

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICER,
THE NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, AND
TRIBAL NATIONS**

WHEREAS, the mission of the Federal Emergency Management Agency (FEMA) of the Department of Homeland Security is to help people before, during, and after disasters; and

WHEREAS, FEMA makes assistance available to States, Territories, Commonwealths, local governments, Federally recognized Tribes (Tribal Nations), nonprofit organizations, institutions of higher education, individuals, and other eligible entities through programs set forth in Appendix A (FEMA Program Summaries), 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) (codified as amended at 42 U.S.C. § 4001 *et seq.*); the Post-Katrina Emergency Management Reform Act of 2006, Pub. L. No. 109-295 (2006) (codified as amended at 6 U.S.C. § 741 *et seq.*); implementing regulations contained in Title 44 of the Code of Federal Regulations (CFR), Executive Order 13407, *Public Alert and Warning System*, (2006), and such other acts, executive orders, or implementing regulations as are enacted from time to time; and

WHEREAS, FEMA has determined that implementing its Programs may result in Undertakings [as defined by 54 U.S.C. § 300320 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 North Carolina State Historic Preservation Office (SHPO) pursuant to Section 106 of the National Historic Preservation Act (NHPA), Pub. L. No. 89-665 (1966) (codified as amended at 54 U.S.C. § 306108), and the regulations implementing Section 106 of the NHPA (Section 106) at 36 CFR Part 800 (Protection of Historic Properties); 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/Tribal specific Programmatic Agreement (Agreement) with the SHPO, State/Tribal Emergency Management Agency, and/or participating Tribe(s); 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 North Carolina (Recipient(s)) that may provide monies and other assistance to eligible Subrecipients, and as such, FEMA has invited the North Carolina Department of Public Safety, one Recipient responsible for administering funds provided under these Programs to execute this Agreement as an Invited Signatory); and

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

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

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

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

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

WHEREAS, notwithstanding the aforementioned invitation to enter into an agreement, FEMA has invited the Catawba Indian Nation, Cherokee Nation, Eastern Band of Cherokee Indians, Muscogee Creek Nation, Pamunkey Tribe of Virginia, Seminole Nation of Oklahoma, Seminole Tribe of Florida, Shawnee Tribe, Tuscarora Nation, and the United Keetoowah Band of Cherokee Indians Tribal Nations to enter into this Agreement as a Signatory party to fulfill the requirements of Section 106; and

WHEREAS, Catawba Indian Nation, Pamunkey Tribe of Virginia, Seminole Nation of Oklahoma, Seminole Tribe of Florida, Shawnee Tribe, Tuscarora Nation, and the United Keetoowah Band of Cherokee Indians Tribal Nations have not responded to FEMA's invitation to enter into this Agreement as a Signatory party; and

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

WHEREAS, the terms of this Agreement shall not apply to Undertakings on or affecting Tribal lands without prior execution of the Agreement by the affected Tribe(s); 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, the Recipient, SHPO, and participating Tribe(s) (Signatories) agree that FEMA Programs in the State of North Carolina or on Tribal lands 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 Disaster Specific Programmatic Agreement titled Programmatic Agreement Among the Federal Emergency Management Agency, North Carolina State Historic Preservation Officer, North Carolina Department of Public Safety, and Participating Tribe(s) for Hurricanes Matthew, Florence, and Dorian; Tropical Storm Michael; COVID-19 Pandemic; Severe Storms, Tornadoes, and Flooding (February 2020); Hurricane Isaias; Tropical Storm Eta; Remnants of Tropical Storm Fred; Tropical Storm Debby; Tropical Storm Helene; Potential Tropical Cyclone Eight; and Tropical Depression Chantal ,executed October 16, 2025.
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 To Avoid Duplicative Reviews for the Wireless Communications Facilities Construction and Modification](#), as amended on July 31, 2020. The approval of funding for the FEMA Undertaking shall be conditioned upon the compliance of the Subrecipient with the FCC's applicable Section 106 review, including any required consultation with Tribal Nations. FEMA shall notify the SHPO/THPO when it applies the ACHP Program Comment to an Undertaking. FEMA remains responsible for any FEMA Undertakings it determines are outside the jurisdiction of FCC.
3. In the event of a Stafford Act major disaster or emergency declaration (Declaration), State, Tribal, and local governments may lack the capability to perform or to contract for emergency work, and instead request that the work be accomplished by a Federal agency. FEMA may perform this work directly, or through a mission assignment (MA), may direct appropriate Federal agencies to perform the work pursuant to Titles IV and V of the Stafford Act and 44 CFR Part 206. This agreement shall apply to such Federal assistance undertaken or directed by FEMA.
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. This

provision does not prevent FEMA from recognizing another Federal agency as lead Federal agency for specific Undertakings as appropriate.

5. If another Federal program or Federal agency has concluded Section 106 consultation review and approved an Undertaking within the past five (5) years, FEMA has no further requirement for Section 106 review regarding that Undertaking provided that FEMA:
 - a. 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;
 - b. determines that the previous agency complied with Section 106 appropriately; and
 - c. adopts the findings and determinations of the previous agency.

FEMA shall document these findings in its project file in order to confirm that the requirements of Section 106 have been satisfied. Should FEMA, in consultation with SHPO and participating Tribe(s), determine that the previous Section 106 review was insufficient or involved interagency disagreements about eligibility, effect, 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 B may satisfy their Section 106 responsibilities for such activities by accepting and complying in writing with the terms of this Agreement.
 - a. States, Tribal Nations, 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. Staff who meet the Secretary of the Interior's (Secretary's) *Professional Qualification Standard(s)* will review Second Tier projects in accordance with Appendix B of this Agreement. Curriculum Vitae and/or resumes of qualified staff shall be provided to FEMA and the SHPO/THPO.
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, 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(b)(2)(ii)(F) (repair of a structure's access and egress including privately owned access roads and privately owned bridges), 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. Actions to enforce Federal, Tribal, 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 pursuant to Section 417 of the Stafford Act.
- 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 pursuant to Section 410 of the Stafford Act.
 - n. Distribution of food coupons pursuant to Section 412 of the Stafford Act.
 - o. Legal services pursuant to Section 415 of the Stafford Act.
 - p. Crisis counseling pursuant to Section 416 of the Stafford Act.
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, Subrecipient, or contractor staff whose qualifications meet the Secretary's Professional Qualifications set forth in the Federal Register at 48 Fed. Reg. 44716-01 (September 29, 1983), as amended in applying Second Tier II Programmatic Allowances listed in Appendix B, completing identification and evaluation of historic properties, and 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 participating Tribe(s).
 - i. FEMA acknowledges that Tribal Nations possess special expertise in assessing the National Register eligibility of properties with religious and cultural significance to them. Tribal leaders, and as appropriate, their representatives, shall decide who meets qualifications/standards as defined by their Tribe(s) for review of Undertakings affecting properties with religious and cultural significance to them.
- b. FEMA alone shall conduct all Section 106 consultation with Tribe(s). In accordance with 36 CFR § 800.2(c)(4), FEMA may authorize the Recipient(s), or a Subrecipient through the Recipient(s), to initiate the Section 106 process with the SHPO 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 in writing when a Recipient or Subrecipient 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 Recipient(s) of all stipulations and conditions and ensure that they are understood so they can be adequately conveyed to the Subrecipient. FEMA shall work in partnership with the Recipient(s) to provide Subrecipients with guidance on in-kind repair pursuant to *The Secretary of the Interior's Standards for the Treatment of Historic Properties 2017 (Secretary's Standards)*, 36 CFR Part 68, or the most updated version, and techniques to avoid or minimize adverse effects to historic properties.
- d. FEMA in coordination with SHPO, NCDPS, and/or the Eastern Band of Cherokee Indians shall convene annually for training to include the 106 process, each party's Role and Responsibilities as detailed in the Stipulations; to build relationships and develop processes bespoke to North Carolina Recipient(s) and Subrecipient(s).
- e. FEMA shall provide the other Signatories and the ACHP with an annual report for the previous calendar year by June 30th 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.
- f. FEMA shall confer annually and as necessary with the other Signatories within thirty (30) days after issuance of the annual report, to review the report or discuss issues and concerns in greater detail. This review shall occur in person or by telephone as determined by FEMA.
- g. FEMA shall notify the SHPO and affected Tribe(s), as soon as practicable, following a Declaration to provide specific points of contact and other pertinent information about the Declaration.
- h. 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.
- i. FEMA shall ensure that all documentation resulting from Undertakings reviewed pursuant to this Agreement is consistent with applicable SHPO and Tribal guidelines and the confidentiality provisions of applicable law, including, but not limited to, 54 U.S.C. § 307103 and 36 CFR § 800.11(c).

2. SHPO

- a. The SHPO shall review FEMA's determination of the Areas of Potential Effects (APE), National Register eligibility determinations, and effect findings and respond within timeframes required by this Agreement, and as per Stipulations I.E, II.B and II.C.6.

- b. Upon request, the SHPO shall provide FEMA 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 Secretary qualified FEMA staff or designee(s) shall be afforded access to protected historic property information.
- c. The SHPO shall identify staff or consultants to assist FEMA staff with their Section 106 responsibilities, and identify, in coordination with FEMA, those activities within the Section 106 review process that SHPO may perform for specific Undertakings as agreed in writing with FEMA.
- d. As requested, SHPO staff shall be reasonably available as a resource and for consultation through site visits, written requests, telephone conversations or electronic media. In those instances where consultation with SHPO has occurred, FEMA shall provide a written summary via e-mail or regular mail to SHPO, including any decisions that were reached.
- e. The SHPO may delegate some or all of its responsibilities under this Agreement to one or more liaisons to serve as a dedicated point of contact for consultation with FEMA. The SHPO shall confer with FEMA about the selection of any liaisons, the scope of responsibilities delegated and related implementing procedures. SHPO shall formally document these decisions for concurrence by FEMA. Liaisons are not required to be members of the SHPO staff.
- f. The SHPO shall participate in an initial scoping meeting for a Declaration.
- g. The SHPO may assist local jurisdictions and the Recipient(s) in the State of North Carolina 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 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 shall participate in annual reviews convened by FEMA to review the effectiveness of this Agreement in accordance with Stipulation I.B.1(e).

3. Recipient(s)

- a. The Recipient(s) shall ensure that their Subrecipients 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 Recipient(s) shall participate in an initial scoping meeting for a Declaration.
- c. The Recipient(s) shall ensure that their Subrecipients understand that failure to comply with any project-specific conditions that have been placed on their grants could jeopardize FEMA funding.
- d. The Recipient(s) shall notify FEMA as soon as possible of any proposed change to the approved scope of work. The Recipient(s) shall direct their Subrecipient not to implement the changes to the proposed scope of work until any additional review required by this Agreement is complete.
- e. The Recipient(s) shall ensure that its Subrecipients 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 Subrecipient will comply with Stipulation III.B, Unexpected Discoveries, Previously Unidentified Properties, or Unexpected Effects.
- f. The Recipient(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.
- g. If a Signatory Tribe assumes the role of Recipient for projects on Tribal lands, the Tribe shall assume the same responsibilities as outlined in Stipulation I.B.3 of this Agreement, Roles and Responsibilities of the Signatories.

C. Tribal Consultation

1. For FEMA Undertakings on Tribal lands or affecting properties of religious and cultural significance, and where no tribe-specific consultation agreements or protocols are in place, FEMA shall consult with affected Tribe(s) in accordance with 36 CFR Part 800. In determining the specific Tribe(s) affected, FEMA will first establish that it is a type of Undertaking with potential to affect historic properties with religious and cultural significance and may consult with the SHPO, Tribe(s), any State or Tribal agency, and access any other tools to identify geographic Tribal Nation interests.
2. To the extent permitted by Section 304 of the NHPA, Section 9(a) of the Archaeological Resources Protection Act (ARPA) (16 U.S.C. § 470aa – 470mm), and any other applicable laws, FEMA shall ensure it withholds information protected by such laws from public disclosure.
3. FEMA shall invite affected Tribal Nation(s) to participate in the initial scoping meeting within their geographic area of interest for each Declaration.

D. 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 Tribe(s), private individuals and businesses.
2. FEMA may consult with the Recipient(s), Subrecipient, SHPO, and participating Tribe(s), 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 participating Tribe(s), 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 FEMA's implementing policies set forth in DHS Directive No. 023-01, *Implementation of the National Environmental Policy Act* (Oct. 31, 2014); DHS Instruction No. 023-01-001-01, *Implementation of the National Environmental Policy Act* (Nov. 6, 2014); FEMA Directive No. 108-1, *Environmental Planning and Historic Preservation Responsibilities and Program Requirements* (Oct. 10, 2018); FEMA Instruction No. 108-1-1, *Instruction on Implementation of the Environmental Planning and Historic Preservation Responsibilities and Program Requirements* (Oct. 10, 2018); and/or Executive Orders 11988, *Floodplain Management*, and 11990, *Protection of Wetlands* relating to floodplains and wetlands, as set out in 44 C.F.R. Part 9, 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 thirty (30) days. In reaching its decision regarding the objection, FEMA shall take into consideration all comments from these parties. Within fifteen (15) days after closure of this consultation period, FEMA shall provide the other parties with its final decision in writing.

E. 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 Secretary 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 for Emergency Undertakings, the SHPO and participating Tribe(s) 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. FEMA will note the consultation timeline in the subject line of the letter and header of the email to ensure consulting parties are aware of the project's associated timeline.
 - b. For Undertakings associated with the Individual Assistance (IA) and Public Assistance (PA) programs, the response time for each request for concurrence shall be a maximum of fifteen (15) days, or in accordance with temporary timelines established by FEMA on a declaration-by-declaration basis. FEMA will note the consultation timeline in the subject line of the letter and header of the email to ensure consulting parties are aware of the project's associated timeline.
 - 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.

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 internal Section 106 review process defined herein by documenting this determination in the project file, without SHPO review or notification.
2. If the Undertaking involves a National Historic Landmark (NHL), FEMA shall notify the SHPO, participating Tribe(s), and the National Parks Service (NPS) National

Historic Landmarks Program (NHLP) Manager of the NPS Southeast Regional Office (Atlanta, Georgia) 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 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 thirty (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 thirty (30) days, FEMA shall, in thirty (30)-day increments, as needed, notify in writing the ACHP, SHPO and participating Tribe(s).

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 participating Tribe(s) within three (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 or participating Tribe(s) in making a decision on how to proceed.
- iv. Should the SHPO or participating Tribe(s) not comment within three (3) days, FEMA shall complete Section 106 consultation for the Undertaking based on the available information.
- v. FEMA shall notify the SHPO and participating Tribe(s) 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 participating Tribe(s) 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 a Memorandum of Agreement (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, Secretary qualified staff may define the Area of Potential Effects (APE) as the individual structure when the proposed Undertaking is limited to its repair or rehabilitation (as defined in 36 CFR § 68.2(b)).

- b. For all other Undertakings, Secretary qualified staff shall determine the APE in consultation with the SHPO and participating Tribe(s). FEMA may consider information provided by other parties, such as local governments and the public, when establishing the APE.

3. Identification and Evaluation:

Secretary qualified staff shall determine, in consultation with the SHPO and participating Tribe(s) if the APE contains historic properties, including properties of religious and cultural significance. This may include the review of documentation provided by the Recipient(s) or Subrecipient in coordination with the SHPO.

- 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 to determine the level of effort and methodology necessary to identify and evaluate a variety of historic property types. For properties of religious and cultural significance to affected Tribe(s), FEMA shall consult with the affected Tribe(s) to determine geographical areas containing them that may be affected by an Undertaking and determine the necessary level of effort to identify and evaluate or avoid any such historic properties.
- b. National Historic Landmarks. When FEMA identifies an Undertaking with the potential to affect an NHL, FEMA shall contact the NHL Program Manager of the NPS Southeast Regional Office (Atlanta, Georgia) in addition to the SHPO, participating Tribe(s), 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.6.
- c. Determinations of Eligibility. FEMA shall review or determine National Register eligibility based on identification and evaluation efforts, and consult with SHPO, participating Tribe(s), and other consulting parties regarding these determinations. Should the SHPO, participating Tribe(s), 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” in accordance with 36 CFR § 800.4(d)(1) under the following circumstances:

- a. If no historic properties are present in the APE; or

- b. The Undertaking is designed to avoid effects to historic properties, including National Register listed or eligible properties of religious or cultural significance to participating Tribe(s); or
- c. The Undertaking does not affect the character defining features of a historic property as defined in 36 CFR § 800.16(l).
- d. FEMA shall notify the SHPO, participating Tribal Nation(s), and any other consulting parties of this finding and provide supporting documentation in accordance with 36 CFR § 800.11(d). Unless the SHPO or participating Tribal Nation(s), objects to the finding within the applicable timeframe outlined in Stipulation I.E, Timeframes and Communications, the Section 106 review of the Undertaking will conclude.
- e. If the SHPO or participating Tribal Nation(s) 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.

5. Application of the Criteria of Adverse Effect:

If FEMA finds an Undertaking may affect historic properties in the APE, including those of religious or cultural significance to affected Tribe(s), FEMA shall apply the criteria of adverse effect to historic properties within the APE(s), taking into account the views of the consulting parties and the public concerning effects in accordance with 36 CFR § 800.5(a).

- a. If FEMA determines that an Undertaking does not meet the adverse effect criteria, FEMA shall propose a finding of “no adverse effect” in accordance with 36 CFR § 800.5(b).
 - i. FEMA shall notify the SHPO, participating Tribe(s), 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.
 - a) If the objection is resolved, FEMA shall proceed with the Undertaking in accordance with the resolution, or;
 - b) 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 Recipient(s) that the Subrecipient revise the scope of work to substantially conform to the *Secretary’s Standards* for standing structures or avoid or minimize adverse effects for National Register listed or eligible archaeological properties.
 - i. If the Subrecipient modifies the scope of work to avoid the adverse effect(s), FEMA shall notify the SHPO, participating Tribe(s), and all other consulting parties, and provide supporting documentation. Unless a consulting party makes a timely objection in accordance with the applicable timeframe outlined in Stipulation I.E, Timeframes and Communications, FEMA shall proceed with its “no adverse effect” determination, including any conditions, and conclude the Section 106 review.
 - ii. If an Undertaking is not modified to avoid the adverse effect(s), 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, Recipient(s), Subrecipient, participating Tribe(s), the ACHP, if participating, and other consulting parties, by one of the following methods depending upon the severity of the adverse effect(s) as well as determination of the historic property’s significance on a local, state, or national level. When FEMA determines an Undertaking will adversely affect an NHL, FEMA shall notify and invite the Secretary and ACHP to participate in consultation in accordance with 36 CFR § 800.10. When the ACHP participates in consultation related to an NHL, the ACHP shall report the outcome of the consultation to the Secretary and the FEMA Administrator.

- a. Abbreviated Consultation Process: After taking into consideration the significance of the historic properties affected, the severity of the adverse effect(s) and avoidance or minimization of the adverse effect(s), FEMA may propose in writing to the consulting parties to resolve the adverse effects of the Undertaking through the application of one or more treatment measures outlined in Appendix C as negotiated with the SHPO, participating Tribe(s), and other consulting parties. The use of these Treatment Measures shall not require the execution of a MOA or Programmatic Agreement.
- i. In consultation with the SHPO, participating Tribe(s), and other consulting parties, FEMA shall propose in writing the implementation of a specific treatment measure, or combination of treatment measures, with the intent of expediting the resolution of adverse effects, and provide documentation as required by 36 CFR § 800.11(e) and subject to the confidentiality provisions of 36 CFR § 800.11(c). Unless a consulting party or the ACHP objects within fifteen (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 fifteen (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 shall 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, participating Tribe(s), and other consulting parties has determined that an MOA would be more appropriate to resolve the adverse effect(s). In consultation with the SHPO, participating Tribe(s), and other consulting parties, including the ACHP (if participating), FEMA shall develop a MOA, in accordance with 36 CFR § 800.6(c) to agree upon treatment measures to avoid, minimize, 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, participating Tribe(s), 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 Subrecipient.

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 Recipient(s) shall notify FEMA and shall require a Subrecipient to notify it immediately when a Subrecipient 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 *Secretary's Standards*, FEMA shall conclude its Section 106 review responsibilities.
- 3. If FEMA determines that the change does not meet a Programmatic 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 Subrecipient of an unexpected discovery, or if it appears that an 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), Recipient(s) Roles and Responsibilities, the Recipient(s) shall immediately notify FEMA and require the Subrecipient 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, participating Tribe(s), and any other consulting parties. Upon notification by the Recipient of a discovery, FEMA shall immediately notify the SHPO, participating Tribe(s), 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 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, and the State Archaeologist of North Carolina in accordance with applicable State statute(s), and protect the remains from any harm. 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); ARPA; and discoveries of human remains on non-Federal or federally recognized Tribal Lands shall be subject to Chapter 70, Article 3 of North Carolina General Statutes (Unmarked Human Burial and Human Skeletal Remains Protection Act) and Chapter 65 of the North Carolina General Statutes, as applicable.
- d. Assist FEMA in completing the following actions, as required:
 - i. FEMA shall consult with the SHPO, participating Tribe(s), 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 Recipient(s) and the Subrecipient regarding any needed modification to the scope of work for the Undertaking necessary to implement recommendations of the consultation and facilitate proceeding with the Undertaking.
 - iii. In cases where discovered human remains are determined to be Native American, FEMA shall consult with the appropriate Tribal representatives and SHPO. In addition, FEMA shall follow the guidelines outlined in the ACHP's updated *Policy Statement Regarding the Treatment of Burial Sites, Human Remains, and Funerary Objects* (2023) and any State-specific policies that may be in force.

C. Curation

- 1. In cases where archaeological survey and testing are conducted on private land, any recovered collections remain the property of the landowner. In such instances, FEMA and the Recipient(s), in coordination with the SHPO, and affected Tribe(s), shall encourage landowners 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 Recipient(s) shall ensure that recovered artifacts and related documentation are curated in a suitable repository as agreed to by FEMA, SHPO, and affected Tribe(s), 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, participating Tribe(s), 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 North Carolina Office of State Archaeology's (OSA), *Archaeological Investigation Standards and Guidelines*, the 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 new or revised guidelines provided by the SHPO, or other provisions agreed to by the consulting parties. No excavation should be initiated before FEMA's 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 Subrecipient 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, appropriate Tribal Nation(s), and ACHP, FEMA determines that extraordinary circumstances justify granting assistance despite the adverse effect created or permitted by the Subrecipient, FEMA shall complete consultation for the Undertaking pursuant to the terms of this Agreement.
2. FEMA shall specifically advise the Recipient(s) and shall require that the Recipient(s) advise its Subrecipients 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 Subrecipient 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.7; 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 appropriate Tribe(s) to determine if consultation is feasible.
 - i. If after coordination with the SHPO and appropriate Tribe(s), 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 appropriate Tribe(s), FEMA determines that review is infeasible, FEMA shall document the outcome to the Section 106 review process, and inform the Federal Preservation Officer (FPO) of the outcome, 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, appropriate Tribe(s) 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 thirty (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 Signatories.
 - b. If no other Signatory objects in writing within thirty (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 thirty (30) days to resolve the objection.
2. If the objection is resolved within thirty (30) days, FEMA shall proceed in accordance with the resolution.
3. If FEMA determines within thirty (30) days that the objection cannot be resolved, FEMA shall forward to ACHP all documentation relevant to the objection, including FEMA's proposed resolution. Within thirty (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 thirty (30) days, FEMA may assume ACHP has no comment and proceed with its proposed resolution to the objection after providing the ACHP and all other 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, ACHP, or Recipient(s) may terminate this Agreement by providing thirty (30) days written notice to the other Signatories, provided that the Signatories consult during this period to seek amendments or other actions that would prevent termination. If this Agreement is terminated, FEMA shall comply with Section 106 through other applicable means pursuant to 36 CFR Part 800. Upon such determination, FEMA shall provide all other Signatories and the ACHP with written notice of the termination of this Agreement.
3. A participating Tribal Nation may notify the other Signatories that it is fully withdrawing from participation in the Agreement. Following such a withdrawal, FEMA shall review Undertakings that may affect historic properties of religious and cultural significance to the Tribe, and Undertakings that occur on the Tribal lands of the relevant Tribal Nation, in accordance with 36 CFR §§ 800.3 through 800.7, 36 CFR § 800.8(c), or an applicable alternative under 36 CFR § 800.14. Withdrawal from this Agreement by a Tribal Nation does not terminate the Agreement. At any time that this Agreement remains in effect, a Tribal Nation that has withdrawn from the Agreement may notify FEMA, the Recipient(s), and SHPO in writing that it has rescinded its notice withdrawing from participation in the Agreement.
4. This Agreement may be terminated by the implementation of a subsequent Agreement, pursuant to 36 CFR § 800.14(b), that explicitly terminates or supersedes this Agreement, or by FEMA's implementation of Alternate Procedures, pursuant to 36 CFR § 800.14(a).

D. Duration and Extension

1. This Agreement shall remain in effect from the date of execution for a period not to exceed ten (10) 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, the State, and SHPO/THPO.
2. The Agreement shall go into effect regarding Undertakings occurring, or affecting historic properties, on Tribal lands when the relevant Tribal Nation has signed the Agreement.
3. FEMA shall ensure that each Signatory is provided with a complete copy of the Agreement, including an original set of signatures.
4. Execution and implementation of this Agreement is 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.

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICER,
THE NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, AND
TRIBAL NATIONS**

SIGNATORY PARTY

FEDERAL EMERGENCY MANAGEMENT AGENCY, REGION 4

By: **ROBERT P ASHE**  Digitally signed by ROBERT P ASHE
Date: 2025.12.19 14:59:27 -05'00' _____ Date: _____

Robert P. Ashe,
Acting Regional Administrator

By: **ANGELIKA H PHILLIPS**  Digitally signed by ANGELIKA H
PHILLIPS
Date: 2025.12.18 07:44:45
-05'00' _____ Date: 12/18/2025

Angelika H. Phillips, DrPH,
Regional Environmental Officer

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICER,
THE NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, AND
TRIBAL NATIONS**

SIGNATORY PARTY

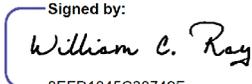
NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICER

By:  Date: 12/18/2025
Darin J. Waters, PhD
Deputy Secretary of the Department of Cultural Resources and
State Historic Preservation Officer

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICER,
THE NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, AND
TRIBAL NATIONS**

INVITED SIGNATORY PARTY

NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY

By:  Signed by: *William C. Ray* Date: 12/19/2025 | 14:35:35 EST
8EFD1045C30749F...
Mr. William Ray,
Director

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICER,
NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, AND
TRIBAL NATIONS**

CONCURRING PARTY

CHEROKEE NATION

By: _____ Date: _____
Christina Justice,
Secretary of Natural Resources

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICER,
NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, AND
TRIBAL NATIONS**

INVITED SIGNATORY PARTY

EASTERN BAND OF CHEROKEE INDIANS

By: _____ Date: _____
Principal Chief Michell Hicks

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICER,
NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, AND
TRIBAL NATIONS**

CONCURRING PARTY

MUSCOGEE (CREEK) NATION

By: _____ Date: _____
Principal Chief David Hill

APPENDIX A

FEMA PROGRAM SUMMARIES

THIS APPENDIX MAY BE AMENDED IN ACCORDANCE WITH STIPULATION IV.A, AMENDMENTS.

DISASTER PROGRAMS

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

Advance of Nonfederal Share

The Stafford Act and its implementing regulations authorize FEMA to advance or loan to a State, Tribal government, local government, or applicant the portion of Public Assistance for which the State or Tribal government is responsible pursuant to the cost-sharing provisions of the Stafford Act.

Community Disaster Loan Program

The Stafford Act authorizes FEMA to make community disaster loans to help local governments that have incurred significant revenue losses due to a presidentially declared major disaster if necessary for a local government to perform its governmental functions.

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.

Hazard Mitigation Grant Program (HMGP)

The HMGP provides grants to States, Territories, Tribes, local governments, and private nonprofit organizations to implement long-term hazard mitigation measures after a major disaster declaration.

Individual Assistance Programs (IA)

The Stafford Act authorizes a wide variety of direct and financial assistance to individual and households affected by disasters, and FEMA has implemented these authorities under the umbrella of its Individual Assistance Program, which include crisis counseling (Section 416); disaster legal services (Section 415); unemployment assistance (Section 410); case management (Section 426); and funeral services, minor home repairs, 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.

Public Assistance Program (PA)

The Stafford Act authorizes Federal assistance for State, Territorial, Tribal, and local governments, and certain private non-profit entities to respond to emergencies and to respond to and recover from major disasters. FEMA has administratively combined these authorities under the umbrella of its Public Assistance Program. The Public Assistance Program provides a broad range of assistance. First, it provides direct services and financial assistance for emergency assistance, such as

emergency evacuation, sheltering, and debris removal. Second, it provides financial assistance for the permanent restoration of disaster-damaged facilities. Third, it includes emergency transportation and emergency communications assistance.

RESILIENCE PROGRAMS - MITIGATION

Community Assistance Program – State Services Support Elements (CAP-SSSE)

The CAP-SSSE Program provides financial assistance to states to provide technical assistance to communities in the National Flood Insurance Program (NFIP) and to evaluate community performance in implementing NFIP floodplain management activities.

Cooperating Technical Partners Program (CTP)

The CTP Program provides financial assistance to States, local and Tribal governments, institutions of higher education, and other organizations to build upon and enhance the existing capabilities of these entities to increase local involvement in, and ownership of flood hazard identification, flood map maintenance, risk assessment, and risk communication to encourage responsible floodplain management and support their jurisdictional responsibilities as participating members of the NFIP.

Flood Mitigation Assistance Program (FMA)

The FMA Program provides grants to States, Territories, Tribal entities, and local governments for planning and carrying out activities designed to reduce the risk of flood damage to structures covered under contracts for flood insurance under the National Flood Insurance Program (NFIP).

National Dam Safety Program (NDSP)

The NDSP provides financial assistance to states to strengthen their dam safety programs, to include activities such as dam safety training, increasing dam inspections, increasing the submission and testing of emergency action plans, coordinating with state preparedness officials, identification of dams to be repaired or removed, and conducting dam safety awareness workshops. NDSP also administers the Rehabilitation of High Hazard Potential Dams (HHPD) Grant Program which provides technical, planning, design, and construction assistance in the form of grants for rehabilitation of eligible high hazard potential dams

National Earthquake Hazard Reduction Program (NEHRP)

The NEHRP provides financial assistance to certain organizations to mitigate earthquake losses in the United States through basic and directed research and implementation activities.

National Public Infrastructure Pre-Disaster Mitigation Program (aka Building Resilient Infrastructure and Communities (BRIC))

Authorized by Section 1234 of the Disaster Recovery Reform Act, this Program is funded as six (6) percent set aside from disaster expenses, to provide support to states, local communities, tribes and territories a greater investment in a broad range of eligible hazard mitigation activities before a disaster. Guiding principles of the BRIC program are supporting communities through capability- and capacity-building; encouraging and enabling innovation; promoting partnerships; enabling large projects; maintaining flexibility; and providing consistency.

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.

Safeguarding Tomorrow Revolving Loan Fund

The Safeguarding Tomorrow Revolving Fund program is authorized under Section 205 of the Stafford Act to provide capitalization grants to states, eligible federally recognized tribes, territories and the District of Columbia to establish revolving loan funds that provide hazard mitigation assistance for local governments to reduce risks from natural hazards and disasters

RESILIENCE PROGRAMS - PREPAREDNESS*Assistance to Firefighters Grant Program (AFG)*

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

Emergency Management Performance Grants (EMPG)

The purpose of the EMPG is to provide Federal funds to states to assist State, Territorial, Tribal and local governments in preparing for all-hazards emergency preparedness capabilities.

Emergency Operations Center (EOC) Grant Program

The Emergency Operations Center (EOC) Grant Program is intended to improve emergency management and preparedness capabilities by supporting flexible, sustainable, secure, strategically located, and fully interoperable EOCs with a focus on addressing identified deficiencies and needs. 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 or emergencies caused by any hazard.

Homeland Security Grant Program (HSGP)

The HSGP plays an important role in the implementation of the National Preparedness System by providing funding to states and urban areas to prevent, protect against, mitigate, respond to, and recover from acts of terrorism and other threats. HSGP is comprised of three interconnected grant programs: (1) the State Homeland Security Program (SHSP), (2) the Urban Areas Security Initiative (UASI), and (3) the Operation Stonegarden (OPSG). Together, these grant programs and other future projects that may be included under the HSGP fund a range of preparedness activities, including planning, organization, equipment purchase, training, exercises, management, and administration.

State Homeland Security Program (SHSP)

The SHSP supports State, Tribal, Territorial, and local preparedness activities that address high priority preparedness gaps across all core capabilities that support terrorism preparedness.

State and Local Cybersecurity Grant Program (SLCGP)

Funded by the Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law (BIL), the State and Local Cybersecurity Grant Program (SLCGP) enables DHS,

with FEMA grant management assistance, to make targeted cybersecurity investments in state, local and territorial (SLT) government agencies, to improve the security of critical infrastructure and the resilience of the services SLT governments provide their community. The SLCGP helps develop and establish appropriate governance structures, including developing, implementing, or revising cybersecurity plans, to improve capabilities to respond to cybersecurity incidents and ensure continuity of operations and to understand current cybersecurity postures and areas for improvement based on continuous testing, evaluation, and structured assessments. The program also funds the Implementation of security protections and ensures organization personnel are appropriately trained in cybersecurity.

Tribal Cybersecurity Grant Program (TCGP)

The Tribal Cybersecurity Grant Program (TCGP) allows tribal governments of federal-recognized Tribes to apply for funding to address cybersecurity risks and threat to their information systems. The program is separate from SLCGP, which is for state, local and territorial governments but the goal and objectives of the program are the same as SLCGP.

Urban Areas Security Initiative (UASI) Program

The UASI program assists high-threat, high-density Urban Areas in efforts to build, sustain, and deliver the capabilities necessary to prevent, protect against, mitigate, respond to, and recover from acts of terrorism.

Operation Stonegarden (OPSG)

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

Intercity Bus Security Grant Program (IBSGP)

The IBSGP provides funding to strengthen the Nation's critical infrastructure against risks associated with potential terrorist attacks. IBSGP provides funding for critical infrastructure hardening and other physical security enhancements to support transit operators serving the Nation's highest-risk metropolitan areas.

Intercity Passenger Rail – Amtrak (IPR) Program

Provides funds to protect critical surface transportation infrastructure and the traveling public from acts of terrorism and increase the resilience of the Amtrak rail system.

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.

Nonprofit Security Grant Program (NSGP)

NSGP provides funding in order to integrate the preparedness activities of nonprofit organizations that are at high risk of a terrorist attack with broader State and local preparedness efforts.

Port Security Grant Program (PSGP)

The PSGP provides funding to port authorities, facility operators, and State and local agencies for activities associated with implementing Area Maritime Security Plans (AMSPs), facility security plans and other port-wide risk management efforts. PSGP funds are intended to improve port-wide maritime security risk management; enhance maritime domain awareness; support maritime security training and exercises; and maintain or reestablish maritime security mitigation protocols that support port recovery and resiliency capabilities with a focus on weapons of mass destruction, cybersecurity, and attacks on soft targets.

Staffing for Adequate Fire and Emergency Response Grant Program (SAFER)

The SAFER Program provides financial assistance to fire departments and volunteer firefighter interest organizations to help them increase or maintain the number of training front line firefighters available in their communities.

Transit Security Grant Program (TSGP)

The TSGP provides funds to eligible public transportation systems (which include intra-city bus, ferries, and all forms of passenger rail) for the protection of critical transportation infrastructure and the travelling public from acts of terrorism and to increase the resilience of transit infrastructure.

Tribal Homeland Security Grant Program (THSGP)

THSGP provides funding directly to eligible Tribes to support the building, sustainment, and delivery of core capabilities to enable Tribes to strengthen their capacity to prevent, protect against, mitigate, respond to, and recover from potential terrorist attacks.

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).

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 Secretary’s 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, the phrase “within the existing footprint” refers to any location in three-dimensional space. This includes depth considerations, which the original structure, feature, facility, utility, etc. occupied. “Ground Disturbance” refers to any activity that moves, compacts, alters, displaces, or penetrates the ground surface to the depth of the proposed activity. “New Ground Disturbance” shall refer to any construction work disturbance which affects previously undisturbed soils either horizontally or vertically. “Previously Disturbed Soils” shall refer to soils that are not likely to possess intact and distinct soil horizons and have a reduced likelihood of possessing historic properties within their original depositional contexts in the area. “Previously Undisturbed Soils” refers to soils that may possess significant intact and distinct natural soil horizons. Previously undisturbed soils may occur below the depth of disturbed soils and may be found under built environments, such as road surfaces, parking lots, slabs, buildings, or below the plow horizon in agricultural settings.

I. FIRST TIER ALLOWANCES

A. GROUND DISTURBING ACTIVITIES AND SITE MODIFICATION

When the proposed activities described below substantially conform to the original footprint or are performed in previously disturbed soils (as defined above). The project review should evaluate the potential for ground disturbance within the entirety of the project area for all proposed activities including connected actions such as any staging, site access, site cleanup, and additional site work (e.g., grading for positive drainage, vegetation removal etc.). The fill source location, as a connected action, must be taken into consideration as a separate ground disturbing activity (as defined above). This is not a complete list of possible ground-disturbing activities; other possible ground-disturbing activities are listed under other activity types in this Appendix.

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. This includes consideration of the transport and disposal of such waste to existing licensed waste facilities or landfills. This allowance does not include uprooted trees located within historically or culturally sensitive areas (i.e., cemeteries, battle ground, known archaeological sites, or historic properties listed or eligible for listing in the National Register). The *FEMA Environmental Planning and Historic Preservation Debris Collection in Culturally Sensitive Areas* (see Appendix G) will be attached to the project as a NHPA Condition
- b. 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, etc.) previously approved by the North Carolina Department of the Environmental Quality (NC DEQ) and has approval comment from SHPO. For staging on other surfaces please refer to Allowance II.A.5. This allowance does not include the creation of new or temporary access roads.
- c. 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.
- d. Chipping and disposal of woody debris by broadcasting within existing rights-of-way.
- e. Sediment removal from man-made drainage facilities, including retention/detention basins, ponds, and ditches, in order to restore the facility to its pre-disaster condition provide that there is no expansion to the footprint in depth, width or length. The sediment may be used to repair eroded banks or disposed of at an existing licensed or permitted spoil site. This allowance does not apply to historic canals or canal structures. For canals, please refer to allowance II.E.1.
- f. Dewatering flooded developed areas by pumping.
- g. Removal of automobiles, trucks, aircraft, watercraft less than forty-five (45) years in age, motorized agricultural/construction equipment, or other motorized vehicles designed for transport.

2. Temporary Structures and Housing

- a. Staging, installation and removal of temporary structures for use as school classrooms, offices, public facilities 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 and/or tie into pre-existing utility lines.
 - ii. Existing recreation vehicle/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. Temporary Removable Barriers and Bollards
- 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 ground.

4. Borrow Material

The use of existing permitted commercial source, existing stockpiles, reclaimed ditch material or borrow pits previously approved by SHPO and interested Tribal Nations, provided the pits are not expanded upon and the existing use has not changed.

B. BUILDINGS AND STRUCTURES

- 1. In-kind repair of buildings less than forty-five (45) years old.
- 2. In-kind repair of mobile homes or recreational vehicles less than forty-five (45) years old that have been damaged beyond repair and present hazardous conditions, provided that the proposed activities are performed in previously disturbed soils.
- 3. Removal of water, muck, mud, sand, sewage, or debris by physical or mechanical means.
- 4. Repair or replacement of building contents including furniture, movable partition, computers, cabinetry, supplies equipment, and any other moveable items within buildings less than 45 years old, and where the removal requires no new ground disturbance.

5. Installation of exterior security features and early warning devices on existing light poles or other permanent utilities.
6. In-kind repair or in-kind replacement of metal utilitarian buildings (e.g., pump houses, storage buildings, temporary/portable classrooms etc.) less than forty-five (45) years old which are not listed or eligible for listing in the National Register. This allowance applies to above-ground buildings within the existing footprint that do not require pile-driven foundations.

C. TRANSPORTATION FACILITIES

When proposed activities substantially conform to the original horizontal footprint including length and vertical depth, and all work is 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. This allowance does not allow for upgrades to include expansion in footprint in length, width or depth.
- b. Repair and replacement of metal, high density polyethylene (HDPE) and concrete culverts when culverts are returned to pre-disaster size and location with no headwalls or concrete headwalls. This allowance does not allow for upgrades to include expansion in footprint in length, width or depth.
- c. Repairs to road slips and landslides that do not require additional ground disturbance or grading within undisturbed soils. This allowance does not allow for upgrades to include expansion in footprint in length, width or depth.
- d. Re-establishment, armoring or upgrading of existing roadway ditches. This allowance does not include for expansion in footprint in length, width, or depth.
- e. In-kind repair or replacement of traffic control devices such as traffic signs, signals, delineators, pavement markings, and 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.
- h. Temporary emergency repairs of existing roads that do not require grading and are confined within the existing public rights-of-way.

2. Airports

In-kind repair or replacement of existing runway surfaces and features (i.e., asphalt, concrete, gravel, and dirt) and associated air transportation safety components and systems (e.g., lighting bars, beacons, signage, and weather sensors, etc.).

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.

4. Buoys, Channel Markers, and Coastal Navigation

In-kind repair, replacement or minor upgrades of floating buoys, navigation markers, floating portable security fencing, anchors, and mooring points, etc. This category of work does not include land-based markers or lighthouses.

II. SECOND TIER ALLOWANCES

The following allowances can only be applied by staff meeting the applicable Secretary's Professional Qualifications Standards in accordance with Stipulation I.B(1)(a) of this Agreement.

A. GROUND DISTURBING ACTIVITIES AND SITE WORK

When proposed activities described below substantially conform to the original footprint or are performed in previously disturbed soils. The project review should take into account the entirety of the proposed activities including staging, site access, site cleanup, and additional site work (e.g., grading for positive drainage, vegetation removal) as potential ground-disturbing activities. Other possible ground-disturbing activities are listed under other activity types in this appendix.

The fill source location, as a connected action, must be taken into consideration as a separate ground disturbing activity (as defined above). If portions of the scope of work are larger than the existing footprint, a review of the North Carolina Site File date from the Office of State Archaeology (OSA) is required for the entirety of the project location. If the project substantially conforms to the existing footprint and no known archaeological sites are within the project area, an applicable allowance may still be applied. If a potential ground-disturbing activity including staging, site access, site cleanup, and possible site work (e.g., grading for positive drainage, vegetation removal) falls within a known eligible or unassessed archaeological site, standard project review per Stipulation II.C., will apply.

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, etc.) when performed in previously disturbed soils.
- b. In-kind repair, replacements, and minor upgrades to landscaping elements (e.g., fencing, gates, free standing walls, paving, planters, irrigation systems, lighting elements, non-traffic delineation signs, flag poles, ramps, steps) when performed in previously disturbed soils.
- c. Repair or replacement of existing driveways, parking areas, and walkways with in-kind materials, within the same footprint, in a manner that does not disturb historic landscape materials or features.

3. Piers, Docks, Boardwalks, Boat Ramps, and Dune Crossovers

In-kind repair and replacement and minor upgrades to existing piers, docks, boardwalks, boat ramps, and dune crossovers in areas of previously disturbed soils. This allowance does not include new ground disturbance as defined in this agreement including new post locations, increased post size or an increase in overall dimensions. This allowance does not include projects located within known submerged archaeological sites.

4. Cemeteries

In-kind repair of historic gravestones, monuments, fences, and other historic components using in-kind materials, craftsmanship, and design.

5. Hazardous Tree/Vegetation and Debris Removal

- a. Removal of woody debris such as loose branches and limbs, from cemeteries, provided that heavy equipment and other machinery are operated and staged on established roads, hardtop or gravel surfaces and avoid areas potentially containing human remains. This allowance does not include the removal of root balls.

- b. Debris collection such as loose branches and limbs, within areas of historic or archaeological sensitivity when staging and operation of associated machinery is limited to existing service roads, parking lots or other existing hardtop or gravel surfaces. This allowance does not include the removal of root balls.
- c. Removal of root balls, except from cemeteries or known archaeological sites.
- d. Removal of fire, flood, or storm-damaged or destroyed standing trees within public rights-of-way, and public areas, that otherwise poses a hazard to work crews or risk to buildings or structures (either private, commercial, or public sector) and on private property when trees are flush cut or stumps are ground to grade level, no root balls are removed, provided that buildings are not affected, ground disturbance is minimal, and all access and staging of equipment is on existing hardtop or gravel surfaces or surfaces protected with timber matting.
- e. Chemical, biological, hand, mechanical, or prevention-seeding to treat invasive plants/trees. Associated ground disturbance will be limited to surface soils. ATVs or trucks (one-ton or smaller, with rubber tires) may be used to transport materials. Other vehicles may also be used if there will be minimal impacts to the ground surface and are limited to topsoils.

6. Building Demolition Debris

Removal of demolition debris from private property including the demolition of condemned heavily damaged buildings and structures, foundation removal, capping or decommissioning on site utilities, to facilitate reconstruction/re-occupancy. The APE will be reviewed by Secretary qualified staff including review of records (State site records and county tax assessor information) before this allowance can be applied to demolish damaged buildings or structures. *The FEMA Environmental Planning and Historic Preservation Best Practices: Demolition Debris Removal Stipulations for FEMA Grant funded Projects* (hereto known as Demolition BMPs) (See Appendix G) will be attached to the project as a condition. This allowance will not be used for properties over forty-five (45) years old.

7. Sediment Removal

Sediment removal from man-made drainage facilities, including retention/detention basins, ponds, ditches, marinas, areas adjacent to boat ramps, and canals, in order to restore the facility to its pre-disaster condition provided that there is no expansion to the footprint in depth or width. The sediment may be used to repair eroded banks or disposed of at an existing licensed or permitted spoil site. This allowance does not apply to historic canals or canal structures over forty-five (45) years of age. This allowance does not apply when the Undertaking is located adjacent to or within a known archaeological site.

8. Debris Removal and Dredging of Harbors and Port Facilities

Vegetative, construction and household debris and sediment removal from established manmade waterways (canals, harbors and port facilities) as part of a regular maintenance plan, in order to restore the facility to its pre-disaster condition, provided that sediment removal is limited to the previously dredged footprint or the allowable dredge limit(s). The removal of sediment is only allowed when there are no known submerged archaeological resources or shipwrecks within the proposed project area.

9. Removal of Storm Debris from Bodies of Water

Removal of sediment and hazardous debris including vegetative, construction and household debris; storm damaged vehicles; derelict, abandoned or at-risk vessels; from bodies of water, including but not limited to bays, rivers, canals, and harbors. This category of work is not applicable for submerged historic shipwrecks or for the removal of storm damaged or displaced vessels when known submerged archaeological resources or historic shipwrecks are within the proposed project area. Any ground disturbing activities including the establishment of temporary access roads or staging areas occurring within the boundaries of an cemetery; or located within the boundaries, within 30 meters of the boundaries, or within the same landform as an archaeological site which is eligible or listed in the National Register shall be monitored by a Secretary qualified archaeologist. Project will be conditioned with the above.

10. Debris Management Sites (DMS) and Temporary Debris Storage and Reduction Site (TDSR)

The following allowances are for temporary vegetative debris reduction sites utilizing methods which limits ground-disturbing activities to previously disturbed ground (as defined on page 41 above). These allowances include TDSR locations, which have been previously approved through the NC- Department of Environmental Quality (NC-DEQ) permit process which includes an approval comment by SHPO.

- a. The temporary establishment of non-hazardous debris staging, reduction, and disposal areas located within industrial and maintenance yards or other areas with highly compacted ground surfaces. This includes former TDSR locations that have been previously approved through the NC DEQ and has approval comment from SHPO.
- b. The temporary establishment of non-hazardous debris staging, reduction and disposal areas located within permitted landfill or materials pits that have no potential for intact archaeological deposits. This includes TDSR locations, which have been previously approved through the NC DEQ and has approval comment from SHPO.

- c. The temporary establishment of non-hazardous debris staging sites within pastures where vegetative debris is stored for natural reduction, reduced via chipping or open-air burning. This includes TDSR locations, which have been previously approved through the NC DEQ and has approval comment from SHPO. This allowance does not include ground disturbing activities associated with harrowing of ashes or the development of air curtain pits for burning.
- d. The temporary establishment of non-hazardous debris staging sites within agricultural crop fields where vegetative debris is reduced via open air burning. This includes the harrowing of ashes as long as harrowing depths do not exceed the current plow-zone as identified by Natural Resources Conservation Services (NRCS) soil survey. This includes TDSR locations, which have been previously approved through the NC DEQ and has approval comment from SHPO. This allowance does not include ground disturbing activities associated with the establishment of air curtain pits for burning.

11. Debris Disposal Sites

The final disposal of non-hazardous debris within landfills, materials pits, open pastures, fields, or ravines; where vegetative debris is piled and left to biodegrade. This allowance does not include ground disturbance below the topsoil as identified by NRCS Soil Survey ground disturbance occurs. This allowance does not apply to project areas located in or adjacent to historic properties, known archaeological sites, burial contexts, human remains.

12. Geotechnical Coring/Investigations for Engineering and Design Purposes

Geotechnical coring investigations at locations determined from desktop review to have low potential for the presence of archaeological deposits, or within previously disturbed soils as defined above and determined by a Secretary qualified archaeologist including the review of site records, geological data, and/or other pertinent information. This allowance does not apply to shovel-testing, trenching, clearing, grubbing, or installation of new access routes or establishment of new staging areas.

B. BUILDINGS AND STRUCTURES

Prior to utilizing the following Buildings and Structures allowances, the reviewer shall consider historic properties within view of the Undertaking, by reviewing the National Register or North Carolina Department of Natural and Cultural Resources GIS for above ground resources.

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

- a. In-kind repair and replacement of floors, walls, stairs, ceilings, or trim. The allowance does not apply to decorative finishes, including murals, glazed paint, gold leaf, or ornamental plaster or any other character defining interior feature of a

National Register listed or eligible resource that may require highly specialized study or skills for the purpose of repair or replacement.

- b. Interior painting of previously painted, non-decorative surfaces as described above.
 - c. 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.
 - d. Non-destructive or concealed testing for hazardous materials (e.g., lead paint, asbestos) or for assessment of hidden damages.
 - e. Replacement of damaged vinyl or linoleum floor tile (including floor tile containing asbestos) with contemporary floor tile of the same dimension and thickness, and similar texture or pattern.
 - f. Replacement of commercial-grade carpet with vinyl composition tile (VCT) in basements or lowest stories, except where carpet covered wooden flooring.
 - g. Use of portable de-humidification systems, provided no changes are made to character-defining features (specifically for mold remediation).
 - h. Abatement of lead and asbestos in unfinished basements and historically-unfinished upper floors and attics.
 - i. In-kind repair or replacement of restroom fixtures, provided the work is contained within the existing restroom footprint.
2. Building Contents

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 including installation of new mechanical equipment in buildings in a manner that does not affect the exterior of the building. 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 and does not conceal or permanently alter character defining features.

- 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. New fire detection systems with exposed electric conduit are allowed in unfinished basements and historically-unfinished upper floors, and attics.
 - 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 and are installed so that they have minimal impact on historic character. New wiring will be sub-surface to the greatest extent possible or where exposed will be enclosed in conduit that is painted to match the existing surface.
 - e. Installation of building access security devices, such as card readers, enhanced locks, door alarms, 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. New wiring will be sub-surface to the greatest extent possible or where exposed will be enclosed in conduit that is painted to match the existing surface.
 - f. New exposed ductwork, air handler units and electric conduit in unfinished basements and historically-unfinished upper floors and attics, or within existing mechanical closets, provided the installation does not require demolition of walls or ceilings in occupied spaces of the building.
 - g. In-kind repair, replacement, or minor upgrading of escalators, elevators, or other mechanical conveyance systems.
 - h. Installation of exterior security features and early warning devices on existing light poles or other permanent utilities. New wiring will be sub-surface to the greatest extent possible or where exposed will be enclosed in conduit that is painted to match the existing surface.
 - i. In-kind repair, replacement, or limited upgrading of small-scale electronic equipment attached to, or situated near, a structure such as antennas, dishes, speakers, lighting, control boxes, etc. New wiring should be run sub-surface to the greatest extent possible or, where exposed, should be enclosed in conduit that is painted to match the existing surface.
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. Whenever possible original materials should be retained for future information, repair or reuse.

- b. In-kind replacement of windowpanes. 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 interior storm windows or doors, and exterior storm or wooden screen doors in a manner that does not harm or obscure historic windows, doors or trim, is installed within the frame, meets the previous configuration and does not deflect from appearance.
 - e. Installation of security bars over windows on rear elevations.
 - f. Installation or application of safety or security window film on windowpanes, provided that it does not alter the existing tint or appearance of the pane. This allowance does not apply to the application of film on existing intact decorative glass.
 - g. Installation of temporary removable door dams, inflatable tiger dams, or other temporary flood barriers. This allowance is only applicable for work which does not require permanent alterations, anchors or brackets to the structure; does not result in additional damage, significant loss of historic fabric and does not require permanent attachment to buildings or structures.
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. This allowance includes the cleaning of exterior surfaces by starting with a very low pressure (less than 100 PSI) and gradually increasing pressure to 300-400 psi depending on the historic material with water or a Department of Interior approved diluted cleaning solution. The cleaning of exterior surfaces should be consistent with NPS Preservation Brief #1 Assessing Cleaning and Water- Repellent Treatments for Historic Masonry Buildings and NPS Preservation Brief #6 Dangers of Abrasive Cleaning to Historic Buildings.
 - 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 is reversible and does not result in additional damage, significant loss of historic fabric, and does not affect known archaeological sites, human remains or burial contexts.
- 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, and temporary 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 provided such work will not result in alterations to character-defining features.
- 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 of windows and doors 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.

- c. In-kind repair, replacement of installation of new attic insulation with proper ventilation, provided that insulation is fiberglass batt or loose fill only (not spray foam).
- d. In-kind repair, replacement of installation of new under-floor insulation in basements or crawl spaces, provided that insulation is fiberglass batt or loose fill only (not spray foam).

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. In masonry structures, bolts will be required to be installed through the mortar and not the stone or brick.
- b. Replacement, repair or installation of lightning rods.
- c. Repair, replacement or installation of new earthquake bracing used on refrigerators and against-the-wall shelving in schools and other public facilities.
- d. Activities related to flood proofing and minor upgrades on secondary façades. A secondary façade is a façade that does not face a public thoroughfare, mews or court and that does not possess historically significant architectural features. Minor upgrades include replacement of exterior utilitarian, non-character-defining doors or windows with new doors or windows, the addition of new elements (such as storm panels or flood panels) to exterior doors or windows, and the installation of metal grating at basement window wells.

9. Americans with Disabilities Act (ADA) Compliance

- a. Installation of grab bars and other such minor interior modifications, provided that the installation does not affect character defining features. This allowance does not include the relocation of interior walls or modification of openings on interior and exterior walls.
- b. In-kind repair or replacement of an existing wheelchair ramp in a manner that does not remove, compromise, or damage the existing historic materials or features, and would be completely reversible without causing damage to historic fabric.
- c. Installation of a new wheelchair ramp on buildings in a manner that does not remove, compromise, or damage the existing historic materials or features, and would be completely reversible without causing damage to historic fabric.

- d. Installation of restroom improvements to provide ADA compliant access, provided the work is contained within the existing restroom footprint.

10. Safe Rooms

Installation of above or below ground, residential safe rooms within private property where the installation would occur within the existing building or structure, as long as character defining features and spaces are not affected; or placed outside of the structure or building, within previously disturbed soils. This allowance does not apply to historic properties listed or eligible for listing in the National Register.

11. Elevation, Demolition, and Reconstruction

- a. Activities related to the elevation, reconstruction or demolition of buildings or structures which are less than forty-five (45) years old provided the proposed activities substantially conform to the original footprint or are performed in previously disturbed soils including connected actions such as staging area(s). This allowance does not include buildings or structures which are listed or eligible for listing in the National Register, located within or adjacent to a National Register listed or eligible historic district, or located adjacent to properties individually listed in or eligible for listing in the National Register.
- b. Demolition, Reconstruction, or Replacement of buildings or structures forty-five (45) years of age or older completely destroyed (Following FEMA's definition: Substantial Damage, as defined in 44 C.F.R. Part 59.1, means 'damage of any origin sustained by a structure where the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred' by tornadic or storm damage, so long as the proposed activities conform to the original footprint (including depth) and are performed in previously disturbed soils including any staging area. A Secretary qualified specialist will conduct a desk top review to determine if there is any post-storm Integrity, as per 36 C.F.R. Part 60.4 of the structure (See Appendix H). This allowance does not include buildings or structures individually listed or eligible for listing; or for buildings or structures located within the boundaries, or the viewshed of a historic district which is listed or eligible for listing in the National Register; or are located within the boundaries of an archaeological site. Demolition BMPs will be placed on the project as a condition.
- c. Elevation, replacement or removal of individual mobile homes or recreational vehicles that have been damaged beyond repair and present hazardous conditions. This allowance does not apply to mobile homes which are part of and contribute to a wider historic community greater than forty-five (45) years old, and where the removal requires new ground disturbance as defined in this agreement.

C. TRANSPORTATION FACILITIES

When proposed activities substantially conform to the original footprint or performed in previously disturbed soils, including the area where the activity is staged.

1. Roads and Roadways

- a. Construction of temporary emergency access roads in previously disturbed soils to allow passage of emergency vehicles.
- b. 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, provided upgrades do not impact previously undisturbed ground.
- c. In kind repair to historic paving materials for roads and walkways.
- d. In-kind repair or replacement, or minor upgrade of culvert systems and arches beneath roads or within associated drainage systems, including the addition of headwalls, riprap (including riprap beyond the original footprint) 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 or falls within the footprint of the washed out location and does not involve an increase in roadway width, or impact previously undisturbed ground. This allowance does not apply to stone or brick culverts or arches beneath roadways that are within the boundary, or viewshed of a historic property or historic district which is listed or eligible for listing in the National Register. Consideration of impacts to known archaeological sites located within a half-mile downstream must be considered during culvert upgrades.
- e. In-kind repair or replacement of road lighting systems, including period lighting fixture styles.
- f. In-kind repair or replacement of road appurtenances such as curbs, berms, fences, parking lots, loading docks, storm drains, catch basins, fire hydrants, sidewalks, traffic signs and parking meters.
- g. In-kind replacement or installation of new signage as long as work does not exceed the limits of previously disturbed rights-of-way and will not take place within the property boundary of any historic property listed, or eligible for listing in the National Register.

- h. Installation of speed bumps or enhanced curbs provided work will not exceed the previous limits of the disturbed right-of-way. This allowance does not apply to any work occurring within the boundaries of a historic district listed or eligible for listing in the National Register.
- i. Stabilization of hazardous slopes within established transportation rights-of-way, provided work will not exceed the limits of the previously disturbed right-of-way and does not impact known archaeological sites, burial contexts or human remains. Stabilization methods include the installation of retaining walls, and utilize systems such as rail and crib walls, lag walls, riprap, gabion baskets, poly bags, or implement bioengineering components (i.e., shooting willow stakes, vegetative gabions and cribbing). This allowance does not include work within the boundary, or viewshed of a historic property or historic district which is listed or eligible for listing in the National Register.
- j. Stabilization of hazardous slopes utilizing soil-nail walls within established transportation rights-of-way and beneath established roads provided work will not impact known archaeological sites, burial contexts or human remains. This allowance does not include work within the boundary or viewshed of a historic property or historic district which is listed or eligible for listing in the National Register.

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 and structural components (e.g., abutments, wing walls, piers, decks, fenders, etc.) as long as structural components are placed in previously disturbed soils and will not impact known archaeological sites, burial contexts, or human remains.

D. UTILITIES, COMMUNICATIONS SYSTEMS AND TOWERS

When proposed activities substantially conform to the original footprint 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 except when in close proximity (100 meters/300 feet) to known archaeological sites or burial contexts. This allowance does not include Undertakings within the boundaries, or viewshed of a historic district listed or eligible for listing in the National Register.
- c. Repair or replacement of utility lines (e.g., sewer, gas, and water) located within the property boundary of the building or structure, when performed in previously disturbed soils and are not located within known archaeological sites or burial contexts.
- d. Directional boring of replacement service lines and related appurtenances involving boring or silt trenches within previously disturbed soils of rights-of-way or utility corridors that would involve less than 10 square foot excavation units for placement of directional boring equipment. These units would be placed in areas for directional drill to begin (ingress) and end (egress) or where needed to complete boring. Ground disturbance will not exceed the vertical and horizontal limits of previously disturbed ground and will not impact known archaeological sites or burial contexts.
- e. 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.
- f. Temporary storage of supplies and equipment (poles, cable spools, pedestals, etc.) where no ground disturbance will occur; this does not include construction of temporary access routes.
- g. Permanent removal of utilities and associated features located within previously disturbed soils of rights-of-way or existing utility corridors and will not result in additional ground disturbance beyond the original utility footprint in depth, length and width.
- h. In-kind repair or replacement of septic tank, drain fields or well pumps in previously disturbed soils. Ground disturbance will not exceed the vertical and horizontal limits of previously disturbed ground and will not impact known archaeological sites or burial contexts.

2. Generators and Utilities

- a. In-kind repair or replacement, or minor upgrades, elevation, 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.

- b. Repair of metal utilitarian structures for the housing or protection of utilities, such as pump house and electrical transformer houses, as well as related elements, such as oil tanks and exposed pipelines, provided that the project does not require new ground disturbance as defined in this agreement. This allowance does not include structures located within the boundaries, or viewshed of a historic district listed or eligible for listing in the National Register.
- c. Underground cable replacements of any length when the replacement cable is placed within the same footprint. Replacement of underground cable is allowed within three (3) feet of the same trench as an existing or failed cable except when in proximity (100 meters/300 feet) to a known archaeological site or burial context.
- d. Replacement of power poles in pre-existing locations is allowed including increase in the pole diameter. Relocation or construction of new poles are allowed in:
 - i. urban or suburban settings between the edge of roadway and the sidewalk, or
 - ii. rural settings along roadway shoulders, or
 - iii. in off-road alignment settings in the existing utility corridor except when in close proximity (100 meters/300 feet) to a known archaeological site or burial context.

This allowance does not include Undertakings located within the boundaries, or viewshed of a historic district listed or eligible for listing in the National Register.

- d. New construction of a single pole along an existing transmission line is permissible when the auguring, pole placement, and line placement is conducted from within the previously disturbed public or private right-of-way, or when the lines will not pass within or through any areas known or suspected to contain archaeological resources, burial contexts, or human remains. This allowance does not include Undertakings located within the boundaries, or viewshed of a historic district listed or eligible for listing in the National Register.
- e. Replacement, relocation or installation of solar panels on the roofs of buildings less than forty-five (45) years of age. This allowance does not include Undertakings located within the boundaries, or viewshed of a historic district listed or eligible for listing in the National Register.

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. Installation of warning sirens when the work does not require modification of building/structures forty-five (45) years in age or older, or when sirens are installed on a new pole when placement occurs within previously disturbed soil, and is not within one-thousand (1,000) feet of the boundaries of a historic property. This allowance does not apply to work on towers located within the boundaries, or viewshed of a historic district listed or eligible for listing in the National Register.
- c. The collocation of communication, security equipment, weather stations, and warning sirens on existing towers and buildings/structures less than forty-five (45) years in age, provided that the work does not increase existing tower height, associated lines, or footprint and work does not occur within previously undisturbed soils. This allowance does not include work on towers located within the boundaries, or viewshed of a historic district listed or eligible for listing in the National Register. This allowance applies only to towers which have met Section 106 compliance as per Stipulation I.A.2.
- d. Enhancement, repair or replacement of existing communication towers and antenna structures provided the work does not increase existing tower height, associated lines, or footprint and work occurs within previously disturbed soils. This allowance does not include work on towers located within the boundaries, or viewshed of a historic district listed or eligible for listing in the National Register. This allowance applies only to towers which have met Section 106 compliance as per Stipulation I.A.2.
- e. Installation of new temporary [not to exceed twelve (12) months] communication towers and antenna structures provided that the work does not require modification of buildings/structures forty-five (45) years or older and occurs within previously disturbed soils. This allowance does not include work on towers located within the boundaries, or viewshed of a historic district listed or eligible for listing in the National Register.
- f. Installation of new communication towers, less than two-hundred (200) feet tall, in previously developed urban complexes when the work does not require modification of buildings/structures forty-five (45) years or older, is placed on an established slab or concrete surface and does not require new ground disturbance as defined in this agreement, occurs within previously disturbed soil, and is not within one-thousand (1,000) feet of the boundaries of a historic property. This allowance does not include on the installation of new towers within the boundaries, or viewshed of a historic district listed or eligible for listing in the National Register.

E. WATER RESOURCE MANAGEMENT AND CONTROLS

When proposed activities substantially conform to the original footprint or performed in previously disturbed soils, including the area where the activity is staged.

1. Canal Systems

In-kind repairs or replacement to canal systems and associated elements provided the work occurs in previously disturbed soils and does not impact known archaeological sites, burial contexts or human remains. This allowance does not apply to historic canals or canal structures which are listed or eligible for listing in the National Register. This allowance does not apply to the expansion of the original canal system footprint in either width, depth or length.

2. Dams, Levees, Locks, and Floodwalls

In-kind repair of dams, levees, locks, floodwalls and related features, including spillways, tide gates, and fuse plugs, provided the work occurs in previously disturbed soils and does not impact known archaeological sites, burial contexts or human remains.

3. Bulkheads, Breakwaters, Seawalls, and Revetments

In-kind repair or replacement of breakwaters, seawalls, bulkheads, jetties, sand dunes, and revetments, provided the work occurs in previously disturbed soils, does not include expansion of the existing footprint, and does not impact known shipwrecks, archaeological sites, burial contexts or human remains. Temporary approach road(s), staging areas and the fill source location, as connected actions, must be taken into consideration as separate ground disturbing activities. This allowance does not cover sand/beach renourishment activities.

4. Emergency and Protective Berms

Construction of emergency and protective berms, provided the work occurs in previously disturbed soils, does not include expansion of the existing footprint, and does not impact known shipwrecks, archaeological sites, burial contexts or human remains. Temporary approach road(s), staging areas, and the fill source location, which are considered connection actions, must be taken into consideration as separate ground disturbing activities does not include sand/beach renourishment activities.

5. Fish Hatcheries

In-kind repair or replacement of fish hatcheries or fish ladders (also known as a fishway, fish pass or fish steps). This allowance is for work that occurs in previously disturbed soils, does not include expansion of the existing footprint and does not impact known archaeological sites, burial contexts, human remains or shipwrecks.

6. Wastewater and Water Treatment Plants/Systems

In-kind repair or replacement, or minor upgrades of wastewater and water treatment systems provided the work occurs in previously disturbed soils and does not include expansion of the existing footprint and does not impact known archaeological sites, burial contexts or human remains.

7. Stormwater Retention Ponds

In-kind repair or replacement, or minor upgrades of retention ponds and man-made reservoirs for storm water drainage, provided the work occurs in previously disturbed soils and does not include expansion of the existing footprint and does not impact known archaeological sites, burial contexts or human remains. This allowance does not include Undertakings located within the boundaries, or viewshed of a historic district listed or eligible for listing in the National Register.

8. Outfall Systems

In-kind repair, replacement, or minor upgrades to outfall pipes along beaches or inland waterways, provided the work occurs in previously disturbed soils and does not include expansion of the existing footprint and does not impact known archaeological sites, burial contexts or human remains.

F. WILDFIRE MANAGEMENT

Wildfire management activities to include defensible space activities that involve the creation of perimeters and protection through ignition-resistant construction activities and hazardous fuels reduction activities where all work is being performed in archaeological surveyed areas with no recorded eligible sites.

1. Removal of Woody Debris

Wildfire mitigation projects involving the removal of wood debris such as branches, limbs, and uprooted trees (under a 6-inch diameter) by non-mechanical means from within the defined wildfire boundaries or improved property or infrastructure. This Allowance includes the transport on existing road surfaces and disposal of such waste to existing approved waste facilities. See Tier II.A.10 Debris Management Site Allowances for additional staging and disposal areas.

2. Creating Defensible Space

Creation of defensible space around buildings and structures in the wildland interface through selective vegetation removal including limbing low branches, brush removal, and limited thinning of small understory trees. Work will be done with hand-held tools, chainsaws, and small rubber-tired mechanical equipment fitted with a mower or masticator deck. The defensible space usually extends approximately 100 feet from the building or structure but no more than 200 feet in steep sloped areas. Vegetative debris will be either chipped in site, piled (with limited surface burning possible), or hauled to and disposed of at an approved soil waste facility. Equipment will be staged on existing hardtop or graveled surfaces to the maximum extent possible. Associated ground disturbance will be limited to surface soils only. ATVs or trucks (one-ton or smaller, with rubber tires) may be used to transport materials. Other vehicles may also be used if there will be minimal impacts to the ground surface and are limited to topsoils.

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 Recipient(s), Subrecipient(s), SHPO, and/or participating Tribal Nation(s), may develop a treatment measure plan that includes one (1) 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

FEMA will consult with the SHPO to determine the level and format of recordation required for the affected property(s). FEMA shall ensure that the recordation is submitted to the SHPO and/or participating Tribe(s) for review and approval prior to project implementation. This recordation may include, but is not necessarily limited to, one or more of the following components:

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 SHPO policy and guidelines provided in the North Carolina Department of Natural and Cultural Resources *SHPO Digital Photography Policy* or subsequent revisions, accessible online at: <https://www.hpo.nc.gov/digital-photography-policy/pdf/open>

The digital photography package shall include a comprehensive collection of photographs of both interior and exterior views for public buildings, and exterior views for private property showing representative spaces and details of significant architectural features and typical building materials. However, interior photographs will only be subject to this if a request for access is approved by the property owner or lessee. 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 *SHPO Digital Photographic Policy* (site number_site 911 address or district name_month-year taken_photographer initials-sequential photo number (total in set for that resource)). A log listing all photographs by index and their views will be created and saved in a spreadsheet format.

- a. The digital photography package shall include
- b. Physical Copies - printed color copies of the digital photographs (on appropriate paper, per SHPO Photographic Policy) also known as proof sheets, with the digital image file name recorded below each photograph or on the reverse side in pencil, keyed site and/or floor plans, a completed State architectural inventory form/database record report, and a written site history of the historic property (1-2 pages).
- c. Digital Copy - a CD/DVD or flash drive should be provided and must contain individual digital photographs (appropriately indexed), keyed site/floor plans, photograph proof sheets, updated SHPO survey database record (.accdb or other approved format), historic property report, and photograph log (spreadsheet)
- d. The designated responsible party shall submit the digital photography package to the SHPO and/or participating Tribe(s), for review and approval. Once approved by the SHPO and/or participating Tribe(s), the designated responsible party shall submit a copy of the approved documentation to a State or local historical society, archive, or library for permanent retention.

2. Large Format Photography Package

Prior to project implementation, the designated responsible party shall oversee the successful delivery of a large format photography package prepared by staff or contractors meeting the Secretary's Professional Qualifications for Architectural History, History, Architecture, or Historic Architecture, as appropriate.

- a. The large format photography package shall include a comprehensive collection of photographs of both interior and exterior views showing representative spaces and details of significant architectural features and typical building materials. However, interior photographs will only be subject to this if a request for access is approved by the property owner or lessee. 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) for review and approval. Once approved by the SHPO and/or participating Tribe(s), the designated responsible

party shall submit a copy of the approved documentation to a State or local historical society, archive, or library for permanent retention.

B. TRIBAL TREATMENT PLAN

FEMA shall work with participating Tribe(s) to develop a plan for the protection and treatment of, including but not limited to, Native American human remains, funerary objects, cultural and religious landscapes, ceremonial items, traditional gathering areas and cultural items, for known sites and in the event that any are discovered in conjunction with the Undertaking, including archaeological studies, excavation, geotechnical investigations, grading, and all ground-disturbing activity. The plan shall also formalize procedures for Tribal monitoring during archaeological studies, grading, and ground disturbing activities for the Undertaking.

C. PUBLIC INTERPRETATION

Prior to project implementation, FEMA, the Recipient(s), and Subrecipient(s) shall work with the SHPO and/or participating Tribe(s) to design an educational interpretive plan. The plan may include signs, displays, educational pamphlets, websites, online story maps, 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 Tribe(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 Recipient(s), and Subrecipient(s) shall work with the SHPO and/or participating Tribe(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/or participating Tribe(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 Standards for the appropriate discipline.

E. ORAL HISTORY DOCUMENTATION

Prior to project implementation, FEMA, the Recipient(s), and Subrecipient(s) shall work with the SHPO and/or participating Tribe(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) 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 Standards for the appropriate discipline.

F. HISTORIC PROPERTY INVENTORY

Prior to project implementation, FEMA, the Recipient(s), and Subrecipient(s) shall work with the SHPO and/or participating Tribe(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 or districts which have undergone change or lack sufficient documentation, or the survey of new historic properties 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), through the data collection process. The designated responsible party shall use NC SHPO Historic Structure Survey Reports (HSSR) Standards accessed online at [NC SHPO Report Standards for Historic Structure Survey](#) and forms and/or participating Tribe(s) standards and forms for the survey of historic properties as appropriate. The designated responsible party shall prepare a draft inventory report, according to NC SHPO HSSR Standards or participating Tribe(s) templates and guidelines, and work with FEMA until a final property inventory is approved. The designated responsible party shall use staff or contractors meet Secretary's Professional Qualification Standards for the appropriate discipline.

G. NATIONAL REGISTER AND NATIONAL HISTORIC LANDMARK NOMINATIONS

Prior to project implementation, FEMA, the Recipient(s), and Subrecipient(s) shall work with the SHPO and/or participating Tribe(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 Tribe(s), through the drafting of the nomination form. The SHPO and/or participating Tribe(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 follow the procedures outlined in Practical Advice for Preparing National Register Nominations in North Carolina accessed online at: <https://www.hpo.nc.gov/survey-and-national-register/national-register-historic-places/preparing-national-register-nominations-nc>.

The designated responsible party shall use staff or contractors that meet Secretary Professional Qualification Standards for the appropriate discipline.

H. GEO-REFERENCES OF HISTORIC MAPS AND AERIAL PHOTOGRAPHS

Prior to project implementation, FEMA, the Recipient(s), and Subrecipient(s) shall work with the SHPO and/or participating Tribe(s) to identify the historic maps or aerial photographs for scanning and geo-referencing. Once a list of maps or aerial photographs has been agreed upon, the designated responsible party shall continue to coordinate with

the SHPO and/or participating Tribe(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) for review. The SHPO and/or participating Tribe(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.

I. ARCHAEOLOGICAL SURVEY/TESTING/DATA RECOVERY

Prior to project implementation, FEMA, the Recipient(s), and Subrecipient(s) shall work with SHPO and/or participating Tribe(s) to design an archaeological survey plan, which may include additional survey as needed, test investigations, data recovery, treatment reports, technical archaeological syntheses, or the development of public education materials. Given the individual nature of each archaeological site, data recovery methodology, reporting requirements and curation will depend on the nature of historic properties affected and the severity of adverse effects. All work will conform to the FEMA Guidance for Inadvertent Discoveries and Guidance for Working with Burial Contexts and Skeletal Remains (see Appendix F). Findings will not be published or presented by any party prior to obtaining permission from FEMA, the Recipient(s), the Subrecipient(s), SHPO and and/or participating Tribe(s).

APPENDIX D

FEMA ENVIRONMENTAL PLANNING AND HISTORIC PRESERVATION DEBRIS COLLECTION IN CULTURALLY SENSITIVE AREAS GUIDANCE

APPENDIX E

NORTH CAROLINA OSA GUIDANCE FOR IDENTIFICATION AND EVALUATION PROCESS FOR ARCHAEOLOGICAL RESOURCES

This Appendix may be amended in accordance with Stipulation IV.A.3 of this Agreement.

Qualifications:

Individuals seeking to do background research at an OSA facility must meet or be under the supervision of an individual who meets the *Secretary of the Interior's Professional Qualification Standards for Archaeology* as described in 36 CFR Part 61.

Area of Potential Effects:

According to 36 CFR 800.16(d), the Area of Potential Effects (APE) for a project is “the geographic area or areas within which an Undertaking may directly or indirectly cause alterations in the character or use of historic properties.” In the case of archaeological sites, the APE is often the maximum area of potential ground disturbing activities associated with a project. The Area of Potential Effects as originally defined for a project may change if it is re-designed.

Background Research:

Prior to the fieldwork phase of a project, background research is to be conducted in consultation with the OSA. Access to archaeological site files, reports, and related documents is provided to Secretary qualified professional archaeologists and authorized representatives of federal, state, or local agencies and institutions whose purpose is to effect planning decisions regarding archaeological resources. Persons having access to site files will be expected to maintain the confidentiality of site location information in accordance with North Carolina General Statute 70-18.

Fieldwork Activities:

Fieldwork, if necessary, may include monitoring, reconnaissance survey, and identification survey (Phase I), as defined in the OSA's *Archaeological Investigation Standards and Guidelines*.

Undertakings in Cemeteries and Grave Sites:

According to North Carolina General Statute 65-85(2), a cemetery is “a tract of land used for burial of multiple graves.” Cemeteries containing interments greater than 50 years of age should receive a trinomial site number. If the cemetery is associated with other historic site elements, or is located within a prehistoric site, both a completed OSA Site Form and a Cemetery Form should be submitted (see OSA's *Archaeological Investigation Standards and Guidelines Appendices*). Otherwise only a cemetery form is necessary. Given the possibility for unmarked graves in historic cemeteries, even burial locations with a single above-ground marker should be recorded as cemeteries.

Inadvertent Discovery of Human Remains

If human skeletal remains are encountered during archaeological investigations, please reference *Inadvertent Discoveries Guidance and Guidance for Working with Burial Contexts and Skeletal Remains* (See Appendix F below).

Curation:

If occurring, curation will follow OSA guidelines as described in the *Archaeological Investigation Standards and Guidelines*, with all materials – including artifacts, floral and faunal remains, and sediment samples, along with related documentation such as original field notes, maps, photographs, artifact inventory lists, and analysis forms – being permanently curated in an approved archaeological repository, preferably in the state of North Carolina. If artifacts are curated with the North Carolina Office of State Archaeology Research Center (OSARC), a deed of gift form should be signed by the owner of the property on which the archaeological investigation is undertaken at the time of the fieldwork. If no curation is to occur, it should be noted that the artifacts were returned at the request of the landowner.

Reports:

Reports will follow OSA guidelines as described in the *Archaeological Investigation Standards and Guidelines*.

APPENDIX F

FEMA ENVIRONMENTAL PLANNING AND HISTORIC PRESERVATION INADVERTENT DISCOVERIES AND GUIDANCE FOR WORKING WITH BURIAL CONTEXTS AND SKELETAL REMAINS

FEMA Environmental Planning and Historic Preservation Guidance

Inadvertent Discoveries and Guidance for Working with Burial Contexts and Skeletal Remains

The following is guidance developed for Response and Recovery actions which may encounter an inadvertent discovery of intact or displaced burial contexts or skeletal remains. Information on Burial Context Identifiers, guidance on steps to take when encountering burial contexts, and the North Carolina Statutes regarding burials and human remains are included below for reference.

Types of Burial Context Identifiers

- **Historic Burial Contexts:** Unmarked historic burials are often encountered within 30 meters/100 feet of a known cemetery boundary or displaced from cemeteries due to landslides and slope failures. Burials can comprise of skeletal remains with or without remnants of wooden coffins, or wooden/metal caskets; coffin furnishings (handles, flourishes); and metal jewelry, buckles, pins, buttons etc.
- **Pre-Contact Burial Contexts:** Pre-Contact burials can comprise of skeletal remains that could be fragmented, with or without projectile points, beads, pot sherds, etc. Could also include soil discoloration or staining.

For more information regarding Cemeteries please visit see:

North Carolina Office of State Archaeology's [Cemetery Program](#) webpage.

Chicora Foundation, Inc's [Cemetery Guidance for Disaster Planning](#)

National Park Service's [Post-Disaster Care of Cemeteries Guidance](#)

For additional information and guidance for working with Debris in Cemetery contexts please reference:

FEMA Environmental Planning and Historic Preservation: *Debris Collection in Culturally Sensitive Areas*



FEMA

What to Do when Burial Contexts are Encountered:

In the event that unmarked human remains are encountered during permitted activities the following actions must occur:

- All work within the vicinity (3 meters/10 feet) of the discovery shall stop immediately, and the proper authorities notified in accordance with North Carolina Statutes (Listed below). The contractor will provide immediate notice to the following:
 - The County Medical Examiner must be contacted immediately to identify and assess historic burials and skeletal remains (please see contact list below).
 - The contractor or employee will also provide immediate notice to NCEM, FEMA the North Carolina State Archaeologist (OSA) and FEMA-EHP within 24 hours of the discovery.
- The contractor or employee will ensure that disturbance to the remains shall cease immediately, that access to the sensitive area is restricted, and that all reasonable measures are taken to avoid further disturbance of the discoveries.
- Work in the vicinity (3 meters/10 feet) of the discovery may not resume until FEMA is provided time to completed consultation with SHPO, Tribes, and other consulting parties as necessary.

North Carolina Statutes:

All FEMA funded actions require Environmental Planning and Historic Preservation (EHP) Compliance review. FEMA is responsible for ensuring all actions are compliant with Federal, State and Local EHP laws and executive orders. In addition to compliance with Section 106 of the National Historic Preservation Act (implementing regulations found at 36 CFR § 800), the Native American Graves and Repatriation Act (NAGPRA), and Archaeological Resources Protection Act (ARPA); projects involving inadvertent discoveries including burial contexts and/or human remains shall be in compliance with North Carolina Statutes, including but not limited to the following. Additional Information is available on the [NC OSA Useful Cemetery Laws](#) Webpage.

§ 65-106. Removal of graves; who may disinter, move, and reinter; notice; certificate filed; reinterment expenses; due care required. [G.S 65-106 \(ncleg.gov\)](#)

- (a) The State of North Carolina and any of its agencies, public institutions, or political subdivisions, the United States of America or any agency thereof, any church, electric power or lighting company, or any person, firm, or corporation may effect the disinterment, removal, and reinterment of graves as follows:
- (1) By the State of North Carolina or any of its agencies, public institutions, or political subdivisions, the United States of America or any agency thereof, when it shall determine and certify to the board of county commissioners in the county from which the bodies are to be disinterred that such removal is reasonably necessary to perform its governmental functions and the duties delegated to it by law.
 - (2) By any church authority in order to erect a new church, parish house, parsonage, or any other facility owned and operated exclusively by such church; in order to expand or enlarge an existing church facility; or better to care for and maintain graves not located in a regular cemetery for which such church has assumed responsibility of care and custody.

- (3) By an electric power or lighting company when it owns land on which graves are located, and the land is to be used as a reservoir.
- (4) By any person, firm, or corporation who owns land on which an abandoned cemetery is located after first securing the consent of the governing body of the municipality or county in which the abandoned cemetery is located.
- (b) The party effecting the disinterment, removal, and reinterment of a grave containing a decedent's remains under the provisions of this Part shall, before disinterment, give 30 days' written notice of such intention to the next of kin of the decedent, if known or subject to being ascertained by reasonable search and inquiry, and shall cause notice of such disinterment, removal, and reinterment to be published at least once per week for four successive weeks in a newspaper of general circulation in the county where such grave is located, and the first publication shall be not less than 30 days before disinterment. Any remains disinterred and removed hereunder shall be reinterred in a suitable cemetery.
- (c) The party removing or causing the removal of all such graves shall, within 30 days after completion of the removal and reinterment, file with the register of deeds of the county from which the graves were removed and with the register of deeds of the county in which reinterment is made, a written certificate of the removal facts. Such certificate shall contain the full name, if known or reasonably ascertainable, of each decedent whose grave is moved, a precise description of the site from which such grave was removed, a precise description of the site and specific location where the decedent's remains have been reinterred, the full and correct name of the party effecting the removal, and a brief description of the statutory basis or bases upon which such removal or reinterment was effected. If the full name of any decedent cannot reasonably be ascertained, the removing party shall set forth all additional reasonably ascertainable facts about the decedent including birth date, death date, and family name.
- The fee for recording instruments in general, as provided in G.S. 161-10(a)(1), for registering a certificate of removal facts shall be paid to the register of deeds of each county in which such certificate is filed for registration.
- (d) All expenses of disinterment, removal, and acquisition of the new burial site and reinterment shall be borne by the party effecting such disinterment, removal, and reinterment, including the actual reasonable expense of one of the next of kin incurred in attending the same, not to exceed the sum of two hundred dollars (\$200.00).
- (e) The Office of Vital Records of North Carolina shall promulgate regulations affecting the registration and indexing of the written certificate of the removal facts, including the form of that certificate.
- (f) The party effecting the disinterment, removal, and reinterment of a decedent's remains under the provisions of this Part shall ensure that the site in which reinterment is accomplished shall be of such suitable dimensions to accommodate the remains of that decedent only and that such site shall be reasonably accessible to all relatives of that decedent, provided that the remains may be reinterred in a common grave where written consent is obtained from the next of kin. If under the authority of this Part, disinterment, removal, and reinterment are effected by the State of North Carolina or any of its agencies, public institutions, or political subdivisions, the United States of America or any agency thereof, any electric power or lighting company, then such disinterment, removal, and reinterment shall be performed by a funeral director duly licensed as a "funeral director" or a "funeral service licensee" under the provisions of Article 13A of Chapter 90 of the General Statutes.

- (g) All disinterment, removal, and reinterment under the provisions of this Part shall be made under the supervision and direction of the county board of commissioners or other appropriate official, including the local health director, appointed by such board for the county where the disinterment, removal, and reinterment take place. If reinterment is effected in a county different from the county of disinterment with the consent of the next of kin of the deceased whose remains are disinterred, then the disinterment and removal shall be made under the supervision and direction of the county board of commissioners or other appropriate official, including the local health director, appointed by such board for the county of the disinterment, and the reinterment shall be made under the supervision and direction of the county board of commissioners or other appropriate official, including the local health director, appointed by such board for the county of reinterment.

Due care shall be taken to do said work in a proper and decent manner, and, if necessary, to furnish suitable coffins or boxes for reintering such remains. Due care shall also be taken to remove, protect, and replace all tombstones or other markers, so as to leave such tombstones or other markers in as good condition as that prior to disinterment. Provided that in cases where the remains are to be moved to a perpetual care cemetery or other cemetery where upright tombstones are not permitted, a suitable replacement marker shall be provided.

- (h) Nothing contained in this Part shall be construed to grant or confer the power or authority of eminent domain, or to impair the right of the next of kin of a decedent to remove or cause the removal, at his or their expense, of the remains or grave of such decedent. (1919, c. 245; C.S., ss. 5030, 5030(a); Ex. Sess. 1920, c. 46; 1927, c. 23, s. 1; c. 175, s. 1; 1937, c. 3; 1947, cc. 168, 576; 1961, c. 457; 1963, c. 915, s. 1; 1965, c. 71; 1971, c. 797, s. 1; 1977, c. 311, s. 1; 2001-390, s. 3; 2007-118, s. 1.)

§ 70-29. Discovery of remains and notification of authorities. [G.S. 70-29 \(ncleg.gov\)](#)

- (a) Any person knowing or having reasonable grounds to believe that unmarked human burials or human skeletal remains are being disturbed, destroyed, defaced, mutilated, removed, or exposed, shall notify immediately the medical examiner of the county in which the remains are encountered.
- (b) If the unmarked human burials or human skeletal remains are encountered as a result of construction or agricultural activities, disturbance of the remains shall cease immediately and shall not resume without authorization from either the county medical examiner or the State Archaeologist, under the provisions of G.S. 70-30(c) or 70-30(d).
- (c) (1) If the unmarked human burials or human skeletal remains are encountered by a professional archaeologist, as a result of survey or test excavations, the remains may be excavated and other activities may resume after notification, by telephone or registered letter, is provided to the State Archaeologist. The treatment, analysis and disposition of the remains shall come under the provisions of G.S. 70-34 and 70-35.
- (2) If a professional archaeologist directing long-term (research designed to continue for one or more field seasons of four or more weeks' duration) systematic archaeological research sponsored by any accredited college or university in North Carolina, as a part of his research, recovers Native American skeletal remains, he may be exempted from the provisions of G.S. 70-30, 70-31, 70-32, 70-33, 70-34 and 70-35(c) of this Article so long as he:
- Notifies the Executive Director within five working days of the initial discovery of Native American skeletal remains;
 - Reports to the Executive Director, at agreed upon intervals, the status of the project;
 - Curates the skeletal remains prior to ultimate disposition; and
 - Conducts no destructive skeletal analysis without the express permission of the Executive Director.

Upon completion of the project fieldwork, the professional archaeologist, in consultation with the skeletal analyst and the Executive Director, shall determine the schedule for the completion of the skeletal analysis. In the event of a disagreement, the time for completion of the skeletal analysis shall not exceed four years. The Executive Director shall have authority concerning the ultimate disposition of the Native American skeletal remains after analysis is completed in accordance with G.S. 70-35(a) and 70-36(b) and (c).

- (d) The State Archaeologist shall notify the Chief, Medical Examiner Section, Division of Health Services, Department of Health and Human Services, of any reported human skeletal remains discovered by a professional archaeologist. (1981, c. 853, s. 2; 1997-443, s. 11A.118(a); 2007-484, s. 10(b).)

§ 70-37. Prohibited acts. [G.S. 70-37 \(ncleg.gov\)](#)

(a) No person, unless acting under the provisions of G.S. 130-198 through G.S. 130-201, shall:

- (1) Knowingly acquire any human skeletal remains removed from unmarked burials in North Carolina after October 1, 1981, except in accordance with the provisions of this Article;
- (2) Knowingly exhibit or sell any human skeletal remains acquired from unmarked burials in North Carolina; or
- (3) Knowingly retain human skeletal remains acquired from unmarked burials in North Carolina after October 1, 1981, for scientific analysis beyond a period of time provided for such analysis pursuant to the provisions of G.S. 70-32, 70-33 and 70-34, with the exception of those skeletal remains curated under the provisions of G.S. 70-35.

(b) Other provisions of criminal law concerning vandalism of unmarked human burials or human skeletal remains may be found in G.S. 14-149. (1981, c. 853, s. 2.)

§ 70-40. Penalties. [G.S. 70-37 \(ncleg.gov\)](#)

(a) Violation of the provisions of G.S. 70-29 is a Class 1 misdemeanor.

(b) Violation of the provisions of G.S. 70-37(a) is a Class H felony. (1981, c. 853, s. 2; 1993, c. 539, s. 543; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-149. Desecrating, plowing over or covering up graves; desecrating human remains. [G.S. 14-149 \(ncleg.gov\)](#)

(a) It is a Class I felony, without authorization of law or the consent of the surviving spouse or next of kin of the deceased, to knowingly and willfully:

- (1) Open, disturb, destroy, remove, vandalize or desecrate any casket or other repository of any human remains, by any means including plowing under, tearing up, covering over or otherwise obliterating or removing any grave or any portion thereof.
- (2) Take away, disturb, vandalize, destroy, tamper with, or deface any tombstone, headstone, monument, grave marker, grave ornamentation, or grave artifacts erected or placed within any cemetery to designate the place where human remains are interred or to preserve and perpetuate the memory and the name of any person. This subdivision shall not apply to the ordinary maintenance and care of a cemetery.
- (3) Repealed by Session Laws 2007-122, s. 2, effective December 1, 2007, and applicable to offenses committed on or after that date.

- (a1) It is a Class H felony, without authorization of law or the consent of the surviving spouse or next of kin of the deceased, to knowingly and willfully disturb, destroy, remove, vandalize, or desecrate any human remains that have been interred in a cemetery.
- (b) The provisions of this section shall not apply to a professional archaeologist as defined in G.S. 70-28(4) acting pursuant to the provisions of Article 3 of Chapter 70 of the General Statutes. (1889, c. 130; Rev., s. 3681; 1919, c. 218; C.S., s. 4321; 1981, c. 752, s. 2; c. 853, s. 5; 2007-122, s. 2.)

§ 14-401.22. Concealment of death; disturbing human remains; dismembering human remains.

[G.S. 14-401.22 \(ncleg.net\)](#)

- (a) Except as provided in subsection (a1) of this section, any person who, with the intent to conceal the death of a person, fails to notify a law enforcement authority of the death or secretly buries or otherwise secretly disposes of a dead human body is guilty of a Class I felony.
- (a1) Any person who, with the intent to conceal the death of a child, fails to notify a law enforcement authority of the death or secretly buries or otherwise secretly disposes of a dead child's body is guilty of a Class H felony. For purposes of this subsection, a child is any person who is less than 16 years of age.
- (b) Any person who aids, counsels, or abets any other person in concealing the death of a person is guilty of a Class A1 misdemeanor.
- (c) Any person who willfully (i) disturbs, vandalizes, or desecrates human remains, by any means, including any physical alteration or manipulation of the human remains, or (ii) commits or attempts to commit upon any human remains any act of sexual penetration is guilty of a Class I felony. This subsection does not apply to:
 - (1) Acts by a first responder or others providing medical care.
 - (2) Acts committed as part of scientific or medical research, treatment, or diagnosis.
 - (3) Acts performed by a licensed funeral director or embalmer consistent with standard practice.
 - (4) Acts committed for the purpose of extracting body parts in accordance with usual and customary standards of medical practice.
 - (5) Acts by a professional archaeologist as defined in G.S. 70-28(4) acting pursuant to the provisions of Article 3 of Chapter 70 of the General Statutes.
 - (6) Acts committed for any other lawful purpose.
- (c) Any person who attempts to conceal evidence of the death of another by knowingly and willfully dismembering or destroying human remains, by any means, including removing body parts or otherwise obliterating any portion thereof, shall be guilty of a Class H felony.
- (d) Any person who violates subsection (a), (a1), or (d) of this section, knowing or having reason to know the body or human remains are of a person that did not die of natural causes, shall be guilty of a Class D felony.
- (e) As used in this section, "human remains" means any dead human body in any condition of decay or any significant part of a dead human body, including any limb, organ, or bone. (2005-288, s. 1; 2011-193, s. 1; 2013-52, s. 5.)

Points of Contact

North Carolina Office of the Chief Medical Examiner (NC OCME)

- NC OCME website <https://www.ocme.dhhs.nc.gov/contact.shtml>
- General Business Enquiries, Phone (919) 743-9000 or 1 (800) 672-7024

North Carolina Division of Natural and Cultural Resources, Office of State Archaeology

- Dylan Clark, Deputy State Archaeologist, Phone (828) 205-3109, dylan.clark@dncr.nc.gov
- Chris Southerly, State Archaeologist, Phone (919) 810-0976, Chris.Southerly@dncr.nc.gov

North Carolina Emergency Management

- NCEM Main Switchboard: Phone (919) 825-2500, <https://www.ncdps.gov/contact/send-email>

FEMA - NC Forward Integration Teams

- NC FEMA Integration Team General Email R4-FIT-NC@fema.dhs.gov

FEMA Environmental Planning and Historic Preservation (EHP)

- Leslie Johansen, Region 4 Preservation Lead, Phone (202)704-4541, fema-r4ehp106@fema.dhs.gov
- Gary Thatcher, FEMA Environmental Protection Specialist, Phone (256) 454-1985, gary.thatcher@fema.dhs.gov

APPENDIX G

FEMA ENVIRONMENTAL PLANNING AND HISTORIC PRESERVATION BEST PRACTICES: DEMOLITION, DEBRIS REMOVAL STIPULATIONS FOR FEMA GRANT FUNDED PROJECTS

FEMA ENVIRONMENTAL PLANNING AND HISTORIC PRESERVATION

Best Practices:

Demolition, and Debris Removal Stipulations for FEMA Grant Funded Projects

State of North Carolina

The following best management practices (BMPs) are for FEMA funded demolition projects. The following BMPs apply to the FEMA approved demolition of buildings and structures, associated utilities, and paved surfaces and associated activities including ground-disturbance and materials disposal.

GENERAL APPROACH TO MINIMIZE IMPACT TO SOIL:

- Major demolition activities, including placement of vehicles and equipment, must be confined to areas where soils have been previously disturbed as exemplified by surface grading and utility trenching.
- When vehicles or heavy equipment are not in use, they shall be staged on hard or firm surfaces. Paved surfaces, if available within the project site limits, shall be used to the fullest extent possible.
- Vehicles and heavy equipment must work from paved or hard surfaces to avoid soil compaction and/or sinking into soft soils. If necessary, use mud mats, access mats, or high traction construction mats (e.g., timber, rubber) when operating on soft soils. Avoid working in soft soils during or immediately after rain events.
- Where feasible possible, use tracked vehicles to reduce soil disturbance and minimize soil compaction.
- Excavation and burial of vegetative and house debris on the individual site is prohibited.

ACTIVITY SPECIFIC GUIDELINES:

Demolition Activities

- ***Basement Foundation Removal:*** Removal of structural foundations and basement walls to at least one (1) foot below the finish grade of the site. Excavation will be limited to within two (2) feet of the foundation perimeter.
- ***Foundation Slab/Driveway/Sidewalk Removal:*** Limit excavation to private property to within one (1) foot of the slab/driveway/sidewalk perimeter, and not more than six (6) inches below the depth of the asphalt/concrete to minimize soil disturbance.
- ***Oil Tank Location/Removal:***
 - Locate an underground storage tank (UST) (e.g., heating oil tank) using approved methods, which include using a magnetometer, probe, or GPR system. Trenches are not permitted.
 - The Recipient is required to close an abandoned UST by having it cleaned to remove residual materials (hazardous waste) and then backfilled with clean certified fill (e.g., dry sand, gravel, or concrete) or digging-up and removing the tank (removing any contaminated soil in the process).

- When working with hazardous waste disposal, all Resource Conservation and Recovery Act (RCRA) and State Hazardous Materials and Solid Waste (SHM&SW) requirements will be adhered to.
- The contractor will limit potential soil disturbance within proximity of the oil tank.
- **Septic Tanks:** In septic tank decommissioning, the tank shall be disconnected from the main drain of the house and any waste pumped out by tanker. The old tank is either completely removed or, if left in place, disinfected, several holes punched into the bottom, and tank filled using clean, suitable fill (sand, gravel, soil) and its cover and lid securely fastened. If removed, the contractor will limit potential soil disturbance and dispose of the old tank at a licensed or permitted waste disposal facility. The hole shall be filled with clean dirt, gravel, or other acceptable material. The area must be graded and vegetative cover established.
- **Utility Lines:** Abandoned utility lines (e.g., water, sewer, natural gas) shall be disconnected and capped to meet safety or local code requirements. In cases where there are no shut-off valves, limited excavation within the utility rights-of-way is allowed to cap these service lines.

DEMOLITION-RELATED DISPOSAL ACTIVITIES:

The following non-exhaustive summary provides guidance on the disposal of hazardous materials which may be associated with demolition. Please refer to applicable federal, state, and local requirements when disposing of demolition-related materials.

Asbestos Abatement and Demolition Requirements:

- The handling of asbestos can release hazardous particulate matter and consideration should be made to treat it with the same Best Management Practices (BMP) to reduce worker and citizen exposures.
- All building demolition/renovation projects require the submission of a completed [Asbestos Permit Application and Notification \(DHHS-3768\)](#) form to the Health Hazards Control Unit (HHCU) of the NC Department of Public Health in Raleigh, NC.
 - HHCU contact for asbestos removal (919)-707-5950
 - Evidence that this form has been submitted to the NC Department of Public Health must be submitted to FEMA-EHP at or prior to final project closeout.
- **County Specific Ordinances**
 - For building demolition/renovation projects in Mecklenburg, Buncombe and Forsythe Counties, applicants must also coordinate with local offices regarding air pollution. For more details see:
 - Buncombe County: [WNC Regional Air Quality](#) (828) 250-6777
 - Forsyth County: [Office of Environmental Assistance and Protection](#) (336) 703-2440
 - Mecklenburg County: [Mecklenburg Land Use and Environmental Services Agency, Mecklenburg Air Quality](#) (704) 336-5430

- All contractors and employees must use best management practices to reduce generation of dust and particulates indicative of the release of asbestos and asbestos-containing materials into the air to:
 - Minimize worker and citizen exposure to hazardous substances, and
 - *For Commercial and congregate housing over four (4) units:* Demolition must comply with the Asbestos National Emissions Standards for Hazardous Air Pollutants (NESHAP).
 - *For single-family homes, personal use structures (e.g., garages, sheds) and congregate housing with four (4) units or less:* The demolition of and resultant debris is exempt from the provisions of the Asbestos NESHAP.
- The primary accepted BMP is to treat all storm-related construction/demolition debris as potentially asbestos contaminated material and maintain it in a wet condition through all phases of the operation including demolition, handling, transportation, and disposal.
- When working with the disposal of asbestos, all RCRA and SHM&SW requirements will be adhered to.

Asbestos Continued, Other Issues:

- ***Burning:*** Burning associated with these guidelines is not allowed without first addressing the potential for asbestos containing building materials.
- ***Salvage:*** Salvaging associated with these guidelines is not allowed without first addressing the potential for asbestos containing building materials.
- ***Grinding:*** Grinding associated with these guidelines is not allowed without first addressing the potential for asbestos containing building materials.

Lead Based Paint:

- The demolition contractor will be responsible for complying with the OSHA Lead in Construction Standard 1926.62 when demolishing storm damaged buildings within the State of North Carolina.

NCDEQ Links and Contacts

- For additional guidance, please see [North Carolina Division of Environmental Quality](#)
- *Branch Director:* Michael Abraczinskas, Michael.Abraczinskas@ncdenr.gov, 919-707-8447
- *Regional Office Contacts* [Regional Offices](#)

APPENDIX H

GLOSSARY OF COMMONLY USED TERMS

Existing Footprint

When referenced in the allowances, the phrase “within the existing footprint” refers to any location in three-dimensional space. This includes depth considerations, which the original structure, feature, facility, utility, etc. occupied.

Ground Disturbance

When referenced in the allowances, “Ground Disturbance” refers to any activity that moves, compacts, alters, displaces, or penetrates the ground surface to the depth of the proposed activity.

In-Kind

When referenced in the Programmatic Allowances, the phrase “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.

Integrity

Per Department of the Interior, National Park Service, Integrity is the ability of a property to convey its significance through one or more aspects (Location, Design, Setting, Materials, Workmanship, Feeling or Association). For more guidance see Chapter VIII of the *National Register Bulletin: How to Apply the National Register Criteria for Evaluation*.

New Ground Disturbance

Shall refer to any construction work disturbance which affects previously undisturbed soils either horizontally or vertically.

Previously Disturbed Soils

Shall refer to soils that are not likely to possess intact and distinct soil horizons and have a reduced likelihood of possessing historic properties within their original depositional contexts in the area.

Previously Undisturbed Soils

Refers to soils that may possess significant intact and distinct natural soil horizons. Previously undisturbed soils may occur below the depth of disturbed soils and may be found under built environments, such as road surfaces, parking lots, slabs, buildings, or below the plow horizon in agricultural settings