

1 **DRAFT**
2 **MEMORANDUM OF AGREEMENT AMONG**
3 **THE US DEPARTMENT OF VETERANS AFFAIRS,**
4 **THE LOUISIANA STATE HISTORIC PRESERVATION OFFICER,**
5 **AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**
6 **REGARDING THE DEMOLITION OF BUILDING #2 OF THE VA MEDICAL**
7 **CENTER (VAMC), NEW ORLEANS, LOUISIANA**
8

9 **WHEREAS**, Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C.
10 §470f, and its implementing regulations at 36 CFR Part 800 (Section 106), require
11 Federal Agencies to take into account the effects of their Undertakings on historic
12 properties and provide the Advisory Council on Historic Preservation (ACHP) a
13 reasonable opportunity to comment on those Undertakings; and
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15 **WHEREAS**, Hurricanes Katrina and Rita (Disaster) resulted in significant damage to the
16 U.S. Department of Veterans Affairs (VA) healthcare infrastructure in New Orleans,
17 Southern Louisiana, and the Gulf South area; and
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19 **WHEREAS**, re-establishing healthcare infrastructure is critical to the recovery and
20 vitality of New Orleans, Southern Louisiana, and the Gulf South area; and
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22 **WHEREAS**, the VA intends to demolish Building #2 of the former Veterans Affairs
23 Medical Center (VAMC) New Orleans, which also was known as the VA Managers and
24 Nurses Quarters of the VAMC, at 1601 Perdido Street, New Orleans, Louisiana, and
25 replace that structure with temporary buildings to provide health care to Gulf South
26 Veterans (Undertaking); and
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28 **WHEREAS**, Building #2 is a contributing element to the New Orleans Medical Historic
29 District, which has been determined to be eligible for listing on the National Register of
30 Historic Places; and
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32 **WHEREAS**, VA has consulted with the SHPO and determined that the Undertaking will
33 have an adverse effect on the historic district and the contributing element, Building #2,
34 of the VAMC,
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36 **WHEREAS**, the following parties have been invited to participate as consulting parties
37 due to their concern with the Undertaking's effects to historic properties: 2400 Canal
38 LLC; City of New Orleans, City Council; City of New Orleans, Mayor's Office; City of
39 New Orleans, Office of Recovery Development Administration; Committee to Reopen
40 Charity Hospital; Common Knowledge; Deutsches Haus; Downtown Development
41 District of New Orleans (DDD); Foundation for Historical Louisiana; Friends of New
42 Orleans Cemeteries; Friends of the Lafitte Corridor; Louisiana Chapter of the
43 International Working Party for Documentation and Conservation of Building Sites and
44 Neighborhoods of the Modern Movement (DOCOMOMO/NOLA); Louisiana Landmarks
45 Society; Lower Mid-City Residents and Business Owners Affected by the LSU/VA
46 Hospitals; LSU Site United Property Owners; Mid-City Neighborhood Organization;

47 National Trust for Historic Preservation (NTHP); Orleans Parish School Board; Parkview
48 Neighborhood Association; Phoenix of New Orleans; Preservation Resource Center;
49 RPC; Sewerage & Water Board; State of Louisiana, Office of Community Development;
50 and Tulane/Canal Neighborhood Development Corporation to participate in this
51 consultation as Consulting Parties; and
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53 **WHEREAS**, VA has identified measures in this Memorandum of Agreement (MOA) to
54 mitigate this adverse effect caused by demolition;
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56 **WHEREAS**, the Chitimacha Tribe of Louisiana, Coushatta Tribe of Louisiana, Jena
57 Band of Choctaw Indians, Mississippi Band of Choctaw Indians (MBCI), and Tunica-
58 Biloxi Tribe of Louisiana are federally recognized sovereign Indian Nations that have a
59 government-to-government relationship with the United States and an interest in the
60 lands included in the Undertakings, and the Responsible Agencies have notified these
61 Indian tribes of the development of this MOA and invited the Tribes to participate in the
62 consultation; and
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64 **NOW, THEREFORE**, VA, SHPO, and ACHP agree that the Undertaking will be
65 implemented in accordance with the following Stipulations to take into account the
66 effects of the Undertaking on historic properties and to satisfy VA's Section 106
67 responsibilities for the Undertaking.
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69 **STIPULATIONS**

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71 VA, in coordination with SHPO and ACHP will ensure that the following measures are
72 implemented:
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74 **I. RECORDATION TREATMENT MEASURE**

75 A. Prior to the demolition of Building #2, VA will document the former VA
76 Hospital and the VA Managers and Nurses Quarters of the VAMC addressed
77 at 1601 Perdido Street. The recordation will proceed in accordance with the
78 guidelines listed below, will include digital photography and narrative reports,
79 and be performed by, or under the direct supervision of, an individual who
80 meets the SOI Professional Qualification Standards (48 FR 44716) for history,
81 architectural history, or historic architecture.

- 82 i. At a minimum, the photographs will document all elevations and
83 character-defining architectural features. Digital photography will
84 comply with the following requirements:
- 85 ii. Image files must be saved as Tagged Image or RAW format files using
86 high quality compression settings. These files must be transferred as
87 first generation Tagged Image or RAW format files that have not been
88 degraded in quality by multiple revisions and resaving. The images
89 must be formatted on archival quality CDR media.
- 90 iii. Digital camera files must be captured as 6 megapixel files or greater
91 with a minimum pixel array of 3,000 pixels by 2,000 pixels.
- 92 iv. Color images must be produced in RGB (Red Green Blue) color mode

93 as 24bit or 48bit color files.

- 94 v. Photographic prints must comply with the National Park Service
95 (NPS) March 2005 photo policy regarding photographic printing.
96 vi. The photographs must meet the NPS 75year permanence standard.
97 vii. Paper prints will be produced in accordance with the NPS guidelines
98 for “Acceptable Ink and Paper Combinations for Digital Images.”
99 viii. The backs of each print must be labeled in soft pencil with the
100 following information:
101 a. Building Name,
102 b. Address,
103 c. Date of Photograph,
104 d. Description of view including direction of camera,
105 e. Number of image in photographic set,
106 f. Name of photographer, and
107 g. Repository of CDR media.
108 ix. VA will prepare narrative histories commensurate with the
109 significance of the historic property for the documented building. This
110 narrative will address both the site-specific history and the significant
111 associations of the building to its neighborhood and/or historic district.
112 B. VA will post the recordation data and resulting materials to the Website for
113 the VAMC Replacement Project, so it can be accessed by the consulting
114 parties (www.consult106.org).

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116 **II. PUBLIC INTERPRETATION TREATMENT MEASURE**

- 117 A. VA will design and implement a future public interpretation program that
118 includes the history of the VAMC including Building #2 upon final
119 disposition of the VAMC. This program may include:
120 • Oral histories
121 • museum quality, publically accessible, permanent displays;
122 • traveling exhibits;
123 • publically accessible website; and/or
124 • popular publications.
125 B. VA will post the public interpretation program to the Website for the VAMC
126 Replacement Project for comment by the consulting parties and notify
127 consulting parties via e-mail of the posting. If these parties do not comment
128 within 14 days of receipt, VA may assume that these parties concur with the
129 program and schedule. VA will finalize the public interpretation program after
130 considering the comments and implement the program.

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132 **III. DEMOLITION**

- 133 A. VA will ensure, to the extent possible, that demolition of Building #2 will be
134 undertaken with care to avoid any effects to all nearby buildings and the
135 historic district.

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137 **IV. DISCOVERIES AND UNFORESEEN EFFECTS**

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- A. VA’s construction contracts will require its contractors to exercise care in all excavation activities, and be alert to any indication of archaeological deposits or concentrated historical building materials, i.e., foundations, privies, collections of refuse, etc. If, in the course of the Undertaking, dense amounts of intact archaeological materials are uncovered, VA shall ensure that its contractor immediately stop work in the vicinity of the discovery and take all reasonable measures to avoid or minimize harm to the finds. VA shall ensure that the archaeological findings are secured and access to the area of the discovery is restricted until the consultation described below is completed.
- B. VA will notify and consult with the SHPO to determine if further steps to evaluate the National Register eligibility of the property and identify its treatment are necessary. VA may, in consultation with the SHPO, assume that a newly discovered property is eligible for the National Register for purposes of this MOA. VA and the SHPO will conclude this consultation if the discovery does not contain human remains and VA and the SHPO determine that the discovery is not eligible for the National Register or VA and the SHPO determine that the unforeseen effect will not adversely affect a historic property.
- C. If VA and the SHPO have determined that further steps are necessary to evaluate or treat the unforeseen effect or the newly discovered property and it does not contain human remains, VA shall work with SHPO, and the ACHP to agree on timeframes and determine ways to avoid, minimize, or mitigate any adverse effects. Any party to this consultation may request an on-site meeting to review the situation. At the conclusion of this consultation, VA will provide all parties that participated in the discovery consultation with a written summary of the consultation and its resolution. This summary may be provided by e-mail.
- D. If human skeletal remains are uncovered during the Undertaking, VA shall immediately notify the New Orleans Police Department, and the Orleans Parish Coroner’s Office. The local law enforcement officials shall assess the nature and age of the human skeletal remains. VA shall ensure that the notice of the discovery required by Louisiana Unmarked Human Burial Sites Preservation Act (R.S. 8:671 *et seq*) is given to the Secretary, Louisiana Department of Culture, Recreation and Tourism (CRT) or the Secretary’s designee by contacting the Louisiana Division of Archeology at 225-342-8170 within seventy-two hours of the discovery. If the coroner determines that the human skeletal remains are older than 50 years of age, the Secretary, CRT has jurisdiction over the remains. VA shall take the lead in working with the SHPO, Indian tribes, and the Louisiana Division of Archeology, to ensure compliance with this State law, other applicable laws, and this MOA. In addition, VA shall require that the guidelines contained in the ACHP’s 2007 “Policy Statement Regarding Burial Sites, Human Remains, and Funerary Objects” or any subsequent Policy Statements that are issued after the execution of this MOA are followed.

184 **V. DISPUTE RESOLUTION**

- 185 A. Should any Signatory Party object to VA within the timeframes provided
186 by this MOA to any plans, specifications, or actions provided for review,
187 VA shall consult further with the objecting party to seek resolution.
188 B. If VA determines that the dispute cannot be resolved, VA shall forward
189 VA's proposed resolution of the dispute and all documentation, including
190 views, if any, of the Signatory Parties on the issue in dispute, and any
191 other relevant documentation to the ACHP. Within 7 days after receipt of
192 all pertinent documentation the ACHP will:
193 1. Advise VA that it concurs with VA's resolution of the dispute;
194 2. Provide VA with recommendations, which VA shall take into
195 account in reaching a final decision regarding the dispute; or
196 3. Notify VA that it shall comment pursuant to 36 CFR §800.7(c),
197 and proceed to comment. Any comment provided shall be taken
198 into account by VA in accordance with 36 CFR §800.7(c)(4)
199 with reference to the subject of the dispute.
200 C. If the ACHP does not provide VA with comments or recommendations
201 within 7 days, VA may assume that the ACHP does not object to its
202 recommended approach and it shall proceed accordingly.
203 D. Any recommendation or comment provided by ACHP shall be understood
204 to pertain only to the subject of the dispute, and VA's responsibilities to
205 fulfill all actions that are not subject of the dispute shall remain
206 unchanged.
207 E. Any dispute regarding National Register eligibility that is not resolved
208 pursuant to this Stipulation will be resolved in accordance with 36 CFR §
209 800.4(c)(2).
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211 **VI. AMENDMENTS, TERMINATION, AND NONCOMPLIANCE**

- 212 A. Any Signatory or Invited Signatory may request in writing that the MOA
213 be amended or terminated. Within 21-days of such a request, VA will
214 meet with the other Signatory Parties, in person or by telephone, to
215 consider this request. The Parties will make a good faith effort to amend
216 the MOA prior any party taking steps to terminate it. The MOA may be
217 amended only upon the written agreement of the Signatories, and the
218 process will comply with 36 CFR § 800.6(c)(7).
219 B. If the MOA is not amended, the Signatories may terminate the MOA by
220 providing a 30-day written notice to the other consulting parties. These
221 parties will consult during this 30-day time frame to seek amendments or
222 other actions that would prevent termination. Should consultation fail, VA
223 will promptly notify the other parties in writing of termination. This MOA
224 may be terminated without further consultation by execution of a
225 subsequent agreement that explicitly terminates or supersedes this MOA.
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227 **VII. DURATION**

228 Unless amended or terminated in accordance with Stipulation VI, this MOA will
229 remain in effect through December 31, 2010. VA will notify the consulting parties by
230 e-mail when it determines that this MOA has been fulfilled.

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232 **VIII. EFFECTIVE DATE AND IMPLEMENTATION OF MOA**

233 This MOA shall become effective immediately upon signature by the Signatory
234 Parties. VA shall provide each Signatory Party with a complete copy of the MOA
235 including all executed signature pages.

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237 **EXECUTION AND IMPLEMENTATION** of this Memorandum of Agreement
238 evidence that VA has afforded ACHP a reasonable opportunity to comment on the
239 Undertaking and its effects on historic properties, that VA has taken into account the
240 effects of the Undertaking on historic properties, and that VA has satisfied its
241 responsibilities under Section 106 of the National Historic Preservation Act and
242 applicable implementing regulations.

DRAFT

243 SIGNATORY PARTIES:

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245 **DEPARTMENT OF VETERANS AFFAIRS**

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_____ Date: _____

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Julie Catellier

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Director, Southeast Louisiana Veterans Health Care System

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253 **ADVISORY COUNCIL ON HISTORIC PRESERVATION**

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_____ Date: _____

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John M. Fowler

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Executive Director

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LOUISIANA STATE HISTORIC PRESERVATION OFFICER

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_____ Date: _____

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Scott Hutcheson

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State Historic Preservation Officer

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