

**MEMORANDUM OF AGREEMENT
AMONG THE U.S. DEPARTMENT OF VETERANS AFFAIRS,
TEXAS HISTORICAL COMMISSION AND
ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING THE CLINICAL EXPANSION FOR MENTAL HEALTH & LONG
TERM SPINAL CORD INJURY PROJECTS AT THE VETERANS AFFAIRS
NORTH TEXAS HEALTH CARE SYSTEM, DALLAS, TEXAS**

WHEREAS the U.S. Department of Veterans Affairs North Texas Health Care System (VA) plans to construct the Clinical Expansion for Mental Health (CEMH) & Long Term Spinal Cord Injury (LTSCI) buildings (the Projects) for the Veterans Affairs North Texas Health Care System at Dallas, Texas, as described in the 'Clinical Expansion of Mental Health & Long Term Spinal Cord Injury Design Development Package' in Dallas, Texas, dated February 28, 2011, issued by Page Southerland Page, LLP; and

WHEREAS, VA has defined the Projects' Areas of Potential Effect 1 and 2 (APE1 and APE2) as defined in 36 C.F.R. part 800, of the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f) as shown in the *'Phase 1 Preservation Study: Clinical Expansion of Mental Health and Long Term Spinal Cord Injury Projects at the North Texas Health Care System, North Texas'* report, dated October 8, 2010; and

WHEREAS, the Managers Quarters (Building 5), Nurses Dormitory (Building 6) and Boiler House (Building 10), have been determined to be eligible for listing in the National Register of Historic Places, and

WHEREAS, the VA has determined that the projects will have an adverse effect on the Managers Quarters (Building 5), Nurses Dormitory (Building 6) and Boiler House (Building 10) buildings by requiring their demolition; and

WHEREAS, the VA has consulted with the Texas Historical Commission's Preservation Officer who acts as the State Historic Preservation Officer for the State of Texas (SHPO) pursuant to National Historic Preservation Act (NHPA) § 101(b)(1); and

WHEREAS, the VA has consulted with the City of Dallas and Preservation Dallas regarding the effects of these projects on historic properties and has invited them to sign this MOA as consulting parties; and

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

WHEREAS, there are no federal or State of Texas recognized Native American Tribal Organizations in North Texas, and no Native American tribes with ancestral ties to Dallas

County or this site were identified, no Native American Tribes were involved in this consultation; and

NOW, THEREFORE, the VA, the SHPO and the ACHP agree that the Projects shall be implemented in accordance with the following stipulations in order, to take account the effect of the Project on historic properties.

STIPULATIONS

The VA shall ensure that the following measures are carried out:

I. Mitigation

A. Documentation

Pursuant to Section 110(b) of the National Historic Preservation Act, the VA will document Buildings 5, 6 and 10 prior to their demolition, and provide this documentation to the SHPO and Dallas Public Library, VA Federal Preservation Officer and National Park Service (NPS). Documentation will comprise of Historic American Building Survey (HABS) level 2 documentation and include large-format, pre-demolition photography of all sides of these building and their interiors, written history and description of the buildings.

- a. The VA will provide SHPO an opportunity to review and comment on a comprehensive draft of the non-photographic portion of the documentation developed in accordance with Stipulation I.A, including copies of the documentation drawings.
- b. The VA will take the SHPO's comments into account in revising the documentation and will provide the SHPO an opportunity to review the revised documentation if the SHPO so requests. The VA will ensure that revised documentation is provided to the SHPO for review within 60 days of receiving the SHPO comments.
- c. Prior to any demolition activity at the Dallas VA Medical Center, the architectural photographic documentation required under Stipulation I.A must be completed and accepted by the SHPO as meeting the Secretary of the Interior's *Standards and Guidelines for Architectural and Engineering Documentation*.
 - i. The VA will provide photographic proofs to the SHPO for review of photographic quality and adequacy of views in portraying the character of the historic properties.
 - ii. The SHPO will provide written approval or recommendations for additional work on the architectural documentation photographs within 30 calendar days of receipt of the proofs. If the SHPO does not provide comments on the documentation photographs within 30 calendar days, the VA may consider the documentation photographs to have been accepted by the SHPO.
 - iii. After the SHPO has determined that the architectural documentation photographs meet the Secretary of the Interior's *Standards and*

Guidelines for Architectural and Engineering Documentation, the demolition of Building 5, Building 6, and Building 10 may proceed.

- iv. If the VA and SHPO are unable to reach consensus on the quality and quantity of architectural photographic documentation required to meet the *Standard for Architectural and Engineering Documentation* for this undertaking, the objection will be settled by the dispute resolution process of this MOA (Stipulation III).

B. Survey

The VA will conduct a 'windshield survey' of existing buildings at the VA site to identify buildings which may be eligible for listing in the National Register of Historic Places.

C. Nomination

Prepare a National Register nomination for the historic VA building (Building 1) and submit for listing in the National Register of Historic Places.

D. Building 1 Lobby Rehabilitation

Upon the completion of construction of the CEMH project and relocation of the CEMH staff and spaces within Building 1 to this completed CEMH project, the VA intends to remove the existing mechanical equipment currently located in the historic lobby of the Main building (Building 1) and utilize this historic lobby for administrative use. This work is anticipated to include the restoration of the historic finishes and materials within this historic lobby space.

This work is dependent upon:

- a. the receipt of funding for the construction of the CEMH project, and
- b. the receipt of adequate funding for this associated work in Building 1, and
- c. the relocation of staff from this historic lobby to the CEMH project.
- d. The VA will provide SHPO an opportunity to review and comment on the construction documents for the historic lobby space rehabilitation under the Secretary of the Interior's Standards for Rehabilitation.
- e. The SHPO will provide written approval or recommendations for alterations to the construction documents to the VA within 30 calendar days of receipt of the construction documents.
- f. The VA will take the SHPO's comments into account in revising the construction documents and will provide the SHPO an opportunity to review the revised construction documents if the SHPO so requests. The VA will ensure that the revised construction documents are provided to the SHPO for review within 90 days of receiving the SHPO comments.
- g. Once the SHPO has determined that the proposed rehabilitation of the historic lobby space meets the Secretary of the Interior's Standards for Rehabilitation and provides their written determination to the VA, the rehabilitation of the historic lobby space may proceed.
- h. If the VA and SHPO are unable to reach consensus on the appropriateness of the proposed rehabilitation work, the objection will be settled by the dispute resolution process of this MOA (Stipulation III).

- i. This work shall commence within ten (10) years from the date of execution of the Memorandum of Agreement.

E. Public Information

The VA will provide and install two (2) Subject Markers through THC's Marker Program. One marker shall be provided to document the history of Building 1, and a second to document the history of the original residential and service areas at the site. The VA will ensure that completed State of Texas Historical Marker Applications for these two proposed markers are submitted to the Dallas County Historical Commission (CHC) and that any CHC concerns or questions regarding the submitted documentation are resolved by VA to allow the CHC to forward the completed application to the Texas Historical Commission (SHPO). The VA will further ensure that if the marker application is approved by the SHPO, the marker will be acquired by the VA and erected on the Project site by the expiration date of this MOA.

II. Monitoring and Reporting

Each year following the execution of this MOA until it expires or is terminated, VA 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 VA's efforts to carry out the terms of this MOA. This summary report shall be issued on or before December 1 of each year, beginning December 1, 2013.

III. Dispute Resolution

- A. If any Consulting Party objects in writing with regard to the implementation of stipulations of this MOA, the VA will consult with the objecting party (ies) within 30 days of receipt of the objection. The VA will attempt to resolve the objection through consultation with the objecting party (ies), and, as necessary, other parties to this MOA
- B. *If resolution is obtained*, the VA will so notify all consulting parties, and absent timely objection, implement this MOA in accordance with the terms of the resolution.
- C. *If resolution is not reached*, the VA will forward all documentation relevant to the objection to the ACHP and request ACHP's assistance in accordance with C.F.R. §800.2 (b) (2). The ACHP shall provide VA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Any advisory comments provided by the ACHP and all comments from consulting parties will be taken into account by the VA in making its final decision regarding the objection.

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

- D. VA will provide a copy of its final decision regarding the objection to all signatories and consulting parties within 30 days of making the decision.
- E. VA'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.

IV. Amendments

- A. If any signatory to this MOA believes that an amendment is necessary, that party will inform the other consulting parties in writing and state the reason for the proposed amendment. The VA will consult with the consulting parties to determine the need and nature of the amendment and if it is warranted. Amendments will be developed in accordance with 36 CFR §800.6 (c) (7).
- B. If an amendment cannot be agreed upon, the dispute resolution process in Stipulation VII will be followed

V. Termination

- A. If the VA cannot implement the terms of this MOA, or the SHPO or the ACHP determines the MOA is not being properly implemented, any of these signatories may propose that the MOA be terminated. The signatory proposing termination will notify in writing all other consulting parties to this MOA and explain the reason(s) for the proposed termination. Within 15 working days, all parties will consult to seek an alternative to termination.
- B. Should such consultation fail, the VA, the SHPO or the ACHP may terminate this MOA by notifying the other consulting parties.
- C. If the MOA is terminated, the VA will either consult in accordance with 36 CFR §800.6 to develop and execute a new MOA or request the comments of the ACHP pursuant to 36 CFR §800.7.

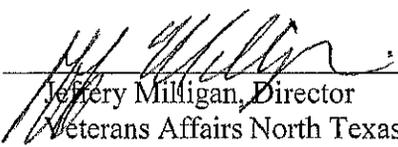
VI. Duration

- A. This MOA will expire if the undertakings have not commenced within five (5) years from the date of its execution unless the signatories agree in writing to an extension. Six (6) months prior to the date of such expiration, should it appear that the terms of this MOA will not be commenced by such date, the VA will consult with the other consulting parties and interested members of the public to determine the appropriate course of action in order to remain in compliance with Section 106 of the National Historic Preservation Act.

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

SIGNATORIES:

U.S. DEPARTMENT OF VETERANS AFFAIRS

By:  _____
Jeffery Milligan, Director
Veterans Affairs North Texas Health Care System
Dallas, Texas

Date: 12/18/12

SIGNATORIES:

TEXAS HISTORICAL COMMISSION

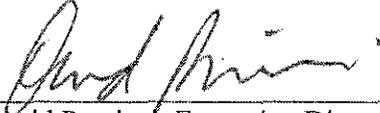
By: Mark Wolfe
Mark Wolfe, State Historic Preservation Officer

Date: 1/3/13

SIGNATORIES:

CONCUR:

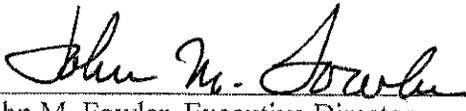
PRESERVATION DALLAS, DALLAS, TEXAS

By: 
David Preziosi, Executive Director

Date: 1/2/13

SIGNATORIES:

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: 
John M. Fowler, Executive Director

Date: 1/22/13