

**MEMORANDUM OF AGREEMENT  
BETWEEN THE U.S. DEPARTMENT OF VETERANS AFFAIRS (VA) TOGUS VA  
MEDICAL CENTER (VAMC) AND THE MAINE STATE HISTORIC PRESERVATION  
OFFICE (SHPO) REGARDING DEMOLITION OF BUILDINGS 33, 34, AND 222 AT  
THE TOGUS VAMC, LOCATED IN THE CITY OF AUGUSTA, KENNEBEC COUNTY,  
MAINE**

**WHEREAS**, the U.S. Department of Veterans Affairs (VA) is a federal agency that operates the Togus VA Medical Center (VAMC) located in the City of Augusta, Kennebec County, Maine; and

**WHEREAS**, the Togus VAMC intends to demolish Buildings 33, 34, and 222 because of their deteriorated conditions (the undertaking); and

**WHEREAS**, the Togus VA Medical Center and National Cemetery Historic District was listed in the National Register of Historic Places (National Register) in 2013, and therefore a historic property; and

**WHEREAS**, the Togus VAMC has defined the undertaking's area of potential effect (APE) to be limited to the zone directly surrounding each building; and

**WHEREAS**, the Togus VAMC and the Maine State Historic Preservation Officer (SHPO) agree that the present condition of the buildings supports the removal of the buildings; and

**WHEREAS**, Buildings 33, 34, and 222 are identified in the National Register nomination as contributing features to the historic district; and

**WHEREAS**, demolition of contributing buildings constitutes an adverse effect under 36 CFR 800.5; and

**WHEREAS**, the Togus VAMC invited the following parties to consult on the undertaking: the Aroostook Band of Micmac's, Houlton Band of Maliseet's, Passamaquoddy Tribe of Indians and the Penobscot Nation, and none responded/chose to participate in consultation; and

**WHEREAS**, the Togus VAMC has notified the President's Advisory Council on Historic Preservation (ACHP) of the adverse effect and the ACHP declined to participate in the consultation process.

**NOW, THEREFORE**, the Togus VAMC and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations of this Memorandum of Agreement (MOA) in order to take into account, the effects of the undertaking on historic properties:

**STIPULATIONS**

The Togus VAMC shall ensure that the following mitigating actions are carried out.

**I. WRITTEN DOCUMENTATION**

- a. The Togus VAMC shall provide additional information regarding the history and use of Buildings 33, 34, and 222 in a written report to supplement the information provided in the Togus VA Medical Center and National Cemetery National Register Nomination.
- b. The written report shall include a copy of the National Register nomination as an appendix.
- c. All work shall be completed by individuals who meet or exceed the Secretary of

Interior's Standards in history or architectural history.

## II. PHOTOGRAPHS

- a. The Togus VAMC shall submit photographs documenting the current interior and exterior conditions of Buildings 33, 34, and 222, representing every elevation, architectural details, and contextual images.
- b. Photographs shall meet the standards for digital photography established in *Above Ground Cultural Resource Survey Manual: Guideline for Identification: Architecture and Cultural Landscapes* (2013) published by the Maine Historic Preservation Commission.
  - i. Photos shall be no smaller than 1600 x 1200 pixels at 300 pixels per square inch and in either the .jpeg, .tiff, or RAW format.
  - ii. Photos shall be shot in RGB color format, but all submitted images will be in black and white.
  - iii. Digital files of the photographs will be provided to SHPO on a CD-R or DVD-R Archival Gold disk. The disk will be labeled with a CD/DVD-safe marker with the photographer's name, SHPO review number, and date.
  - iv. Photographs shall be printed with a white border.
  - v. One set of black and white prints of the photographs will be provided to SHPO on archival-quality paper measuring 3 ½ x 5 inches with archival-quality ink in archival photo sleeves.

## III. SCHEDULE

The Togus VAMC may proceed with demolition of Buildings 33, 34, and 222 once the SHPO has reviewed and concurred with the stipulations listed in Sections I and II above. Completed documentation and Final Report will be submitted to the SHPO no later than six months after demolition of Buildings 33, 34, and 222 begins.

## IV. DURATION

This MOA will expire if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, the Togus VAMC may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VII below.

## V. POST-REVIEW DISCOVERIES

If historic resources are discovered or unanticipated effects on historic resources occur during execution of the undertaking, the Togus VAMC will notify the SHPO and make efforts to avoid, minimize or mitigate adverse effects to such resources. The Togus VAMC and SHPO shall be guided by steps established in 36 CFR Section 800.13.

## VI. DISPUTE RESOLUTION

Should either signatory to this MOA object at any time to the manner in which the terms of this MOA are implemented, the Togus VAMC shall consult with the SHPO to resolve the objection. If the Togus VAMC determines that such objection cannot be resolved, the Togus VAMC will:

- a. Forward all documentation relevant to the dispute, including the Togus VAMC's proposed resolution, to the ACHP. The ACHP shall provide the Togus VAMC 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 Togus VAMC shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, and SHPO, and provide them with a copy of this written response. The Togus VAMC 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 Togus VAMC may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Togus VAMC shall prepare a written response that takes into account any timely comments regarding the dispute from the SHPO, and provide it and the ACHP with a copy of such written response.
- c. The Togus VAMC's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

## VII. AMENDMENTS

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

## VIII. TERMINATION

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 signatories to attempt to develop an amendment per Stipulation VI, 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.

Once the MOA is terminated, and prior to work continuing the undertaking, the Togus VAMC 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 Togus VAMC shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by the Togus VAMC and SHPO and implementation of its terms evidence that the Togus VAMC has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

## IX. ANTI-DEFICIENCY CLAUSE

This MOA is subject to the Anti-Deficiency Act (31 US Code § 1341). The Togus VAMC's responsibilities under this MOA are contingent upon the availability of appropriated funds from which payment, if any, can be made. Should funds not be available to allow the Togus VAMC to meet its responsibilities, it will defer its final decision(s) on implementing the undertaking until it has re-initiated consultation and complied with 36 CFR § 800.4 through 800.7 as applicable.

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MAINE**

**SIGNATORIES**

UNITED STATES DEPARTMENT OF VETERANS AFFAIRS, TOGUS VA MEDICAL CENTER

  
\_\_\_\_\_  
Amy F. Gartley  
Interim Center Director

02/14/19

MAINE STATE HISTORIC PRESERVATION OFFICE

  
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Kirk F. Mohnhey

2/15/19