

MEMORANDUM OF AGREEMENT
BETWEEN VA MEDICAL CENTER, FARGO, NORTH DAKOTA
AND THE
NORTH DAKOTA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE EXPANSION OF THE VA MEDICAL CENTER.

WHEREAS the Department of Veterans Affairs Medical Center, Fargo ND (Fargo VAMC) plans to carry out the OR Replacement project.

WHEREAS the undertaking consists of the process of constructing an addition to our facility for Replacement Operating Rooms and ancillary spaces. Due to the limited amount of available space at the campus and the arrangement of mechanical and electrical utilities, the location of the addition considered the only feasible option is a space between wings of the 1945 addition to the facility, originally called Building 9. This is the western face of the facility, and was in the past considered the main entrance. In 1985 the North side was expanded and configured to be the main entrance for the life of the facility.

and

WHEREAS, The Fargo VAMC has defined the undertaking's area of potential effect (APE) in Attachment A and

WHEREAS The Fargo VAMC has determined that the undertaking may have an adverse effect on Building 9, which is eligible for listing the National Register of Historic Places, and has consulted with the North Dakota State Historic Preservation Officer (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. § 470f); and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), The Fargo VAMC has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

NOW, THEREFORE, The Fargo VAMC and the SHPO 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

The Fargo VAMC shall ensure that the following measures are carried out to mitigate the adverse effects on the historic property:

- I. That a physical interpretive exhibit be developed explaining the history of the VA Medical Center, Fargo, North Dakota including the evolution of the architecture of the buildings and grounds be presented at the Fargo VA Medical Center for five years.
- II. That an electronic exhibit detailing the history of the facility architecture and grounds shall be developed and added to our facility internet homepage for five years.
- III. That there be at least one historian (who could be a graduate level history student) to direct the historic research portion of the project. Others on the project can have an architecture, design, graphic design, or computer science background.
- IV. That the project be completed in two years from the first signatory date on the Memorandum of Agreement (MOA) document.

DURATION

This MOA will terminate if its terms are not carried out within two (2) years from the date of its execution. Prior to such time, the Fargo VAMC may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VIII below.

MONITORING AND REPORTING

Every 6 months, following the execution of this MOA until it expires or is terminated, the Fargo VAMC shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes

proposed, any problems encountered, and any disputes and objections received in the Fargo VAMC's efforts to carry out the terms of this MOA.

DISPUTE RESOLUTION

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, the Fargo VAMC shall consult with such party to resolve the objection. If the Fargo VAMC determines that such objection cannot be resolved, the Fargo VAMC will:

I. Forward all documentation relevant to the dispute, including the Fargo VAMC's proposed resolution, to the ACHP. The ACHP shall provide the Fargo VAMC 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, the Fargo VAMC 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. The Fargo VAMC will then proceed according to its final decision.

II. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the Fargo VAMC may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Fargo VAMC 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.

III. The Fargo VAMC'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.

AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

TERMINATION

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 VIII, above. If within thirty (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.

Once the MOA is terminated, and prior to work continuing on the undertaking, the Fargo VAMC 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. The Fargo VAMC shall notify the signatories as to the course of action it will pursue.

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

SIGNATORIES:

Department of Veterans Affairs Medical Center, Fargo, North Dakota



Christine Gregory, Acting Medical Center Director

Date 6-28-10

North Dakota State Historic Preservation Officer



Merl E. Paaverud, Jr.
North Dakota State Historic Preservation Officer

Date 6-21-10