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PROGRAMMATIC AGREEMENT  
AMONG THE DEPARTMENT OF VETERANS AFFAIRS AND  
THE VIRGINIA DEPARTMENT OF HISTORIC RESOURCES  
FOR THE DEMOLITION OF HISTORIC BUILDINGS ON THE  
HAMPTON, VIRGINIA VETERANS AFFAIRS MEDICAL CENTER

SEP 17 2007

WHEREAS, the Department of Veterans Affairs (VA) proposes to demolish Buildings 13, 16, 61, 69, 70, 72, and 108 in preparation for construction of a new State Nursing Home at the Hampton, Virginia Veterans Medical Center (HVAMC) in Hampton, Virginia; and

WHEREAS, the VA has determined this to be a federal undertaking pursuant to Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) (NHPA) and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800); and

WHEREAS, the VA in consultation with the Virginia Department of Historic Resources), which serves as Virginia's State Historic Preservation Office (SHPO) has established the Undertaking's Area of Potential Effects (APE) to be (located at 37°01'04"N and 76°19'54"; 88 acres) to the area as shown in Attachment A (Site Map); and

Whereas, Buildings 13, 16, 61, 69, 70, and 72 are contributing resources to the Hampton Veterans Affairs Medical Center Historic District (DHR ID #114-0101), a district that has been determined eligible for listing on the National Register of Historic Places (National Register); and

WHEREAS, the VA has determined in consultation with the SHPO that the proposed demolition of Buildings 69, 70 and 72 may impact archaeological site 44HT0035, a site that is considered potentially eligible for the National Register as well as other archaeological resources as yet unidentified within the APE; and

WHEREAS, the VA has consulted with the SHPO in accordance with Section 106 of the NHPA and has determined that the Undertaking may have an adverse effect on the Hampton Veterans Affairs Medical Center Historic District, Site 44HT0035 and as yet unidentified archaeological resources; and

WHEREAS, pursuant to 36 CFR 800.6(a) (1) the VA has notified the Advisory Council on Historic Preservation (ACHP) and invited the ACHP to participate in consultation and the ACHP has declined; and

WHEREAS, the VA has provided the public with an opportunity to comment through newspaper notices and direct letters to interested parties including the Fox Hill Historical Society; Hampton Heritage Foundation; Hampton Historical Society; Hampton History Museum; Department of Architecture Hampton University; American Legion – Hampton Branch; Retired Armed Forces Club Inc – Hampton Branch; VFW Post 3160 – Hampton Branch; Retired Military Club of Tidewater; and American Institute of Architects – Hampton Branch.

WHEREAS, the VA invited four tribes with cultural concerns to consult and they did not respond; and

NOW, THEREFORE, the VA and the SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the proposed demolition on historic properties.

### **Stipulations**

HVAMC shall ensure that the following stipulations are implemented:

#### **I. Site Documentation, Survey, and Interpretation of Historic Structures**

A. Site documentation and survey will be completed prior to demolition and within six months of this signed Programmatic Agreement according to the following requirements:

- An architectural historian meeting the Secretary of the Interior Professional Qualification Standards (36 CFR Part 61) will document the buildings through preparation of a Historic Structures Report conforming to Historic American Building Survey Level Two documentation requirements per the *Secretary of Interior Standards and Guidelines for Archeology and Historic Preservation*;
- The Historic Structures Report will include an updated Intensive Level Three Survey according to DHR's Survey Guidelines and DSS database requirements;
- Two copies of the Historic Structures Report and updated DSS survey documentation will be provided to DHR,
- Copies of the Historic Structures Report will be provided to the local historical society, public library, National Park Service and Library of Congress;
- All documentation will be completed per the Statement of Work provided to the contractor, and in coordination with the HVAMC staff on site.

#### **II. Identification and Evaluation of Archaeological Sites.**

1. Prior to the demolition, the HVAMC in consultation with the SHPO shall prepare and implement a program to identify and evaluate archeological sites .
2. Should the HVAMC, as a result of its survey efforts, determine that an eligible archeological site will be affected, a plan for its avoidance, protection, or recovery of data will be submitted to the SHPO and other consulting parties for review and comment. If archeological properties are identified as a result of the testing program, a plan for their avoidance, protection, or recovery of information will be developed by the HVAMC, in consultation with the SHPO and approved by the SHPO prior to implementation.
3. All data recovery plans prepared under the terms of this agreement shall include the following elements

- Information on the archaeological property or properties where data recovery is to be carried out, and the context in which such properties are eligible for the National Register;
- Information on any property, properties, or portions of properties that will be destroyed without data recovery;
- Discussion of the research questions to be addressed through the data recovery, with an explanation/justification of their relevance and importance;
- Description of the recovery methods to be used, with an explanation of their pertinence to the research questions;
- Information on arrangements for any regular progress reports or meetings to keep the HVAMC and the SHPO up to date on the course of the work. The plan should contain the expected timetable for excavation, analysis and preparation of the final report. The HVAMC shall notify the SHPO in writing once the fieldwork portion of the data recovery program is complete so that a site visit may be scheduled, if the SHPO finds it appropriate. The proposed construction may proceed following this notification while the technical report is in preparation.
- Description of the proposed disposition of recovered materials and records, along with evidence of an agreement executed with the HVAMC regarding curatorial responsibilities;
- Proposed methods for disseminating results of the work to the interested public (e.g. slide packet for use in the Hampton City and County grade schools, an exhibit in the Hampton Library during Virginia Archaeology Month, etc.).

4. The HVAMC shall notify the Virginia SHPO in writing once the fieldwork portion of the data recovery program is complete so that a site visit may be scheduled, if the Virginia SHPO finds it appropriate. The proposed construction may proceed following this notification while the technical report is in preparation.

## REPORT DOCUMENTATION

1. The HVAMC shall submit two copies of all technical reports in draft form to the SHPO for review and comment. The HVAMC shall ensure that all comments received within thirty (30) days of report receipt shall be addressed in the final technical reports.
2. All archeological studies, including data recovery plan(s), resulting from this Agreement including data recovery plan(s), shall be consistent with *The Secretary of the Interior's*

*Standards and Guidelines for Archeological Documentation* (48 FR 4434-37), and the SHPO's *Guidelines for Conducting Cultural Resource Survey in Virginia: Additional Guidance for the Implementation of the Federal Standards Entitled Archaeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines* (48 FR 44742, September 29, 1983) (1999, rev. 2001), and shall take into account the ACHP's publications, *Consulting About Archeology Under Section 106* (1990) and *Recommended Approach for Consultation on Recovery of Significant Information from Archeological Sites* (1999).

3. All archeological work will be conducted under the direct supervision of a qualified archeologist who meets, at a minimum, the qualifications set forth in the Secretary of Interior's *Professional Qualifications Standards* (48 FR 44738-9).

## **CURATION.**

1. All archeological materials and appropriate field and research notes, maps, drawing and photographic records collected as part of this project (with the exception of human skeletal remains) will be cared for in a repository approved by the Virginia SHPO and in accordance with the requirements in 36 CFR Part 79, *Curation of Federally Owned and Administered Archeological Collections*. All such items will be made available to the County, educational institutions and individual scholars for appropriate exhibit and/or research under the operating policies of the selected repository.

## **INTERPRETIVE DISPLAY**

2. HVAMC will contract with an interpretive exhibits design firm to develop a small interpretative exhibit on the history of the Hampton Veterans Affairs Medical Center. The interpretative display will be placed in the new State Nursing Home in an area where it will receive maximum visibility. The display will be appropriate for elderly residents (wheel chair accessible, large print). HVAMC will work with the National Park Service, Harpers Ferry Center, to develop an appropriate scope of work for the design of this exhibit.

## **II. New Construction**

The VA shall consult with the SHPO throughout the planning and design for the construction of the new State Nursing Home to avoid, reduce, or minimize any potential impacts to historic properties within the Hampton Veterans Affairs Medical Center Historic District (DHR 114-0101). Specifically, HVAMC will submit plans for DHR review at 30, 60 and 90 per cent design development.

## **III. Post-review Discovery**

### **A. Historic Properties**

In the event that unanticipated effects on historic properties are found during the implementation of the MOA, HVAMC will stop any work that may adversely affect the historic property or that may foreclose opportunities to avoid such adverse effects. HVAMC shall consult with the SHPO and with the other required and concurring parties to the MOA to determine the appropriate course of action to comply with Section 106. If necessary, the required signatories shall review the terms of the MOA and determine whether revisions are needed.

#### B. Archaeological Resources

In the event that a previously unidentified archaeological resource is discovered during the ground disturbing activities including construction of the new State Nursing Home, HVAMC will halt all construction work involving subsurface disturbance in the area of the resource and in the surround area where further subsurface deposits may reasonably be expected to occur. The HVAMC shall ensure that an archaeologist meeting the Secretary of Interior's *Professional Qualification Standards* (36 CFR 61) will immediately inspect the work site and determine the extent and the nature of the affected archaeological property. The archaeologist may consult the SHPO and other parties as deemed appropriate by the archaeologist in setting the boundaries of the archaeological resource. Construction work may then proceed in the project area outside of the archaeological site boundaries.

Within two working days of the discovery, HVAMC shall notify the VA Central Office and the SHPO. The notification shall describe HVAMC's assessment of the National Register eligibility of the property and proposed actions to resolve the adverse effect (if any). The SHPO shall respond within two working days of notification and construction may resume when the SHPO agrees. HVAMC shall take into account the SHPO's recommendations regarding National Register eligibility and proposed actions, and then carry out appropriate actions. HVAMC shall provide the SHPO with a report of these actions once they are complete.

#### C. Human Remains

The VA shall ensure that human remains and associated funerary objects encountered during the course of actions taken as a result of this MOA shall be treated in a manner consistent with the provisions of the *Virginia Antiquities Act*, Section 10.1-2305 of the *Code of Virginia*, final regulations adopted by the Virginia Board of Historic Resources and published in the Virginia Register on July 15, 1991. In addition, human remains and associated funerary objects that may be of Native American origin encountered on Federal land shall be treated in a manner consistent with the provisions of the *Native American Graves Protection and Repatriation Act* (25 U.S.C. 3001).

### IV. Dispute Resolution

A. Should the SHPO object within thirty days to any action carried out or proposed with respect to any undertakings covered by this agreement or to implementation of this agreement, the VA will consult with the SHPO to resolve the objection.

B. At any time during implementation of the measures stipulated in this agreement, should an objection pertaining to this agreement be raised by a member of the public, the VA shall notify the parties to this agreement and take the objection into account, consulting with the objector and, should the objector so request, with any of the parties to this agreement to resolve the objection.

#### **V. Amendments and Termination**

A. Any party to this agreement may propose to the VA that the agreement be amended, whereupon the VA will consult with the other parties to this agreement to consider such an amendment. All signatories to the agreement must agree to the proposed amendment in accordance with 800.6(c)(7).

B. If the VA decides that it will not proceed with the undertaking, it shall notify the SHPO, and this agreement shall become null and void.

C. If the VA determines that it cannot implement the terms of this agreement, or if the VA or SHPO determines that the agreement is not being properly implemented, the VA or the SHPO may propose to the other parties to this agreement that it be amended or terminated.

D. Any signatory to this Agreement may terminate it by providing a thirty (30) day written notice to the other signatories, provided that the signatories consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, work on the Undertaking in the area(s) with affected historic properties will cease until VA has fulfilled its Section 106 responsibility in accordance with 36 CFR 800.3 through 800.13.

E. This Agreement shall terminate upon completion of the stipulations.

#### **VI. Duration of Agreement**

A. This agreement will continue in full force and effect for five years after the date of the last signature. At any time in the six-month period prior to such date, the VA may request the signatory parties to consider an extension or modification of this agreement. No extension or modification will be effective unless all parties to the agreement have agreed with it in writing.

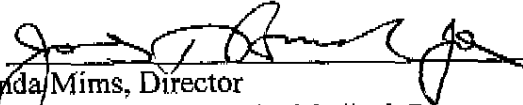
#### **VII. Failure to Carry out the Terms of the Memorandum**

In the event that the terms of this agreement are not carried out, the VA shall comply with 36 CFR Part 800 with regard to actions covered by this agreement.

Execution of the Memorandum of Agreement and implementation of its terms evidence that the VA has taken into account the effects of this undertaking on historic properties. This Memorandum of Agreement shall be effective when all parties have agreed to and signed this Memorandum of Agreement.

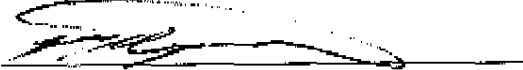
Signatories:

**Department of Veterans Affairs**

By:   
Wanda Mims, Director  
Hampton Veterans Affairs Medical Center

Date: 9-13-07

**Virginia State Historic Preservation Officer**

By:   
Kathleen S. Kilpatrick, Director  
Virginia Department of Historic Resources

Date: 9/18/07