

**MEMORANDUM OF AGREEMENT
BETWEEN
DEPARTMENT OF THE ARMY, U.S. ARMY FIELD ARTILLERY CENTER
AND FORT SILL, OKLAHOMA
AND THE
OKLAHOMA STATE HISTORIC PRESERVATION OFFICER**

REGARDING THE DEMOLITION OF BUILDING 464

WHEREAS, the Department of the Army, U.S. Army Field Artillery Center and Fort Sill, Oklahoma (hereinafter "Department of the Army" or "Fort Sill") proposes an undertaking for replacement of electrical services and panels in Building 462 (Taylor Hall) that will include demolition of Building 464, a property eligible for the National Register of Historic Places as determined by consensus between Fort Sill and the State Historic Preservation Office (SHPO) on November 10, 2008. Building 464 is a concrete block, utilities building constructed in 1959 that is located between Buildings 462 and 463, east of the intersection of McNair and Roberts avenue, Fort Sill, Comanche County, Oklahoma; and

WHEREAS, Fort Sill has established the undertaking's Area of Potential Effects (APE) as defined at 36 CFR Part 800.16(d), to be the proposed Fort Sill Station Hospital Historic District, specifically including the historic hospital complex consisting of Buildings 467, 461, 462 and 463 which are connected by a central, historic corridor; two utility buildings, numbered 419 and 464 and located in the rectangular space created by the historic corridor, the west half of Building 462 and the east part of Building 463; the grassy area to the front of Buildings 461, 462 and 463 and to the east side of Building 463; and, the streetscapes from McNair Avenue, Roberts Avenue and Hamilton Road; and

WHEREAS, the APE is within the boundaries of the Fort Sill Historic District, a National Historic Landmark, but due to the visual and physical barrier formed by the connecting corridor and Buildings 461, 462 and 463, the proposed work is not in direct sight of and will not affect any of the Landmark District's contributing resources; and,

WHEREAS, Fort Sill invited the National Park Service (NPS) to participate in consultation for this undertaking in accordance with 36 CFR Part 800.10(c) in a letter dated 28 December 2009 and the NPS has elected not to participate in this MOA; and,

WHEREAS, as part of the undertaking to improve electrical service to Building 462 which is prudent and necessary to facilitate continued use of Building 462 as the Garrison Command Headquarters, the location of Building 464 was determined to be the most feasible site for installation of a pad-mounted transformer because of the proximity and traditional use of Building 464 as part of the electrical services to Building 462 and that the existing generator contained in Building 464 is no longer used; and,

WHEREAS, the demolition of the walls and roof of Building 464 is necessary because the pad-mounted transformer will not fit inside the entry of Building 464 and the existing walls and roof will not allow sufficient ventilation space for the transformer to operate correctly; and,

WHEREAS, Fort Sill has determined that the undertaking will have an adverse effect on Building 464 per 36 CFR Part 800.5(a)(2)(i); and

WHEREAS, after inviting the Advisory Council on Historic Preservation (ACHP) to participate in consultations but being informed on 11 January 2010 by the ACHP of its declination to participate in consultations, Fort Sill has consulted with the SHPO in accordance with Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470f, and its implementing regulations [36 CFR Part 800.6(b)(1)(i)] to resolve adverse effects of the undertaking on historic properties; and

WHEREAS, Fort Sill has provided the public an opportunity to comment on this undertaking through the publication of a legal notice in the Lawton Constitution, a newspaper of general circulation in Comanche County, Oklahoma, and throughout southwest Oklahoma. The legal notice, published on 20 January 2010, announced the availability of the project documentation at the Lawton Public Library, Lawton, Oklahoma, for public review and comment for the period of 21 January 2010 to 22 February 2010 of which no comments were received; and

NOW, THEREFORE, Fort Sill and the SHPO agree that the undertaking shall be implemented with the following stipulations and agreements in order to take into account the effects of the undertaking on historic properties; and that these stipulations and agreements shall govern the undertaking and all of its parts.

Stipulations and Agreements:

- 1) As a result of consultation with the SHPO and in consideration of the relative historic significance of Building 464 to the Fort Sill Station Hospital Historic District, Fort Sill and the SHPO agree that the documentation on Building 464 provided by Fort Sill to the SHPO in correspondence dated 28 December 2009, and consisting of a completed Historic Preservation Resource Identification Form, placement map and appropriately labeled photographs, is sufficient to mitigate the effect of the demolition of Building 464 upon the Fort Sill Station Hospital Historic District and the requirements set forth in Section 110(b) of the National Historic Preservation Act. The documentation will be available for future use and reference as part of the SHPO's Oklahoma Landmarks Inventory and the Fort Sill Cultural Resource Office files.
- 2) Fort Sill may proceed with the demolition of Building 464 in accordance with the project plans provided by Fort Sill to the SHPO in December 2009 after the Section 106 consultation for the undertaking is completed.

Fort Sill shall include the expected normal costs of carrying out the terms of this agreement in its projected budget and shall request sufficient and Congressional authorizations and appropriations to meet the conditions of this agreement. Should Congress not appropriate amounts sufficient to cover such costs, Fort Sill shall contact the SHPO and initiate an amendment to this MOA, as provided for below. No provision of this MOA shall be interpreted to require the obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341.

Dispute Resolution:

- 3) Should any party to this Memorandum of Agreement (MOA) object within thirty (30) days to any action taken pursuant to this MOA, said party shall contact Fort Sill in writing to Cultural Resources Manager, DPW-Environmental Quality Division, 2930 Currie Road, Fort Sill, OK 73503-9051. Fort Sill shall consult with the objecting party to resolve the objection. If Fort Sill determines that the objection cannot be resolved, Fort Sill shall forward all documentation to the ACHP. Within thirty (30) days after receipt of all pertinent documentation, the ACHP will either:
 - a. Provide Fort Sill with a recommendation, which Fort Sill will take into account in reaching a final decision regarding the dispute; or
 - b. Notify Fort Sill that it will comment pursuant to 36 CFR 800.6(a)(1)(iii), and proceed to comment. Any ACHP comment provided in response to a request will be taken into account by Fort Sill in accordance with 36 CFR 800.6(b)(2) with reference only to the subject dispute. Fort Sill's responsibility to carry out all actions under this MOA that are not subject of the dispute will remain unchanged.

Amendments to the MOA:

- 4) If Fort Sill or the SHPO determines that the terms of this MOA cannot be met or that an amendment or addendum is necessary, that party shall immediately request that the other party consider an amendment or addendum to the MOA. Such amendment or addendum shall be executed in the same manner as the original MOA pursuant to 36 CFR 800.

Duration and Termination:

- 5) The undertaking to demolish Building 464 shall be commenced within one (1) year from the date of the final execution of this MOA. If either the SHPO or Fort Sill determines that the terms of this MOA cannot be or are not being carried out, the parties hereto shall consult to seek an amendment of the MOA. If the MOA is not amended, the provisions of 36 CFR 800.6(c)(8) regarding termination shall apply.

Execution of this Memorandum of Agreement and implementation of its terms, evidence that the Department of the Army, Fort Sill, Oklahoma has met the requirements of Section 106 regarding the proposed undertaking, and its effects on historic properties pursuant to 36 CFR 800.6(b)(1)(iv), that Fort Sill has afforded the ACHP an opportunity to comment on the project, and that the Department of the Army, Fort Sill, Oklahoma, has taken into account the effects of this undertaking on historic properties.



RAYMOND P. LACEY
Colonel, U.S. Army
Garrison Commander



DR. BOB BLACKBURN
Oklahoma State Historic
Preservation Officer

10 March 2010
(Date)

3/11/10
(Date)