

MEMORANDUM OF AGREEMENT  
AMONG THE RALPH H. JOHNSON U.S. DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER,  
THE SOUTH CAROLINA STATE HISTORIC PRESERVATION OFFICER,  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,  
THE FISHER HOUSE FOUNDATION, and  
THE NATIONAL PARK SERVICE REGARDING CONSTRUCTION OF A FISHER HOUSE  
IN CHARLESTON, SOUTH CAROLINA

WHEREAS, the U.S. Department of Veterans Affairs (VA) proposes to cooperate with the Fisher House Foundation (Foundation) to construct a Fisher House housing facility at 150 Wentworth Street in Charleston, SC for use by families visiting veterans undergoing treatment at the Ralph H. Johnson VA Medical Center (VAMC); and

WHEREAS, VA will acquire the property at 150 Wentworth (See Attachment 1), and the Foundation will construct the Fisher House there in accordance with plans and specifications developed in consultation with the VAMC; and

WHEREAS, the VAMC has determined that its acceptance of the property at 150 Wentworth Street for use as the site of a Fisher House and its participation in planning the Fisher House comprise an undertaking requiring review under Section 106 of the National Historic Preservation Act (NHPA), and has determined the undertaking's area of potential effects (APE) to be the property to be transferred to VA and the streets surrounding it; and

WHEREAS, the VAMC has determined that this undertaking will have adverse effects on the Charleston Historic District (Aka Charleston Old and Historic District), a property listed in the National Register of Historic Places (NRHP) and recognized by the Secretary of the Interior as a National Historic Landmark (NHL), on the former McAlister Funeral Home, a property regarded as eligible for the NRHP, on a small wood frame building and a perimeter brick wall that contribute to the character of the Charleston Historic District, and possibly on archaeological sites eligible for the NRHP; and

WHEREAS, the specific buildings, structures, sites, and district subject to effect are detailed in the report entitled *Initial Cultural Resource Impact Prediction for Two Acres Located at 150 Wentworth Street, Charleston, South Carolina*, by New South Associates, September 29, 2015 (New South Report); and

WHEREAS, the VAMC and the Foundation have consulted with the South Carolina 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 §800.6(a)(1), the VAMC has invited the Advisory Council on Historic Preservation (ACHP) to participate in consultation, and the ACHP has participated; and

WHEREAS, pursuant to 36 CFR §800.10 (c), the VAMC has notified the Secretary of the Interior through the National Park Service (NPS) and invited the NPS to participate in consultation and the NPS has participated; and

WHEREAS, the VAMC has invited the City of Charleston (City), the Historic Charleston Foundation (Historic Charleston), the Preservation Society of Charleston (Society), the South Carolina Institute of Archaeology and Anthropology (SCIAA), the Council of South Carolina Professional Archaeologists (COSCAPA), the Charleston Museum, the Wassamasaw Indian Nation, the Wassamasaw Tribe of Varnerville Indians and the Harleston Village Neighborhood Association (Harleston) to participate in consultation, and all but the Charleston Museum, Wassamasaw Indian Nation and Wassamasaw Tribe of Varnerville Indians have elected to do so; and

WHEREAS, the VAMC has invited the Catawba Indian Nation (Tribe) to participate in consultation, and it wishes to be notified if Native American artifacts or human remains are located during ground disturbance; and

WHEREAS, the VAMC, the Foundation, the SHPO, the ACHP, the NPS, the City, Historic Charleston, the Society, Harleston, SCIAA, and COSCAPA have consulted to resolve the undertaking's adverse effects; and

WHEREAS, the VAMC and Foundation have considered comments from the consulting parties and substantially redesigned the proposed Fisher House to minimize adverse effects to the Charleston Historic District;

NOW, THEREFORE, the VAMC, SHPO, ACHP, Foundation and NPS agree that the undertaking will be carried out in accordance with the following stipulations, in order to take into account its effects on historic properties.

## STIPULATIONS

### **I. Architectural Documentation**

- a. Prior to authorizing any demolition or other activity that could damage any building or structure, the VAMC will ensure that the brick building at 150 Wentworth Street, that formerly housed the McAlister Funeral Home designed by architect Augustus Constantine, and the frame building and perimeter brick wall associated with the property's use during the 19<sup>th</sup> century, are documented in accordance with the standards and guidelines of the Historic American Buildings Survey (HABS) for Level II Documentation ([www.nps.gov/hdp/standards/index.htm](http://www.nps.gov/hdp/standards/index.htm) and [www.nps.gov/hdp/standards/habsguidelines.htm](http://www.nps.gov/hdp/standards/habsguidelines.htm)). Unless otherwise agreed to by the NPS, the ACHP, the SHPO, and the Foundation, the VAMC will ensure that all documentation is completed and accepted by the NPS prior to demolition.
- 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.

- c. The SHPO, the City, the Society, Harleston, Historic Charleston, and the Charleston Museum will also receive a copy of the documentation for their files. However, should any of these parties advise the VAMC that it does not wish to receive all or part of the documentation, the VAMC will not provide it. The VAMC will ensure that documentation is provided in hard and/or digital form, consistent with the expressed preference of each receiving entity.
- d. Documentation will include, but is not limited to:
  - i. The written historical and descriptive data prepared in accordance with outline format guidelines containing:
    - 1. Summary background data on the work of architect Augustus Constantine, with an index to more detailed data published or on file elsewhere
    - 2. Summary background data on the frame building and perimeter wall, including their relationships to the Charleston Historic District
  - ii. A site plan
  - iii. Reproduction of select existing drawings, if available, preferably on vellum.
  - iv. Photographic reproductions of select historical views.
  - v. Large-format (4" x 5" or larger negative size) photographs processed for archival permanence in accordance with HABS photographic specifications ([www.nps.gov/hdp/standards/photoguidelines.pdf](http://www.nps.gov/hdp/standards/photoguidelines.pdf)). Views will include:
    - 1. At least one exterior view that shows the resource in context.
    - 2. One photograph of each exterior façade of each building or 2 exterior oblique views that capture all facades.
    - 3. An interior view of each major space.
    - 4. Views of exterior and interior architectural detail unique to the resource.
    - 5. Views of both sides and the top of the perimeter wall.
  - vi. At least one color digital photograph of each resource and its setting. The digital format should meet the NPS NRHP's 75-year permanence standard and higher resolution digital files ([www.nps.gov/NR/PUBLICATIONS/bulletins/photopolicy/index.htm](http://www.nps.gov/NR/PUBLICATIONS/bulletins/photopolicy/index.htm)).
  - vii. Photo locations keyed to the site plan and included with the "Index to Photographs."

## **II. Demolition of the McAlister Funeral Home**

- a. The VAMC will ensure that in preparation for and during demolition of the brick building formerly housing the McAlister Funeral Home:
  - i. The adjacent frame building, the perimeter brick wall, and possible subsurface archaeological deposits are protected from damage, by including stipulations in the demolition contract carrying penalties for such damage, and by requiring the deployment of fencing and/or demolition monitoring personnel as VA judges to be necessary to enforce such stipulations; and

- ii. The SHPO and City are notified at least five (5) working days in advance of the demolition and given a reasonable opportunity to observe it.
- b. The VAMC will ensure that an archeologist is present to monitor ground disturbing activities prior to the start of building construction.

### **III. Preservation, Rehabilitation and Adaptive Use of the Frame Building and Perimeter Brick Wall**

- a. The VAMC will ensure that the frame building and perimeter brick wall are preserved, stabilized, and rehabilitated in accordance with the Secretary of the Interior's Standards and Guidelines for Rehabilitation ([www.nps.gov/tps/standards/rehabilitation/rehab/stand.htm](http://www.nps.gov/tps/standards/rehabilitation/rehab/stand.htm)).
- b. The VAMC and Foundation will consult with the City, SHPO, Historic Charleston, and Society to identify and implement appropriate adaptive uses for the frame shed, which may include but are not limited to administrative and interpretive functions.
- c. Any disagreements about adaptive use will be resolved following Stipulation VIII.

### **IV. Archaeological Testing and Data Recovery**

- a. The VAMC, working with the Foundation, will ensure an archeological testing program is designed in consultation with the SHPO and SCIAA prior to ground disturbance. It may include, but is not limited to, mechanized testing, test excavation by hand, and remote sensing.
- b. As soon as possible after removal of the brick building, the VAMC will ensure that the testing program is undertaken to ascertain whether archaeological data worth recovering may exist in the soil of the site.
- c. Based on the results of the testing, the VAMC will determine, in consultation with the SHPO and SCIAA, whether archaeological data recovery is necessary in order to comport with the requirements of the Archaeological and Historic Preservation Act ([www.nps.gov/archeology/tools/Laws/ahpa.htm](http://www.nps.gov/archeology/tools/Laws/ahpa.htm)), and/or will establish and implement a plan to address possible inadvertent discoveries.
- d. If data recovery is necessary, the VAMC will ensure that a data recovery plan and program consistent with the Secretary of the Interior's Standards for Archaeological Documentation ([www.nps.gov/history/local-law/arch\\_stnds\\_7.htm](http://www.nps.gov/history/local-law/arch_stnds_7.htm)) and the South Carolina Standards and Guidelines for Archaeological Investigations is developed and implemented.
- e. In planning and implementing any data recovery program, the VAMC will seek and address the interests, if any, of the Tribe and of other groups that may have interests in the program, including but not limited to the Wassamasaw Indian Nation and the Wassamasaw Tribe of Varnerville Indians.
- f. Any disagreements about testing or data recovery will be resolved following Stipulation VIII.

**V. Design of the Fisher House**

- a. The VAMC will ensure the Fisher House is designed and constructed in a manner that is compatible with the character of its surroundings, including the perimeter wall, frame building and Charleston Historic District.
- b. The VAMC and Foundation will provide elevations, site plans, and design narrative for a 30-day review and advisory comment period to:
  - i. The SHPO and NPS;
  - ii. The City Board of Architectural Review (BAR);
  - iii. The Harleston Village Neighborhood Association;
  - iv. Historic Charleston and the Society.
- c. VAMC and Foundation will provide a response to comments received during the 30-day review period and will, as appropriate, provide copies of any elevations/site plans that are revised to the consulting parties.

**VI. Interpretive Opportunities**

- a. The VAMC will assist the Foundation to ensure that a good selection of literature on Charleston history is included in the library cabinet in the new Fisher House;
- b. The VAMC will consult with the SHPO and other consulting parties to explore preparation of booklets, digital products or displays interpreting the history and prehistory of the site, depending on the results of the required architectural documentation and archaeological work.
- c. The VAMC, in cooperation with the SHPO, will apply for and install a state historical marker within one year of the opening of the Fisher House.
  - i. The SHPO will draft the text for the VAMC to approve and oversee any required reviews, such as by the Charleston Arts and History Commission. The VAMC will protect, maintain and replace if damaged beyond repair the state historical marker.

**VII. Professional Standards:**

- a. The VAMC will ensure that all work carried out pursuant to this Memorandum of Agreement (MOA) be done by or under the direct supervision of historic preservation professionals who meet the Secretary of the Interior's Professional Qualifications Standards. The VAMC will ensure that consultants retained for services pursuant to the MOA meet these standards. The qualification standards do not apply to individuals recognized by relevant Indian tribes to have expertise in identification, evaluation, assessment of effect, and treatment of effects to historic properties of religious and cultural significance to their tribes. The signatories to this MOA acknowledge that tribal representatives possess special expertise in assessing the eligibility of historic properties that may possess religious and cultural significance to their tribe.

**VIII. Resolving Objections**

- a. Should any party to this MOA object in writing to the VAMC regarding any action carried out or proposed with respect to any of the undertaking, or to implementation of this MOA, the VAMC will consult with the objecting party and such other parties as may be interested, to resolve the objection.
- b. If after initiating such consultation the VAMC determines that the objection cannot be resolved through consultation, it will forward all documentation relevant to the objection to the ACHP, including the VAMC's proposed response to the objection.
- c. Within 30 days after receipt of all pertinent documentation, the ACHP will exercise one of the following options:
  - i. Advise the VAMC that the ACHP concurs in the VAMC's proposed response to the objection, whereupon the VAMC will respond to the objection accordingly; or
  - ii. Provide the VAMC with recommendations, which the VAMC will take into account in reaching a final decision regarding its response to the objection; or
  - iii. Notify the 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. The 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 all pertinent documentation, the VAMC may assume the ACHP's concurrence in its proposed response to the objection.
- e. The 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; the VAMC's responsibility to carry out all actions under this MOA that are not the subjects of the objection will remain unchanged.
- f. At any time during implementation of the measures stipulated in this MOA, should an objection pertaining to this MOA or the effect of the undertaking on historic properties be raised by a member of the public, the 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. Reporting, Amendment and Termination**

- a. The VAMC will ensure that, on or before December 31<sup>st</sup>, 2017, and each year thereafter until all stipulations of this MOA have been satisfied:
  - i. A progress report touching on each stipulation is prepared and distributed to all parties to this MOA and made available to the public by posting on its website; and

- ii. The parties are given a reasonable opportunity to review the report and consider whether adjustments to this MOA, or its termination, are in order.
- b. This MOA will be considered null and void if its terms have not been implemented by December 31<sup>st</sup>, 2021. In such event the VAMC will so notify the parties to this MOA, and if it chooses to continue with the undertaking, will re-initiate review of the undertaking in accordance with 36 CFR Part 800.
- c. Any party to this MOA may propose to the VAMC that the MOA be amended, whereupon the VAMC will consult with the other parties to this MOA to consider such an amendment. 36 CFR 800.6(c)(1) will govern the execution of any such amendment.
- d. If the VAMC determines that it cannot implement the terms of this MOA, or if the SHPO or ACHP determines that the MOA is not being properly implemented, such party may propose this MOA be terminated.
- e. The party proposing to terminate this MOA will notify all parties to this MOA, explaining in writing the reasons for termination and affording them at least 30 days to consult and seek alternatives to termination. The parties will then consult.
- f. Should such consultation fail, the VAMC or other signatory party may terminate the MOA by notifying all parties in writing.
- g. Should this MOA be terminated, the VAMC will either:
  - i. Consult in accordance with 36 CFR 800.6 to develop a new MOA; or
  - ii. Request the comments of the ACHP pursuant to 36 CFR 800.7.

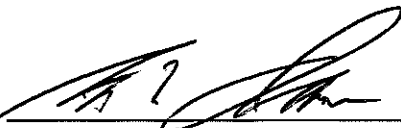
**X. Anti-Deficiency Act**

- a. This MOA is subject to the Anti-Deficiency Act (31 U.S.C. Section 1341). The VAMC's responsibilities under this MOA are contingent upon the availability of appropriated funds from which payment, if any, can be made. Should funds not be available to allow the VAMC to meet its responsibilities, VA will defer its final decision(s) on implementing the undertaking until it has re-initiated consultation and complied with 36 CFR §§ 800.4 through 800.7 as applicable.

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

**SIGNATURES FOLLOW ON NEXT PAGES**

**DEPARTMENT OF VETERANS AFFAIRS**

By:   
\_\_\_\_\_

Date: 9/16/16

Scott R. Isaacks, FACHE

Director

Ralph H. Johnson Department of Veterans Affairs Medical Center

U.S. Department of Veterans Affairs



**SOUTH CAROLINA STATE HISTORIC PRESERVATION OFFICER:**


By: 

W. Eric Emerson, PhD

Director/State Historic Preservation Officer

Date: 9-14-16

**NATIONAL PARK SERVICE:**

By:   
Stan Austin  
Regional Director, Southeast Region  
U.S. Department of the Interior, National Park Service

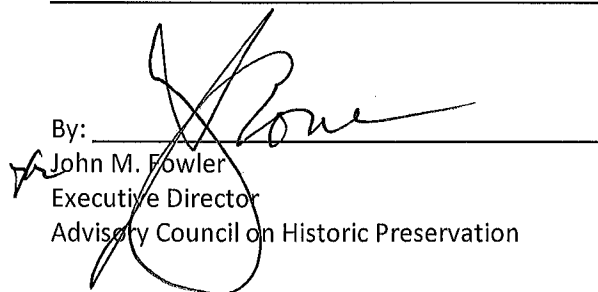
Date: 9/21/16

**FISHER HOUSE FOUNDATION:**

By:   
David A. Coker  
President  
Fisher House Foundation

Date: 9/12/16

**ADVISORY COUNCIL ON HISTORIC PRESERVATION:**

By:  \_\_\_\_\_  
John M. Fowler  
Executive Director  
Advisory Council on Historic Preservation

Date: 9/22/2016

**CONCUR: FISHER HOUSE CHARLESTON, LLC**

By: 


Robert A. Dolson

President

Fisher House Charleston, LLC

Date: 9/17/16

**CONCUR: CITY OF CHARLESTON**

By:   
John Tecklenburg  
Mayor  
City of Charleston, South Carolina


Date: 9-22-16

**CONCUR: HISTORIC CHARLESTON FOUNDATION**

By: Katharine S. Robinson  
Katharine S. Robinson  
President and CEO  
Historic Charleston Foundation

Date: 9/23/16

**CONCUR: PRESERVATION SOCIETY OF CHARLESTON**

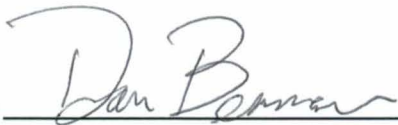
By:  Date: Sept. 23, 2018  
Kristopher King  
Executive Director  
Preservation Society of Charleston



**CONCUR: SOUTH CAROLINA INSTITUTE OF ARCHAEOLOGY AND ANTHROPOLOGY**

By: Jonathan M. Leader (for) Date: 26 Sept 2016  
Steven D. Smith  
Director  
South Carolina Institute of Archaeology and Anthropology

**CONCUR: HARLESTON VILLAGE NEIGHBORHOOD ASSOCIATION**

By:   
Dan Beaman  
President  
Harleston Village Neighborhood Association

Date: 9/23/16

**Attachment 1: Site Location Map**

Site Location Map: 150 Wentworth Street, Charleston, South Carolina