



**OPRHP Letter of
Resolution (LOR)**

**LETTER OF RESOLUTION
AMONG
THE DORMITORY AUTHORITY STATE OF NEW YORK AND
THE NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC
PRESERVATION AND
MOHAWK VALLEY HEALTH SYSTEMS**

WHEREAS, Mohawk Valley Health Systems (“Applicant”) is proposing to construct a new regional hospital to replace two existing outdated inpatient facilities: Faxton-St. Luke’s Healthcare and St. Elizabeth’s Medical Center (the “Hospital”), together with surface parking and a parking garage (“Parking Areas” and together with the Hospital, the “Project”);

WHEREAS, the Dormitory Authority of the State of New York (“DASNY”) will be working with the New York State Department of Health (“DOH”) to administer a grant awarded under Section 2825-b of the Public Health Law to the Applicant for the purpose of creating the Project,

WHEREAS, DASNY recognizes its responsibilities pursuant to Article 14 of New York State Parks, Recreation and Historic Preservation law (“PRHPL”) to avoid, minimize or mitigate adverse impacts to historic resources and/or archaeological sites (“Historic Properties”), to the fullest extent practicable consistent with other provisions of the law;

WHEREAS, OPRHP has reviewed the preliminary scope of the Project provided by O’Brien & Gere and submitted to OPRHP via their Cultural Resource Information System (“CRIS”) on October 3, 2016, including the proposed Project Impact Area (“PIA”);

WHEREAS, the PIA includes areas upon which the Hospital and the Parking Areas will be constructed;

WHEREAS, the PIA includes approximately 55 properties (80 tax map parcels) in the City of Utica, which are expected to be acquired by either negotiated sale or eminent domain;

WHEREAS, OPRHP has identified several Historic Properties that are listed in the New York State and National Registers of Historic Places or appear to be eligible for inclusion in the Registers (See attached Appendix A);

WHEREAS, OPRHP has also identified several areas that warrant additional assessment for archaeological potential and are potentially eligible for the Registers based on preliminary analysis as outlined in the SHPO Consultation Materials, dated April 2018, and submitted by O’Brien & Gere;

WHEREAS, it has been determined that one or more of the identified Historic Properties will be directly impacted during the development of this undertaking;

WHEREAS, such impacts are defined under 9 NYCRR Part 428.7 as constituting an Adverse Impact to Historic Properties;

WHEREAS, the parties acknowledge that the full extent of the potential impacts cannot be ascertained at this time, since the Applicant does not currently own all of the parcels comprising the PIA;

WHEREAS, the parties have determined that it is desirable to progress with the certain pre-construction activities concurrent with efforts to secure the parcels within the PIA;

WHEREAS, the parties agree that ongoing consultation, in accordance with PRHPL Section 14.09 and its implementing regulations at 9 NYCRR Part 428, will explore alternatives that would avoid or minimize impacts to identified historic/archaeological resources within the PIA;

WHEREAS, all parties agree that if reasonable and prudent alternatives that might avoid direct and indirect impacts to yet to be identified resources cannot be found, that appropriate mitigation measures will be developed to offset any loss to Historic resource;

NOW THEREFORE, DASNY, OPRHP and the Applicant agree that DASNY's Section 14.09 responsibilities will be addressed by implementing the following stipulations, which are intended to take into account the impacts of the Project on known and as of yet unknown Historic resources.

I. STIPULATIONS

DASNY along with Mohawk Valley Health Systems will insure that the following measures are implemented:

BUILDINGS

- As soon as practicable, the Applicant will commence a complete assessment of buildings it currently controls that are listed in Appendix A and proposed for removal.
- Upon site control of the remaining buildings, the Applicant will commence a complete assessment of the remaining buildings listed in Appendix A.
- This assessment will include photographs of exterior and interior conditions. Sufficient (10 to 20) images should be prepared to provide OPRHP with a general understanding of the state of the resource. These images, along with a written assessment of the general condition of the building, will be submitted to OPRHP via the CRIS program.

ARCHAEOLOGY

- Archaeological testing, as previously requested by OPRHP in their letter to O'Brien & Gere dated June 18, 2018, will commence once the Applicant obtains site control. Reports associated with the testing must be filed with OPRHP in a timely manner and must meet NYS Archaeological Standards.
- No ground disturbing activities in the PIA will commence until all archaeological testing has been completed at each identified site and the results of the testing have been reviewed by OPRHP. Notwithstanding the above, the parties acknowledge and agree that MVHS will be allowed to perform certain environmental testing and engineering surveys (borings) as needed on properties MVHS or the City of Utica control within the PIA.
- Unanticipated discoveries, including the discovery of human remains during construction, will follow the protocol outlined in Appendix C.

TREATMENT MEASURES (BUILDINGS)

In accordance with Section 14.09, efforts that would avoid or minimize impacts to historic buildings should be explored and documented. An alternatives analysis relating to the

disposition of historic buildings in the PIA must be submitted to OPRHP for review and comment prior to any activity on the site that might damage the resources. This analysis should explore the following opportunities:

- The parties expressly agree that buildings located within the footprint of the hospital building and parking garage structure will not be retained. If appropriate and agreed upon, salvageable, architecturally significant features of the removed buildings (*i.e.*: building name panels, significant intact architectural elements, *etc.*) will be incorporated into the new structure or hospital site.
- Avoidance: To the extent practicable, efforts to avoid the removal or direct impacts to buildings identified as historic (Appendix A) and located outside of the footprint of the Hospital and Parking Garage will be explored. Documentation outlining this exploration of alternatives will be provided to OPRHP prior to any action that would directly impact the involved resource(s).
- Minimization: If practicable, efforts that would include options to lessen the overall, as of yet to be fully documented, impacts to historic resources located outside of the hospital building and parking structure footprints will need to be explored. This assessment should include a discussion of the potential retention of *some* of the historic resources as part of the development planning and mitigation.
- Mitigation Options: Where it has been determined by the parties that *some or all* of the historic resources must be removed from the PIA, the following mitigation measures may be applied:
 1. Exploration of the potential reuse of existing structures located outside of the hospital building and parking structure's footprints, deemed retainable and adaptable for a productive hospital-associated use, provided sufficient resources to complete the project remain.
 2. Where buildings cannot be retained the Applicant will follow OPRHP's standard resource documentation process outlined in Appendix B.
 3. Other appropriate mitigation for the loss of historic resources as agreed to by the parties (*i.e.*: reuse of building name panels, significant intact architectural elements, *etc.*) will be incorporated into the new structure or hospital site creating historic linkage and homage to the history of this portion of the City of Utica.

II. DURATION

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

Should any, as-of-yet determined resources be identified, OPRHP would make determinations of significance and any mitigation measures would be developed by DASNY, after consultation among MVHS, OPRHP, and DASNY, and would be based on the characteristics and significance of the resource. Any mitigation measures would be conducted pursuant to the Standards for Cultural Resource Investigations and the Curation of Archaeological Collections in

New York State, prepared by the New York Archaeological Council and adopted by OPRHP (1994).

III. DISPUTE RESOLUTION

Should any signatory to this LOR object at any time to any actions proposed or the manner in which the terms of this LOR are being implemented, DASNY shall consult with OPRHP to resolve the objection.

IV. AMENDMENTS

This agreement 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 is signed by all the signatories.

The following staffs (or their designees) are primary contacts for the parties:

DASNY Contact:

Robert S. Derico, R.A.
Acting Director, Office of Environmental Affairs and Agency Preservation Officer
DASNY
515 Broadway
Albany, New York 12207-2964
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(518) 257-3214

OPRHP Contact:

John Bonafide
Director, Technical Preservation Services Bureau/OPRHP Agency Preservation Officer
Division for Historic Preservation
PO Box 189, Waterford, NY 12188-0189
john.bonafide@parks.ny.gov
(518) 268-2166

MVHS Contact:

Robert C. Scholefield, MS RN
Executive Vice President/ Chief Operating Officer
Mohawk Valley Health System
2209 Genesee Street
Utica, New York 13501
bscholef@mvhealthsystem.org
(315) 801-4978

V. TERMINATION

If any signatory to this LOR 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 IV, above. If, within a time-period agreed to by all signatories, an amendment cannot be reached, any signatory may terminate the LOR upon written notification to the other signatories in accordance with 9 N. Y. C. R. R. §428.10(d).

VI. CONCLUSION

At the conclusion of the Project, DASNY shall certify in writing to OPRHP that the undertaking has been completed in accordance with this LOR.

VII. COUNTERPARTS; ELECTRONIC SIGNATURES; SUCCESSORS OR ASSIGNS:

This LOR consists of six (6) pages plus APPENDICIES A-C. It shall be signed and acknowledged in four original counterparts and shall take effect on the date it is signed by the last signatory. The counterparts (including counterparts delivered to the other parties by facsimile, e-mail or other electronic means) taken together shall form one legal instrument. A manually or electronically signed copy of this LOR delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of the LOR. FOB and/or NYRA shall ensure that this LOR is complied with by their successors or assigns.

VIII. LIST OF APPENDICIES

APPENDIX A: List of identified historic resources within the Project Impact Area

APPENDIX B: Historic Resource Documentation Format

APPENDIX C: Human Remains Discovery Protocol & Unanticipated discoveries

SIGNATURES (3 Pages)

SIGNATURES (1 of 3)

DORMITORY AUTHORITY OF THE STATE OF NEW YORK



Date: 1.9.19

Robert Derico, RA
Acting Director, Office of Environmental Affairs and Agency Preservation Officer

SIGNATURES (2 of 3)

NYS OFFICE OF PARKS RECREATION AND HISTORIC PRESERVATION



Michael F. Lynch, AIA, PE
Director, Division for Historic Preservation

Date: 1/10/19

SIGNATURES (3 of 3)

MOHAWK VALLEY HEALTH SYSTEMS



Robert C. Scholefield, MS RN
Executive Vice President/ Chief Operating Officer

Date: 1/8/19

APPENDIX A**List of identified historic resources within the Project Impact Area**

USN	Property Name	Address	Status
06540.000101	Former Utica & Mohawk Valley Railway Car Barn/Electric Express/Girard Chevrolet Service Garage	300 Lafayette Street	Eligible
06540.002096	Jones Building	336 Columbia Street	Eligible
06540.001489	C. & AJ Eichmeyer House (1907)	444 Lafayette Street	Eligible
06540.001490	S Isele House (1907)	442 Lafayette Street	Eligible
06540.002107	Witzenberger Building	460-464 Columbia Street	Eligible
06540.001491	L Snyder House	440 Lafayette Street	Eligible
06540.001555	Utica Turn Hall/Utica Turn Verein	509 Lafayette Street	Eligible
06540.002119		437 Lafayette Street	Eligible
06540.002095	Haberer Building	326-334 Columbia Street	Eligible
06540.002114	Childs Building	333 Lafayette Street	Eligible
06540.002010	Brick Commercial (Downtown Genesee Street Historic District)	301 Columbia Street	Listed
06540.002011	Brick Commercial (Downtown Genesee Street Historic District)	401 Columbia Street	Listed

APPENDIX B

Historic Resource Documentation

The buildings will be documented prior to their demolition using the following format:

Photographs

- Photographs submitted as documentation should be clear, well-composed, and provide an accurate visual representation of each building and any significant features. Submit as many photographs as needed to depict the current condition and significant features of each building, both exterior and interior (where safely accessible).
- Digital photographs should be taken using a ten (10) mega pixel or greater digital camera.
- Images should be saved in Tag Image File (TIFF) format. This allows for the best image resolution. RGB color digital TIFFs are preferred.
- Several historic images (if available) depicting the facility should be included in the documentation.
- Images should be named or labeled with the building name, photo direction and date.

Historic Narrative

A brief narrative history pertaining to development and construction of the building(s) and the development of the neighborhood should be provided with the photos, to the extent it is known. Historic period documentation, *if available*, should also be included.

Report

The final report (including images and a PDF version of the Historic Narrative) should be saved on digital media (CD, DVD, or USB thumb drive) and submitted to the OPRHP's Division for Historic Preservation.

The documentation package must be prepared and submitted no later than 6-month post demolition of the resources.

APPENDIX C

Human Remains Discovery Protocol

In the event that human remains are encountered during construction or archaeological investigations, the New York State Historic Preservation Office (“SHPO”) recommends that the following protocol is implemented:

- At all times human remains must be treated with the utmost dignity and respect. Should human remains be encountered work in the general area of the discovery will stop immediately and the location will be immediately secured and protected from damage and disturbance.
- Human remains or associated artifacts will be left in place and not disturbed. No skeletal remains or materials associated with the remains will be collected or removed until appropriate consultation has taken place and a plan of action has been developed.
- The county coroner/medical examiner, local law enforcement, the SHPO, DASNY, and the appropriate Indian Nations will be notified immediately. The coroner and local law enforcement will make the official ruling on the nature of the remains, being either forensic or archaeological.
- If human remains are determined to be Native American, the remains will be left in place and protected from further disturbance until a plan for their avoidance or removal can be generated. Please note that avoidance is the preferred choice of the SHPO and the Indian Nations. The involved agency will consult SHPO and appropriate Indian Nations to develop a plan of action that is consistent with the Native American Graves Protection and Repatriation Act (NAGPRA) guidance.
- If human remains are determined to be non-Native American, the remains will be left in place and protected from further disturbance until a plan for their avoidance or removal can be generated. Please note that avoidance is the preferred choice of the SHPO. Consultation with the SHPO and other appropriate parties will be required to determine a plan of action.

Unanticipated Discoveries

Although archaeological resources are not expected to exist in your project area, unanticipated discoveries may occur. If during ground-disturbing activities artifacts and/or structural remains that appear to be of Native American or pre-modern (i.e. early 20th Century or earlier) origin are exposed, OPRHP/SHPO recommend that the following procedures be carried out.

If the discovery includes human remains or other indications of human interment, please follow our Human Remains Discovery Protocol.

If the discovery does not appear to include human remains or other indications of human interment, please do the following.

- Suspend activities in the vicinity of the discovery and protect it from any further disturbance.
- Notify OPRHP and DASNY regarding the discovery, digital photographs which can be transmitted electronically would be very helpful.
- OPRHP will then make a determination whether the discovery warrants additional examination and, if so, will recommend what should be done next.