

**MEMORANDUM OF AGREEMENT  
BETWEEN  
THE U.S. DEPARTMENT OF VETERANS AFFAIRS  
NEW YORK HARBOR HEALTH CARE SYSTEM (NYHHS) AND  
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER (SHPO)  
REGARDING  
DEMOLITION OF BUILDING 90  
AT THE ST. ALBANS COMMUNITY LIVING CENTER (CLC)  
NEW YORK CITY, QUEENS COUNTY, NEW YORK**

**WHEREAS**, the U.S. Department of Veterans Affairs (VA) New York Harbor Health Care System (NYHHS) has identified Building 90 at its St. Albans Community Living Center (St. Albans CLC), 179-00 Linden Boulevard, Jamaica / New York City, Queens County, New York, as not supporting current or future operations; and

**WHEREAS**, the NYHHS has determined that the proposed demolition of Building 90 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 NYHHS has consulted with the New York State Historic Preservation Officer (NY SHPO); and

**WHEREAS**, the NYHHS has invited the following to be consulting parties: the Borough of Queens, the Queens Historical Society, the New York Landmarks Preservation Commission, the Preservation League of New York, the Historic Districts Council, the Delaware Nation (Oklahoma), the Delaware Tribe of Indians, the Shinnecock Indian Nation, and the Stockbridge Munsee Community (Wisconsin); and none chose to participate in the consultation; and

**WHEREAS**, the NYHHS 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 inviting elected representatives of the public, including the Borough of Queens, to participate in consultation; and

**WHEREAS**, the NYHHS, in consultation with the NY SHPO, has determined that the area of potential effects (APE) to be the St. Albans CLC campus (Attachment 1); and

**WHEREAS**, the NYHHS has identified the St. Albans Community Living Center Historic District, determined eligible for listing in the National Register of Historic Places (NRHP) in 2008 by VA and the NYSHPO, as a historic property within in the APE that may be affected by the undertaking; and

**WHEREAS**, the NYHHS has found that the undertaking will have an adverse effect on the historic property as Building 90, constructed in 1948 and operated as a Radiation Therapy building, is a contributing resource to the historic district; and consulted to resolve the adverse effect per 36 CFR § 800.6; and

**WHEREAS**, in accordance with 36 CFR § 800.6(a)(1), the NYHHS 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

**NOW, THEREFORE,** the NYHHS 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 NYHHS shall ensure that the following measures are carried out. Upon completion of Stipulations I and II below, demolition of Building 90 may proceed.

### **I. Documentation**

#### **a. Photographs of Building 90**

- i. Photographs of Building 90 shall be submitted as documentation. Photographs should be clear, well-composed, and provide an accurate visual representation of the property and its 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: 3-5 views of the overall facility and sufficient additional images to fully document the present condition of the exterior envelope of Building 90.
- v. Photo file names will include at least the following: Queens County, St. Albans Community Living Center Historic District, Building 90, and a photo number.
- vi. The above materials will be submitted to the NY SHPO on a CD or CD/DVD digital format.

#### **b. Summary Report**

- i. The NYHHS will submit a brief summary report on Building 90 that includes a physical description, building history, and copies of any historic photographs, site plans, and/or architectural drawings in the records of the VA.

### **II. St. Albans History Webpage**

- a. The NYHHS shall develop a webpage on the history of the St. Albans CLC that is accessible to the public through its website.
- b. The webpage will present the history of the St. Albans campus and will be illustrated with historic photographs, site plans, and architectural drawings.

- c. The NY SHPO will have a 30-day review period to provide comments on the text and images to be used on the webpage prior to posting.

### III. POST-REVIEW DISCOVERIES

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

### IV. DURATION

- a. This agreement will become effective on the date of the last signature. This MOA will expire if its terms are not carried out within seven (7) years from the date of its execution. Prior to such time, the NYHHS may consult with the NY SHPO to reconsider the terms of the MOA and amend it in accordance with Stipulation VI below.

### V. 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 NYHHS shall consult with the NY SHPO to resolve the objection. If the NYHHS determines that such objection cannot be resolved, it will:
  - i. Forward all documentation relevant to the dispute, including the NYHHS' proposed resolution, to the ACHP. The ACHP shall provide the NYHHS 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 NYHHS 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 NYHHS 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 NYHHS may make a final decision on the dispute and proceed accordingly. Prior to reaching a final decision, the NYHHS 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 NYHHS' responsibility 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 both signatories. The amendment will be effective on the date a copy signed by both signatories is filed with the ACHP.

## VII. 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 VI, 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 NYHHS 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 NYHHS shall notify the NY SHPO as to the course of action it will pursue.

## VIII. ANTI-DEFICIENCY ACT

- a. The NYHHS' 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 NYHHS 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 NYHHS will consult with the NY SHPO in accordance with the amendment and termination procedures in Stipulations VI and VII.

Execution of this MOA by the NYHHS and NY SHPO and implementation of its terms evidence that the NYHHS 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:**

U.S. DEPARTMENT OF VETERANS AFFAIRS NEW YORK HARBOR HEALTH CARE SYSTEM



Martina A. Parauda  
Director

5/31/2019  
Date

NEW YORK STATE HISTORIC PRESERVATION OFFICER

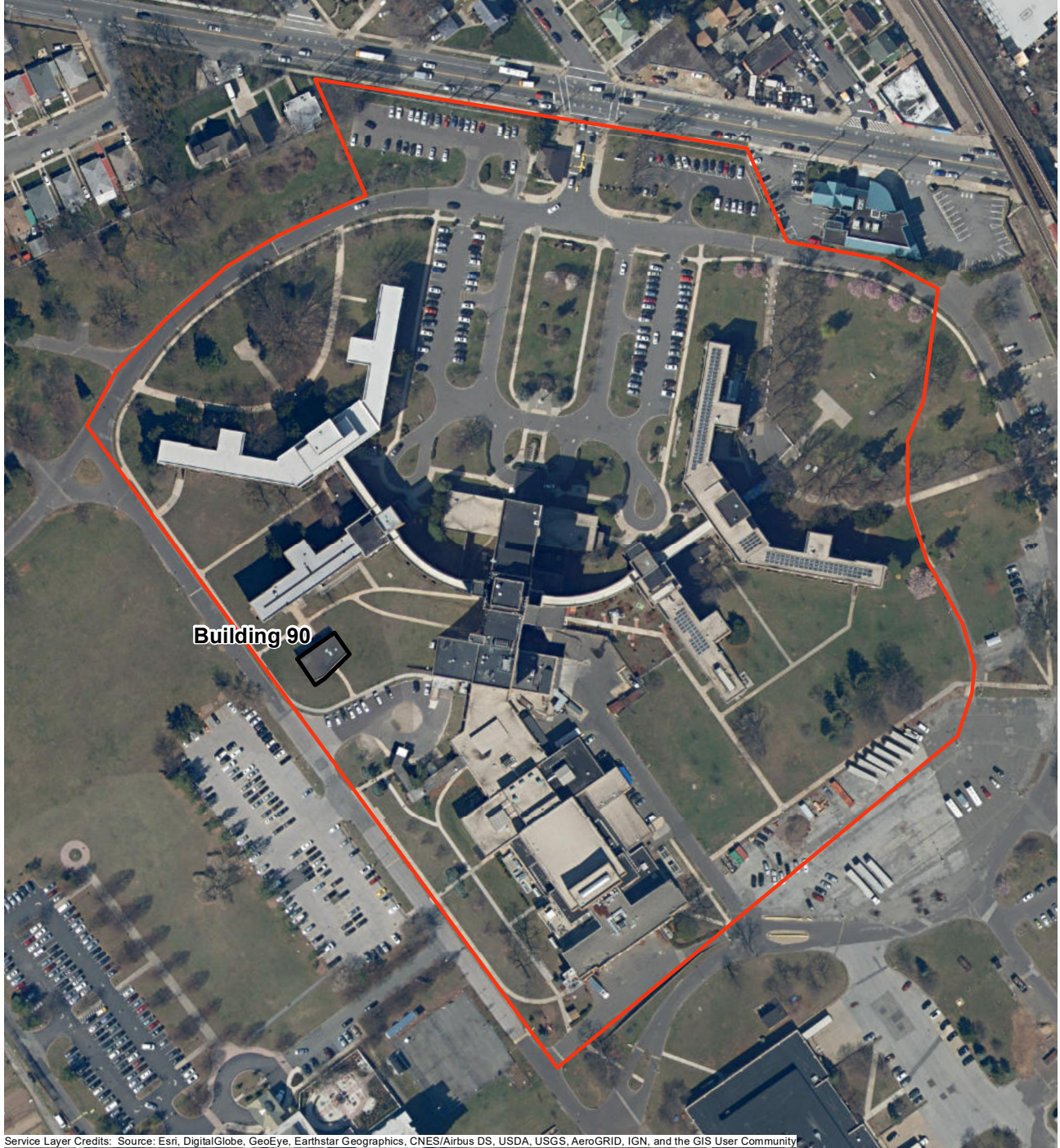


R. Daniel Mackay  
Deputy Commissioner for Historic Preservation/Deputy SHPO

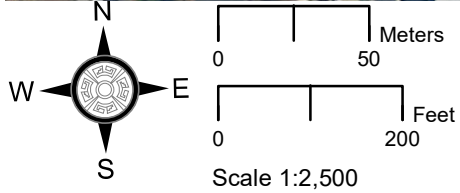
6/3/2019  
Date

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



- Eligible Historic District Boundary/APE
- Selected Built Resource

**St. Albans Community  
Living Center  
Queens, NY**  
Campus and Selected  
Built Resource  
Aerial Overview

R. CHRISTOPHER GOODWIN & ASSOCIATES, INC. 241 EAST FOURTH STREET, SUITE 100 FREDERICK, MARYLAND 21701