

**MEMORANDUM OF AGREEMENT AMONG THE U.S. DEPARTMENT OF
VETERANS AFFAIRS, THE CALIFORNIA STATE HISTORIC PRESERVATION
OFFICER AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING THE DEMOLITION OF BUILDING 205,
MENLO PARK DIVISION, PALO ALTO HEALTH CARE SYSTEM,
DEPARTMENT OF VETERANS AFFAIRS**

WHEREAS, the Menlo Park Division, Palo Alto Health Care System, Department of Veterans Affairs (VA) has determined that Building 205, a reinforced concrete building constructed in 1929, is at exceptionally high risk of collapse in the event of a substantial seismic event, and therefore must be demolished; and

WHEREAS, pursuant to 36 CFR § 800.4(a)(1), VA has determined that the area of potential effects for the demolition of Building 205 comprises the building site and such immediate surrounding land and/or staging areas as may be disturbed by demolition, trenching, grading and backfilling operations, plus with respect to visual effects only, the facades of nearby Buildings 332 (constructed 1978), 347 (constructed 1996) and 334 (constructed 1985); and

WHEREAS, the VA has determined, through consultation with the State Historic Preservation Officer (SHPO) that Building 205 is eligible for National Register inclusion under Criteria A and C pursuant to 36 CFR § 800.4(c)(2) (*Veterans Affairs Palo Alto Health Care System, Menlo Park Division, Menlo Park, CA: Built Environment Survey Report, 2013*); and

WHEREAS, VA has consulted with the SHPO and the Advisory Council on Historic Preservation (ACHP) concerning the adverse effects of demolishing Building 205; and

WHEREAS, following the recommendation of the California Native American Heritage Commission, VA has contacted Native American tribes to determine whether they have concerns about the impacts of construction at the Menlo Park Division on places of cultural and religious significance to them; and

WHEREAS, the Amah Mutsun Tribal Band has expressed concerns about the possibility that remains of their ancestors may be disturbed and VA has consulted with the Amah Mutsun Tribal Band and designed this Memorandum of Agreement (MOA) in part to address its concerns;

NOW THEREFORE, it is mutually agreed that VA will implement the measures set forth in this MOA to resolve the adverse effects attendant upon demolishing Building 205.

STIPULATIONS

The VA will ensure that the following measures are implemented:

I. MITIGATION MEASURES

A. Documentation of Building 205

1. PHOTO DOCUMENTATION: VA shall document building 205 prior to demolition. At a minimum, the photographs will document all elevations, character-defining architectural features, and shots of the building in context. These features will include exterior and interior ornamentation and functional spaces except in those places deemed hazardous to worker safety and/or health.

- a. VA will take no less than 25 photographs of Building 205.
- b. Photos will be clear, sharp, and in focus. Digital photography will be taken in TIFF or RAW formats using a digital camera.
- c. At a minimum, photos will be six megapixels (2000x3000 pixel image) or greater at 300 dpi.
- d. Photos will be saved to an archival quality disc. Disc labels will be hand-written (no adhesive labels).
- e. Image files will include 'Building 205' in their titles.
- f. VA will maintain the original files and an archival disc in campus repository.
- g. VA will provide archival discs to any person or organization who requests a copy

2. WRITTEN DOCUMENTATION: The written documentation will follow the short form of the National Park Service's (NPS) HABS "Guidelines for Historical Reports." The report will provide a physical description of Building 205, discuss its significance under applicable NRHP criteria, and address the historical context, construction, purpose, and function within the Menlo Park Division Campus.

3. VA will ensure that copies of the photographic and written documentation are submitted to the SHPO and filed with the Menlo Park Library, the Northwest Information Center at Sonoma State University, and any other local or regional depository that requests it.

II. GROUND-DISTURBING ACTIVITY

- a. VA will ensure that any ground disturbance associated with the demolition that is exterior to the existing foundations and basement of Building 205 is monitored by an archaeologist meeting the Secretary of Interior's Professional Qualification Standards for Archaeology ([http://www.cr.nps.gov/local-law/Prof Qual 83.htm](http://www.cr.nps.gov/local-law/Prof%20Qual%2083.htm)), that the monitor prepares a report on the work, and that copies of the monitor's report are submitted to the SHPO and filed with the Northwest Information Center.
- b. VA will consult further with the Amah Mutsun Tribal Band prior to initiating demolition to determine whether the Band wishes to have a representative monitor ground disturbance exterior to the existing foundations and basement of Building 205; if it does, VA will facilitate such monitoring.
- c. VA will ensure that any contracts associated with the demolition that involve ground disturbance outside the existing foundation and basement of Building 205 will include provision for work stoppage and protection or recovery of any ancestral Native American cultural items or human remains, and for any archaeological resources.
- d. Should Native American graves or cultural items be encountered, VA will comply with 43 CFR 10.4 and 10.6, as applicable.

III. DISPUTE RESOLUTION

- A. Should any party to this agreement object to the implementation of any of its provisions or to any actions proposed by VA or its contractor in connection with demolition of Building 205, such party may notify VA, which will seek to resolve such objection through consultation. VA will temporarily suspend or otherwise modify the scope of any work that is the subject of the objection until the objection has been resolved, to avoid prejudicing the outcome of such consultation.
- B. If the dispute cannot be resolved through consultation, VA will forward all documentation relevant to the dispute to the ACHP, including its recommended approach to resolving the dispute. Within 30 days after receipt of all pertinent documentation, the ACHP may:

1. Provide VA with recommendations to consider in reaching a final decision regarding the dispute; or
- C. If the ACHP does not within 30 days provide VA with recommendations or notification that it will comment, VA may assume that the ACHP does not object to its recommended approach and may proceed accordingly.
- D. Any recommendation provided by ACHP will be understood to pertain only to the subject of the dispute. The responsibility of VA to fulfill all actions that are not subject of the dispute will remain unchanged. Prior to reaching a final decision, VA 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 written response.
- E. At any time during the implementation of the measures stipulated in this MOA, should any objection pertaining to any such measures or their manner of implementation be raised by a member of the public, the VA will notify the parties of this MOA and take the objection into account, consulting with the objector and, should the objector so request, with any of the parties to this MOA to resolve the objection.

IV. EFFECT AND DURATION OF THIS MOA

- A. This MOA will become effective immediately upon signature by VA, SHPO, and ACHP. An original copy of the executed MOA will be provided to all Parties.
- B. This MOA will remain in effect for two (2) years from the date of its execution, unless extended by written agreement of the signatories.

V. AMENDMENT AND TERMINATION


- A. Any of the signatory parties to this MOA may request an amendment, whereupon the parties will consult to consider such an amendment. Any amendment will become effective only upon signature by all signatory parties.
- B. Any signatory party may terminate the MOA by providing a written notice to the other parties provided that the parties may consult to seek amendments or other actions to prevent termination. Should consultation fail, the party requesting the termination will notify the other parties in writing that the MOA is terminated. Termination of the MOA will require VA to comply with the regulations at 36 CFR Part 800 if it proposes to proceed with demolition. This

MOA may be terminated without further consultation by the execution of a subsequent agreement that explicitly terminates or supersedes this MOA.

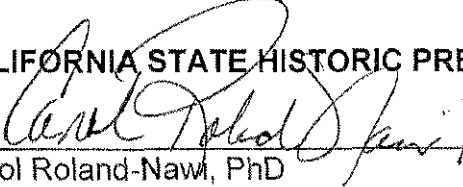
Execution and implementation of this MOA evidence that VA has afforded the ACHP a reasonable opportunity to comment on the demolition of Building 205, and has taken into account the effects of such demolition on historic properties.

SIGNATORIES:

U.S. DEPARTMENT OF VETERANS AFFAIRS

By:  Date: 6/27/13
Elizabeth Joyce Freeman, Director, VA Palo Alto Health Care System

CALIFORNIA STATE HISTORIC PRESERVATION OFFICER

By:  Date: 7-24-13
Carol Roland-Nawi, PhD

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:  Date: 8-9-13
John Fowler, Executive Director.