

MEMORANDUM OF AGREEMENT
AMONG THE DEPARTMENT OF VETERANS AFFAIRS,
THE COLORADO STATE HISTORIC PRESERVATION OFFICER, AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING CONSTRUCTION OF A NEW VA MEDICAL CENTER AT THE FORMER
FITZSIMONS ARMY MEDICAL CENTER, AURORA, COLORADO

WHEREAS, pursuant to Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) (NHPA) and its implementing regulations, "Protection of Historic Properties" (36 C.F.R. 800), the Department of Veterans Affairs (VA) has determined that its proposed construction of new facilities for its Eastern Colorado Health Care System (ECHCS) Denver campus (hereinafter, the undertaking) at the former Fitzsimons Army Medical Center (FAMC), a property determined eligible for inclusion in the National Register of Historic Places, will have adverse effects on the FAMC; and

WHEREAS such adverse effects include the demolition of two buildings, Building 608 and the City of Aurora Pool building, that contribute to the significance of the Fitzsimons Army Medical Center Historic District, a property eligible for listing in the National Register of Historic Places, as identified in the Environmental Assessment (EA) published on July 23, 2006 pursuant to Section 102 of the National Environmental Policy Act (NEPA) and its implementing regulations (40 CFR 1500-1508); and

WHEREAS, VA has consulted with the Colorado Historical Society (CHS) in its role as the Colorado State Historic Preservation Officer, and with the Advisory Council on Historic Preservation, pursuant to 36 CFR 800.6(b)(2) seeking ways to resolve these adverse effects; and

NOW, THEREFORE, the VA, CHS and Advisory Council on Historic Preservation agree that should VA elect to proceed with the undertaking, it shall carry out the undertaking in accordance with the following stipulations in order to resolve its adverse effects on historic properties.

Stipulations

VA will ensure that the following are carried out.

- 1. Architectural and Historical Documentation.** Prior to demolition of Building 608 and the Aurora City Pool building, VA will contract with a historic preservation specialist or specialists to document the buildings through photographs, floor plans and preparation of a historic context report. VA will establish the scope of work for this documentation in consultation with the SHPO, and will ensure that the documentation is carried out in accordance with the Secretary of the Interior's Standards for Architectural and Engineering Documentation and its associated guidelines as set forth at http://www.nps.gov/history/local-law/arch_stnds_6.htm. VA will ensure that the documentation includes large format negatives or mylar copies of existing architectural

documents, large-format negatives of exterior and interior views, and/or historical views, and written historical descriptive data. VA will ensure that the resulting documentation is provided to the CHS and to the Historic American Buildings Survey in the Library of Congress.

2. ***Interpretation.*** VA will consult with the University of Colorado, the Fitzsimons Redevelopment Authority, and other parties involved in redevelopment of the FAMC, and based on this consultation either:
 - a. Contract with a professional historic preservation/interpretation organization to develop a small interpretive display and brochure on the history of the FAMC, placing and maintaining the former at an appropriate location in the new ECHCS facility and making the latter available to the interested public on an ongoing basis, or
 - b. Participate with others involved in redevelopment of the FAMC to ensure that the history of the FAMC is appropriately interpreted elsewhere at the FAMC.

3. ***Visual Effects.*** VA, in consultation with the CHS, the University of Colorado, the Fitzsimons Redevelopment Authority, and other parties involved in redevelopment of the FAMC, will make all reasonable efforts to ensure that the design of the new ECHCS facility is visually compatible with the character of the FAMC, with reference to the Secretary of the Interior's Standards for Rehabilitation as set forth at <http://www.nps.gov/hps/tps/tax/rhb/stand.htm> and their associated guidelines.3.

4. ***Unanticipated Effects***
 - a. *Historic buildings, structures, districts and landscape elements.* In the event that unanticipated effects on historic buildings, structures, districts or landscape elements come to VA's attention during the implementation of the undertaking, VA will stop any work that may adversely affect the relevant property or that may foreclose opportunities to avoid such adverse effects. VA in consultation with the CHS will determine the appropriate course of action to ensure that adverse effects are avoided, reduced, or mitigated.
 - b. *Archaeological sites, graves, artifacts, and cultural items.* VA will ensure that earthmoving carried out in connection with the undertaking in any location determined by the CHS to be potentially sensitive for buried archaeological sites, graves, artifacts, and/or cultural items is project is monitored by an archaeologist or archaeologists acceptable to the CHS. Should an archaeological site, grave, artifact, or cultural items of non-Native American origin be found during earthmoving, VA will halt all earthmoving in the vicinity of the discovery until the discovery is documented and safely removed by or under the supervision of the monitoring archaeologist. VA will ensure that any non-Native American human remains and associated funerary objects are treated in a manner consistent with the provisions of Colorado Revised Statute §24-80-1302. Should a site, grave, artifact or cultural items of Native American origin be

discovered during earthmoving, VA will ensure that the discovery is managed in accordance with the requirements of 43 CFR 10.4.

5. *Training*

- a. In order to improve the quality of project planning in the future with respect to historic properties, within ninety (90) days after execution of this Memorandum of Agreement (MOA) VA will develop a training program in Section 106 review and related topics.
- b. VA will consult with the ACHP and CHS in developing this program, and afford both the opportunity to review and comment on training material and procedures.
- c. VA will ensure that Project Managers and other key personnel responsible for planning projects of all types and scales in Colorado receive such training within one year after execution of this MOA.

6. *Dispute Resolution*

- a. Should any party to this agreement object in writing to VA regarding any action carried out or proposed with respect to the undertaking or implementation of this agreement, VA shall consult with the objecting party to resolve the objection. If after initiating such consultation VA determines that the objection cannot be resolved through consultation, VA shall forward all documentation relevant to the objection to the Council, including VA's proposed response to the objection. Within 30 days after receipt of all pertinent documentation, the Council shall exercise one of the following options:
 - (1) Advise VA that the Council concurs in VA's proposed response to the objection, whereupon VA will respond to the objection accordingly;
 - (2) Provide VA with recommendations, which VA shall take into account in reaching a final decision regarding its response to the objection; or
 - (3) Notify VA that the objection will be referred for comment pursuant to 36 CFR 800.7(a)(4), and proceed to refer the objection and comment. VA shall take the resulting comment into account in accordance with 36 CFR 800.7(c)(4) and Section 110(l) of NHPA.
- b. Should the Council not exercise one of the above options within 30 days after receipt of all pertinent documentation, VA may assume the Council's concurrence in its proposed response to the objection.
- c. VA shall take into account any Council recommendation or comment provided in accordance with this stipulation with reference only to the subject of the objection;

VA's responsibility to carry out all actions under this agreement that are not the subjects of the objection *shall remain unchanged*.

- d. At any time during implementation of the measures stipulated in this agreement, should an objection pertaining to this agreement or the effect of the undertaking on historic properties be raised by a member of the public, VA shall notify the parties to this agreement and take the objection into account, consulting with the objector and, should the objector so request, with any of the parties to this agreement to resolve the objection.

6. *Monitoring Completion*

- a. On or before April 1st of each year until VA and the SHPO agree in writing that the terms of this agreement have been fulfilled, VA shall prepare and provide an annual report to the SHPO, and Council addressing the following topics:
 - (1) Progress in completing construction of the ECHCS facility, including review of plans and specifications to ensure compliance with Stipulation 3;
 - (2) Progress in documenting Building 608 and the Aurora Pool building in accordance with Stipulation 1;
 - (3) Progress in interpretative development in accordance with Stipulation 2
 - (4) Any problems, discoveries, or unexpected issues encountered during the year; and
 - (5) Any changes that VA believes should be made in implementation of this agreement.
- b. VA shall ensure that its annual report is made available for public inspection, that potentially interested members of the public are made aware of its availability, and that interested members of the public are invited to provide comments to the SHPO and Council as well as to VA.
- c. The signatories to this agreement shall review the annual report and provide comments to VA. Non-signatory parties to this agreement may review and comment on the annual report at their discretion.
- d. At the request of any party to this agreement, VA shall ensure that a meeting or meetings are held to facilitate review and comment, to resolve questions, or to resolve adverse comments.
- e. Based on this review, the signatories to this agreement shall determine whether this agreement shall continue in force, be amended, or be terminated.

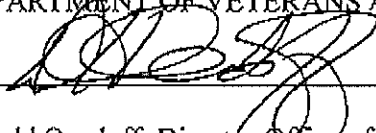
7. *Amendments and Termination*

- a. Any party to this agreement may propose to VA that the agreement be amended, whereupon VA shall consult with the other parties to this agreement to consider such an amendment. 36 CFR 800.6(c)(1) shall govern the execution of any such amendment.

- b. If VA determines that it cannot implement the terms of this agreement, or if the SHPO or Council determines that the agreement is not being properly implemented, such party may propose to the other parties to this agreement that it be terminated.
 - (1) The party proposing to terminate this agreement shall so notify all parties to this agreement, explaining the reasons for termination and affording them at least 30 days to consult and seek alternatives to termination. The parties shall then consult.
 - (2) Should such consultation fail, VA or another signatory party may terminate the agreement by so notifying all parties.
 - (3) Should this agreement be terminated, VA shall either:
 - i. Consult in accordance with 36 CFR 800.6 to develop a new MOA; or
 - ii. Request the comments of the Council pursuant to 36 CFR 800.7.
- c. If the terms of this agreement have not been implemented by April 1st, 2015, this agreement shall be considered null and void. In such event VA shall so notify the parties to this agreement, and if it chooses to continue with the undertaking, shall re-initiate review of the undertaking in accordance with 36 CFR Part 800.

Execution of this MOA by VA, the SHPO, and the Council, and implementation of its terms, evidence that VA has afforded the Council an opportunity to comment on the undertaking and its effects on historic properties, and that VA has taken into account the effects of the undertaking on historic properties.


DEPARTMENT OF VETERANS AFFAIRS

By:  Date: 4/7/09

Donald Orndoff, Director Office of Construction and Facilities Management

COLORADO HISTORICAL SOCIETY

By:  Date: 4/8/09

 Edward C. Nichols, State Historic Preservation Officer

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: John M. Fowler Date: 4/7/82

John M. Fowler, Executive Director