

**PROGRAMMATIC AGREEMENT  
BETWEEN THE  
U.S. DEPARTMENT OF VETERANS AFFAIRS NORTH TEXAS HEALTH CARE SYSTEM  
AND THE  
THE TEXAS HISTORICAL COMMISSION  
REGARDING THE CLINICAL EXPANSION OF MENTAL HEALTH & LONG TERM SPINAL  
CORD INJURY PROJECTS AT THE VETERANS AFFAIRS NORTH TEXAS HEALTH CARE  
SYSTEM – DALLAS VA MEDICAL CENTER, DALLAS, DALLAS COUNTY, TEXAS**

WHEREAS, the U.S. Department of Veterans Affairs (VA) North Texas Health Care System (NTHCS) has determined larger, state-of-the-art facilities and supporting infrastructure to further expand and enhance Veteran health care services, specifically long term spinal cord injury (LTSCI) and mental health care services (also known as Clinical Expansion of Mental Health or CEMH), are needed at the Dallas VA Medical Center (VAMC) campus to address the undersized facilities and operational deficiencies at the Dallas VAMC to support the rapidly growing Veteran demand for health care services in the region; and

WHEREAS, VANHCS consulted with the Advisory Council on Historic Preservation (ACHP), Texas Historical Commission (THC), City of Dallas, and Preservation Dallas from 2010 to 2013 to resolve adverse effects related to the construction of the CEMH (clinic and parking garage) and LTSCI (clinic, parking garage, and warehouse) facilities as shown in Attachment A; and

WHEREAS, in 2010, VANHCS determined the Undertaking would adversely affect the former Quarters/Environmental Management Service Administration (Building 5), former Quarters/PRRC (Building 6), and Boiler Plant (Building 10), which at the time were three historic properties identified within the Areas of Potential Effects (APEs) delineated for the Undertaking; and

WHEREAS, in 2013, no federally recognized Indian tribes with ancestral ties to Dallas County had been identified so none consulted on this Undertaking; and

WHEREAS, on January 22, 2013, VANHCS, ACHP, and THC executed the *Memorandum of Agreement Among the U.S. Department of Veterans Affairs, Texas Historical Commission and Advisory Council on Historic Preservation Regarding the Clinical Expansion for Mental Health & Long Term Spinal Cord Injury Projects at the Veterans Affairs North Texas Health Care System, Dallas, Texas* (2013 MOA) to resolve these adverse effects; and

WHEREAS, through an amendment executed on December 6, 2017, VANHCS, ACHP, and THC extended the duration of the 2013 MOA to January 22, 2023, to allow more time to implement the Undertaking and to complete the terms of the 2013 MOA; and

WHEREAS, in 2017, VANHCS constructed the LTSCI parking garage, one element of the Undertaking, to meet the operational needs of the Dallas VAMC; and

WHEREAS, in November 2021, VANHCS learned of anticipated increases in patient loads and on January 6, 2021, VA released new design guidelines for Inpatient Mental Health & Residential Rehabilitation Treatment Program Facilities, which impacted the design of the proposed Dallas VAMC CEMH facilities; and

WHEREAS, VANHCS now proposes to modify the Undertaking to include construction and operation of the following facilities related to CEMH and LTSCI services, including all necessary building/structure

demolitions, utility installations, and roadway and circulation improvements as shown and more fully described in Attachment B:

- CEMH facility: three-to-four stories in height and potentially constructed as two buildings located north of Historic Main Hospital/Behavioral Health (Building 1),
- CEMH parking garage: up to five stories in height in the parking lot north of the Avenue of Flags,
- LTSCI facility: three stories in height plus one basement and located along Liberty Loop adjacent to Spinal Cord Injury (Building 74),
- LTSCI warehouse: two stories in height and located near the NNE boundary of the campus near Ann Arbor Avenue; and

WHEREAS, VANTHCS found the Undertaking has the potential to adversely affect historic properties eligible for listing in the National Register of Historic Places (NRHP) and is therefore subject to 54 USC § 306108 of the National Historic Preservation Act (NHPA) and its implementing regulations, 36 CFR Part 800, as amended (collectively referred to here as "Section 106"); and

WHEREAS, VANTHCS has consulted with the THC as the Texas State Historic Preservation Officer, pursuant to 36 CFR § 800.2(c)(1); and

WHEREAS, VANTHCS invited the Apache Tribe of Oklahoma, Comanche Nation, Coushatta Tribe of Louisiana, Tonkawa Tribe, and the Wichita & Affiliated Tribes to participate in consultation as federally recognized Indian tribes that might attach religious and/or cultural significance to historic properties in Dallas County, pursuant to 36 CFR § 800.2(c)(2), and the Comanche Nation confirmed the campus does not hold sites significant to Comanche Nation heritage, however, none of the Indian tribes have responded with interest in participating in this consultation as of April 25, 2022; and

WHEREAS, VANTHCS invited the City of Dallas Office of Historic Preservation, as the Certified Local Government; the Dallas County Historical Commission; and Preservation Dallas to participate in this consultation pursuant to 36 CFR § 800.2(c)(3) and (5) and the City of Dallas Office of Historic Preservation participated in this consultation and is a consulting party; and

WHEREAS, VANTHCS provided the public information about the Undertaking and its effects on historic properties and sought public comment and input, pursuant to 36 CFR § 800.2(d), through a public announcement on the VANTHCS website from August 24 to September 29, 2021, and through National Environmental Policy Act (NEPA) compliance efforts from July 2021 to May 2022 including information about the Section 106 process in Scoping letters and no comments related to historic properties nor cultural resources were received as of April 25, 2022; and

WHEREAS, VANTHCS hosted a consultation meeting with the consulting parties on December 1, 2021, and provided information about alternatives for the Undertaking considered but rejected because the alternatives did not meet the goals of the Undertaking on January 21, 2022, to all parties, and met on April 25, 2022, to discuss appropriate mitigation; and

WHEREAS, VANTHCS hosted a campus visit for THC staff members to see the Dallas VAMC campus on February 22, 2022; and

WHEREAS, VANTHCS, in consultation with the THC, has determined the revised APE to include the whole of the Dallas VAMC campus addressed 4500 South Lancaster Road as depicted on the map in Attachment C, pursuant to 36 CFR § 800.4(a)(1), and the THC concurred on April 7, 2022; and

WHEREAS, VANTHCS, in consultation with the THC, reviewed all past recommendations for historic built resources and identified Building 1, with former Dining Hall/Research Laboratories (Building 3) as a component, as the only property eligible for individual listing in the NRHP within the APE, pursuant to 36 CFR § 800.4, and the THC concurred on April 7, 2022; and

WHEREAS, VANTHCS, in consultation with the THC and as informed by the Comanche Nation, determined subsurface archaeological deposits, including Site 41DL499, meeting the criteria for listing in the NRHP as described in 36 CFR § 60.4 are unlikely to be present within the proposed areas of ground disturbance due to past construction efforts within the APE and the THC concurred on April 7, 2022; and

WHEREAS, the THC maintains that the Dallas VAMC held a historic district that has since lost integrity due to an accumulation of construction resulting in a cumulative adverse effect; and

WHEREAS, VANTHCS has produced design plans for the LTSCI facilities, including associated utilities and roadway improvements, but VANTHCS has not finalized a design for the CEMH clinical facilities, including associated utilities and roadway improvements, and therefore the opportunity to minimize adverse effects remains; and

WHEREAS, VANTHCS has determined it appropriate to develop this programmatic agreement (PA) in accordance with 36 CFR § 800.14(b), including § 800.14(b)(1)(ii), which recognizes that a PA may be used when effects on historic properties cannot be fully determined prior to approval of an undertaking; and

WHEREAS, VANTHCS invited the ACHP to participate in consultation pursuant to 36 CFR § 800.6(a)(1)(i)(C), and the ACHP has notified VANTHCS it would not participate on December 2, 2021; and

WHEREAS, the parties to the 2013 MOA agree this PA shall supersede the 2013 MOA in full upon its execution; and

NOW, THEREFORE, VANTHCS and the THC agree that the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effects of the Undertaking on historic properties.

## **STIPULATIONS**

VANTHCS shall ensure that the following measures are carried out:

### **I. GENERAL**

- a. 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. Accordingly, 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, and this agreement shall not be interpreted to require the obligation of funds in violation of the Anti-Deficiency Act.
- b. All parties shall send and accept official notices, comments, requests for additional information and/or documentation, and all other communications as required by this PA via email with the exception of the THC that may also accept and provide digital correspondence through its eTRAC system.
- c. Time designations shall be in calendar days. Failure to comment within specified time designations shall not prevent VANTHCS from proceeding in the process as outlined in this PA.
- d. For the purposes of this PA, the definitions provided in 36 CFR §§ 800.16(a) through (z)

- inclusive shall apply.
- e. VANTHCS shall ensure that all work carried out pursuant to this PA shall be done by or under the supervision of historic preservation professionals meeting the applicable Secretary of the Interior's *Professional Qualification Standards* (36 CFR Part 61).
  - f. Annually, within two weeks of the anniversary of the execution of this PA, until it is closed out, expires, or is terminated, VANTHCS shall provide the Signatory and concurring parties a summary report detailing work undertaken pursuant to its terms. The report shall include any scheduling changes proposed, any problems encountered, and any disputes or objections received in VANTHC's efforts to implement terms of this PA.

## II. MINIMIZATION OF ADVERSE EFFECTS

- a. Design Review and Assessment of Effects
  - i. VANTHCS shall provide an information packet around 35% Design Plans to the THC and concurring parties for suggestions on ways to minimize adverse effects to historic properties.
    - 1. The information packet shall include photos and a map of the proposed footprint, photos of buildings proposed for demolition, drawings of exterior elevations, preliminary landscape plans, and utility schematics. VANTHCS shall provide an executive summary of all plans in the cover letter.
    - 2. VANTHCS shall provide 30 days from receipt to comment on the design plans.
    - 3. VANTHCS shall respond to all comments in writing. Responses shall take into consideration the submitted comments, purpose of the Undertaking, project budgets, operational needs, and VA design requirements.
  - ii. VANTHCS shall provide an information packet around 95% Design Plans to the THC and concurring parties.
    - 1. The information packet shall include updated design plans and utility schematics; renderings of the elevations of the proposed buildings; and a cover letter describing VANTHCS's assessment of effects.

## III. MITIGATION

- a. Documentation
  - i. VANTHCS shall document Buildings 5, 6 and 10 prior to their demolition to the standards of the Historic American Buildings Survey (HABS) Level 2 documentation including large-format photography of the exterior elevations of each building, one interior space per building, and a short-form written history.
    - 1. VANTHCS shall provide the THC an opportunity to review and comment on a comprehensive draft of the non-photographic portion of the documentation.
      - a. VANTHCS shall take the THC's comments into account in revising the documentation and shall provide the THC an opportunity to review the revised documentation.
      - b. VANTHCS shall ensure that revised documentation is provided to the THC for review within 60 days of receiving the THC comments.

2. Prior to any demolition activity related to Buildings 5, 6, and 10, VANTHCS must submit architectural photographic documentation meeting the Secretary of the Interior's *Standards and Guidelines for Architectural and Engineering Documentation* to the THC.
    - a. VANTHCS shall provide the THC a list of proposed subjects with digital photographs for each building in advance of documentation for review.
      - i. The THC shall have 30 days upon receipt to comment on the proposed list.
      - ii. VANTHCS shall take the THC's comments into account and finalize the list within 15 days of receiving THC comment.
  3. VANTHCS shall provide digital copies to the THC for review of photographic quality and adequacy of views in portraying the character of the buildings.
    - a. The THC shall provide written approval or recommendations for additional work on the architectural documentation photographs within 30 calendar days of receipt of the proofs. If the THC does not provide comments on the documentation photographs within 30 calendar days of receipt, VANTHCS may consider the documentation photographs to have been accepted by the THC.
    - b. VANTHCS may proceed with demolition of Buildings 5, 6, and 10 once the THC has accepted the architectural documentation photographs.
  4. VANTHCS shall provide digital copies of the final documentation to the VA Federal Preservation Officer, the THC, and the Dallas Public Library, and provide full sets of this documentation to the THC and National Park Service (NPS). VANTHCS shall prepare the full sets in accordance with HABS guidance.
- ii. Interpretation
1. VANTHCS shall memorialize the significance of the Dallas Veterans Administration Hospital through installation of interpretive signage in the lobby or public space of one of the CEMH or LTSCI clinic facilities.
    - a. The signage shall contain brief histories of the original campus built resources and the changes to the Dallas VA campus since its initial construction; historic photos; modern photos; and HABS photos taken of Buildings 5, 6, and 10.
    - b. VANTHCS may choose one large sign, or several smaller signs as is appropriate for the aesthetic of the public space.
    - c. VANTHCS shall submit the text and overall design for THC review in a documentation package including a cover letter describing the proposed location.
      - i. VANTHCS shall submit the documentation package to the THC.
      - ii. VANTHCS shall accept comments on the text and design for 30 days.

- iii. VANTHCS shall respond to comments and provide a copy of the final text and design to the THC within 60 days of receipt of THC comments on the draft text and design.
  - d. VANTHCS shall document the signage once installed and notify concurring parties of its installation through the Annual Report described in Stipulation I. of this PA.
- iii. Nomination
  - 1. VANTHCS shall submit a draft NRHP nomination for Building 1, with Building 3 as a component, to the THC within two years of execution of this PA.

#### IV. POST-REVIEW DISCOVERIES

- a. If unanticipated effects to built resources determined eligible for the NRHP by a qualified architectural historian occur during implementation of the Undertaking, VANTHCS shall consult with the Signatory and concurring parties in accordance with 36 CFR §§ 800.5 - 800.6.
- b. If unanticipated effects to intact subsurface deposits occur during implementation of the Undertaking, VANTHCS shall stop work and have the deposit evaluated by a qualified archaeologist.
  - i. If the deposit is determined not eligible for listing in the NRHP, VANTHCS shall provide a copy of documentation to the THC, Indian tribes, and City of Dallas within 7 days of determination.
  - ii. If the deposit is determined eligible for listing in the NRHP, VANTHCS shall consult with and the THC, Indian tribes, and City of Dallas in accordance with 36 CFR §§ 800.5 - 800.6.

#### V. TREATMENT OF HUMAN REMAINS

- a. VANTHCS shall stop work within a 25-foot radius in the event of discovery of possible human remains, funerary objects, sacred objects, and objects of cultural patrimony.
- b. In the event of the discovery of human remains, VANTHCS shall comply with Chapter 711 of the Texas Health and Safety Code and any other applicable laws.
  - i. VANTHCS shall secure the discovery and not resume work in the area of the discovery until the requirements of applicable laws have been met, such as securing a burial excavation permit, as required, and ensure that human remains are treated with respect. This shall include but not be limited to shielding from public view and limiting photos to those needed for identification by law enforcement.
- c. VANTHCS shall immediately alert the Dallas County Sheriff's Department upon discovery.
- d. VANTHCS shall alert the THC and Indian tribes via email within 24 hours of discovery.
- e. VANTHCS shall have the funerary objects, sacred objects, and objects of cultural patrimony evaluated by a qualified archaeologist.
- f. Should VANTHCS determine that human remains, funerary objects, sacred objects, and objects of cultural patrimony are or may be Native American, VANTHCS shall consult as required by the Native American Graves Protection and Repatriation Act (Pub. L. 101-601, 25 U.S.C. 3001 et seq., 104 Stat. 3048).

VI. DISPUTE RESOLUTION

- a. Should any Signatory to this PA object in writing to the manner in which any stipulation of this PA is implemented, VANTHCS shall consult with that party or parties to resolve the objection for a period of not less than 14 days. If VANTHCS determines that such objection cannot be resolved, VANTHCS shall:
  - i. Forward all documentation relevant to the dispute, including VANTHCS's proposed resolution, to the ACHP and Signatories for review and comment. The ACHP and Signatories shall provide VANTHCS with written comments on the resolution of the objection within 30 days of receiving adequate documentation.
    - 1. Adequate documentation shall include reference to this PA, the written objection of the Signatory, VANTHCS's response to the objection, and any supporting documentation.
  - ii. VANTHCS shall take into account any timely advice or comments received from the ACHP and other Signatories in determining a final decision on the dispute.
  - iii. If the ACHP does not respond within 30 days of receiving adequate documentation, VANTHCS shall prepare a written response that takes into account timely comments from other Signatories regarding the dispute.
  - iv. VANTHCS shall prepare a written decision and distribute the decision and the documentation relevant to the dispute to all Signatories. VANTHCS shall then proceed in accordance with its final decision.
  - v. VANTHCS'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.

VII. AMENDMENT AND TERMINATION

- a. This PA may be amended if any Signatory requests an amendment, and it is agreed to in writing by all Signatories. The amendment shall go into effect on the date a copy of the amendment signed by all signatories is filed with ACHP.
- b. If any Signatory to this PA determines that its terms shall not or cannot be carried out, that party shall immediately consult with the other Signatories to attempt to develop an amendment.
- c. If within 60 days an amendment cannot be reached, any Signatory may terminate the PA upon written notification to the other Signatories. VANTHCS shall notify the concurring parties of a termination.
- d. Upon termination of this PA, VANTHCS shall either consult to execute another agreement document or request ACHP comments, pursuant to 36 CFR § 800.7. This PA may be terminated without further consultation by the execution of a subsequent agreement that explicitly terminates or supersedes this PA.

VIII. ADMINISTRATION AND DURATION

- a. This PA shall be effective once a copy signed by all signatories is filed with the ACHP.
- b. This PA shall be executed in counterparts, with a separate page for each Signatory and concurring party. VANTHCS shall provide a complete copy of the executed PA, including all signatory pages and attachments, to all concurring parties.
- c. This PA shall remain in effect for a period of 15 years from the date of execution, unless it is concluded, amended, or terminated in accordance with Stipulation VII.a prior to that date. No later than 6 months prior to expiration of the PA, VANTHCS may initiate

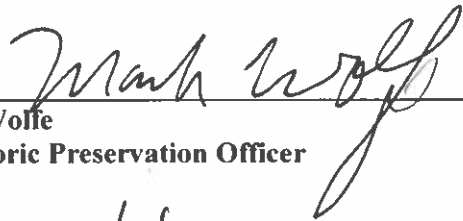
consultation to determine if the PA should be allowed to expire or whether it should be extended for an additional term via amendment. Unless the Signatories amend to extend its duration, this PA shall automatically expire and have no further force or effect in accordance with the stipulated timetable.

**EXECUTION AND IMPLEMENTATION of this PA evidences that VANTHCS has taken into account the effects of the Undertaking on historic properties and afforded the ACHP a reasonable opportunity to comment.**



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SYSTEM – DALLAS VA MEDICAL CENTER, DALLAS, DALLAS COUNTY, TEXAS**

**Signatory:  
Texas Historical Commission**



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**Mark S. Wolfe  
State Historic Preservation Officer**

6/1/22

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**Signatory:**

**U.S. Department of Veterans Affairs North Texas Health Care System**

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**Kendrick Brown, CHFM  
Acting Executive Medical Center Director**

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**Date**

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**Concurring Party:  
City of Dallas Office of Historic Preservation**

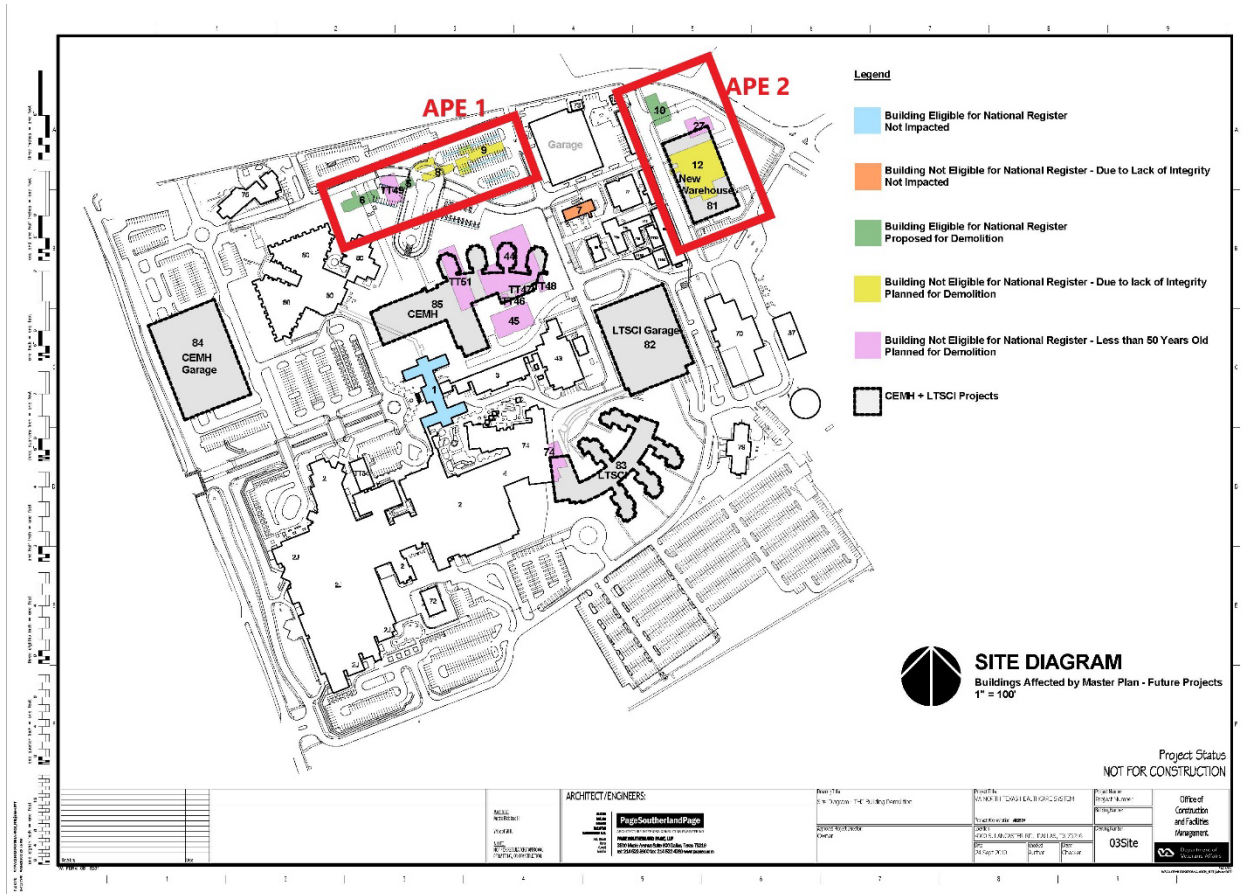
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**Murray Miller  
Director**

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**Date**

# ATTACHMENT A – PREVIOUS UNDERSTANDING OF THE UNDERTAKING



## ATTACHMENT B – DEFINITION OF THE UNDERTAKING

VANTHCS has determined larger, state-of-the-art facilities and supporting infrastructure to further expand and enhance Veteran health care services, specifically LTSCI and mental health care services (CEMH), are needed at the Dallas VAMC campus to address the incompatible and undersized facilities and operational deficiencies at the Dallas VAMC to support the rapidly growing Veteran demand for health care services in the region. The improvements would be conducted in phases over a period of approximately six years to minimize campus disruption and to support continued campus operations. It is anticipated that the majority of the LTSCI construction activities would be completed prior to beginning the CEMH construction.

The primary components of the CEMH project are anticipated to include:

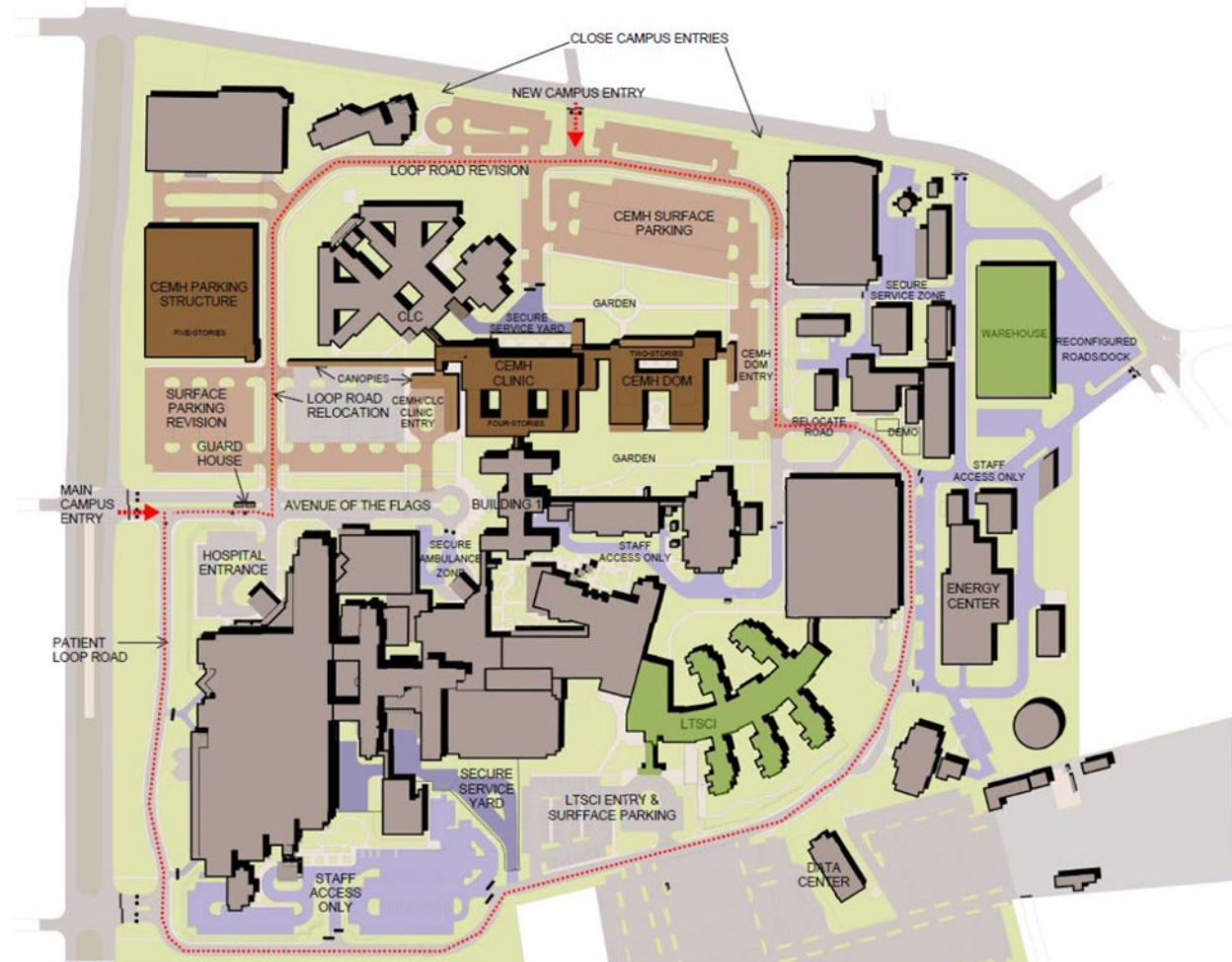
- Demolition of Buildings 44, 45, TT46, TT47, TT48, TT51, TT54 and Structure 58. Building 44 is a one-story, concrete warehouse built in 1976. Building 45 is one-story, masonry/brick structure built in 1985 as a campus recreation facility and is also used for VA Fiscal and Medical Care Collections Fund Services offices. TT46 (VA Police Administration), TT47 (Fiscal Service), TT48 (Environmental Management Services Administrations), TT51 (Human Resources), and TT54 (Palliative Care/Chaplain) are all temporary trailers installed on the campus between 1992 and 2008. Structure 58 is a modern gazebo added to the campus in 1996. These buildings and structures would be demolished to make space for the CEMH facility.
- Construction and operation of a new approximately 215,000-square-foot CEMH facility in the north-central portion of the campus. The CEMH would consolidate and expand mental health services provided at the campus. Design of the CEMH facility is in progress. It could consist of one large building or two adjacent, connected buildings, one containing a mental health clinic and one containing residences for mental health patients. It is anticipated that the CEMH facility would be three to four stories in height.
- Demolition of Buildings 5, 6, 8, 9 and TT49. Building 5 is a two-story, masonry/brick structure built in 1940 as the VA Hospital Manager's Quarters and is currently vacant. Building 6 is a three-story masonry/brick structure built in 1940 as nurses' quarters and is currently used as a Mental Health Treatment Day Services Center and Veteran Recovery Center. Building 8 is a two-story masonry/brick structure built in 1940 as a residence for the hospital director and chief surgeon and is currently used for Acquisition and Material Management. Building 9 is a one-story masonry/brick structure built in 1955 as a residence for the hospital physicians or other senior personnel and is currently used for Engineering Services. TT49 (Quality Management Services) is a temporary trailer that was installed on the campus in 2005.
- Reconfiguration/relocation of Liberty Loop and the construction of surface parking lots for the CEMH in the northern portion of the campus, in the location of the to be demolished Buildings 5, 6, 8, 9 and TT49. A reconfigured Dallas VAMC campus entrance may also be constructed in this area.
- Construction and operation of a new approximately 1,000-car, up to 5-story parking garage associated with the CEMH facility in the northwestern portion of the campus, in the northern portion of current Parking Lot 1.

The primary components of the LTSCI project include:

- Demolition of the small east wing of Building 74.
- Construction and operation a new approximately 172,000-square-foot, three-story (plus basement and mechanical penthouse) LTSCI facility in the southeastern portion of the campus, adjacent to Building 74, in the location of the to be demolished eastern wing of Building 74. The LTSCI would provide residences for Veterans with long-term spinal cord injuries and would house an Outpatient Spinal Cord Injury Clinic and physical/occupational therapy facilities.

- Demolition of Buildings 10, 12, and 27. Building 10 is a two-story, masonry/brick structure built in 1940 as the campus boiler house and has been vacant since the early 1990s, when the new campus Energy Center (Building 70) was constructed. Building 12 is a two-story masonry/brick structure built between 1947 and 1955 and is used for the campus laundry. Building 27 is a one-story, masonry/brick warehouse built in 1991.
- Construction and operation of a new approximately 80,000-square-foot, two-story (plus a mechanical penthouse) warehouse. The first floor of the building would primarily be used for storage and would include some office space. The second floor would include VAMC offices.
- Renovation of approximately 2,000 square feet of the basement of Building 2 to replace the displaced laundry services from Building 12.
- Reconfiguration/relocation of Liberty Loop to the south and east of the new LTSCI building and LTSCI parking garage.

In addition, the LTSCI and CEMH projects include the installation, relocation, and/or removal of campus utilities to support the new development.



*Rendering of the Dallas VAMC following construction of the CEMH and LTSCI facilities. Although the design of the LTSCI facilities (shown in green) is largely complete, the design of the CEMH facilities (shown in dark brown) is in development.*

**ATTACHMENT C – AREA OF POTENTIAL EFFECTS**

