

MEMORANDUM OF AGREEMENT AMONG  
THE US DEPARTMENT OF VETERANS AFFAIRS,  
THE LOUISIANA STATE HISTORIC PRESERVATION OFFICER,  
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
REGARDING THE DEMOLITION OF BUILDING #2 OF THE VA MEDICAL  
CENTER (VAMC), NEW ORLEANS, LOUISIANA

**WHEREAS**, Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. §470f, and its implementing regulations at 36 CFR Part 800 (Section 106), require Federal Agencies to take into account the effects of their Undertakings on historic properties and provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment on those Undertakings; and

**WHEREAS**, Hurricanes Katrina and Rita (Disaster) resulted in significant damage to the U.S. Department of Veterans Affairs (VA) healthcare infrastructure in New Orleans, Southern Louisiana, and the Gulf South area; and

**WHEREAS**, re-establishing healthcare infrastructure is critical to the recovery and vitality of New Orleans, Southern Louisiana, and the Gulf South area; and

**WHEREAS**, the VA intends to demolish by small bulldozers and/or excavators Building #2 of the Veterans Affairs Medical Center (VAMC) New Orleans, which also was known as the VA Managers and Nurses Quarters of the VAMC, addressed at 1601 Perdido Street (Appendix 1), New Orleans, Louisiana, and replace that structure with a temporary building to provide health care to Gulf South Veterans (Undertaking); and

**WHEREAS**, Building #2 is a contributing element to the New Orleans Medical Historic District, which has been determined to be eligible for listing on the National Register of Historic Places; and

**WHEREAS**, VA has consulted with the State Historic Preservation Officer (SHPO) and determined that the Undertaking will have an adverse effect on the historic district and the contributing element, Building #2 of the VAMC,

**WHEREAS**, the following parties have been invited to participate as consulting parties due to their concern with the Undertaking's effects to historic properties: 2400 Canal LLC; City of New Orleans, City Council; City of New Orleans, Mayor's Office; City of New Orleans, Office of Recovery Development Administration; Committee to Reopen Charity Hospital; Common Knowledge; Deutsches Haus; Downtown Development District of New Orleans (DDD); Foundation for Historical Louisiana; Friends of New Orleans Cemeteries; Friends of the Lafitte Corridor; Louisiana Chapter of the International Working Party for Documentation and Conservation of Building Sites and Neighborhoods of the Modern Movement (DOCOMOMO/NOLA); Louisiana Landmarks Society; Lower Mid-City Residents and Business Owners Affected by the LSU/VA Hospitals; LSU Site United Property Owners; Mid-City Neighborhood Organization; National Trust for Historic Preservation (NTHP); Orleans Parish School Board; Parkview

Neighborhood Association; Phoenix of New Orleans; Preservation Resource Center; RPC; Sewerage & Water Board; State of Louisiana, Office of Community Development; and Tulane/Canal Neighborhood Development Corporation to participate in this consultation as Consulting Parties; and

**WHEREAS**, the Chitimacha Tribe of Louisiana, Coushatta Tribe of Louisiana, Jena Band of Choctaw Indians, Mississippi Band of Choctaw Indians (MBCI), and Tunica-Biloxi Tribe of Louisiana are federally recognized sovereign Indian Nations that have a government-to-government relationship with the United States and an interest in the lands included in the Undertakings, and the Responsible Agencies have notified these Indian tribes of the development of this MOA and invited the Tribes to participate in the consultation; and

**WHEREAS**, VA has identified measures in this Memorandum of Agreement (MOA) to mitigate this adverse effect caused by demolition;

**NOW, THEREFORE**, VA, SHPO, and ACHP agree that the Undertaking will be implemented in accordance with the following Stipulations to take into account the effects of the Undertaking on historic properties and to satisfy VA's Section 106 responsibilities for the Undertaking.

## **STIPULATIONS**

VA, in coordination with SHPO and ACHP will ensure that the following measures are implemented:

### **I. RECORDATION TREATMENT MEASURE**

- A. Prior to the demolition of Building #2, VA will document the former VA Hospital and the VA Managers and Nurses Quarters of the VAMC addressed at 1601 Perdido Street. The recordation will proceed in accordance with the guidelines listed below, will include digital photography and narrative reports, and be performed by, or under the direct supervision of, an individual who meets the SOI Professional Qualification Standards (48 FR 44716) for history, architectural history, or historic architecture.
  - i. At a minimum, the photographs will document all elevations and character-defining architectural features. Digital photography will comply with the following requirements:
  - ii. Image files must be saved as Tagged Image or RAW format files using high quality compression settings. These files must be transferred as first generation Tagged Image or RAW format files that have not been degraded in quality by multiple revisions and resaving. The images must be formatted on archival quality CDR media.
  - iii. Digital camera files must be captured as 6 megapixel files or greater with a minimum pixel array of 3,000 pixels by 2,000 pixels.
  - iv. Color images must be produced in RGB (Red Green Blue) color mode as 24bit or 48bit color files.

- v. Photographic prints must comply with the National Park Service (NPS) March 2005 photo policy regarding photographic printing.
  - vi. The photographs must meet the NPS 75-year permanence standard.
  - vii. Paper prints will be produced in accordance with the NPS guidelines for "Acceptable Ink and Paper Combinations for Digital Images."
  - viii. The backs of each print must be labeled in soft pencil with the following information:
    - a. Building Name,
    - b. Address,
    - c. Date of Photograph,
    - d. Description of view including direction of camera,
    - e. Number of image in photographic set,
    - f. Name of photographer, and
    - g. Repository of CDR media.
  - ix. VA will prepare narrative histories commensurate with the significance of the historic property for the documented building. This narrative will address both the site-specific history and the significant associations of the building to its neighborhood and/or historic district.
- B. VA will post the recordation data and resulting materials to the [www.consult106.org](http://www.consult106.org) Website, so it can be accessed by the consulting parties.
- C. VA has previously committed to document the historic buildings and structures in the New Orleans VA Medical Center complex addressed at 1601 Perdido Street in the *Programmatic Agreement Among the US Department of Veterans Affairs, the Federal Emergency Management Agency, the City of New Orleans, the Louisiana State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding the Funding to Repair or Replace Healthcare Facilities Comprising the VA Medical Center and the Medical Center of Louisiana at New Orleans* (PA). Based on the architectural documentation of the complex prepared by VA in accordance with the PA, VA will reevaluate the National Register eligibility of the buildings and structures in the complex, excluding Building #2, in the context of the New Orleans Medical Historic District, previously determined eligible for the National Register of Historic Places by consensus between FEMA and the SHPO. The VA's reevaluation will address the contributing/non-contributing status of Building #1 and its components A, B, C, D, E, F, G and H; Building 6, Building #16, the SPD and Urgent Care Modular Annex, and the new Imaging Center modular building. For the purposes of this reevaluation, the VA may recommend an amended period of significance for the National Register eligible Historic District. VA will seek a concurrence determination of eligibility regarding the complex with the SHPO. Once concurrence is reached, the VA will make this determination documentation available to the City of New Orleans in anticipation of their receipt of the property in accordance with the PA.

## **II. PUBLIC INTERPRETATION TREATMENT MEASURE**

- A. VA will design and implement a future public interpretation program that includes the history of the VAMC including Building #2 upon final disposition of the VAMC. This program may include:
- Oral histories
  - museum quality, publically accessible, permanent displays;
  - traveling exhibits;
  - publically accessible website; and/or
  - popular publications.
- B. VA will post the public interpretation program to the Website for the VAMC Replacement Project for comment by the consulting parties and notify consulting parties via e-mail of the posting. If these parties do not comment within 14 calendar days of receipt, VA may assume that these parties concur with the program and schedule. VA will finalize the public interpretation program after considering the comments and implement the program.

## **III. DEMOLITION**

- A. Prior to the commencement of any demolition or site disturbance, VA will ensure that the demolition contractor will develop a Demolition and Protection Plan (D&P Plan). This D&P Plan will detail the specific procedures to be followed during demolition, the protocols for demolition, and specific measures that will be taken to ensure that no adjacent buildings are damaged. The D&P Plan will be designed to ensure that VA undertakes the demolition of Building #2 only after establishing protocols to avoid adverse effects to contributing elements of the New Orleans Medical Historic District. The D&P Plan will contain discrete measures specifically designed to protect the adjacent Sister Stanislaus' Memorial Building, an individually-listed NRHP building, from any ancillary direct or indirect damage.
- i. VA will post the D&P Plan to the Website for review by the Consulting Parties and notify Consulting Parties via email of the posting. If these parties do not comment within 14 calendar days of receipt, VA may assume that these parties concur with the D&P Plan.
  - ii. Concurrent with posting the Plan to the Website for Consulting Party review, VA will submit the D&P Plan to SHPO and the ACHP for comment. If these parties do not comment within 14 calendar days of review, VA may assume that these parties concur with the D&P Plan.
  - iii. VA will finalize the Plan after considering all timely and substantive comments and will respond in writing to any comments within 30 calendar days, and prior to implementation of the D&P Plan.
- B. VA will require that Contractors shall perform all work in a manner which will limit vibrations at the structure nearest to the site of construction activity to a maximum of 0.2 inches per second. Vibrations will be recorded by monitoring devices which will be monitored by contract personnel during construction. VA will inform the Contractor if the vibrations from his operations exceed the 0.2 inches per second limit and the Contractor shall take

immediate action to reduce vibrations to the acceptable limits. VA will require that the Contractor notify VA at least 15 calendar days prior to beginning vibration-inducing construction operations, and VA will be informed of the daily location of these operations at least 48 hours prior to the beginning of construction operations. VA will ensure that the Contractor shall contact the vibration monitoring firm to schedule the necessary vibration monitoring personnel. VA stop work protocols and the physical location of the monitoring equipment will be developed as part of VA's contract agreement with the monitoring firms.

#### **IV. DISCOVERIES AND UNFORESEEN EFFECTS**

- A. VA's construction contracts will require its contractors to exercise care in all excavation activities, and be alert to any indication of archaeological deposits or concentrated historical building materials, i.e., foundations, privies, collections of refuse, etc. If, in the course of the Undertaking, dense amounts of intact archaeological materials are uncovered, VA shall ensure that its contractor immediately stop work in the vicinity of the discovery and take all reasonable measures to avoid or minimize harm to the finds. VA shall ensure that the archaeological findings are secured and access to the area of the discovery is restricted until the consultation described below is completed.
- B. VA will notify and consult with the SHPO to determine if further steps to evaluate the National Register eligibility of the property and identify its treatment are necessary. VA may, in consultation with the SHPO, assume that a newly discovered property is eligible for the National Register for purposes of this MOA. VA and the SHPO will conclude this consultation if the discovery does not contain human remains and VA and the SHPO determine that the discovery is not eligible for the National Register or VA and the SHPO determine that the unforeseen effect will not adversely affect a historic property.
- C. If VA and the SHPO have determined that further steps are necessary to evaluate or treat the unforeseen effect or the newly discovered property and it does not contain human remains, VA shall work with SHPO, and the ACHP to agree on timeframes and determine ways to avoid, minimize, or mitigate any adverse effects. Any Signatory to this Undertaking may request an on-site meeting to review the situation. At the conclusion of this consultation, VA will provide all parties that participated in the discovery consultation with a written summary of the consultation and its resolution. This summary may be provided by e-mail.
- D. If human skeletal remains are uncovered during the Undertaking, VA shall immediately notify the New Orleans Police Department, and the Orleans Parish Coroner's Office. The local law enforcement officials shall assess the nature and age of the human skeletal remains. VA shall ensure that the notice of the discovery required by Louisiana Unmarked Human Burial



Sites Preservation Act (R.S. 8:671 *et seq*) is given to the Secretary, Louisiana Department of Culture, Recreation and Tourism (CRT) or the Secretary's designee by contacting the Louisiana Division of Archeology at 225-342-8170 within seventy-two hours of the discovery. If the coroner determines that the human skeletal remains are older than 50 years of age, the Secretary, CRT has jurisdiction over the remains. VA shall take the lead in working with the SHPO, Indian tribes, and the Louisiana Division of Archeology, to ensure compliance with this State law, other applicable laws, and this MOA. In addition, VA shall require that the guidelines contained in the ACHP's 2007 "Policy Statement Regarding Burial Sites, Human Remains, and Funerary Objects" or any subsequent Policy Statements that are issued after the execution of this MOA are followed.

## **V. DISPUTE RESOLUTION**

- A. Should any Signatory Party object to VA within the timeframes provided by this MOA to any plans, specifications, or actions provided for review, VA shall consult further with the objecting party to seek resolution.
- B. If VA determines that the dispute cannot be resolved, VA shall forward VA's proposed resolution of the dispute and all documentation, including views, if any, of the Signatory Parties on the issue in dispute, and any other relevant documentation to the ACHP. Within 7 calendar days after receipt of all pertinent documentation the ACHP will:
  - i. Advise VA that it concurs with VA's resolution of the dispute;
  - ii. Provide VA with recommendations, which VA shall take into account in reaching a final decision regarding the dispute; or
  - iii. Notify VA that it shall comment pursuant to 36 CFR §800.7(c), and proceed to comment. Any comment provided shall be taken into account by VA in accordance with 36 CFR §800.7(c)(4) with reference to the subject of the dispute.
- C. If the ACHP does not provide VA with comments or recommendations within 7 calendar days, VA may assume that the ACHP does not object to its recommended approach and it shall proceed accordingly.
- D. Any recommendation or comment provided by ACHP shall be understood to pertain only to the subject of the dispute, and VA's responsibilities to fulfill all actions that are not subject of the dispute shall remain unchanged.
- E. Any dispute regarding National Register eligibility that is not resolved pursuant to this Stipulation will be resolved in accordance with 36 CFR § 800.4(c)(2).

## **VI. AMENDMENTS, TERMINATION, AND NONCOMPLIANCE**

- A. Any Signatory or Invited Signatory may request in writing that the MOA be amended or terminated. Within 21 calendar days of such a request, VA will meet with the other Signatory Parties, in person or by telephone, to consider this request. The Parties will make a good faith effort to amend the MOA prior any party taking steps to terminate it. The MOA may be

amended only upon the written agreement of the Signatories, and the process will comply with 36 CFR § 800.6(c)(7).

- B. If the MOA is not amended, the Signatories may terminate the MOA by providing a 30-day written notice to the other consulting parties. These parties will consult during this 30-day time frame to seek amendments or other actions that would prevent termination. Should consultation fail, VA will promptly notify the other parties in writing of termination. This MOA may be terminated without further consultation by execution of a subsequent agreement that explicitly terminates or supersedes this MOA.

## **VII. DURATION**

Unless amended or terminated in accordance with Stipulation VI, this MOA will remain in effect through December 31, 2010. VA will notify the consulting parties by e-mail when it determines that this MOA has been fulfilled.

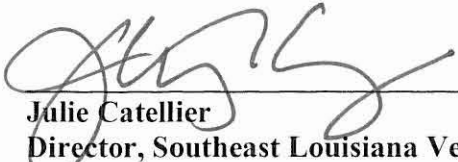
## **VIII. EFFECTIVE DATE AND IMPLEMENTATION OF MOA**

This MOA shall become effective immediately upon signature by the Signatory Parties. VA shall provide each Signatory Party with a complete copy of the MOA including all executed signature pages.

**EXECUTION AND IMPLEMENTATION** of this Memorandum of Agreement evidence that VA has afforded ACHP a reasonable opportunity to comment on the Undertaking and its effects on historic properties, that VA has taken into account the effects of the Undertaking on historic properties, and that VA has satisfied its responsibilities under Section 106 of the National Historic Preservation Act and applicable implementing regulations.

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**DEPARTMENT OF VETERANS AFFAIRS**

  
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Julie Catellier  
Director, Southeast Louisiana Veterans Health Care System

Date: 8/27/09



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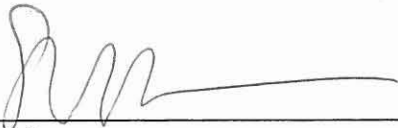
**ADVISORY COUNCIL ON HISTORIC PRESERVATION**

  
for John M. Fowler  
Executive Director

Date: 9/8/09

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**LOUISIANA STATE HISTORIC PRESERVATION OFFICER**



\_\_\_\_\_  
Scott Hutcheson  
State Historic Preservation Officer

Date: \_\_\_\_\_

