

**MEMORANDUM OF AGREEMENT
BETWEEN
THE U.S. DEPARTMENT OF VETERANS AFFAIRS (VA)
FINGER LAKES HEALTHCARE SYSTEM (FLHS) AND
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER (SHPO)
REGARDING
DEMOLITION OF RESIDENTIAL BUILDINGS 50, 51, 52, 53, 54, 55, 56 AND 57
AT THE BATH VA MEDICAL CENTER (VAMC)
BATH, STEUBEN COUNTY, NEW YORK**

WHEREAS, the U.S. Department of Veterans Affairs (VA) Finger Lakes Healthcare System (FLHS) operates the Bath VA Medical Center (Bath VAMC), 76 Veterans Avenue, Village and Town of Bath, Steuben County, New York, and has identified eight buildings which served as staff residential quarters and support structures (50, 51, 52, 53, 54, 55, 56 and 57) (collectively "Buildings 50-57") as not supporting current or future operations; and

WHEREAS, the VA FLHS has determined that the proposed demolition of the eight buildings is a federal action that meets the definition of an undertaking, per 36 CFR § 800.16(y), and is the type of activity that has the potential to cause effects on historic properties, and therefore subject to Section 106 of the National Historic Preservation Act (NHPA) (54 USC § 306108) and its implementing regulations (36 CFR Part 800 – Protection of Historic Properties); and

WHEREAS, the VA FLHS has consulted with the New York State Historic Preservation Officer (NY SHPO); and

WHEREAS, the VA FLHS has invited the following to be consulting parties: The Village of Bath, The Town of Bath, the Steuben County Historical Society, the Seneca Nation of Indians, and the Seneca-Cayuga Nation; and none chose to participate in the consultation; and

WHEREAS, the Village and Town of Bath represent the public's interest in land-use planning; and

WHEREAS, the VA FLHS provided the public with information about the undertaking and its effects on historic properties and sought public comment and input, consistent with 36 CFR § 800.2(d), by providing elected representatives of the Village and Town of Bath an opportunity to comment; and

WHEREAS, the VA FLHS, in consultation with the NY SHPO, has determined that the area of potential effects (APE) to be the southeast corner of the Bath VAMC campus (Attachment 1); and

WHEREAS, the VA FLHS has identified the New York State Soldiers' and Sailors' Home/Bath Veterans Administration Center Historic District, listed in the National Register of Historic Places (NRHP) in 2013, as a historic property within the APE that may be affected by the undertaking; and

WHEREAS, the VA FLHS has found the undertaking will have an adverse effect on the historic property as Buildings 50-57 are identified as contributing resources to the district (50: Officer's Quarters, c.1880s, 51: Officer's Quarters, c.1880s, 52: Officer's Quarters, c.1880s, 53: Quartermaster's Barn, c.1880s, 54: Officer's Quarters, c.1880s, 55: Officer's Quarters, c.1880s, 56: Officer's Quarters, c.1880s, and 57: Personnel Garage, c.1950s); and consulted to resolve the adverse effect, per 36 CFR § 800.6; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), the VA FLHS has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect finding 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, VA, under its Enhanced-Use Leasing (EUL) authority, 38 USC §§ 8161-8169; and the Historic Reuse Authority (HRA), 54 USC §§ 306121-306122 (formerly NHPA Section 111), marketed and promoted the opportunity to redevelop and to renovate the subject buildings by listing the availability on FedBizOps from February 19, 2019, until March 19, 2019, and received no qualifying written interest or responses; and

WHEREAS, VA determined, based on market research and its marketing efforts, that there is no market interest for the reuse of Buildings 50-57 by non-governmental users; and

NOW, THEREFORE, the VA FLHS and the NY SHPO agree that the adverse effect will be resolved through execution of this Memorandum of Agreement (MOA), pursuant to 36 CFR § 800.6(b)(1)(iv), and that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The VA FLHS shall ensure that the following mitigation measures are carried out. Upon completion of the mitigation actions described in stipulation I, the demolition of Buildings 50-57 can proceed.

I. Documentation

The VA FLHS will submit in digital form to the NY SHPO on a CD, CD/DVD or flash drive:

- a. Photographs of Buildings 50, 51, 52, 53, 54, 55, 56 and 57
 - i. Photographs of Buildings 50-57 shall be submitted as documentation. Photographs should be clear, well-composed, and provide an accurate visual representation of the property (exterior and interior) and their significant features. Photographs should depict the current condition and significant features of the property.
 - ii. Digital photographs should be taken using a ten (10) mega pixel or greater digital SLR camera.
 - iii. Images should be saved in Tag Image File format (TIFF) format images. This allows for the best image resolution. RGB color digital TIFFs are preferred.
 - iv. Selected images for documentation package should include *no less* than 10 clear and well composed images to fully document the present condition of the exterior and interior of each building.
 - v. Photo file names will include at least the following: Steuben County-Bath VAMC-Building X, Photo No. X, Date in X/X/XXXX format.

b. Summary Report

- i. The VA FLHS will submit a summary report on each of the buildings that includes a physical description, building history, and copies of any historic photographs, site plans, and/or architectural drawings in the records of the Bath VAMC.
- ii. A copy of the National Register nomination will accompany the submitted documentation as an appendix to the summary report.

II. Interpretive Signage

- a. The VA FLHS will develop, produce and install 2-4 panels that shall provide a history of the Bath VAMC facility and residential life on the site. Draft text, images and layout as well as installation locations will be submitted to the NY SHPO for review.
- b. The NY SHPO will receive a 30-day review period to provide comments on the text and images to be used on the panels prior to fabricating and installing.

III. TIMEFRAMES

- a. All work associated with the stipulations must be completed no later than 18-months from the time of demolition of Buildings 50-57.

IV. POST-REVIEW DISCOVERIES

- a. If historic properties are discovered or unanticipated effects on historic properties occur during execution of the undertaking, the VA FLHS will notify the NY SHPO and make efforts to avoid, minimize or mitigate adverse effects to such resources. The VA FLHS and NY SHPO shall be guided by steps established in 36 CFR § 800.13(b).

V. DURATION

- a. 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 VA FLHS may consult with the NY SHPO to reconsider the terms of the MOA and amend it in accordance with Stipulation VII below.

VI. DISPUTE RESOLUTION

- a. Should either signatory 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 FLHS shall consult with the NY SHPO to resolve the objection. If the VA FLHS determines that such objection cannot be resolved, it will:
 - i. Forward all documentation relevant to the dispute, including the VA FLHS' proposed resolution, to the ACHP. The ACHP shall provide the VA FLHS with its advice on the resolution of the objection within 30 days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the VA FLHS shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and NY SHPO and provide them with a copy of this written response. The VA FLHS will then proceed according to its final decision.

- ii. If the ACHP does not provide its advice regarding the dispute within the 30-day period, the VA FLHS may make a final decision on the dispute and proceed accordingly. Prior to reaching a final decision, the VA FLHS shall prepare a written response that takes into account any timely comments regarding the dispute from the NY SHPO and provide it and the ACHP with a copy of such written response.
- iii. The VA FLHS' 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

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

VIII. TERMINATION

- a. If either signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatory to attempt to develop an amendment per Stipulation VII, above. If within 30 days (or another time period agreed to by both signatories) an amendment cannot be reached, either signatory may terminate the MOA upon written notification to the other signatory.
- b. Once the MOA is terminated, and prior to work continuing on the undertaking, the VA FLHS must either (a) execute a 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 FLHS shall notify the NY SHPO as to the course of action it will pursue.

IX. ANTI-DEFICIENCY ACT

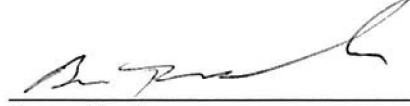
- a. The VA FLHS' obligations under this MOA are subject to the availability of funds and the stipulations of this MOA are subject to the provisions of the Anti-Deficiency Act (31 USC § 1341). The VA FLHS will make reasonable and good faith efforts to secure the necessary funds to implement this MOA in its entirety. If compliance with the Anti-Deficiency Act alters or impairs its ability to implement the stipulations of this MOA, the VA FLHS will consult with the NY SHPO in accordance with the amendment and termination procedures in Stipulations VII and VIII.

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

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SIGNATORIES:

UNITED STATES DEPARTMENT OF VETERANS AFFAIRS FINGER LAKES HEALTHCARE SYSTEM



Bruce Tucker
Director

9/6/19

Date

NEW YORK STATE HISTORIC PRESERVATION OFFICER

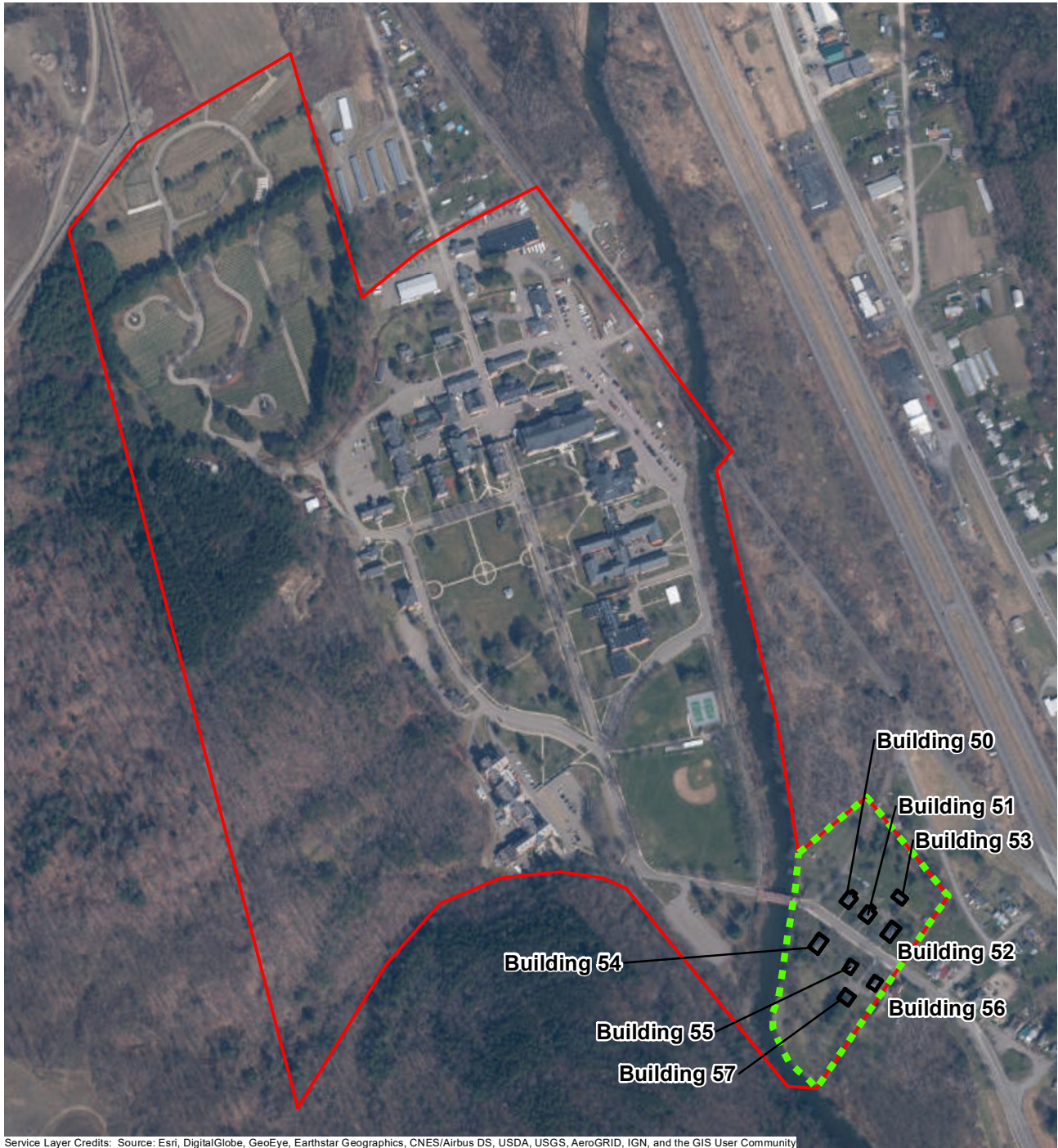


R. Daniel Mackay
Deputy Commissioner for Historic Preservation/Deputy SHPO

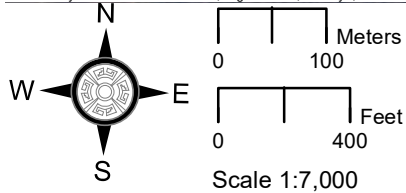
9/13/2019

Date

Attachment 1: Area of Potential Effects



Service Layer Credits: Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



- Historic District Boundary
- Selected Built Resource
- APE

Bath VA
Medical Center
Bath, NY
Medical Campus and
Selected Built Resource
Aerial Overview