

MEMORANDUM of AGREEMENT

**BETWEEN the DEPARTMENT OF THE NAVY and
the ILLINOIS HISTORIC PRESERVATION AGENCY
PURSUANT to 36 C.F.R PART 800**

**REGARDING PHASE II OF THE STEAM DECENTRALIZATION
(MILCON P-816) AT NAVAL STATION GREAT LAKES, ILLINOIS**

WHEREAS, the Department of the Navy (Navy) has determined that the proposed project, Phase II of the Steam Decentralization (MILCON P-816) specifically the proposed partial demolition of the chimney stack of Building 11, will have an adverse effect on a historic property listed in the National Register of Historic Places;

WHEREAS, the Undertaking includes interior and exterior work to Building 11, demolition of non-historic additions and the partial demolition of the chimney stack; and

WHEREAS, the area of potential effect (APE) consists of the construction footprint of Building 11 and the associated view shed of the Great Lakes Naval Training Station Historic District; and

WHEREAS, the Navy has determined the Undertaking will have an adverse effect to Building 11 and the Illinois Historic Preservation Agency also known as the Illinois State Historic Preservation Office (IL SHPO) concurred with the Navy's determination of effect in a letter dated April 13, 2016; and

WHEREAS, the Navy solicited comments on the Undertaking from the interested public under 36 C.F.R § 800.2(d), through contacting the National Trust on Historic Preservation, Landmarks Illinois and North Chicago, of which the organizations elected not to participate in the consultation; and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), the Navy has notified the ACHP of its adverse effect determination, providing the specified documentation, and the ACHP has chosen not to participate in the consultation pursuant to 36 C.F.R § 800.6(a)(1)(iii) as indicated in their letter dated March 15, 2016; and

WHEREAS, an executed copy of this Agreement will be filed with the ACHP pursuant to 36 C.F.R § 800.6(b) (1) (iv); and

NOW, THEREFORE, the Navy and the IL SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations to take into account the effect of the undertaking on historic properties.

STIPULATIONS:

The Navy shall ensure that the following stipulations are carried out.

- I. Prior to the demolition of the chimney stack of Building 11, the Navy will take high-resolution digital photographs of the chimney stack.
 - A. Photographs shall be taken of each side of the chimney in relation to Building 11 along with context views to capture the existing setting of the chimney stack.
 - B. The photographs and prints shall adhere to the National Register of Historic Places Photograph Policy.
 - C. The Navy shall provide the digital copies of the photographs to the IL SHPO to review and the IL SHPO will have 15 calendar days from confirmed receipt of the photographs to provide comments. If comments are not received at the end of the 15 calendar days, the Navy will assume concurrence and develop the final photographs.
 - D. The Navy shall provide a copy of the photographic prints and a compact disc of the tiff images to the IL SHPO and shall archive a copy at Naval Station Great Lakes.
- II. The Navy shall develop a popular history of Building 11. The report shall contain information on the history of Building 11 and its continued use as a steam plant from 1906 until 2016 in addition to overall information on the energy use at Naval Station Great Lakes. The report shall incorporate available historic photographs and drawings.
 - A. The Navy shall submit a draft of the popular history report to the IL SHPO for their review and comment. IL SHPO will have (60) calendar days from the confirmed receipt of the draft popular history report to provide comments. If comments are not received at the end of the sixty (60) calendar days, the Navy will assume concurrence and proceed with finalizing the report.
 - B. The Navy shall provide a copy of the final report to the IL SHPO and shall archive a copy at Naval Station Great Lakes.
 - C. The popular history report shall be completed within two (2) years of the date of this Agreement and does not need to be completed prior to the demolition of the chimney stack of Building 11.

III. The Navy will continue consultation with the IL SHPO on the designs proposed for the interior and exterior work at Building 11. The Navy will design the work to minimize impact to character-defining features and ensure the work is in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties in consultation with the IL SHPO.

- A. The Navy shall provide an opportunity for the IL SHPO to review and comment on the designs at the following stages: 1) development of building design (50%) submittal; and 2) pre-final submittal.
- B. IL SHPO will have 21 calendar days from the confirmed receipt of the design submittal to provide comments. If comments are not received at the end of the 21 calendar days, the Navy will assume concurrence and proceed with the next design submittal and final designs.

IV. Archaeological Resources

A. Post Review Discoveries

- i. In the event that a previously unidentified archaeological resource is discovered during ground disturbing activities, all construction work involving subsurface disturbance shall be halted in the area of the resource and in the surrounding area where further subsurface deposits may reasonably be expected to occur. Within two (2) working days, the Navy shall have an archaeologist meeting the SOI *Professional Qualifications Standards* inspect the work site and determine the extent and nature of the affected archaeological property. The IL SHPO and other parties, as deemed appropriate by the archaeologist, shall be consulted in setting the boundaries of the archaeological resource. Construction work may then proceed in the project area outside of the site boundaries.
- ii. The Navy shall notify the IL SHPO and the ACHP within two (2) working days of the discovery in accordance with 36 C.F.R § 800.13. If the archaeological resource is, or has the potential to be, of Native American origin, the Navy shall also notify any identified Federally recognized Indian tribe that might attach religious and cultural significance to the affected property. The notifications shall describe the Navy's assessment of National Register eligibility of the property and the proposed actions to resolve the adverse effects. In accordance with 36 C.F.R § 800.13 (b) (3), the IL SHPO, Federally recognized tribes, as appropriate, and the ACHP shall respond within two (2) working days of the notification.

- iii. If the resource is determined by the Navy, in consultation with the IL SHPO, to meet the National Register Criteria (36 C.F.R § 60.4), the Navy shall ensure compliance with 36 C.F.R § 800.13. Work in the affected area may not proceed until the development and implementation of appropriate data recovery or other recommended mitigation procedures. The Navy shall provide the IL SHPO, and make available to the interested public, a report on the mitigation actions when they are completed.
- iv. If, in consultation with the IL SHPO, a determination is made that the located resource is not eligible for inclusion on the National Register of Historic Places, work may resume in the affected area.

B. Human Remains

- i. Human remains and associated funerary objects of Native American origin (prehistoric or historic) encountered during the course of actions taken as a result of this Agreement shall be treated in a manner consistent with the provisions of the Native American Graves Protection and Repatriation Act (25 U.S.C. §§3001 et seq.) and its implementing regulations, 43 C.F.R Part 10. Treatment must include consultation identified Federally-recognized tribes with an interest in the project, project area, or region.
- ii. The Navy shall treat all burial sites, human remains and funerary objects with dignity and respect. The Navy will follow the applicable federal laws related to the treatment of buried human remains including the National Historic Preservation Act (16 U.S.C §§ 470 et seq.), Native American Graves Protection and Repatriation Act (25 U.S.C. §§ 3001 et seq.), and the Archaeological Resources Protection Act (16 U.S.C. §§ 470 et seq.), and other guidance, including the Navy OPNAV Instruction 11170.2A *Navy Responsibilities Regarding Undocumented Human Burials* of January 2007, and the Advisory Council on Historic Preservation's *Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects* of February 2007.

ADMINISTRATIVE CLAUSES:

I. **Dispute Resolution.** Should the IL SHPO object in writing to any action carried out or proposed by the Navy with respect to the implementation of this Agreement within thirty (30) calendar days, the Navy shall consult with the IL SHPO to resolve the objection. If the Navy determines that the objection cannot be resolved, the Navy shall request comments of the Advisory Council on Historic Preservation pursuant to 36 C.F.R Part 800.

II. **Anti-Deficiency Act.** The Anti-Deficiency Act, 31 U.S.C. sections 1341, 1342 and 1517(a), prohibits federal agencies from incurring an obligation of funds in advance or in excess of available appropriations. All requirements set forth in this Agreement requiring the expenditure of Federal Government funds are expressly subject to the availability of appropriated funds. Nothing in this agreement shall be interpreted to require obligation or expenditure of funds in violation of the Anti-Deficiency Act.

III. **Unavailability of Funds.** If the Navy cannot perform any obligation set forth in this Agreement due to the unavailability of funds, the Navy and the IL SHPO intend the remainder of the Agreement to be executed. Any obligation under the Agreement which cannot be performed due to the unavailability of funds must be re-negotiated between the Navy and the IL SHPO.

IV. **Amendments.** Any party to this Agreement may request that it be amended, whereupon the parties will consult to consider such amendment in accordance with 36 C.F.R Part 800. The amendment shall be agreed to in writing by all signatories and will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

V. **Termination.** Any signatory to this Agreement may terminate it by providing thirty (30) calendar days' notice to the other parties, explaining the reason for the termination. The parties shall consult during the 30-day period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the Navy shall comply with 36 C.F.R. § 800.3 through 800.7 with regard to the consultation on the Phase II of the steam decentralization project.


VI. **Duration.** The effective date of this Agreement shall be the date of the last signature. This agreement shall expire if its terms are not carried out within six (6) years from the date of its execution, unless the responsible parties agree in writing to an extension for carrying out its terms. Six months prior to the expiration date, the parties shall review the MOA for possible amendment and renewal.

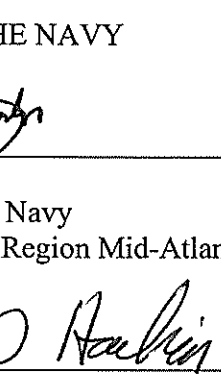
EXECUTION of this Agreement by the Navy and the IL SHPO, and implementation of its terms, is evidence that the Navy has taken into account the effects of this Undertaking on historic properties and afforded IL SHPO and the ACHP opportunity to comment, satisfied the requirements of Section 106 of the National Historic Preservation Act, and may proceed with the project.

Nothing in this agreement serves to create any right or benefit, substantive or procedural, enforceable in law or equity by a party against the United States, its officers or any person.

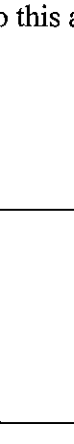
Each of the undersigned certifies that he or she has full authority to bind the party that he or she represents for purposes of entering into this agreement.

DEPARTMENT OF THE NAVY

BY:  30 JUL 2016
DATE
J. C. Scorby, Jr.
Rear Admiral, U.S. Navy
Commander, Navy Region Mid-Atlantic

BY:  28 Jun 2016
DATE
James D. Hawkins
Captain, U.S. Navy
Commanding Officer, Naval Station Great Lakes

ILLINOIS STATE HISTORIC PRESERVATION OFFICER

BY:  8/10/16
DATE
Heidi Brown-McCreery
Director
Illinois Historic Preservation Agency