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2 **PROGRAMMATIC AGREEMENT AMONG**
3 **THE FEDERAL EMERGENCY MANAGEMENT AGENCY,**
4 **THE SOUTH CAROLINA STATE HISTORIC PRESERVATION OFFICE,**
5 **THE SOUTH CAROLINA EMERGENCY MANAGEMENT DIVISION,**
6 **AND TRIBES PARTICIPATING AS INVITED SIGNATORIES**
7

8 **WHEREAS**, the mission of the Federal Emergency Management Agency (FEMA) of the
9 Department of Homeland Security is to support our citizens and first responders to ensure that as
10 a nation we work together to build, sustain, and improve our capability to prepare for, protect
11 against, respond to, recover from, and mitigate all hazards; and

12 **WHEREAS**, FEMA makes assistance available to States, Commonwealths, communities,
13 Federally recognized Indian Tribes (Tribes) and other eligible entities through programs
14 (Programs) set forth in Appendix A, pursuant to the Homeland Security Act of 2002, Pub. L. No.
15 107-296 (2002) (codified as amended at 6 U.S.C. § 101 *et seq.*); Robert T. Stafford Disaster
16 Relief and Emergency Assistance Act, Pub. L. No. 93-288 (1974) (codified as amended at 42
17 U.S.C. § 5121 *et seq.*, (Stafford Act)); the National Flood Insurance Act of 1968, Pub. L. No. 90-
18 448 (1968) (as amended); the National Flood Insurance Reform Act of 1994, Pub. L. No. 103-325
19 (1994) (as amended); the Post-Katrina Emergency Management Reform Act of 2006, Pub. L. No.
20 109-295 (2006) (as amended); implementing regulations contained in Title 44 of the Code of
21 Federal Regulations (CFR), Executive Order 13407 (2006), and such other acts, executive orders,
22 implementing regulations, or Congressionally authorized programs as are enacted from time to
23 time; and
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25 **WHEREAS**, FEMA has determined that implementing its Programs may result in Undertakings
26 (as defined by 16 U.S.C. § 470w and 36 CFR § 800.16(y)) that may affect properties listed in or
27 eligible for listing in the National Register of Historic Places (National Register) pursuant to 36
28 CFR Part 60 (historic properties), and FEMA has consulted with the South Carolina State Historic
29 Preservation Officer (SHPO) pursuant to Section 106 of the National Historic Preservation Act
30 (NHPA), Pub. L. No. 89-665 (1966) (codified as amended at 16 U.S.C. § 470f), and the
31 regulations implementing Section 106 of the NHPA (Section 106) at 36 CFR Part 800; and
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33 **WHEREAS**, FEMA, the Advisory Council on Historic Preservation (ACHP) and the National
34 Conference of State Historic Preservation Officers (NCSHPO) have determined that FEMA's
35 Section 106 requirements can be more effectively and efficiently implemented and delays to the
36 delivery of FEMA assistance minimized if a programmatic approach is used to stipulate roles and
37 responsibilities, exempt certain Undertakings from Section 106 review, establish protocols for
38 consultation, facilitate identification and evaluation of historic properties, and streamline the
39 assessment and resolution of adverse effects; and
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41 **WHEREAS**, FEMA has developed a Prototype Programmatic Agreement (FEMA Prototype
42 Agreement) pursuant to 36 CFR § 800.14(b)(4) in consultation with the ACHP and NCSHPO to
43 serve as a basis for negotiation of a State specific Programmatic Agreement (Agreement) with the
44 SHPO, State Emergency Management Agency, and participating Tribe(s); and

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WHEREAS, this Agreement conforms to the FEMA Prototype Agreement as designated by the ACHP on December 17, 2013 and therefore does not require the participation or signature of the ACHP; and

WHEREAS, in order to implement its Programs, FEMA will provide assistance to the State of South Carolina (Grantee) that may provide monies and other assistance to eligible subgrantees, and as such, the South Carolina Emergency Management Division that is typically responsible for administering funds provided under these Programs has participated in this consultation, and FEMA has invited the South Carolina Emergency Management Division to execute this Agreement as an Invited Signatory; and

WHEREAS, FEMA also may directly perform its own Undertakings pursuant to this Agreement; and

WHEREAS, in anticipation or in the immediate aftermath of an event, impacted communities and the State of South Carolina, and affected Tribes, may conduct critical preparedness, response and recovery activities to safeguard public health and safety and/or to restore vital community services and functions before, during, and or following an event. Some of these activities may become Undertakings requiring Section 106 review subject to the terms of this Agreement, and FEMA shall coordinate the appropriate review as warranted; and

WHEREAS, FEMA has determined that its Programs may result in Undertakings with the potential to affect historic properties having religious and cultural significance to Tribes, including sites that may contain human remains and/or associated cultural items; and

WHEREAS, FEMA recognizes that the Catawba Indian Nation, Cherokee Nation of Oklahoma, Eastern Band of Cherokee Indians, Eastern Shawnee Tribe of Oklahoma, Seminole Nation of Oklahoma, Seminole Tribe of Florida, Shawnee Tribe, Thlopthlocco Tribal Town, and United Keetoowah Band of Cherokee Indians Tribes may have sites of religious and cultural significance on or off Tribal lands [as defined in 36 CFR § 800.16(x)], and in meeting its Federal trust responsibility, FEMA has engaged in government-to-government consultation with the Tribe(s), and pursuant to 36 CFR § 800.2 (c)(2)(ii)(E) has invited the Tribe(s) to enter into an agreement that specifies how FEMA and the Tribe(s) will carry out Section 106 responsibilities, including the confidentiality of information; and

WHEREAS, the Catawba Indian Nation has assumed the responsibilities of the SHPO in its/their Tribal lands through appointment of a Tribal Historic Preservation Officer (THPO) in accordance with Section 101 of the NHPA, and FEMA shall consult with the THPO in lieu of the SHPO for Undertakings occurring on or affecting its/their Tribal lands; and

WHEREAS, notwithstanding the aforementioned invitation to enter into an agreement, FEMA has invited the Catawba Indian Nation, Cherokee Nation of Oklahoma, Eastern Band of Cherokee Indians, Eastern Shawnee Tribe of Oklahoma, Seminole Nation of Oklahoma, Seminole Tribe of Florida, Shawnee Tribe, Thlopthlocco Tribal Town, and United Keetoowah Band of Cherokee

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90 Indians Tribes to enter into this Agreement as signatory parties to fulfill the requirements of
91 Section 106; and

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93 **WHEREAS**, no Tribe(s) have agreed to enter into a separate Programmatic Agreement or other
94 agreement with FEMA; and

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96 **WHEREAS**, no Tribe(s) have declined to enter into this Agreement as a signatory party; and

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98 **WHEREAS**, Cherokee Nation of Oklahoma, Eastern Band of Cherokee Indians, Eastern
99 Shawnee Tribe of Oklahoma, Seminole Nation of Oklahoma, Seminole Tribe of Florida, Shawnee
100 Tribe, Thlopthlocco Tribal Town, and United Keetoowah Band of Cherokee Indians Tribes
101 Tribes(s) have not responded to FEMA's invitation to enter into this Agreement as a signatory
102 party; and

103

104 **WHEREAS**, FEMA may invite additional Tribes that have sites of religious and cultural
105 significance to enter into the terms of this Agreement as invited signatories or concurring parties
106 in accordance with 36 CFR § 800.14(f), and nothing in this Agreement prevents a Tribe from
107 entering into a separate Programmatic Agreement or other agreement with FEMA for
108 administration of FEMA Programs; and

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110 **WHEREAS**, the terms of this Agreement shall not apply to Undertakings on or affecting Tribal
111 lands without prior execution of the Agreement by the affected Tribe(s); and

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113 **WHEREAS**, for the review of specific Undertakings under this Agreement, FEMA may invite
114 other agencies, organizations, and individuals to participate as consulting parties; and

115

116 **NOW, THEREFORE**, FEMA, the Grantee(s), SHPO, and participating Tribes (Signatories)
117 agree that FEMA Programs in the State of South Carolina and/or on Tribal lands shall be
118 administered in accordance with the following Stipulations to satisfy FEMA's Section 106 and
119 Section 110 responsibilities for all resulting Undertakings and effectively integrate historic
120 preservation compliance considerations into the delivery of FEMA assistance. FEMA will not
121 authorize implementation of an individual Undertaking until Section 106 review is completed
122 pursuant to this Agreement.

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STIPULATIONS

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126 To the extent of its legal authority, and in coordination with other Signatories, FEMA shall ensure
127 that the following measures are implemented:

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I. GENERAL

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A. Applicability

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1. The execution of this Agreement supersedes the terms of the previously executed Programmatic Agreement in the State of South Carolina dated May 12, 2004.
2. For FEMA Undertakings that also are within the jurisdiction of the Federal Communications Commission (FCC) and within the scope of its Section 106 Programmatic Agreements for communication facilities, FEMA defers Section 106 review in accordance with the ACHP Program Comment of October 23, 2009. The approval of funding for the FEMA Undertaking shall be conditioned upon the compliance of the sub-grantee with FCC's applicable Section 106 review, including any required consultation with Tribes. FEMA shall notify the SHPO/THPO when it applies the ACHP Program Comment to an Undertaking. FEMA remains responsible for any FEMA Undertakings it determines are outside the jurisdiction of FCC.
3. In the event of a Stafford Act major disaster or emergency declaration (Declaration), State, Tribal and local governments may lack the capability to perform or to contract for emergency work, and instead request that the work be accomplished by a Federal agency. Through a mission assignment (MA), FEMA may direct appropriate Federal agencies to perform the work. This Agreement shall apply to such Federal assistance undertaken by or funded by FEMA pursuant to Titles IV and V of the Stafford Act and 44 CFR Part 206.
4. FEMA may utilize this Agreement to fulfill its Section 106 responsibilities and those of other Federal agencies that designate FEMA as the lead Federal agency pursuant to 36 CFR § 800.2(a)(2) with appropriate notification to the other Signatories and the ACHP regarding Undertakings that fall within the scope of this Agreement. When FEMA is not designated as the lead Federal agency, all Federal agencies, including FEMA, remain individually responsible for their compliance with Section 106.
5. If another Federal program or Federal agency has concluded Section 106 consultation review and approved an Undertaking within the past five years, FEMA has no further requirement for Section 106 review regarding that Undertaking provided that FEMA:
 - a. adopts the findings and determinations of the previous agency;
 - b. confirms that the scope and effect [as defined by 36 CFR § 800.16(i)] of its Undertaking are the same as that of the Undertaking reviewed by the previous agency, and;
 - c. determines that the previous agency complied with Section 106 appropriately.FEMA shall document these findings in its project file in order to confirm that the requirements of Section 106 have been satisfied. Should FEMA, in consultation with SHPO and participating Tribes, determine that the previous Section 106 review was insufficient or involved interagency disagreements about eligibility, effect, and/or

172 treatment measures, FEMA shall conduct additional Section 106 consultation in
173 accordance with the terms of this Agreement.

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175 6. With the written concurrence of the Signatories, other Federal agencies providing
176 financial assistance for the type of activities covered under the terms of this
177 Agreement as outlined in Appendix A may satisfy their Section 106 responsibilities
178 for such activities by accepting and complying in writing with the terms of this
179 Agreement.

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181 a. Other Federal Agencies may include States and units of local government who
182 have assumed environmental responsibilities of the U.S. Department of Housing
183 and Urban Development and, acting as the Responsible Entity pursuant to 24 CFR
184 Part 58, are responsible for environmental review, decision-making and action.

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186 b. In such situations, the other Federal Agency shall notify the Signatories in writing
187 of its intent to use this Agreement to achieve compliance with its Section 106
188 requirements, and consult with the Signatories regarding its Section 106
189 compliance responsibilities. Resumes of staff who meet the Secretary of the
190 Interior's (Secretary's) Professional Qualifications Standards (Professional
191 Qualifications) set forth in the Federal Register at 48 Fed. Reg. 44716-01
192 (September 29, 1983), as amended, and will review Second Tier projects in
193 accordance with Appendix B of this Agreement shall be provided to FEMA and
194 the SHPO/THPO.

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196 7. FEMA has determined that the following types of activities have limited or no
197 potential to affect historic properties and FEMA has no further Section 106
198 responsibilities with regards to them, pursuant to 36 CFR § 800.3(a)(1):

199
200 a. Pursuant to 44 CFR § 206.110(m), assistance to individuals and households
201 provided under 44 CFR Part 206, Subpart D and Section 408 of the Stafford Act,
202 including funding for owner occupied home repair and replacement, content
203 replacement, personal property, transportation and healthcare expenses, is exempt
204 from the provisions of Section 106. For ground disturbing activities, and
205 construction related to 44 CFR §§ 206.117(b)(1)(ii) (temporary housing),
206 206.117(b)(3) (replacement housing), 206.117(b)(4) (permanent housing
207 construction), 206.117(c)(1)(vi) (repair or replacement of privately owned access
208 routes), and repair of multi-family housing units, FEMA shall conduct Section 106
209 review.

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211 b. Administrative actions such as personnel actions, travel, procurement of services,
212 supplies (including vehicles and equipment) for the support of day-to-day and
213 emergency operational activities, and the temporary storage of goods provided
214 storage occurs within existing facilities or on previously disturbed soils.
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- c. Granting of variances, and actions to enforce Federal, State, or local codes, standards or regulations.
 - d. Monitoring, data gathering, and reporting in support of emergency and disaster planning, response and recovery, and hazard activities.
 - e. Research and development of hazard warning systems, hazard mitigation plans, codes and standards, and education/public awareness programs.
 - f. Assistance provided for planning, studies, design and engineering costs that involve no commitment of resources other than staffing and associated funding.
 - g. Assistance provided for training, management and administration, exercises, and mobile/portable equipment purchases; with the exception of potential ground-disturbing activities and modification of existing structures.
 - h. Community Disaster Loans for funding to perform governmental functions for any eligible jurisdiction in a designated disaster area that has suffered a substantial loss of tax and other revenue.
 - i. Funding the administrative action of acquisition or lease of existing facilities where planned uses conform to past use or local land use requirements.
 - j. Funding the administrative action of acquiring properties in acquisition projects, including the real estate transaction.
 - k. Labor, equipment and materials used to provide security in the Declaration area, including lease, rental, purchase or repair of equipment or vehicles and payment for staff and contract labor.
 - l. Application of pesticides to reduce adverse public health effects, including aerial and truck-mounted spraying.
 - m. Unemployment assistance.
 - n. Distribution of food coupons.
 - o. Legal services.
 - p. Crisis counseling.
8. Any FEMA Programs authorized by the United States Congress in the future may be included in this Agreement in accordance with Stipulation IV.A, Amendments. Any change in the FEMA name, Programs, or organizational structure shall not affect this Agreement.

261 B. Roles and Responsibilities of the Signatories

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263 I. FEMA:

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265 a. FEMA shall use Federal, Tribal, State, subgrantee, or contractor staff whose
266 qualifications meet the Secretary's Professional Qualifications in completing
267 identification and evaluation of historic properties and in making determinations of
268 effects. FEMA shall review any National Register eligibility determination and
269 make its own findings of effect resulting from the performance of these activities
270 prior to submitting such determinations to the SHPO and participating Tribes.
271
272 i. FEMA acknowledges that Tribes possess special expertise in assessing the
273 National Register eligibility of properties with religious and cultural
274 significance to them. Tribal organization leaders, and as appropriate, their
275 representatives, shall decide who meets qualifications/standards as defined by
276 their Tribes for review of Undertakings affecting properties with religious and
277 cultural significance to them.
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279 b. FEMA alone shall conduct all Section 106 consultation with Tribes. In accordance
280 with 36 CFR § 800.2(c)(4), FEMA may authorize the Grantee(s), or a subgrantee
281 through the Grantee(s), to initiate the Section 106 process with the SHPO and
282 other consulting parties, assist in identifying other consulting parties with a
283 demonstrated interest in the Undertaking, and prepare any necessary analyses and
284 documentation, but FEMA shall remain responsible for determinations of National
285 Register eligibility and findings of effect recommended by the authorized party.
286 FEMA shall follow the process set forth in Stipulation I.B.1(a), FEMA Roles and
287 Responsibilities, and notify the SHPO in writing when a Grantee or subgrantee has
288 been authorized to initiate consultation on FEMA's behalf.
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290 c. Prior to authorizing the release of funds for individual Undertakings requiring
291 grant conditions pursuant to this Agreement, FEMA shall inform the Grantee(s) of
292 all stipulations and conditions and ensure that they are understood so they can be
293 adequately conveyed to the subgrantee. FEMA shall work in partnership with the
294 Grantee(s) to provide subgrantees with guidance on in-kind repair pursuant to *The*
295 *Secretary of the Interior's Standards for the Treatment of Historic Properties 1995*
296 *(Standards)*, 36 CFR Part 68, or the most updated version, and techniques to avoid
297 or minimize adverse effects to historic properties.
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299 d. FEMA shall provide the other Signatories and the ACHP with an annual report for
300 the previous calendar year by June 30th of each year that this Agreement is in
301 effect. This annual report will summarize the actions taken to implement the terms
302 of this Agreement, statistics on Undertakings reviewed, and recommend any
303 actions or revisions to be considered, including updates to the appendices.
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- e. FEMA shall confer annually and as necessary with the other Signatories within 30 days after issuance of the annual report, to review the report and/or discuss issues and concerns in greater detail. This review shall occur in person or by telephone as determined by FEMA.
- f. FEMA shall notify the SHPO and affected Tribes, as soon as practicable, following a Declaration to provide specific points of contact and other pertinent information about the Declaration.
- g. FEMA may convene an initial scoping meeting with the Signatories and other interested parties as soon as practicable after each Declaration to address Declaration-specific issues and procedures.
- h. FEMA shall ensure that all documentation resulting from Undertakings reviewed pursuant to this Agreement is consistent with applicable SHPO and Tribal guidelines and the confidentiality provisions of 16 U.S.C. § 470w-3 and 36 CFR § 800.11(c).

2. SHPO:

- a. SHPO shall review FEMA’s determination of the Areas of Potential Effects (APE), National Register eligibility determinations, and FEMA’s effect findings and respond within timeframes required by this Agreement.
- b. Upon request, the SHPO shall provide FEMA and/or its designee(s) with available information about historic properties (such as access to online systems or site files, GIS data, survey information, geographic areas of concern). Such data sharing may be memorialized in an agreement. Only Qualified FEMA staff and/or designee(s) shall be afforded access to protected historic property information.
- c. The SHPO shall identify staff or consultants to assist FEMA staff with their Section 106 responsibilities, and identify, in coordination with FEMA, those activities within the Section 106 review process that SHPO may perform for specific Undertakings as agreed in writing with FEMA.
- d. As requested, SHPO staff shall be reasonably available as a resource and for consultation through site visits, written requests, telephone conversations or electronic media. In those instances where consultation with SHPO has occurred, FEMA shall provide a written summary via e-mail or regular mail to SHPO, including any decisions that were reached.
- e. The SHPO may delegate some or all of its responsibilities under this Agreement to one or more Liaisons to serve as a dedicated point of contact for consultation with FEMA. The SHPO shall confer with FEMA about the selection of any Liaisons,

348 the scope of responsibilities delegated and related implementing procedures.
349 SHPO shall formally document these decisions for concurrence by FEMA.
350 Liaisons are not required to be members of the SHPO staff.
351

- 352 f. The SHPO shall participate in an initial scoping meeting for a Declaration.
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- 354 g. The SHPO may assist local jurisdictions and/or the Grantee(s) in the State of South
355 Carolina with advance planning efforts to consider historic properties in the
356 context of homeland security considerations, including disaster preparedness,
357 response, recovery, and mitigation programs for which FEMA funding may be
358 requested.
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- 360 h. The SHPO shall coordinate with FEMA, to identify consulting parties, including
361 any communities, organizations, or individuals that may have an interest in a
362 specific Undertaking and its effects on historic properties.
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- 364 i. The SHPO shall participate in annual reviews convened by FEMA to review the
365 effectiveness of this Agreement in accordance with Stipulation I.B.1(e).

366 3. Grantee(s):

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- 368 a. The Grantee(s) shall ensure that their subgrantees understand and acknowledge
369 conditions and potential requirements that may be placed upon Undertakings as a
370 result of Section 106 consultation and the provisions of this Agreement.
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- 372 b. The Grantee(s) shall participate in an initial scoping meeting for a Declaration.
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- 374 c. The Grantee(s) shall ensure that their subgrantees understand that failure to comply
375 with any project-specific conditions that have been placed on their grants could
376 jeopardize FEMA funding.
- 377
- 378 d. The Grantee(s) shall notify FEMA as soon as possible of any proposed change to
379 the approved scope of work. The Grantee(s) shall direct their subgrantee not to
380 implement the changes to the proposed scope of work until any additional review
381 required by this Agreement is complete.
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- 383 e. The Grantee(s) shall ensure that its subgrantees are made aware that in the event of
384 an unexpected discovery involving an Undertaking that has affected a previously
385 unidentified historic property or human remains, or affected a known historic
386 property in an unanticipated manner, the subgrantee will comply with Stipulation
387 III.B, Unexpected Discoveries, Previously Unidentified Properties, or Unexpected
388 Effects.
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- 390 f. The Grantee(s) shall ensure that in its subgrant agreements, any scope of work
391 involving ground disturbance, and resultant contracts to execute said work, provide
392 for the protection of and notification protocols for unexpected discoveries or
393 unexpected effects to historic properties and human remains.
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395 g. If a Signatory Tribe assumes the role of Grantee for projects on Tribal lands, the
396 Tribe shall assume the same responsibilities as outlined in Stipulation I.B.3 of this
397 Agreement, Roles and Responsibilities of the Signatories.

398 C. Tribal Organization Consultation
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- 400 1. For FEMA Undertakings on Tribal lands or affecting properties of religious and
401 cultural significance, and where no tribe-specific consultation agreements or protocols
402 are in place, FEMA shall consult with affected Tribes in accordance with 36 CFR Part
403 800. In determining who the affected Tribes may be, FEMA will first establish that it
404 is a type of Undertaking with potential to affect historic properties with religious and
405 cultural significance and may consult with the SHPO, Tribe(s), any State Tribal
406 Agency, and access the National Park Service (NPS) Native American Consultation
407 Database or other tools to identify geographic tribal interests. Appendix D lists
408 individual Tribe's areas of interest, project-type interest, and preferred method of
409 communication.
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411 2. To the extent permitted by Section 304 of the NHPA, Section 9(a) of the
412 Archeological Resources Protection Act (ARPA) (16 U.S.C. §470aa – 470mm), and
413 any other applicable laws, FEMA shall ensure it withholds information protected by
414 such laws from public disclosure.
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416 3. FEMA shall invite affected Tribes to participate in the initial scoping meeting within
417 their geographic area of interest for each Declaration.

418 D. Public Participation
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- 420 1. FEMA recognizes that the views of the public are essential to informed decision
421 making throughout the Section 106 consultation process. FEMA shall notify the public
422 of proposed Undertakings in a manner that reflects the nature, complexity, significance
423 of historic properties likely affected by the Undertaking, the likely public interest
424 given FEMA's specific involvement, and any confidentiality concerns of Tribes,
425 private individuals and businesses.
426
427 2. FEMA may consult with the Grantee(s), subgrantee, SHPO, participating Tribes, and
428 other consulting parties to determine if there are individuals or organizations with a
429 demonstrated interest in historic properties that should be included as a consulting
430 party for the Undertaking in accordance with 36 CFR § 800.2(c)(5). If such parties are
431 identified or identify themselves to FEMA, FEMA shall provide them with

432 information regarding the Undertaking and its effects on historic properties, consistent
433 with the confidentiality provisions of 36 CFR § 800.11(c).

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- 435 3. In accordance with the outreach strategy developed for an Undertaking in consultation
436 with the SHPO and participating Tribes, for involving the public, FEMA shall identify
437 the appropriate stages for seeking public input during the Section 106 consultation
438 process. FEMA shall consider all views provided by the public regarding an
439 Undertaking.
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- 441 4. FEMA may also provide public notices and the opportunity for public comment or
442 participation in an Undertaking through the public participation process of the
443 National Environmental Policy Act (NEPA) and its implementing regulations set out
444 at 44 CFR Part 10, and/or Executive Orders 11988 and 11990 relating to floodplains
445 and wetlands as set out in 44 CFR Part 9, and Executive Order 12898, Environmental
446 Justice, provided such notices specifically reference Section 106 as a basis for public
447 involvement.
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- 449 5. Should a member of the public object in writing to implementation of the Agreement's
450 terms, FEMA will notify the other Signatories in writing and take the objection into
451 consideration. FEMA shall consult with the objecting party and, if that party so
452 requests, the other Signatories, for not more than 30 days. In reaching its decision
453 regarding the objection, FEMA shall take into consideration all comments from these
454 parties. Within 15 days after closure of this consultation period, FEMA shall provide
455 the other parties with its final decision in writing.

456 E. Timeframes and Communications

- 457 1. All time designations shall be in calendar days unless otherwise stipulated. If any
458 Signatory does not object to FEMA's finding or determination related to an
459 Undertaking within an agreed upon timeframe, FEMA may proceed to the next step in
460 the consultation process as described in Stipulation II, Project Review.
- 461 2. Due to the varied nature of Undertakings, the individual response times to FEMA's
462 requests for comment/concurrence will vary. These response times are contingent
463 upon FEMA ensuring that its findings and determinations are made by Qualified staff
464 and supported by documentation as required by 36 CFR § 800.11(d) and 36 CFR §
465 800.11(e), and consistent with FEMA guidance.
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- 467 a. For Emergency Undertakings as outlined in Stipulation II.B, Expedited Review of
468 Emergency Undertakings, the SHPO and participating Tribes shall respond to any
469 FEMA request for comments within three (3) business days after receipt, unless
470 FEMA determines the nature of the emergency action warrants a shorter time
471 period.
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- b. For Undertakings associated with the Individual Assistance (IA) and Public Assistance (PA) programs, the response time for each request for concurrence shall be a maximum of fifteen (15) days after receipt, or in accordance with temporary timelines established by FEMA and agreed upon by SHPO and participating Tribes on a Declaration by Declaration basis.
 - c. For the Hazard Mitigation Grant Program (HMGP) and all non-disaster programs, the response time for each request for concurrence shall be a maximum of thirty (30) days after receipt.
3. The consulting parties may send and accept official notices, comments, requests for further information and documentation, and other communications required by this Agreement by e-mail.
- a. FEMA will use a “read receipt” to ensure the email was received by intended party.
 - b. FEMA will note the consultation timeline in the subject line of the letter and header of the email to ensure consulting parties are aware of the project’s associated timeline.

494 **II. PROJECT REVIEW**

495 **A. Programmatic Allowances**

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- 1. If FEMA determines an Undertaking conforms to one or more allowances in Appendix B of this Agreement, FEMA shall complete the Section 106 review process by documenting this determination in the project file, without SHPO review or notification.
 - 2. If the Undertaking involves a National Historic Landmark (NHL), FEMA shall notify the SHPO, participating Tribes, and the NPS NHL Program Manager of the Southeast NPS Regional Office that the Undertaking conforms to one or more allowances. FEMA shall provide information about the proposed scope of work for the Undertaking and the allowance(s) enabling FEMA’s determination.
 - 3. If FEMA determines any portion of an Undertaking’s scope of work does not conform to one or more allowances listed in Appendix B, FEMA shall conduct expedited or standard Section 106 review, as appropriate, for the entire Undertaking in accordance with Stipulation II.B, Expedited Review for Emergency Undertakings, or Stipulation II.C, Standard Project Review.
 - 4. Allowances may be revised and new allowances may be added to this Agreement in accordance with Stipulation IV.A.3, Amendments.

- 516 B. Expedited Review for Emergency Undertakings
- 517 1. Determine Expedited Review
- 518 a. As part of the Declaration process, FEMA shall define the time interval during
519 which the disaster causing incident occurs (the incident period, as defined in 44
520 CFR § 206.32(f)). FEMA may approve direct Federal assistance and/or funding
521 for emergency work (as defined in 44 CFR § 206.201(b)) that occurs during the
522 incident period, including work already completed, in response to an immediate
523 threat to human health and safety or property. Pursuant to 36 CFR § 800.12(d),
524 FEMA may conduct expedited review of emergency Undertakings for 30 days
525 from the beginning of the incident period.
- 526 b. Should FEMA determine that it is necessary to extend the expedited review period
527 for emergency Undertakings beyond the initial 30 days, FEMA shall, in 30-day
528 increments, as needed, request extension from the ACHP and notify in writing
529 SHPO and participating Tribes.
- 530 2. Conduct Expedited Reviews
- 531 a. If the emergency Undertaking is an immediate rescue and salvage operation
532 conducted in response to an event to preserve life and property, FEMA has no
533 Section 106 consultation responsibilities in accordance with 36 CFR § 800.12(d);
534 or
- 535
- 536 b. If the emergency Undertaking meets one or more of the Allowances in Appendix B
537 of this Agreement, FEMA shall complete the Section 106 review process pursuant
538 to Stipulation II.A.1, Programmatic Allowances.
- 539
- 540 c. If FEMA determines that the emergency Undertaking would adversely affect a
541 historic property during this expedited review period:
- 542
- 543 i. To the extent practicable, FEMA will propose treatment measures that would
544 address adverse effects during implementation, and request the comments of
545 the SHPO and participating Tribes within 3 days of receipt of this information
546 unless FEMA determines the nature of the emergency warrants a shorter time
547 period.
- 548
- 549 ii. FEMA may provide this information through written requests, telephone
550 conversations, meetings, or electronic media. In all cases, FEMA shall clarify
551 that an “expedited review” is being requested for the Undertaking.
- 552
- 553 iii. FEMA shall take into account any timely comments provided by SHPO and/or
554 participating Tribes in making a decision on how to proceed.
- 555

- 556 iv. Should the SHPO and/or participating Tribes not comment within 3 days,
557 FEMA shall complete Section 106 consultation for the Undertaking based on
558 the available information.
559
560 v. FEMA shall notify the SHPO and participating Tribes of the final decision,
561 indicating how any comments received were considered in reaching that
562 decision.
563

564 C. Standard Project Review: For Undertakings not exempt from further Section 106 review,
565 FEMA shall ensure that the following standard project review steps are implemented. In
566 the interest of streamlining, FEMA may combine some or all of these steps during
567 consultation in accordance with 36 CFR § 800.3(g).
568

569 1. Consulting Parties: FEMA shall consider all written requests of individuals and
570 organizations to participate as consulting parties, and consult with the SHPO and
571 participating Tribes to identify any other parties that meet the criteria to be
572 consulting parties and invite them to participate in the Section 106 process. FEMA
573 may invite others to participate as consulting parties as the Section 106 consultation
574 proceeds. FEMA shall invite any individual or organization that will assume a
575 specific role or responsibility outlined in an MOA or Programmatic Agreement to
576 participate as an invited signatory to the agreement.
577

578 2. Area of Potential Effects:
579

580 a. For standing structures not adjacent to or located within the boundaries of a
581 National Register listed or eligible district, Qualified staff may define the APE as
582 the individual structure when the proposed Undertaking is limited to its repair or
583 rehabilitation (as defined in 36 CFR § 68.3(b)).
584

585 b. For all other Undertakings, Qualified staff shall determine the APE in consultation
586 with the SHPO and participating Tribes. FEMA may consider information
587 provided by other parties, such as local governments and the public, when
588 establishing the APE.
589

590 3. Identification and Evaluation: Qualified staff shall determine, in consultation with the
591 SHPO and participating Tribes if the APE contains historic properties, including
592 properties of religious and cultural significance. This may include the review of
593 documentation provided by the Grantee(s) or subgrantee in coordination with the
594 SHPO.
595

596 a. Level of Effort: FEMA shall make a reasonable and good faith effort to identify
597 historic properties in accordance with 36 CFR § 800.4(b)(1). FEMA may consult
598 with the SHPO to determine the level of effort and methodology necessary to
599 identify and evaluate a variety of historic property types. For properties of
600 religious and cultural significance to affected Tribe(s), FEMA shall consult with

601 the affected Tribe(s) to determine geographical areas containing them that may be
602 affected by an Undertaking and determine the necessary level of effort to identify
603 and evaluate or avoid any such historic properties.
604

605 b. National Historic Landmarks: When FEMA identifies an Undertaking with the
606 potential to affect an NHL, FEMA shall contact the NPS NHL Program Manager
607 of the appropriate NPS Regional Office in addition to the SHPO, participating
608 Tribes, and other consulting parties. The purpose of this notification is to ensure
609 early coordination for the Undertaking which FEMA later may determine
610 adversely affects the NHL as outlined in Stipulation II.C.8.
611

612 c. Determinations of Eligibility: FEMA shall review or determine National Register
613 eligibility based on identification and evaluation efforts, and consult with SHPO,
614 participating Tribes, and other consulting parties regarding these determinations.
615 Should the SHPO, participating Tribes, or another consulting party disagree with
616 the determination of eligibility, FEMA shall either:
617

618 i. Elect to consult further with the objecting party until the objection is resolved;
619

620 ii. Treat the property as eligible for the National Register; or
621

622 iii. Obtain a determination of eligibility from the Keeper of the National Register
623 in accordance with 36 CFR § 63.2(d)-(e) and 36 CFR § 800.4(c)(2).
624

625 4. Findings of No Historic Properties Affected: FEMA shall make a finding of “no
626 historic properties affected” under the following circumstances:
627

628 a. If no historic properties are present in the APE;
629

630 b. The Undertaking is designed to avoid effects to historic properties, including
631 National Register listed or eligible properties of religious or cultural significance
632 to participating Tribes; or
633

634 c. The Undertaking does not affect the character defining features of a historic
635 property.
636

637 d. FEMA shall notify the SHPO, participating Tribes and any other consulting parties
638 of this finding and provide supporting documentation in accordance with 36 CFR §
639 800.11(d). Unless the SHPO or participating Tribes object to the finding within
640 the applicable timeframe outlined in Stipulation I.E, Timeframes and
641 Communications, the Section 106 review of the Undertaking will have concluded.
642

643 e. If the SHPO or participating Tribes object to a finding of “no historic properties
644 affected,” FEMA shall consult with the objecting party to resolve the
645 disagreement.

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- i. If the objection is resolved, FEMA either may proceed with the Undertaking in accordance with the resolution or reconsider effects on the historic property by applying the criteria of adverse effect pursuant to Stipulation II.C.5, Application of the Criteria of Adverse Effect, below.
 - ii. If FEMA is unable to resolve the disagreement, it will forward the finding and supporting documentation to the ACHP and request that the ACHP review FEMA's finding in accordance with 36 CFR § 800.4(d)(1)(iv)(A) through 36 CFR § 800.4(d)(1)(iv)(C). FEMA shall consider the ACHP's recommendation in making its final determination. If FEMA's final determination is to reaffirm its "no historic properties affected" finding, the Section 106 review of the Undertaking will have concluded. Otherwise, FEMA will proceed to Stipulation II.C.5., below.
- 5. Application of the Criteria of Adverse Effect: If FEMA finds an Undertaking may affect historic properties in the APE, including those of religious or cultural significance to affected Tribe(s), FEMA shall apply the criteria of adverse effect to historic properties within the APE(s), taking into account the views of the consulting parties and the public concerning effects in accordance with 36 CFR § 800.5(a).
 - a. If FEMA determines that an Undertaking does not meet the adverse effect criteria, FEMA shall propose a finding of "no adverse effect" in accordance with 36 CFR § 800.5(b).
 - i. FEMA shall notify the SHPO, participating Tribes, and all other consulting parties of its finding and provide supporting documentation pursuant to 36 CFR §800.11(e).
 - ii. Unless a consulting party objects within the applicable timeframe outlined in Stipulation I.E, Timeframes and Communications, FEMA will proceed with its "no adverse effect" determination and conclude the Section 106 review.
 - iii. If a consulting party objects to a finding of "no adverse effect," FEMA will consult with the objecting party to resolve the disagreement.
 - 1) If the objection is resolved, FEMA shall proceed with the Undertaking in accordance with the resolution, or;
 - 2) If the objection cannot be resolved, FEMA shall request that the ACHP review the findings in accordance with 36 CFR § 800.5(c)(3)(i)-(ii) and submit the required supporting documentation. FEMA shall consider the ACHP's comments in making its final determination.

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- b. If FEMA finds the Undertaking may adversely affect historic properties, FEMA shall request through the Grantee(s) that the subgrantee revise the scope of work to substantially conform to the *Standards* for standing structures, or avoid or minimize adverse effects for National Register listed or eligible archaeological properties.
 - i. If the subgrantee modifies the scope of work to avoid the adverse effect, FEMA shall notify the SHPO, participating Tribes, and all other consulting parties, and provide supporting documentation. Unless a consulting party makes a timely objection in accordance with the applicable timeframe outlined in Stipulation I.E, Timeframes and Communications, FEMA shall proceed with its “no adverse effect” determination, including any conditions, and conclude the Section 106 review.
 - ii. If an Undertaking is not modified to avoid the adverse (effects), FEMA shall initiate consultation to resolve the adverse effect(s) in accordance with Stipulation II.C.6, Resolution of Adverse Effects.
- 6. Resolution of Adverse Effects: If FEMA determines that an Undertaking may adversely affect a historic property, it shall resolve the effects of the Undertaking in consultation with the SHPO, Grantee(s), subgrantee, participating Tribes, the ACHP, if participating, and other consulting parties, by one of the following methods depending upon the severity of the adverse effect(s) as well as determination of the historic property’s significance on a local, state or national level. When FEMA determines an Undertaking will adversely affect an NHL, FEMA shall notify and invite the Secretary and ACHP to participate in consultation in accordance with 36 CFR § 800.10. When the ACHP participates in consultation related to an NHL, the ACHP shall report the outcome of the consultation to the Secretary and the FEMA Administrator.
 - a. Abbreviated Consultation Process: After taking into consideration the significance of the historic properties affected, the severity of the adverse effect(s) and avoidance or minimization of the adverse effect(s), FEMA may propose in writing to the consulting parties to resolve the adverse effects of the Undertaking through the application of one or more Treatment Measures outlined in Appendix C as negotiated with the SHPO, participating Tribes, and other consulting parties. The use of these Treatment Measures shall not require the execution of a Memorandum of Agreement (MOA) or Programmatic Agreement.
 - i. In consultation with the SHPO, participating Tribe(s), and other consulting parties, FEMA shall propose in writing the implementation of a specific Treatment Measure, or combination of Treatment Measures, with the intent of expediting the resolution of adverse effects, and provide documentation as required by 36 CFR § 800.11(e) and subject to the confidentiality provisions of 36 CFR § 800.11(c)). Unless a consulting party or the ACHP objects within 15 days of receipt of FEMA’s proposal, FEMA shall proceed with the

735 implementation of the Treatment Measure(s) and will conclude the Section 106
736 review.

737
738 ii. If any of the consulting parties or the ACHP objects within the 15 day review
739 and comment period to the resolution of adverse effects through the application
740 of the Abbreviated Consultation Process, FEMA shall resolve the adverse
741 effect(s) using procedures outlined below in Stipulation II.C.6(b), MOA or
742 Stipulation II.C.6.(c), Programmatic Agreement.

743
744 iii. Because funding and implementation details of Treatment Measures for
745 specific Undertakings may vary by program, FEMA shall provide written
746 notice to the consulting parties within sixty (60) days of the completion of the
747 Treatment Measure(s). This written notice will serve as confirmation that the
748 Treatment Measure(s) for a specific Undertaking have been implemented.
749 FEMA also shall include information pertaining to the completion of
750 Treatment Measures in the annual report pursuant to Stipulation I.B.1(d),
751 FEMA Roles and Responsibilities.

752
753 b. Memorandum of Agreement: FEMA shall provide the ACHP with an adverse
754 effect notice in accordance with 36 CFR § 800.6(a)(1) if it has not already
755 provided such under the Abbreviated Consultation Process of this Agreement, if a
756 consulting party or the ACHP objects in accordance with Stipulation II.C.6(a)(ii),
757 or if FEMA, in consultation with the SHPO, participating Tribe(s), and other
758 consulting parties, has determined that an MOA would be more appropriate to
759 resolve the adverse effect(s). In consultation with the SHPO, participating
760 Tribe(s), and other consulting parties, including the ACHP (if participating),
761 FEMA shall develop an MOA, in accordance with 36 CFR § 800.6(c) to agree
762 upon treatment measures to avoid, minimize, and/or mitigate adverse effects on
763 historic properties. The MOA may also include treatment measures that serve an
764 equal or greater public benefit in promoting the preservation of historic properties
765 in lieu of more traditional treatment measures.

766
767 c. Programmatic Agreement: Should the execution of an MOA be inappropriate
768 given the similar nature of effects on historic properties, the inability to determine
769 effects prior to approval of an Undertaking, or where other circumstances warrant,
770 FEMA, shall consult with the SHPO, participating Tribes, the ACHP, if
771 participating, and any other consulting parties to develop a Programmatic
772 Agreement in accordance with 36 CFR § 800.14(b) and identify programmatic
773 conditions or treatment measures to govern the resolution of potential or
774 anticipated adverse effects from certain complex project situations for an
775 Undertaking or for multiple but similar Undertakings by a single subgrantee.

776
777 7. Objections: Should any signatory or consulting party object within the timeframes
778 established by this Agreement to any plans, specifications, or actions taken pursuant to
779 resolving an adverse effect, FEMA shall consult further with the objecting party to

780 seek resolution. If FEMA determines the objection cannot be resolved, FEMA shall
781 address the objection in accordance with Stipulation IV.B, Dispute Resolution.

782 **III. OTHER CONSIDERATIONS**

783 A. Changes to an Approved Scope of Work: The Grantee(s) shall notify FEMA and shall
784 require a subgrantee to notify it immediately when a subgrantee proposes changes to an
785 approved scope of work for an Undertaking.

786
787 1. If FEMA determines the change meets a Programmatic Allowance or has no effect on
788 the property, FEMA shall approve the change.

789
790 2. If the change can be modified to meet a Programmatic Allowance, or conform to any
791 applicable *Standards*, FEMA shall conclude its Section 106 review responsibilities.

792
793 3. If FEMA determines that the change does not meet an Allowance, FEMA shall initiate
794 consultation pursuant to Stipulation II.C, Standard Project Review.

795
796 B. Unexpected Discoveries, Previously Unidentified Properties, or Unexpected Effects:

797
798 1. Upon notification by a subgrantee of an unexpected discovery, or if it appears that a
799 Undertaking has affected a previously unidentified property or affected a known
800 historic property in an unanticipated manner, in accordance with Stipulation I.B.3(e),
801 Grantee(s) Roles and Responsibilities, the Grantee(s) shall immediately notify FEMA
802 and require the subgrantee to:

803
804 a. Immediately stop construction activities in the vicinity of the discovery.

805
806 b. Take all reasonable measures to avoid or minimize harm to the property until
807 FEMA has completed consultation with the SHPO, participating Tribes, and any
808 other consulting parties. Upon notification by the Grantee of a discovery, FEMA
809 shall immediately notify the SHPO, participating Tribes, and other consulting
810 parties that may have an interest in the discovery, previously unidentified property
811 or unexpected effects, and consult to evaluate the discovery for National Register
812 eligibility and/or the effects of the undertaking on historic properties.

813
814 c. If human remains are discovered, notify the local law enforcement office and
815 coroner/medical examiner in accordance with applicable State statutes, and protect
816 the remains from any harm. Discoveries of human remains on Federal or Tribal
817 lands shall be subject to the Native American Graves Protection and Repatriation
818 Act (NAGPRA) (25 U.S.C. §3001-3013, 18 U.S.C. § 1170) and ARPA, as
819 applicable.

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821 d. Assist FEMA in completing the following actions, as required:

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- i. FEMA shall consult with the SHPO, participating Tribes, and other consulting parties in accordance with the consultation process outlined in Stipulation II, Project Review, to develop a mutually agreeable action plan with timeframes to identify the discovery or previously unidentified property, take into account the effects of the Undertaking, resolve adverse effects if necessary, and ensure compliance with applicable Federal, State, and local statutes.
- ii. FEMA shall coordinate with the Grantee(s) and the subgrantee regarding any needed modification to the scope of work for the Undertaking necessary to implement recommendations of the consultation and facilitate proceeding with the Undertaking.
- iii. In cases where discovered human remains are determined to be American Indian, FEMA shall consult with the appropriate Tribal representatives and SHPO. In addition, FEMA shall follow the guidelines outlined in the ACHP's *Policy Statement Regarding the Treatment of Burial Sites, Human Remains, and Funerary Objects* (2007) and any state-specific policies that may be in force.

C. Curation

- 1. In cases where archaeological survey and testing are conducted on private land, any recovered collections remain the property of the land owner. In such instances, FEMA and the Grantee(s), in coordination with the SHPO and affected Tribes, shall encourage land owners to donate the collection(s) to an appropriate public or Tribal entity. In cases where the property owner wishes to transfer ownership of the collection(s) to a public or Tribal entity, and in the case of artifacts recovered from public lands, FEMA and the Grantee(s) shall ensure that recovered artifacts and related documentation are curated in a suitable repository as agreed to by FEMA, SHPO, and affected Tribes, and following *South Carolina Standards and Guidelines for Archaeological Investigations* or Tribal guidelines.

853 2. When an Undertaking will adversely affect a National Register listed or eligible
854 archaeological site, FEMA may treat the adverse effect by providing for the recovery
855 of significant information through archaeological data recovery. FEMA shall consult
856 with the SHPO, participating Tribes, and other consulting parties to prepare a research
857 design (data recovery plan), including a specific plan for curation. This plan will
858 incorporate any relevant curation provisions contained in the *South Carolina*
859 *Standards and Guidelines for Archaeological Investigations*, ACHP's "*Recommended*
860 *Approach for Consultation on Recovery of Significant Information from*
861 *Archaeological Sites*" published in the Federal Register (64 Federal Register 27085-
862 27087 (May 18, 1999)), or other provisions agreed to by the consulting parties. No
863 excavation should be initiated before FEMA acceptance and approval of the curation
864 plan.

865 a. As stipulated in the curation plan, artifacts, as well as field and laboratory records
866 sufficient to document the collection, shall be curated at a facility, preferably in-
867 state, that meets the standards of, and in accordance with the provisions of 36 CFR
868 Part 79, "Curation of Federally Owned and Administered Archaeological
869 Collections," and *South Carolina Standards and Guidelines for Archaeological*
870 *Investigations* or Tribal requirements.

871 D. Review of Undertakings Initiated Before Initiation or Completion of Section 106 Review

872
873 1. In accordance with Section 110(k) of the NHPA, FEMA shall not grant assistance to a
874 subgrantee who, with intent to avoid the requirements of this Agreement or Section
875 106 of the NHPA, has intentionally significantly and adversely affected a historic
876 property to which the assistance would relate, or having legal power to prevent it,
877 allowed an adverse effect to occur. However, if after consultation with the SHPO,
878 appropriate Tribes, and ACHP, FEMA determines that extraordinary circumstances
879 justify granting assistance despite the adverse effect created or permitted by the
880 subgrantee, FEMA shall complete consultation for the Undertaking pursuant to the
881 terms of this Agreement.

882
883 2. FEMA shall specifically advise the Grantee(s) and shall require that the Grantee(s)
884 advise its subgrantees in writing that they may jeopardize Federal funding if work is
885 performed without all required local, State, and Federal licenses, permits, and/or
886 approvals, including the completion of the Section 106 process. FEMA also shall
887 document this requirement in its Record of Environmental Consideration, as
888 applicable, as well as all project approval documents specifying the project scope and
889 limits, and containing all conditions and caveats.

890
891 3. In circumstances where FEMA determines a subgrantee has initiated an Undertaking
892 without willful intent to avoid the requirements of this Agreement or Section 106 of
893 NHPA, FEMA shall proceed as follows:
894

- 895 a. Determine if the Undertaking is of a type for which FEMA has no further Section
896 106 responsibilities, namely:
897
898 i. An Undertaking listed in Stipulation I.A.8; or
899
900 ii. An immediate rescue and salvage operation in accordance with 36 CFR §
901 800.12(d); or
902
903 iii. A Programmatic Allowance as described under Stipulation II.A.
904
905 b. In any such cases listed in Stipulation III.D.3.a., above, FEMA shall document this
906 determination in the project files, and consider the Undertaking Section 106
907 compliant.
908
909 c. If FEMA determines the Undertaking would have required Section 106 review,
910 FEMA shall coordinate with the SHPO and appropriate Tribes to determine if
911 consultation is feasible.

912 i. If after coordination with the SHPO and appropriate Tribes, FEMA determines
913 that consultation is feasible, FEMA shall review the Undertaking in accordance
914 with Stipulation II.C, Standard Project Review.

915 ii. If after coordination with the SHPO and appropriate Tribes, FEMA determines
916 that review is infeasible, FEMA shall document the outcome to the Section 106
917 review process, and the applicable FEMA program shall take the outcome into
918 account before making a decision whether to fund the Undertaking. FEMA
919 shall provide written notification of its funding decision to the SHPO,
920 appropriate Tribes, and the ACHP.
921
922 4. FEMA shall ensure that all Undertakings considered for after the fact review in
923 accordance with this stipulation are included in the annual report.
924

925 **IV. IMPLEMENTATION OF AGREEMENT**

926 **A. Amendments**

- 927
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929 1. If any Signatory determines that an amendment to the terms of this Agreement must be
930 made, the Signatories shall consult for no more than 30 days to seek amendment of the
931 Agreement.
932
933 2. An amendment to this Agreement, exclusive of the appendices, shall be effective only
934 when it has been signed by all the Signatories. An amendment shall be effective for
935 Undertakings occurring on or affecting historic properties on Tribal lands only when
936 the Tribe has signed the Agreement and its amendment.
937

SC HP PA
Executed

- 938 3. Appendix A (FEMA Programs), Appendix B (Programmatic Allowances), Appendix
939 C (Treatment Measures), and Appendix D (Tribal Areas of Interest) may be amended
940 at the request of FEMA or another Signatory in the following manner:
941
942 a. FEMA, on its own behalf or on behalf of another Signatory, shall notify the
943 Signatories of the intent to modify the current Appendix or Appendices and shall
944 provide a draft of the updated Appendix or Appendices to all Signatory parties.
945
946 b. If no other Signatory objects in writing within 30 days of receipt of FEMA's
947 proposed modification, FEMA shall date and sign the amended Appendix and
948 provide a copy of the amended Appendix to the other Signatories. Such an
949 amendment shall go into effect on the date FEMA transmits the amendment to the
950 other Signatories.

951
952 **B. Dispute Resolution**

- 953
954 1. Should any Signatory object in writing to the terms of this Agreement, FEMA shall
955 consult with the objecting party for not more than 30 days to resolve the objection.
956
957 2. If the objection is resolved within 30 days, FEMA shall proceed in accordance with
958 the resolution.
959
960 3. If FEMA determines within 30 days that the objection cannot be resolved, FEMA shall
961 forward to ACHP all documentation relevant to the objection, including FEMA's
962 proposed resolution. Within 30 days of receipt, ACHP will:
963
964 a. Concur in FEMA's proposed resolution; or
965
966 b. Provide FEMA with recommendations, which FEMA shall take into account in
967 reaching a final decision regarding the objection; or
968
969 c. Notify FEMA that the objection will be referred for comment in accordance with
970 36 CFR § 800.7(a)(4), and proceed to do so.
971
972 4. FEMA shall take into account any ACHP recommendations or comments, and any
973 comments from the other Signatories, in reaching a final decision regarding the
974 objection. FEMA shall provide in writing to the ACHP and Signatories a summary of
975 its final decision before authorizing any disputed action to proceed. The Signatories
976 shall continue to implement all other terms of this Agreement that are not subject to
977 objection.
978
979 5. Should ACHP not respond within 30 days, FEMA may assume ACHP has no
980 comment and proceed with its proposed resolution to the objection after providing the
981 ACHP and Signatories a written summary of its final decision.
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C. Severability and Termination

1. In the event any provision of this Agreement is deemed by a Federal court to be contrary to, or in violation of, any applicable existing law or regulation of the United States of America, only the conflicting provision(s) shall be deemed null and void, and the remaining provisions of the Agreement shall remain in effect.

2. FEMA, the SHPO, ACHP, or Grantee(s) may terminate this Agreement by providing 30 days written notice to the other Signatories, provided that the Signatories consult during this period to seek amendments or other actions that would prevent termination. If this Agreement is terminated, FEMA shall comply with Section 106 through other applicable means pursuant to 36 CFR Part 800. Upon such determination, FEMA shall provide all other Signatories and the ACHP with written notice of the termination of this Agreement.

3. A participating Tribe may notify the other Signatories that it is fully withdrawing from participation in the Agreement. Following such a withdrawal, FEMA shall review undertakings that may affect historic properties of religious and cultural significance to the Tribe, and Undertakings that occur on the Tribal lands of the relevant Tribe, in accordance with 36 CFR §§ 800.3 through 800.7, 36 CFR § 800.8(c), or an applicable alternative under 36 CFR § 800.14. Withdrawal from this Agreement by a Tribe does not terminate the Agreement. At any time that this Agreement remains in effect, a Tribe that has withdrawn from the Agreement may notify FEMA, the Grantee(s), and SHPO in writing that it has rescinded its notice withdrawing from participation in the Agreement.

4. This Agreement may be terminated by the implementation of a subsequent Agreement, pursuant to 36 CFR § 800.14(b), that explicitly terminates or supersedes this Agreement, or by FEMA's implementation of Alternate Procedures, pursuant to 36 CFR § 800.14(a).

D. Duration and Extension

1. This Agreement shall remain in effect from the date of execution for a period not to exceed 7 years unless otherwise extended pursuant to Stipulation IV.D.2 below or terminated pursuant to Stipulation IV.C.2 or IV.C.4, Severability and Termination. The Agreement shall remain in effect for Declarations made prior to expiration of the Agreement in order to minimize delays in delivery of FEMA assistance.

2. The Signatories may collectively agree to extend this Agreement to cover additional calendar years, or portions thereof, through an amendment per Stipulation IV.A., provided that the original Agreement has not expired.

E. Execution and Implementation

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1. This Agreement may be executed in counterparts, with a separate page for each Signatory, and shall become effective on the date of the final signature of FEMA and the SHPO/THPO.
2. The Agreement shall go into effect regarding Undertakings occurring, or affecting historic properties, on Tribal lands when the relevant Tribe has signed the Agreement.
3. FEMA shall ensure that each Signatory is provided with a complete copy of the Agreement, including an original set of signatures.
4. Execution and implementation of this Agreement evidence that FEMA has afforded ACHP a reasonable opportunity to comment on FEMA's administration of all referenced Programs, and that FEMA has satisfied its Section 106 responsibilities for all individual Undertakings of its referenced Programs.

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**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE SOUTH CAROLINA STATE HISTORIC PRESERVATION OFFICE,
THE SOUTH CAROLINA EMERGENCY MANAGEMENT DIVISION,
AND TRIBES PARTICIPATING AS INVITED SIGNATORIES**

Federal Emergency Management Agency



Andrew Velasquez III
Acting Regional Administrator
Region IV

6/16/14

Date



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**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE SOUTH CAROLINA STATE HISTORIC PRESERVATION OFFICE,
THE SOUTH CAROLINA EMERGENCY MANAGEMENT DIVISION,
AND TRIBES PARTICIPATING AS INVITED SIGNATORIES**

South Carolina State Historic Preservation Office



W. Eric Emerson, Ph.D.
State Historic Preservation Officer

10-14-14
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AND TRIBES PARTICIPATING AS INVITED SIGNATORIES**

South Carolina Emergency Management Division



Kim Stenson
Director

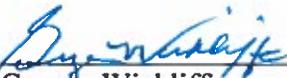
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AND TRIBES PARTICIPATING AS INVITED SIGNATORIES**

United Keetoowah Band of Cherokee Indians



George Wickliffe
Chief

1-9-15

Date

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**PROGRAMMATIC AGREEMENT AMONG
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AND TRIBES PARTICIPATING AS INVITED SIGNATORIES**

Catawba Indian Nation

William Harris
William Harris
Chief

5/22/15
Date

Wenonah A. Hair, PhD
Wenonah Aire
Tribal Historic Preservation Officer

5/28/15
Date

Appendix A: FEMA Program Summaries

This Appendix may be amended in accordance with Stipulation IV.A, Amendments.

Disaster Response and Recovery Programs

The following programs are authorized under Titles IV and V of the Stafford Act.

Public Assistance Program (PA)

This program assists States, Tribal, and local governments, and certain types of private nonprofit organizations quickly respond to and recover from major disasters or emergencies declared by the President. Grants are provided for debris removal (Category A), emergency protective measures (Category B), and the repair, replacement, or restoration of disaster-damaged, publicly owned and certain private non-profit facilities (Categories C-G).

Individual Assistance Programs (IA)

These programs help to ensure that individuals and families that have been affected by disasters have access to the full range of FEMA assistance including: crisis counseling (Section 416), disaster legal services (Section 415), essential assistance (Section 403), emergency sheltering assistance (Section 403), transportation (Section 419), funeral services, minor home repairs (Section 408), and temporary housing assistance (Section 408). It should be noted that other Federal agencies provide disaster assistance programs, services, and activities to individuals as well, including the U.S. Small Business Administration, U.S. Department of Agriculture, and U.S. Department of Labor, but these other assistance programs are not subject to the terms of this Agreement.

Fire Management Assistance Grant Program (FMAG)

The FMAG is available to State, Tribal, and local governments for the mitigation, management, and control of fires on publicly or privately owned lands. Eligible costs may include expenses for field camps, equipment use, repair and replacement, materials and supplies, and mobilization and demobilization activities.

Hazard Mitigation Grant Program (HMGP)

The HMGP provides grants to States, Territories, Tribes, and local governments to implement long-term hazard mitigation measures after a Declaration. Activities may include buyouts, retrofits, relocations, elevations, and minor flood control projects.

Non-Disaster Programs

Pre-Disaster Mitigation Program (PDM)

The PDM program provides competitive grants to States, Territories, Tribes, and local governments for hazard mitigation planning and the implementation of mitigation projects prior to a disaster event. Activities may include planning, buyouts, retrofits, relocations, elevations, minor flood control projects, and vegetative fuels reduction.

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Flood Mitigation Assistance Program (FMA)

The FMA program provides grants to States, Territories, Tribal entities, and communities to assist in their efforts to reduce or eliminate the risk of repetitive flood damage to buildings and structures insurable under the National Flood Insurance Program (NFIP).

Assistance to Firefighters Grant Program

The AFG program provides funding for purchase of equipment and retrofit or construction of fire stations to improve first responder capabilities.

State Homeland Security Program (SHSP)

This core assistance program provides funds to build capabilities at the state and local levels and to implement the goals and objectives included in state homeland security strategies and initiatives in the State Preparedness Report.

Urban Areas Security Initiative (UASI) Program

The Urban Areas Security Initiative (UASI) program focuses on enhancing regional preparedness in major metropolitan areas. The UASI program directly supports the National Priority on expanding regional collaboration in the National Preparedness Guidelines and is intended to assist participating jurisdictions in developing integrated regional systems for prevention, protection, response and recovery.

Metropolitan Medical Response System (MMRS) Program

The MMRS program supports the integration of emergency management, health, and medical systems into a coordinated response to mass casualty incidents caused by any hazard. Successful MMRS grantees reduce the consequences of a mass casualty incident during the initial period of a response by having augmented existing local operational response systems before the incident occurs.

Citizen Corps Program (CCP)

The Citizen Corps mission is to bring community and government leaders together to coordinate community involvement in emergency preparedness, planning, mitigation, response and recovery.

State Homeland Security Program Tribal (SHSP Tribal)

To provide supplemental funding to directly eligible tribes to help strengthen the nation against risks associated with potential terrorist attacks. Pursuant to the 9/11 Act, "a directly eligible tribe applying for a grant under section 2004 [SHSP] shall designate an individual to serve as a tribal liaison with [DHS] and other Federal, state, local, and regional government officials concerning preventing, preparing for, protecting against and responding to acts of terrorism."

Nonprofit Security Grant Program (NSGP)

NSGP provides funding support for target-hardening activities to nonprofit organizations that are at high risk of a terrorist attack and are located within one of the specific UASI-eligible urban areas.

1224 *Operation Stonegarden (OPSG)*

1225 The intent of OPSG is to enhance cooperation and coordination among local, State and Federal
1226 law enforcement agencies in a joint mission to secure the United States borders along routes of
1227 ingress from international borders to include travel corridors in States bordering Mexico and
1228 Canada, as well as States and territories with international water borders.

1229

1230 *Transit Security Grant Program (TSGP)*

1231 The TSGP provides grant funding to the nation's key high-threat urban areas to enhance security
1232 measures for their critical transit infrastructure including bus, ferry and rail systems.

1233

1234 *Freight Rail Security Grant Program (FRSGP)*

1235 The FRSGP funds security training for frontline employees, the completion of vulnerability
1236 assessments, the development of security plans within the freight rail industry and GPS tracking
1237 systems for railroad cars transporting toxic inhalation materials.

1238

1239 *Intercity Passenger Rail (Amtrak)*

1240 The purpose of the Intercity Passenger Rail (IPR) is to create a sustainable, risk-based effort to
1241 protect critical surface transportation infrastructure and the traveling public from acts of terrorism,
1242 major disasters and other emergencies within the Amtrak rail system.

1243

1244 *Port Security Grant Program (PSGP)*

1245 The PSGP provides grant funding to port areas for the protection of critical port infrastructure
1246 from terrorism. PSGP funds are primarily intended to assist ports in enhancing maritime domain
1247 awareness, enhancing risk management capabilities to prevent, detect, respond to and recover
1248 from attacks involving improvised explosive devices (IEDs), weapons of mass destruction
1249 (WMDs) and other non-conventional weapons, as well as training and exercises and
1250 Transportation Worker Identification Credential (TWIC) implementation.

1251

1252 *Intercity Bus Security Grant Program (IBSGP)*

1253 The IBSGP provides funding to create a sustainable program for the protection of intercity bus
1254 systems and the traveling public from terrorism. The program seeks to assist operators of fixed-
1255 route intercity and charter bus services in obtaining the resources required to support security
1256 measures such as enhanced planning, facility security upgrades and vehicle and driver protection.

1257

1258 *Trucking Security Program (TSP)*

1259 TSP funding will be awarded to eligible applicants to implement security improvement measures
1260 and policies deemed valuable by DHS as indicated in the *Security Action Items* publication of
1261 June 26, 2008. These items are primarily focused on the purchase and installation or enhancement
1262 of equipment and systems related to tractor and trailer tracking systems. Additionally, the TSP
1263 will provide funding to develop a system for DHS to monitor, collect and analyze tracking
1264 information; and develop plans to improve the effectiveness of transportation and distribution of
1265 supplies and commodities during catastrophic events.

1266

1267 *Buffer Zone Protection Program (BZPP)*

1268 The BZPP provides funding to increase the preparedness capabilities of jurisdictions responsible
1269 for the safety and security of communities surrounding high-priority pre-designated Tier 1 and
1270 Tier 2 critical infrastructure and key resource (CIKR) assets, including chemical facilities,
1271 financial institutions, nuclear and electric power plants, dams, stadiums and other high-risk/high-
1272 consequence facilities, through allowable planning and equipment acquisition.

1273

1274 *Emergency Management Performance Grants (EMPG)*

1275 The purpose of the EMPG program is to assist State and local governments in enhancing and
1276 sustaining all-hazards emergency management capabilities.

1277

1278 *Interoperable Emergency Communications Grant Program (IECGP)*

1279 IECGP provides governance, planning, training and exercise and equipment funding to States,
1280 territories, and local and Tribal governments to carry out initiatives to improve interoperable
1281 emergency communications, including communications in collective response to natural disasters,
1282 acts of terrorism and other man-made disasters. According to the legislation that created IECGP,
1283 all proposed activities must be integral to interoperable emergency communications and must be
1284 aligned with the goals, objectives, and initiatives identified in the grantee's approved statewide
1285 Communication Interoperability Plans (SCIP). IECGP will also advance DHS near-term
1286 priorities that are deemed critical to improving interoperable emergency communications and are
1287 consistent with goals and objectives of the National Emergency Communications Plan.

1288

1289 *Emergency Operations Center (EOC) Grant Program*

1290 The EOC grant program is intended to improve emergency management and preparedness
1291 capabilities by supporting flexible, sustainable, secure, and interoperable Emergency Operations
1292 Centers (EOCs) with a focus on addressing identified deficiencies and needs. This program
1293 provides funding for construction or renovation of a State, local, or tribal governments' principal
1294 EOC. Fully capable emergency operations facilities at the State and local levels are an essential
1295 element of a comprehensive national emergency management system and are necessary to ensure
1296 continuity of operations and continuity of government in major disasters caused by any hazard.

1297

1298 *Driver's License Security Grant Program*

1299 The purpose of the Driver's License Security Grant Program is to prevent terrorism, reduce fraud,
1300 and improve the reliability and accuracy of personal identification documents that States and
1301 territories issue.

1302

1303 *Integrated Public Alert and Warning System (IPAWS)*

1304 The Integrated Public Alert and Warning System (IPAWS) was established by Executive Order
1305 13407 in 2006. In the event of a national emergency, the President may use IPAWS to send a
1306 message to the American people quickly and simultaneously through multiple communications
1307 pathways. FEMA has identified several radio transmission sites across the nation with
1308 significantly powerful signals for this purpose, and FEMA is responsible for upgrading,
1309 maintaining, and managing the agency installed and owned auxiliary fuel systems at each of these
1310 radio transmission sites.

1311

1312 **Appendix B: Programmatic Allowances**

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1314 This list of Programmatic Allowances enumerates FEMA funded activities that based on FEMA
1315 experience have no or minimal effect on historic properties if implemented as specified in this
1316 Appendix and will not require review by the SHPO and participating Tribes.

1317
1318 The Programmatic Allowances consist of two tiers – First Tier and Second Tier. Staff may apply
1319 First Tier allowances whether or not they meet professional historic preservation qualification
1320 standards, while only staff meeting the applicable SOI Professional Qualifications Standards in
1321 accordance with Stipulation I.B(1)(a) of this Agreement may apply Second Tier allowances.

1322
1323 When referenced in the Programmatic Allowances, “in-kind” shall mean that it is either the same
1324 or a similar material, and the result shall match all physical and visual aspects, including form,
1325 color, and workmanship. The in-kind repair provided for in both First and Second Tier
1326 allowances in Appendix B should be limited to pre-existing architectural features and physical
1327 components of buildings and structures.

1328
1329 When referenced in the allowances, “previously disturbed soils” shall refer to soils that are
1330 not likely to possess intact and distinct soil horizons and have the reduced likelihood of
1331 possessing historic properties within their original depositional contexts in the area and to
1332 the depth to be excavated.

1333
1334 **I. First Tier Allowances**

1335
1336 **A. GROUND DISTURBING ACTIVITIES AND SITE MODIFICATION**, when
1337 proposed activities described below substantially conform to the original footprint and/or
1338 are performed in previously disturbed soils, including the area where the activity is staged.

1339 **1. Debris and Snow Removal**

1340 a. Debris removal and collection, including removal of snow, uprooted trees, limbs
1341 and branches from public rights of way and public areas and areas as well as the
1342 transport and disposal of such waste to existing licensed waste facilities or
1343 landfills. This includes the temporary establishment and expansion of non-
1344 hazardous debris staging, reduction, and disposal areas at licensed transfer stations,
1345 or existing hard-topped or graveled surfaces (e.g. parking lots, roads, athletic
1346 courts) but not the creation of new or temporary access roads.

1347 b. Removal of debris from private property provided that buildings are not affected,
1348 ground disturbance is minimal and in-ground elements, such as driveways,
1349 walkways or swimming pools are left in place.

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1351 c. Chipping and disposal of woody debris by broadcasting within existing rights-of-
1352 way.

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- d. Sediment removal from man-made drainage facilities, including retention/detention basins, ponds, ditches, and canals, in order to restore the facility to its pre-disaster condition. The sediment may be used to repair eroded banks or disposed of at an existing licensed or permitted spoil site.
 - e. Dewatering flooded developed areas by pumping.
2. Temporary Structures and Housing
- a. Installation and removal of temporary structures for use as school classrooms, offices, or temporary shelters for essential public service agencies, such as police, fire, rescue and medical care, as well as temporary housing for disaster personnel and survivors at the following types of locations:
 - i. Single units on private residential sites when all utilities are installed above ground or tie into pre-existing utility lines.
 - ii. Existing RV/Mobile Home Parks and campgrounds with pre-existing utility hookups;
 - iii. Paved areas, such as parking lots and paved areas at such facilities as conference centers, shopping malls, airports, industrial port facilities business parks, and military bases when all utilities are installed above ground or tie into pre-existing utility lines.
 - iv. Sites that have been previously prepared for planned construction, such as land being developed for public housing, office buildings, city parks, ball fields, schools, etc. when all utilities are installed above-ground or tie into pre-existing utility lines.
 - v. Areas previously filled to depths of at least six feet so that subsurface utilities can be installed.
3. Recreation and Landscaping
- a. Installation of temporary removable barriers.
 - b. In-kind repairs, installation, or replacement, and minor upgrades/mitigation of bollards and associated protective barriers when in previously disturbed areas.
- B. BUILDINGS AND STRUCTURES**
- 1. Repair or retrofit of buildings less than 45 years old.
 - 2. Removal of water by physical or mechanical means.

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3. Installation of exterior security features and early warning devices on existing light poles or other permanent utilities.
- C. TRANSPORTATION FACILITIES**, when proposed activities substantially conform to the original footprint and/or performed in previously disturbed soils, including any staging areas.
1. Roads and Roadways
 - a. Paving and repair of roads to pre-disaster geometric design standards and conditions using in-kind materials, shoulders medians, clearances, curbs, and side slopes. This allowance does not include improvement to existing roadways and appurtenances.
 - b. Repairs to road slips and landslides that do not require grading of undisturbed soils on the up-hill side of the slip
 - c. Re-establishment, armoring, and/or upgrading of existing roadway ditches.
 - d. In-kind repair or replacement of traffic control devices such as traffic signs and signals, delineators, pavement markings, traffic surveillance systems.
 - e. Installation and removal of temporary traffic control devices, including pre-formed concrete barriers and fencings.
 - f. In-kind repair or replacement of roadway safety elements such as barriers, guardrails, and impact-attenuation devices. In the case of guardrails, the addition of safety end treatments is permitted.
 2. Airports
 - a. In-kind repair or replacement of existing runway surfaces and features (e.g. asphalt, concrete, gravel, and dirt) and associated air transportation safety components and systems (e.g. lighting bars, beacons, signage and weather sensors).
 3. Rail Systems
 - a. In-kind repair or replacement of safety components.
 - b. In-kind repair or replacement of existing track system and passenger loading areas.

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D. FEES AND SERVICES

- 1. Reimbursement of a subgrantee's insurance deductible, not to exceed \$2,500.

II. Second Tier Allowances

A. GROUND DISTURBING ACTIVITIES AND SITE WORK, when proposed activities described below substantially conform to the original footprint and/or are performed in previously disturbed soils, including the area where the activity is staged.

- 1. Footings, Foundations, Retaining Walls, Slopes, and Slope Stabilization Systems
 - a. In-kind repair, replacement, and reinforcement of footings, foundations, retaining walls, slopes, and slope stabilization systems (e.g., gabion baskets, crib walls, soldier pile and lag walls) if related ground disturbing activities are within the boundary of previously disturbed soils.
 - b. Installation of perimeter drainage (e.g. French drains) when performed in previously disturbed soils.
- 2. Recreation and Landscaping
 - a. In-kind repairs or replacement, and minor upgrades to recreational facilities and features (e.g. playgrounds, campgrounds, fire pits, dump stations and utility hook-ups, swimming pools, athletic fields and signage, batting cages, basketball courts, swing sets, pathways, simple wooden/wire stream crossings).
 - b. In-kind repair, replacements, and minor upgrades to landscaping elements (e.g., fencing, free standing walls, paving, planters, irrigation systems, lighting elements, signs, flag poles, ramps, steps).
- 3. Piers, Docks, Boardwalks, Boat Ramps, and Dune Crossovers
 - a. In-kind repair and replacement and minor upgrades to existing piers, docks, boardwalks, boat ramps and dune crossovers in areas of previously disturbed soils.
- 4. Cemeteries
 - a. Removal of woody debris such as branches and limbs, from cemeteries, provided that heavy equipment and other machinery are not operated or staged on areas potentially containing human remains.
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B. BUILDINGS AND STRUCTURES

- 1. Interior Work: Floors, Walls, Stairs, Ceilings and Trim
 - a. In-kind repair of floors, walls, stairs, ceilings and/or trim. In-kind replacement of floors, walls, stairs, ceilings, and/or trim that are damaged and/or deteriorated beyond repair. The allowance does not apply to decorative finishes, including murals, glazed paint, gold leaf, or ornamental plaster.
 - b. Interior cleaning of surfaces using a weak solution of household bleach and water, mold remediation, or mold removal. The allowance applies to interior finishes, including plaster and wallboard, provided the cleaning is restricted to damaged areas and does not affect adjacent materials.
 - c. Non-destructive or concealed testing for hazardous materials (e.g., lead paint, asbestos) or for assessment of hidden damages.
- 2. Building Contents
 - a. Repair or replacement of building contents including furniture, movable partitions, computers, cabinetry, supplies, and equipment and any other moveable items which are not character defining features of a historic property.
- 3. Utilities and Mechanical, Electrical, and Security Systems
 - a. In-kind repair or replacement, or limited upgrading of interior utility systems, including mechanical (e.g., heating, ventilation, air conditioning), electrical, and plumbing systems. This allowance does not provide for the installation of new exposed ductwork.
 - b. Elevation of heating, ventilation, and air conditioning system (HVAC) and mechanical equipment as long as it is placed or located where it is not visible from the street.
 - c. Installation or replacement of interior fire detection, fire suppression, or security alarm systems. The allowance does not apply to surface mounted wiring, conduits, piping, etc., unless previously existing, provided that installation of the system hardware does not damage or cause the removal of character-defining architectural features and can be easily removed in the future.
 - d. Installation of communication and surveillance security systems, such as cameras, closed-circuit television, alarm systems, and public address systems, provided that installation of the system hardware does not damage or cause the removal of character defining architectural features and can be easily removed in the future.

1529 e. Installation of building access security devices, such as card readers, enhanced
1530 locks, and security scanners (e.g., metal detectors), provided the device does not
1531 damage or cause the removal of character-defining architectural features and can
1532 be removed in the future without impacts to significant architectural features.
1533

4. Windows and Doors

1534 a. In-kind repair of damaged or severely deteriorated windows and window frames,
1535 shutters, storm shutters, doors and door frames, and associated hardware, where
1536 profiles, elevations, details and materials match those of the originals.
1537

1538 b. In-kind replacement of window panes. Clear plate, double, laminated or triple
1539 insulating glazing can be used, provided it does not result in altering the existing
1540 window material, tint, form, muntin profiles, or number of divided lights. This
1541 allowance does not apply to the replacement of intact decorative glass.
1542

1543 c. Replacement of exterior, utilitarian, non-character-defining metal doors and frames
1544 leading into non character-defining spaces with metal blast resistant doors and
1545 frames.
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1547 d. Installation of security bars over windows on rear elevations.
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5. Exterior Walls, Cornices, Porches, and Foundations

1550 a. In-kind repainting of surfaces, provided that destructive surface preparation
1551 treatments are not used, such as water blasting, sandblasting, power sanding and
1552 chemical cleaning.
1553

1554 b. In-kind repair of walls, porches, foundations, columns, cornices, siding,
1555 balustrades, stairs, dormers, brackets, trim, and their ancillary components or in-
1556 kind replacement of severely deteriorated or missing or lost features, as long as the
1557 replacement pieces match the original in detail and material. Any ground
1558 disturbance will be limited to previously disturbed soils.
1559

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1561 c. In-kind repair or replacement of signs or awnings.
1562

1563 d. Installation of temporary stabilization bracing or shoring, provided such work does
1564 not result in additional damage.
1565

1566 e. Anchoring of walls to floor systems, provided the anchors are embedded and
1567 concealed from exterior view.
1568

1569 f. In-kind repair of concrete and masonry walls, columns, parapets, chimneys, or
1570 cornices or limited in-kind replacement of damaged and/or deteriorated beyond

- 1571 repair components including comparable brick, and mortar that matches the color,
 1572 strength, content, rake, and joint width.
 1573
- 1574 g. Bracing and reinforcing of walls, chimneys and fireplaces, provided the bracing
 1575 and reinforcing are either concealed from exterior view or reversible in the future.
 1576
- 1577 h. Strengthening of foundations and the addition of foundation bolts, provided that
 1578 visible new work is in-kind, including mortar that matches the color, content,
 1579 strength, rake, and joint width where occurring.
 1580
- 1581 i. Repairs to and in-kind replacement of elements of curtain wall assemblies or
 1582 exterior cladding that is hung on the building structure, usually from floor to floor,
 1583 and when the color, size, reflectivity, materials, and visual patterns are unaltered.
- 1584 6. Roofing
 1585
- 1586 a. Installation of scaffolding, polyethylene sheeting, or tarps, provided such work will
 1587 not result in additional damage or irreversible alterations to character defining
 1588 features.
 1589
- 1590 b. In-kind repair, replacement, or strengthening of roofing, rafters, fascia, soffits,
 1591 gutters, verge boards, leader boxes, downspouts, or other damaged roof system
 1592 components.
 1593
- 1594 c. Repairs to flat roof cladding, including changes in roofing materials, where the
 1595 repairs are not highly visible from the ground level.
 1596
- 1597 7. Weatherproofing and Insulation
- 1598 a. Caulking and weather-stripping to complement the color of adjacent surfaces or
 1599 sealant materials.
- 1600 b. In-kind repair or replacement of insulation systems, provided that existing interior
 1601 plaster, woodwork, exterior siding, or exterior architectural detail is not altered.
 1602
- 1603 8. Structural Retrofits
 1604
- 1605 a. The installation of the following retrofits/upgrades, provided that such upgrades
 1606 are not visible on the exterior: attic bracing, cross bracing on pier and post
 1607 foundations; fasteners; collar ties; gussets; tie downs; strapping and anchoring of
 1608 mechanical, electrical, and plumbing equipment; concealed anchoring of furniture;
 1609 installation of plywood diaphragms beneath first floor joists, above top floor
 1610 ceiling rafters, and on roofs; and automatic gas shut off valves.
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- 1612 b. Replacement, repair or installation of lightning rods.

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1614 9. Americans with Disabilities Act (ADA) Compliance
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1616 a. Installation of grab bars and other such minor interior modifications.
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1618 10. Safe Rooms
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1620 a. Installation of individual safe rooms within the property limits of a residence
1621 where the installation would occur within the existing building or structure or in
1622 previously disturbed soils.
1623
1624 11. Elevation, Demolition, and Reconstruction
1625
1626 a. Activities related to the elevation, demolition and/or reconstruction of buildings or
1627 structures less than 45 years of age so long as the proposed activities substantially
1628 conform to the original footprint and/or are performed in previously disturbed soils
1629 including any staging area, and the buildings or structures are not located within or
1630 adjacent to a National Register listed or eligible historic district.
1631
1632 **C. TRANSPORTATION FACILITIES**, when proposed activities substantially conform to
1633 the original footprint and/or performed in previously disturbed soils, including the area
1634 where the activity is staged.
1635
1636 1. Roads and Roadways
1637
1638 a. Repair of roads to pre-disaster geometric design standards and conditions using in-
1639 kind materials, shoulders, medians, clearances, curbs, and side slopes. This
1640 allowance permits minor improvement to meet current code and standards or
1641 hazard mitigation measures, such as those designed to harden exposed surfaces,
1642 including the application of gravel armoring to side slopes and ditches.
1643
1644 b. In kind repair to historic paving materials for roads and walkways.
1645
1646 c. In-kind repair or replacement, or minor upgrade of culvert systems and arches
1647 beneath roads or within associated drainage systems, including provision of
1648 headwalls, riprap and any modest increase in capacity for the purposes of hazard
1649 mitigation or to meet current codes and standards, provided that the work
1650 substantially conforms to the existing footprint. For stone or brick culverts or
1651 arches beneath roadways, this allowance only applies to in-kind repair.
1652
1653 d. In-kind repair or replacement of road lighting systems, including period lighting
1654 fixture styles.
1655
1656 e. In-kind repair or replacement of road appurtenances such as curbs, berms, fences,
1657 and sidewalks.

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- f. Construction of temporary emergency access roads in previously disturbed soils to allow for passage of emergency vehicles
2. Bridges
- a. Installation of a temporary (Bailey-type) bridge over an existing structure or at a previously disturbed location, such as a former bridge location, to allow passage of emergency vehicles.
 - b. In-kind repair or replacement of bridges and bridge components (e.g. abutments, wing walls, piers, decks, and fenders) in previously disturbed soils.
- D. UTILITIES, COMMUNICATIONS SYSTEMS AND TOWERS, when proposed activities substantially conform to the original footprint and/or performed in previously disturbed soils, including the area where the activity is staged.**
1. General
- a. In-kind repair or replacement, or minor upgrading, small scale realignment, and elevation of utilities and associated features and structures within previously disturbed soils of rights-of-way or utility corridors.
 - b. Installation of new utilities and associated features within existing rights-of-way.
 - c. Directional boring of new/replacement service line and related appurtenances involving boring or silt trenches within previously disturbed soils of rights-of-way or utility corridors.
 - d. In-kind repair or replacement, or minor upgrade of water towers provided activities take place within previously disturbed soils. Ground-level facilities may be added or expanded in previously disturbed areas. This allowance does not apply to masonry water towers.
2. Generators and Utilities
- a. In-kind repair or replacement, or minor upgrades, elevation, and/or installation of generators, HVAC systems, and similar equipment provided activities occur within previously disturbed soils and any roof mounted equipment is not visible from the ground level.
3. Communication Equipment/Systems and Towers

- 1701 a. Acquisition, installation, or operation of communication and security
1702 equipment/systems that use existing distribution systems, facilities, or existing
1703 infrastructure right-of-way.
1704
- 1705 b. The collocation of communication and security equipment on existing towers and
1706 buildings/structures less than 45 year in age, provided that the work does not
1707 increase existing tower height or footprint by more than 10% and occurs within
1708 previously disturbed soils.
1709
- 1710 c. Enhancement, repair or replacement of existing communication towers and
1711 antenna structures provided the work does not increase existing tower height or
1712 footprint by more than 10% and occurs within previously disturbed soils.
1713
- 1714 d. Installation of new temporary (not to exceed 12 months) communications towers
1715 and antenna structures provided that the work occurs does not require modification
1716 of buildings/structures 45 years or older and occurs within previously disturbed
1717 soils.
1718
- 1719 e. Installation of new communication towers, less than 200 feet tall, in previously
1720 developed urban complexes when the work does not require modification of
1721 buildings/structures 45 years or older, occurs within previously disturbed soil, and
1722 is not within a half mile feet of the boundaries of a historic property.
1723

1724 **E. WATER RESOURCE MANAGEMENT AND CONTROLS**, when proposed activities
1725 substantially conform to the original footprint and/or performed in previously disturbed
1726 soils, including the area where the activity is staged.
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1728 1. Canal Systems
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- 1730 a. In-kind repairs or replacement to canal systems and associated elements.
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1732 2. Breakwaters, Seawalls, Revetments, and Berms
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- 1734 a. In-kind repair or replacement of breakwaters, seawalls, and revetments, provided
1735 the work occurs in previously disturbed soils.
1736

1737 3. Dams, Levees, and Floodwalls
1738

- 1739 a. In-kind repair of dams, levees, floodwalls and related features, including spillways,
1740 tide gates, and fuse plugs, provided the work occurs in previously disturbed soils.
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1742 4. Fish Hatcheries
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- 1744 a. In-kind repair or replacement of fish hatcheries and fish ladders.
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5. Waste-Water Treatment Lagoon Systems
- a. In-kind repair or replacement, or minor upgrades of waste-water treatment lagoon systems.

Appendix C: Treatment Measures

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When avoidance or minimization of adverse effects is not appropriate, the following Treatment Measures are suggested for the resolution of adverse effects:

If Undertakings may or will result in adverse effects, FEMA, the Grantee(s), subgrantee, SHPO, and participating Tribes may develop a treatment measure plan that includes one or more of the following Treatment Measures, depending on the nature of historic properties affected and the severity of adverse effects. This Appendix may be amended in accordance with Stipulation IV.A.3 of this Agreement, Amendments.

A. Recordation

1. Digital Photography Package: Prior to project implementation, the designated responsible party shall oversee the successful delivery of a digital photography package prepared by staff or contractors meeting the Professional Qualifications for Architectural History, History, Architecture, or Historic Architecture, as appropriate. The digital photography package will meet the standards cited in the NPS' *National Register of Historic Places Photographic Policy March 2010* or subsequent revisions (<http://www.nps.gov/nr/publications/bulletins/photopolicy/index.htm>).
 - a. The digital photography package shall include a comprehensive collection of photographs of both interior and exterior views showing representative spaces and details of significant architectural features and typical building materials. Exterior photographs shall include full oblique and contextual images of each elevation. Exterior views shall be keyed to a site plan while interior views shall be keyed to a floor plan of the building/structure. The photographs shall be indexed according to the date photographed, site number, site name, site address, direction, frame number, subject matter and photographer's name recorded on the reverse side in pencil.
 - b. The digital photography package shall include printed color copies of the digital photographs (on appropriate paper, per *NPS Photographic Policy*), a CD/DVD of the digital photographs, a completed state architectural inventory form, and a written site history of the historic property.
 - c. The designated responsible party shall submit the digital photography package to the SHPO and participating Tribes for review and approval. Once approved by the SHPO and participating Tribes, the designated responsible party shall submit a copy of the approved documentation to a state or local historical society, archive, and/or library for permanent retention.

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2. 35mm Black and White Photography Package: Prior to project implementation, the designated responsible party shall oversee the successful delivery of a 35 mm film black and white film photography package prepared by staff or contractors meeting the Secretary's Professional Qualifications for Architectural History, History, Architecture, or Historic Architecture, as appropriate.
 - a. The 35 mm film black and white film photography package shall include a comprehensive collection of photographs of both interior and exterior views showing representative spaces and details of significant architectural features and typical building materials. Exterior photographs shall include full oblique and contextual images of each elevation. Exterior views shall be keyed to a site plan while interior views shall be keyed to a floor plan of the building/structure. The photographs shall be indexed according to the date photographed, site number, site name, site address, direction, frame number, subject matter and photographer's name recorded on the reverse side in pencil.
 - b. The 35 mm film black and white film photography package shall include one (1) full set of 35mm film black and white photographs printed on acid free paper, the corresponding 35mm film negatives in acid free sleeves, a completed state architectural inventory form, and a written site history of the historic property.
 - c. The designated responsible party shall submit the 35 mm black and white film photography package the SHPO and/or participating Tribes for review and approval. Once approved by the SHPO and participating Tribes, the designated responsible party shall submit a copy of the approved documentation to a state or local historical society, archive, and/or library for permanent retention.
3. Large Format Photography Package: Prior to project implementation, the designated responsible party shall oversee the successful delivery of a large format photography package prepared by staff or contractors meeting the Secretary's Professional Qualifications for Architectural History, History, Architecture, or Historic Architecture, as appropriate.
 - a. The large format photography package shall include a comprehensive collection of photographs of both interior and exterior views showing representative spaces and details of significant architectural features and typical building materials. Exterior photographs shall include full oblique and contextual images of each elevation. Exterior views shall be keyed to a site plan while interior views shall be keyed to a floor plan of the building/structure. The photographs shall be indexed according to the date photographed, site number, site name, site address, direction, frame number, subject matter and photographer's name recorded on the reverse side in pencil.
 - b. The large format film photography package shall include one (1) full set of 4 x 5 or 5 x 7-inch photographs printed on acid free paper, the corresponding 4 x 5 or 5 x

1838 7-inch negatives in acid free sleeves, a completed state architectural inventory
1839 form, and a written site history of the historic property.

1840

1841 c. The designated responsible party shall submit the large format film photography
1842 package to the SHPO and/or participating Tribes for review and approval. Once
1843 approved by the SHPO and/or participating Tribes, the designated responsible
1844 party shall submit ___ copies of the approved documentation to a state or local
1845 historical society, archive, and/or library for permanent retention.

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B. Public Interpretation

1848

1849 Prior to project implementation, FEMA, the Grantee(s), and subgrantee shall work with
1850 the SHPO and/or participating Tribes to design an educational interpretive plan. The plan
1851 may include signs, displays, educational pamphlets, websites, workshops and other similar
1852 mechanisms to educate the public on historic properties within the local community, state,
1853 or region. Once an interpretive plan has been agreed to by the parties, SHPO and/or
1854 participating Tribes and the designated responsible party shall continue to consult
1855 throughout implementation of the plan until all agreed upon actions have been completed
1856 by the designated responsible party.

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D. Historical Context Statements and Narratives

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1860 Prior to project implementation, FEMA, the Grantee(s), and subgrantee shall work with
1861 the SHPO and participating Tribes to determine the topic and framework of a historic
1862 context statement or narrative the designated responsible party shall be responsible for
1863 completing. The statement or narrative may focus on an individual property, a historic
1864 district, a set of related properties, or relevant themes as identified in the statewide
1865 preservation plan. Once the topic of the historic context statement or narrative has been
1866 agreed to, the designated responsible party shall continue to coordinate with the SHPO
1867 and participating Tribes through the drafting of the document and delivery of a final
1868 product. The designated responsible party shall use staff or contractors that meet the
1869 Secretary's Professional Qualifications for the appropriate discipline.

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E. Oral History Documentation

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1873 Prior to project implementation, FEMA, the Grantee(s), and subgrantee shall work with
1874 the SHPO and/or participating Tribes to identify oral history documentation needs and
1875 agree upon a topic and list of interview candidates. Once the parameters of the oral history
1876 project have been agreed upon, the designated responsible party shall continue to
1877 coordinate with the SHPO and/or participating Tribes through the data collection, drafting
1878 of the document, and delivery of a final product. The designated responsible party shall
1879 use staff or contractors that meet the Secretary's Professional Qualifications for the
1880 appropriate discipline.

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F. Historic Property Inventory

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Prior to project implementation, FEMA, the Grantee(s), and subgrantee shall work with the SHPO and/or participating Tribes to establish the appropriate level of effort to accomplish a historic property inventory. Efforts may be directed toward the resurvey of previously designated historic properties and/or districts which have undergone change or lack sufficient documentation, or the survey of new historic properties and/or districts that lack formal designation. Once the boundaries of the survey area have been agreed upon, the designated responsible party shall continue to coordinate with the SHPO and/or participating Tribes through the data collection process. The designated responsible party shall use SHPO and/or participating Tribes' standards for the survey of historic properties and SHPO and/or participating Tribes' forms as appropriate. The designated responsible party shall prepare a draft inventory report, according to SHPO and/or participating Tribes' templates and guidelines, and work with the SHPO and/or participating Tribes until a final property inventory is approved. The designated responsible party shall use staff or contractors that meet the Secretary's Professional Qualifications for the appropriate discipline.

G. National Register and National Historic Landmark Nominations

Prior to project implementation, FEMA, the Grantee(s), and subgrantee shall work with the SHPO and/or participating Tribes to identify the individual properties that would benefit from a completed National Register or National Historic Landmark nomination form. Once the parties have agreed to a property, the designated responsible party shall continue to coordinate with the SHPO and/or participating Tribes through the drafting of the nomination form. The SHPO and/or participating Tribes shall provide adequate guidance to the designated responsible party during the preparation of the nomination form and shall formally submit the final nomination to the Keeper for inclusion in the National Register. The designated responsible party shall use staff or contractors that meet the Secretary's Professional Qualifications for the appropriate discipline.

H. Geo-References of Historic Maps and Aerial Photographs

Prior to project implementation, FEMA, the Grantee(s), and subgrantee shall work with the SHPO and/or participating Tribes to identify the historic maps and/or aerial photographs for scanning and geo-referencing. Once a list of maps and/or aerial photographs have been agreed upon, the designated responsible party shall continue to coordinate with the SHPO and/or participating Tribes through the scanning and geo-referencing process and shall submit drafts of paper maps and electronic files to the SHPO and/or participating Tribes for review. The final deliverable produced by the designated responsible party shall include a paper copy of each scanned image, a geo-referenced copy of each scanned image, and the metadata relating to both the original creation of the paper maps and the digitization process.

Appendix D: Tribal Areas of Interest within the State of South Carolina

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Tribe Name

Counties included within Area of Interest:

Project Types of Interest:

Any Excluded Project Types:

Preferred Method of Communication