

MEMORANDUM OF AGREEMENT

Among The U.S. Department of Veterans Affairs, Veterans Health Administration, Canandaigua
Veterans Affairs Medical Center;
New York State Historic Preservation Officer;
And the Advisory Council on Historic Preservation

Regarding Capital Asset Realignment for Enhanced Services Construction
At the Veterans Affairs Medical Center, 400 Fort Hill Avenue, Canandaigua, New York

1. **WHEREAS**, the United States Department of Veterans Affairs (VA) plans to fund and construct a project at the VA Medical Center in Canandaigua, New York (Canandaigua VAMC), pursuant to the VA Capital Asset Realignment for Enhanced Services (CARES) Program. The project will:
 - 1.1 Construct a new Outpatient Clinic (OPC) created by infill and renovation of historic Buildings 1, 3, and 4, following the concept of the Patient Aligned Care Team (PACT) model of delivering outpatient care. The infill design will retain the north façade (facing building 3) and the east façade (facing courtyard 1, the south courtyard) of building 2. The infill section, at two stories tall, is below the height of the original Building 2 facades, thereby preserving the integrity of this part of the historic district.
 - 1.2 Reconnect and/or reconstruct other enclosed walkways.
 - 1.3 Remodel historic Building 9 into a new 50- bed Domiciliary (DOM).
 - 1.4 Demolish historic Buildings 33 and 34, to allow the construction of the new Community Living Center (CLC).
 - 1.5 Modernize and improve outdated utilities and circulation to improve safety and upgrade service.
 - 1.6 Construct a new CLC, consisting of ten, one-story detached cottages and a Community Center interconnected by enclosed walkways.
 - 1.7 Make other improvements to service these areas and incorporate current health care standards.

The project is an undertaking subject to consultation under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, and its implementing regulations, 36

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C.F.R. Part 800 et seq.; and

2. **WHEREAS**, VA currently has funding only for design; construction of the project will be funded under separate authorization, in part or in whole, subject to approval by Congress; and
3. **WHEREAS**, Canandaigua VAMC consulted with the New York State Historic Preservation Officer (SHPO); and
4. **WHEREAS**, Canandaigua VAMC sought public input through the CARES Citizens Advisory Committee meeting on June 25, 2012, and consultation took place regarding plans for the VAMC Campus, involving recommendations of the CARES Commission and formulation of "Plan 9" that led to the proposed campus use concept for this project; and
5. **WHEREAS**, Canandaigua VAMC invited citizens and civic Leaders to consult; and
6. **WHEREAS**, Canandaigua VAMC invited the Seneca Indian Nation to consult, as the project is located within the Nation's historical lands¹ and the Tribe declined to participate; and
7. **WHEREAS**, Canandaigua VAMC determined the undertaking's area of potential effect (APE) to be the boundary of the National Register of Historic Places (NRHP)-listed Canandaigua VAMC Historic District (12000161), a historic property; and
8. **WHEREAS**, Canandaigua VAMC completed an archaeological survey and determined that, due to the survey results, original campus grading plans and photographs, and the amount of soil disturbance from the original 1930s construction, the project is unlikely to disturb any archaeological resources; and
9. **WHEREAS**, Canandaigua VAMC found that the project will have an adverse effect on Canandaigua Historic District, primarily due to demolition of contributing Buildings 33 and 34; and
10. **WHEREAS**, Canandaigua VAMC notified the Advisory Council on Historic Preservation (ACHP) of the adverse effect finding, and the ACHP chose to participate in consultation; and
11. **WHEREAS**, VA made efforts to avoid and minimize adverse effects by hiring a design team that includes personnel meeting the Secretary of the Interior's Professional Qualifications, 36 C.F.R. Part 800.2(a)(1), and the project incorporates numerous design

¹ Appendix to Section 106 Final Report; Letter to the Seneca Indian Tribe from VAMC Canandaigua dated March 24, 2014.

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elements² that reflect the Secretary of the Interior's Standards for the Treatment of Historic Properties; and

12. **WHEREAS**, Canandaigua VAMC demonstrated that the CLC and PACT model of care require health and safety improvements and operational objectives that cannot feasibly be accommodated without demolition of Buildings 33 and 34;

NOW, THEREFORE, Canandaigua VAMC, SHPO and ACHP agree that the project will be implemented in accordance with the following stipulations in order to resolve the adverse effect of the undertaking on historic properties, including the demolition of Buildings 33 and 34 and part of Building 2.

² See Exhibit E, Design Considerations to Minimize Adverse Effects.

STIPULATIONS

I. MITIGATION

A. DESIGN

During the contract document stage, Canandaigua VAMC will:

1. Proceed according to the conceptual design of the project as depicted in the Design Development 2 submission³
2. Design the CLC cottages and community building to be complementary to the existing design elements of the VA Campus⁴. The new construction will:
 - a. Complement the Campus' architectural style;
 - b. Incorporate sympathetic materials and colors;
 - c. Maintain a discernible distinction between new and historic buildings;
 - d. Be built in the general location of Buildings 33 and 34 (cottages);
 - e. And may incorporate salvaged materials.
3. Maintain existing Building 2 facades in the design for the infill building for the OPC and will complement existing building context;
4. Maintain the entry lobby of Building 1;
5. Replace non original windows with new windows designed to maintain types, site line and proportions typical of the original windows;
6. Provide SHPO project construction documents, upon request, to insure continued compliance with agreed design objectives and mitigations.

B. DOCUMENTATION

Prior to demolition and start of construction, Canandaigua VAMC will:

³ See Schematic Plans (Exhibit D) and DD-2 original document and plans submitted by the consultants to the VA on 6-07-2012.

⁴ Proposed Mitigations are listed in Exhibit E, Design Considerations to Minimize Adverse Effects, and are included in an appendix to the 106 Report.

1. Collect and archive material, to include:
 - a. All available original construction drawings and photographs held by Canandaigua VAMC for Buildings 33 and 34 will be copied and one complete set will be provided by VA for public archive to Sonnenberg Gardens and Mansions, State Historic Park 151 Charlotte Street, Canandaigua, NY 14424. Canandaigua VAMC shall notify public about availability of archive materials.
 - b. Prepare Historic American Buildings Survey (HABS) Level II documentation (as defined in the Federal Register/VOL. 68, No. 139 / Monday, July 21 / Notices) for Buildings 33 and 34 and their immediate site. The HABS documentation will be submitted to the U.S. Department of the Interior, National Park Service, Heritage Documentation Programs, Historic American Buildings Survey, 1201 Eye Street, NW, 2270.
2. Within one year of transfer of the CLC to Canandaigua VAMC, Canandaigua VAMC shall prepare one site history display in the CLC that will include historic drawings, floor plans, and historic photographs.
3. Within 18 months of the execution of this MOA, Canandaigua VAMC will provide a discovery and mitigation plan to SHPO and ACHP for concurrence. This plan will include, but not limited to, unanticipated archeological discoveries. If historic properties are discovered or unanticipated effects on historic properties identified, Canandaigua VAMC will advise SHPO and ACHP of the discovery or unanticipated effect.

C. ARCHITECTURAL SALVAGE

During construction, Canandaigua VAMC will evaluate building materials and architectural features including existing bricks and terra cotta panels from Buildings 33 and 34 for re-use in new construction or as restorative art prior to completion of contract documents. Existing brick and salvageable terracotta panels (from the back porches of Buildings 33 and 34) will be stored in a place/manner so as not to deteriorate the post-demolition condition of the brick panels and these will be considered for site and landscape work. The degree to which these can be used will be a function of their condition after demolition.

D. MITIGATION MEASURES PROPOSED BY THE PUBLIC

No additional mitigation measures were proposed by the public during the 30-days public comment period for the Environmental Assessment or during the NEPA/106 meeting on May 6, 2014.

II. DURATION

- A. This Memorandum of Agreement (MOA) will expire two (2) years after the transfer date of CLC to Canandaigua VAMC.
- B. If the terms of this MOA and the project are not completed within seven (7) years, Canandaigua VAMC shall either (a) execute a new MOA pursuant to 36 C.F.R. § 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 C.F.R. § 800.7 before continuing the undertaking. Prior to such time, Canandaigua VAMC may consult with the other signatories to reconsider the terms of this MOA and amend it in accordance with Stipulation VI below. Canandaigua VAMC shall notify the signatories as to the course of action it will pursue.

III. POST-REVIEW DISCOVERIES

If historic properties are discovered or unanticipated effects on historic properties or archeological discoveries identified, Canandaigua VAMC shall notify SHPO in accordance with the approved discovery and mitigation plan (Stipulation I.B.3).

IV. MONITORING AND REPORTING

Each year following the execution of this MOA until it expires or is terminated, Canandaigua VAMC will make available to parties to this MOA a summary report detailing work carried out pursuant to its terms. Such report will include any scheduling changes proposed, changes to the undertaking including those related to funding delays, any problems encountered, and any disputes and objections received during efforts to carry out the terms of this MOA. Annual reporting will also document historic building materials including existing bricks and terra cotta panels that were salvaged and reused and the annual reporting will also indicate whether the VAMC has received construction funding, since funding is uncertain at this time.

V. DISPUTE RESOLUTION

- A. Should any signatory to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, Canandaigua VAMC shall consult with such party to resolve the objection.
- B. If Canandaigua VAMC determines that such objection cannot be resolved, it will:
 - 1. Forward all documentation relevant to the dispute, including its proposed resolution, to the ACHP.
 - 2. The ACHP shall provide Canandaigua VAMC with its advice on the resolution of

the objection within 30 days of receiving adequate documentation.

3. Prior to reaching a final decision on the dispute, Canandaigua VAMC shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and signatories and provide them with a copy of this written response.
 4. Canandaigua VAMC will then proceed according to its final decision.
 5. If the ACHP does not provide its advice regarding the dispute within the 30 day time period, Canandaigua VAMC may make a final decision on the dispute and proceed accordingly.
- C. Canandaigua VAMC's responsibilities to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

VI. AMENDMENTS

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

VII. TERMINATION

- A. 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 VI, above.
- B. If within 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.
- C. Once the MOA is terminated, and prior to work continuing on the undertaking, Canandaigua VAMC will either execute a new MOA pursuant to 36 C.F.R. § 800.6, or request, take into account, and respond to the comments of the ACHP under 36 C.F.R. § 800.7. Canandaigua VAMC will notify the signatories as to the course of action it will pursue.

VIII. AVAILABILITY OF FUNDS

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This agreement is subject to the Anti-Deficiency Act (31 U.S.C. Section 1341).
Canandaigua VAMC's responsibilities under this Agreement are contingent upon the
availability of appropriated funds from which payment, if any, can be made.

IX. EXECUTION

Execution of this MOA by Canandaigua VAMC, SHPO, and ACHP, and
implementation of its terms, evidence that Canandaigua VAMC has taken into
account the effects of this undertaking on historic properties and afforded the ACHP
an opportunity to comment, in compliance with NHPA Section 106 and 36 C. F. R.
Part 800 et seq.

SIGNATORIES:

**U.S. Department of Veterans Affairs, Veterans Health Administration, Canandaigua
Veterans Affairs Medical Center**

 Date 8.6.14

Craig S. Howard, Director

Department of Veterans Affairs
CARES Renovation & New Construction
VAMC, Canandaigua, NY

New York State Historic Preservation Officer

Ruth A. Pierpont Date 8/14/14

Ruth Pierpont, Deputy NY SHPO

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Advisory Council on Historic Preservation


_____ Date *4/10/2014*
for John M. Fowler, Executive Director
(BY RONALD D. ANZALONE, ACTG)

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CONCURRING PARTY:

Sonnenberg Gardens and Mansion State Historic Park

David A. Hutchings Date 8/28/14
David Hutchings, Executive Director

REFERENCES AND FOOTNOTES

1. "The U.S. Department of Veterans Affairs CARES Renovation and New Construction Project at the Veterans Affairs Medical Center (VAMC), Canandaigua, NY, NHPA Section 106 Consultation Submission"; dated September 9, 2011, Volumes 1 and 2.
2. Drawing G-102, Site Plan-Existing, dated 6.25.2012; and Drawing G-100, Site Plan-Existing & Proposed Overlay; dated June 25, 2012.
3. Section 7 of National Register Registration Form, Cultural Resources Analysts Inc.; June 29, 2011; Description of Resources Contributing to Historic Register Eligibility.
4. Reference Documentation & Design Considerations to Minimize Adverse Effects, dated August 25, 2012.
5. Cares Citizens Advisory Committee Overview Presentation and NCHP & NYSSHPO Consultation meeting minutes dated June 25, 2012; et. al.
6. Letter to the Seneca Indian Tribe from VAMC Canandaigua dated March 24, 2014.
7. See Schematic Plan (Exhibit 4) and DD-2 original document and plans submitted by the consultants to the VA on 6-07-2012.
8. Proposed Mitigations are listed in Exhibit E, Design Considerations to Minimize Adverse Effects, and are included in an appendix to the 106 Report.

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EXHIBITS

EXHIBIT A	LOCATION MAPS
EXHIBIT B	BUILDING NUMBER KEY WITH CONTRIBUTING RESOURCES IDENTIFIED
EXHIBIT C	SITE PLAN - EXISTING CONDITIONS
EXHIBIT D	SITE PLAN- FUTURE DEVELOPMENT (THE PROJECT) OVERLAY
EXHIBIT E	DESIGN CONSIDERATIONS TO MINIMIZE ADVERSE EFFECTS