

MEMORANDUM OF AGREEMENT

**BETWEEN THE
US DEPARTMENT OF VETERANS AFFAIRS**

AND THE

WASHINGTON STATE HISTORIC PRESERVATION OFFICER

**REGARDING THE
JONATHAN M. WAINWRIGHT VA MEMORIAL MEDICAL CENTER
BUILDING 81 RENOVATION PROJECT**

WALLA WALLA, WASHINGTON

WHEREAS, the US Department of Veterans Affairs (VA) proposes to renovate historic Warehouse Building 81 (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,

WHEREAS, VA, in consultation with SHPO, has determined that the Undertaking may have an adverse effect on historic Building 81 eligible as a contributing resource 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 design proposals and participated in 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 not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

NOW, THEREFORE, VA and SHPO 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 8/24/11). 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, VA shall take the following steps:

A. Notify SHPO of the change and define the new APE, in consultation with SHPO.

Require that the new APE is inventoried and evaluated in a manner consistent with 36 CFR § 800.4.

II. Professional Qualifications

VA will ensure that all historic preservation 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. Renovation Design Goals and Review Protocol

Designs for renovation of Building 81 and all future undertakings within the VAMC Walla Walla campus will follow the Secretary of the Interior's Standards for Rehabilitation (Standards), and will avoid adverse effects to the building's character defining features. VA shall afford the SHPO 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.

IV. Planning, Architectural Design and Treatment Measures for Future Window Replacements

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 window replacements of other historic buildings within the VAMC campus. For future planning purposes, VAMC is in need of a document that compiles the current regulatory, architectural,

and energy conservation challenges and provides guidance and alternative approaches to historic window replacements. Document preparation specifically discussing window replacement issues will be a 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.

VA will facilitate iterative discussions between the VA preservation officers and energy managers, SHPO, ACHP (if they so desire), and other interested parties to address window repair versus replacement issues. Opportunities may include conference calls, web-based exchanges, and mailings. Facilitation of consultations will be arranged within four weeks of signing of this MOA.

V. Mitigation Measures for Building 81 Window Replacements

VA will replace historic windows with custom-built Pella windows that closely match the configuration and color of the historic windows. The original size of the window openings will be retained, as will the vertical metal bars. This action seeks to minimize the adverse visual effect of window replacement. Historic As-Built drawings that show the window design and placement will be digitized and archived along with photo-documentation of the present conditions. Where original windows are intact, they will be carefully removed, salvaged, and stored so that they remain intact for possible re-use on campus or within the community.

VA will either submit a nomination form or hire a consultant to submit a nomination form for the Fort Walla Walla Historic District to the local Preservation Review Board for consideration of inclusion on the local register of historic places. VAMC is committed to working with the local historic preservation community and will consider forming a local advisory committee.

Future undertakings affecting historic properties at VAMC Walla Walla will be evaluated from an energy loss standpoint which will inform future decisions regarding window replacement and repair. Historic fabric will be retained pending those decisions for future projects.

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.

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 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.

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.

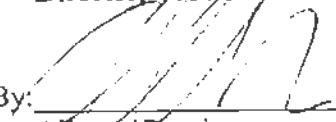
XI. Satisfaction of Section 106 Responsibilities

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 SHPO an opportunity to comment.

Memorandum of Agreement – Building 81 Renovations
VAMC - Walla Walla Washington
10/31/11

SIGNATORIES:

By:  Date: 10/31/11
Brian Westfield
Director, VA Medical Center Walla Walla

By:  Date: 11/22/11
Allyson Brooks
Washington State Historic Preservation Officer