

MEMORANDUM OF AGREEMENT
AMONG THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS
DAYTON MEDICAL CENTER,
NATIONAL PARK SERVICE MIDWEST REGION,
OHIO STATE HISTORIC PRESERVATION OFFICER, FISHER HOUSE FOUNDATION
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
FOR
SITE PREPARATION FOR AND CONSTRUCTION OF A FISHER HOUSE,
AT THE VA MEDICAL CENTER, DAYTON, OHIO

WHEREAS the Department of Veterans Affairs Medical Center in Dayton (Dayton VAMC), in cooperation with the Fisher House Foundation (FHF), proposes to construct a Fisher House in the area to the northeast of Building 408, at the current location of Buildings 220 and 221; and

WHEREAS, the Dayton VAMC will be required to perform site preparation, as part of the proposed Fisher House construction, described below and collectively referred to as the "Site Prep;" and

WHEREAS, the Site Prep will include the demolition of Building 221 and either the demolition or relocation of Building 220 for the purpose of constructing a Fisher House on that site; and

WHEREAS, the Dayton VAMC has invited the FHF to participate in this consultation, and FHF has elected to participate, and will construct the Fisher House on the proposed site in accordance with plans and specifications developed in consultation with the VAMC; and

WHEREAS, pursuant to 36 CFR § 800.3(a), Dayton VAMC has determined that this proposed project constitutes an undertaking subject to consultation under Section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations (36 CFR 800); and

WHEREAS, the area of potential effects (APE) is the area of the Dayton VAMC campus bordered by Building 408 to the west, Kentucky Avenue to the south, Maryland Avenue to the east, and the retaining wall near Buildings 220 and 221 to the south. Attached to this MOA is a drawing showing the APE on the campus.

WHEREAS, pursuant to 36 CFR § 800.5(d), Dayton VAMC has determined that this undertaking will have an adverse effect on the Dayton VAMC Campus, which is listed in the National Register of Historic Places and has been designated a National Historic Landmark; and

WHEREAS the VAMC and the Foundation have consulted with the Ohio State Historic Preservation Officer (SHPO), in accordance with 36 CFR §800.6, to consider alternatives to resolve these adverse effects; and

WHEREAS, pursuant to 36 CFR § 800.10, Dayton VAMC has invited the National Park Service Midwest Region (NPS) to participate in this consultation, and NPS has elected to participate; and

WHEREAS the Dayton VAMC has also informed the American Veterans Heritage Center (AVHC), the City of Dayton, and Native American Tribes of the intent to construct a Fisher House on the effected site.

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), Dayton VAMC has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination, and the ACHP has chosen to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

NOW, THEREFORE, Dayton VAMC, the SHPO, the NPS, the Foundation, and the ACHP 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

I. Evaluation of Building 220

- A. Dayton VAMC, as part of the design for the Site Prep, will perform an analysis on the potential of relocating Building 220 to another location on campus, including the possibility to utilize the building as part of the National Archives. The analysis will explore the feasibility, cost and potential use of the relocated building. This information will be reviewed by the Dayton VAMC. The Dayton VAMC will share the

analysis with the consulting parties within 30 days of receiving the completed report, and inform the parties of the recommended course of action (relocate or demolish), prior to completion of the design process. SHPO and NPS will provide comments back to the VAMC on the recommendation within 30 days of receipt.

II. Fisher House Design

- A. The VAMC and the Foundation shall ensure the Fisher House is designed and constructed in a manner that is compatible with the Secretary of the Interior's Standards for the Treatment of Historic Properties and the character of its surroundings, including the Dayton National Historic Landmark District, and shall seek input from the SHPO and NPS on the proposed design.
- B. As the design moves forward, Dayton VAMC and the Foundation will provide the SHPO, ACHP and the NPS with the opportunity to comment on the design and landscape plans for the new building as they progress, both at a design development phase, and final review. Dayton VAMC will incorporate an evaluation and recommendations for retention and repair for the stone wall to the north of the site into the site prep design OR the design of the Fisher House. The tree in the path of the stone wall will remain in place. Dayton VAMC and FHF will ensure in coordination with construction contractors that steps are taken to protect the tree and its root system during demolition and construction activity.
- C. The VAMC and Foundation will provide elevations, site plans, and design narrative to the SHPO, ACHP and the NPS for a 30-day review and advisory comment period.
- D. Dayton VAMC and the Foundation will provide any responses to comments received during the 30-day review period and will, as appropriate, provide copies of any elevations/site plans that are significantly revised to the consulting parties. If requested, a meeting will be held between the consulting parties.

III. Public Interpretation

- A. Dayton VAMC will develop a plan for interpreting the history of either or both of the buildings (220 and 221) to be demolished. This plan will be coordinated with the SHPO, NPS and ACHP. This proposed interpretation plan may include but is not limited to public display (either in the Fisher House or another public building on the Dayton VAMC campus) of framed photos of the demolished building(s); historical markers near the site of the demolished building(s), etc.
- B. Dayton VAMC will provide a framework of the plan to SHPO, NPS and ACHP within 3 months of the execution of this MOA. The plan is to be implemented within one year of the completion of the Fisher House.

IV. Historic American Buildings Survey (HABS) Documentation

- A. Prior to authorizing any demolition or other activity that could damage any building or structure, the VAMC will ensure that Buildings 220 and 221, are documented in accordance with the standards and guidelines of the HABS for Level II Documentation. (www.nps.gov/hdp/standards/index.htm)
- B. The VAMC will provide NPS a copy of the Draft HABS-II documentation for review and comment. The VAMC will submit Final HABS-II documentation to the NPS in accordance with requirements in the Secretary of the Interior's Guidelines for Architectural and Engineering Documentation (Federal Register, Vol. 68, No. 139, pp. 43159-43162, July 21, 2003). Once completed and accepted, the documentation will be placed in the HABS Collection at the Library of Congress where it will be available to the public.

V. Landscaping

- A. Dayton VAMC will explore landscaping enhancements at the Grotto as mitigation for the demolished and/or relocation of Buildings 220 and 221. A plan for the enhancements will be communicated to SHPO and NPS within 3 months of the execution of this MOA.

VI. Site Work Monitoring

- A. The Dayton VAMC will retain the services of an archeologist to monitor ground disturbing activity in the area of any building demolition. The archeologist will observe the work and have access to the site to document and record any materials found. Any artifacts noted will be removed from the site by the archeologist, documented, and be provided to the Dayton VAMC Archivist.
- B. In the event that a previously unidentified historic property or unanticipated effects are found during project implementation, the VAMC will handle discoveries in accordance with 36 CFR Section 800.13(b) of the ACHP regulations and any VA Policies and Directives.

VII. Future Project Plan

- A. The Dayton VAMC will schedule a meeting to include SHPO, NPS, and the City of Dayton Landmarks Commission/Department of Planning and Community Development for the purpose of presenting the Dayton Master Plan, and have a discussion regarding potential effects of planned projects on historic properties. This meeting will be scheduled to occur not later than October 31, 2018.

VIII. Dispute Resolution

- A. Should any party to this MOA object in writing to Dayton VAMC regarding any action carried out or proposed with respect to any of the Undertaking, or to implementation of this MOA, Dayton VAMC will consult with the objecting party to resolve the objection.
- B. If, after initiating such consultation, Dayton VAMC determines that the objection cannot be resolved through consultation, Dayton VAMC will forward all documentation relevant to the objection to the ACHP, including Dayton VAMC's proposed response to the objection.
- C. Within 30 days of receipt of adequate documentation, the ACHP will exercise one of

the following options:

1. Advise Dayton VAMC that the ACHP concurs in Dayton VAMC 's proposed response to the objection, whereupon Dayton VAMC will respond to the objection accordingly; or
 2. Provide Dayton VAMC with its advice on the resolution of the objection, which Dayton VAMC will take into account in reaching a final decision regarding its response to the objection; or
 3. Notify Dayton VAMC that the objection will be referred for comment pursuant to 36 CFR 800.7(a)(4), and proceed to refer the objection and comment. Dayton VAMC will take the resulting comment into account in accordance with 36 CFR 800.7(c)(4) and Section 110(l) of NHPA.
- D. Should the ACHP not exercise one of the above options within 30 days after receipt of adequate documentation, Dayton VAMC may assume the ACHP's concurrence in its proposed response to the objection.
- E. Dayton VAMC will take into account any ACHP recommendation or comment provided in accordance with this stipulation with reference only to the subject of the objection; Dayton VAMC 's responsibility to carry out all actions under this MOA that are not the subject of the objection will remain unchanged.
- F. Prior to reaching such a final decision, Dayton VAMC shall prepare a written response that takes into account any timely comments regarding the dispute from the ACHP, other signatories, and concurring parties to the MOA, and provide them with a copy of this written response.
- G. At any time during implementation of the measures stipulated in this MOA, should an objection pertaining to this MOA or the effect of the undertakings on historic properties be raised by a member of the public, Dayton VAMC will notify the parties to this MOA and take the objection into account, consulting with the objector and, should the objector so request, with any of the parties to this MOA to resolve the objection.

IX. Duration, Amendment, and Termination

A. If the terms of this MOA have not been implemented by December 31, 2018, this MOA will be considered null and void. In such event Dayton VAMC will so notify the parties to this MOA, and if it chooses to continue with the Site Prep, will re-initiate review in accordance with 36 CFR Part 800.

B. 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.

C. 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 signatories 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.

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

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

AGREED:

By: _____



DIRECTOR, U.S. DEPARTMENT OF VETERANS
AFFAIRS MEDICAL CENTER, DAYTON, OHIO

Date: 08/26/2016

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DAYTON MEDICAL CENTER,
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OHIO STATE HISTORIC PRESERVATION OFFICER, FISHER HOUSE FOUNDATION
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
FOR
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AT THE VA MEDICAL CENTER, DAYTON, OHIO

AGREED:

By: 
NATIONAL PARK SERVICE

Date: 8/31/2016

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AGREED:

By: 

Date: 8/30/16

OHIO STATE HISTORIC PRESERVATION OFFICER

Deputy State Historic Preservation Officer

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AGREED:

By: 

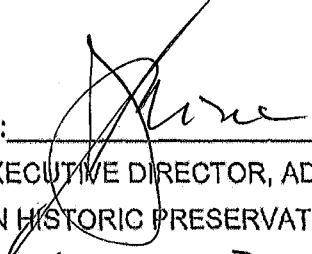
FISHER HOUSE FOUNDATION

DAVID A. COKER
PRESIDENT

Date: 8/31/16

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AGREED:

By: 
EXECUTIVE DIRECTOR, ADVISORY COUNCIL
ON HISTORIC PRESERVATION
(RONALD D. ANZALONE, ACTG.)

Date: 9/1/2016

