

**PROGRAMMATIC AGREEMENT
AMONG
THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS
SIERRA NEVADA HEALTH CARE SYSTEM,
THE NEVADA STATE HISTORIC PRESERVATION OFFICER, AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION FOR
ROUTINE MAINTENANCE AND OPERATION ACTIVITIES AT THE
VETERANS AFFAIRS SIERRA NEVADA HEALTH CARE SYSTEM
RENO, WASHOE COUNTY, NEVADA**

WHEREAS, the United States Department of Veterans Affairs (VA) is responsible for the operation, management and administration of facilities at the Ioannis A. Lougaris VA Medical Center of the VA Sierra Nevada Health Care System (VASNHCS), located at 975 Kirman Avenue in the City of Reno, Washoe County, Nevada (see Appendices B and C for location maps of this complex); and

WHEREAS, VASNHCS is responsible for compliance under the National Historic Preservation Act of 1966, as amended [NHPA, Title 54 of the United States Code (U.S.C) Section 306108] and its implementing regulations including Section 106 processes and responsibilities [Title 36 of the Code of Federal Regulations (C.F.R.) Part 800, Protection of Historic Properties]; and

WHEREAS, VASNHCS has determined that actions to include maintenance, construction, demolition, alteration and repair activities on various structures, appurtenances, and internal building components of the Ioannis A. Lougaris VA Medical Center constitute “undertakings” as defined by 36 C.F.R. Section 800.16(y); and

WHEREAS, VASNHCS, in consultation with the State of Nevada Department of Conservation and Natural Resources, State Historic Preservation Office (SHPO) and the Advisory Council on Historic Preservation (ACHP), have determined that VASNHCS Section 106 responsibilities can be more effectively and efficiently implemented if a programmatic approach is implemented, in accordance with 36 C.F.R. § 800.14(b)(2), to establish undertakings which will be exempt from Section 106 review; and

WHEREAS, VASNHCS will implement these undertakings in a way that meets its mission to care for Veterans in Northern Nevada and Northeastern California and manage historic properties under its control to avoid or minimize adverse effects to the extent practicable through incorporation of *The Secretary of the Interior’s Standards for the Treatment of Historic Properties* (Standards, 36 C.F.R. Part 68); and

WHEREAS, these undertakings will modernize and repair facilities to provide for necessary Veteran services, and conform to and comply with access and safety regulations, current building codes, Federal setback mandates, and security requirements; and

WHEREAS, VASNHCS must consider the effects of these undertakings on historic properties by identifying historic properties, assessing adverse effects and resolving those adverse effects; and

WHEREAS, VASNHCS has consulted with and received concurrence from the SHPO, regarding the eligibility of the Veterans Hospital District (SHPO Resource D1919) for listing in the *National Register of Historic Places* (NRHP) under Criteria A, B, and C for its significance in the areas of health/medicine, association with Ioannis A. Lougaris VA Medical Center, and architecture (See Appendix B for SHPO Resource D191) and

WHEREAS, VASNHCS, in consultation with the SHPO, has determined an Area of Potential Effect (APE) and has identified historic properties within the APE (Appendix B) that may be affected by these undertakings; and

WHEREAS, VASNHCS has determined that the potential to impact archaeological (cultural) resources is low based on a search of the Nevada Cultural Resource Information System (NVCRIS) conducted by a Secretary of the Interior (SOI) qualified archaeologist; and

WHEREAS, VASNHCS has provided the public an overview of its Section 106 compliance responsibilities during public scoping meetings held in December 2015; VASNHCS published information regarding the proposed development of a PA on its website and in the Reno Gazette Journal newspaper to obtain the views of the public regarding the development of a PA and its effects on historic properties; and VASNHCS established a dedicated electronic mail address as well as traditional USPS mailing services for distributing information to Consulting Parties and to collect their comments; and

WHEREAS, VASNHCS invited and notified local agencies and organizations to participate as Consulting Parties, including the City of Reno Community Development Department, Washoe County Planning Division, City of Sparks Community Development Department, Reno Historic Preservation Society, Nevada Historical Society, Nevada Architectural History Alliance, and Preserve Nevada; and

WHEREAS, the Historic Reno Preservation Society has declined the invitation to participate in consultation and be signatory to this document as a Concurring Party; and

WHEREAS, in accordance with 36 C.F.R. 800.3(f), VASNHCS has invited the following federally recognized tribes, with areas of interest in Washoe County, to consult regarding the effects of the undertakings on historic properties to identify religious and/or cultural significance of areas affected. Invitations were sent to the following: Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation; Paiute Shoshone Tribe of the Fallon Reservation and Colony; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation; Reno Sparks Indian Colony; Walker River Paiute Tribe of the Walker River Reservation; Washoe Tribe of Nevada and California; the Carson, Dresslerville, Stewart and Woodfords Community Councils of the Washoe Tribe; Yerington Paiute Tribe of the Yerington Colony and Campbell Ranch; Lovelock Tribal Council; Yomba Tribal Council; and

WHEREAS, in accordance with 36 C.F.R. § 800.6, VASNHCS has notified the Advisory Council on Historic Preservation (ACHP) of its intent to prepare a PA, and the ACHP has chosen to participate; and

NOW THEREFORE, the VASNHCS, the SHPO, and the ACHP agree that VASNHCS shall implement the following stipulations to consider these undertakings and their effects on historic properties in accordance with VA's Section 106 responsibilities.

STIPULATIONS

VASNHCS shall ensure that the following measures are carried out:

I. GENERAL

- A. This PA applies to the review of maintenance, repair, construction, demolition and alteration activities on various structures, appurtenances, and internal building components of the Ioannis A. Lougaris VA Medical Center.
- B. Official notices and documentation required by this PA require wet signatures on hard copy documentation.
- C. Requests for further information and documentation, comments, and other informal communications required by this PA can be communicated by electronic mail.
- D. Time designations are in calendar days. Failure to comment within specified time designations will allow VASNHCS to proceed to the next step in the process as outlined in this PA.
- E. The definitions provided in 36 C.F.R. § 800.16(a) through (y), shall apply to this PA.

II. PROFESSIONAL STANDARDS

- A. For exempt undertakings listed in Appendix A of this PA, reviews shall be conducted by an appropriate professional or a VASNHCS project manager, project engineer, facility planner and/or consultant that meets the minimum training requirements of the program outlined in Stipulation VI.
- B. When VASNHCS utilizes contracts and/or contractors to complete work governed by this PA and includes any portion of the Veterans Hospital District (SHPO Resource D191), source selection criteria and contract performance requirements shall specifically include the requirement for appropriate professionals that meet in the Secretary of the Interior's (SOI) *Professional Qualification Standards* (Federal Register Volume 61, No. 119, pg. 33713, 33719, 1977).

III. REVIEW AND CONSULTATION PROCEDURES

A. Exempt Undertakings outlined in Appendix A of this agreement

1. When personnel meeting the criteria in Stipulation II or trained in accordance with Stipulation VI determine that an undertaking is listed in and to be performed in accordance with Appendix A, the VASNHCS may implement the undertaking without further review and consultation.
2. Signatories to this PA may propose additions or revisions to Appendix A by providing a written proposal to the other Signatories.

B. Undertakings with Potential Effects

1. If personnel meeting the criteria in Stipulation II or trained in accordance with Stipulation VI determine that a proposed undertaking does not meet the definition of an exempt activity listed in Appendix A, VASNHCS shall initiate consultation with the SHPO pursuant to the process established under 36 C.F.R. § 800.5 (Assessment of adverse effects).

IV. POST-REVIEW INADVERTENT DISCOVERIES AND UNANTICIPATED EFFECTS

A. During demolition and construction activities, should inadvertent or unknown archaeological resources be discovered or unanticipated effects identified, work in the impacted area shall cease and a SOI qualified archaeologist will evaluate the finding. If appropriate, Native American tribes and SHPO will be consulted.

B. If unanticipated cultural or archeological resources are discovered, VASNHCS will:

1. Ensure the discovery is confirmed, assessed, and recorded by a SOI qualified archeologist or other appropriate expert.
2. Determine eligibility for listing on the NRHP, following the criteria of 36 C.F.R. § 60.4, and consult with the SHPO on that determination. The SHPO shall have seven (7) calendar days from receipt to provide comments on VASNHCS's determination.

C. If VASNHCS, in consultation with the SHPO, determines that the discovered site is not eligible for listing on the NRHP, then no further action will be required.

D. If VASNHCS, in consultation with the SHPO, determines that the discovered site is eligible for listing on the NRHP, then VASNHCS shall further consult with the SHPO on measures to resolve any adverse effects to the historic property.

E. If human remains are discovered, VASNHCS will:

1. Contact law enforcement officials to assess the nature and age of the human remains.
 - a. If any uncovered human remains are determined not to be Native American, VASNHCS will follow law enforcement and VA guidance.
 - b. If law enforcement and VASNHCS determine that the human remains are older than 50 years of age and not a crime scene, VASNHCS will contact SHPO. Following notification, VASNHCS will administer the requirements of the Native American Graves Protection and Repatriation Act (NAGPRA) or Nevada Revised Statutes (NRS) 383 *Historic Preservation and Archeology*.

V. EMERGENCY ACTIONS

- A. When emergency events, including, but not limited to, earthquakes, floods, fires, wind, and/or storms affect the structural stability of a historic property at the Ioannis A. Lougaris VA Medical Center, rendering it an immediate threat to life and safety, VASNHCS will take the necessary steps to make the historic property safe and secure.
- B. Consultation shall be conducted as soon as practicable following any stabilization activities from the event in accord with 36 C.F.R. §800.12, VASNHCS will notify the SHPO of such actions, providing a brief description of the nature of the emergency, corrective actions taken and whether the actions resulted in, or will result in, adverse effects. Notification may be verbal, followed by written communication. SHPO will comment on the emergency corrective action within seven (7) days.
- C. VASNHCS will ensure, to the extent practicable, that all reasonable efforts are made to avoid or minimize disturbance of historic properties during emergency actions.

VI. PERSONNEL TRAINING AND CONTRACTOR OVERSIGHT

- A. VASNHCS will ensure that key Engineering personnel, including but not limited to the Chief Engineer and the Assistant Chief Engineer, complete Section 106 training administered by the VA Federal Preservation Office and/or the ACHP within six (6) months of the execution of this PA.
- B. VASNHCS will develop, within nine months of execution of this agreement, a training program for all VA employees who engage in or supervise others in conducting routine maintenance and operation activities pursuant to this PA or for other pertinent VA staff members who may be involved in making decisions about the preservation of the historic buildings. These employees may include engineering,

construction, maintenance, planning, or other VASNHCS staff. VASNHCS will coordinate the training program in consultation with the SHPO. The training will be conducted by personnel from VA or outside contractors with knowledge and experience with this PA.

1. The purpose of the training program will be to familiarize participants with:
 - a. Understanding and applying the principles set forth in this PA;
 - b. Applicable federal laws and regulations, including Section 106 of NHPA, 36 C.F.R. Part 800;
 - c. Standards; and
 - d. Historic significance and treatment of historic buildings in the Veterans Hospital District (SHPO Resource D191)
- C. Documentation of all training conducted by the VA will be maintained by the VASNHCS for inclusion in the Annual Report per Stipulation VII. Training will be conducted bi-annually for appropriate VA staff.
- D. Contractors conducting work at the Ioannis A. Lougaris Medical Center will be managed by PA trained VASNHCS personnel. Contracts will include language to ensure that undertakings adhere to PA stipulations. PA trained VASNHCS personnel will review PA stipulations with contractors prior to commencement of and during any work at VASNHCS.

VII. ANNUAL REPORTING

- A. VASNHCS will provide to the SHPO an annual hard copy status report within 12 months of the execution of this Agreement, and every 12 months thereafter until it expires, is extended, or is terminated. The annual status report will address the following:
 1. A list of undertakings implemented during the reporting period that did not require further review as set forth in Stipulation III(1) "Review and Consultation Procedures" and Appendix A; and
 2. Documentation of the development and implementation of the Training Program outlined in Stipulation VI and documentation of training provided per Stipulation VI.
- B. VASNHCS will host an annual meeting with the SHPO to review undertakings conducted under the stipulations of the PA, if needed. The meeting may also address planned VA projects not included under the provisions of the PA.

VIII. DISPUTE RESOLUTION

- A. Should any signatory to this PA object at any time to actions proposed or the way the terms of this PA are implemented, VASNHCS shall consult with such party to resolve the objection. If VASNHCS determines that such objection cannot be resolved, VASNHCS will:
1. Carry out all other actions subject to the terms of this PA that are not the subject of the dispute.
 2. Forward all documentation relevant to the dispute, including the VASNHCS' proposed resolution, to the ACHP. The ACHP shall provide VASNHCS with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, VASNHCS shall prepare a written response that considers any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. VASNHCS will then proceed per the final decision of the ACHP.
 3. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, VASNHCS may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, VASNHCS shall prepare a written response that considers any timely comments regarding the dispute from the signatories to the PA, and provide them and the ACHP with a copy of such written response.
- B. At any time during implementation of the measures stipulated in this PA, should an objection pertaining to this PA be raised by a member of the public, the party to this PA receiving the objection will notify the other parties to this PA. VASNHCS will take the objection into account, consult with the objector and, should the objector so request, consult with any of the parties to this PA to resolve the objection.

IX. AMENDMENT AND TERMINATION

- A. This PA may be amended upon a request by any Signatory. Upon such request, the Signatories will consult to consider the proposed amendment. This PA may be amended when such an amendment is agreed to in writing by all Signatories. The amendment shall be effective on the date a copy signed by all Signatories is filed with the ACHP.
- B. If any signatory or concurring party to this PA 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 to this Agreement. If an amendment cannot be reached within thirty (30) days, any signatory may terminate the PA upon written notification to the other signatories.

- C. In the event of termination of this PA, VASNHCS will comply with the provisions of 36 C.F.R. Part 800 for all undertakings or portions of undertakings that have not already begun. VASNHCS will notify the Signatories of this PA of the course of action it will pursue.

X. ADMINISTRATION, DURATION AND EXTENSION

- A. This PA will be executed and be effective immediately on the date of the signature by the final signatory.
- B. This PA shall expire in ten years from the date of its execution. Within six months, prior to the expiration of this PA, the parties shall begin consultation to discuss terms of a new PA or the extension of the current PA.

XI. ANTI-DEFICIENCY ACT

- A. VASNHCS will make reasonable and good faith efforts to secure necessary funds to implement this PA in its entirety. Any requirement for the obligation of funds arising from the terms of this PA shall be subject to the availability of appropriated funds for that purpose, but this PA shall not be interpreted to require the obligation or payment of funds in violation of the Anti-Deficiency Act (31 USC 1341), which prohibits Federal agencies from incurring an obligation of funds in advance of or in excess of available appropriations.
- B. If compliance with the Anti-Deficiency Act alters or impairs VASNHCS's ability to implement the stipulations of this PA, it shall resume consultation to resolve unfunded measures pursuant to 36 C.F.R. §800, as applicable.

XIII. EXECUTION AND IMPLEMENTATION

- A. Execution of this PA by VASNHCS, the SHPO and ACHP and implementation of its terms evidence that VASNHCS has considered the effects of the undertaking on historic properties and afforded the ACHP and SHPO an opportunity to comment.

Signatories:


U.S. DEPARTMENT OF VETERANS AFFAIRS, SIERRA NEVADA HEALTH CARE SYSTEM (VASNHCS)

By:  Date: 5/25/17
Lisa Howard
Director

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:  Date: 6/5/17
John M. Fowler
Executive Director

NEVADA STATE HISTORIC PRESERVATION OFFICER

By:  Date: 5/25/17
Rebecca L. Palmer
Nevada State Historic Preservation Officer

Appendix A: Activities Requiring No Further Review

Appendix B: Area of Potential Effect and Historic Properties

Appendix C: VA Sierra Nevada Health Care System Building Inventory

APPENDIX A

ACTIVITIES REQUIRING NO FURTHER REVIEW

Category A

Category A specifies undertakings occurring within the Veterans Hospital District or affecting resources greater than fifty years old within the greater Ioannis A. Lougaris VA Medical Center. See Appendix B for a list of contributing resources in the historic district and Appendix C for an inventory of resources within the APE.

The following Category A undertakings, when carried out as described and in accordance with the Standards and National Park Service (NPS) *Preservation Briefs*, can be implemented by the VASNHCS without further review or consultation with SHPO under Section 106 of the NHPA.

1. Building Equipment Maintenance

- a) Maintenance, repair and replacement in-kind of existing:
 - 1) Heating, ventilation, and cooling (HVAC) equipment including ductwork, air handlers, chillers, and related wiring and controls;
 - 2) Exterior alarm systems;
 - 3) Exterior lighting systems including lights and switches; and
 - 4) Generators and photovoltaic systems.

2. Building Exteriors

- a) All maintenance, repair, and replacement in-kind of exterior building materials, including the following components:
 - 1) Painting and repainting exterior surfaces when the new paint matches the color, texture, and reflective qualities of the existing paint; and
 - 2) Patching and resurfacing exterior surfaces, such as stucco and concrete, consistent with the guidance included in the NPS Preservation Briefs 15 and 22 on the Preservation of Historic Concrete and the Preservation and Repair of Historic Stucco; and
 - 3) Replacement or installation of caulking and weather stripping around windows, doors, walls and roofs; and
 - 4) Repair of ramps, steps and landings around buildings consistent with the guidance included in the NPS Preservation Brief 15 on the Preservation of Historic Concrete; and
 - 5) Repair or in-kind replacement of roof cladding and sheeting, flashing, gutters, soffits, and downspouts on historic buildings or structures with no change in roof pitch or configuration.

NOTE: If historic fabric must be replaced, it should be in-kind and match as practicable to the original configuration, materials, dimensions, details, and

construction of the historic fabric as called for in the SOI *Standards for Rehabilitation* (Title 36 C.F.R. §68).

3. Building Interiors

- a) Interior building maintenance, including repair and painting of walls, repair and replacement in-kind of flooring and wall base.

4. Ground Disturbing Activities

- a) Any activity that causes ground disturbance in areas that have been previously disturbed and no historic properties are present, or in areas of low sensitivity for archaeological resources, as identified in previously conducted archaeological surveys (see Appendix D) such that the disturbance does not exceed the extent to which the site has been previously disturbed.

- 1) This will include utility trenching and ground impact for electrical, telecommunications, sewer and plumbing lines in areas within which utilities already exist, as stipulated within Section 5(a)(3).

5. Infrastructure

- b) Maintenance, repair, or in-kind replacement of existing infrastructure, including:
 - 1) Existing parking lots, streets, roads, curbs, gutters, sidewalks, and fencing; and
 - 2) Restriping of parking spaces on existing lots; and
 - 3) Maintenance, repair, replacement, or addition of necessary utility infrastructure (i.e., water, sewer, gas, and electrical apparatus and devices) such that the disturbance does not exceed the extent to which the site has been previously disturbed; and
 - 4) Maintenance, repair or replacement of signage less than 50 years old.

6. Placement of Temporary Structures

- a) Temporary placement (not to exceed three years) of trailers, tents, and portable structures on parking lots or other surfaces; and
- b) Temporary placement (not to exceed three years) of barriers and traffic control devices; and
- c) Temporary placement (not to exceed three years) of construction-related structures (such as scaffolding, barriers, screening, fences, protective walkways, signage, office trailers or self-contained restrooms).