter, the Associated Press “put a story on the [national] wire” about the President’s House site, generating nationwide interest in the project.³¹ Activist

²⁷ Nash, *supra* note 26, at 43-44; Holt, *supra* note 8, at 10.

²⁸ Nash, *supra* note 26, at 44-45.

²⁹ Organization of American Historians (OAH), *Imperiled Promise: The State of History in the National Park Service* (2011), at 37.

³⁰ PA House Resolution No. 490, Session of 2002.

³¹ Nash, *supra* note 26, at 45.

groups, most notably the Avenging the Ancestors Coalition (ATAC)³² and Generations Unlimited, mobilized, too, organizing annual protests at the Liberty Bell Pavilion and a petition drive and letter writing campaign that gathered thousands of signatures.³³

C. Under pressure, NPS and INHP reluctantly agreed to commemorate the President's House.

NPS and INHP initially responded defensively to the groundswell of interest in and concern for the President's House site. Park administration took the position that "planning for the new structure had moved too far along to sustain any substantive changes."³⁴ It pointed to "interpretive talks at the Liberty Bell already" that would include the bell's status "as a symbol of the abolitionist movement, agreed to consider placing an interpretive panel dealing with slavery in eighteenth-century Philadelphia inside the new Liberty Bell pavilion, and suggested that the Deshler-Morris House, Washington's surviving Germantown summer residence," was better positioned to address the topic of the president as a slave-owner.³⁵

But under sustained pressure from historians, the public, activist groups, and the NPS Chief Historian, INHP eventually reconsidered the renovation plans, beginning

³² ATAC played a crucial role in the process of commemorating and interpreting the President's House site. For additional detail, the Court may refer to ATAC's own brief filed in this matter.

³³ Michael Coard, *The "Black" Eye on George Washington's "White" House*, 129 Pa. Mag. Hist. & Biography 461, 469-70 (2005); JA597.

³⁴ O'gline, *supra* note 20, at 51.

³⁵ *Id.*

with the LBC. INHP agreed in late May 2002 to a comprehensive overhaul of the LBC exhibit with “the meaning of freedom in a democracy built on slave foundations” as a “central theme” in the exhibit.³⁶ The question of the President’s House site itself, however, remained unresolved.

The path forward on the President’s House site originated not from within NPS, but from the sustained advocacy of community organizations. In July 2002, after ATAC provided significant documentation to Congressman Chaka Fattah, Fattah moved an amendment to the FY2003 Department of the Interior Appropriations Bill that directed NPS to “appropriately commemorate . . . the existence of the Mansion and the slaves who worked in it during the first years of our democracy.”³⁷ Congress then imposed a mandate to commemorate the enslaved persons who worked at the site, albeit without providing dedicated construction funding.³⁸

In response to the Congressional directive, NPS initiated a design process for the President’s House site in October 2002.³⁹ It presented initial designs during a public meeting held at the African American Museum in Philadelphia in January 2003, but many attendees bemoaned the lack of public participation in the design process.⁴⁰

³⁶ Nash, *supra* note 26, at 45-47; Aden, *supra* note 2, at 78-80.

³⁷ Coard, *supra* note 33, at 469-70; House Report 107-564, *Department of the Interior and Related Agencies Appropriations Act, 2003, 107th Cong., 2d sess., 2002*, HR 5093; Aden, *supra* note 2, at 79-81; Lawler 2005, *supra* note 6, at 406.

³⁸ Fanelli, *supra* note 12, at 450-51.

³⁹ Lawler 2005, *supra* note 6, at 406.

⁴⁰ Amy J. Cohen, *Black History in the Philadelphia Landscape: Deep Roots, Continuing Legacy* 51 (Temple University Press 2024); Lawler 2005, *supra* note 6, at 406-07; Fanelli, *supra* note 12, at 451; Aden, *supra* note 2, at 81-82.

What those in attendance, and what the designers themselves, did not yet know was that the designs were based on a flawed 2001 INHP report—one that omitted the smokehouse entirely—and therefore the designs failed to mark the slave quarters at all.⁴¹ INHP did submit those flawed designs to the House Appropriations Committee in March 2003.⁴² But community organizations and other stakeholders continued to discuss their concerns with the designs.⁴³

D. The City of Philadelphia became an active site partner in planning, funding, and governance.

By late 2003, however, things had changed. The new INHP superintendent, Mary Bomar, was demonstrating a good-faith willingness to engage where her predecessors had resisted.⁴⁴ Simultaneously, the City escalated its involvement in the project and committed itself as an active institutional partner; on October 9, 2003, the day that the new LBC officially opened, Mayor Street spoke at length about the President's House and committed \$1.5 million in City funds toward a commemorative project at the site.⁴⁵ Other state and local officials signaled a similar commitment to the project;

⁴¹ Fanelli, *supra* note 12, at 451; Lawler 2005, *supra* note 6, at 406-07; IHA, *supra* note 16.

⁴² Lawler 2005, *supra* note 6, at 407.

⁴³ *Id.* at 407-08.

⁴⁴ Coard, *supra* note 33, at 470-71.

⁴⁵ URS Corporation/AECOM, NPS, and the City of Philadelphia, *The Archaeology of Freedom and Slavery: Excavations at the President's House Site in Philadelphia* (November 2009; Revised September 2023), at 14; Lawler 2005, *supra* note 6, at 408; Fanelli, *supra* note 12, at 450.

Governor Ed Rendell referenced the President's House and "those whose history has not been told" in his speech.⁴⁶

In October 2004, the Ad Hoc Historians, the Historical Society of Pennsylvania, and NPS, jointly convened a public civic engagement forum to continue discussions of design plans for the President's House site.⁴⁷ Nearly 250 people attended the meeting, representing 27 different organizations.⁴⁸ Attendees decided on collective values for the site's interpretation—identity, memory, agency, dignity, and truth—that guided what was eventually built.⁴⁹ After that meeting, Superintendent Bomar sent a "strongly worded memorandum to the NPS Northeast Regional Director requesting that the planned site Commemoration be moved into the region's top three line item construction projects."⁵⁰

The City played a key role in the new design, handling most of the early-stage design supervision responsibility throughout 2004.⁵¹ And in a significant and symbolic moment at the end of that year, INHP formally committed for the first time

⁴⁶ Lawler 2005, *supra* note 6, at 408.

⁴⁷ IHA, *supra* note 16; JA604-05.

⁴⁸ IHA, *supra* note 16.

⁴⁹ Fanelli, *supra* note 12, at 453-55; JA603.

⁵⁰ Doris D. Fanelli, Div. of Cultural Resources Management, INHP, President's House Civic Engagement Forum Grant Report 1, https://www.ushistory.org/presidentshouse/controversy/october_30_2004_report.php (last visited April 25, 2026).

⁵¹ Aden, *supra* note 2, at 82.

to marking the site area between the kitchen and stables and labeling it “Smokehouse/Slave Quarters.”⁵²

The City also played a key role in funding the site. The 2002 Congressional mandate to commemorate the site lacked funding. Filling that gap required both Congress’ and the City’s investment. On September 6, 2005, U.S. Representatives Fattah and Bob Brady presented a \$3.6 million federal appropriations check to the NPS for an installation at the President’s House.⁵³ That, combined with the City’s \$1.5 million commitment, served to financially guarantee the project.⁵⁴ (That same day, NPS representatives and the Ad Hoc Historians met together again to clarify their agreements and differences about the physical space and labeling of the President’s House site.⁵⁵)

Reflecting the funding partnership, a week later the City of Philadelphia and INHP jointly formed the formal President’s House Oversight Committee “to help guide the project’s development and ensure its ultimate success.”⁵⁶ The Committee had representatives from a broad array of advocacy groups and other stakeholders in the project, including the African American Museum in Philadelphia, Generations Unlimited, ATAC, Philadelphia Multicultural Affairs Congress, IHA, the Ad Hoc

⁵² Lawler 2005, *supra* note 6, at 409.

⁵³ Aden, *supra* note 2, at 81; Lawler 2005, *supra* note 6, at 410; Coard, *supra* note 33, 470.

⁵⁴ Coard, *supra* note 33, at 470; IHA, *supra* note 16.

⁵⁵ IHA, *supra* note 16.

⁵⁶ JA597; IHA, *supra* note 16.

Historians, INHP, the Offices of Reps. Fattah and Brady, and the City.⁵⁷ The Committee, offering a seat at the table to those who had fought for the project, also ameliorated advocates' lingering distrust in the NPS and INHP.

In October 2005, the City, in partnership with NPS and INHP, issued an RFQ for the President's House exhibit. The RFQ document explained that the INHP was "now a full and enthusiastic partner with the City" after some initial resistance from NPS.⁵⁸ It acknowledged that NPS leaders "have committed to commemorate the President's House and the lives of its enslaved residents."⁵⁹ And it described the project as an "opportunity to tell a story of national importance in an honest, inspiring, and informative way."⁶⁰ In a significant reflection of INHP's shift, the RFQ noted that INHP considered the project "one of the top interpretive opportunities that the National Park Service has to offer."⁶¹

As the City and NPS's investment and roles in the President's House commemoration project took shape, after years of negotiation and advocacy, the Parties formalized them in the 2006 Cooperative Agreement. The 2006 Agreement set out the terms of cooperation between the two Parties in planning, developing, and

⁵⁷ JA597-98.

⁵⁸ JA597.

⁵⁹ *Id.*

⁶⁰ JA595.

⁶¹ *Id.*

preparing the design for the exhibit. It also outlined the plan for an elective archaeological dig at the site, to be funded by the City.⁶²

The decision to excavate reflected the same collaborative, community-driven process that had come to characterize the project. The City, NPS, and community representatives on the Oversight Committee concluded that the President’s House site “is of very great historical value and that it carries tremendous cultural, historical, and emotional significance for the nation.”⁶³ They agreed that even a modest likelihood of bringing any surviving archaeological evidence to light justified the excavation—particularly where such evidence might relate to the lives of the enslaved persons Washington brought to Philadelphia. They observed that even an uncertain excavation “was an act of respect to those whose history had previously been denied.”⁶⁴ Pursuant to the 2006 Agreement, the City provided full funding for the archaeological project; NPS only handled contracting and provided technical oversight.⁶⁵

A public selection process picked the Philadelphia-based, Black-owned design firm of Kelly/Maiello as the team for the project.⁶⁶ With the design team in place and the collaborative framework formalized, Mayor Street broke ground for the

⁶² *See generally* Cooperative Agreement Between the City of Philadelphia and the National Park Services for the President’s House Project and Archeological Research Dig, JA252.

⁶³ URS Corporation, *supra* note 45, at 15.

⁶⁴ *Id.* at 15.

⁶⁵ *Id.*

⁶⁶ IHA, *supra* note 16.

archaeological excavation that would become the President's House site on March 21, 2007.⁶⁷ The excavation drew an extraordinary public response; more than 300,000 people visited the site over the course of the dig, averaging 2,500 visitors per day during the peak months, and a live webcam streamed the excavation online.⁶⁸ Contrary to pessimistic projections, it vindicated the community's insistence on an independent evidentiary record. It uncovered remnants of Washington's bow window, a previously unknown underground servant's passage, kitchen foundations, and other structural features, confirming aspects of Lawler's research that INHP had previously disputed and withheld from the project design team.⁶⁹ Kelly/Maiello had to substantially revise their approved design to incorporate the new archaeological record, and presented revised designs at a public meeting on December 13, 2007.⁷⁰

After the successful archaeological expedition was complete, the City's role expanded from partner to principal. In 2008, new City Mayor Michael Nutter turned his attention to fundraising, and secured final funding by 2009.⁷¹ On February 18, 2009, the Delaware River Port Authority, flush with excess revenue from bridge tolls and with a mandate to spend it, approved a \$3.5 million contribution to the President's House project, with the blessing of Governor Rendell.⁷² Reflecting the

⁶⁷ Aden, *supra* note 2, at 113.

⁶⁸ *Id.* at 114; Holt, *supra* note 8, at 8; URS Corporation, *supra* note 45, at 91.

⁶⁹ URS Corporation, *supra* note 45, at 57-90; IHA, *supra* note 16; Holt, *supra* note 8, at 8

⁷⁰ IHA, *supra* note 16.

⁷¹ *Id.*

⁷² Aden, *supra* note 2, at 132.

ongoing expansion of the City's role, NPS and the City executed the Third Amendment to the Cooperative Agreement, designating the City as the Party responsible for the "design, fabrication, installation, and completion" of the President's House project, at its sole cost and expense, with the completed exhibit to be donated to and thereafter owned, maintained, managed, and interpreted by NPS.⁷³

E. The process of developing the President's House interpretive exhibit panels mirrored earlier stages of the project.

As the construction process proceeded through 2009 and 2010 with an opening date in view, one critical element of the project remained: the interpretive text that visitors would read on the panels at the site. The process of deciding on this text followed the same pattern of broad stakeholder engagement and hard-won consensus that had defined every prior phase of the project—albeit not without similar points of friction. Members of the Oversight Committee, INHP, and City officials grew concerned with the work of the consultant who had been hired to complete the panels at the President's House, and ultimately removed the consultant from the project.⁷⁴ INHP officials and members of the Oversight Committee disagreed about the interpretive text, leading to several heated meetings of the Oversight Committee in December 2009.⁷⁵ Eventually, and only after relevant stakeholders "finally felt sufficiently comfortable with a draft interpretation plan," the draft interpretations

⁷³ Third Amendment to the Cooperative Agreement Between the National Park Service U.S. Dept. of the Interior and the City of Phila. for the President's House Project, JA252-53.

⁷⁴ Aden, *supra* note 2, 134-36.

⁷⁵ *Id.*

were displayed for public viewing and comment at the Independence Visitor Center in Spring 2010.⁷⁶ City and park officials remained engaged in the planning process, and INHP staff, a new consultant, and members of the Oversight Committee ultimately agreed on the final interpretation plan that remained on display at the President's House until late January 2026.⁷⁷ The President's House exhibit, named *The President's House: Freedom and Slavery in the Making of a New Nation*, opened in December 2010 to a large crowd and speeches by both Mayor Nutter and ATAC founder Michael Coard.⁷⁸

Ultimately, the interpretative panels displayed at the President's House until this January reflected the culmination of more than eight years of sustained, often contentious engagement among historians, archaeologists, community organizations, elected officials, journalists, and hundreds of thousands of members of the public—all operating within a formal framework of institutional partnership between the City of Philadelphia and the NPS.

II. The story of the President's House must be told at the President's House.

NPS has recognized for decades that historic sites serve a function that extends well beyond preservation and celebration. They are, in the words of NPS's own advisory framework, "important centers for democracy and as places to learn and

⁷⁶ *Id.*

⁷⁷ *Id.* at 136-38.

⁷⁸ Aden, *supra* note 2, at 138; IHA, *supra*, note 16.

reflect about American identity and the responsibilities of citizenship.”⁷⁹ Beginning in the 1960s, NPS began broadening the range of histories it told at its sites, and by the late 1990s, agency leadership trumpeted the importance of featuring “untold stories” in the historic places they occurred.⁸⁰ John Hope Franklin, then-chair of the NPS Advisory Board, explained that even telling the “sad” stories of history may evoke feelings of patriotism and loyalty:

The places that commemorate sad history are not places in which we wallow, or wallow in remorse, but instead places in which we may be moved to a new resolve, to be better citizens. . . . Explaining history from a variety of angles makes it not only more interesting, but also more true. When it is more true, more people come to feel that they have a part in it. That is where patriotism and loyalty intersect with truth.⁸¹

The Northeast Region of NPS formalized this commitment to place-based education in December 1999, coincidentally just as it was finalizing plans to overhaul INHP. It became a founding member of the International Coalition of Historic Sites of Conscience, affirming that “it is the obligation of historic sites to assist the public in drawing connections between the history of our site and its contemporary

⁷⁹ National Park Service, *The National Park Service and Civic Engagement: The Report of a Workshop Held December 6–8, 2001, in New York City*, 14, cited in David Glassberg, *The Changing Cape: Using History to Engage Coastal Residents in Community Conversations about Climate Change*, 34 *George Wright Forum* 285, 285-86 (2017), <https://www.georgewright.org/343glassberg.pdf> (last visited April 25, 2026).

⁸⁰ Glassberg, *supra* note 79, at 286.

⁸¹ National Park Service, *Archeology and Civic Engagement* (November 2008), https://www.nps.gov/subjects/archeology/upload/tchbrf23_508.pdf#:~:text=The%20International%20Coalition%20of%20Sites%20of%20Conscience,and%20democratic%20values%20as%20a%20primary%20function (last visited April 26, 2026).

implications” and that “stimulating dialogue on pressing social issues and democratic values” is “a primary function” of historic sites.⁸²

Scholarship confirms what NPS long recognized institutionally. Historic sites have a special capacity to “convey, embody, or stimulate a relation or reaction to the past”⁸³ that makes them both more memorable and more trustworthy than history conveyed by textbooks or professors. A 2011 report prepared for NPS by the Organization of American Historians explained the importance of historic sites: “[b]y virtue of the places and resources they hold, the national parks provide unparalleled opportunity for the public to encounter . . . primary sources for themselves, and to learn something about thinking historically.”⁸⁴ James Oliver Horton, writing for another NPS publication on the teaching power of historic places, observed that “nothing can situate a person in history like being in the place where that history happened” and that historic places “give concrete meaning to our history and our lives” in ways that “no spoken or written word alone can.”⁸⁵ Relatedly, Americans inherently trust history presented at historic sites. Studies of popular uses of history

⁸² O’gline, *supra* note 20, at 53-54 (internal quotations omitted).

⁸³ Randall Mason, *Assessing Values in Conservation Planning: Methodological Issues and Choices in Assessing the Values of Cultural Heritage* (Marta de la Torre ed., Getty Conservation Institute 2002) 11, https://www.getty.edu/conservation/publications_resources/pdf_publications/pdf/assessing.pdf (last visited April 26, 2026)

⁸⁴ OAH, *supra* note 29, at 18.

⁸⁵ James O. Horton, *On-Site Learning: The Power of Historic Places*, 23 *CRM: Cultural Resource Management* (2000), <https://www.nps.gov/articles/on-site-learning-the-power-of-historic-places.htm> (last visited April 26, 2026).

find Americans trust museums and historic sites to provide an accurate account of history substantially more than they trust what they learn in classrooms and nonfiction books.⁸⁶

NPS applied these principles directly to the President’s House. Its early suggestions—that the story of those enslaved at the President’s House might be addressed in a panel inside the LBC, or at the Deshler-Morris House in Germantown where Washington also resided—gave way to the recognition that neither option sufficiently told the story of the nine individuals who lived and worked at the President’s House site. That recognition required years of additional scholarly work, community engagement, archaeological excavation, design revision, and institutional negotiation—and funding. But NPS ultimately embraced it.

Indeed, NPS affirms the power of place for historical storytelling to this day. Its Teaching with Historic Places program, an ongoing initiative, holds that “[p]lace has the power to motive human behavior and influence our culture and customs” and that “teaching American history without connecting it to place risks missing an important part of the story,” and risks “leav[ing] out a vital piece of the puzzle that helps us

⁸⁶ Roy Rosenzweig and David Thelen, *Popular Uses of History in American Life* (New York: Columbia University Press, 1998) 21, 32, as cited in Horton, *supra* note 85; American Historical Association, *Which Sources of the Past are Viewed as Trustworthy?*, <https://www.historians.org/teaching-learning/current-events-in-historical-context/history-the-past-and-public-culture-results-from-a-national-survey/4-which-sources-of-the-past-are-viewed-as-trustworthy/> (last visited April 26, 2026).

understand our past, present, and future.”⁸⁷ The program further recognizes that historic places “offer connections across time, encouraging empathy for the people who shaped our past” in ways that other formats cannot replicate.⁸⁸ So, the President’s House exhibit embodied what NPS has long recognized and continues to affirm: some stories can only be told fully, and best, at the places where they happened.

CONCLUSION

For all of these reasons, in addition to the reasons discussed in the City of Philadelphia’s brief, the Court should affirm the Preliminary Injunction.

⁸⁷ NPS, *Why Historic Places?*, <https://www.nps.gov/subjects/teachingwithhistoricplaces/why-historic-places.htm> (last visited April 26, 2026).

⁸⁸ NPS, *Teaching and Learning with Historic Places*, <https://www.nps.gov/subjects/teachingwithhistoricplaces/index.htm> (last visited April 26, 2026).

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CERTIFICATE OF COMPLIANCE

In accordance with Federal Rule of Appellate Procedure 32(a)(7)(C), I certify that this brief:

(i) complies with the type-volume limitation of Rule 32(a)(7)(B) because it contains 5,732 words, including footnotes and excluding the parts of the brief exempted by Rule 32(a)(7)(B)(iii); and

(ii) complies with the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6) because it has been prepared using Microsoft Office Word 16.66.1, set in Century Schoolbook 12-point type; and

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I further certify that I am a member in good standing of the bar of the Third Circuit.

/s/ Chelsea Stine

Chelsea Stine

CERTIFICATE OF SERVICE

I certify that on April 27, 2026, this brief was filed using the Court's CM/ECF system. All participants in the case are registered CM/ECF users and will be served electronically via that system.

I further certify that within the required time, I will serve 7 paper copies of this brief upon the Clerk of Court.

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/s/ Chelsea Stine

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