

**PROGRAMMATIC AGREEMENT AMONG THE
GULF COAST VETERANS HEALTH CARE SYSTEM,
MISSISSIPPI STATE HISTORIC PRESERVATION OFFICER, AND THE ADVISORY
COUNCIL ON HISTORIC PRESERVATION
FOR THE DEVELOPMENT OF A CAMPUS MASTER PLAN INCLUDING CONSTRUCTION
OF FOUR NEW BUILDINGS, EXPANSION OF AN EXISTING PARKING LOT AND
CONSTRUCTION OF A PARKING STRUCTURE AT THE
BILOXI VETERANS AFFAIRS MEDICAL CENTER,
BILOXI, MISSISSIPPI**

WHEREAS, the Department of Veterans Affairs (VA) Gulf Coast Veterans Health Care System (GCVHCS), plans to redevelop its campus in Biloxi, Mississippi, through a master plan including the demolition of two non-contributing buildings, the construction of four new buildings, a new parking structure, and the expansion of an existing parking lot (Project); and

WHEREAS, the GCVHCS plans to fund the Project pursuant to 120 Stat. 3442 Public Law 109-461, December 22, 2006, thereby making the Project an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, and its implementing regulations, 36 C.F.R. Part 800; and

WHEREAS, the GCVHCS has defined the undertaking's area of potential effect (APE) as the area within the historic district boundary (see Attachment A); and

WHEREAS, the GCVHCS has determined that the undertaking will have an adverse effect on the Biloxi Veterans Administration Medical Center Historic District, determined eligible for the National Register of Historic Places (NRHP) in 1980 and formally listed on the NRHP in 2002, and has consulted with the Mississippi State Historic Preservation Office (SHPO) pursuant to 36 C.F.R. Part 800; and

WHEREAS, the GCVHCS has determined that the two buildings to be demolished are non-contributing elements within the historic district; and

WHEREAS, the GCVHCS has consulted with the Tunica-Biloxi, Chickasaw, Choctaw of Oklahoma, Mississippi Band of the Choctaw, Quapaw Tribe of Oklahoma, and the Jenna Band of the Choctaw tribes that have identified Harrison County as being of religious and/or cultural significance, and has invited these tribes to participate in consultation; and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), GCVHCS has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination providing the specified documentation, and the ACHP has chosen to participate in the consultation pursuant to 36 C.F.R. § 800.6(a)(1)(iii); and

WHEREAS, the GCVHCS has consulted with Blitch/Knevel, Leo A Daly, PSI, Inc., and R. Christopher Goodwin & Associates, Inc., in their roles as contractors, regarding the effects of the undertaking on historic properties; and

WHEREAS, the GCVHCS has already worked to ensure that the design of the new mental health and extended care buildings will be consistent with and sympathetic to the existing architectural character of the Biloxi Veterans Administration Medical Center Historic District; and

WHEREAS, the GCVHCS, SHPO, ACHP and the contractors held a consultation meeting on November 15, 2007; and

WHEREAS, the GCVHCS has contracted for a Phase I archaeological survey of the previously undisturbed areas that are subject to development and preliminary findings indicate no significant archaeological resources in the proposed APE; and

NOW, THEREFORE, the GCVHCS, SHPO, and the ACHP agree 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 GCVHCS shall ensure that the following measures are carried out:

- I. GCVHCS will continue with the concept and engineering designs of the new Clinical Addition, Blind Rehabilitation buildings and new parking structure consulting with SHPO as it ensures that the following design standards are followed:
 - a. scale
 - b. massing
 - c. proportions
 - d. siting
 - e. elevations
 - f. centered doorways with triangular/round pediments
 - g. arched windows
 - h. multistory porches
 - i. large glazed enclosures
 - j. cornices
 - k. multistory columns
 - l. maximum height – 5 floors
 - m. hip roofs with dormers
 - n. classical proportions
 - o. porticos
 - p. sympathetic colors
- II. GCVHCS will submit the design concepts and engineering designs to SHPO through the CARES project coordinator. Submittal will be via electronic format unless file size is prohibitive. SHPO will provide comments and recommendations within thirty (30) calendar days of receipt.
- III. Within six (6) months of the execution of this PA, GCVHCS will contract to have a detailed historic context of the campus prepared by an individual or individuals meeting 36 C.F.R. § 61.
- IV. Using the historic context, GCVHCS will contract to have a historic preservation plan prepared within one (1) year of receiving the historic context, prepared by an individual or individuals meeting 36 C.F.R. § 61.

- V. When it becomes necessary to replace the roof on Building 3, GCVHCS will request a project that ensures the design is more sympathetic to the architectural character of the Biloxi Veterans Administration Medical Center Historic District.
- VI. Recognizing that the pastoral setting and landscape is an integral element of the historic significance of the campus, GCVHCS will preserve and maintain the historic design elements including roadways, trees, plantings, ornamental fencing, greenspaces, including but not limited to the lawn and historic circular drive to the east and south of the main hospital building.
- VII. GCVHCS will obtain and install a NRHP plaque at the entrance of the Biloxi campus within six (6) months of the execution of this PA.
- VIII. Within three (3) months of the execution of this PA, GCVHCS will contract to have a historic tree survey prepared which it will use for future activities and will maintain and protect as many of the historic trees as possible during future actions. Historic trees will be replaced at a ratio of 1½ trees (minimum 3" diameter) for each historic tree removed.
- IX. Maintenance workers will be provided information on working with historic buildings such as the National Park Service Preservation Briefs.
- X. Within six (6) months of the execution of this PA, GCVHCS will provide funding for Section 106 training for key staff, including but not limited to, engineers and facility managers.
- XI. Within one (1) year of the execution of this PA, GCVHCS will contract to have a tri-fold brochure developed depicting the history of the GCVHCS Biloxi and Gulfport, Mississippi, division campuses. The brochure will be available via the Internet as well as through the GCVHCS public affairs office. The brochure will be developed in consultation with SHPO and the VA federal preservation officer. SHPO will have thirty (30) calendar days to review and comment on the final draft.
- XII. Unanticipated Discoveries
 - a. In the course of conducting work or any other activity on the campus that involves disturbance of the ground, GCVHCS shall not intentionally or knowingly remove or disturb or cause to be removed or disturbed any archaeological, or other cultural artifacts, relics, remains, or objects of antiquity. Any such artifacts, relics, remains, or objects of antiquity constitute federally owned property under the control of the VA.
 - b. In the event that a previously unidentified archaeological resource is discovered during such activities, GCVHCS shall immediately stop all work involving subsurface disturbance in the immediate area of the resource and in the surrounding area where further subsurface resources may reasonably be expected to occur (the "Site") GCVHCS shall then, within a reasonable time, obtain a qualified archaeologist to inspect the Site to determine whether further investigations are warranted. Following the inspection by the qualified

archaeologist, GCVHCS and SHPO shall consult and determine, within three (3) business days following the completion of such inspection, whether to conduct any archaeological work that may be necessary, and if so, how such archaeological work shall be accomplished. Construction work may continue in the project area outside the site parameters.

c. GCVHCS will also notify the Indian tribes that have previously expressed interest in the archaeological resources on the campus including, but not limited to, the Choctaw of Oklahoma and the Mississippi Band of the Choctaw inviting their recommendations for appropriate action.

d. If, following the inspection by the qualified archaeologist, GCVHCS determines that the previously unidentified archaeological resource is eligible for listing in the NRHP, GCVHCS shall submit to SHPO an assessment of the site's eligibility and a treatment plan to avoid, minimize, or mitigate any adverse effect on the resource. The treatment plan shall be prepared and implemented in accordance with the Secretary of Interior's Standards and Guidelines for Archaeology and Historic Preservation. SHPO shall provide GCVHCS comments on the eligibility of the resource for listing in the NRHP and the treatment plan within five (5) business days of receipt. GCVHCS shall then take into account SHPO's comments regarding NRHP eligibility and the treatment plan and shall carry out appropriate actions in accordance with the treatment plan. If it is determined by SHPO and GCVHCS that the archaeological resource on the Site does not meet the criteria for eligibility in the NRHP (36 CFR § 60.4), work may resume immediately. GCVHCS shall provide SHPO with a written report on actions taken pursuant to the treatment plan within thirty (30) calendar days following the resumption of work on the site.

e. If human remains are identified on the property by any action taken pursuant to this agreement, GCVHCS shall consult and notify SHPO and appropriate Indian tribes within three (3) business days and shall develop and implement a plan for the appropriate treatment of those remains in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC §§ 3001 et. seq. as appropriate) and the Archaeological Resources Protection Act (ARPA) (16 §§ USC 470aa et. seq.) and their respective regulations. The plan shall include provisions for in-place preservation, excavation, and analysis, in accordance with a data recovery plan approved pursuant to this PA, and disposition of the remains as appropriate. GCVHCS shall, in good faith, consult with the relevant parties, including tribes, in accordance with applicable law. The GCVHCS shall then submit the plan to SHPO for review and comment prior to its implementation.

XIII. AMENDMENTS

This PA 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 the signatories is filed with the ACHP.

XIV. DISPUTE RESOLUTION

Should any signatory or concurring party to this PA object at any time to any actions proposed or the manner in which the terms of this PA are implemented, GCVHCS shall consult with such party to resolve the objection. If GCVHCS determines that such objection cannot be resolved, GCVHCS will:

- a. Forward all documentation relevant to the dispute, including the GCVHCS's proposed resolution, to the ACHP. The ACHP shall provide GCVHCS 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, GCVHCS shall prepare a written response that takes into account 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. GCVHCS 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 time period, GCVHCS may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, GCVHCS shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the PA, and provide them and the ACHP with a copy of such written response.
- c. GCVHCS's responsibility to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged.

XV. MONITORING ACTIVITIES

Each year following the execution of this PA until it expires or is terminated, GCVHCS shall provide all parties to this PA a summary report detailing work carried out pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in GCVHCS's efforts to carry out the terms of this PA. If necessary, GCVHCS will meet annually with SHPO at their offices in Jackson, MS.

XVI. TERMINATING THIS PROGRAMMATIC AGREEMENT

If any signatory to this PA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation XIII, above. If within thirty (30) calendar days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the PA upon written notification to the other signatories.

Once the PA is terminated, and prior to work continuing on the undertaking, GCVHCS must either (a) execute an PA 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. GCVHCS shall notify the signatories as to the course of action it will pursue.

XVII. DURATION

This PA will continue in full force for five (5) years of enactment or until such time as it is terminated.

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

GULF COAST VETERANS HEALTH CARE SYSTEM

Charles E. Sepich, FACHE

Name: Charles E. Sepich, FACHE

Title: Director, VA Gulf Coast Veterans Health Care System

Date:

MISSISSIPPI DEPARTMENT OF ARCHIVES AND HISTORY

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Name:

Title: Mississippi State Historic Preservation Officer

Date: 07.27.2008

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Robert A. [unclear]

Name:

Title: Executive Director

Date: 8/11/08

See

