

**2022 AMENDMENT to 2015 OKLAHOMA PROGRAMMATIC AGREEMENT  
AMONG  
THE FEDERAL EMERGENCY MANAGEMENT AGENCY;  
THE OKLAHOMA STATE HISTORIC PRESERVATION OFFICER;  
THE OKLAHOMA ARCHAEOLOGICAL SURVEY;  
AND  
THE OKLAHOMA DEPARTMENT OF EMERGENCY MANAGEMENT AND  
HOMELAND SECURITY**

**WHEREAS**, the Section 106 Programmatic Agreement (Agreement) among the Federal Emergency Management Agency (FEMA), the State Historic Preservation Officer (SHPO), the Oklahoma Archaeological Survey (OAS) and the Oklahoma Department of Emergency Management and Homeland Security (OEM) (Signatories) for FEMA funded undertakings in the State of Oklahoma was executed on March 10, 2015;

**WHEREAS**, the Signatories propose to extend the Agreement, due to expire on March 10, 2022, for twelve (12) months;

**NOW, THEREFORE**, in accordance with Stipulation IV.A of the Agreement, the Signatories agree to amend Stipulation IV.D.1 as follows:

*This Agreement shall remain in effect from the date of execution of this Amendment for a period not to exceed one (1) year unless otherwise extended pursuant to Stipulation IV.D.2 below, or terminated pursuant to Stipulation IV.C.2. or IV.C.3., 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.*

In addition, the Signatories hereby amend Stipulation IV.E.1 of the Agreement to read as follows:

*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, SHPO, OAS, and OEM. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a .pdf format data file, such signature will create a valid and binding obligation of the party executing with the same force and effect as if such facsimile or .pdf signature page were an original thereof.*

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THE OKLAHOMA ARCHAEOLOGICAL SURVEY;  
AND  
OKLAHOMA DEPARTMENT OF EMERGENCY MANAGEMENT AND HOMELAND  
SECURITY**

**FEDERAL EMERGENCY MANAGEMENT AGENCY**

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By: KEVIN R JAYNES

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

Kevin Jaynes  
Regional Environmental Officer  
Federal Emergency Management Agency - Region 6

Digitally signed by  
GEORGE A ROBINSON  
Date: 2022.02.23 15:12:34  
-06'00'

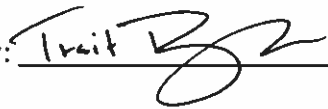
By: GEORGE A  
ROBINSON

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

George A. Robinson  
Regional Administrator  
Federal Emergency Management Agency - Region 6

**2022 AMENDMENT to 2015 OKLAHOMA PROGRAMMATIC AGREEMENT  
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AND  
OKLAHOMA DEPARTMENT OF EMERGENCY MANAGEMENT AND HOMELAND  
SECURITY**

**OKLAHOMA STATE HISTORIC PRESERVATION OFFICER**

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

Date: 2/28/22

Trait Thompson  
State Historic Preservation Officer

**2022 AMENDMENT to 2015 OKLAHOMA PROGRAMMATIC AGREEMENT  
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THE OKLAHOMA ARCHAEOLOGICAL SURVEY;  
AND  
OKLAHOMA DEPARTMENT OF EMERGENCY MANAGEMENT AND HOMELAND  
SECURITY**

**OKLAHOMA ARCHAEOLOGICAL SURVEY**

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



Dr. Kary Stackelbeck  
Oklahoma State Archaeologist

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

3/1/2022

**2022 AMENDMENT to 2015 OKLAHOMA PROGRAMMATIC AGREEMENT  
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THE OKLAHOMA ARCHAEOLOGICAL SURVEY;  
AND  
OKLAHOMA DEPARTMENT OF EMERGENCY MANAGEMENT AND HOMELAND  
SECURITY**

**OKLAHOMA DEPARTMENT OF EMERGENCY MANAGEMENT AND HOMELAND  
SECURITY**

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

Date: 3/2/2022

Mark Gower  
State Director



**FOURTH AMENDMENT TO  
EMERGENCY SITUATION PROCEDURES REGARDING  
SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT COMPLIANCE FOR  
FEDERAL EMERGENCY MANAGEMENT AGENCY UNDERTAKINGS RESPONDING TO  
COVID-19 DISASTERS AND EMERGENCIES**

WHEREAS, on May 14, 2020, the Advisory Council on Historic Preservation (ACHP) approved the “Emergency Situation Procedures Regarding Section 106 of the National Historic Preservation Act Compliance for Federal Emergency Management Agency Undertakings Responding to COVID-19 Disasters and Emergencies” (Emergency Procedures) in accordance with 36 C.F.R. 800.12(a);

WHEREAS, on August 27, 2020, December 16, 2020, and April 29, 2021, the ACHP approved amendments to the Emergency Procedures that, among other things, extended the use of its Stipulations II and III through December 31, 2020, April 30, 2021, and then August 31, 2021, respectively;

WHEREAS, the Federal Emergency Management Agency (FEMA) reports that, since May 14, 2020:

- it has utilized the Emergency Procedures for the Section 106 review of 11,584 FEMA funded emergency/disaster response undertakings, including 9,146 undertakings with no potential to affect historic properties, for a total of \$27,230,278,947 (federal share as of August 23, 2021);.
- approximately 72% of these undertakings with potential to affect historic properties have been requests for reimbursement from FEMA after completion of eligible emergency work; and
- while approximately 50 proposed and completed undertakings have required ground disturbance, FEMA has determined that, in all cases, the disturbance will occur or has occurred in previously disturbed areas; and
- only one proposed or completed undertaking submitted to FEMA has resulted in adverse effects to a historic property;

WHEREAS, without amendments to the Emergency Procedures, the ability of FEMA to use such procedures would effectively end on August 31, 2021;

WHEREAS, FEMA asserts that, given the still active emergency and disaster declarations based on the continued threat of the virus to public health and safety across the United States and the ongoing distribution, transport, storage, and administration of approved COVID-19 vaccines, its continued reliance upon these Emergency Procedures remains critical;

WHEREAS, after previous consultation with ACHP staff and notice to the National Conference of State Historic Preservation Officers and the National Association of Tribal Historic Preservation Officers, and in accordance with Stipulation IX.A. of the Emergency Procedures, FEMA requested the ACHP to

approve the continued applicability and implementation of Stipulations II and III of the Emergency Procedures through January 31, 2022, and similarly extend the deadlines on Stipulation IV of the Emergence Procedures by an additional 150 days; and

NOW THEREFORE, in accordance with Stipulations V and IX of the Emergency Procedures, the ACHP:

1. amends Stipulation IX of the Emergency Procedures to read as follows:

“IX. Duration

This Procedure will expire on September 30, 2022. However, use of Stipulations II and III after January 31, 2022 will require:

A. A written request from the FEMA FPO to the Executive Director of the ACHP, with a copy to the Executive Director of NCSHPO and the Chair of NATHPO; and

B. The written approval of the Executive Director of the ACHP.”; and

2. amends Stipulation IV of the Emergency Procedures to read as follows:

“IV. Post COVID-19 Consultations to Consider Mitigation Measures to Resolve Adverse Effects

No later than March 31, 2022, FEMA will:

A. Reasonably gather and summarize information about the undertakings documented in accordance with Stipulation II.D, including any adverse effects to historic properties that may have resulted from them, undertakings documented in accordance with Stipulation III.D.4.ii, as well as any inadvertent discoveries; and

B. Share the summary of all undertakings, including findings of effects to historic properties, with the ACHP, the NPS NHLs, NCSHPO, NATHPO, Indian tribes and NHOs;

C. Meet with the ACHP, the SHPOs/THPOs for States and tribal lands where FEMA reported that particular undertakings may have resulted in adverse effects to historic properties, and Tribes or NHOs, and other consulting parties, including the Recipient and subrecipient of FEMA funding (Post-COVID Consulting Parties) via methods chosen by FEMA, to discuss mitigation measures that FEMA should consider to resolve any adverse effects not otherwise resolved in accordance with Stipulation III.D.3.i-iv.

D. No later than September 30, 2022, determine, through further consultation with the Post-COVID Consulting Parties, what mitigation measures, if any, will be feasible to carry out to resolve identified adverse effects, and notify the Post-COVID Consulting Parties about such a determination in writing.

E. As such mitigation measures are completed, notify the appropriate Post-COVID consulting parties.”



August 30, 2021

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Reid Nelson  
Executive Director, Acting  
Advisory Council on Historic Preservation

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Date





**THIRD AMENDMENT TO  
EMERGENCY SITUATION PROCEDURES REGARDING  
SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT COMPLIANCE FOR  
FEDERAL EMERGENCY MANAGEMENT AGENCY UNDERTAKINGS RESPONDING TO  
COVID-19 DISASTERS AND EMERGENCIES**

WHEREAS, on May 14, 2020, the Advisory Council on Historic Preservation (ACHP) approved the “Emergency Situation Procedures Regarding Section 106 of the National Historic Preservation Act Compliance for Federal Emergency Management Agency Undertakings Responding to COVID-19 Disasters and Emergencies” (Emergency Procedures) in accordance with 36 C.F.R. 800.12(a);

WHEREAS, on August 27, 2020, and on December 16, 2020, the ACHP approved amendments to the Emergency Procedures that, among other things, extended the use of its Stipulations II and III through December 31, 2020, and then April 30, 2021, respectively;

WHEREAS, the Federal Emergency Management Agency (FEMA) reports that, since May 14, 2020:

- it has utilized the Emergency Procedures for the Section 106 review of 7,720 FEMA funded emergency/disaster response undertakings, including 5,883 undertakings with no potential to affect historic properties, for a total of \$19,463,661,845 (federal share as of April 20, 2021);
- approximately 84% of these undertakings with potential to affect historic properties have been requests for reimbursement from FEMA after completion of eligible emergency work; and
- while approximately 40 proposed and completed undertakings have required ground disturbance, FEMA has determined that, in all cases, the disturbance will occur or has occurred in previously disturbed areas; and
- only one proposed or completed undertaking submitted to FEMA has resulted in adverse effects to a historic property;

WHEREAS, without amendments to the Emergency Procedures, the ability of FEMA to use such procedures would effectively end on April 30, 2021;

WHEREAS, FEMA asserts that, given the still active emergency and disaster declarations based on the continued threat of the virus to public health and safety across the United States and the ongoing distribution, transport, storage, and administration of approved COVID-19 vaccines, its continued reliance upon these Emergency Procedures remains critical;

WHEREAS, after previous consultation with ACHP staff and notice to the National Conference of State Historic Preservation Officers and the National Association of Tribal Historic Preservation Officers, and in accordance with Stipulation IX.A. of the Emergency Procedures, FEMA requested the

ACHP to approve the continued applicability and implementation of Stipulations II and III of the Emergency Procedures through August 31, 2021, and similarly extend the deadlines on Stipulation IV of the Emergency Procedures; and

NOW THEREFORE, in accordance with Stipulations V and IX of the Emergency Procedures, the ACHP:

1. amends Stipulation IX of the Emergency Procedures to read as follows:

“IX. Duration

This Procedure will expire on April 29, 2022. However, use of Stipulations II and III after August 31, 2021 will require:

A. A written request from the FEMA FPO to the Executive Director of the ACHP, with a copy to the Executive Director of NCSHPO and the Chair of NATHPO; and

B. The written approval of the Executive Director of the ACHP.”; and

2. amends Stipulation IV of the Emergency Procedures to read as follows:

“IV. Post COVID-19 Consultations to Consider Mitigation Measures to Resolve Adverse Effects

No later than October 29, 2021, FEMA will:

A. Reasonably gather and summarize information about the undertakings documented in accordance with Stipulation II.D, including any adverse effects to historic properties that may have resulted from them, undertakings documented in accordance with Stipulation III.D.4.ii, as well as any inadvertent discoveries; and

B. Share the summary of all undertakings, including findings of effects to historic properties, with the ACHP, the NPS NHLs, NCSHPO, NATHPO, Indian tribes and NHOs;

C. Meet with the ACHP, the SHPOs/THPOs for States and tribal lands where FEMA reported that particular undertakings may have resulted in adverse effects to historic properties, and Tribes or NHOs, and other consulting parties, including the Recipient and subrecipient of FEMA funding (Post-COVID Consulting Parties) via methods chosen by FEMA, to discuss mitigation measures that FEMA should consider to resolve any adverse effects not otherwise resolved in accordance with Stipulation III.D.3.i-iv.

D. No later than April 29, 2022, determine, through further consultation with the Post-COVID Consulting Parties, what mitigation measures, if any, will be feasible to carry out to resolve identified adverse effects, and notify the Post-COVID Consulting Parties about such a determination in writing.

E. As such mitigation measures are completed, notify the appropriate Post-COVID consulting parties.”



Reid Nelson  
Executive Director, Acting  
Advisory Council on Historic Preservation

April 27, 2021

\_\_\_\_\_  
Date

**ADDENDUM**  
to  
**PROGRAMMATIC AGREEMENT AMONG**  
**THE FEDERAL EMERGENCY MANAGEMENT AGENCY,**  
**THE OKLAHOMA STATE HISTORIC PRESERVATION OFFICER,**  
**THE OKLAHOMA ARCHEOLOGICAL SURVEY,**  
**THE OKLAHOMA DEPARTMENT OF EMERGENCY MANAGEMENT, AND**  
**THE OKLAHOMA DEPARTMENT OF COMMERCE**  
to include  
**PARTICIPATING OKLAHOMA UNITS OF GENERAL LOCAL GOVERNMENT**

**SIGNATORY PARTIES:**

**CITY OF TULSA, OKLAHOMA**

\_\_\_\_\_  
Mayor *Alvin F. Salts* Date: APR 06 2016

APPROVED AS TO FORM:

By: *Sha S. [Signature]*  
ASST. CITY ATTORNEY

attest:  
*[Signature]*  
Deputy City Clerk

**ADDENDUM**  
**to**  
**PROGRAMMATIC AGREEMENT AMONG**  
**THE FEDERAL EMERGENCY MANAGEMENT AGENCY,**  
**THE OKLAHOMA STATE HISTORIC PRESERVATION OFFICER,**  
**THE OKLAHOMA ARCHEOLOGICAL SURVEY,**  
**THE OKLAHOMA DEPARTMENT OF EMERGENCY MANAGEMENT, AND**  
**THE OKLAHOMA DEPARTMENT OF COMMERCE**  
**to include**  
**PARTICIPATING OKLAHOMA UNITS OF GENERAL LOCAL GOVERNMENT**

**WHEREAS**, FEMA makes assistance available to States, Commonwealths, communities, Federally recognized Indian Tribes (Tribes) and other eligible entities through programs (Programs) set forth in Appendix A, pursuant to the Homeland Security Act of 2002, Pub. L. No. 107-296 (2002) (codified as amended at 6 U.S.C. § 101 *et seq.*); Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288 (1974) (codified as amended at 42 U.S.C. § 5121 *et seq.*, (Stafford Act); the National Flood Insurance Act of 1968, Pub. L. No. 90-448 (1968) (as amended); the National Flood Insurance Reform Act of 1994, Pub. L. No. 103-325 (1994) (as amended); the Post-Katrina Emergency Management Reform Act of 2006, Pub. L. No. 109-295 (2006) (as amended); implementing regulations contained in Title 44 of the Code of Federal Regulations (CFR), Executive Order 13407 (2006), and such other acts, executive orders, implementing regulations, or Congressionally authorized programs as are enacted from time to time; and

**WHEREAS**, FEMA has developed a Prototype Programmatic Agreement (FEMA Prototype Agreement) pursuant to 36 CFR § 800.14(b)(4) in consultation with the ACHP and NCSHPO to serve as a basis for negotiation of a State/Tribal specific Programmatic Agreement with the SHPO, State/Tribal Emergency Management Agency, and/or participating Tribe(s); and

**WHEREAS**, FEMA consulted with the Oklahoma State Historic Preservation Officer (SHPO), the Oklahoma Archaeological Survey (OAS), and the Oklahoma Department of Emergency Management to adopt and execute the FEMA Prototype Agreement for its Programs in Oklahoma, and the Oklahoma State specific Agreement (Agreement) was executed on March 10, 2015; and

**WHEREAS**, under the Disaster Relief Appropriations Act of 2013 (Public Law 113-2, January 29, 2013), and other Congressionally authorized programs as are enacted from time to time, the U.S. Department of Housing and Urban Development (HUD) allocates Community Development Block Grant- Disaster Recovery (CDBG-DR) funds for disaster recovery activities similar to the activities covered by the Agreement; and

**WHEREAS**, the Oklahoma Department of Commerce (ODC) and participating units of general local government have assumed HUD's environmental review responsibilities as Responsible Entities and are responsible for environmental review, decision-making and action, pursuant to Section 104(g) of the Housing and Community Development Act of 1974 and 24 CFR Part 58,

and propose to administer Community Development Block Grant – Disaster Recovery (CDBG-DR) funds pursuant to the Disaster Relief Appropriations Act of 2013 (Public Law 113-2, January 29, 2013) and other Congressionally authorized programs as are enacted from time to time;

**WHEREAS**, Stipulation I.A.6. of the Agreement allows other Federal agencies, including state and local governments acting as Responsible Entities for CDBG-DR funds, to fulfill their Section 106 responsibilities for those types of activities covered under the terms of the Agreement by accepting and complying with the terms of the Agreement and executing this Addendum; and

**WHEREAS**, ODC and participating units of general local government will ensure that staff who meet the Secretary's Professional Qualification Standards will review Second Tier projects in accordance with Appendix B of the Agreement and will provide resumes of such staff to the signatories to this Addendum; and

**NOW, THEREFORE**, ODC and participating units of general local government agree to assume the federal agency role and accept the terms and conditions of the Agreement and subsequent amendments, as appropriate under HUD's authorizing legislation and regulations, and thereby take into account the effect of its undertakings and satisfy its Section 106 responsibilities for the CDBG-DR program for activities in their jurisdictions in Oklahoma.


**DURATION AND EXTENSION.** This Addendum to the Agreement will remain in effect for currently open disaster declarations and subsequent disaster declarations in the state of Oklahoma; however, the Addendum will not exceed the expiration date of the Agreement. Signatories may collectively agree to extend this Addendum to cover additional calendar years provided that the Agreement is also extended.

**EXECUTION AND IMPLEMENTATION** of this Addendum to the Agreement evidences that ODC and participating units of general local government have taken into account the effects of their undertakings on historic properties, and that through the execution of this Addendum and implementation of the Agreement, ODC and participating units of general local government will satisfy their responsibilities under Section 106 of the National Historic Preservation Act and its implementing regulations for the referenced CDBG-DR program for activities in their jurisdictions in Oklahoma. This Addendum may be executed in counterparts, with separate signature pages. Units of general local government may decide to participate and execute the Addendum at any time during the term of the Addendum.

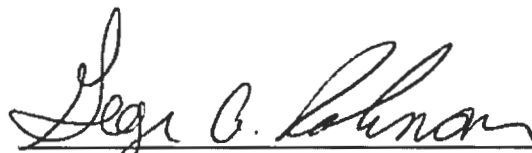
**ADDENDUM**  
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**THE OKLAHOMA ARCHEOLOGICAL SURVEY, AND**  
**THE OKLAHOMA DEPARTMENT OF EMERGENCY MANAGEMENT,**  
to include  
**THE OKLAHOMA DEPARTMENT OF COMMERCE, AND**  
**PARTICIPATING OKLAHOMA UNITS OF GENERAL LOCAL GOVERNMENT**

**SIGNATORY PARTIES:**

**FEDERAL EMERGENCY MANAGEMENT AGENCY**

  
\_\_\_\_\_  
Kevin Jaynes  
Regional Environmental Officer  
Region 6

Date: 11/30/15

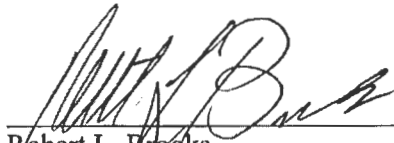
  
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George A. Robinson  
Regional Administrator  
Region 6

Date: 12/16/15

**ADDENDUM**  
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**PARTICIPATING OKLAHOMA UNITS OF GENERAL LOCAL GOVERNMENT**

**SIGNATORY PARTIES:**

**OKLAHOMA ARCHEOLOGICAL SURVEY**



Robert L. Brooks  
State Archeologist

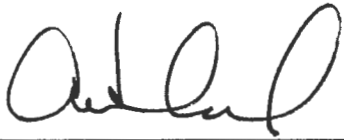
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**ADDENDUM**  
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to include  
**THE OKLAHOMA DEPARTMENT OF COMMERCE, AND**  
**PARTICIPATING OKLAHOMA UNITS OF GENERAL LOCAL GOVERNMENT**

**SIGNATORY PARTIES:**

**OKLAHOMA DEPARTMENT OF EMERGENCY MANAGEMENT**



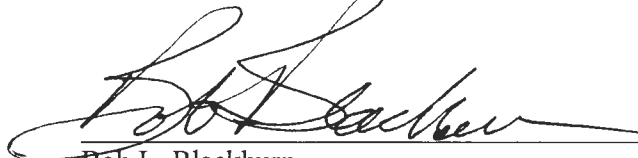
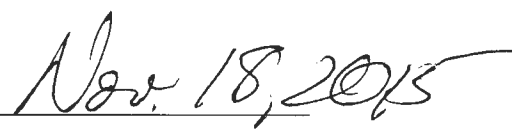
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Albert Ashwood  
State Director

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**to include**  
**THE OKLAHOMA DEPARTMENT OF COMMERCE, AND**  
**PARTICIPATING OKLAHOMA UNITS OF GENERAL LOCAL GOVERNMENT**

**SIGNATORY PARTIES:**

**OKLAHOMA STATE HISTORIC PRESERVATION OFFICER**

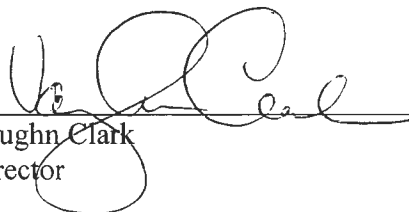
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Bob L. Blackburn  
State Historic Preservation Officer

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to include  
**THE OKLAHOMA DEPARTMENT OF COMMERCE, AND**  
**PARTICIPATING OKLAHOMA UNITS OF GENERAL LOCAL GOVERNMENT**

**SIGNATORY PARTIES:**

**OKLAHOMA DEPARTMENT OF COMMERCE**

 Date: November 18, 2015  
Vaughn Clark  
Director



**ADDENDUM**  
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**THE OKLAHOMA ARCHEOLOGICAL SURVEY,**  
**THE OKLAHOMA DEPARTMENT OF EMERGENCY MANAGEMENT, AND**  
**THE OKLAHOMA DEPARTMENT OF COMMERCE**  
**to include**  
**PARTICIPATING OKLAHOMA UNITS OF GENERAL LOCAL GOVERNMENT**

**SIGNATORY PARTIES:**

**CITY OF TULSA, OKLAHOMA**

Alvin F. Saltzoff Date: APR 06 2016  
Mayor

APPROVED AS TO FORM:

[Signature]  
ASST. CITY ATTORNEY

ATTEST:  
[Signature]  
Deputy City Clerk

**ADDENDUM**  
**to**  
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**THE OKLAHOMA STATE HISTORIC PRESERVATION OFFICER,**  
**THE OKLAHOMA ARCHEOLOGICAL SURVEY,**  
**AND**  
**THE OKLAHOMA DEPARTMENT OF EMERGENCY MANAGEMENT**  
**to include**  
**THE FEDERAL HIGHWAY ADMINISTRATION OKLAHOMA DIVISION**  
**AND**  
**THE OKLAHOMA DEPARTMENT OF TRANSPORTATION**

**WHEREAS**, FEMA makes assistance available to States, Commonwealths, communities, Federally recognized Indian Tribes (Tribes) and other eligible entities through programs (Programs) set forth in Appendix A, pursuant to the Homeland Security Act of 2002, Pub. L. No. 107-296 (2002) (codified as amended at 6 U.S.C. § 101 *et seq.*); Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288 (1974) (codified as amended at 42 U.S.C. § 5121 *et seq.*, (Stafford Act); the National Flood Insurance Act of 1968, Pub. L. No. 90-448 (1968) (as amended); the National Flood Insurance Reform Act of 1994, Pub. L. No. 103-325 (1994) (as amended); the Post-Katrina Emergency Management Reform Act of 2006, Pub. L. No. 109-295 (2006) (as amended); implementing regulations contained in Title 44 of the Code of Federal Regulations (CFR), Executive Order 13407 (2006), and such other acts, executive orders, implementing regulations, or Congressionally authorized programs as are enacted from time to time; and

**WHEREAS**, FEMA has developed a Prototype Programmatic Agreement (FEMA Prototype Agreement) pursuant to 36 CFR § 800.14(b)(4) in consultation with the Advisory Council on Historic Preservation (ACHP) and National Conference of State Historic Preservation Officers (NCSHPO) to serve as a basis for negotiation of a State/Tribal specific Programmatic Agreement with the State Historic Preservation Officer (SHPO), State/Tribal Emergency Management Agency, and/or participating Tribe(s); and

**WHEREAS**, FEMA consulted with the Oklahoma State Historic Preservation Officer (SHPO), the Oklahoma Archaeological Survey (OAS), and the Oklahoma Department of Emergency Management to adopt and execute the FEMA Prototype Agreement) for its Programs in Oklahoma, and the Oklahoma State specific Agreement (Agreement) was executed on March 10, 2015; and

**WHEREAS**, under the Emergency Relief Program funded from the Highway Trust Fund the Federal Highway Administration (FHWA) provides federal funds for the repair and reconstruction of roadways and roadway resources damaged by disasters similar to activities covered by the Agreement; and

**WHEREAS**, FHWA may provide funds for other emergency situations as identified in 36 CFR § 800.12 that may also necessitate the repair and reconstruction of roadways and roadway resources damaged by disasters or emergencies; and

**WHEREAS**, by letter of October 8, 2014, the Oklahoma Department of Transportation (ODOT) has been authorized to handle routine aspects of the Section 106 process, including initiation of the process (36 CFR 800.3), identification of historic properties (36 CFR 800.4), determination of adverse effect (36 CFR 800.5), coordination with the National Environmental Policy Act (36 CFR 800.8), establishment of document standards (36 CFR 800.11), emergency situations (36 CFR 800.12), post-review discoveries (36 CFR 800.13), and consult with SHPO on FHWA's behalf; and

**WHEREAS**, FHWA and ODOT, in consultation with SHPO and OAS, have conducted inventories of certain roadway resources that might be the subject of an Emergency Relief Program undertaking to determine historic significance and eligibility for inclusion in the National Register of Historic Places; and;

**WHEREAS**, Stipulation I.A.6. of the Agreement allows other federal agencies, including state or local agencies acting on behalf of the responsible federal agencies, to fulfill their Section 106 responsibilities for those types of activities covered under the terms of the Agreement by accepting and complying with the terms of the Agreement and executing this Addendum; and

**WHEREAS**, FHWA and ODOT will ensure that staff who meet the Secretary's Professional Qualification Standards, pursuant to 36 CFR Part 61, will review Second Tier projects in accordance with Appendix B of the Agreement and, upon request, will provide resumes of such staff to the signatories to this Addendum;

**NOW, THEREFORE**, ODOT agrees to assume the federal agency role and accept the terms and conditions of the Agreement and subsequent amendments, as appropriate under FHWA's authorizing legislation and regulations, and thereby take into account the effect of its undertakings and satisfy its Section 106 responsibilities for FHWA Emergency Relief activities in Oklahoma.

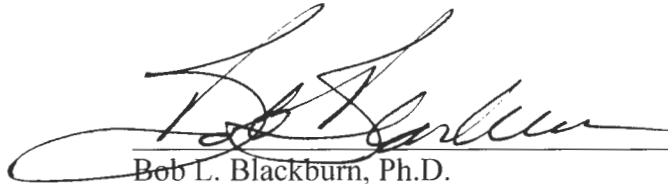
**DURATION AND EXTENSION**, this Addendum to the Agreement will remain in effect for subsequent disaster declarations in the state of Oklahoma; however, the Addendum will not exceed the expiration date of the Agreement. Signatories may collectively agree to extend this Addendum to cover additional calendar years provided that the Agreement is also extended.

**EXECUTION AND IMPLEMENTATION** of this Addendum to the Agreement evidences that FHWA and ODOT have taken into account the effects of their undertakings on historic properties, and that through the execution of this Addendum and implementation of the Agreement, FHWA and ODOT will satisfy their responsibilities under Section 106 of the National Historic Preservation Act and its implementing regulations for the referenced FHWA Emergency Relief Program for activities in Oklahoma. This Addendum may be executed in counterparts, with separate signature pages.

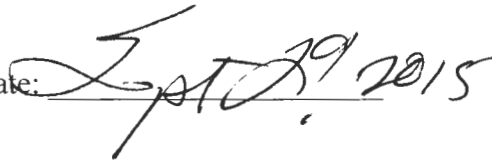
**ADDENDUM**  
**to**  
**PROGRAMMATIC AGREEMENT AMONG**  
**THE FEDERAL EMERGENCY MANAGEMENT AGENCY,**  
**THE OKLAHOMA STATE HISTORIC PRESERVATION OFFICER,**  
**THE OKLAHOMA ARCHEOLOGICAL SURVEY,**  
**AND**  
**THE OKLAHOMA DEPARTMENT OF EMERGENCY MANAGEMENT**  
**to include**  
**THE FEDERAL HIGHWAY ADMINISTRATION OKLAHOMA DIVISION**  
**AND**  
**THE OKLAHOMA DEPARTMENT OF TRANSPORTATION**

**SIGNATORY PARTIES:**

**OKLAHOMA STATE HISTORIC PRESERVATION OFFICER**




Bob L. Blackburn, Ph.D.  
State Historic Preservation Officer

Date: 


**ADDENDUM**  
to  
**PROGRAMMATIC AGREEMENT AMONG**  
**THE FEDERAL EMERGENCY MANAGEMENT AGENCY,**  
**THE OKLAHOMA STATE HISTORIC PRESERVATION OFFICER,**  
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to include  
**THE FEDERAL HIGHWAY ADMINISTRATION OKLAHOMA DIVISION**  
**AND**  
**THE OKLAHOMA DEPARTMENT OF TRANSPORTATION**

**SIGNATORY PARTIES:**

**FEDERAL EMERGENCY MANAGEMENT AGENCY**

  
\_\_\_\_\_  
Kevin Jaynes  
Regional Environmental Officer  
Region 6

Date: 9/16/15

  
\_\_\_\_\_  
George A. Robinson  
Regional Administrator  
Region 6

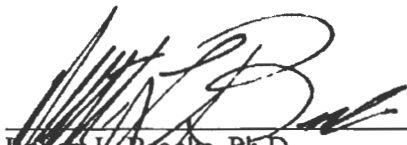
Date: 10/2/15



**ADDENDUM**  
to  
**PROGRAMMATIC AGREEMENT AMONG**  
**THE FEDERAL EMERGENCY MANAGEMENT AGENCY,**  
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to include  
**THE FEDERAL HIGHWAY ADMINISTRATION OKLAHOMA DIVISION**  
**AND**  
**THE OKLAHOMA DEPARTMENT OF TRANSPORTATION**

**SIGNATORY PARTIES:**

**OKLAHOMA ARCHEOLOGICAL SURVEY**

  
\_\_\_\_\_  
Robert L. Brooks, Ph.D.  
State Archeologist

Date: 9/30/15

**ADDENDUM**  
to  
**PROGRAMMATIC AGREEMENT AMONG**  
**THE FEDERAL EMERGENCY MANAGEMENT AGENCY,**  
**THE OKLAHOMA STATE HISTORIC PRESERVATION OFFICER,**  
**THE OKLAHOMA ARCHEOLOGICAL SURVEY,**  
**AND**  
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to include  
**THE FEDERAL HIGHWAY ADMINISTRATION OKLAHOMA DIVISION**  
**AND**  
**THE OKLAHOMA DEPARTMENT OF TRANSPORTATION**

**SIGNATORY PARTIES:**

**OKLAHOMA DEPARTMENT OF EMERGENCY MANAGEMENT**



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

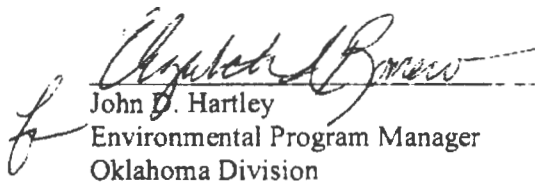
9/15/15

Albert Ashwood  
State Director

**ADDENDUM**  
**to**  
**PROGRAMMATIC AGREEMENT AMONG**  
**THE FEDERAL EMERGENCY MANAGEMENT AGENCY,**  
**THE OKLAHOMA STATE HISTORIC PRESERVATION OFFICER,**  
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**to include**  
**THE FEDERAL HIGHWAY ADMINISTRATION OKLAHOMA DIVISION**  
**AND**  
**THE OKLAHOMA DEPARTMENT OF TRANSPORTATION**

**SIGNATORY PARTIES:**

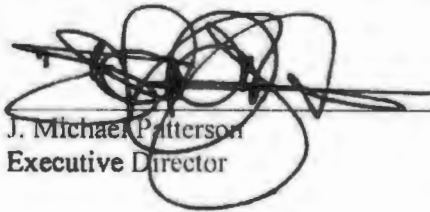
**FEDERAL HIGHWAY ADMINISTRATION**

 \_\_\_\_\_ Date: 9-29-2015  
John D. Hartley  
Environmental Program Manager  
Oklahoma Division

**ADDENDUM**  
to  
**PROGRAMMATIC AGREEMENT AMONG**  
**THE FEDERAL EMERGENCY MANAGEMENT AGENCY,**  
**THE OKLAHOMA STATE HISTORIC PRESERVATION OFFICER,**  
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to include  
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**AND**  
**THE OKLAHOMA DEPARTMENT OF TRANSPORTATION**

**SIGNATORY PARTIES:**

**OKLAHOMA DEPARTMENT OF TRANSPORTATION**

  
J. Michael Patterson  
Executive Director

Date: 10/1/15

Hon. Aimee K. Jorjani  
Chairman

Rick Gonzalez, AIA  
Vice Chairman

John M. Fowler  
Executive Director



**FIRST AMENDMENT TO  
EMERGENCY SITUATION PROCEDURES REGARDING  
SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT COMPLIANCE FOR  
FEDERAL EMERGENCY MANAGEMENT AGENCY UNDERTAKINGS RESPONDING TO  
COVID-19 DISASTERS AND EMERGENCIES**

WHEREAS, on May 14, 2020, the Advisory Council on Historic Preservation (ACHP) approved the “Emergency Situation Procedures Regarding Section 106 of the National Historic Preservation Act Compliance for Federal Emergency Management Agency Undertakings Responding to COVID-19 Disasters and Emergencies” (FEMA Emergency Procedures) in accordance with 36 C.F.R. 800.12(a);

WHEREAS, FEMA reports that, since such approval:

- it has utilized the FEMA Emergency Procedures for the Section 106 review of 1,233 FEMA funded emergency/disaster response undertakings, including 1,063 undertakings with no potential to affect historic properties, for a total of \$1,893,313,103 (federal share as of August 24, 2020);
- an estimated 65% of these undertakings have been requests for reimbursement after completion of eligible scopes of work; and
- no proposed or completed undertakings to date have required ground disturbance or resulted in adverse effects to historic properties;

WHEREAS, with the COVID-19 infection rate continuing to fluctuate across States, territories, and Tribal lands, and the anticipation of a second wave of infection in the coming months, the incident periods for major disaster declarations resulting from the pandemic remain open in all 56 States and territories;

WHEREAS, FEMA reports that it continues to provide direct assistance to 86 Tribes;

WHEREAS, for the reasons stated above, and given the continued threat to public health and safety, FEMA asserts that its ability to continue to rely on the FEMA Emergency Procedures will be critical to continue the expeditious implementation of COVID-19 emergency/disaster response undertakings and delivery of FEMA assistance;

WHEREAS, on August 25, 2020, after previous consultation with ACHP staff and notice to the National Conference of State Historic Preservation Officers and the National Association of Tribal Historic Preservation Officers, and in accordance with Stipulation IX.A. of the FEMA Emergency Procedures, the Federal Emergency Management Agency (FEMA) requested the ACHP to approve the continued applicability and implementation of Stipulations II and III of the FEMA Emergency Procedures through at least December 31, 2020; and

WHEREAS, FEMA has identified several typographical errors in Appendices A, C, and D of the FEMA Emergency Procedures, and the need to make updates and clarifications to Appendix D and its applicability, and therefore has also requested that ACHP approve amendments to correct such errors and make the needed updates and clarifications;

NOW THEREFORE, in accordance with Stipulations V and IX of the FEMA Emergency Procedures, the ACHP approves the amendments reflected in the attached redline/strikeout copy of the FEMA Emergency Procedures.



\_\_\_\_\_  
John M. Fowler  
Executive Director  
Advisory Council on Historic Preservation

August 27, 2020

\_\_\_\_\_  
Date

**EMERGENCY SITUATION PROCEDURES REGARDING  
SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT COMPLIANCE FOR  
FEDERAL EMERGENCY MANAGEMENT AGENCY UNDERTAKINGS RESPONDING TO  
COVID-19 DISASTERS AND EMERGENCIES**

**WHEREAS**, Section 106 of the National Historic Preservation Act, 54 U.S.C. 306108 (Section 106), requires federal agencies to take into account the effects of undertakings they carry out, license, or assist on historic properties and provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment on them;

**WHEREAS**, the regulations implementing Section 106, at 36 CFR part 800, allow federal agencies to develop and use procedures for Section 106 compliance for undertakings that respond to a disaster or emergency declared by the President, a tribal government, or the Governor of a State, or which respond to other immediate threats to life or property, after consultation with the appropriate State and Tribal Historic Preservation Officers (SHPOs/THPOs), affected Indian tribes and Native Hawaiian organizations (NHOs) and the ACHP's approval, 36 CFR § 800.12(a);

**WHEREAS**, as a result of President Trump declaring a national emergency concerning the Novel Coronavirus Disease (COVID-19) on March 13, 2020, and subsequent major disaster declarations in all 50 States, the District of Columbia, Puerto Rico, U.S. Virgin Islands, Guam, Northern Mariana Islands, and Samoa, which includes an incident period beginning January 20, 2020, and continuing, the Federal Emergency Management Agency (FEMA) of the Department of Homeland Security anticipates receiving requests from States, territories, eligible local governments, and certain eligible private non-profit organizations to approve direct Federal assistance and/or funding for emergency work which must be done immediately, as defined in 44 CFR § 206.201(b), the regulations implementing the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288 (1974) (codified as amended at 42 U.S.C. § 5121 *et seq.*) (Stafford Act), including work already completed, to save lives and to protect improved property and public health and safety (emergency undertakings). Additionally, FEMA is working directly with at least 70 Indian tribes under the emergency declaration;

**WHEREAS**, the immediate threat to public health and safety resulting from this national emergency and subsequent major disaster declarations continues, and FEMA has determined that: (a) the expedited procedures for emergency undertakings outlined in Stipulation II.B.2 of the 2013 FEMA Prototype Programmatic Agreement (PPA), and currently effective State and Tribal specific PAs, including those based on the PPA, (b) the procedures at 36 CFR § 800.12(b)(2), (c) the lack of a PPA in certain State and Tribal jurisdictions, and (d) the FEMA personnel and consulting parties needed to carry out the said terms of the PPA and the regulations for emergency situations, are inadequate to provide for FEMA's compliance with Section 106 for the undertakings that may be required to respond to the immediate threat to public health and safety resulting from the COVID-19 pandemic, and FEMA has proposed additional efficiencies beyond the terms of its PPA to comply with Section 106 for COVID-19 emergency/disaster response undertakings;

**WHEREAS**, FEMA therefore requested ACHP approval of this Emergency Situation Procedure (Procedure), after consultation with the ACHP, SHPOs/THPOs, Indian tribes and NHOs;

**WHEREAS**, that consultation included FEMA providing the ACHP, SHPOs/THPOs, Indian Tribes, and NHOs a draft of this agreement on Tuesday, April 7, 2020, for their six (6) day consideration and comment, various conference calls, and FEMA and ACHP consideration of the issues raised in those comments and conference calls;

**WHEREAS**, after the completion of the consultation, it became apparent to FEMA that most of the undertakings within the scope of this Procedure may be handled as reimbursements, and therefore this Procedure needed to reflect that reality;

**WHEREAS**, notwithstanding that most of the applicable undertakings will be reimbursements, FEMA adhered to the applicable terms of effective State specific and Tribal PAs or 36 CFR § 800.12(b)(2) for proposed COVID-19 emergency/disaster response undertakings before the approval of this Procedure;

**WHEREAS**, FEMA has developed, disseminated, and will continue to update and provide to State and Tribal Grant Recipients and subrecipients as well as directly to other mission assigned Federal agencies COVID-19 specific guidance and best management practices to avoid adverse effects to historic properties when carrying out emergency/disaster response undertakings.

**WHEREAS**, the ACHP finds that it is reasonable for FEMA to assume that the intent of Recipients, subrecipients, and other mission assigned Federal Agencies in carrying out such reimbursement undertakings was, and will be, to respond in a timely fashion to the urgent need for such undertakings rather than any plausible intent to avoid the requirements of Section 106;

**WHEREAS**, FEMA anticipates that the vast majority of emergency/disaster response undertakings will have no potential to affect historic properties, such as procurement and storage of supplies, commodities, and equipment, reimbursement for administrative actions including supplies and staff, and collection and storage of medical waste, or pose no or limited potential to affect historic properties such as modification of existing facilities. However, in certain rare circumstances, where existing facilities are insufficient, new construction of temporary medical facilities, shelters, or emergency operations centers may affect historic properties. Other emergency/disaster response undertakings likely to affect historic properties may be determined eligible for FEMA assistance including the depopulation and disposal of livestock;

**WHEREAS**, since the timing and duration of this COVID-19 emergency/disaster and potential follow up outbreaks is particularly unpredictable, the Procedure's deadline for consideration of mitigation measures (and other deadlines) may later need to be adjusted through amendment;



**NOW THEREFORE**, in accordance with 36 CFR § 800.12(a), FEMA will comply with Section 106 for COVID-19 emergency/disaster response undertakings as follows.

FEMA shall ensure that the following stipulations are carried out:

**I. Scope:**

- A. This Procedure applies solely to undertakings carried out, approved, or assisted by FEMA in response to the following COVID-19 emergencies and disaster declarations:
  - 1. National emergency declared by President Trump on March 13, 2020 under 501(b) of the Stafford Act and the National Emergencies Act (50 U.S.C. 1601 et seq.); and
  - 2. All COVID-19 emergencies or disaster declarations that (a) have already been issued by the President, a tribal government, or the governor of a state, or (b) may be issued by any of them while this Procedure is in place.
- B. This Procedure will not be applicable to any scopes of work (SOWs) within FEMA funded emergency/disaster response undertakings that restore an eligible facility to its “pre-disaster condition,” and FEMA will review any such SOWs in accordance with the applicable “standard project review” terms of its currently effective State and Tribal specific PAs, including those based on the PPA, or 36 CFR § 800.3 – 800.7, or 36 CFR § 800.12(b)(2) as applicable.

**II. Consideration of Reimbursement Undertakings**

As noted above, FEMA currently expects that most of the undertakings under the scope of this Procedure will be presented to FEMA as requests for reimbursements. That is, the undertakings will already have been carried out by the time FEMA receives a request for reimbursement funding. To the extent any of such undertakings raise issues under 54 U.S.C. 306113 and 36 CFR § 800.9(c) (Section 110(k) of NHPA), and considering the emergency circumstances addressed by this Procedure:

- A. The ACHP finds that it is reasonable for FEMA to assume that the intent of Recipients, subrecipients, and other mission assigned Federal agencies in carrying out such reimbursement undertakings was, and will be, to respond in a timely fashion to the urgent need for such undertakings rather than any plausible intent to avoid the requirements of Section 106;
- B. FEMA does not have to consult with the ACHP per Section 110(k) for such undertakings;
- C. The ACHP does not object to a blanket finding by FEMA that circumstances justify

granting the assistance for such undertakings despite adverse effects, if any, that may have been created or permitted by the applicant; and

- D. FEMA will have no further Section 106 responsibilities for these reimbursement undertakings beyond producing a summary of these undertakings, including to the extent practicable, findings of effects on historic properties, making this summary available to the ACHP, the National Park Service (NPS) with regard to National Historic Landmarks (NHLs), National Conference of State Historic Preservation Officers (NCSHPO), National Association of Tribal Historic Preservation Officers (NATHPO), Indian Tribes, Office of Hawaiian Affairs, and NHOs, and subsequently consulting to resolve adverse effects identified by FEMA as outlined in accordance with Stipulation IV, below.

### III. Review Process for Each Non-Reimbursement Undertaking:

FEMA will proceed in accordance with the following steps, in order, regarding proposed undertakings within the scope of this Procedure that are not reimbursement undertakings covered by Stipulation II, above:

- A. If FEMA determines that the undertaking is an immediate rescue and salvage operation conducted in response to an event to preserve life and property, FEMA has no further Section 106 responsibilities, in accordance with 36 CFR § 800.12(d). Otherwise, proceed to B., below.
- B. If FEMA determines the undertaking is one or more of the types of activities outlined in Appendix A to this Procedure, that FEMA has determined have limited or no potential to affect historic properties, FEMA has no further Section 106 responsibilities for those undertakings. Otherwise, proceed to C., below.
- C. If FEMA determines that the undertaking meets one or more of the applicable Programmatic Allowances listed in Appendix B to this Procedure or the applicable Programmatic Allowances in any currently effective FEMA State or Tribal-specific subsequent agreement based on the 2013 PPA, or in any currently effective legacy State specific PA, ~~listed in Appendix D to this Procedure~~, FEMA shall complete the Section 106 review process based on the applicable Programmatic Allowance(s) and will have no further Section 106 responsibilities for those undertakings. Otherwise, proceed to D., below. For convenience purposes only, Appendix D of this Procedure lists the mentioned agreements that were in effect as of August 6, 2020. The FEMA Federal Preservation Officer (FPO) may be contacted for a more current list.
- D. In the case where the undertaking is not covered by Stipulations III.A., B., or C., above, FEMA will:
  - 1. To the extent practicable, when utilizing the process listed below, communicate and coordinate with State and Tribal grant Recipients of its assistance and other

mission assigned federal agencies carrying out work on behalf of FEMA to encourage them to:

- i. Avoid adverse effects to identified historic properties, and if avoidance is infeasible, minimize adverse effects;
  - ii. Limit ground disturbance to the footprint of “previously disturbed soils” that have been altered by human activity within the last 100 years, are not likely to possess intact and distinct soil horizons, and have the reduced likelihood of possessing historic properties that may include human remains, burial patrimony and/or sacred and cultural objects within their original depositional contexts in the area and to the depth to be excavated;
  - iii. When ground disturbing activities occur during construction and any potential human remains, burial patrimony, sacred and cultural objects, and/or archeological resources or human remains are discovered, immediately cease construction in that area and notify the Recipient or other federal agency as well as FEMA, who will immediately notify the SHPO/THPO. Work will not resume until FEMA determines all applicable state and Federal legal requirements are satisfied; and
  - iv. Nothing in these procedures supersedes the obligations of FEMA, Recipients, and other Federal agencies to comply with other applicable state, Tribal, and Federal laws regarding the protection and treatment of inadvertently discovered archaeological material and human remains, including the Native American Graves Protection and Repatriation Act (codified as amended at 25 U.S.C. §§ 3001-3013), and its implementing regulations (codified at 43 CFR Part 10).
2. Determine, based on available information, if the undertaking would affect a historic property and result in a finding of:
- i. No historic properties affected; or
  - ii. No adverse effect;
3. If FEMA determines that the undertaking would adversely affect a historic property, FEMA will to the extent practicable:
- i. Propose treatment measures in accordance with Appendix C of this Agreement or pursuant to Appendix C of the relevant FEMA State or Tribal PPA that would address adverse effects during implementation, and request the comments of the SHPO/THPO and participating Tribe(s)

or NHO(s) within 1 calendar day of receipt of this information unless FEMA determines the nature of the emergency warrants a shorter time period;

- ii. Provide this information through written requests, telephone conversations, meetings, or electronic media. In all cases, FEMA shall clarify that an “expedited COVID-19 review” is being requested for the undertaking;
- iii. Take into account any timely comments provided by the SHPO/THPO and/or participating Tribe(s) or NHO(s) in making a decision on how to proceed;
- iv. Should the SHPO and/or participating Tribe(s) or NHO(s) not comment within 1 day, complete Section 106 consultation for the undertaking based on the available information; and
- v. Proceed in accordance with its decision.

4. FEMA will:

- i. Utilize staff whose qualifications meet the Secretary of the Interior’s *Professional Qualifications* set forth in the Federal Register at 48 Fed. Reg. 44716-01 (September 29, 1983), as amended (Qualified), to determine if the undertaking would affect a historic property, and the extent of any effects; and
- ii. Document these effect findings, including its efforts to identify and assess historic properties, and how any comments received were considered in addressing identified adverse effects and use such information for purposes of Stipulation IV, below.

**IV. Post COVID-19 Consultations to Consider Mitigation Measures to Resolve Adverse Effects**

No later than July 1, 2021, FEMA will:

- A. Reasonably gather and summarize information about the undertakings documented in accordance with Stipulation II.D, including any adverse effects to historic properties that may have resulted from them, undertakings documented in accordance with Stipulation III.D.4.ii, as well as any inadvertent discoveries; and
- B. Share the summary of all undertakings, including findings of effects to historic properties, with the ACHP, the NPS NHLs, NCSHPO, NATHPO, Indian tribes and NHOs;

- C. Meet with the ACHP, the SHPOs/THPOs for States and tribal lands where FEMA reported that particular undertakings may have resulted in adverse effects to historic properties, and Tribes or NHOs, and other consulting parties, including the Recipient and subrecipient of FEMA funding (Post-COVID Consulting Parties) via methods chosen by FEMA, to discuss mitigation measures that FEMA should consider to resolve any adverse effects not otherwise resolved in accordance with Stipulation III.D.3.i-iv.
- D. No later than December 31, 2021, determine, through further consultation with the Post-COVID Consulting Parties, what mitigation measures, if any, will be feasible to carry out to resolve identified adverse effects, and notify the Post-COVID Consulting Parties about such a determination in writing.
- E. As such mitigation measures are completed, notify the appropriate Post-COVID consulting parties.

**V. Amendment:**

- A. This Procedure may be amended in writing by the ACHP Executive Director, after consultation with the FEMA ~~Federal Preservation Officer (FPO)~~. The amendment will be effective on the date the ACHP notifies the FEMA FPO about the amendment.
- B. The ACHP will also notify NCSHPO and NATHPO about the amendment as soon as reasonably possible.

**VI. Severability**

In the event any provision of this Procedure 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 Procedure shall remain in effect.

**VII. Termination:**

- A. The ACHP Executive Director may terminate this Procedure, after consultation with the FEMA FPO. The termination will be effective on the date the ACHP notifies the FEMA Federal FPO about the termination in writing. Upon termination, FEMA will review the undertakings under the scope of this Procedure in accordance with its applicable Programmatic Agreements, 36 CFR 800.3 through 800.7, or the process provided by 36 CFR § 800.12(b)(2) as applicable.
- B. The ACHP will also notify NCSHPO and NATHPO about the termination as soon as reasonably possible.

**VIII. Concerns raised by Consulting Parties and the Public:**

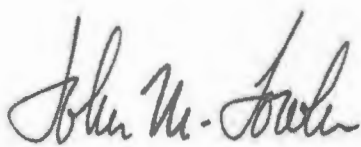
Due to the nature of the undertakings under the scope of this Procedure where time is of the essence, it does not have a Dispute Resolution stipulation. However, any SHPO/THPO, Indian tribe, NHO, or member of the public may communicate its concerns about how this Procedure is being implemented to the ACHP and FEMA. The ACHP and FEMA will make a reasonable effort, within the relevant time constraints, to consider such concerns. After FEMA and the ACHP have discussed a concern, FEMA will make a final decision on how to respond to it and will notify that ACHP and the entity that raised the concern about said decision.

**IX. Duration:**

This Procedure will expire on December 31, 2021. However, use of Stipulations II and III after ~~August~~ December 31, 2020 will require:

- A. A written request from the FEMA FPO to the Executive Director of the ACHP, with a copy to the Executive Director of NCSHPO and the Chair of NATHPO; and
- B. The written approval of the Executive Director of the ACHP.

Execution of this Procedure by the ACHP Executive Director and implementation of its terms evidence that FEMA has taken into account the effects of the undertakings under its scope on historic properties and afforded the ACHP an opportunity to comment.



\_\_\_\_\_  
John M. Fowler  
Executive Director  
Advisory Council on Historic Preservation

5/14/2020

\_\_\_\_\_  
Date

## Appendix A

### List of Activities with limited or no potential to affect historic properties per Stipulation III.B.

1. Pursuant to 44 CFR § 206.110(m), assistance to individuals and households provided under 44 CFR Part 206, Subpart D and Section 408 of the Stafford Act, including funding for owner occupied home repair and replacement, content replacement, personal property, transportation and healthcare expenses, is exempt from the provisions of Section 106.

However, for ground disturbing activities, and construction related to 44 CFR 206.117(b)(1)(ii) (temporary housing), 206.117(b)(3) (replacement housing), 206.117(b)(4) (permanent housing construction), 206.117(c)(1)(vi) (repair or replacement of privately owned access routes), and repair of multi-family housing units, FEMA shall proceed in accordance with Stipulation III.C. and D. of the Agreement.

2. Administrative actions such as personnel actions, travel, procurement of services, supplies (including vehicles and equipment) for the support of day-to-day and emergency operational activities, and the temporary storage of goods provided storage occurs within existing facilities or on previously disturbed soils.
3. Granting of variances, and actions to enforce Federal, State, or local codes, standards or regulations.
4. Monitoring, data gathering, and reporting in support of emergency and disaster planning, response and recovery, and hazard activities.
5. Research and development of hazard warning systems, hazard mitigation plans, codes and standards, and education/public awareness programs.
6. Assistance provided for planning, studies, design and engineering costs that involve no commitment of resources other than staffing and associated funding.
7. 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.
8. 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.
9. Funding the administrative action of acquisition or lease of existing facilities where planned uses conform to past use or local land use requirements.

10. Funding the administrative action of acquiring properties in acquisition projects, including the real estate transaction.
11. 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.
12. Application of pesticides to reduce adverse public health effects, including aerial and truck-mounted spraying.
13. Unemployment assistance.
14. Distribution of food coupons.
15. Legal services.
16. Crisis counseling.



## Appendix B

### Programmatic Allowances per Stipulation III.C.

This list of Programmatic Allowances enumerates FEMA funded activities that based on FEMA experience have no or minimal effect on historic properties if implemented as specified in this Appendix and will not require review by the SHPO/THPO and participating Tribe(s) or Native Hawaiian organization(s).

The Programmatic Allowances consist of two tiers – First Tier and Second Tier. Staff may apply First Tier allowances whether or not they meet professional historic preservation qualification standards, while only staff meeting the applicable SOI Professional Qualifications Standards in accordance with Stipulation III.D.4.i may apply Second Tier allowances.

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

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

#### I. First Tier Allowances

- A. **GROUND DISTURBING ACTIVITIES AND SITE MODIFICATION**, 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. Debris and Snow Removal

- a. Debris removal and collection, including removal of snow, uprooted trees, limbs and branches from public rights of way and public areas and areas as well as the transport and disposal of such waste to existing licensed waste facilities or landfills. This includes the temporary establishment and expansion of non-hazardous debris staging, reduction, and disposal areas at licensed transfer stations, or existing hard-topped or graveled surfaces (e.g. parking lots, roads, athletic courts) but not the creation of new or temporary access roads.
- b. Removal of debris from private property provided that buildings are not affected, ground disturbance is minimal and in-ground elements, such as driveways, walkways or swimming pools are left in place.
- c. Chipping and disposal of woody debris by broadcasting within existing rights-of-way.
- 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.
- 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. Construction of temporary emergency access roads in previously disturbed soils to allow for passage of emergency vehicles.
  - c. Repairs to road slips and landslides that do not require grading of undisturbed soils on the up-hill side of the slip.
  - d. Re-establishment, armoring and/or upgrading of existing roadway ditches.
  - e. In-kind repair or replacement of traffic control devices such as traffic signs and signals, delineators, pavement markings, traffic surveillance systems.

- f. Installation and removal of temporary traffic control devices, including pre-formed concrete barriers and fencings.
- g. 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.

### **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.

## **B. BUILDINGS AND STRUCTURES**

1. Interior Work: Floors, Walls, Stairs, Ceilings and Trim
  - a. In-kind repair and replacement of floors, walls, stairs, ceilings, and/or trim. 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.
- e. Installation of building access security devices, such as card readers, enhanced locks, and security scanners (e.g., metal detectors), provided the device does not damage or cause the removal of character-defining architectural features and can be removed in the future without impacts to significant architectural features.

### 4. Windows and Doors

- a. In-kind repair of damaged or severely deteriorated windows and window frames, shutters, storm shutters, doors and door frames, and associated hardware, where profiles, elevations, details and materials match those of the originals.
- b. In-kind replacement of window panes. Clear plate, double, laminated or triple insulating glazing can be used, provided it does not result in altering the existing window material, tint, form, muntin profiles, or number of divided lights. This allowance does not apply to the replacement of intact decorative glass.

- c. Replacement of exterior, utilitarian, non-character-defining metal doors and frames leading into non character-defining spaces with metal blast resistant doors and frames.
  - d. Installation of security bars over windows on rear elevations.
5. Exterior Walls, Cornices, Porches, and Foundations
- a. In-kind repainting of surfaces, provided that destructive surface preparation treatments are not used, such as water blasting, sandblasting, power sanding and chemical cleaning.
  - b. In-kind repair of walls, porches, foundations, columns, cornices, siding, balustrades, stairs, dormers, brackets, trim, and their ancillary components or in-kind replacement of severely deteriorated or missing or lost features, as long as the replacement pieces match the original in detail and material. Any ground disturbance will be limited to previously disturbed soils.
  - c. In-kind repair or replacement of signs or awnings.
  - d. Installation of temporary stabilization bracing or shoring, provided such work does not result in additional damage.
  - e. Anchoring of walls to floor systems, provided the anchors are embedded and concealed from exterior view.
  - f. In-kind repair of concrete and masonry walls, columns, parapets, chimneys, or cornices or limited in-kind replacement of damaged components including comparable brick, and mortar that matches the color, strength, content, rake, and joint width.
  - g. Bracing and reinforcing of walls, chimneys and fireplaces, provided the bracing and reinforcing are either concealed from exterior view or reversible in the future.
  - h. Strengthening of foundations and the addition of foundation bolts, provided that visible new work is in-kind, including mortar that matches the color, content, strength, rake, and joint width where occurring.
  - i. Repairs to and in-kind replacement of elements of curtain wall assemblies or exterior cladding that is hung on the building structure, usually from floor to floor, and when the color, size reflectivity, materials, and visual patterns are unaltered.

## 6. Roofing

- a. Installation of scaffolding, polyethylene sheeting, or tarps, provided such work will not result in additional damage or irreversible alterations to character defining features.
- b. In-kind repair, replacement, or strengthening of roofing, rafters, fascia, soffits, gutters, verge boards, leader boxes, downspouts, or other damaged roof system components.
- c. Repairs to flat roof cladding, including changes in roofing materials, where the repairs are not highly visible from the ground level.

## 7. Weatherproofing and Insulation

- a. Caulking and weather-stripping to complement the color of adjacent surfaces or sealant materials.
- b. In-kind repair or replacement of insulation systems, provided that existing interior plaster, woodwork, exterior siding, or exterior architectural detail is not altered.

## 8. Structural Retrofits

- a. The installation of the following retrofits/upgrades, provided that such upgrades are not visible on the exterior: attic bracing, cross bracing on pier and post foundations; fasteners; collar ties; gussets; tie downs; strapping and anchoring of mechanical, electrical, and plumbing equipment; concealed anchoring of furniture; installation of plywood diaphragms beneath first floor joists, above top floor ceiling rafters, and on roofs; and automatic gas shut off valves.
- b. Replacement, repair or installation of lightning rods.

## 9. Americans with Disabilities Act (ADA) Compliance

- a. Installation of grab bars and other such minor interior modifications.

## 10. Safe Rooms

- a. Installation of individual safe rooms within the property limits of a residence where the installation would occur within the existing building or structure or in previously disturbed soils.



## 11. Elevation, Demolition, and Reconstruction

- a. Activities related to the elevation, demolition and/or reconstruction of buildings or structures less than 45 years of age so long as the proposed activities substantially conform to the original footprint and/or are performed in previously disturbed soils including any staging area, and the buildings or structures are not located within or adjacent to a National Register listed or eligible historic district.

### **C. TRANSPORTATION FACILITIES**, 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. Roads and Roadways

- a. Repair of roads to pre-disaster geometric design standards and conditions using in-kind materials, shoulders, medians, clearances, curbs, and side slopes. This allowance permits minor improvement to meet current code and standards or hazard mitigation measures, such as those designed to harden exposed surfaces, including the application of gravel armoring to side slopes and ditches.
- b. In kind repair to historic paving materials for roads and walkways.
- c. In-kind repair or replacement, or minor upgrade of culvert systems and arches beneath roads or within associated drainage systems, including provision of headwalls, riprap and any modest increase in capacity for the purposes of hazard mitigation or to meet current codes and standards, provided that the work substantially conforms to the existing footprint. For stone or brick culverts or arches beneath roadways, this allowance only applies to in-kind repair.
- d. In-kind repair or replacement of road lighting systems, including period lighting fixture styles.
- e. In-kind repair or replacement of road appurtenances such as curbs, berms, fences, and sidewalks.

#### 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

- a. Acquisition, installation, or operation of communication and security equipment/systems that use existing distribution systems, facilities, or existing infrastructure right-of-way.
- b. The collocation of communication and security equipment on existing towers and buildings/structures less than 45 year in age, provided that the work does not increase existing tower height or footprint by more than 10% and occurs within previously disturbed soils.

- c. Enhancement, repair or replacement of existing communication towers and antenna structures provided the work does not increase existing tower height or footprint by more than 10% and occurs within previously disturbed soils.
  - d. Installation of new temporary (not to exceed 12 months) communications towers and antenna structures provided that the work occurs does not require modification of buildings/structures 45 years or older and occurs within previously disturbed soils.
  - e. Installation of new communication towers, less than 200 feet tall, in previously developed urban complexes when the work does not require modification of buildings/structures 45 years or older, occurs within previously disturbed soil, and is not within 1,000 feet of the boundaries of a historic property.
- E. WATER RESOURCE MANAGEMENT AND CONTROLS**, 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. Canal Systems
    - a. In-kind repairs or replacement to canal systems and associated elements.
  - 2. Breakwaters, Seawalls, Revetments, and Berms
    - a. In-kind repair or replacement of breakwaters, seawalls, and revetments, provided the work occurs in previously disturbed soils.
  - 3. Dams, Levees, and Floodwalls
    - a. In-kind repair of dams, levees, floodwalls and related features, including spillways, tide gates, and fuse plugs, provided the work occurs in previously disturbed soils.
  - 4. Fish Hatcheries
    - a. In-kind repair or replacement of fish hatcheries and fish ladders.
  - 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

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

If Undertakings may or will result in adverse effects, FEMA, the SHPO/THPO, participating Tribes(s) or Native Hawaiian organization(s), and NPS for NHLs, 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.

#### 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, participating Tribe(s), or Native Hawaiian organization(s) for review and approval. Once approved by the SHPO, participating Tribe(s), or Native Hawaiian organization(s), 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.

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 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 Tribe(s) or Native Hawaiian organization(s) for review and approval. Once approved by the SHPO, participating Tribe(s), or Native Hawaiian organization(s), 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 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 7-inch 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 large format film photography package to the SHPO and/or participating Tribe(s) or Native Hawaiian organization(s) for review and approval. Once approved by the SHPO, and/or participating Tribe(s) or Native Hawaiian organization(s), the designated responsible party shall submit copies of the approved documentation to a state or local historical society, archive, and/or library for permanent retention.

#### B. Public Interpretation

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

#### D. Historical Context Statements and Narratives

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

#### E. Oral History Documentation

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

#### FE. Historic Property Inventory

Prior to project implementation, FEMA, the Grantee(s), and subgrantee shall work with the SHPO and/or participating Tribe(s), or Native Hawaiian organization(s) 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 Tribe(s), or Native Hawaiian organization(s) through the data collection process. The designated responsible party shall use SHPO and/or participating Tribe(s), or Native Hawaiian organization(s) standards for the survey of historic properties and SHPO and/or participating Tribe(s) or Native Hawaiian organization(s) forms as appropriate. The designated responsible party shall prepare a draft inventory report, according to SHPO and/or participating Tribe(s) or Native Hawaiian organization(s) templates and guidelines, and work with the SHPO and/or participating Tribes, or Native Hawaiian organization(s) 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.

#### GF. 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, or Native Hawaiian organization(s) 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, or Native Hawaiian organization(s) through the drafting of the nomination form. The SHPO and/or participating Tribe(s) or Native Hawaiian organization(s) 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.

#### HG. 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 Tribe(s) or Native Hawaiian organization(s) 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 or Native Hawaiian organization(s) through the scanning and geo-referencing process and shall submit drafts of paper maps and electronic files to the SHPO, and/or participating Tribe(s) or Native Hawaiian organization(s) for review. The SHPO and/or participating Tribe(s) or Native Hawaiian organization(s) shall have final approval on the quality of the documentation provided by the designated responsible party. 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

### List of Other Programmatic Agreements with Programmatic Allowances per Stipulation III.C.

Currently Effective FEMA Statewide, Territorial, and Tribal-specific Programmatic Agreements  
Based on the 2013 PPA

State/Territory/Tribal PA based on 2013 PPA	FEMA Region	PA Type	Executed Date (mm/dd/yyyy)	PA Duration
AR- Arkansas	6	PPA	7/1/2015	10 years
AS- America Samoa	9	PPA	10/8/2014	7 years
AZ- Arizona	9	PPA	8/19/2015, amended 6/12/2020	7.5 years from amendment
CA- California	9	PPA	10/29/2019	7 years
CNMI- Commonwealth of Northern Mariana Islands	9	PPA	9/2/2015	7 years
CO- Colorado	8	PPA	9/24/2014	7 years
CT- Connecticut	1	PPA	1/3/2020	7 years
Chippewa Cree Tribe of the Rocky Boy's Reservation	8	PPA	4/7/2015	7 years
<u>Crow Creek Sioux Tribe of the Crow Creek Indian Reservation</u>	<u>8</u>	<u>PPA</u>	<u>8/10/2020</u>	<u>10 years</u>
DC- District of Columbia	3	PPA	4/24/2019	7 years
DE- Delaware	3	PPA	6/22/2016	7 years
Eastern Shoshone Tribe of the Wind River Indian Reservation	8	PPA	4/25/2019	10 years
The Flandreau Santee Sioux Reservation	8	PPA	8/2/2019	10 years
Fort Belknap Indian Community of the Fort Belknap Indian Reservation	8	PPA	1/24/2017	7 years
GA- Georgia	4	PPA	5/22/2014	7 years
HI- Hawaii	9	PPA	7/11/2016	7 years
IA- Iowa	7	PPA	12/9/2015	7 years

ID- Idaho	10	PPA	12/9/2019	7 years
IL- Illinois	5	PPA	6/8/2018	5 years
IN- Indiana	5	PPA	10/15/2019	5 years
KS- Kansas	7	PPA	8/1/2018	10 years
KY- Kentucky	4	PPA	7/21/2014	7 years
LA- Louisiana	6	PPA	12/20/2016	7 years
<u>Lower Brule Sioux Tribe of the Lower Brule Sioux Indian Reservation for the Tribe's lands in South Dakota</u>	<u>8</u>	<u>PPA</u>	<u>7/14/2020</u>	<u>10 years</u>
MA- Massachusetts	1	PPA	3/11/2019	7 years
MD- Maryland	3	PPA	6/20/2019	7 years
ME- Maine	1	PPA	12/12/2016	7 years
Middletown Rancheria of Pomo Indians of California	9	PPA	2/25/2016	5 years
MI- Michigan	5	PPA	1/14/2016	7 years
MO- Missouri	7	PPA	11/7/2018	10 years
MS- Mississippi	4	PPA	9/15/2016	5 years
MT- Montana	8	PPA	11/30/2015	7 years
ND- North Dakota	8	PPA	6/23/2014	7 years
NE- Nebraska	7	PPA	8/26/2015	7 years
NH- New Hampshire	1	PPA	4/30/2019	7 years
NJ- New Jersey	2	PPA	5/1/2015	5 years
NM- New Mexico	6	PPA	5/23/2016	7 years
NV- Nevada	9	PPA	1/15/2016	7 years
NY- New York	2	PPA	11/26/2019	5 years
<u>Oglala Sioux Tribe of the Pine Ridge Indian Reservation for the Tribe's lands in South Dakota</u>	<u>8</u>	<u>PPA</u>	<u>6/30/2020</u>	<u>10 years</u>
OK- Oklahoma	6	PPA	3/10/2015	7 years
OR- Oregon	10	PPA	2/27/2018	7 years
PA- Pennsylvania	3	PPA	3/29/2018	7 years
PR- Puerto Rico	2	PPA	5/6/2016	7 years
RI- Rhode Island	1	PPA	11/25/2019	7 years
The Rosebud Sioux Tribe of the Rosebud Sioux Indian Reservation	8	PPA	7/23/2019	10 years

The Sisseton Wahpeton Oyate of the Lake Traverse Reservation	8	PPA	7/21/2016	7 years
SC- South Carolina	4	PPA	1/9/2015	7 years
Spirit Lake Dakota Nation	8	PPA	3/29/2017	7 years
SD- South Dakota	8	PPA	8/29/2014	7 years
TN- Tennessee	4	PPA	1/23/2017	10 years
TX- Texas	6	PPA	9/11/2014	7 years
Turtle Mountain Band of Chippewa Indians of the Turtle Mountain Indian Reservation	8	PPA	7/25/2017	7 years
USVI- United States Virgin Islands	2	PPA	7/14/2016	7 years
UT- Utah	8	PPA	9/26/2016	10 years
VA- Virginia	3	PPA	6/9/2020	7 years
VT- Vermont	1	PPA	5/10/2018	7 years
WI- Wisconsin	5	PPA	7/13/2017	8 years
WV- West Virginia	3	PPA	6/22/2016	7 years

Currently Effective FEMA Disaster or Legacy State-specific Programmatic Agreements

State/Territory/Tribal Legacy PA	FEMA Region	PA Type	Executed Date (mm/dd/yyyy)	PA Duration
AK- Alaska	10	Legacy PA	11/4/2015	10 years
FL- Florida	4	Legacy PA	9/10/2014	7 years
GU- Guam	9	Legacy PA- DR Specific	8/13/2002	no end date
GU- Guam Amendment	9	PA Addendum	10/24/2014	no end date
MN- Minnesota	5	Legacy PA	10/30/2014	7 years
NC- North Carolina	4	DR Specific	5/8/2020	5 years
VA- Virginia	3	Legacy PA	8/13/2011	no end date
VA- Virginia Amendment	3	PA Addendum	4/22/2016	5 years
WA- Washington	10	Legacy PA	11/8/2012	7 years
WA- Washington 2 <sup>nd</sup> Amendment	10	PA Addendum	4/16/2019	until 10/31/2020

**PROGRAMMATIC AGREEMENT  
AMONG  
THE FEDERAL EMERGENCY MANAGEMENT AGENCY;  
THE OKLAHOMA STATE HISTORIC PRESERVATION OFFICER;  
THE OKLAHOMA ARCHAEOLOGICAL SURVEY;  
AND  
THE OKLAHOMA DEPARTMENT OF EMERGENCY MANAGEMENT**

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

**WHEREAS**, FEMA makes assistance available to States, Commonwealths, communities, Federally recognized Indian Tribes (Tribes) and other eligible entities through programs (Programs) set forth in Appendix A, pursuant to the Homeland Security Act of 2002, Pub. L. No. 107-296 (2002) (codified as amended at 6 U.S.C. § 101 *et seq.*); Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288 (1974) (codified as amended at 42 U.S.C. § 5121 *et seq.*, (Stafford Act); the National Flood Insurance Act of 1968, Pub. L. No. 90-448 (1968) (as amended); the National Flood Insurance Reform Act of 1994, Pub. L. No. 103-325 (1994) (as amended); the Post-Katrina Emergency Management Reform Act of 2006, Pub. L. No. 109-295 (2006) (as amended); implementing regulations contained in Title 44 of the Code of Federal Regulations (CFR), Executive Order 13407 (2006), and such other acts, executive orders, implementing regulations, or Congressionally authorized programs as are enacted from time to time; and

**WHEREAS**, FEMA has determined that implementing its Programs may result in Undertakings (as defined by 16 U.S.C. § 470w and 36 CFR § 800.16(y)) that may affect properties listed in or eligible for listing in the National Register of Historic Places (National Register) pursuant to 36 CFR Part 60 (historic properties), and FEMA has consulted with the Oklahoma State Historic Preservation Officer (SHPO), and the Oklahoma Archaeological Survey (OAS), pursuant to Section 106 of the National Historic Preservation Act (NHPA), Pub. L. No. 89-665 (1966) (codified as amended at 16 U.S.C. § 470f) and the regulations implementing Section 106 of the NHPA (Section 106) at 36 CFR Part 800; and

**WHEREAS**, FEMA, the Advisory Council on Historic Preservation (ACHP), and the National Conference of State Historic Preservation Officers (NCSHPO) have determined that FEMA's Section 106 requirements can be more effectively and efficiently implemented and delays to the delivery of FEMA assistance minimized if a programmatic approach is used to stipulate roles and responsibilities, exempt certain Undertakings from Section 106 review, establish protocols for consultation, facilitate identification and evaluation of historic properties, and streamline the assessment and resolution of adverse effects; and

**WHEREAS**, FEMA has developed a Prototype Programmatic Agreement (FEMA Prototype Agreement) pursuant to 36 CFR § 800.14(b)(4) in consultation with the ACHP and NCSHPO to serve as a basis for negotiation of a State specific Programmatic Agreement (Agreement) with the SHPO, OAS, and the Oklahoma Department of Emergency Management (OEM), and

**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 Oklahoma (Grantee) that may provide monies and other assistance to eligible subgrantees, and as such, the OEM, that is typically responsible for administering funds provided under these Programs, has participated in this consultation; and

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

**WHEREAS**, this Programmatic Agreement will complement agreements currently being negotiated between FEMA and Federally recognized Tribes of the State of Oklahoma, as well as those with ancestral Tribal interests in the state; and will ensure other aspects of FEMA's required Section 106 compliance with the Tribes; and

**WHEREAS**, in anticipation or in the immediate aftermath of an event, impacted communities and the State of Oklahoma, 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**, for the review of specific Undertakings under this Agreement, FEMA may invite other agencies, organizations, and individuals to participate as consulting parties; and

**NOW, THEREFORE**, FEMA, SHPO, OAS, and OEM agree that the FEMA Programs in the State of Oklahoma shall be administered in accordance with the following Stipulations to satisfy FEMA 's Section 106 and Section 110 responsibilities for all resulting Undertakings and effectively integrate historic preservation compliance considerations into the delivery of FEMA assistance. FEMA will not authorize implementation of an individual Undertaking until Section 106 review is completed pursuant to this Agreement.

## STIPULATIONS

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

### I. GENERAL

#### A. Applicability

1. The execution of this Agreement supersedes the terms of the previously executed Agreement in the State of Oklahoma.
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. FEMA shall notify the SHPO and OAS 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 5 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 OAS, determine that the previous Section 106 review was insufficient or involved interagency disagreements about eligibility, effect, and/or treatment measures, FEMA shall conduct additional Section 106 consultation in accordance with the terms of this Agreement.

6. With the written concurrence of the Signatories, other Federal agencies providing financial assistance for the type of activities covered under the terms of this Agreement as outlined in Appendix A may satisfy their Section 106 responsibilities for such activities by accepting and complying in writing with the terms of this Agreement.
  - a. Other Federal Agencies may include States and units of local government who have assumed environmental responsibilities of the U.S. Department of Housing and Urban Development and, acting as the Responsible Entity pursuant to 24 CFR Part 58, are responsible for environmental review, decision-making and action.
  - b. In such situations, the other Federal Agency shall notify the Signatories in writing of its intent to use this Agreement to achieve compliance with its Section 106 requirements, and consult with the Signatories regarding its Section 106 compliance responsibilities. Resumes of staff who meet the Secretary's Professional Qualification Standard(s) and will review Second Tier projects in accordance with Appendix B of this Agreement shall be provided to FEMA, the SHPO, and OAS.
7. FEMA has determined that the following types of activities have limited or no potential to affect historic properties and FEMA has no further Section 106 responsibilities with regards to them, pursuant to 36 CFR § 800.3(a)(1):
  - a. Pursuant to 44 CFR § 206.110(m), assistance to individuals and households provided under 44 CFR Part 206, Subpart D and Section 408 of the Stafford Act, including funding for owner occupied home repair and replacement, content replacement, personal property, transportation and healthcare expenses, is exempt from the provisions of Section 106. For ground disturbing activities, and construction related to 44 CFR §§ 206.117(b)(1)(ii) (temporary housing), 206.117(b)(3) (replacement housing), 206.117(b)(4) (permanent housing

construction), 206.117(c)(1)(vi) (repair or replacement of privately owned access routes), and repair of multi-family housing units, FEMA shall conduct Section 106 review.

- b. Administrative actions such as personnel actions, travel, procurement of services, supplies (including vehicles and equipment) for the support of day-to-day and emergency operational activities, and the temporary storage of goods provided storage occurs within existing facilities or on previously disturbed soils.
- 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.

## B. Roles and Responsibilities of the Signatories

### 1. FEMA:

- a. FEMA shall use Federal, Tribal, State, subgrantee, or contractor staff whose qualifications meet the Secretary of the Interior's (Secretary's) Professional Qualifications Standards (Professional Qualifications) set forth in the Federal Register at 48 Fed. Reg. 44716-01 (September 29, 1983), as amended (Qualified), in completing identification and evaluation of historic properties and in making determinations of effects. FEMA shall review any National Register eligibility determination and make its own findings of effect resulting from the performance of these activities prior to submitting such determinations to the SHPO and OAS.
- b. In accordance with 36 CFR § 800.2(c)(4), FEMA may authorize the Grantee(s), or a subgrantee through the Grantee(s), to initiate the Section 106 process with the SHPO, OAS, and other consulting parties, assist in identifying other consulting parties with a demonstrated interest in the Undertaking, and prepare any necessary analyses and documentation, but FEMA shall remain responsible for determinations of National Register eligibility and findings of effect recommended by the authorized party. FEMA shall follow the process set forth in Stipulation I.B.1(a), FEMA Roles and Responsibilities, and notify the SHPO and OAS in writing when a Grantee or subgrantee has been authorized to initiate consultation on FEMA's behalf.
- c. Prior to authorizing the release of funds for individual Undertakings requiring grant conditions pursuant to this Agreement, FEMA shall inform the Grantee(s) of all stipulations and conditions and ensure that they are understood so they can be adequately conveyed to the subgrantee. FEMA shall work in partnership with the Grantee(s) to provide subgrantees with guidance on in-kind repair pursuant to *The Secretary of the Interior's Standards for the Treatment of Historic Properties 1995 (Standards)*, 36 CFR Part 68, or the most updated version, and techniques to avoid or minimize adverse effects to historic properties.
- d. FEMA shall provide the other Signatories and the ACHP with an annual report for the previous calendar year by March 31 of each year that this Agreement is in effect. This annual report will summarize the actions taken to implement the terms

of this Agreement, statistics on Undertakings reviewed, and recommend any actions or revisions to be considered, including updates to the appendices.

- e. FEMA shall confer annually and as necessary with the other Signatories within 90 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 OAS, 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 OAS guidelines and the confidentiality provisions of 16 U.S.C. § 470w-3 and 36 CFR § 800.11(c).

## 2. SHPO/OAS:

- a. SHPO and OAS 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 and OAS 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 and OAS 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 and OAS may perform for specific Undertakings as agreed in writing with FEMA.
- d. As requested, SHPO and OAS 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 and OAS has occurred, FEMA shall provide a written summary via e-mail or regular mail to SHPO and OAS, including any decisions that were reached.
- e. The SHPO and OAS 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 and OAS shall confer with FEMA about the selection of any Liaisons, the scope of responsibilities delegated and related implementing procedures. SHPO and OAS shall formally document these decisions for concurrence by FEMA. Liaisons are not required to be members of the SHPO staff.

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

3. Grantee(s):

- a. The Grantee(s) shall ensure that their subgrantees understand and acknowledge conditions and potential requirements that may be placed upon Undertakings as a result of Section 106 consultation and the provisions of this Agreement.
- b. The Grantee(s) shall participate in an initial scoping meeting for a Declaration.
- c. The Grantee(s) shall ensure that their subgrantees understand that failure to comply with any project-specific conditions that have been placed on their grants could jeopardize FEMA funding.
- d. The Grantee(s) shall notify FEMA as soon as possible of any proposed change to the approved scope of work. The Grantee(s) shall direct their subgrantee not to implement the changes to the proposed scope of work until any additional review required by this Agreement is complete.
- e. The Grantee(s) shall ensure that its subgrantees are made aware that in the event of an unexpected discovery involving an Undertaking that has affected a previously unidentified historic property or human remains, or affected a known historic property in an unanticipated manner, the subgrantee will comply with Stipulation III.B, Unexpected Discoveries, Previously Unidentified Properties, or Unexpected Effects.

- f. The Grantee(s) shall ensure that in its subgrant agreements, any scope of work involving ground disturbance, and resultant contracts to execute said work, provide for the protection of and notification protocols for unexpected discoveries or unexpected effects to historic properties and human remains.

### C. Public Participation

1. FEMA recognizes that the views of the public are essential to informed decision making throughout the Section 106 consultation process. FEMA shall notify the public of proposed Undertakings in a manner that reflects the nature, complexity, significance of historic properties likely affected by the Undertaking, the likely public interest given FEMA's specific involvement, and any confidentiality concerns of private individuals and businesses.
2. FEMA may consult with the Grantee(s), subgrantee, SHPO, OAS, and other consulting parties to determine if there are individuals or organizations with a demonstrated interest in historic properties that should be included as a consulting party for the Undertaking in accordance with 36 CFR § 800.2(c)(5). If such parties are identified or identify themselves to FEMA, FEMA shall provide them with information regarding the Undertaking and its effects on historic properties, consistent with the confidentiality provisions of 36 CFR § 800.11(c).
3. In accordance with the outreach strategy developed for an Undertaking in consultation with the SHPO and OAS, for involving the public, FEMA shall identify the appropriate stages for seeking public input during the Section 106 consultation process. FEMA shall consider all views provided by the public regarding an Undertaking.
4. FEMA may also provide public notices and the opportunity for public comment or participation in an Undertaking through the public participation process of the National Environmental Policy Act (NEPA) and its implementing regulations set out at 44 CFR Part 10, and/or Executive Orders 11988 and 11990 relating to floodplains and wetlands as set out in 44 CFR Part 9, and Executive Order 12898, Environmental Justice, provided such notices specifically reference Section 106 as a basis for public involvement.
5. Should a member of the public object in writing to implementation of the Agreement's terms, FEMA will notify the other signatories in writing and take the objection into consideration. FEMA shall consult with the objecting party and, if that party so requests, the other Signatories, for not more than 30 days. In reaching its decision regarding the objection, FEMA shall take into consideration all comments from these parties. Within 15 days after closure of this consultation period, FEMA shall provide the other parties with its final decision in writing.

#### D. Timeframes and Communications

1. All time designations shall be in calendar days unless otherwise stipulated. If any Signatory does not object to FEMA's finding or determination related to an Undertaking within an agreed upon timeframe, FEMA may proceed to the next step in the consultation process as described in Stipulation II, Project Review.
2. Due to the varied nature of Undertakings, the individual response times to FEMA's requests for comment/concurrence will vary. These response times are contingent upon FEMA ensuring that its findings and determinations are made by Qualified staff and supported by documentation as required by 36 CFR § 800.11(d) and 36 CFR § 800.11(e), and consistent with FEMA guidance.
  - a. For Emergency Undertakings as outlined in Stipulation II.B, Expedited Review of Emergency Undertakings, the SHPO and OAS shall respond to any FEMA request for comments within three (3) days after receipt, unless FEMA determines the nature of the emergency action warrants a shorter time period. The three day comment period begins upon the acknowledged receipt of the FEMA request by the SHPO and OAS.
  - 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 thirty (30) days, or in accordance with temporary timelines established by FEMA 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.
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. All official project consultations, with the exception of Emergency Undertakings, will be submitted to the SHPO and OAS via regular mail.

## II. PROJECT REVIEW

#### A. Programmatic Allowances

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/OAS review or notification.
2. If the Undertaking involves a National Historic Landmark (NHL), FEMA shall notify the SHPO/OAS, and the NPS NHL Program Manager of the Intermountain Regional Office in Denver, CO 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.

B. Expedited Review for Emergency Undertakings

1. Determine Expedited Review

- a. As part of the Declaration process, FEMA shall define the time interval during which the disaster causing incident occurs (the incident period, as defined in 44 CFR § 206.32(f)). FEMA may approve direct Federal assistance and/or funding for emergency work (as defined in 44 CFR § 206.201(b)) that occurs during the incident period, including work already completed, in response to an immediate threat to human health and safety or property. Pursuant to 36 CFR § 800.12(d), FEMA may conduct expedited review of emergency Undertakings for 30 days from the beginning of the incident period.
- b. Should FEMA determine that it is necessary to extend the expedited review period for emergency Undertakings beyond the initial 30 days, FEMA shall, in 30-day increments, as needed, notify in writing the ACHP and SHPO and OAS.

2. Conduct Expedited Reviews

- a. If the emergency Undertaking is an immediate rescue and salvage operation conducted in response to an event to preserve life and property, FEMA has no Section 106 consultation responsibilities in accordance with 36 CFR § 800.12(d); or
- b. If the emergency Undertaking meets one or more of the Allowances in Appendix B of this Agreement, FEMA shall complete the Section 106 review process pursuant to Stipulation II.A.1, Programmatic Allowances.
- c. If FEMA determines that the emergency Undertaking would adversely affect a historic property during this expedited review period:
  - i. To the extent practicable, FEMA will propose treatment measures that would address adverse effects during implementation, and request the comments of the SHPO and OAS within 3 days of receipt of this information unless FEMA determines the nature of the emergency warrants a shorter time period.

- ii. FEMA may provide this information through written requests, telephone conversations, meetings, or electronic media. In all cases, FEMA shall clarify that an “expedited review” is being requested for the Undertaking.
  - iii. FEMA shall take into account any timely comments provided by SHPO and OAS in making a decision on how to proceed.
  - iv. Should the SHPO and OAS not comment within 3 days, FEMA shall complete Section 106 consultation for the Undertaking based on the available information.
  - v. FEMA shall notify the SHPO and OAS of the final decision, indicating how any comments received were considered in reaching that decision.
- C. Standard Project Review: For Undertakings not exempt from further Section 106 review, FEMA shall ensure that the following standard project review steps are implemented. In the interest of streamlining, FEMA may combine some or all of these steps during consultation in accordance with 36 CFR § 800.3(g).
- 1. Consulting Parties: FEMA shall consider all written requests of individuals and organizations to participate as consulting parties, and consult with the SHPO and OAS to identify any other parties that meet the criteria to be consulting parties and invite them to participate in the Section 106 process. FEMA may invite others to participate as consulting parties as the Section 106 consultation proceeds. FEMA shall invite any individual or organization that will assume a specific role or responsibility outlined in an MOA or Programmatic Agreement to participate as an invited signatory to the agreement.
  - 2. Area of Potential Effects:
    - a. For standing structures not adjacent to or located within the boundaries of a National Register listed or eligible district, Qualified staff may define the APE as the individual structure when the proposed Undertaking is limited to its repair or rehabilitation (as defined in 36 CFR § 68.3(b)).
    - b. For all other Undertakings, Qualified staff shall determine the APE in consultation with the SHPO and OAS. FEMA may consider information provided by other parties, such as local governments and the public, when establishing the APE.
  - 3. Identification and Evaluation: Qualified staff shall determine, in consultation with the SHPO and OAS if the APE contains historic properties, including properties of religious and cultural significance. This may include the review of documentation provided by the Grantee(s) or subgrantee in coordination with the SHPO/OAS.
    - a. Level of Effort: FEMA shall make a reasonable and good faith effort to identify historic properties in accordance with 36 CFR § 800.4(b)(1). FEMA may consult

with the SHPO and OAS to determine the level of effort and methodology necessary to identify and evaluate a variety of historic property types.

- b. National Historic Landmarks: When FEMA identifies an Undertaking with the potential to affect an NHL, FEMA shall contact the NPS NHL Program Manager of the Intermountain Regional Office in Denver, CO in addition to the SHPO, OAS, and other consulting parties. The purpose of this notification is to ensure early coordination for the Undertaking which FEMA later may determine adversely affects the NHL as outlined in Stipulation II.C.8.
  - c. Determinations of Eligibility: FEMA shall review or determine National Register eligibility based on identification and evaluation efforts, and consult with SHPO, OAS, and other consulting parties regarding these determinations. Should the SHPO, OAS, or another consulting party disagree with the determination of eligibility, FEMA shall either:
    - i. Elect to consult further with the objecting party until the objection is resolved;
    - ii. Treat the property as eligible for the National Register; or
    - iii. Obtain a determination of eligibility from the Keeper of the National Register in accordance with 36 CFR § 63.2(d)-(e) and 36 CFR § 800.4(c)(2).
4. Findings of No Historic Properties Affected: FEMA shall make a finding of “no historic properties affected” under the following circumstances:
- a. If no historic properties are present in the APE;
  - b. The Undertaking is designed to avoid effects to historic properties, or
  - c. The Undertaking does not affect the character defining features of a historic property.
  - d. FEMA shall notify the SHPO, OAS, and any other consulting parties of this finding and provide supporting documentation in accordance with 36 CFR § 800.11(d). Unless the SHPO or OAS objects to the finding within the applicable timeframe outlined in Stipulation I.E, Timeframes and Communications, the Section 106 review of the Undertaking will have concluded.
  - e. If the SHPO or OAS objects to a finding of “no historic properties affected,” FEMA shall consult with the objecting party to resolve the disagreement.
    - 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, 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, OAS, 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.
  - 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, OAS, 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 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, OAS, Grantee(s), subgrantee, the ACHP, if participating, and other consulting parties, by one of the following methods depending upon the severity of the adverse effect as well as the 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, OAS, 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, OAS, 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 implementation of the Treatment Measure(s) and will conclude the Section 106 review.
    - ii. If any of the consulting parties or the ACHP objects within the 15 day review and comment period to the resolution of adverse effects through the application of the Abbreviated Consultation Process, FEMA shall resolve the adverse effect(s) using procedures outlined below in Stipulation II.C.6(b), MOA or Stipulation II.C.6(c), Programmatic Agreement.
    - iii. Because funding and implementation details of Treatment Measures for specific Undertakings may vary by program, FEMA shall provide written notice to the consulting parties within sixty (60) days of the completion of the Treatment Measure(s). This written notice will serve as confirmation that the

Treatment Measure(s) for a specific Undertaking have been implemented. FEMA also shall include information pertaining to the completion of Treatment Measures in the annual report pursuant to Stipulation I.B.1(d), FEMA Roles and Responsibilities.

- b. Memorandum of Agreement: FEMA will provide the ACHP with an adverse effect notice in accordance with 36 CFR § 800.6(a)(1) if it has not already provided such under the Abbreviated Consultation Process of this Agreement, if a consulting party or the ACHP objects in accordance with Stipulation II.C.6(a)(ii), or if FEMA in consultation with the SHPO, OAS, and other consulting parties has determined that an MOA would be more appropriate to resolve adverse effects. In consultation with the SHPO, OAS, and other consulting parties, including the ACHP (if participating), FEMA shall develop an MOA, in accordance with 36 CFR § 800.6(c) to agree upon treatment measures to avoid, minimize, and/or mitigate adverse effects on historic properties. The MOA may also include treatment measures that serve an equal or greater public benefit in promoting the preservation of historic properties in lieu of more traditional treatment measures.
  - c. Programmatic Agreement: Should the execution of an MOA be inappropriate given the similar nature of effects on historic properties, the inability to determine effects prior to approval of an Undertaking, or where other circumstances warrant, FEMA, shall consult with the SHPO, OAS, the ACHP, if participating, and any other consulting parties to develop a Programmatic Agreement in accordance with 36 CFR § 800.14(b) and identify programmatic conditions or treatment measures to govern the resolution of potential or anticipated adverse effects from certain complex project situations for an Undertaking or for multiple but similar Undertakings by a single subgrantee.
7. Objections: Should any signatory or consulting party object within the timeframes established by this Agreement to any plans, specifications, or actions taken pursuant to resolving an adverse effect, FEMA shall consult further with the objecting party to seek resolution. If FEMA determines the objection cannot be resolved, FEMA shall address the objection in accordance with Stipulation IV.B, Dispute Resolution.

### **III. OTHER CONSIDERATIONS**

- A. Changes to an Approved Scope of Work: The Grantee(s) shall notify FEMA and shall require a subgrantee to notify it immediately when a subgrantee proposes changes to an approved scope of work for an Undertaking.
  1. If FEMA determines the change meets a Programmatic Allowance or has no effect on the property, FEMA shall approve the change.

2. If the change can be modified to meet a Programmatic Allowance, or conform to any applicable SOI Standards, FEMA shall conclude its Section 106 review responsibilities.
3. If FEMA determines that the change does not meet an Allowance, FEMA shall initiate consultation pursuant to Stipulation II.C, Standard Project Review.

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

1. Upon notification by a subgrantee of an unexpected discovery, or if it appears that a Undertaking has affected a previously unidentified property or affected a known historic property in an unanticipated manner, in accordance with Stipulation I.B.3(e), Grantee(s) Roles and Responsibilities, the Grantee(s) shall immediately notify FEMA and require the subgrantee to:
  - a. Stop construction activities in the vicinity of the discovery.
  - b. Take all reasonable measures to avoid or minimize harm to the property until FEMA has completed consultation with the SHPO, OAS, and any other consulting parties. Upon notification by the Grantee of a discovery, FEMA shall immediately notify the SHPO, OAS, and other consulting parties that may have an interest in the discovery, previously unidentified property or unexpected effects, and consult to evaluate the discovery for National Register eligibility and/or the effects of the undertaking on historic properties.
  - c. If human remains are discovered, notify the local law enforcement office and coroner/medical examiner. Should the discovery be located on private, local, or State government land, the Grantee will ensure that the Applicant complies with the Burial Desecration Law, Oklahoma Statute Title 21 Chapter 47 (Section 1168.0 - 1168.6), and the Oklahoma Antiquities Law, Oklahoma Statute Chapter 20 (Section 361). Discoveries of human remains on Federal or Tribal lands shall be subject to the Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. §3001-3013, 18 U.S.C. § 1170) and the Archaeological Resources Protection Act (ARPA) (16 U.S.C. §§ 470aa–470mm), as applicable.
  - d. Assist FEMA in completing the following actions, as required:
    - i. FEMA shall consult with the SHPO, OAS, 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.

### 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 OAS, 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 OAS, and following applicable State or Tribal guidelines.
2. When an Undertaking will adversely affect a National Register listed or eligible archaeological site, FEMA may treat the adverse effect by providing for the recovery of significant information through archaeological data recovery. FEMA shall consult with the SHPO, OAS, and other consulting parties to prepare a research design (data recovery plan), including a specific plan for curation. This plan will incorporate any relevant curation provisions contained in the Secretary of the Interior's *Standards and Guidelines for Archaeological Documentation*, ACHP's "*Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites*" published in the Federal Register (64 Federal Register 27085-27087 (May 18, 1999)), or other provisions agreed to by the consulting parties. No excavation should be initiated before FEMA acceptance and approval of the curation plan.
  - a. As stipulated in the curation plan, artifacts, as well as field and laboratory records sufficient to document the collection, shall be curated at a facility, preferably in-state, that meets the standards of, and in accordance with the provisions of 36 CFR Part 79, "Curation of Federally Owned and Administered Archaeological Collections," and applicable State or Tribal requirements.

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

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

2. FEMA shall specifically advise the Grantee(s) and shall require that the Grantee(s) advise its subgrantees in writing that they may jeopardize Federal funding if work is performed without all required local, State, and Federal licenses, permits, or approvals, including the completion of the Section 106 process. FEMA also shall document this requirement in its Record of Environmental Consideration, as applicable, as well as all project approval documents specifying the project scope and limits, and containing all conditions and caveats.
3. In circumstances where FEMA determines a subgrantee has initiated an Undertaking without willful intent to avoid the requirements of this Agreement or Section 106 of NHPA, FEMA shall proceed as follows:
  - a. Determine if the Undertaking is of a type for which FEMA has no further Section 106 responsibilities, namely:
    - i. An Undertaking listed in Stipulation I.A.8; or
    - ii. An immediate rescue and salvage operation in accordance with 36 CFR § 800.12(d); or
    - iii. A Programmatic Allowance as described under Stipulation II.A.
  - b. In any such cases listed in Stipulation III.D.3.a., above, FEMA shall document this determination in the project files, and consider the Undertaking Section 106 compliant.
  - c. If FEMA determines the Undertaking would have required Section 106 review, FEMA shall coordinate with the SHPO and OAS to determine if consultation is feasible.
    - i. If after coordination with the SHPO and OAS, FEMA determines that consultation is feasible, FEMA shall review the Undertaking in accordance with Stipulation II.C, Standard Project Review.
    - ii. If after coordination with the SHPO and OAS, FEMA determines that review is infeasible, FEMA shall document the outcome to the Section 106 review process, and the applicable FEMA program shall take the outcome into account before making a decision whether to fund the Undertaking. FEMA shall provide written notification of its funding decision to the SHPO, OAS and the ACHP.
4. FEMA shall ensure that all Undertakings considered for after the fact review in accordance with this stipulation are included in the annual report.

## IV. IMPLEMENTATION OF AGREEMENT

### A. Amendments

1. If any Signatory determines that an amendment to the terms of this Agreement must be made, the Signatories shall consult for no more than 30 days to seek amendment of the Agreement.
2. An amendment to this Agreement, exclusive of the appendices, shall be effective only when it has been signed by all the Signatories. An amendment shall be effective for Undertakings occurring on or affecting historic properties on Tribal lands only when the Tribe has signed the Agreement and its amendment.
3. Appendix A (FEMA Programs), Appendix B (Programmatic Allowances), and Appendix C (Treatment Measures) may be amended at the request of FEMA or another Signatory in the following manner:
  - a. FEMA, on its own behalf or on behalf of another Signatory, shall notify the Signatories of the intent to modify the current Appendix or Appendices and shall provide a draft of the updated Appendix or Appendices to all signatory parties.
  - b. If no other Signatory objects in writing within 30 days of receipt of FEMA's proposed modification, FEMA shall date and sign the amended Appendix and provide a copy of the amended Appendix to the other Signatories. Such an amendment shall go into effect on the date FEMA transmits the amendment to the other Signatories.

### B. Dispute Resolution

1. Should any Signatory object in writing to the terms of this Agreement, FEMA shall consult with the objecting party for not more than 14 days to resolve the objection.
2. If the objection is resolved within 14 days, FEMA shall proceed in accordance with the resolution.
3. If FEMA determines within 14 days that the objection cannot be resolved, FEMA shall forward to ACHP all documentation relevant to the objection, including FEMA's proposed resolution. Within 30 days of receipt, ACHP will:
  - a. Concur in FEMA's proposed resolution; or
  - b. Provide FEMA with recommendations, which FEMA shall take into account in reaching a final decision regarding the objection; or
  - c. Notify FEMA that the objection will be referred for comment in accordance with 36 CFR § 800.7(a)(4), and proceed to do so.

4. FEMA shall take into account any ACHP recommendations or comments, and any comments from the other Signatories, in reaching a final decision regarding the objection. FEMA shall provide in writing to the ACHP and Signatories a summary of its final decision before authorizing any disputed action to proceed. The Signatories shall continue to implement all other terms of this Agreement that are not subject to objection.
5. Should ACHP not respond within 30 days, FEMA may assume ACHP has no comment and proceed with its proposed resolution to the objection after providing the ACHP and Signatories a written summary of its final decision.

#### 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, OAS, 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. 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

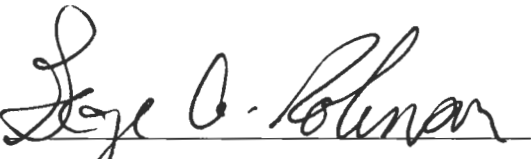
1. This Agreement may be executed in counterparts, with a separate page for each Signatory, and shall become effective on the date of the final signature of FEMA and the SHPO and OAS.
2. FEMA shall ensure that each Signatory is provided with a complete copy of the Agreement, including an original set of signatures.
3. 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.

**SIGNATORY PARTIES**

**FEDERAL EMERGENCY MANAGEMENT AGENCY**

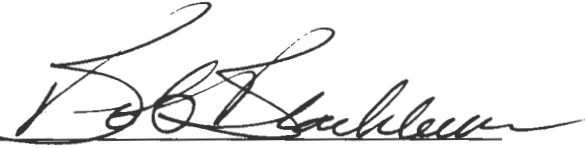
By:   
Kevin Jaynes  
Regional Environmental Officer  
Region 6

Date: 3/10/15

By:   
George A. Robinson  
Regional Administrator  
Region 6


Date: 3/10/15

**OKLAHOMA STATE HISTORIC PRESERVATION OFFICER**

By:   
Bob L. Blackburn, Ph.D.  
State Historic Preservation Officer

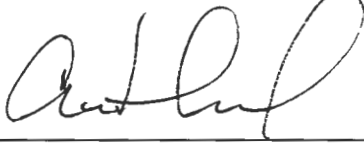
Date: 3/10/15

**OKLAHOMA ARCHAEOLOGICAL SURVEY**

By:   
Robert L. Brooks, Ph.D.  
State Archaeologist

Date: 3/10/15

**OKLAHOMA DEPARTMENT OF EMERGENCY MANAGEMENT**

By:   
Albert Ashwood  
State Director

Date: 3/10/15

**TABLE A**  
**CONTACT INFORMATION FOR SIGNATORIES**

**Federal Emergency Management Agency (FEMA)**

Kevin Jaynes	Mr. George A. Robinson
Regional Environmental Officer	Regional Administrator
800 North Loop; Federal Center	800 North Loop; Federal Center
Denton; TX 76201-3698	Denton; TX 76201-3698
Phone 940-383-7224	Phone 940-898-5104
Fax 940-383-7299	Fax 940-898-5325

**State Historic Preservation Officer (SHPO)**

Ms. Melvena Heisch  
Deputy SHPO  
State Historic Preservation Office  
Oklahoma Historical Society  
Oklahoma History Center  
800 Nazih Zuhdi Drive  
Oklahoma City, OK 73105-7917  
Phone 405-522-4484  
Fax 405-522-0816

**Oklahoma Archaeological Survey (OAS)**

Dr. Robert L. Brooks; Ph.D.  
State Archaeologist  
University of Oklahoma  
111 East Chesapeake; Building # 134  
Norman; OK 73019-5111  
Phone 405-325-7211  
Fax 405-325-7604

**Oklahoma Department of Emergency Management (OEM)**

Mr. Albert Ashwood  
State Director  
PO Box 53365  
Oklahoma City; OK 73152  
Phone 405-521-2481  
Fax 405-521-4053

## 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.

*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).

*Emergency Management Performance Grants (EMPG)*

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

*Emergency Operations Center (EOC) Grant Program*

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

*Integrated Public Alert and Warning System (IPAWS)*

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



## Appendix B

### Programmatic Allowances

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

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

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

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

#### I. First Tier Allowances

**A. GROUND DISTURBING ACTIVITIES AND SITE MODIFICATION**, 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. Debris and Snow Removal

- a. Debris removal and collection, including removal of snow, uprooted trees, limbs and branches from public rights of way and public areas and areas as well as the transport and disposal of such waste to existing licensed waste facilities or landfills. This includes the temporary establishment and expansion of non-hazardous debris staging, reduction, and disposal areas at licensed transfer stations, or existing hard-topped or graveled surfaces (e.g. parking lots, roads, athletic courts) but not the creation of new or temporary access roads.
- b. Removal of debris from private property provided that buildings are not affected, ground disturbance is minimal and in-ground elements, such as driveways, walkways or swimming pools are left in place.

- c. Chipping and disposal of woody debris by broadcasting within existing rights-of-way.
- 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.
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. Construction of temporary emergency access roads in previously disturbed soils to allow for passage of emergency vehicles.
- c. Repairs to road slips and landslides that do not require grading of undisturbed soils on the up-hill side of the slip.
- d. Re-establishment, armoring and/or upgrading of existing roadway ditches.
- e. In-kind repair or replacement of traffic control devices such as traffic signs and signals, delineators, pavement markings, traffic surveillance systems.
- f. Installation and removal of temporary traffic control devices, including pre-formed concrete barriers and fencings.
- g. 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.

## **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.

### **B. BUILDINGS AND STRUCTURES**

#### 1. Interior Work: Floors, Walls, Stairs, Ceilings and Trim

- a. In-kind repair and replacement of floors, walls, stairs, ceilings, and/or trim. 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.
- e. Installation of building access security devices, such as card readers, enhanced locks, and security scanners (e.g., metal detectors), provided the device does not damage or cause the removal of character-defining architectural features and can be removed in the future without impacts to significant architectural features.

#### 4. Windows and Doors

- a. In-kind repair of damaged or severely deteriorated windows and window frames, shutters, storm shutters, doors and door frames, and associated hardware, where profiles, elevations, details and materials match those of the originals.
- b. In-kind replacement of window panes. Clear plate, double, laminated or triple insulating glazing can be used, provided it does not result in altering the existing window material, tint, form, muntin profiles, or number of divided lights. This allowance does not apply to the replacement of intact decorative glass.
- c. Replacement of exterior, utilitarian, non-character-defining metal doors and frames leading into non character-defining spaces with metal blast resistant doors and frames.
- d. Installation of security bars over windows on rear elevations.

#### 5. Exterior Walls, Cornices, Porches, and Foundations

- a. In-kind repainting of surfaces, provided that destructive surface preparation treatments are not used, such as water blasting, sandblasting, power sanding and chemical cleaning.
- b. In-kind repair of walls, porches, foundations, columns, cornices, siding, balustrades, stairs, dormers, brackets, trim, and their ancillary components or in-kind replacement of severely deteriorated or missing or lost features, as long as the replacement pieces match the original in detail and material. Any ground disturbance will be limited to previously disturbed soils.
- c. In-kind repair or replacement of signs or awnings.
- d. Installation of temporary stabilization bracing or shoring, provided such work does not result in additional damage.
- e. Anchoring of walls to floor systems, provided the anchors are embedded and concealed from exterior view.

- f. In-kind repair of concrete and masonry walls, columns, parapets, chimneys, or cornices or limited in-kind replacement of damaged components including comparable brick, and mortar that matches the color, strength, content, rake, and joint width.
  - g. Bracing and reinforcing of walls, chimneys and fireplaces, provided the bracing and reinforcing are either concealed from exterior view or reversible in the future.
  - h. Strengthening of foundations and the addition of foundation bolts, provided that visible new work is in-kind, including mortar that matches the color, content, strength, rake, and joint width where occurring.
  - i. Repairs to and in-kind replacement of elements of curtain wall assemblies or exterior cladding that is hung on the building structure, usually from floor to floor, and when the color, size reflectivity, materials, and visual patterns are unaltered.
6. Roofing
- a. Installation of scaffolding, polyethylene sheeting, or tarps, provided such work will not result in additional damage or irreversible alterations to character defining features.
  - b. In-kind repair, replacement, or strengthening of roofing, rafters, fascia, soffits, gutters, verge boards, leader boxes, downspouts, or other damaged roof system components.
  - c. Repairs to flat roof cladding, including changes in roofing materials, where the repairs are not highly visible from the ground level.
7. Weatherproofing and Insulation
- a. Caulking and weather-stripping to complement the color of adjacent surfaces or sealant materials.
  - b. In-kind repair or replacement of insulation systems, provided that existing interior plaster, woodwork, exterior siding, or exterior architectural detail is not altered.
8. Structural Retrofits
- a. The installation of the following retrofits/upgrades, provided that such upgrades are not visible on the exterior: attic bracing, cross bracing on pier and post foundations; fasteners; collar ties; gussets; tie downs; strapping and anchoring of mechanical, electrical, and plumbing equipment; concealed anchoring of furniture; installation of plywood diaphragms beneath first floor joists, above top floor ceiling rafters, and on roofs; and automatic gas shut off valves.
  - b. Replacement, repair or installation of lightning rods.

9. Americans with Disabilities Act (ADA) Compliance

- a. Installation of grab bars and other such minor interior modifications.

10. Safe Rooms

- a. Installation of individual safe rooms within the property limits of a residence where the installation would occur within the existing building or structure or in previously disturbed soils.

*Construction of storm shelters within 100 feet of a private residence (defined as the "yard" area) is exempt from review unless: 1) the associated residence is within the boundaries of a listed or previously determined eligible Historic District, or 2) the residence was constructed before 1890. In the event archeological materials dating from prehistoric times are uncovered during construction, work will immediately cease in the area and Section IX of this Agreement, "Unexpected Discoveries," will apply.*

11. Elevation, Demolition, and Reconstruction

- a. Activities related to the elevation, demolition and/or reconstruction of buildings or structures less than 45 years of age so long as the proposed activities substantially conform to the original footprint and/or are performed in previously disturbed soils including any staging area, and the buildings or structures are not located within or adjacent to a National Register listed or eligible historic district.

**C. TRANSPORTATION FACILITIES**, 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. Roads and Roadways

- a. Repair of roads to pre-disaster geometric design standards and conditions using in-kind materials, shoulders, medians, clearances, curbs, and side slopes. This allowance permits minor improvement to meet current code and standards or hazard mitigation measures, such as those designed to harden exposed surfaces, including the application of gravel armoring to side slopes and ditches.
- b. In kind repair to historic paving materials for roads and walkways.
- c. In-kind repair or replacement, or minor upgrade of culvert systems and arches beneath roads or within associated drainage systems, including provision of headwalls, riprap and any modest increase in capacity for the purposes of hazard mitigation or to meet current codes and standards, provided that the work substantially conforms to the existing footprint. For stone or brick culverts or arches beneath roadways, this allowance only applies to in-kind repair.



- d. In-kind repair or replacement of road lighting systems, including period lighting fixture styles.
- e. In-kind repair or replacement of road appurtenances such as curbs, berms, fences, and sidewalks.

## 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

- a. Acquisition, installation, or operation of communication and security equipment/systems that use existing distribution systems, facilities, or existing infrastructure right-of-way.
- b. The collocation of communication and security equipment on existing towers and buildings/structures less than 45 year in age, provided that the work does not increase existing tower height or footprint by more than 10% and occurs within previously disturbed soils.
- c. Enhancement, repair or replacement of existing communication towers and antenna structures provided the work does not increase existing tower height or footprint by more than 10% and occurs within previously disturbed soils.
- d. Installation of new temporary (not to exceed 12 months) communications towers and antenna structures provided that the work occurs does not require modification of buildings/structures 45 years or older and occurs within previously disturbed soils.
- e. Installation of new communication towers, less than 200 feet tall, in previously developed urban complexes when the work does not require modification of buildings/structures 45 years or older, occurs within previously disturbed soil, and is not within 1,000 feet of the boundaries of a historic property.

### **E. WATER RESOURCE MANAGEMENT AND CONTROLS**, 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. Canal Systems

- a. In-kind repairs or replacement to canal systems and associated elements.

#### 2. Breakwaters, Seawalls, Revetments, and Berms

- a. In-kind repair or replacement of breakwaters, seawalls, and revetments, provided the work occurs in previously disturbed soils.

#### 3. Dams, Levees, and Floodwalls

- a. In-kind repair of dams, levees, floodwalls and related features, including spillways, tide gates, and fuse plugs, provided the work occurs in previously disturbed soils.

#### 4. Fish Hatcheries

- a. In-kind repair or replacement of fish hatcheries and fish ladders.



## 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

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 OAS, 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/ OAS for review and approval. Once approved by the SHPO/OAS, 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.

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 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/OAS for review and approval. Once approved by the SHPO/OAS, 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 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 7-inch 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 large format film photography package to the SHPO/OAS for review and approval. Once approved by the SHPO/OAS, the designated responsible party shall submit copies of the approved documentation to a state or local historical society, archive, and/or library for permanent retention.

#### B. Public Interpretation

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

#### C. Historical Context Statements and Narratives

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

#### D. Oral History Documentation

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

#### E. Historic Property Inventory

Prior to project implementation, FEMA, the Grantee(s), and subgrantee shall work with the SHPO/OAS 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/OAS through the data collection process. The designated responsible party shall use SHPO/OAS standards for the survey of historic properties and SHPO/OAS forms as appropriate. The designated responsible party shall prepare a draft inventory report, according to SHPO/OAS templates and guidelines, and work with the SHPO/OAS 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.

#### **F. National Register and National Historic Landmark Nominations**

Prior to project implementation, FEMA, the Grantee(s), and subgrantee shall work with the SHPO/OAS 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/OAS through the drafting of the nomination form. The SHPO/OAS 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.

#### **G. Geo-References of Historic Maps and Aerial Photographs**

Prior to project implementation, FEMA, the Grantee(s), and subgrantee shall work with the SHPO/OAS 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/OAS through the scanning and geo-referencing process and shall submit drafts of paper maps and electronic files to the SHPO/OAS for review. The SHPO/OAS shall have final approval on the quality of the documentation provided by the designated responsible party. 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.