

**Programmatic Agreement  
Management of Historic Resources  
At the Veterans Affairs Medical Center in Tomah, Wisconsin**

Whereas the United States Department of Veterans Affairs (VA) manages the Tomah Veterans Affairs Medical Center in Tomah, Wisconsin (Medical Center), and

Whereas the Medical Center includes the site of the former Tomah Indian Industrial Arts School and the Tomah Indian Hospital, places of cultural and historical significance to many Indian tribes, which VA has determined are eligible for inclusion in the National Register of Historic Places (NRHP); and

Whereas the Medical Center contains other buildings, structures, landscapes and sites that may be eligible for inclusion in the NRHP (hereinafter, together with the above-referenced School and Hospital, "historic resources"); and

Whereas pursuant to Section 106 of the National Historic Preservation Act (NHPA) and its regulations (36 CFR 800), the Veterans Affairs Medical Center Tomah (VAMC Tomah) has determined that its ongoing management of the Medical Center may have adverse effects on the Tomah Indian Industrial Arts School, the Tomah Indian Hospital, and other historic resources; and

Whereas due to the routine nature of many actions undertaken in the ongoing management of the Medical Center, VAMC Tomah has determined that it is appropriate to develop a programmatic agreement pursuant to 36 CFR 800.14(b); and

Whereas in accordance with Sections 106 and 101(d)(6)(B) of the NHPA, VAMC Tomah has consulted with the Ho-Chunk Nation, the Oneida Nation, the Lac du Flambeau Tribe, the Wisconsin State Historic Preservation Officer (SHPO), and the Advisory Council on Historic Preservation (ACHP) to seek ways to resolve the potential adverse effects on historic resources at the Medical Center; and

Whereas VAMC Tomah has also invited the Bad River Band of Lake Superior Chippewa Indians, the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, the Menominee Indian Tribe of Wisconsin, the Red Cliff Band of Lake Superior Chippewa, the Forest County Potawatomi Indian Community, the Mohican Nation, the Mole Lake Sokaogon Chippewa Community of Wisconsin, the St. Croix Chippewa Indians of Wisconsin, the Lac Vieux Desert Band of Lake Superior Chippewa Indians, the Sac and Fox Nation, the Kickapoo Tribe of Oklahoma, the Prairie Band Potawatomi Nation, and the Monroe County Historical Society to consult about ways to resolve such adverse effects, and having received no comments, has invited them to concur in this programmatic agreement;

Now, therefore, it is mutually agreed that VAMC Tomah will implement the following provisions in order to take into account the effects of managing the Medical Center on historic resources.

### Stipulations

#### I. Tomah Indian Industrial Arts School and Tomah Indian Hospital

- a. Within sixty days after execution of this programmatic agreement, VAMC Tomah will initiate development of a historic resources management plan (HRMP) for the site of the NRHP-eligible Tomah Indian Industrial Arts School and the buildings, structures, and landscape that contribute to its significance, and for the Tomah Indian Hospital. VAMC Tomah will ensure that the HRMP is completed and put into effect within one year after initiation of its development, subject to the following stipulations:
  - i. VAMC Tomah will develop the HRMP in consultation, consistent with the definition of consultation at 36 CFR § 800.16(f), with all Indian tribes who express interest in participating (tribes), the Wisconsin SHPO, the ACHP, and the Monroe County Historical Society. The results of the HRMP are expected to reflect a consensus among the parties participating in consultation. If a consensus cannot be reached, VAMC Tomah will initiate the dispute resolution process defined in Stipulation IV.
  - ii. The HRMP will establish boundaries for the land to which its terms apply, embracing the site of the Tomah Indian Industrial Arts School, the site of the Tomah Indian Hospital, and to the extent it can be determined, the area used by tribes as a meeting and residential area prior to the creation of the Tomah Indian Industrial Arts School.
  - iii. The HRMP will identify and briefly describe the buildings, structures, landscape elements, sites, and objects that contribute to the significance of the historic property, and will provide management standards and guidelines for each.
  - iv. The HRMP will provide for regular government-to-government consultation with federally recognized Indian tribes having historical or cultural associations with the Tomah vicinity, including a schedule or schedules for such consultation.
  - v. The HRMP will provide for public interpretation and memorialization of the history of the Tomah Indian Industrial Arts School, the Tomah Indian Hospital, and tribal use of the area.
  - vi. The HRMP will provide for the maintenance, preservation, and rehabilitation of sites, buildings, structures and objects having historical, archaeological,

cultural or architectural significance in ways consistent with the standards and guidelines issued by the Secretary of the Interior pertinent to each such type of property ([http://www.nps.gov/history/local-law/arch\\_stnds\\_8\\_2.htm](http://www.nps.gov/history/local-law/arch_stnds_8_2.htm); [http://www.nps.gov/history/local-law/Arch\\_Standards.htm](http://www.nps.gov/history/local-law/Arch_Standards.htm); see also <http://www.nps.gov/history/publications.htm>).

- vii. The HRMP will establish a process or processes for expeditious and effective review of proposed changes to buildings, structures and grounds to which the HRMP applies, to identify and resolve any adverse effects such changes may have on historic resources. VAMC Tomah will use this process, once it is adopted as part of the HRMP, to review such changes in lieu of review following the standard process set forth at 36 CFR 800.1 through 800.6.
  - viii. The HRMP will identify types of proposed changes that need not be reviewed because of their relatively low potential for effect on historic resources, including changes that can be made without review provided specified conditions are met.
  - ix. The HRMP will establish ways for VAMC Tomah to obtain the professional and technical expertise needed to implement the HRMP's terms.
  - x. The HRMP will provide opportunities for interested veterans, local residents, and members of tribes to participate in preserving, learning about, and managing historic resources.
  - xi. The HRMP will provide for reconsideration of its terms by VAMC Tomah in consultation with the tribes, SHPO, and other interested parties every ten years at a minimum, and for the resolution of any disputes regarding interpretation and fulfillment of its terms.
- b. When the HRMP is complete in draft form, VAMC Tomah will distribute it to the parties to this programmatic agreement and other interested parties, and make it available to the public for review and comment, allowing at least thirty (30) days for receipt of comments. Objections to aspects of the HRMP will be resolved in accordance with Stipulation IV. Once any such objections have been resolved, VAMC Tomah will ensure that the HRMP is implemented.

## II. **The remainder of the Medical Center**

- a. In consultation with the parties to this agreement and within one year after its execution, VAMC Tomah will evaluate the buildings, structures, and landscape comprising the Medical Center outside the boundaries established pursuant to stipulation I.a.ii above to determine what, if anything, is eligible for inclusion in the

NRHP. To account for the passage of time and changing concepts of significance, VAMC Tomah will re-evaluate the above properties for inclusion in the NRHP every ten years following the initial evaluation.

- b. Whenever VAMC Tomah proposes to undertake or permit alteration of a building, structure, or land within the Medical Center outside the boundaries established pursuant to stipulation I.a.ii above, VAMC Tomah will follow either the regulations governing compliance with Section 106 of NHPA (36 CFR 800) or the review procedures established in the HRMP for the Tomah Indian Industrial Arts School and Tomah Indian Hospital area (Stipulation I.a.vii and viii), whichever VAMC Tomah determines to be more efficient.

### III. Professional Qualifications

- a. VAMC Tomah will ensure that all archaeological work carried out pursuant to this programmatic agreement is supervised by an individual or individuals meeting the Secretary of the Interior's Professional Qualifications Standards for Archaeology (See [http://www.nps.gov/history/local-law/arch\\_stnds\\_9.htm](http://www.nps.gov/history/local-law/arch_stnds_9.htm)).
- b. VAMC Tomah will ensure that all work relating to historical or architectural documentation is supervised by an individual or individuals meeting the Secretary of Interior Professional Qualification Standards in Architecture, Historic Architecture, History, or Architectural History (See [http://www.nps.gov/history/local-law/arch\\_stnds\\_9.htm](http://www.nps.gov/history/local-law/arch_stnds_9.htm)).
- c. VAMC Tomah will ensure that all work relating to the design of changes to buildings, structures, and designed landscapes that contribute to the significance of historic resources is supervised by an individual or individuals meeting the Secretary of Interior Professional Qualification Standards (See [http://www.nps.gov/history/local-law/arch\\_stnds\\_9.htm](http://www.nps.gov/history/local-law/arch_stnds_9.htm)) in Historic Architecture.
- d. VAMC Tomah will consult the tribes during its procurement of contractors to perform any necessary archaeological, historical, and architectural studies, and will make every effort permitted by law to accommodate tribal preferences in contractor selection.

### IV. Dispute Resolution

- a. Should any party to this programmatic agreement object in writing to VA regarding any action carried out or proposed under its terms, or assert that VAMC Tomah or other parties are failing to carry out its terms, VAMC Tomah shall consult with the objecting party to resolve the objection. If after initiating such consultation VAMC Tomah determines that the objection cannot be resolved through consultation, VAMC Tomah shall forward all documentation relevant to the objection to the ACHP, including VAMC Tomah's proposed response to the objection. Within 30 days after

receipt of all pertinent documentation, the ACHP shall exercise one of the following options:

1. Advise VA that the ACHP concurs in VAMC Tomah's proposed response to the objection, whereupon VAMC Tomah will respond to the objection accordingly;
  2. Provide VAMC Tomah with recommendations, which VAMC Tomah shall take into account in reaching a final decision regarding its response to the objection;
  3. Notify VA that it is terminating this programmatic agreement; or
  4. Notify VA that the objection will be referred for comment pursuant to 36 CFR 800.7(a)(4), and proceed to refer the objection and comment. VA shall take the resulting comment into account in accordance with 36 CFR 800.7(c)(4) and Section 110(l) of NHPA.
- b. Should the ACHP not exercise one of the above options within 30 days after receipt of all pertinent documentation, VAMC Tomah may assume the ACHP's concurrence in its proposed response to the objection.
- c. VAMC Tomah shall take into account any ACHP recommendation or comment provided in accordance with this stipulation with reference only to the subject of the objection; VAMC Tomah's responsibility to carry out all actions under this programmatic agreement that are not the subjects of the objection shall remain unchanged.
- d. At any time during implementation of the measures stipulated in this programmatic agreement, should an objection pertaining to this programmatic agreement or the effect of the undertaking on historic resources be raised by a member of the public, VAMC Tomah shall notify the parties to this programmatic agreement and take the objection into account, consulting with the objector and, should the objector so request, with any of the parties to this programmatic agreement to resolve the objection.

#### **V. Annual Report and Review.**

- a. On or before September 30 of each year, VAMC Tomah will prepare and provide an annual report to the other parties to this programmatic agreement, addressing at least the following topics:
  - i. Progress in completing the HRMP, and once the HRMP is completed, the status of its implementation;

- ii. Any problems, challenges, or unusual opportunities encountered in completing or carrying out the terms of the HRMP;
  - iii. Status of studies under Stipulation II;
  - iv. Any current or pending projects requiring review under 36 CFR 800 or the terms of this programmatic agreement; and
  - v. Any changes that VAMC Tomah believes should be made in implementation of this programmatic agreement.
  - vi. Whenever possible and feasible, the report will be submitted electronically.
- b. VAMC Tomah shall ensure that its annual report is made available for public inspection, that potentially interested members of the public are made aware of its availability, and that interested members of the public are invited to provide comments to the SHPO, tribes, and ACHP as well as to VA.
- c. The signatories to this programmatic agreement shall review the annual report and provide comments to VAMC Tomah. Non-signatory parties to this programmatic agreement may review and comment on the annual report at their discretion.
- d. At the request of any party to this programmatic agreement, VAMC Tomah shall ensure that a meeting or meetings are held to facilitate review and comment, to resolve questions, or to resolve adverse comments.
- e. Based on this review, the signatories to this programmatic agreement shall determine whether this agreement shall continue in force, be amended, or be terminated.

## **VI. Amendments and Termination**

- a. Any party to this programmatic agreement may propose to VA that it be amended, whereupon VAMC Tomah shall consult with the other parties to this programmatic agreement to consider such an amendment. 36 CFR 800.14(b) shall govern the execution of any such amendment.
- b. If VA determines that it cannot implement the terms of this programmatic agreement, or if another party to this programmatic agreement determines that the programmatic agreement is not being properly implemented, such party may propose to the other parties to this programmatic agreement that it be terminated.
- c. The party proposing to terminate this programmatic agreement shall so notify all parties to this programmatic agreement, explaining the reasons for termination and affording them at least 30 days to consult and seek alternatives to termination. The parties shall then consult.

- d. Should such consultation fail, VA or any other party to this programmatic agreement may terminate the programmatic agreement by so notifying all parties.
- e. Should this programmatic agreement be terminated, VAMC Tomah shall comply with the provisions of 36 CFR 800, Subpart B with respect to each undertaking that would otherwise be managed in accordance with this programmatic agreement.

**VII. Duration**

This PA will be terminated twenty (20) years from the date of its execution. Prior to such time, VAMC Tomah may consult with the other signatories to reconsider the terms of the PA and amend it in accordance with Stipulation VI above.

Execution of this programmatic agreement and implementation of its terms evidence that VAMC Tomah has afforded the ACHP reasonable opportunities to comment on the management of the Medical Center, and that VAMC Tomah is taking into account the effects of the Medical Center's management on historic resources.

DEPARTMENT OF VETERANS AFFAIRS

By: Genard D. Molnar Date: 9/4/09

WISCONSIN STATE HISTORIC PRESERVATION OFFICER

By: [Signature] Date: 9/24/09

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: [Signature] Date: 11/9/10

HO-CHUNK NATION

By: \_\_\_\_\_ Date: \_\_\_\_\_

LAC DU FLAMBEAU TRIBE

By: \_\_\_\_\_ Date: \_\_\_\_\_

ONEIDA NATION

By: \_\_\_\_\_ Date: \_\_\_\_\_

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By: Arnold D. Molnar Date: 9/4/09

WISCONSIN STATE HISTORIC PRESERVATION OFFICER

By: \_\_\_\_\_ Date: \_\_\_\_\_

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: Wes Chackebush Date: 09/09/09

HO-CHUNK NATION THPO

By: \_\_\_\_\_ Date: \_\_\_\_\_

LAC DU FLAMBEAU TRIBE

By: \_\_\_\_\_ Date: \_\_\_\_\_

ONEIDA NATION

By: \_\_\_\_\_ Date: \_\_\_\_\_



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WISCONSIN STATE HISTORIC PRESERVATION OFFICER

By: \_\_\_\_\_ Date: \_\_\_\_\_

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: \_\_\_\_\_ Date: \_\_\_\_\_

HO-CHUNK NATION

By: \_\_\_\_\_ Date: \_\_\_\_\_

LAC DU FLAMBEAU TRIBE

By: Jerome B. Big... Date: 3-2-10

ONEIDA NATION

By: \_\_\_\_\_ Date: \_\_\_\_\_

VAMC Tomah Programmatic Agreement | 2009

CONCUR:

BAD RIVER BAND OF LAKE SUPERIOR CHIPPEWA INDIANS

By: \_\_\_\_\_ Date: \_\_\_\_\_

LAC COURTE OREILLES BAND OF LAKE SUPERIOR CHIPPEWE INDIANS OF WISCONSIN

By: \_\_\_\_\_ Date: \_\_\_\_\_

MENOMINEE TRIBE OF WISCONSIN

By: \_\_\_\_\_ Date: \_\_\_\_\_

RED CLIFF BAND OF LAKE SUPERIOR CHIPPEWA

By: Harry Baller Date: 9-15-09

FOREST COUNTY POTAWATOMI INDIAN COMMUNITY

By: \_\_\_\_\_ Date: \_\_\_\_\_

MOHICAN NATION

By: \_\_\_\_\_ Date: \_\_\_\_\_

MOLE LAKE SOCADGON CHIPPEWA COMMUNITY OF WISCONSIN

By: \_\_\_\_\_ Date: \_\_\_\_\_

ST. CROIX CHIPPEWA INDIANS OF WISCONSIN

By: \_\_\_\_\_ Date: \_\_\_\_\_

LAC VIEUX DESERT BAND OF LAKE SUPERIOR CHIPPEWA INDIANS

By: \_\_\_\_\_ Date: \_\_\_\_\_

MONROE COUNTY HISTORICAL SOCIETY

By: \_\_\_\_\_ Date: \_\_\_\_\_

**COPY**

CONCUR:

BAD RIVER BAND OF LAKE SUPERIOR CHIPPEWA INDIANS

By: \_\_\_\_\_ Date: \_\_\_\_\_

LAC COURTE OREILLES BAND OF LAKE SUPERIOR CHIPPEWE INDIANS OF WISCONSIN

By: \_\_\_\_\_ Date: \_\_\_\_\_

MENOMINEE TRIBE OF WISCONSIN

By: \_\_\_\_\_ Date: \_\_\_\_\_

RED CLIFF BAND OF LAKE SUPERIOR CHIPPEWA

By: \_\_\_\_\_ Date: \_\_\_\_\_

FOREST COUNTY POTAWATOMI INDIAN COMMUNITY

By: \_\_\_\_\_ Date: \_\_\_\_\_

MOHICAN NATION

By: \_\_\_\_\_ Date: \_\_\_\_\_

MOLE LAKE SOCAOGON CHIPPEWA COMMUNITY OF WISCONSIN

By: *[Signature]* Date: *9-14-09*

~~ST. CROIX CHIPPEWA INDIANS OF WISCONSIN~~

~~By: \_\_\_\_\_ Date: \_\_\_\_\_~~

LAC VIEUX DESERT BAND OF LAKE SUPERIOR CHIPPEWA INDIANS

By: \_\_\_\_\_ Date: \_\_\_\_\_

MONROE COUNTY HISTORICAL SOCIETY

By: \_\_\_\_\_ Date: \_\_\_\_\_

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MOLE LAKE SOCAOGON CHIPPEWA COMMUNITY OF WISCONSIN

By: \_\_\_\_\_ Date: \_\_\_\_\_

ST. CROIX CHIPPEWA INDIANS OF WISCONSIN

By: \_\_\_\_\_ Date: \_\_\_\_\_

LAC VIEUX DESERT BAND OF LAKE SUPERIOR CHIPPEWA INDIANS

By: \_\_\_\_\_ Date: \_\_\_\_\_

MONROE COUNTY HISTORICAL SOCIETY

By: *[Signature]* Date: *30 Sept 09*  
*Prea*