

**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 3
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 3 (Nurse’s Quarters) 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 # 2013PR12810) (ACHP Case #: 018991); 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, Butler County Historical Society, the City of Butler, Butler County, Veterans of Foreign Wars Joseph T Black Post 249, American Legion Post 778; and the Delaware Nation and American Legion Post 7778 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 by posting a public notice (Solicitation Number: 36C24421R0024) online via SAM.gov, an official website of the U.S. government for solicitation notices, 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 the area of ground disturbance associated with utility removal consisting of approximately four (4) 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 Veterans Administration Hospital Historic District (PA SHPO Resource # 2004RE06024), which was listed in the National Register of Historic Places (NRHP) on May 27, 2022 (NRHP Ref # MP100007743) under the Multiple Property Documentation Form 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 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 one contributing resource to the historic district (Building 3); 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 May 22, 2023, 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. SALVAGE
 - a. Prior to demolition, Butler VAHCS will remove the limestone inlays on the exterior of Building 3 in a controlled manner and will retain as many as feasible of the intact inlays in good condition and securely store them on the campus in a safe location for use in a future project.

- i. Butler VAHCS will install the saved limestone inlays as part of a campus entry way project planned to commence in approximately three (3) years.
- ii. Butler VAHCS will consult on the entry way project pursuant to 36 CFR § 800.3-6.
- iii. As part of the consultation, Butler VAHCS will submit the design for the installation of the limestone inlays to the Signatories for their review.
- iv. Should this project not commence, Butler VAHCS will identify an alternate project in consultation with the PA SHPO that is suitable for incorporation of the salvaged inlays and install them within five (5) years of this MOA's execution.

2. INTERPRETATION

a. Website Content

- i. Within two (2) years of this MOA's execution, Butler VAHCS will add online content (e.g., photos) specific to the history of Building 3, utilizing information and materials from the NRHP nomination form, archival materials (e.g., photos) maintained by Butler VAHCS, and/or interviews with VA staff familiar with the campus, and add it to the Butler VAHCS webpage for public benefit.
- ii. 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.

3. PROGRAMMATIC AGREEMENT

- a. Within three (3) months of execution of this MOA, Butler VAHCS will schedule a meeting (i.e., virtual and/or in person) to discuss development of a campus-wide Programmatic Agreement for implementation of its Master Plan pursuant to 36 CFR § 800.14(b).
 - i. Butler VAHCS will ensure the meeting is scheduled to occur within nine (9) months of execution of this MOA.
 - ii. Butler VAHCS will invite the Signatories to this MOA and other consulting parties, pursuant to 36 CFR § 800.2, to participate in the meeting.
 - iii. At least two (2) weeks prior to the scheduled meeting, Butler VAHCS will provide the following information to meeting attendees:
 - 1. A copy of the current Master Plan.
 - 2. An estimated schedule/timeline for when the Master Plan will next be updated, noting any milestones in its development that

may provide opportunities for consulting party input.

4. POST-REVIEW DISCOVERIES

If historic properties (unrelated to human remains) are discovered and/or unanticipated effects on historic properties are found, Butler VAHCS will stop ground-disturbing activities within ten (10) meters of the find and will notify the Signatories and make reasonable efforts to avoid, minimize, or mitigate adverse effects to such properties. Butler VAHCS and the Signatories will be guided by the steps established in 36 CFR § 800.13(b).

5. IDENTIFICATION OF HUMAN REMAINS AND/OR FUNERARY ITEMS

- a. If potential human remains and/or potential funerary objects are identified, Butler VAHCS will stop ground-disturbing work within twenty (20) meters of the find and:
 - i. Contact local law enforcement to determine the age and context of the human remains, consistent with applicable Pennsylvania statute(s).
 - ii. Notify the Signatories and consult on the appropriate treatment of the find.
 - iii. Treat discoveries related to Native Americans and Native American lifeways in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA) (Public Law 101-601, 25 USC 3001 et seq., 104 Stat. 3048).

6. DISPUTE RESOLUTION

Should any Signatory or Invited Signatory to this MOA object via email to the manner in which any stipulation of this MOA is implemented, Butler VAHCS will consult with that party or parties 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 Butler VAHCS' 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.
 - i. Adequate documentation will include reference to this MOA, the written objection of the Signatory or Invited Signatory, Butler VAHCS' response to the objection, and any supporting documentation.
- b. Butler VAHCS will forward the documentation relevant to the dispute to all Signatories and Invited Signatories for their review and comment. Butler VAHCS will provide these parties thirty (30) calendar days to provide comments via email.
- c. Butler VAHCS will take into account any timely advice or comments received from the ACHP and other Signatories and Invited Signatories in determining a

final decision on the dispute and provide a response to written objections to all Signatories, tribes, and other consulting parties.

- i. If the ACHP does not respond within thirty (30) calendar days, Butler VAHCS will prepare a written response that takes into account timely comments from other Signatories and Invited Signatories regarding the dispute.
- d. Butler VAHCS will prepare a written decision and distribute the decision and the documentation relevant to the dispute to all Signatories and Invited Signatories. Butler VAHCS will then proceed in accordance with its final decision.
- e. Butler VAHCS' responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

7. 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.

8. 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 7, 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.

9. ANTI-DEFICIENCY ACT

The Anti-Deficiency Act, 31 U.S.C. § 1341, prohibits federal agencies from incurring an obligation of funds in advance of or in excess of available appropriations. Butler VAHCS' obligations under this Agreement are subject to the availability of appropriated funds, and the stipulations of this Agreement are subject to the provisions of the Anti-Deficiency Act. Butler VAHCS will make reasonable and good faith efforts to secure the necessary funds to implement this Agreement in its entirety. If compliance with the Anti-Deficiency Act alters or impairs Butler VAHCS' ability to implement the stipulations of this Agreement, Butler VAHCS will consult in accordance with the amendment and termination procedures found at Stipulations 7 and 8 of this Agreement.

10. ADMINISTRATION AND REPORTING

- a. All parties will send and accept official notices, comments, requests for additional information and/or documentation, draft materials, final deliverables, and all other communications required by this MOA via email.
- b. Time designations in this MOA will be in calendar days. Failure of any Consulting Party to respond within the specified comment period will not preclude Butler VAHCS from implementing measures of this MOA.
- c. For the purposes of this MOA, the definitions provided in 36 CFR § 800.16(a) through (z) inclusive will apply.
- d. Butler VAHCS will ensure that federal or contractor staff who meet the applicable Secretary of the Interior's Professional Qualification Standards for architectural history, history, archaeology, architecture, and and/or historic architecture (36 CFR Part 61) participate as required by this MOA.
- e. Every year after the execution of this MOA until it is concluded, expires, or is terminated, Butler VAHCS will provide to all Consulting Parties a summary report detailing the work undertaken pursuant to its terms. The report will include an update on the Project, status updates for stipulated items, any problems encountered in the past year, and any disputes or objections received in Butler VAHCS' efforts to carry out the terms of this MOA, as well as the status of those objections.

11. DURATION

This MOA will be effective immediately upon execution by all the Signatories. This MOA may be executed in counterparts, with a separate page for each Signatory. Butler VAHCS will ensure a complete copy of the executed MOA, including all Signatory pages and attachments, is provided to all Signatories, Invited Signatories, and Concurring Parties.

This MOA will remain in effect for a period of five (5) years from the date of execution, unless it is concluded, amended, or terminated in accordance with Stipulations 7 and 8 prior to that date. No later than three (3) months prior to the expiration of the MOA, Butler VAHCS may initiate consultation to determine if the MOA should be allowed to expire or whether it should be extended for an additional term. Unless the Signatories unanimously agree on an extension per Stipulation 7, this MOA will expire.

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.

**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 3
AT
BUTLER VA MEDICAL CENTER
BUTLER, BUTLER COUNTY, PENNSYLVANIA**

SIGNATORY:

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

SHARON COYLE Digitally signed by SHARON
COYLE
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11/1/23

Sharon Coyle, RN, MSN, MBA
Director


Date

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BUTLER VA HEALTH CARE SYSTEM (VAHCS),
THE PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING
THE DEMOLITION OF BUILDING 3
AT
BUTLER VA MEDICAL CENTER
BUTLER, BUTLER COUNTY, PENNSYLVANIA**

SIGNATORY:

PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER

**Andrea L.
MacDonald**

 Digitally signed by Andrea L.
MacDonald
Date: 2023.11.02 13:08:04 -04'00'

Andrea L. MacDonald
Deputy State Historic Preservation Officer

Date

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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**

SIGNATORY:

ADVISORY COUNCIL ON HISTORIC PRESERVATION



11/29/2023

Reid J. Nelson
Executive Director

Date