

**MEMORANDUM OF AGREEMENT  
AMONG  
THE U.S. DEPARTMENT OF VETERANS AFFAIRS (VA)  
BUTLER VA HEALTH CARE SYSTEM (VAHCS),  
THE PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER,  
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
REGARDING  
THE DEMOLITION OF BUILDING 46 AND STRUCTURE 100  
AT  
BUTLER VA MEDICAL CENTER  
BUTLER, BUTLER COUNTY, PENNSYLVANIA**

**WHEREAS**, the U.S. Department of Veterans Affairs (VA) Butler VA Health Care System (VAHCS) proposes to demolish Building 46 (Engineer and Shops/Facility Management Building) and Structure 100 (Water Tower) and remove all associated underground utility connections (Project) at the Butler VA Medical Center (VAMC) located at 325 New Castle Rd, Butler, PA 16001 (PA SHPO Reference #: ER # 2021PR03044.001, .002 and ER# 2021PR06730.001) (ACHP Case #: 016968); and

**WHEREAS**, in accordance with 36 CFR § 800.3(a), Butler VAHCS has determined that the Project 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 review under Section 106 of the National Historic Preservation Act (NHPA), as amended, (54 USC § 306108), and its implementing regulations (36 CFR Part 800 – Protection of Historic Properties); and

**WHEREAS**, in accordance with 36 CFR § 800.2(c)(1), Butler VAHCS has consulted with the Pennsylvania State Historic Preservation Officer (PA SHPO), a bureau within the Pennsylvania Historical and Museum Commission; and

**WHEREAS**, in accordance with 36 CFR § 800.2(c)(2 through 5), Butler VAHCS has invited the following to be consulting parties (CPs): Delaware Tribe of Indians, Delaware Nation, Osage Nation, Seneca-Cayuga Nation, Seneca Nation of Indians, City of Butler, Butler County Veterans Services Office, Butler County Historical Society, American Legion Post 11, American Legion Auxiliary; and none have elected to participate; and

**WHEREAS**, in accordance with 36 CFR § 800.2(d), Butler VAHCS provided the public with information about the Project and its effects on historic properties and sought comment and input through public meetings and postings in the local newspaper (e.g., Butler Eagle) and received no public comments; and

**WHEREAS**, in accordance with 36 CFR § 800.4(a)(1), Butler VAHCS, in consultation with the PA SHPO, has determined the undertaking's area of potential effects (APE) to include the footprint of the building and water tower and the area of ground disturbance associated with utility removal consisting of approximately 3.1 acres; and

**WHEREAS**, in accordance with 36 CFR § 800.4(a)(2-4), Butler VAHCS, in consultation with the PA SHPO, has determined that there are no archaeological resources present within the APE; and

**WHEREAS**, in accordance with 36 CFR § 800.4(b), Butler VAHCS, in consultation with the PA SHPO, has

identified the Butler VA Hospital Historic District (PA SHPO Resource # 2004RE06024), which is eligible for listing in the National Register of Historic Places (NRHP) under the Multiple Property Documentation Form (MPDF) United States Third Generation Veterans Hospitals under Criterion A (Health/Medicine) and Criterion C (Architecture), as a historic property within the APE that may be affected by the undertaking; and

**WHEREAS**, in accordance with 54 USC § 306102(b)(1), VA is in the process of completing the NRHP nomination form for the Butler VA Hospital Historic District; and

**WHEREAS**, in accordance with 36 CFR § 800.5(a), Butler VAHCS has found, and the PA SHPO has concurred, that the undertaking will have an adverse effect on the historic property as it will demolish two contributing resources to the historic district (Building 46 and Structure 100); and

**WHEREAS**, in accordance with 36 CFR § 800.6, Butler VAHCS has consulted to evaluate alternatives or modifications to the undertaking that could avoid, minimize, or mitigate adverse effects on historic properties and has chosen to resolve the adverse effect through mitigation; and

**WHEREAS**, in accordance with 36 CFR § 800.6(a)(1), Butler VAHCS has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect finding, providing the specified documentation, and the ACHP in a letter dated June 21, 2021, has chosen to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

**NOW, THEREFORE**, Butler VAHCS, the PA SHPO, and the ACHP agree that the adverse effect will be resolved through execution of this Memorandum of Agreement (MOA) pursuant to 36 CFR § 800.6(b)(2), and that the undertaking will be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

## **STIPULATIONS**

Butler VAHCS will ensure that the following measures are carried out:

### **1. INTERPRETATION**

#### **a. Website Content**

- i. Within two (2) years of this MOA's execution, Butler VAHCS will develop online content specific to the history of Butler VAMC, utilizing information and materials from the NRHP nomination form, archival materials (e.g., photos) maintained by Butler VAHCS, and interviews with VA staff familiar with the campus, and add it to the Butler VAHCS webpage for public benefit.
- ii. This public material will include an overview of the history and significance of the Butler VAMC campus, differentiating its history from the broader history of the Veterans Health Administration, and will include photos and information about Building 46 and Structure 100. The webpage will also include an option to download the NRHP nomination form, once finalized.
- iii. Butler VAHCS will provide the PA SHPO the opportunity to review and comment on the draft content prior to finalization for a thirty (30) calendar day review period. Butler VAHCS will consider any timely written comments submitted by the PA SHPO in finalizing the online content. Should the PA SHPO not submit

comments within thirty (30) calendar days, Butler VAHCS may proceed with finalizing and publishing the online content.

## 2. TRAINING

- a. Within six (6) months of this MOA's execution, Butler VAHCS will ensure that all currently employed VA engineering staff will complete NHPA Section 106 training.
  - i. Acceptable training includes that offered by the PA SHPO, ACHP, and/or the training available through VA's Talent Management System (TMS 2.0), which has been developed in consultation with the ACHP.
  - ii. Any VA engineering staff newly hired within the duration of this MOA will be required to take NHPA Section 106 training within sixty (60) calendar days of hire.

## 3. POST-REVIEW DISCOVERIES

If historic properties are discovered or unanticipated effects on historic properties found, Butler VAHCS will notify the PA SHPO and make reasonable efforts to avoid, minimize, or mitigate adverse effects to such properties. Butler VAHCS and PA SHPO will be guided by the steps established in 36 CFR § 800.13(b).

## 4. DISPUTE RESOLUTION

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, Butler VAHCS will consult with such party to resolve the objection. If Butler VAHCS determines that such objection cannot be resolved, Butler VAHCS will:

- a. Forward all documentation relevant to the dispute, including the Butler VAHCS's proposed resolution, to the ACHP. The ACHP will provide Butler VAHCS with its advice on the resolution of the objection within thirty (30) calendar days of receiving adequate documentation. Prior to reaching a final decision on the dispute, Butler VAHCS will prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and PA SHPO and provide them with a copy of this written response. Butler VAHCS will then proceed according to its final decision.
- b. If the ACHP does not provide its advice regarding the dispute within the thirty (30) calendar day period, Butler VAHCS may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, Butler VAHCS will prepare a written response that takes into account any timely comments regarding the dispute from the signatories to the MOA and provide them and the ACHP with a copy of such written response.
- c. Butler VAHCS'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.

## 5. 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 signatories is filed with the

ACHP.

#### 6. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party will immediately consult with the other signatories to attempt to develop an amendment per Stipulation 5, above. If within thirty (30) calendar days 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 on the undertaking, Butler VAHCS 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. Butler VAHCS will notify the signatories as to the course of action it will pursue.

#### 7. ANTI-DEFICIENCY ACT

Butler VAHCS' 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). Butler VAHCS 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, Butler VAHCS will consult with the PA SHPO and ACHP in accordance with the amendment and termination procedures in Stipulations 5 and 6.

#### 8. 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, Butler VAHCS may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation 5 above.

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

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AMONG  
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SIGNATORY:

THE U.S. DEPARTMENT OF VETERANS AFFAIRS (VA) BUTLER VA HEALTH CARE SYSTEM (VAHCS)

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Sharon Coyle, RN, MSN, MBA  
Acting Director

Date

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SIGNATORY:

PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER

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Andrea MacDonald  
Deputy State Historic Preservation Officer

Date

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SIGNATORY:

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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Reid J. Nelson  
Executive Director, Acting

Date