

FINAL
PROGRAMMATIC AGREEMENT
AMONG
THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS,
THE NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING MAJOR LEASING ACTIONS

WHEREAS, the mission of the United States Department of Veterans Affairs (VA) is to fulfill President Lincoln’s promise to care for those who have served in our nation’s military and for their families, caregivers, and survivors; and

WHEREAS, enrollment in VA programs has increased due to changes in the Veterans population demographics and residential geographic relocation trends, as well as the expansion of health care and benefit eligibility, after the passing of the [*Sergeant First Class Heath Robinson Honoring Our Promise to Address Comprehensive Toxics \(PACT\) Act of 2022*](#); and

WHEREAS, VA requires flexibility to establish health care facilities to meet the needs of current and future Veterans populations and has determined that [leasing](#) in accordance with [VA Directive 7815](#), as amended, is a viable alternative to address this critical issue; and

WHEREAS, VA cannot lease property without an operational need, and VA requires that all major leases be processed as part of the agency’s Strategic Capital Investment Program (SCIP), and Congress must approve major Leases identified in the annual SCIP submission, and major Leases must be evaluated by VA’s Office of Real Property (ORP) for cost, location, design, and other factors, and VA Leadership must approve major Leases before the lease can be executed and any necessary construction actions occur (see Attachment A); and

WHEREAS, this programmatic agreement applies only when VA is the sole or lead federal agency for Section 106 compliance for a major lease action (Undertaking); and

WHEREAS, this programmatic agreement applies only when VA is leasing space from another entity (private developer, federal government agency, municipal or state agency) and does not apply to VA’s Enhanced-Use Lease (EUL) or historic out lease programs; and

WHEREAS, 54 U.S.C. § 306108 of the National Historic Preservation Act (NHPA, 54 U.S.C. § 300101 et seq.) and its implementing regulations codified in 36 CFR Part 800 (collectively “Section 106”), require federal agencies to take into account the effects of undertakings they carry out, license, or assist on historic properties and afford the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment; and

WHEREAS, VA has determined that the construction projects and activities necessary to construct and occupy a space leased by VA (lease actions) constitute Undertakings as defined by 36 CFR § 800.16(y), with varying potential to adversely affect historic properties; and

WHEREAS, VA determined a programmatic approach to these Undertakings would best simplify and standardize review processes nationwide pursuant to 36 CFR § 800.14(b)(2) following conversations and an exchange of formal correspondence between April and June 2024 with the ACHP, the National Conference of State Historic Preservation Officers (NCSHPO), and the National Association of Tribal Historic Preservation Officers (NATHPO) as organizations with relevant expertise in Section 106, and then as recommended by State Historic Preservation Officers (SHPOs), representatives of tribal nations,

political officials, and members of the public through an associated National Environmental Policy Act (NEPA) scoping process from November 2023 until January 2024; and

WHEREAS, in accordance with 36 CFR § 800.1(c), VA shall ensure that the Section 106 process is initiated early in the planning process for any Undertakings subject to this programmatic agreement so that a broad range of alternatives may be considered; and

WHEREAS, this programmatic agreement may not be applied on tribal lands except when tribal lands are under the jurisdiction of an Indian tribe that is a tribal Signatory to the programmatic agreement; or when an Undertaking subject to this programmatic agreement has the potential to affect a National Historic Landmark (NHL); or when an Undertaking requires leased space of more than twenty-five (25) acres or a building greater in size than 225,000 gross square feet (GSF); and

WHEREAS, this programmatic agreement does not invalidate nor supersede any existing VA Section 106 agreements; and

WHEREAS, VA invited Indian tribes, Native Hawaiian Organizations, and Alaska Native Corporations to government-to-government consultation on August 29, 2024, and offered to consult one-on-one or through larger virtual meetings for those interested in participating, and held one-on-one consultations with tribal representatives at their respective requests; and

WHEREAS, VA hosted virtual consultations for those with a shared interest in Tribal-Government relations and historic properties and cultural resources, including Indian tribes, Tribal Historic Preservation Officers (THPOs), and tribal representatives, Native Hawaiian Organizations, Alaska Native Corporations, and NATHPO, regarding the proposed programmatic agreement in meetings on Microsoft Teams on October 2, 2024, and June 17, 2025, to discuss a draft of this programmatic agreement; and

WHEREAS, VA hosted virtual consultation meetings with SHPOs and NCSHPO on October 1, 2024, and June 16, 2025; and with other consulting parties on October 7, 2024, and June 16, 2025, to discuss drafts of this programmatic agreement; and

WHEREAS, VA provided Indian tribes, THPOs, and tribal representatives, Native Hawaiian Organizations, and Alaska Native Corporations the opportunity to participate in the development of this programmatic agreement to provide a review process for undertakings associated with VA's Major Leasing Program from October 2, 2024, to November 2, 2024, and received comments from the Catawba Indian Nation; and from December 20, 2024, to January 31, 2025, on a draft of this programmatic agreement and received responses and comments from the Fort Independence Indian Reservation, Gun Lake Tribe (Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians), Navajo Nation, Oahu Hawaiian Canoe Racing Association, and the Pueblo de San Ildefonso; and again from June 4, 2025, to July 17, 2025, and received comments from the Modoc Nation, White Mountain Apache Tribe, and Yavapai Apache Nation; and

WHEREAS, VA provided representatives of ACHP, NATHPO, NCSHPO, SHPOs, and the National Trust for Historic Preservation (NTHP) the opportunity to comment on the proposed Undertakings to be covered by this programmatic agreement from October 1, 2024, to November 1, 2024, and received comments from the ACHP and three SHPOs (Alaska, Colorado, Georgia); and from December 20, 2024, to January 31, 2025, on a draft of this programmatic agreement and received comments from nine (9) SHPOs (Alabama, Arizona, Delaware, Georgia, Iowa, Kansas, Mississippi, Montana, and Ohio); and opened a final comment period from June 4, 2025, to July 17, 2025, and received comments from ten (10) SHPOs (Arizona, Georgia, Iowa, Illinois, Minnesota, North Carolina, Nevada, New York, Texas, and Virginia), NATHPO, and ACHP; and

WHEREAS, VA invited representatives of [accredited Veterans Service Organizations](#) (VSOs) to consult on the proposed Undertaking via email on August 26, 2024; and hosted a consultation session on October 7, 2024, to discuss the proposed Undertakings to be covered by this programmatic agreement and solicit

feedback; and provided these representatives the opportunity to comment on the proposed programmatic agreement from October 7, 2024, to November 7, 2024, and received no comments; and from December 20, 2024, to January 31, 2025, on a draft of this programmatic agreement and received no comments; and opened a final comment period from June 4, 2025, to July 17, 2025, and received no comments; and

WHEREAS, VA solicited comments from November 2023 until January 2024 through an associated NEPA scoping process and included information about the proposed Undertakings to be covered by this programmatic agreement and anticipated effects to historic properties and this programmatic agreement in a draft programmatic environmental assessment published in the [Federal Register on November 17, 2023](#), and in a posting to the [VA Environmental Program Office website](#); and

WHEREAS, VA provided opportunities for public review and comment on this proposed programmatic agreement via dedicated email address [historicpreservation@va.gov] and by publishing information on the development of this programmatic agreement through a [dedicated project webpage](#) on the VA Office of Construction and Facilities Management website and requested public comment on the proposal by October 1, 2024, and the draft programmatic agreement by January 31, 2025, and the revised draft programmatic agreement on July 17, 2025; and

WHEREAS, nothing in this programmatic agreement prohibits the ACHP from providing guidance and comments regarding the coordination of Section 106 reviews to VA, notifying VA of objections or concerns from consulting parties or members of the public, and participating in the resolution of adverse effects for any major lease Undertaking, whether or not it is subject to this programmatic agreement; and

NOW, THEREFORE, VA, NCSHPO, and ACHP agree that the Section 106 review of major lease actions shall be implemented in accordance with the following Stipulations in order to take into account the effects of these Undertakings on historic properties.

STIPULATIONS

VA shall ensure the following stipulations are implemented:

I. DEFINITIONS

- a. The definitions provided in 36 CFR § 800.16(a) through (z) inclusive shall apply and are incorporated by reference herein.
- b. *Lease*: A contract by which one party conveys land or property to another for a specific time. This programmatic agreement applies to the initial lease and lease renewals/renegotiations. VA defines leases as major, mid-level, or minor based on annual rent. This programmatic agreement applies only to major leases.¹
- c. *Lease actions*: The construction projects or activities necessary to plan, construct, and occupy a space leased by VA.
 - i. *Move-in Ready*: A lease action with no significant renovation or construction needed to occupy and activate. Renovation activities are minor and generally completed in under one week. No associated ground disturbance.

¹ At the time of execution of this programmatic agreement, major Leases are defined as those with an annual rent of over \$3.92M.

- ii. *Build-Out*: A lease action that requires the renovation or rehabilitation of an existing space to meet the proposed function. Such construction may include moving walls, changing or installing air-conditioning systems, installing cabinetry and/or medical safes, changing doors, altering materials, or constructing additions. Ground disturbance is unlikely for most Build-Out Lease Actions because construction is limited to a building's interior but may be required.
 - iii. *Build-to-Suit*: A lease action that requires the construction of a new building, structure, or parking lot. Under a build-to-suit arrangement, VA leases a location and works with a developer to construct a new building or structure with associated parking and landscaping. Ground disturbance highly likely.
 - d. *Area of Potential Effects (APE)*: the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. This is to include, at minimum, the leased facility (or parcel) and all areas of ground disturbance required by the Undertaking, including staging areas and/or utility corridors.
 - e. *Design criteria*: VA established requirements and guidance, from planning to occupancy, of leased property as set in VA's [Technical Information Library](#).
 - f. *Disturbed soils*: Soils unlikely to possess intact and/or distinct soil horizons with little potential to retain historic properties within their original depositional contexts as determined by a qualified professional.
 - g. *Ground disturbance*: Human-caused modification (activity that moves, compacts, alters, displaces, or penetrates) of the ground surface that renders the likelihood of finding evidence of intact historic properties negligible as assessed by a qualified professional. Activities that occur on pavement, such as construction laydown yards and staging areas, would not disturb soils so long as the area was paved and remains paved throughout construction activities.
 - h. *Historic*: Listed in or determined eligible for listing in the National Register of Historic Places (National Register) (36 CFR § 60.4) whether individually or as a contributing resource to a historic district.
 - i. *Indigenous knowledge*: Body of observations, oral and written knowledge, practices, and beliefs that promote environmental sustainability and the responsible stewardship of natural resources through relationships between humans and environmental systems. This type of specialized information may be used by consulting parties, Indian tribes, and/or Native Hawaiian Organizations when identifying places of significance. See the 2024 ACHP [Policy Statement on Indigenous Knowledge and Historic Preservation](#).
 - j. *Market survey*: Field visit conducted to identify properties that may possess the criteria to meet the government's need.
 - k. *Notify / Notification*: VA's submission of the informational form included as Attachment C. Under this programmatic agreement, notification is a submission of information, not a request for concurrence. Concurrence with this form is not required under this programmatic agreement.

- l. *Qualified professional*: Federal or contractor staff who meet the applicable Secretary of the Interior's *Professional Qualifications Standards* for architectural history, history, archeology, architecture, and/or historic architecture (36 CFR Part 61; 48 FR 44738- 9).
- m. *Records check*: Collection and review of information about whether historic properties (buildings, structures, sites, historic districts, landscapes and individual objects that are eligible for or listed in the National Register pursuant to 36 CFR § 60.4) are known to exist within the respective APE that have been identified in SHPO, tribal, and relevant federal agency files, records, inventories and databases, or other sources identified by the relevant SHPO, THPO, or tribal representatives. VA may delegate responsibility for conducting records checks to the owner of the leased property, however final approval of adequacy of record will be by a qualified professional in the VA Historic Preservation Office (HPO).
 - i. A records check may include information about traditional cultural places and properties, cultural and/or sacred practices, or other traditional knowledge if such records are kept.
- n. *Rehabilitation*: The act or process of making possible compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values. Rehabilitations must meet the standards of 36 CFR § 67.7 as documented by concurrence between VA and the respective SHPO, THPO, and/or Indian tribe depending on if the Undertaking is located on tribal lands.

II. APPLICABILITY

- 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, the parties agree that any requirement for the obligation of funds arising from the terms of this programmatic agreement shall be subject to the availability of appropriated funds for that purpose, and that this programmatic agreement shall not be interpreted to require the obligation of funds in violation of the Anti-Deficiency Act.
- b. Pursuant to 54 U.S.C. § 306133, VA may disqualify or otherwise dismiss a lease offer if the potential lessor demolishes, damages, or otherwise modifies a historic property in anticipation of an award.
- c. VA shall consult with individual Indian tribes to determine whether this programmatic agreement may apply on tribal lands per 36 CFR § 800.2(c)(2)(i) and the steps below:
 - i. An Indian tribe may authorize use of this programmatic agreement for any major lease action (Undertaking) located on tribal lands by submitting the tribal Signatory Page in Attachment B signed by an authorized Tribal Official or designated representative of the tribe authorizing such intent to the VA Federal Preservation Officer (VA FPO).
 - ii. Once an Indian tribe submits the Tribal Signatory Page, the Indian tribe will become a Signatory to the programmatic agreement and provisions of the programmatic agreement will be applicable to the proposed Undertaking (and

any additional Undertakings) that may occur on or affect historic properties on the associated Tribal lands.

1. VA shall notify all Signatories once the Tribal Signatory page is executed.

iii. Once an Indian tribe becomes a Signatory to the programmatic agreement, the tribe will remain a Signatory until the tribe terminates its participation in the programmatic agreement per Stipulation IX.c. Termination by a signatory Indian tribe will be limited to termination of the programmatic agreement's applicability on tribal lands under the jurisdiction of that Indian tribe.

iv. At any point after an Indian tribe becomes a Signatory, the tribe and a VA FPO may agree that the VA shall follow 36 CFR §§ 800.3-800.7 or another applicable program alternative for a particular Undertaking that would otherwise be subject to this programmatic agreement proposed to occur on or have the potential to affect historic properties on tribal lands.

III. COMMUNICATIONS

a. All comment and review periods shall be counted in days. "Day" means one calendar day, including weekends and federal holidays. VA shall extend a deadline that would otherwise fall on a weekend or a holiday to the next business day.

b. All Signatories shall send and accept official notices, comments, requests for additional information, objections, draft and final deliverables, and all other correspondence required by this programmatic agreement via email. Information specific to individual Undertakings may be uploaded to digital systems at the request of the specific Tribe(s), THPO(s), or SHPO. A Signatory may request to receive these items in hard copy from the VA FPO. The Signatories may choose to meet via webinar, by phone, or in-person as necessary to implement this programmatic agreement.

c. Time periods and schedules shall be counted from the date of distribution via email.

d. Any written comments emailed by the Signatories within the established time frame shall be considered in implementation of this programmatic agreement. Failure of the Signatories to respond within established time frames shall not preclude VA from proceeding in implementation of this programmatic agreement.

IV. ROLES & RESPONSIBILITIES

a. Advisory Council on Historic Preservation (ACHP) (54 U.S.C. § 300303)

i. ACHP is the federal agency responsible for the administration of the requirements of the NHPA and is a Signatory to this programmatic agreement.

ii. At any time during implementation of this programmatic agreement, VA or any party, regardless of their participation as a consulting party, may request the ACHP's involvement or comment.

b. Alaska Native Corporations & Alaska Native Villages (as defined by 36 CFR § 800.16(m))

1. Reflects the interests of their Village, Corporation, or community and its citizens and members in preservation matters.

- 250 2. At their discretion, advise and assist VA as the responsible federal agency,
251 in Section 106 matters.
- 252 c. Certified Local Government (CLG) (54 U.S.C. § 300302)
- 253 i. Reflects the interests of their community and its citizens in preservation matters.
- 254 ii. At their discretion, advise and assist VA as the responsible federal agency, in
255 Section 106 matters.
- 256 d. Indian Tribe (as defined by 36 CFR § 800.16(m))
- 257 i. Tribal Historic Preservation Officers (THPOs)
- 258 1. Reflects the interests of their tribe and its citizens in preservation
259 matters.
- 260 2. At their discretion, advise and assist VA as the responsible federal agency,
261 in Section 106 matters.
- 262 ii. Tribal representative
- 263 1. Reflects the interests of their tribe and its citizens in preservation
264 matters.
- 265 2. At their discretion, advise and assist VA as the responsible federal agency,
266 in Section 106 matters.
- 267 e. Native Hawaiian Organization (54 U.S.C. § 300314)
- 268 i. Reflects the interests of their Organizations and members in preservation
269 matters.
- 270 ii. At their discretion, advise and assist VA as the responsible federal agency, in
271 Section 106 matters.
- 272 f. State Historic Preservation Officers (SHPOs) (36 CFR 800.2(c)(1))
- 273 i. Reflects the interests of their state and its citizens in preservation matters.
- 274 ii. Advise and assist VA, as the responsible federal agency, in Section 106 matters.
- 275 g. VA Federal Preservation Officer (VA FPO) (54 U.S.C. § 306104)
- 276 i. Responsible for ensuring review and consultation under Section 106 of the NHPA
277 for major lease undertakings is completed.
- 278 ii. Serves as and supervises qualified staff in order to identify and evaluate historic
279 properties.
- 280 iii. Serves as the primary Point of Contact for all Signatories regarding this
281 programmatic agreement.
- 282 iv. Serves as the primary Point of Contact for any consultations or discussions
283 concerning identification of human remains or other material and cultural items.
- 284 v. Ensures that qualified personnel participate as required by this programmatic
285 agreement.

- vi. Ensures training is made available to the VA HPO and Office of Real Property staff within 180 days of execution of this programmatic agreement and that training materials are updated as necessary.
- vii. Ensures distribution of the list of proposed leases described in Stipulation V and the annual report documenting past/ongoing lease actions described in Stipulation IX.
- h. Director of the VA Office of Real Property (ORP)
 - i. In coordination with the VA FPO, track major lease actions as Move-In Ready, Build-Out, or Build-to-Suit.
 - ii. Submit all major lease proposals to VA FPO for Section 106 review under this programmatic agreement including new leases, lease renewals, and leased space modifications.
 - iii. Attend or assign a delegate to attend the Annual meeting.
 - iv. Inform VA FPO of the status of major lease Undertakings prior to distribution of the proposed leases as described in Stipulation V of this programmatic agreement and the annual report described in Stipulation X of this programmatic agreement.

V. INITIATION OF CONSULTATION

- a. Following the close of the government fiscal year and prior to the issuance of a Request for Proposal, VA FPO, on behalf of VA, shall initiate consultation for all Undertakings subject to this programmatic agreement with all Signatories and relevant Indian Tribes, Native Hawaiian Organizations, SHPOs, and CLGs early in the planning process per 36 CFR § 800.1(c).
 - i. In this consultation letter, VA shall include a list of the proposed major lease actions, the location (city/county, and state), and specifications (size of building, required parking, and function).
 - ii. All Signatories, Indian Tribes, Alaska Native Villages, Native Hawaiian Organizations, Alaska Native Corporations, CLGs, and SHPOs may notify the VA FPO of any questions or concerns about historic properties in/around these locations within thirty (30) days of receiving this letter, including providing VA with additional consulting parties that should be notified and asked to comment as consultation continues. VA shall take into consideration these comments when making decisions regarding the applicability of this programmatic agreement for an Undertaking.
 - iii. VA shall produce and distribute this letter no later than January 31st following the close of the respective government fiscal year.
- b. VA's correspondence to Indian Tribes shall include an invitation to consult government-to-government on any of the proposed Undertakings.
 - i. This process provides all Indian Tribes an opportunity to review the locations of proposed lease actions to identify places of cultural and/or religious significance and/or traditional cultural places and properties.

- ii. VA shall arrange a time and method of consultation acceptable to both parties should an Indian Tribe request government-to-government consultation.
 - iii. To the fullest extent authorized by applicable law(s), VA shall keep the content of the discussion confidential unless the Indian Tribe authorizes disclosure in the Annual Report.
 - c. Concurrent with distribution of the letter detailing proposed major lease actions, VA shall post a copy of the letter to the VA HPO website for thirty (30) days for public review and comment.
 - i. VA shall include the historicpreservation@va.gov email address in the posting so the public may notify the VA FPO of any questions or concerns about historic properties in/around these locations, including providing VA with additional consulting parties that should be notified and asked to comment as consultation continues.
 - ii. VA shall take these comments into consideration when making decisions regarding the applicability of this programmatic agreement for a proposed Undertaking.
 - d. Following distribution and posting of the letter detailing proposed major lease actions, and if no information is received concerning these specific Undertakings that would preclude VA from utilizing the programmatic agreement, VA FPO or qualified staff shall include the following lease actions in the annual report described in Stipulation X but exempt the actions from further Section 106 review because these Undertakings have little to no potential to affect historic properties, assuming such historic properties are present, pursuant to 36 CFR § 800.3(a)(1):
 - i. Move-in ready lease actions.
 - e. Following distribution and posting of the letter detailing proposed major lease actions, and if no information is received concerning these specific Undertakings that would preclude VA from utilizing the programmatic agreement, VA FPO or qualified staff shall include the following lease actions in the annual report described in Stipulation X but exempt the actions from further Section 106 review because these Undertakings are likely to have no effect on historic properties pursuant to 36 CFR § 800.4(d)(1):
 - i. Build-Out major lease actions limited to internal modifications in buildings less than 40-years-old with no ground disturbance.

VI. CONSULTATION REGARDING IDENTIFICATION OF HISTORIC PROPERTIES

- a. After distributing the list of proposed major leases, VA shall issue a Request for Proposal from developers. Following receipt of developer proposals to the VA-issued Request for Proposal, VA shall identify historic properties through a records check, appropriate field investigations, and/or other methods and qualified VA staff designated by the VA HPO shall complete Section I of the Historic Properties Form (Attachment C) for each viable parcel to determine if an exemption in accordance with Stipulations V.d and/or V.e may apply or if consultation in accordance with this stipulation is required.

- i. In Section I of the Historic Properties Form (Attachment C), VA shall include a description of the proposed lease action including any anticipated ground disturbance; a list of known historic properties in the APE as identified in the records check and received following the distribution described in Stipulation V; and plans for additional built resource and archaeological investigations, if necessary. VA shall adhere to current state and/or tribal methodological standards for archaeological investigations.
1. For Build-Out major lease actions, VA shall delineate the APE to be the footprint of the leased space if modification is limited to the building interior and there is no proposed ground disturbance. If VA requires external modification of the building and/or utility installations/improvements, VA shall delineate such an APE to include, at minimum, the footprint of the building and associated parking; the views or direct line-of-sight of character-defining features proposed for modification or from the space to associated resources; the path of any proposed ground disturbance with a buffer of not less than ten (10) feet or the limits of disturbance, whichever is greater, in all directions,; and adjacent construction lay-down yards set on grass or other pervious surfaces as specific to the lease undertaking.
- a. If the building proposed for a Build-Out major leasing action is more than forty (40) years old and has not been evaluated for National Register eligibility or was determined ineligible strictly due to its age (i.e., it was not 50 years of age when evaluated but held significance under Criteria a-d), VA shall either:
- i. Assume the building is historic, or
- ii. Consult pursuant to 36 CFR § 800.4(c)(2) with the respective SHPO, THPO, or tribal representative, if the property is located on tribal lands, to determine eligibility.
2. For a Build-to-Suit major lease action, VA shall delineate such an APE to include, at minimum, the entirety of the leased property; the viewshed or direct line-of-sight of the property; the path of any proposed utilities involving ground disturbance with a buffer of not less than six (6) feet or the limits of disturbance, whichever is greater, in all directions; and adjacent construction lay-down yards set on grass or other pervious surfaces as specific to the lease undertaking.
- a. If the parcel has not been archaeologically inventoried, VA shall conduct identification efforts in accordance with the appropriate state or tribal methodological standards, including the paths of any new utility corridors required for parcel development, and with consideration for the extent of prior ground disturbance. VA may, at its discretion, delegate this responsibility to lessors. VA shall require qualified professionals to conduct identification efforts.

- b. VA FPO or qualified staff shall submit Section I of the Historic Properties Form (Attachment C) to pertinent SHPO, THPO, tribal representatives, Native Hawaiian Organizations, and CLGs for a thirty- (30) day review. VA will follow submission guidelines for these individual offices, organizations, and groups when such guidelines are within the scope of the NHPA and within VA's authority to do so.
 - i. The pertinent SHPO, THPO, tribal representatives, Native Hawaiian Organization, and CLG shall be invited by VA to review and complete Section II of the Historic Properties Form (Attachment C). Failure of the reviewers to respond within established time frames shall not preclude VA from proceeding with its finding of effect.
- c. A qualified professional with the VA HPO shall consider all information received prior to selection of a parcel including all determinations of historic properties within the APE.

VII. NOTIFICATION OF FINDING OF EFFECT

- a. Following selection of a parcel, VA shall post the exact address and request any additional information concerning historic properties for fourteen (14) days for public review and comment.
 - i. VA shall include the historicpreservation@va.gov email address in the posting so the public may notify the VA FPO of any questions or concerns about historic properties in/around these locations, including providing VA with additional consulting parties that should be notified and asked to comment as consultation continues.
 - ii. VA shall take these comments into consideration when making decisions regarding the applicability of this programmatic agreement for an Undertaking.
- b. If VA selects a building for Build-Out Lease Action and that building is historic, VA FPO or qualified staff, on behalf of VA, shall consult with the respective SHPO, THPO, and/or tribal representative to determine if proposed plans conform to the Secretary of the Interior's *Standards for Rehabilitation*. VA shall utilize standard Section 106 protocols and procedures for these specific Undertakings.
 - i. If VA FPO or qualified staff determines the plans meet the rehabilitation standards and the respective SHPO, THPO, and/or tribal representative concurs, VA shall conclude consultation and proceed with design plans.
 - ii. If, after a good faith effort to avoid or minimize adverse effects, VA FPO or qualified staff determines rehabilitation in accordance with Stipulation I.n is not achievable while still meeting the goals of the specific leasing undertaking, VA shall consult pursuant to 36 CFR § 800.6 to resolve adverse effects.
- c. Following close of this public review period, VA FPO, on behalf of VA, shall notify the pertinent SHPO, THPO, tribal representatives, Native Hawaiian Organizations, and CLG of its finding of effect using Section III of the Historic Properties Form (Attachment C).
- d. A qualified professional with the VA HPO shall make findings of effect based on the results of the process to identify historic properties.

- i. A finding of No Historic Properties Affected per 36 CFR § 800.4(d)(1) shall be made when no historic properties, including traditional cultural places and properties and cultural landscapes, were identified in the APE for:
 1. Build-Out major lease actions with interior and exterior modifications with no ground disturbance that will have no visual effect to historic properties, and the building is less than forty (40) years of age or was determined ineligible for listing in the National Register.
 2. Build-to-Suit major lease actions where an above-ground assessment and archaeological investigations determined that no historic properties were located within the APE.
- ii. A finding of No Adverse Effect to Historic Properties per 36 CFR § 800.5(d)(1) shall be made when historic properties were identified in the APE for:
 1. Build-Out major lease actions when each of the following criteria are met:
 - a. Interior and/or exterior modifications is required,
 - b. No ground disturbance, or ground disturbance is required but there are no historic properties present, or construction would avoid soils within ten (10) meters of known archaeological deposits and known deposits would be fenced off, and
 - c. Building is less than forty (40) years of age or was determined ineligible for listing in the National Register by the respective THPO, tribal representative, SHPO, or by another federal agency on an unrelated federal undertaking and/or other review, and
 - d. Historic buildings are located within the APE, but modifications would not adversely affect the integrity of the historic property as determined by qualified professionals.
 2. Build-to-Suit major lease actions when each of the following criteria are met:
 - a. Historic built resources are not present within the APE or historic built resources are present within the APE, but construction and operation will not affect integrity of the historic property; and
 - b. Traditional cultural places and properties are not present within the APE or are present within the APE, but construction and operation will not affect the cultural practice, and
 - c. No archaeological sites eligible for the National Register are located within the footprint of ground disturbance or sites have been identified but will be avoided.
- e. VA shall consult in accordance with 36 CFR § 800.6 when it determines a Build-to-Suit Lease Undertaking would adversely affect historic properties.
- f. VA shall consult in accordance with 36 CFR §§ 800.5 – 800.6 for all other major lease action Undertakings when the stated criteria are not met.

VIII. POST-REVIEW DISCOVERIES INCLUDING IDENTIFICATION OF HUMAN REMAINS AND/OR FUNERARY OBJECTS

- a. Excluding the discovery of human remains and/or funerary objects, if potential historic properties or if unanticipated effects on historic properties are found during the implementation of a major lease Undertaking, lessors will notify the VA FPO. Subsequently, VA and the lessor shall follow the steps at 36 CFR § 800.13(b) (Post-review Discoveries).
- b. For discoveries of human remains and/or funerary objects, lessors will notify the VA FPO of the identification of human remains and/or funerary objects. VA shall direct lessors and their construction project managers to immediately halt all ground disturbing activity within a 100 foot radius of the remains and/or funerary objects, clearly mark the area, and implement measures as appropriate to protect the discovery from damage, looting, and vandalism.
 - i. VA shall reference the guidance of the ACHP's [Policy Statement on Burial Sites, Human Remains, and Funerary Objects](#) (March 2023).
 - ii. The lessor shall report any discovery of human remains to local authorities in accordance with applicable state and/or tribal laws and ordinances.
 - iii. VA shall have a qualified professional in archaeology or other appropriate qualifications inspect the area of the discovery to determine the extent of the discovery, provide recommendations regarding National Register eligibility of the discovery, and proposed measures to avoid, minimize, or mitigate adverse effects if the discovery is determined to be National Register-eligible.
 - iv. Within seventy-two (72) hours of the discovery, VA shall notify the Signatories and pertinent SHPO, THPO, Indian tribes, Alaska Native Villages, Alaska Native Corporations, and Native Hawaiian Organizations of the discovery in writing describing the measures that have been implemented to comply with this stipulation and the preliminary assessment of the National Register eligibility of the discovery and the measures proposed to avoid, minimize, or mitigate adverse effects, if eligible. In making its evaluation, VA may assume the discovery to be National Register eligible for the purposes of Section 106 pursuant to 36 CFR § 800.13(c).
 1. VA shall take into account any Indian tribe's, Native Hawaiian Organization's, and/or Alaska Native Corporation's recommendations regarding National Register eligibility of the discovery and the proposed measures to avoid, minimize, or mitigate adverse effects, if determined or assumed to be National Register-eligible.
 - v. VA shall consult with SHPO, THPO or tribal representative, the applicant, and any participating Indian tribes, Alaska Native Villages, Native Hawaiian Organizations, and Alaska Native Corporations on final measures to avoid, minimize, or mitigate adverse effects within fifteen (15) calendar days of the initial discovery and eligibility determination. Upon agreement regarding such measures, VA and the applicant will implement them.

- vi. If an agreement cannot be reached on final measures to avoid, minimize, or mitigate adverse effects, VA shall utilize the dispute resolution process in Stipulation XI.

IX. EMERGENCY PROCEDURES

- a. Pursuant to 36 CFR § 800.12(d), VA shall conduct or direct its lessor to conduct any and all immediate rescue and salvage operations necessary to preserve life or property in an emergency without Section 106 review.
- b. VA shall proceed in accordance with 36 CFR § 800.12 to address the effects of emergency situations on historic properties when in the process of construction, whether for a Build-Out or Build-to-Suit lease action. Once a leased space is operational, VA shall proceed pursuant to Stipulation V – VII, and Stipulation VIII, if necessary, of this programmatic agreement when proposing an undertaking that responds to an emergency situation.
- i. VA shall utilize these procedures whether the emergency situation was formally declared by the appropriate legal authority or is identified by the agency official and is site-specific, such as a wall collapse or vehicular crash.

X. ANNUAL REPORTING OF PAST/ONGOING MAJOR LEASE ACTIONS

- a. Each year this programmatic agreement is in effect, unless otherwise amended, VA FPO shall produce an annual report of all undertakings carried out in that government fiscal year (October 1 – September 30) pursuant to this programmatic agreement. VA may, at its discretion, combine this distribution with the Annual Distribution of proposed lease actions described in Stipulation V of this programmatic agreement.
- i. VA shall include the legal street address of each leased facility, the specific lease action, the presence of historic properties within the APE, and VA's consultation actions pursuant to this programmatic agreement.
- ii. VA shall produce and distribute this annual report no later than January 31st following close of the respective government fiscal year.
- iii. VA shall email a copy of the annual report to all Signatories, all SHPOs, and representatives of Indian tribes, Alaska Native Corporations, Alaska Native Villages, and Native Hawaiian Organizations. VA FPO may send this email, ask the VA Office of Tribal Government Relations (VA OTGR) to send this email, and/or utilize a service, such as GovDelivery or similar, to send this email.
1. VA's invitation to tribes and their representatives shall include an invitation to consult government-to-government (i.e., privately) on any lease Undertaking referenced in the annual report.
- a. VA shall arrange a time and method of consultation acceptable to both parties.
- b. To the fullest extent authorized by applicable law(s), VA shall keep the content of the discussion confidential unless the tribe or NHO authorizes disclosure to other agencies and parties.

- b. VA shall host a virtual consultation meeting with all Signatories sometime between October 15, 2027, and December 31, 2027, to review implementation of this programmatic agreement and to discuss any programmatic or policy issues encountered in the implementation of its stipulations. VA FPO and a representative of VA ORP will attend this meeting.
- i. VA shall notify all Signatories of the date of the meeting no less than thirty (30) days before the event.
 - ii. The format of this meeting, whether in-person or virtual, shall be at VA's discretion.
 - iii. VA shall invite NATHPO to participate in the meeting. It is understood that NATHPO does not represent nor speak for all Indian tribes.
 - iv. VA shall invite NTHP to participate in the meeting as a party with specialized Section 106 expertise.
 - v. The Signatories shall meet every two (2) years from the date of execution of this programmatic agreement for the duration of this programmatic agreement unless all Signatories agree to cancel the meeting. Cancellation of a meeting shall not prohibit the Signatories from meeting again in the future.

XI. DISPUTE RESOLUTION

- a. Should any Signatory, Indian tribe, Native Hawaiian Organization, THPO, SHPO, tribal representative, or other consulting party to a specific major leasing Undertaking object in writing to the VA FPO regarding an Undertaking reviewed under this programmatic agreement, VA shall consult with the objecting party to resolve the objection for not more than sixty (60) days. A summary of this consultation will be included in the annual report pursuant to Stipulation X. VA's responsibilities that are not the subject of the dispute remain unchanged.
- i. If VA and the objecting party consult and achieve consensus, VA shall implement the decisions of that consultation effort and proceed.
 - ii. If VA determines the objection cannot be resolved through consultation:
 1. VA shall forward documentation relevant to the objection to all Signatories, including VA's proposed resolution to the objection. The Signatories shall provide VA with their response within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, VA shall consider advice or comments received from all Signatories regarding the dispute. VA shall then proceed according to its final decision and notify the Signatories and the objecting party.
 2. If the Signatories do not provide their advice regarding the dispute within the thirty (30) day period, VA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, VA shall consider timely comments from any Signatory regarding the dispute. VA shall then proceed according to its final decision and notify the Signatories and the objecting party.

619

620 XII. AMENDMENT

621 a. This programmatic agreement may be amended when such an amendment is agreed to
622 in writing by all Signatories, including current Indian tribes that are Signatories to the
623 programmatic agreement at the time of the amendment's execution. Signatories will
624 consider any comments or proposals from Indian tribes, Native Hawaiian Organizations,
625 SHPOs/THPOs, and other consulting parties for amending this programmatic agreement.
626 The amendment will be effective on the date a copy signed by all Signatories is filed with
627 the ACHP and published on the [VA HPO webpage](#).

628 b. An appendix to this programmatic agreement may be modified without amendment to
629 this programmatic agreement upon written agreement of the Signatories, including
630 current Indian tribes that are Signatories at the time of the amendment's execution.
631 Otherwise, the appendices will be amended pursuant to Stipulation XII.a. Modified
632 appendices shall replace the outdated appendices and be distributed to the Signatories
633 and published on the VA HPO webpage.

634

635 XIII. TERMINATION

636 a. Any Signatory to this programmatic agreement (with the exception of a tribal Signatory
637 as described below) may terminate it by providing ninety (90) days notice to the other
638 Signatories, and that Signatory shall consult among all Signatories during the period prior
639 to termination to seek agreement on amendments or other actions that would avoid
640 termination per Stipulation XII.

641 b. In the event of termination of this programmatic agreement, VA shall comply with 36 CFR
642 Part 800 for all proposed undertakings that were previously covered by this programmatic
643 agreement.

644 c. When an Indian tribe signs the programmatic agreement as a Signatory, notice of
645 termination by that Indian tribe only terminates the applicability of the programmatic
646 agreement on those tribal lands and does not apply to any other jurisdiction. The Indian
647 tribe will remain a Signatory to the programmatic agreement until the Indian tribe
648 terminates its participation in writing to the Signatories.

649

650 XIV. ADMINISTRATION

651 a. This programmatic agreement shall take effect when signed by the Signatories and filed
652 with the ACHP. This programmatic agreement may be executed in counterparts, and each
653 Signatory will have a separate signature page.

654 b. This programmatic agreement shall take effect on tribal lands on the date an executed
655 signature page signed by an authorized or designated representative of the Indian tribe
656 is filed with the ACHP in accordance with Stipulation II.e of this programmatic agreement.

657 c. VA is responsible for maintaining the record of consultation, and the record of Section
658 106 review for each Undertaking. Upon request, VA FPO may make consultation records
659 available to any consulting party, though reserves the right to withhold or redact sensitive
660 information pursuant to VA policies and federal laws, including Section 304 of NHPA (54

661 U.S.C. 307103); Section 9 of the Archaeological Resources Protection Act (16 U.S.C.
662 470hh); and Section 552(b) of the Freedom of Information Act (5 U.S.C. 552) .

663

664 XV. DURATION

665 a. This programmatic agreement shall remain in effect until September 30, 2035, unless
666 otherwise amended per Stipulation XII to extend the duration of the programmatic
667 agreement or terminated per Stipulation XIII prior to that date.

668

669 Execution of this programmatic agreement by VA, NCSHPO, and ACHP and implementation of its terms
670 evidence that VA has taken into account the effects of this Undertaking on historic properties and afforded
671 the ACHP an opportunity to comment.

672

673 **Attachment A – VA Lease Process**

674 **Attachment B – Tribal Signatory Page**

675 **Attachment C - Historic Properties Form**

676 **Attachment D – Consultation Flow Chart**

**PROGRAMMATIC AGREEMENT
AMONG
THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS,
THE NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING MAJOR LEASING ACTIONS**

SIGNATORY

**LINDSAY
KILLIAN**

Digitally signed by
LINDSAY KILLIAN
Date: 2025.11.18
09:50:30 -07'00'

Lindsay Killian
Director, Lease Execution
Office of Real Property
VA Office of Construction & Facilities Management

**PROGRAMMATIC AGREEMENT
AMONG
THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS,
THE NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING MAJOR LEASING ACTIONS**

SIGNATORY



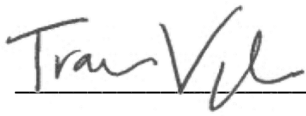
Anne B. Raines
President
National Conference of State Historic Preservation Officers



Date

**PROGRAMMATIC AGREEMENT
AMONG
THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS,
THE NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING MAJOR LEASING ACTIONS**

SIGNATORY

A handwritten signature in black ink, appearing to read "Travis Voyles", is written over a horizontal line.

Travis Voyles
Vice Chairman
Advisory Council on Historic Preservation

12/10/2025

Date

ATTACHMENT A – MAJOR LEASE PROCESS

The following is an abbreviated summary of VA's process to execute and operate a major lease. This process applies regardless of the proposed lease action (i.e., Move-In Ready, Build-Out, or Build-to-Suit). See Attachment D for the integration of the consultation process detailed in the nPA into this process.

VA identifies a need for services & determines leasing is the best option to meet that need

1. VA submits a description of the need and the specifications to meet that need into Strategic Capital Investment Planning (SCIP) process
2. VA reviews all needs in the SCIP process and determines which will be submitted to Congress



Congressional Authorization & GSA Delegation

1. Congress reviews prospectus and allocates funds. This includes the location by city/county/state and the general specifications of the need (number of patients and associated space needs etc.)
2. Obtain General Services Administration (GSA) Delegation



VA ORP identifies sites that meet VA's needs

1. VA Office of Real Property (ORP) publishes Expression of Interest (EOI) to identify site options and developers respond
2. VA ORP conducts market survey of sites submitted by interested developers in response to EOI
3. VA ORP validates requirements & publishes Requests for Lease Proposals (RLP)
3. Interested developers respond to the RLP with proposed site and preliminary design for the proposed property (i.e., Lease Action)
4. VA ORP evaluates developer proposals for viability
5. VA ORP gathers all considerations (costs, location, proximity to resources, environmental, historic preservation, design, local zoning, etc.)
6. VA Leadership selects a parcel to lease based on the considerations gathered by VA ORP
7. VA conducts internal pre-award reviews and concurrences on award documents and Congressional Notification of Lease Award package sent to Congress



VA completes 30-day Congressional Notification Requirement

1. VA sends Congress a package advising of VA's intent to award a lease in 30 days.



VA executes the lease

1. VA works with a developer to finalize the design of a building or unit that meets the need of Veterans in the area. The design varies depending on the identified need in the area.
2. VA executes a contract with the developer.
3. The developer conducts site prep (if necessary)
4. The developer constructs (if necessary).
5. VA activates the space.



Operation of lease to meet the needs of Veterans in the area (First Use)

ATTACHMENT B

**PROGRAMMATIC AGREEMENT
AMONG
THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS,
THE NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING MAJOR LEASING ACTIONS**

TRIBAL SIGNATORY

[Name]

Date

[Office/Position/Authority]

[Tribe]

Historic Properties Form

Programmatic Agreement Among the United States Department of Veterans Affairs, the National Conference of State Historic Preservation Officers, and the Advisory Council on Historic Preservation Regarding Major Leasing Actions



Use of this form is limited to Undertakings subject to the nPA regarding U.S. Department of Veterans Affairs (VA) major lease actions. In accordance with Stipulation VI, VA shall use this form to identify historic properties within the Area of Potential Effects (APE) for viable parcels under review for the proposed major leasing Undertaking and solicit comment or additional information for its consideration prior to selecting a parcel. Once a parcel has been identified and assessment of adverse effects complete, VA shall use this form to notify pertinent SHPO, THPO, tribal representatives, Native Hawaiian Organizations, and CLG of its finding of effect.

VA requests responses be submitted to historicpreservation@va.gov.

Section 1. Location of Undertaking

Street Address:

Click or tap here to enter text.

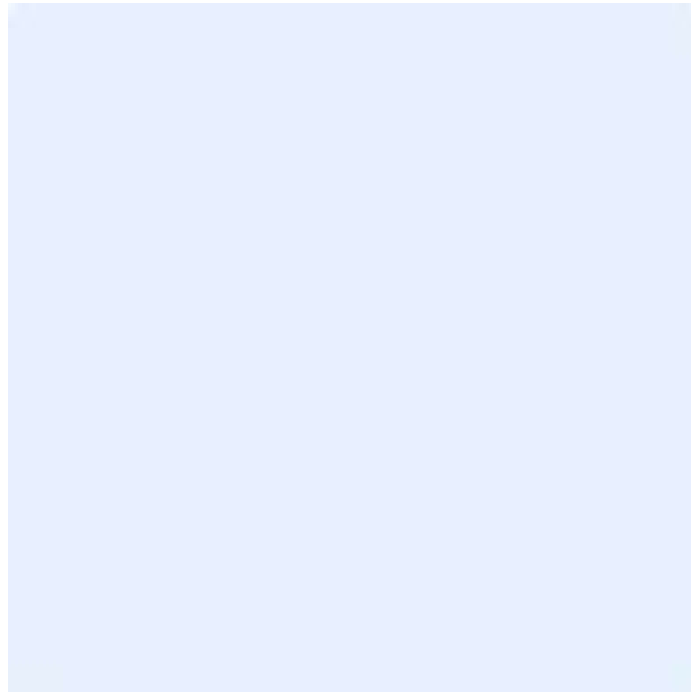
County/Parish:

Click or tap here to enter text.

State/Commonwealth/Territory/District:

Click or tap here to enter text.

Overview Photo of Parcel/Unit:



Historic Properties Form

*Programmatic Agreement Among the United States Department of Veterans Affairs,
the National Conference of State Historic Preservation Officers, and the Advisory
Council on Historic Preservation Regarding Major Leasing Actions*



Description of the Undertaking

Lease Action:

Choose an item.

Description of Undertaking:

Click or tap here to enter text.

Description of APE:

Click or tap here to enter text.

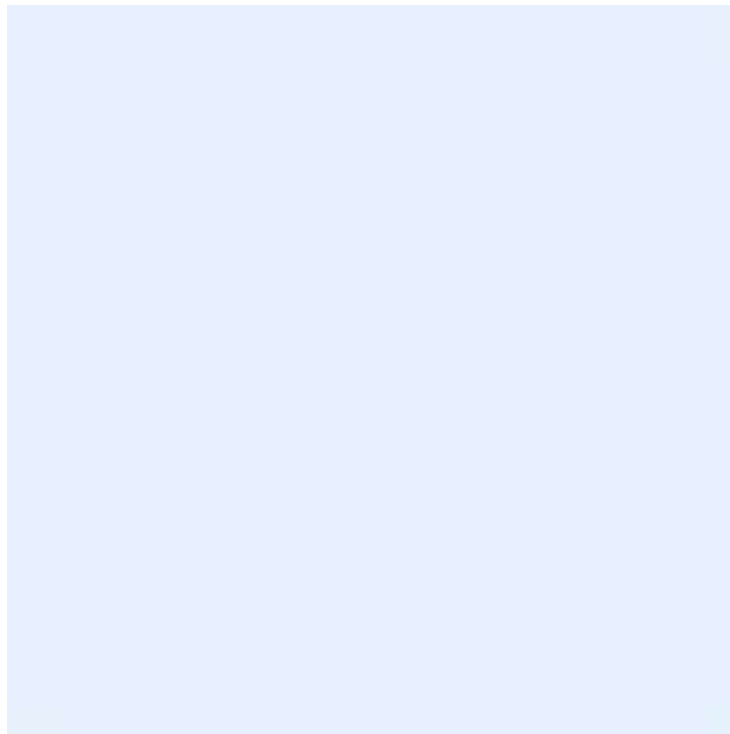
Description of all ground-disturbing activities associated with the Undertaking:

Click or tap here to enter text.

Description of demolition/remodeling activities to existing buildings associated with the Undertaking:

Click or tap here to enter text.

7.5-minute Topographic map of APE:



Historic Properties Form

*Programmatic Agreement Among the United States Department of Veterans Affairs,
the National Conference of State Historic Preservation Officers, and the Advisory
Council on Historic Preservation Regarding Major Leasing Actions*



Records Check

Date of Distribution of Annual List of Anticipated Leases: Click or tap to enter a date.

Responses received specific to this proposed Leasing Action:

Click or tap here to enter text.

Are any traditional cultural places, practices, or properties known to occur, be celebrated, or be present within the APE?

Click or tap here to enter text.

Are archaeological sites listed in or eligible for listing in the National Register of Historic Places present within the APE?

Click or tap here to enter text.

Are built resources listed in or eligible for listing in the National Register of Historic Places present within the APE?

Click or tap here to enter text.

Source of Records Check:

Click or tap here to enter text.

Description of additional identification efforts once parcel is selected (if any are proposed):

Click or tap here to enter text.

Historic Properties Form

Programmatic Agreement Among the United States Department of Veterans Affairs, the National Conference of State Historic Preservation Officers, and the Advisory Council on Historic Preservation Regarding Major Leasing Actions



End – Section I. VA Approval of Identification Efforts

To be concluded by qualified VA personnel once historic properties have been identified. Must be completed and signed prior to submission to pertinent SHPO, THPO, tribal representatives, Alaska Native Corporations, Alaska Native Villages, Native Hawaiian Organizations, and/or CLG.

Name/Title of qualified personnel: Choose an item.

Date: Click or tap to enter a date.

Section II. Review of Identification Efforts

To be completed by the pertinent SHPO, THPO, tribal representatives, Alaska Native Corporations, Alaska Native Villages, Native Hawaiian Organizations, and/or CLG. The review period is 30 days from distribution. Please contact the VA personnel listed above to request an extension, if needed.

Comments or additional information (if applicable): Click or tap here to enter text.

Name/Title: Click or tap here to enter text.

Date: Click or tap to enter a date.

----- **VA review of all identification efforts and assessment of historic properties, if identified.** -----

In accordance with the nPA, VA will consider all information received from pertinent SHPO, THPO, tribal representatives, Alaska Native Corporations, Alaska Native Villages, Native Hawaiian Organizations, and/or CLG. VA also will consider comments received from the public.

Section III. VA Finding of Effect

To be completed by qualified VA personnel following consideration of identification efforts and selection of a parcel. Findings are in accordance with Stipulation VII of the nPA.

VA finding: Choose an item.

Additional Information (if applicable): Click or tap here to enter text.

Name of qualified personnel: Choose an item.

Date: Click or tap to enter a date.

VA Federal Preservation Officer Approval:

----- **Conclusion of Consultation.** -----

Historic Properties Form

*Programmatic Agreement Among the United States Department of Veterans Affairs,
the National Conference of State Historic Preservation Officers, and the Advisory
Council on Historic Preservation Regarding Major Leasing Actions*



ATTACHMENT D - VA MAJOR LEASE PROCESS INCLUDING CONSULTATION PROCESS

The following is a summary of the major lease process together with the consultation process detailed in the programmatic agreement. See also Attachment A of the nPA for more detail about the major lease process.

