

MEMORANDUM OF AGREEMENT
BETWEEN THE DEPARTMENT OF VETERANS AFFAIRS AND
THE INDIANA STATE HISTORICAL PRESERVATION OFFICER
SUBMITTED TO THE ADVISORY COUNCIL ON HISTORIC
PRESERVATION

PURSUANT TO 36 C.F.R. 800.6(b)(iv)

REGARDING THE DEMOLITION OF EIGHTEEN BUILDINGS ON THE
MARION CAMPUS

OF THE VETERANS AFFAIRS NORTHERN INDIANA HEALTH CARE
SYSTEM

IN MARION, CENTER TOWNSHIP, GRANT COUNTY, INDIANA

WHEREAS the Department of Veterans Affairs proposes to demolish eighteen buildings (building nos. 7, 10, 11, 13, 18, 19, 20, 21, 22, 24, 25, 42, 60, 62, 121, 122, 135 and 140) on the Marion Campus of the Veterans Affairs Northern Indiana Health Care System ("VANIHCS") in Marion, Center Township, Grant County, Indiana; and

WHEREAS the Department of Veterans Affairs, in consultation with the Indiana State Historic Preservation Officer ("Indiana SHPO"), has defined this demolition project's area of potential effects, as the term is used in 36 C.F.R. 800.16(d), to be the Marion Campus, VANIHCS; and

WHEREAS the Department of Veterans Affairs, in consultation with the Indiana SHPO, has found that the Marion Campus, VANIHCS, is within the area of potential effects; and

WHEREAS the department of Veterans Affairs and the Indiana SHPO both recognize that the Marion Campus, VANIHCS is listed in the National Register of Historic Places and building nos. 7, 10, 11, 13, 18, 19, 20, 21, 22, 24, 25, 42, 60, 121, and 122 are contributing resources within the district; and

WHEREAS the Department of Veterans Affairs, in consultation with the Indiana SHPO, has determined, pursuant to 36 C.F.R. 800.5(a), that the demolition project will have an adverse effect on the Marion Campus, VANIHCS, and

WHEREAS The Department of Veterans Affairs has consulted with the Indiana SHPO in accordance with Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and its implementing regulations (36 C.F.R. Part 800) to resolve the adverse affect on the Marion Campus, VANIHCS and the individual contributing resources; and

NOW, THEREFORE, the Department of Veterans Affairs and the Indiana SHPO agree that, upon the submission of a copy of this executed memorandum of agreement, as well as the documentation specified in 36 C.F.R. 800.11(e) and (f), to the Advisory Council on Historic Preservation ("Council") pursuant to 36 C.F.R. 800.6 [b] [1] [iv] and upon the Department of Veterans Affairs' approval of the demolition project, the Department of Veterans Affairs shall ensure that the following stipulations are implemented in order to take into account the effect of the demolition project on historic properties.

STIPULATIONS

- (1) If the VANIHCS chooses to proceed with the demolition of buildings nos. 7, 10, 11, 13, 18, 19, 20, 21, 22, 24, 25, 42, 60, 62, 121, 122, 135, and 140 then the VANIHCS shall ensure that all of the buildings remain secured prior to reuse or demolition.
- (2) If the VANIHCS chooses to proceed with the demolition of building nos. 7, 10, 11, 13, 18, 19, 20, 21, 22, 24, 25, 42, 60, 62, 121, 122, 135, and 140, then the VANIHCS may proceed with the demolition of buildings nos. 13, 19, 20, 21, 22, 62, 121, 122, 135, and 140 as soon as practical.
- (3) If the VANIHCS plans to proceed with the demolition of building nos. 7, 10, 11, 13, 18, 19, 20, 21, 22, 24, 25, 42, 60, 62, 121, 122, 135, and 140, then the VANIHCS shall wait a period of eight years before commencing with the demolition of building nos. 7, 10, 11, 18, 24, 25, 42, and 60 during which time the VANIHCS shall continue to seek alternate uses for the buildings in the following manner:
 - (A) Reporting available properties to the General Services Administration under the requirements of Executive Order 12512, Federal Real Property Management;
 - (B) Reporting available properties as required under Title 5 of Public Law 100-77, the Stewart B. McKinney Homeless Assistance Act to the Department of Housing and Urban Development, who then will publish them in the Federal Register; and
 - (C) Evaluate alternative/out-lease uses under the Enhanced Use Program, Title 38, U.S.C. 8162.

- (4) If the VANIHCS proceeds with the demolition of building nos. 7, 10, 11, 13, 18, 19, 20, 21, 22, 24, 25, 42, 60, 121, and 122, then prior to the commencement of demolition activities, the VANIHCS shall ensure that these buildings are documented, at the minimum, in the following manner:
- (A) A site plan showing the footprint of the building in relation to the street and specifying the overall dimensions around the periphery of the building;
 - (B) Black and white 35mm photographs of all visible exterior facades of the building and interior photographs of representative rooms, major spaces, and significant features (e.g., baseboards, chair rails, windows, doors, trim work, and stairwells, if applicable); the photographs need not be mounted; the photographs shall be labeled on the reverse side to indicate the building name, address, direction and brief description of view, and name of the photographer (labels shall be typed and affixed onto the photographs). The only exception shall be for buildings 21 and 22, which are currently unsafe to enter to take photographs. For buildings 21 and 22, VANIHCS shall submit a copy of the floor plan that is in their possession, in lieu of the interior photographs.
- (5) Duplicate originals of the documentation specified in Stipulation 4 shall be distributed, prior to the commencement of construction and demolition activities, as follows:
- (A) One set (with the photographic negatives) to the Indiana SHPO for review and approval and for ultimate transmittal to the Indiana State Archives.
 - (B) One set to a local repository, such as a library, a historical society, or a preservation organization that shall retain the documentation permanently in its files and make the documentation available for examination by the public.

(6) OBJECTION RESOLUTION PROVISION

Disagreements and misunderstandings about how this memorandum of agreement is or is not being implemented shall be resolved in the following manner:

- A. If the Indiana SHPO or any invited signatory to this memorandum of agreement objects in writing to the Department of Veterans Affairs regarding any action carried out or proposed with respect to the implementation of this memorandum of agreement for the demolition project, then the Department of Veterans Affairs shall consult with the objecting party to resolve the objection. If after initiating such consultation the Department of Veterans Affairs determines that the objection cannot be resolved through consultation, then the Department of Veterans Affairs shall forward all documentation relevant to the objection to the Council, including the Department of Veterans Affairs' proposed response to the objection. Within 45 days after receipt of all pertinent documentation, the Council shall exercise one of the following options:

2

- i. Provide the Department of Veterans Affairs with a staff-level recommendation, which the FHWA shall take into account in reaching a final decision regarding its response to the objection; or
 - ii. Notify the Department of Veterans Affairs that the objection will be referred to the Council for formal comment pursuant to 36 C.F.R. 800.7(c), and prepare to develop its comments.
- B. If comments from the Council are provided in accordance with stipulation 6(A)(ii) of this memorandum of agreement, then the Department of Veterans Affairs shall take into account any Council comment provided as stated in 36 C.F.R. 800.7(a)(4) with reference only to the subject of the objection. The Department of Veterans Affairs' responsibility to carry out all actions under this memorandum of agreement that are not the subjects of the objection shall remain unchanged.

(7) POST REVIEW DISCOVERY

In the event that one or more historic properties- other than the Marion Campus, VANIHCS- are discovered or that unanticipated effects on historic properties are found during the implementation of this memorandum of agreement, the Department of Veterans Affairs shall follow the procedure specified in 36 C.F.R. 800.13.

(8) AMENDMENT:

Any signatory to this memorandum of agreement may request that it be amended, whereupon the parties shall consult to consider the proposed amendment. 36 C.F.R. 800.6(c)(7) shall govern the execution of any such amendment.

(9) TERMINATION:

- A. If the terms of this memorandum of agreement have not been implemented by December 31, 2011, then this memorandum of agreement shall be considered null and void. In such an event, the Department of Veterans Affairs shall so notify the parties to this memorandum of agreement and, if it chooses to continue with the demolition project, then it shall reinitiate review of the demolition project in accordance with 36 C.F.R. 800.3 through 800.7.
- B. Any signatory to this memorandum of agreement may terminate it by providing thirty (30) days notice to the other parties, provided that the other parties shall consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the Department of Veterans Affairs shall comply with 36 C.F.R. 800.3 through 800.7 with regard to review of the demolition project.

C. In the event that the department of Veterans Affairs does not carry out the terms of this memorandum of agreement, the Department of Veterans Affairs shall comply with 36 C.F.R. 800.3 through 800.7 with regard to review of the demolition project.

The execution of this memorandum of agreement by the Department of Veterans Affairs and the Indiana SHPO, the submission of a copy of it to the Council with the appropriate documentation specified in 36 C.F.R. 800.11, and the implementation of its terms evidence that the Department of Veterans Affairs has afforded the Council an opportunity to comment on the demolition project, and its effect on historic properties and that the Department of Veterans Affairs has taken into account the effects of the demolition project on historic properties.

SIGNATORIES (Required)

Department of Veterans Affairs

Signed By: _____ Date: 8/22/01

Name and Title: Michael W. Murphy
Michael W. Murphy, Ph.D. Director, Marion Campus, VA NIHCS

Indiana State Historic Preservation Officer

Signed By: [Signature] _____ Date: 9/7/01

Name and Title: LARRY D. MACKLIN SHPO
Larry D. Macklin