

**MEMORANDUM OF AGREEMENT**

**BETWEEN THE  
US DEPARTMENT OF VETERANS AFFAIRS**

**AND THE**

**WASHINGTON STATE HISTORIC PRESERVATION OFFICER**

**AND THE**

**ADVISORY COUNCIL ON HISTORIC PRESERVATION**

**REGARDING THE  
JONATHAN M. WAINWRIGHT VA MEMORIAL MEDICAL CENTER  
BUILDINGS 48 AND 49 RENOVATION PROJECT**

**WALLA WALLA, WASHINGTON**

**WHEREAS**, the US Department of Veterans Affairs (VA) proposes to renovate two historic Officers' Quarters (Buildings 48 and 49) and construct associated utility upgrades and a parking lot (Undertaking); and

**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) requires 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**, the purpose of this Memorandum of Agreement (MOA) is to ensure compliance with Section 106 of the NHPA, pursuant to 36 CFR § 800.6 (c); and

**WHEREAS**, VA, in consultation with the Washington State Historic Preservation Officer (SHPO), has established the Undertaking's Area of Potential Effect (APE), as defined by 36 CFR § 800.16 (d), to be:

Built environment of the Walla Walla Veterans Affairs Medical Center (VAMC) campus (parcel #360730130080) including approximately 2.5 acres of City of Walla Walla land located adjacent and to the south; and the archaeological APE as those areas to undergo new utility and parking lot construction ; and,

**WHEREAS**, VA, in consultation with SHPO, has determined that the Undertaking may have an adverse effect on two historic buildings (Buildings 48 and 49) listed as contributing resources to the Fort Walla Walla Historic District; and

**WHEREAS**, VA has initiated consultation with the SHPO pursuant to 36 C.F.R. part 800, regulations implementing Section 106 of NHPA, and has shared with SHPO numerous iterative design proposals and participated in numerous informal discussions regarding the Undertaking; and

**WHEREAS**, in accordance with 36 C.F.R. § 800.6(a)(1), VA has notified the 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**, VA identified the following tribes as having ancestral or traditional interests in the area and has invited them to be concurring parties to the MOA:

- Colville Confederated Tribes
- Confederated Tribes of the Umatilla Indian Reservation
- Confederated Tribes and Bands of the Yakama Indian Nation
- Nez Perce Tribe
- Wanapum Tribe; and

**WHEREAS**, VA has consulted with the affected tribes and invited the tribes to articulate their views on the Undertaking and resolution of Adverse Effects; and

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**WHEREAS**, VA has consulted with the City of Walla Walla and the Fort Walla Walla Museum regarding the effects of the undertaking on historic properties and has invited them to be Consulting Parties; and

**NOW, THEREFORE**, VA, SHPO, ACHP, and the concurring tribes 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

VA shall ensure that the following measures and stipulations are carried out.

### I. Changes in the Area of Potential Effect (APE)

It is anticipated that all construction activities will be restricted within the APE as defined in Notice of Undertaking (dated 12/21/10). If, however, during the course of project planning or construction, a need arises to make changes to construction areas or ancillary areas that expand or alter the APE, including any use of or negative impact to the parade grounds, VA shall take the following steps:

- A. Notify SHPO and Consulting Parties of the change and define the new APE, in consultation with SHPO and Consulting Parties.
- B. Require that the new APE is inventoried and evaluated in a manner consistent with 36 CFR § 800.4. A research design for the inventory, documentation, and analysis of the new APE will be developed in consultation with SHPO, tribes, and other Consulting Parties.
- C. Prepare inventory reports consistent with SHPO guidelines and distribute to SHPO and Consulting Parties for review and comment within 30 calendar days of completion of fieldwork conducted under Subsection B.
- D. Evaluate historic significance and determine NRHP eligibility of newly discovered historic properties or sites consistent with 36 CFR § 800.5, in consultation with SHPO and Consulting Parties. VA, in consultation with SHPO and Consulting Parties, shall then apply the Criteria of Adverse Effect in a manner consistent with 36 CFR Part 800.5 and seek SHPO and Consulting Parties' concurrence.
- E. If VA, SHPO, and/or Consulting Parties do not agree on NRHP-eligibility of any properties or sites within the new APE, VA will obtain a formal Determination of Eligibility from the Secretary of the Interior pursuant to 36 CFR § 63.
- F. If NRHP-eligible archaeological resources will be adversely affected, VA will prepare a Supplemental Treatment Plan in consultation with SHPO, affected tribes, and other Consulting Parties.

## **II. Professional Qualifications**

VA will ensure that all historic preservation and archaeological resources work performed by or on behalf of the agency pursuant to this agreement, shall be accomplished by or under the direct supervision of persons who meet or exceed the pertinent qualifications standard for the relevant discipline set out in the Secretary of the Interior's *Professional Qualifications Standards* (48 FR 44738-44739).

## **III. Archaeological Resources**

### **A. Results of Recent Investigations**

Recent archaeological investigations (Hetzel 2010, Roberts 2011) in the immediate vicinity of Buildings 48 and 49, including areas that are likely to undergo ground-disturbing construction activities, has determined that historic artifacts are present throughout the area. However, the historic cultural material is limited to a minimal quantity of artifacts occurring in a distribution consistent with a depositional pattern observed throughout the Historic District. Hence, the VA has determined that archaeological testing has recovered data sufficient to document the archaeological component associated with Buildings 48 and 49. Intact architectural elements have been observed only in direct association with *in situ* foundations of the standing buildings. Therefore, VA has determined that adverse effects to archaeological resources likely to occur through renovations and construction of parking lot and buried infrastructure have been sufficiently mitigated through the recovery and documentation of archaeological cultural materials.

### **B. Archaeological Resource Monitoring Plan And Cultural Materials Discovery Protocol**

Archaeological monitoring of ground-disturbing activities will be undertaken during construction and will follow guidance developed in Attachments C, D and E of an MOA (dated 12/16/10) for the nearby *New Multi-Specialty Care Outpatient Clinic, Residential Recovery Unit, Specialty Care Unit Building and Associated Infrastructure Project*. Attachment C is a Curation Agreement, Attachment D is a Resource Monitoring Plan and Cultural Resource Discovery Protocol, and Attachment E is a Human Remains Discovery Protocol.

## **IV. Renovation Design Goals and Review Protocol**

Designs for renovation of Buildings 48 and 49 shall strive to meet as closely as feasible the Secretary of the Interior's Standards for Rehabilitation (Standards), and avoid as much as possible adverse effects to the buildings' character defining features. VA shall afford the

SHPO and other interested consulting parties the opportunity to review and comment on project drawings at appropriate intervals as the project moves toward the construction phase. During the construction phase, VA shall continue to contact SHPO when questions or unforeseen circumstances arise as to appropriate treatment of character-defining features.

## **V. Planning, Architectural Design and Treatment Measures for Future Renovations**

The following stipulations set forth a VA commitment to prepare a report that addresses planning processes, design considerations, and treatment measures in anticipation of possible future renovations of standing historic Officers' Quarters 1, 2, 3, 4, and 5 (Quarters). All of these buildings are listed as contributing resources to the Fort Walla Walla Historic District and are presently unoccupied on account of structural and environmental deficiencies. For future planning purposes, VAMC is in need of a document that compiles the current regulatory, architectural, and financial challenges and provides guidance and alternative approaches to adaptive reuse and historic preservation of the Quarters. Document preparation specifically discussing future renovations of the Quarters are part of a broader study of the historic built environment with over-arching goals and guidelines to be prepared as part of a campus-wide Historic Preservation Plan to be undertaken within the next calendar year.

### **A. Historic Preservation Goals and Design Guidelines Preparation**

Following Department of Veterans Affairs *Barrier Free Design Guide* (PG-18-13) and Secretary of the Interior's *Standards for the Treatment of Historic Properties* (36 CFR Part 68), VA will prepare a document that identifies and discusses building design requirements and historic preservation design goals for renovations of Quarters. This document, hereinafter referred to as Guidelines, will identify tasks to facilitate the assessment and documentation of character-defining historic architectural and cultural landscape elements of the Quarters. VA will provide a range of solutions and appropriate techniques to maximize compatibility between the preservation of contributing elements of the historic built environment and facilitation of VA building and functional requirements. The Guidelines will be integrated into a campus-wide Historic Preservation Plan.

### **B. Design Review of Renovations for Quarters**

VA will facilitate iterative discussions between the VA's contractor, VA preservation architect, SHPO, ACHP (if they so desire), and interested Consulting Parties to coordinate appropriate design aesthetics for building renovations, site layout, and landscape elements based on Guidelines. Opportunities may include conference calls, web-based exchanges, and mailings. Facilitation of design input consultation will be

arranged within four weeks of Notice of Undertaking for future renovation of Quarters.

**C. Preparation of Feasibility Study for Quarters**

VA will prepare a feasibility study that will articulate VA's goals and policies for long term preservation, adaptive reuse and management of the Quarters. Elements of the study will include current conditions, potential new uses for the buildings, integration with other VA programs, development of interpretation plan, cost estimates, and funding/financial plan. The report will include a discussion of potential partnerships and/or lease arrangements with public, private and non-profit organizations. The report will be developed in consultation with the signatory parties, affected tribes, and a broad base of interested stakeholders. The document will be prepared within two years of signing of MOA and will be integrated into the campus Historic Preservation Plan.

**VI. Dispute Resolution**

A. Unless otherwise specified in this Agreement, should any Signatory to this Agreement object in writing within 30 days to any plans, specifications, actions, or findings proposed pursuant to this Agreement, VA shall consult with the objecting party to resolve the objection. Upon receiving the written objection(s):

1. VA will notify any non-objecting Signatories as to the nature of the dispute.
2. VA will attempt to informally resolve the objection.
3. In the event that informal attempts are unsuccessful, VA will invite the objecting party to a reconciliation meeting for the purpose of discussing and resolving the objection. VA shall issue such invitation no later than ten (10) working days after receipt of the written objection and shall schedule a meeting to be held within fifteen (15) working days following receipt of the invitation unless the parties mutually agree to a later scheduling of the meeting. The time frames specified herein may be expedited by mutual written agreement.

B. Should the Colville Confederated Tribe, Confederated Tribes of the Umatilla Indian Reservation, Wanapum Tribe, Confederated Tribes and Bands of the Yakama, and/or Nez Perce Tribe object to any proposed plan, curation procedure, handling of Native American human remains, the resolution of adverse impacts or sufficiency of proposed mitigation measures, VA shall consult with the Tribal Governments to seek to resolve the objection under Stipulation VI (A).

C. If VA determines that an objection cannot be resolved through Stipulation VI (A), VA shall forward all documentation relevant to the dispute to the ACHP. Within 15 days of receipt of all

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documentation, the ACHP shall either:

1. Provide VA with recommendations, which VA shall take into consideration in reaching a final decision regarding the dispute, or
2. Notify VA that it will comment within 45 days in accordance with 36 CFR § 800.7(c)(2). Any Council comment provided in response to such a request will be taken into account by VA in accordance with 36 CFR § 800.7(c)(4) with reference to the subject of the dispute.

Any recommendation or comment provided by the ACHP will be understood to pertain only to the subject of the dispute; VA's responsibilities to carry out all actions under this Agreement that are not the subject of the dispute will remain unchanged.

#### **VII. Amendment**

Any Signatory to this Agreement may request that it be amended, whereupon the parties will consult to consider such amendment. Any request to amend this Agreement shall be mailed to each signatory and concurring party at least 60 days in advance of any proposed consultation date.

#### **VIII. Termination**

Any Signatory to this Agreement may terminate it by providing 60 days written notice to the other parties, provided that the signatories will consult during this 60-day waiting period to seek agreement on amendments or other actions that would avoid termination. In the event of termination, VA 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.

#### **IX. Scope of Agreement**

This Agreement is limited in scope to the Undertaking and is entered into solely for that purpose. Nothing in this Agreement is intended or shall be construed to diminish or affect in any way the right of the Tribes to take any lawful action to protect Native American graves from disturbance or desecration, to protect archaeological sites from damage, or to protect the Tribes' rights under cemetery and Native American graves protection laws, or other applicable laws.

Additionally, this Agreement does not create any right or benefit, substantive or procedural, enforceable by law or equity, by persons who are not a party to this Agreement, against the SHPO, or VA, their officers, or employees, any Consulting Party, or any other person not a signatory to this Agreement.



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**X. Effective End Date**

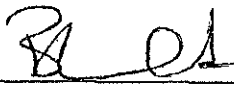
This Agreement will continue in full force and effect until January 1, 2014. At any time in the 6-month period prior to this date, VA may request in writing that the signatories review the Undertaking and consider an extension or modification of this Agreement. No extension or modification will be effective unless all signatories to the Agreement have agreed to it in writing.


**XI. Satisfaction of Section 106 Responsibilities**

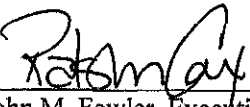
Execution of this Agreement by the signatories and implementation of its terms evidence that VA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

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**SIGNATORIES:**

By:  Date: 8/24/11  
Brian Westfield  
Director, VA Medical Center Walla Walla

By:  Date: 9/13/11  
Allyson Brooks  
Washington State Historic Preservation Officer

By:  Date: 9/28/11  
*Fowler* John M. Fowler, Executive Director  
Advisory Council on Historic Preservation

**CONCURRING PARTIES:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Elwood Patawa, Chair, Board of Trustees  
Confederated Tribes of the Umatilla Indian Reservation

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Guy Moura, Tribal Historic Preservation Officer  
Colville Confederated Tribes

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Kate Valdez, Tribal Historic Preservation Officer  
Confederated Tribes and Bands of the Yakama Indian Nation

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Brooklyn Baptiste, Chairman  
Nez Perce Tribe

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Rex Buck  
Wanapum Tribe