

MEMORANDUM OF AGREEMENT
BETWEEN THE DEPARTMENT OF VETERANS AFFAIRS,
AND THE MASSACHUSETTS STATE HISTORIC PRESERVATION OFFICER
SUBMITTED TO THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
PURSUANT TO 36 CFR § 800.6(a)

WHEREAS, the VA Medical Center, Bedford, Massachusetts has been found by the Keeper of the National Register to be eligible as a significant component of the thematic group of VA "set" hospitals developed throughout the United States by the Federal government in the 2nd quarter of the 20th Century to provide an innovative and comprehensive system of health care for American veterans; and

WHEREAS, the complex retains sufficient integrity to reflect the medical, functional, landscape, and architectural policies which underlie the thematic group; and

WHEREAS, the U.S. Army Corps of Engineers, New England District (Corps) is providing construction services for the Department of Veterans Affairs (VA) in projects to repair the water distribution system and repair/replace stack and steam lines at the VA Medical Center, Bedford; and

WHEREAS, the VA, with the assistance of the Corps, has determined that these projects, involving demolition and replacement of two existing elevated water tanks and an existing smokestack, respectively, at the Edith Nourse Rogers Veterans Administration (VA) Medical Center, Bedford, Massachusetts, constitute an "undertaking" as defined in 36 C.F.R. § 800.16(y); and further, that this undertaking will have an adverse effect upon this significant historic property through the "physical destruction of or damage to all or part of the property" as defined in 36 C.F.R. § 800.5(a)(2)(i); and

WHEREAS, the said VA Medical Center is listed on the Massachusetts Register of Historic Places and has been determined eligible for listing on the National Register of Historic Places, and

WHEREAS, the VA has consulted with the the Massachusetts State Historic Preservation Officer (MA SHPO) pursuant to 36 C.F.R. § 800.13 of the regulations implementing Sections 106 of the National Historic Preservation Act (16 U.S.C. 470f), and Section 110(f) of the same Act (16 U.S.C. 470h-2(f)); and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), the VA has notified the Advisory Council on Historic Preservation (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

WHEREAS, in accordance with 36 CFR 800.2(c)(2), the VA has consulted with the Narragansett Indian Tribe (Rhode Island) and the Wampanoag Tribe of Gay Head (Aquinnah) (Massachusetts), both identified as having an ancestral interest in Middlesex County,

Massachusetts. Neither Tribe has chosen to participate in this Agreement; and

WHEREAS, the Corps has consulted with the Town of Bedford Historic Preservation Commission on the undertaking and they shall be included as a consulting party to this Agreement;

NOW THEREFORE, the VA and the MA SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to minimize and mitigate the adverse effect upon historic properties, namely the VA Medical Center Bedford.

STIPULATIONS

1. The VA, with the assistance of the Corps, pursuant to 36 C.F.R. § 800.6(a) and (b), shall ensure that historic documentation of the smokestack and elevated water tanks is carried out, in consultation with the MA SHPO, prior to demolition. Documentation measures and standards shall be determined in consultation with the MA SHPO, but shall, at a minimum, include archival quality Black and White photographs of the structures and a historical narrative detailing the historic context of VA Medical Center Bedford and its relation to the surrounding area and the region in general.
2. The VA, with the assistance of the Corps, shall ensure that all reports and documentation prepared pursuant to this Agreement are provided to the SHPO, VA, and other interested parties upon request.
3. The VA, with the assistance of the Corps, shall ensure that all historical documentation conducted as part of this Agreement is carried out by individuals meeting the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 CFR Part 68) and any other criteria indicated above.
4. This MOA will terminate if the undertaking is not carried out within five (5) years from the date of its execution. Prior to such time, VA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation 6, below.
5. Should any signatory or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the VA shall consult with such party to resolve the objection. If the VA determines that such objection cannot be resolved, the VA will:
 - A. Forward all documentation relevant to the dispute, including the VA's proposed resolution, to the ACHP. The ACHP shall provide the VA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the VA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring

parties, and provide them with a copy of this written response. The VA will then proceed according to its final decision.

B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the VA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the 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 such written response.

C. The VA remains responsible to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute.

6. This MOA may be amended when such an amendment is agreed to in writing by all signatories hereto. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

7. If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation 6, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

8. Once the MOA is terminated, and prior to work continuing on the undertaking, the 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. The VA shall notify the signatories as to the course of action it will pursue.

Execution of this Memorandum of Agreement by the VA and the MA SHPO and implementation of its terms, evidences that the VA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

Edith Nourse Rogers VA Medical Center Bedford

By: Tammy Follensbee Date: 6/7/10
Tammy Follensbee, Director

Massachusetts STATE HISTORIC PRESERVATION OFFICER

By: Brona Simon Date: 5/3/2010
Brona Simon, Executive Director and SHPO

U.S. Army Corps of Engineers, New England District

By: _____ Date: _____
Philip T. Feir, District Engineer

CONCURRENCE:

Bedford Historic Preservation Commission

By: _____ Date: _____
Lee Yates, Chairperson