

MEMORANDUM OF AGREEMENT

**AMONG THE
WALLA WALLA VETERANS AFFAIRS MEDICAL CENTER**

AND THE

**WASHINGTON DEPARTMENT OF ARCHAEOLOGY AND HISTORIC
PRESERVATION**

AND THE

ADVISORY COUNCIL ON HISTORIC PRESERVATION

AND THE

CONFEDERATED TRIBES OF THE UMATILLA INDIAN RESERVATION

**REGARDING THE
JONATHAN M. WAINWRIGHT VA MEMORIAL MEDICAL CENTER
SPECIALTY CARE CLINIC AND POTABLE WATER LINE UPGRADE PROJECT**

WHEREAS, under the original Memorandum Of Agreement (MOA) dated 16 December 2010 (2010 MOA) found in Attachment F of this document, the **US Department of Veterans Affairs, Veterans Health Administration, Jonathan M. Wainwright Veterans Affairs Memorial Medical Center (Walla Walla VAMC)** proposed to construct three patient care buildings and associated campus realignment utility; and,

WHEREAS, the 2010 MOA expired on January 01, 2014 with Walla Walla VAMC having completed construction of only two of the three proposed buildings and all but the secondary phase of the proposed potable water line upgrade of the associated realignment utility upgrades; and

WHEREAS, Walla Walla VAMC herein sets forth to execute a new MOA which will address the remainder of the construction items and potable water line upgrade that were not completed prior to expiration of the 2010 MOA consisting of the Specialty Care Clinic (SCC) patient care building and associated parking lot, and completion of the secondary phase of the potable water line upgrade as described in Attachment A (Undertaking); and,

WHEREAS, this new MOA will also address the remaining unfinished mitigation measures as presented in the 2010 MOA; and,

WHEREAS, Walla Walla VAMC included specific resource protection protocols in the 2010 MOA intended to avoid, minimize, and/or mitigate damage to archaeological sites 45WW304, 45WW305, 45WW330, and 45WW331; and

WHEREAS, during construction for underground utilities and two of the now completed buildings under the 2010 MOA, archaeological sites 45WW304, 45WW305, 45WW330, and 45WW331 were damaged; and

WHEREAS, archaeological site testing was performed on sites 45WW330 and 45WW331, and both sites were deemed individually eligible to be listed to the NRHP; and

WHEREAS, the data recovery protocol set forth in the 2010 MOA, stating specifically that if sites 45WW330 and 45WW331 were found individually eligible both would be data recovered, was not followed; and

WHEREAS, archaeological sites 45WW330 and 45WW331 were damaged during construction of the RRU and the OPC and what is left of both sites is now underneath the footprint of both new buildings; and,

WHEREAS, archaeological site 45WW304 was damaged as a result of a change in the route to

the Phase I 12kV upgrade line; and

WHEREAS, archaeological site 45WW305 was damaged during the installation of the upgrade to the sewer line; and,

WHEREAS, this new MOA addresses how the damage will be assessed and documented for archaeological sites 45WW304, 45WW305, 45WW330, and 45WW331; and

WHEREAS, Walla Walla VAMC will develop a site treatment and management plan for future protection and mitigation of all archaeological sites on campus, to include 45WW304 and 45WW305; and

WHEREAS, archaeological sites 45WW330 and 45WW331 are situated underneath existing buildings, mitigation measures for future care and protection of these sites would not be necessary as what is left of them is already protected by the existing structures; 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, Walla Walla VAMC, in consultation with the Washington State Department of Archaeology and Historic Preservation (DAHP), has established the Undertaking's Area of Potential Effect (APE), as defined by 36 CFR § 800.16 (d), to be:

- an empty lot in which the SCC will be constructed and situated on the western end of campus, bordered on the west by fenced property owned by the City of Walla Walla Parks and Recreation, on the east by Building 74, on the south by the parking lot to the Outpatient Clinic (Building 143), and on the north by the Walla Walla VAMC church (Building T-7) (Attachment A);
- the linear trench locations for Phase II of the potable water system upgrades consist of 14,500 feet as described in Attachment A and shown on the APE map; and,

WHEREAS, Walla Walla VAMC, as a part of the 2010 MOA, consulted with DAHP and determined that the original Undertaking, including the SCC and potable water line upgrade,

could have an adverse effect on archeological sites, historic buildings listed as contributing resources to the Fort Walla Walla Historic District, and additional historic resources eligible for listing in the National Register of Historic Places (see Hetzel et al. 2010); and

WHEREAS, Walla Walla VAMC has initiated consultation with the DAHP pursuant to 36 C.F.R. part 800, regulations implementing Section 106 of NHPA (16 U.S.C., § 470f); and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1) and with the 2010 MOA, Walla Walla VAMC 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, the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) were a signatory on the 2010 MOA and are invited to remain a signatory to this MOA; and

WHEREAS, Walla Walla VAMC identified the following additional tribes as having ancestral or traditional interests in the area and has invited them to be concurring parties to the MOA:

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

WHEREAS, Walla Walla VAMC has re-initiated consultation with the affected tribes and invited the tribes to articulate their views on the Undertaking and resolution of Adverse Effects; and

WHEREAS, Walla Walla VAMC has re-initiated consultation 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

WHEREAS, for the purposes of this MOA the term "Consulting Parties" refers to the Signatories (DAHP, ACHP, and CTUIR) and other interested parties named in this document (the listed tribes with ancestral or traditional interests, the City of Walla Walla, and the Fort Walla Walla Museum); and

WHEREAS, to fulfill requirements of 36 C.F.R. 800.6(a)(4) and 36 C.F.R. 800.11(f), Walla Walla VAMC solicited public involvement by a public announcement via an Internet posting at: <http://www.wallawalla.va.gov/>; and

WHEREAS, the public comment period ran from 4/12/2016 to 5/12/2016; and

NOW, THEREFORE, Walla Walla VAMC, DAHP, ACHP, CTUIR, and the concurring parties 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

Walla Walla VAMC 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 Attachment A. 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, Walla Walla VAMC shall take the following steps:

- A. Notify DAHP and Consulting Parties of the change and define the new APE, in consultation with DAHP 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 DAHP, tribes, and other Consulting Parties. No work will be conducted in the new APE until the effects in that area have been assessed and resolved.
- C. Prepare inventory reports consistent with DAHP guidelines and distribute to DAHP and Consulting Parties as appropriate 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 DAHP and Consulting Parties. Walla Walla VAMC, in consultation with DAHP and Consulting Parties, shall then apply the Criteria of Adverse Effect in a manner consistent with 36 CFR Part 800.5 and seek DAHP and Consulting Parties' concurrence.
- E. If VA, DAHP, and/or Consulting Parties do not agree on NRHP-eligibility of any properties or sites within the new APE, Walla Walla VAMC 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, Walla Walla VAMC will prepare a Supplemental Treatment Plan in consultation with DAHP, affected tribes, and other Consulting Parties.

II. Professional Qualifications

Walla Walla VAMC 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). Additionally, an architectural historian meeting the Secretary of the Interior's *Professional Qualifications Standards* shall be employed by Walla Walla VAMC and/or consultants to review and comment upon architectural designs of proposed buildings.

III. Cultural Resources Awareness Training

- A. Walla Walla VAMC will ensure that key personnel, including but not limited to the Chief Engineer, the Assistant Chief Engineer, and the Director and Associate Director of the Walla Walla VAMC, will complete Section 106 training administered by the VA Federal Preservation Office, DAHP, or the ACHP within one year of signature of this MOA.
 1. If the VA Federal Preservation Office in conjunction with the ACHP provide the Section 106 training, interested parties including the CTUIR, will be invited to speak and provide perspective on cultural resource management.
- B. Using the Cultural Resources Awareness packet in Attachment B, Walla Walla VAMC will present a briefing for all new personnel to the Walla Walla VAMC about the historic significance of the campus and the potential for buried resources at the biweekly campus New Employee Orientations (NEO).
- C. To ensure compliance with the terms of the MOA, the SOI qualified Cultural Resources Manager at the Walla Walla VAMC has developed a Cultural Resources Awareness Training (Attachment B) for all employees and contractors who engage in or supervise others in conducting routine management activities. These employees should include facilities/capital asset managers, buildings and ground managers, maintenance staff, landscapers, construction staff, planning staff, and engineering staff. The training will be conducted by the Cultural Resources Manager at Walla Walla VAMC..
 1. The purpose of the training will be to familiarize the participants with:
 - Applicable federal laws and regulations, including NHPA Sections 110 and 106 and 36 CFR part 800;
 - Secretary of the Interior *Standards and Guidelines for the Treatment of*

Historic Properties;

- The two existing Walla Walla VAMC Memoranda of Agreement;
- The activities covered by the MOAs;
- The identification of prehistoric and historical objects and artifacts;
- The identification of human remains and objects of cultural patrimony;
- Procedures for unanticipated discoveries of archaeological or human remains.
- The location and range of the specific APE identified in this MOA
- The location of the specific archeological sites identified in this MOA

2. Walla Walla VAMC will ensure that all contractors and lessees participate in the training prior to initiation of construction or ground disturbance. Walla Walla VAMC will conduct training for all contractors already at work on campus. To date Walla Walla VAMC has provided cultural resource awareness training to contractors on the SCC project which has already begun.

- D. Walla Walla VAMC now includes language in contracts, delineating staff and contractor obligations on the following topics: the historical significance of the buildings, structures, and landscape elements of the campus; the presence of known archaeological sites and the potential for additional sites; the types of archaeological resources likely to be present on campus; and the process to notify the Cultural Resources Manager if historic resources are encountered unexpectedly.
- E. Training conducted for contractors, personnel, and lessees will be reported in the annual progress report noted in Stipulation VIII.

IV. Archaeological Resources

- A. Walla Walla VAMC will avoid, protect, and if needed evaluate known archaeological sites, to include those whose boundaries are not completely understood. Walla Walla VAMC will ensure that construction drawings for the current Undertaking activities will clearly identify no work zones around the sites as currently recorded and the addition of a 10-meter buffer. On the ground, the no-work zone will be marked by stakes and a silt fence; photo documentation will be provided to the signatory parties.
- B. To create a permanent record, the current condition of sites 45WW304 (referred to as VAMC-1 in the 2010 MOA), 45WW305 (VAMC 70-1 in the 2010 MOA), 45WW330 (Building 24 in the 2010 MOA) and 45WW331 (Building 71 in the 2010 MOA) which were damaged during construction activities listed in the 2010 MOA, will be documented. Walla Walla VAMC will ensure the assessment is completed no later than

one year from the execution of this MOA.

1. All parties are to agree upon who conducts the damage assessment, the scope of work for the assessment, and the agreed upon mitigation package scaled to the amount of damage.
 2. At minimum, damage assessments will include completion of archaeological site forms, artifact analysis (if applicable), GPS data collection, and full evaluations for individual eligibility to the NRHP and/or as contributing elements to the Fort Walla Walla Historic District.
- C. In consultation with DAHP and other Consulting Parties, Walla Walla VAMC will develop a Site Treatment and Management Plan addressing the future care of all archaeological sites, including those previously mentioned as damaged. The plan will be prepared and implemented within four months of final MOA signature and will be incorporated into the Historic Preservation Plan in Stipulation VII.B.
- D. Walla Walla VAMC will ensure that Historic Property Inventories (HPI), consultation documents, archaeological site forms, and APE maps are uploaded to the WISAARD system.
- E. Walla Walla VAMC has developed a Monitoring Plan and Discovery Protocol consistent with the Secretary of the Interior's Standards for Archaeological Documentation (48 FR 44734-44737), the Council's Treatment of Archaeological Properties (ACHP, draft 1980), and applicable Washington regulations (Attachment D). In accordance with Attachment D, the Walla Walla VAMC will ensure that archaeological monitoring will be implemented for all ground disturbing activities associated with construction activities. Walla Walla VAMC will meet monthly with all contractors and the CTUIR to ensure continued compliance with this MOA and to ensure against any future damage to archeological sites caused by non-compliance as occurred on this site in the past. In the event of the unanticipated discovery of cultural resources, the Walla Walla VAMC and its contractors will consider the resources as NRHP-eligible and shall follow the procedures outlined in Attachment D in order to recover data and minimize construction delays.
1. A Programmatic Agreement (PA) will be prepared by the Walla Walla VAMC which will include stipulations on ground disturbance and best management practices for unanticipated discoveries and archaeological monitoring for all ground disturbing and construction projects. The PA will be distributed for initial review to all interested parties within a year of signature of this MOA.

- F. If human remains are encountered during any construction and ground-disturbing activities, the Walla Walla VAMC will comply with all applicable Federal and State provisions. Walla Walla VAMC has developed a Human Remains Discovery Plan (Attachment E) to comply with applicable provisions under NAGPRA and ARPA regulations and RCW 68.60 et seq., if necessary. In accordance with the Human Remains Discovery Plan, all encountered remains will be assumed to be Native American until proven otherwise. Within one working day of each non-forensic unanticipated discovery, consultation with tribes will be initiated. All forensic discoveries will be reported to the County Coroner, tribes, and Consulting Parties within 24 hours.
- G. Walla Walla VAMC will undertake the following measures to ensure adequate communication between the Walla Walla VAMC, DAHP, the Consulting Parties, and archaeological field crews.
- Walla Walla VAMC will designate a Primary Point of Contact with cultural resource expertise to ensure the efficient flow of technical information between parties through the continued consultation and implementation of the MOA.
 - Within two weeks of signature of the MOA, Walla Walla VAMC shall identify the key decision points and a set of scheduled communications to include weekly field reports, email updates, conference calls at times agreed to by the parties, and/or, if practical, on-site meetings. Such communications will be adhered to for the duration of the MOA.

V. Artifact Analysis, Archival Management, and Curation

- A. **Hussey Collection.** The Hussey Collection is an assemblage of historic artifacts recovered by Professor Larry Hussey on Walla Walla VAMC and surrounding parcels from circa 1980-2000. Presently, an unknown quantity of artifacts and documentation (ca. 110 boxes) are stored at the Walla Walla VAMC Campus. The Walla Walla VAMC commits to the analysis, cataloguing, and curation of the collection (Attachment C).
1. Walla Walla VAMC will prepare a Curation Plan within one year of the signature of this MOA in consultation with DAHP and the Consulting Parties to evaluate the collection and identify the level of effort needed to accomplish analysis and final curation goals through the guidance of 36 CFR Part 79, "Curation of Federally Owned and Administered Archaeological Collections." The Curation Plan will identify staffing, lab space, and equipment needs for implementation of curation activities, identify partnership opportunities and/or consultant qualifications, identify qualified curation facilities, and estimate financial needs and funding sources. The Curation Plan for the Hussey Collection shall be

incorporated into the Historic Preservation Plan presented in Stipulation VII.B.

2. Walla Walla VAMC will ensure the entire Hussey Collection is analyzed, interpreted in the context of the excavations that produced them, and reported on within five years of signing this MOA. Drafts of the report will be provided to consulting parties. The final report(s) will be placed on WISAARD. Walla Walla VAMC will provide a Secretary of the Interior Qualified Archaeologist to analyze, interpret, and report on the entire Hussey Collection.
- B. Walla Walla VAMC will ensure that all records and material resulting from monitoring, identification, and archaeological testing or data recovery efforts (if applicable) are curated with an institution that meets the criteria of 36 CFR Part 79, except those human remains and objects subject to Native American Graves Protection and Repatriation Act (NAGPRA) (Attachment E). Any objects subject to NAGPRA shall be treated in accordance with Stipulation IV.E and the Human Remains Discovery Plan in Attachment E.
 - C. Walla Walla VAMC will assess any claims or curation requests made by any affected Tribal Government in accordance with applicable federal and state laws. Walla Walla VAMC will facilitate the involvement of affected Tribal Governments in the decisions related to final disposition of archaeological artifacts. If any party objects to any element of the disposition, they may object in accordance with the procedures outlined in Stipulation IX, Dispute Resolution.
 - D. Walla Walla VAMC will ensure that the cultural resource investigations and findings related to the Undertaking are documented in a report that meets state and federal standards, except those investigations and findings involving Native American human remains and cultural resources subject to NAGPRA shall additionally be in conformance with Tribal Government requirements for culturally appropriate documentation and handling to the greatest extent possible. The report shall summarize the methodologies, results, and conclusions drawn from the documentation and analysis of any sites and artifacts conducted in accordance with this Agreement. The report shall be distributed to the Consulting Parties, and non-confidential portions of the report may be made available to the public.
 - E. The Walla Walla VAMC has an extensive collection of detail measured historic building architectural drawings from 1921 to modern times. Walla Walla VAMC, in consultation with DAHP and Federally-approved curation facilities, will inventory, catalogue, prepare, and curate all significant historical measured drawings currently housed on the Walla Walla VAMC Campus. High quality copies of all archived maps will be maintained on

the Campus for Walla Walla VAMC use and be available to Fort Walla Walla Museum and other appropriate researchers. Originals will be submitted to the National Archives per NARA regulations and guidance. Archiving will be accomplished within 4 years of signing of MOA.

VI. Architectural Treatment Measures

A. Design Guidelines Preparation

Walla Walla VAMC, with assistance of a preservation architect, has prepared Design Guidelines to facilitate iterative consultation to achieve context-sensitive design for new building construction, site layouts, and landscapes. The Guidelines identify and describe the character-defining architectural and cultural landscape elements of principal contributing resources of the Historic District. Walla Walla VAMC has provided a range of development solutions and appropriate techniques to improve compatibility with the contributing elements of the historic built environment. The Guidelines have been integrated into the current Draft Historic Preservation Plan and will be finalized along with the Plan (Stipulation VII.B).

VII. Historic Preservation Planning Activities

A. Preparation of Revised National Register Nomination Form

Within one year from the date of the execution of the MOA, and in coordination with DAHP and Consulting Parties, the Walla Walla VAMC will prepare a revised and updated Fort Walla Walla National Register Nomination Form, originally prepared in 1974 (NRIS #74001985). The nomination form shall be prepared in accordance with NPS regulations 36 CFR 60 by a cultural resource professional(s) as described in Stipulation II Professional Qualifications. At least one draft of the nomination has been submitted to DAHP and the Consulting Parties for review and comment. Comments have been received by the Consulting Parties and will be addressed accordingly. Revised drafts of the nomination shall be provided to DAHP and Consulting Parties until the draft is accepted by DAHP for review by the Washington State Advisory Council on Historic Preservation.

B. Preparation of a Historic Preservation Plan

Walla Walla VAMC has prepared a DRAFT Historic Preservation Plan (HPP). The HPP includes a long-range vision for the district; goals and policies that articulate Walla Walla VAMC's intentions for long term preservation and management of the district; identification of potential new uses within the Campus; design guidelines that address additions, infill construction, landscaping and signage; a cultural landscape management plan; an interpretation plan; integration with local planning, economic development, recreation, and tourism initiatives; a funding/financial plan; and implementation timeline.

Other elements will be added as identified during the preservation planning process including the preparation of a history book of Fort Walla Walla; history and public venue presentation of the 9th Cavalry Regiment and "L" Troop of the 4th Cavalry Regiment; and partnerships with public, private and non-profit organizations to promote public education and historic preservation. Review comments on the current Draft HPP have been received, but not yet incorporated or addressed. Walla Walla VAMC will address the suggested edits and comments continue to consult with the signatory parties, affected tribes, DAHP, and a broad base of interested stakeholders until the document is complete. As the HPP is already in draft form, it will be implemented within one year of signing of this MOA.

C. Cultural Landscape Report Preparation

Walla Walla VAMC has identified and documented existing conditions and undertaken historical research in preparation of a Cultural Landscape Report (CLR). Initial data results and mapping efforts are presented in the Draft HPP. Efforts have focused on the western end of Campus and included the entirety of the archaeological APE. Documentation was completed prior to the commencement of construction activities. Walla Walla VAMC will submit the CLR to DAHP and Consulting Parties for consideration and review. Documentation and recommendations will be undertaken following the guidance of NPS Bulletin 36. Walla Walla VAMC will amend and expand the CLR within one year of signing of the MOA to provide a full inventory of landscape elements throughout the entirety of the Walla Walla VAMC Campus.

VIII. Annual Report for Walla Walla VAMC

- A. Every year, on or about October 31, the Walla Walla VAMC Cultural Resources Manager will report on all routine management activities undertaken the previous fiscal year as well as the status of mitigation measures within this MOA. The Cultural Resources Manager will email the report to Veteran's Integrated Service Network (VISN) 20, which will forward it to DAHP and Consulting Parties for review.
- B. Walla Walla VAMC Annual Report will describe each action by categories listed, i.e. building exterior, infrastructure, landscaping, etc., activity location (building number or grounds location), the specific nature of the activity at the location, i.e. construction of new specialty care clinic, the activity date, and comments on how adverse effects to the historic property were avoided.

IX. Dispute Resolution

- A. Unless otherwise specified in this Agreement, should any Signatory to this Agreement object at any time to any actions proposed or the manner in which the terms of this MOA

are implemented, Walla Walla VAMC shall consult with the objecting party to resolve the objection. Upon receiving the written objection(s):

1. Walla Walla VAMC will notify any non-objecting Signatories as to the nature of the dispute.
 2. Walla Walla VAMC will attempt to informally resolve the objection.
 3. In the event that informal attempts are unsuccessful, Walla Walla VAMC will invite the objecting party to a reconciliation meeting for the purpose of discussing and resolving the objection. Walla Walla VAMC 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 or extended by mutual written agreement.
- B. Should the Confederated Tribes of the Colville Reservation, 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, Walla Walla VAMC shall consult with the Tribal Governments to seek to resolve the objection under Stipulation IX.A.
- C. If Walla Walla VAMC determines that an objection cannot be resolved through Stipulation IX.A, Walla Walla VAMC shall forward all documentation relevant to the dispute to the ACHP, including the Walla Walla VAMC's proposed resolution. Within 30 days of receipt of all documentation, the ACHP shall either:
1. The ACHP shall provide Walla Walla 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, Walla Walla 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. Walla Walla VAMC will then proceed according to its final decision.
 2. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, Walla Walla VAMC may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, Walla Walla 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.

D. Walla Walla 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.

X. 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.

XI. 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, Walla Walla 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.

XII. 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 DAHP, or Walla Walla VAMC, their officers, or employees, any Consulting Party, or any other person not a signatory to this Agreement.

XIII. Effective End Date

This Agreement will continue in full force and effect until January 1, 2020. At any time in the 6-month period prior to this date, Walla Walla VAMC 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.

XIV. Satisfaction of Section 106 Responsibilities


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


Westfield,
Brian W.

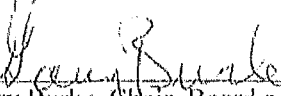
Digitally signed by Westfield,
Brian W.
DN: dc=gov, dc=va, ou=Entities,
ou=InternalStaff, cn=Westfield,
Brian W.
Date: 2017.02.07 13:31:09 -08'00'

SIGNATORIES:

By: _____ Date: _____
Brian Westfield
Director, VA Medical Center Walla Walla

By:  Date: 4/19/17
Allyson Brooks,
Washington State Historic Preservation Officer

By:  Date: 2/19/17
John M. Fowler, Executive Director
Advisory Council on Historic Preservation

By:  Date: 2-1-17
Gary Burke, Chair, Board of Trustees
Confederated Tribes of the Umatilla Indian Reservation

CONCURRING PARTIES:

By: _____ Date: _____
Guy Moura, Tribal Historic Preservation Officer
Confederated Tribes of the Colville Reservation

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

By: _____ Date: _____
Samuel N. Penny, Chairman
Nez Perce Tribe

By: _____ Date: _____
Rex Buck
Wanapum Tribe