AMENDMENT TO
PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER,
THE NEW YORK STATE OFFICE OF EMERGENCY MANAGEMENT,
THE DELAWARE NATION,
THE DELAWARE TRIBE OF INDIANS,
THE SHINNECOCK NATION,
THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS,
THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,
AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AS A RESULT OF HURRICANE SANDY
PROGRAMMATIC AGREEMENT (AGREEMENT)

WHEREAS, the Agreement was executed on May 10, 2013; and

WHEREAS, to alleviate the need to negotiate additional agreements when new disasters are declared and thereby minimize delays in the delivery of assistance by the Federal Emergency Management Agency (FEMA), the Agreement, which only covered Hurricane Sandy in those affected counties, will be extended for five additional years from the date of the execution of the Amended Agreement and will cover all Federally declared disasters in all counties in New York State; and

WHEREAS, only FEMA disaster response and recovery programs authorized by Sections IV and V of the Stafford Act are included in the Agreement, so to comprehensively cover FEMA programs and thereby more effectively integrate historic preservation compliance considerations into the delivery of FEMA assistance, the Amended Agreement will also include FEMA non-disaster programs as listed in Appendix A; and

WHEREAS, because the staffing level at the New York State Historic Preservation Office (SHPO) will vary over the term of this Amended Agreement, it provides for SHPO to request at the beginning of each Federally-declared disaster an extension of the review time allowed in Stipulation I.E.2.a. and I.E.2.b; and

WHEREAS, as a result of expanding the geographical area to include all of New York State in this Amended Agreement, additional Indian Tribes and Indian Nations may have sites of religious and cultural significance on or off Tribal and National Lands in this area, and these Indian Tribes and Indian Nations have been invited to sign this Amended Agreement, and Stipulations relating to their participation have been amended or added to clarify roles, responsibilities and process; and

WHEREAS, Indian Tribes and Indian Nations reside in New York State and henceforth references to Indian Tribe(s) in the Amended Agreement have been amended to include both Indian Tribe(s) and Nation(s) (Tribe(s)/Nation(s)); and

WHEREAS, since the execution of the Agreement, the Prototype Programmatic Agreement was agreed to by FEMA, the Advisory Council on Historic Preservation (ACHP), the National Conference of State Historic Preservation Officers (NCSHPO), and thus, this Agreement is being revised to better reflect the Prototype Agreement; and

WHEREAS, Stipulations II.B.1 and II.B.2. refer only to Expedited Review for Emergency Undertakings for the Hurricane Sandy disaster declaration, and as such, the stipulations have been broadened to include Expedited Review for Emergency Undertakings for the additional federally declared disasters; and

WHEREAS, the New York State Office of Emergency Management has changed its name and will hereafter be known as the New York State Division of Homeland Security and Emergency Services (DHSES); and

WHEREAS, Annual Reports of the past year's activity under this Amended Agreement will commence on December 31, 2015, rather than biannual reports because of the substantial amount of time that is required to prepare such report, and

WHEREAS, a process to approve amendments to the Agreement is provided for Other Federal Agencies referenced in Stipulation I.A.3. who may utilize the Agreement to satisfy their Section 106 responsibilities.

NOW THEREFORE, in accordance with Stipulation IV.A.1. of the Agreement, the signatories, invited signatories and consulting party agree to amend the Agreement, provided complete with all its Appendices below, as follows:

STATEWIDE PROGRAMMATIC AGREEMENT AMONG THE FEDERAL EMERGENCY MANAGEMENT AGENCY, THE NEW YORK STATE HISTORIC PRESERVATION OFFICER, THE NEW YORK STATE DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES, THE DELAWARE NATION, THE DELAWARE TRIBE OF INDIANS, THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS, THE ST. REGIS MOHAWK TRIBE, THE CAYUGA NATION, OTHER PARTICIPATING TRIBES, THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION, AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION

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

WHEREAS, FEMA makes assistance available to States, Commonwealths, communities, Federally recognized Indian Tribes and Nations (Tribe(s)/Nation(s)) and other eligible entities through programs (Programs) set forth in Appendix A, pursuant to the Homeland Security Act of 2002, Pub. L. No. 107-296 (2002) (codified as amended at 6 U.S.C. § 101 *et seq.*); Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288 (1974) (codified as amended at 42 U.S.C. § 5121 *et seq.*, (Stafford Act); the National Flood Insurance Act of 1968, Pub. L. No. 90-448 (1968) (as amended); the National Flood Insurance Reform Act of 1994, Pub. L. No. 103-325 (1994) (as amended); the Post-Katrina Emergency Management Reform Act of 2006, Pub. L. No. 109-295 (2006) (as amended); implementing regulations contained in Title 44 of the Code of Federal Regulations (CFR); Executive Order 13407 (2006); and the Sandy Recovery Improvement Act, Pub. L. No. 113-2 (2013); and such other acts, executive orders, implementing regulations, or Congressionally authorized programs as are enacted from time to time; and

WHEREAS, FEMA has determined that implementation of its Programs may result in Undertakings (as defined by 16 U.S.C. § 470w and 36 CFR § 800.16(y)) that may affect properties listed in or eligible for listing in the National Register of Historic Places (National Register) pursuant to 36 CFR Part 60 (historic properties), and FEMA has consulted with the New York State Historic Preservation Officer (SHPO), the New York State Division of Homeland Security and Emergency Services (DHSES), the New York City Landmarks Preservation Commission (LPC), the Delaware Nation, the Delaware Tribe of Indians, the Shinnecock Nation, the Stockbridge-Munsee Community Band of Mohicans, the Cayuga Nation of New York, the Oneida Indian Nation, the Onondaga Nation, the Saint Regis Mohawk Tribe, the Seneca Nation of Indians, the Seneca-Cayuga Tribe of Oklahoma, the Tonawanda Band of Seneca Indians, and the Tuscarora Nation (Participating Tribe(s)/Nation(s)) and the Advisory Council on Historic Preservation (ACHP) pursuant to Section 106 of the National Historic Preservation Act (NHPA), Pub. L. No. 89-665 (1966) (codified as amended at 16 U.S.C. § 470f) and Section 110 of NHPA (codified as amended at 16 U.S.C. §470h-2), and the Section 106 implementing regulations at 36 CFR Part 800; and

WHEREAS, FEMA, the ACHP, and the National Council of 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, in order to implement its Programs, FEMA will provide assistance to the State of New York that may provide monies and other assistance to eligible subgrantees, and as such, DHSES that is typically responsible for administering funds provided under these Programs, has

participated in this consultation, and has been invited to enter into this Agreement as an invited signatory party; and

WHEREAS, LPC is the agency responsible for identifying and designating New York City's landmarks and historic districts, regulates changes to designated buildings, and by law, issues permits under the LPC law (Charter of the City of New York §§ 3020 et seq. and the Administrative Code of the City of New York §§25-301 et seq.) for LPC designated properties in the City of New York, and therefore any FEMA Undertaking affecting such a property shall require an LPC permit prior to commencement of work or demolitions, LPC has participated in this consultation and has been invited to enter into this Agreement as a concurring party; 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 Indian Tribe(s)/Nation(s), including sites that may contain human remains and/or associated cultural items; and

WHEREAS, FEMA recognizes that the Participating Tribe(s)/Nation(s) may have sites of religious and cultural significance on or off Tribal and Nation lands, and in meeting its Federal trust responsibility, FEMA has engaged in government-to-government consultation with the Participating Tribe(s)/Nation(s), and pursuant to 36 CFR § 800.2 (c)(2)(ii)(E) has invited the Participating Tribe(s)/Nation(s) to enter into an agreement that specifies how FEMA and the Participating Tribe(s)/Nation(s) will carry out Section 106 responsibilities, including the confidentiality of information. The agreement may grant the Participating Tribe(s)/Nation(s) additional rights to participate or concur in FEMA decisions in the Section 106 review process beyond the ones outlined in 36 CFR Part 800; and

WHEREAS, notwithstanding the aforementioned invitation to enter into an agreement, FEMA has invited the Delaware Nation, the Delaware Tribe of Indians, the Cayuga Nation of New York, the Oneida Nation of New York, the Oneida Nation of Wisconsin, the Onondaga Nation, the Seneca-Cayuga Tribe of Oklahoma, the Shinnecock Nation, the Stockbridge-Munsee Community Band of Mohicans, the Tonawanda Band of Seneca Indians, and the Tuscarora Nation, each as an invited signatory party to fulfill the requirements of Section 106; and

WHEREAS, notwithstanding the aforementioned invitation to enter into an agreement, FEMA has invited the Saint Regis Mohawk Tribe and the Seneca Nations of Indians.

WHEREAS, FEMA may invite additional Tribe(s)/Nation(s) that may have sites of religious and cultural significance to enter into the terms of this Agreement; and

WHEREAS, the Delaware Tribe of Indians and the Stockbridge-Munsee Community Band of Mohicans who executed the original Sandy Agreement have agreed to execute the Amended Agreement; and

WHEREAS, the Delaware Nation, the St. Regis Mohawk Tribe and the Cayuga Nation have accepted FEMA invitation to enter into the Amended Agreement; and

WHEREAS, the Oneida Nation of New York, the Onondaga Nation, the Seneca Nation of Indians, and the Tonawanda Band of Seneca Indians of New York have indicated that they may enter into the Amended Agreement; and

WHEREAS, the Oneida Nation of Wisconsin, the Seneca-Cayuga Tribe of Oklahoma, the Shinnecock Nation, and the Tuscarora Nation of New York have not responded to FEMA's invitation to enter into this Agreement; and

WHEREAS, FEMA may perform direct Undertakings in order to implement its Programs; and

WHEREAS, in anticipation or in the immediate aftermath of the Disaster Declaration, impacted communities in the State of New York and/or affected Tribe(s)/Nation(s) may conduct critical preparedness and response and recovery activities to safeguard public health and safety and to restore vital community services and functions. 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

NOW, THEREFORE, FEMA, ACHP, SHPO, (as the signatories) DHSES, Participating Tribe(s)/Nation(s) (as invited signatories and signatories as delineated above), and LPC (a concurring party) agree that the Programs in the State of New York shall be administered in accordance with the following Stipulations to satisfy FEMA's Section 106 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 of the project is completed pursuant to this Agreement.

STIPULATIONS

To the extent of its legal authority, and in coordination with the other signatories, FEMA will require that the following measures be implemented:

I. GENERAL

A. Applicability

1. This Agreement was initiated for DR-4085-NY (Hurricane Sandy) and will remain in effect for a period of 5 years from date of the execution of the Amended Agreement and will apply activities assisted by FEMA to all disaster and non-disaster grant programs in all of New York State after the execution of the Amended Agreement by all signatory parties.

2. For FEMA undertakings that also are within the jurisdiction of the Federal Communications Commission (FCC) and within the scope of its Section 106 Programmatic Agreements for communication facilities, FEMA defers Section 106 review in accordance with the ACHP Program Comment of October 23, 2009. The approval of funding for the FEMA Undertaking will be conditioned on the compliance of the subgrantee with FCC's applicable Section 106 review, including any required consultation with affected Tribe(s)/Nation(s). FEMA will notify the SHPO when it

applies the ACHP Program Comment to an Undertaking. FEMA remains responsible for any FEMA Undertakings it determines are outside of the jurisdiction of the FCC.

3. With the written concurrence of the ACHP, FEMA, and SHPO, Other Federal Agencies providing financial assistance for the type of activities covered under the terms of this Agreement as outlined in Appendix A may satisfy their Section 106 responsibilities for such activities by accepting and complying in writing with the terms of this Agreement.

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

   b. In such situations, the other Federal Agency shall notify the Signatories in writing of its intent to use this Agreement to achieve compliance with its Section 106 requirements, and consult with the Signatories regarding its Section 106 compliance responsibilities. Resumes of staff who meet the Secretary's Professional Qualification Standard(s) and will review Second Tier projects in accordance with Appendix B of this Agreement shall be provided to FEMA and the SHPO/THPO.

   c. When amendments are made to the body of this Agreement, Other Federal Agencies are required to sign an amendment to their previously executed Addendum referencing the amended Agreement and acknowledging their willingness to comply with its terms. Federal agencies relinquish their rights to use this Agreement if such an amendment to their Addendum is not executed within 3 months of the date the amended Agreement is executed by SHPO, FEMA and ACHP.

   d. Other Federal Agencies are not required to sign an amendment to their Addendum in the event amendments are made to Appendix A, B and C of this Agreement; however, Other Federal Agencies agree to abide by amendments to these Appendices upon written notice by FEMA to the Federal Preservation Officer (FPO) of the Other Federal Agency(s) providing the funding referenced in the Addendum(s) to the Agreement.

4. This Agreement may apply to Undertakings involving multiple Federal agencies and where some or all of the Federal agencies involved in the Undertaking may designate FEMA as the lead Federal agency pursuant to 36 CFR § 800.2(a)(2) with appropriate notification to the ACHP. FEMA will act on the collective behalf of the agencies to fulfill all Section 106 responsibilities. Federal agencies that do not designate FEMA as the lead Federal agency will be responsible for doing a separate consultation pursuant to Section 106 and 36 CFR Part 800.

5. In the event of a Stafford Act major disaster or emergency declaration (Declaration), State, Tribal and local governments may lack the capability to perform or to contract for emergency work, and instead request that the work be accomplished by a Federal

agency. Through a mission assignment (MA), FEMA may direct appropriate Federal agencies to perform the work. This Agreement will apply to such Federal assistance undertaken by or funded by FEMA pursuant to Titles IV and V of the Stafford Act and 44 CFR Part 206.

6. If SHPO has reviewed and approved an Undertaking submitted by a subgrantee that was the result of damage from a disaster Declaration before FEMA has established an Undertaking for that same project, and FEMA confirms that the scope and effect [as defined by 36 CFR § 800.16(i)] of the Undertaking as reviewed by the SHPO has not changed, and SHPO/Tribal concurrence is documented, FEMA shall document these findings to the project files in order to confirm that the requirements of Section 106 have been satisfied.

7. If another Federal program or Federal agency has reviewed and approved an Undertaking under Section 106 of the NHPA within the past five years, FEMA has no further requirement for Section 106 review provided that it confirms that the scope and effect [as defined by 36 CFR § 800.16(i)] of the Undertaking as reviewed by the previous agency has not changed, and SHPO/Tribal concurrence is documented. FEMA shall document these findings to the project files in order to confirm that the requirements of Section 106 have been satisfied.

8. Should FEMA, in consultation with SHPO, DHSES, and Participating Tribe(s)/Nation(s), determine that the previous Section 106 review was insufficient or involved interagency disagreements on eligibility, effect, or mitigation, FEMA shall conduct additional Section 106 review in accordance with the terms of this Agreement.

9. 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, pursuant to 36 CFR § 800.3(a)(1):

    a. Pursuant to 44 CFR § 206.110(m), assistance to individuals and households provided under 44 CFR Part 206, Subpart D and Section 408 of the Stafford Act, including funding for owner occupied home repair and replacement, content replacement, personal property, transportation and healthcare expenses, is exempt from the provisions of Section 106. For ground disturbing activities, and construction related to 44 CFR §§ 206.117(b)(1)(ii) (temporary housing), 206.117(b)(3) (replacement housing), 206.117(b)(4) (permanent housing construction), and 206.117(c)(1)(vi) (privately owned access routes), FEMA will 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. Preparation, revision, and adoption of regulations, directives, manuals, and other guidance documents.

d. Granting of variances, and actions to enforce Federal, State, or local codes, standards or regulations.

e. Monitoring, data gathering, and reporting in support of emergency and disaster planning, response and recovery, and hazard activities.

f. Research and development of hazard warning systems, hazard mitigation plans, codes and standards, and education/public awareness programs.

g. Assistance provided for planning, studies, design and engineering costs that involve no commitment of resources other than staffing and associated funding.

h. 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.

i. 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.

j. Acquisition or lease of existing facilities where planned uses conform to past use or local land use requirements.

k. Funding the administrative action of acquiring properties in buyout projects e.g., surveys, legal fees, non-destructive abatement activities), excluding the real estate transaction and demolition. Per Item III.D, DHSES shall advise its subgrantees 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.

l. Reimbursement of a subgrantee's insurance deductible, when the deductible is the total FEMA eligible cost for the project.

m. Labor, equipment and materials used to provide security in the Disaster Declaration area, including lease, rental, purchase or repair of equipment or vehicles and payment for staff and contract labor.

n. Application of pesticides to reduce adverse public health effects, including aerial and truck-mounted spraying.

o. Unemployment assistance.

p. Distribution of food coupons.

q. Legal services.

r. Crisis counseling.

10. The terms of this Agreement will not apply to Undertakings on Tribal (reservation) lands) unless the affected Tribe(s)/Nation(s) have concurred in writing.

11. 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 will not affect this Agreement.

B. Roles and Responsibilities of FEMA, SHPO, DHSES and LPC

1. FEMA:

a. FEMA will use Federal, Tribal, State, subgrantee, or contractor staff whose qualifications meet the Secretary of the Interior's (Secretary's) Professional Qualifications Standards (Professional Qualifications) set forth in the Federal Register at 48 Fed. Reg. 44716-01 (September 29, 1983), as amended (Qualified), in completing identification and evaluation of historic properties and in making determinations of effects. FEMA will 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)/Nation(s).

i. FEMA acknowledges that Tribe(s)/Nation(s) possess special expertise in assessing the National Register eligibility of properties with religious and/or cultural significance to them. Tribal leaders and, as appropriate, their representatives shall decide who meets qualifications/standards as defined by their Tribe(s)/Nation(s) for review of undertakings affecting properties with religious and/or cultural significance to Tribe(s)/Nation(s).

b. FEMA will coordinate with the LPC to help LPC ensure that subgrantees apply for permits in all Declarations that include any of the five counties that make up the City of New York.

i. If an Undertaking as defined by 36 CFR § 800.5 has the potential to adversely affect an LPC designated property or one calendared for designation, then FEMA will provide LPC with the same documentation that is provided to SHPO and Participating tribe(s)/Nation(s).

ii. When LPC notifies FEMA that an Undertaking is subject to further LPC review and permitting, FEMA EHP may approve the project and will notify the Grantee that the subgrantee is responsible for obtaining a permit from LPC.

iii. FEMA will request LPC to be a consulting party on any Memorandum of Agreement (MOA) that is written to resolve adverse effects to buildings that are LPC designated or proposed landmarks.

c. FEMA alone shall conduct all project consultation with participating (Tribe(s)/Nation(s). In accordance with 36 CFR § 800.2(c)(4), FEMA may authorize the Grantee, or a subgrantee through the Grantee, 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 will remain legally 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, above and notify the SHPO in writing when a Grantee or subgrantee has been authorized to initiate consultation on FEMA's behalf.

d. Prior to authorizing the release of funds for individual undertakings requiring grant conditions pursuant to this Agreement, FEMA will inform DHSES of all stipulations and conditions and ensure that they are understood so they can be adequately conveyed to subgrantees. Typically, for Recovery this will occur through the use of project-specific language and/or conditions incorporated into a Project Worksheet, HMGP approval letter, and potentially also a project-specific MOA prepared for the Undertaking, to include the grantee and (when identified) the subgrantee's obligation to protect and report unexpected discoveries involving a previously unidentified historic property, human remains, or affected a known historic property in an unanticipated manner (see Stipulation III.B. Unexpected Discoveries). FEMA will work in partnership with DHSES to provide subgrantees with guidance on in-kind repair pursuant to The Secretary of the Interior's Standards for the Treatment of Historic Properties 1995 (Treatment Standards), 36 CFR Part 68, or the most updated version, and techniques to avoid or minimize adverse effects to historic properties.

e. FEMA shall provide the signatories and invited signatories with a biannual report for the previous time period on December 31, 2014. Thereafter, an annual report will be provided on December 31st of each year that this Agreement is in effect. This 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 will confer with signatories and invited signatories to this Agreement as necessary and within 30 days after issuance of the report, to review the report and/or discuss issues and concerns in greater detail.

g. FEMA shall convene the initial scoping meeting with the signatories and invited signatories as soon as practicable following the Disaster Declaration and provide

specific points of contact and other pertinent information about the Disaster Declaration.

h. FEMA shall ensure that all documentation resulting from Undertakings reviewed pursuant to this Agreement shall be consistent with applicable SHPO and Tribal guidelines and the confidentiality provisions of 36 CFR § 800.11(c).

i. FEMA will notify in writing the FPO(s) of Other Federal Agencies providing the funding referenced in the Addendum(s) to the Agreement regarding any proposed amendments to the Agreement.

2. SHPO:

a. SHPO shall review FEMA's determination of the Areas of Potential Effect (APE), National Register eligibility determinations, and FEMA's effect findings and provide comments within timeframes required by this Agreement.

b. Upon request, the SHPO will provide FEMA and/or its designee(s) with available information about historic properties (such as access to online systems or site files, GIS data, survey information, geographic areas of concern). Such data sharing may be memorialized in an agreement. Only Qualified FEMA staff and/or its designee(s) shall be afforded access to protected cultural resources information.

c. The SHPO will identify staff or consultants to assist FEMA staff with its Section 106 responsibilities, and identify, in coordination with FEMA, specific activities that SHPO may perform for specific undertakings as agreed in writing with FEMA.

d. As requested, SHPO staff will be 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, a written notice (via e-mail or regular mail) will be sent to SHPO to confirm any decisions that were reached.

e. FEMA and the SHPO may agree to delegate some or all of the SHPO's responsibilities under this Agreement to supplementary SHPO staff assigned to a FEMA-State Joint Field Office (JFO) or State Recovery Office (SRO) that are physically located in FEMA's JFO or SRO offices in order to help expedite project review or other responsibilities under this Agreement. FEMA, SHPO and DHSES will consult about the selection of the supplementary SHPO staff, the scope of responsibilities delegated, and the implementing procedures related to the actions and decisions delegated. FEMA and SHPO shall formally document their agreement regarding the supplementary SHPO staff.

f. The SHPO shall participate in an initial scoping meeting for the Disaster Declaration.

g. The SHPO may assist local jurisdictions or DHSES with advance planning efforts to consider historic properties related to their preparedness, homeland security, response, recovery, and mitigation programs, for which FEMA funding may be requested.

h. The SHPO will 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 reviews convened by FEMA to review the effectiveness of this Agreement in accordance with Stipulation I.B.1(e).

3. LPC:

a. LPC will review FEMA Undertakings that have the potential to adversely affect an LPC designated property or a property that is calendared for designation using FEMA consultation documents that are provided to SHPO and Participating Tribe(s)/Nation(s) so that LPC may notify FEMA whether or not an LPC property may be affected by the Undertaking and will require a LPC permit.

b. LPC understands that if it does not respond to FEMA's submittal of Undertakings to them within the timeframes outlined in Stipulation I.E, i.e. within 4 days under emergency conditions, 15 days for IA and PA Undertakings and 30 days for HMGP Undertakings, FEMA will assume that none of the Undertakings are subject to LPC review and permitting and will proceed with the Undertaking.

4. DHSES:

a. DHSES shall ensure that its subgrantees understand conditions and potential requirements that may be placed upon Undertakings as a result of Section 106 consultation and the provisions of this Agreement and that failure to comply with the terms of this Agreement and any project-specific conditions could jeopardize FEMA funding.

b. Subgrantee government and private non-profit agencies will be advised in DHSES applicant briefings and program materials that FEMA funding may be jeopardized unless all local, State and Federal permits, licenses and approvals are received and any required conditions and best practices are met. LPC reviews and permits will be discussed in briefings held for NYC agencies and private non-profits in all Declarations that include any of the five counties that make up the City of New York. The official notice to a subgrantee that an Undertaking is subject to special conditions or best practices issued by FEMA or another regulatory or consulting agency, or subject to further LPC review will be the project approval document specifying the project scope and limits, and containing all conditions and caveats, including an approved Project Worksheet (PW) for a Public Assistance project, and an approved Application for an HMGP project.

c. DHSES will participate in an initial scoping meeting for the Disaster Declaration.

d. DHSES will notify FEMA as soon as possible of any proposed change to the approved scope of work and direct the subgrantee that implementing the changes to the proposed scope of work prior to FEMA approval may jeopardize funding.

e. DHSES shall ensure that its subgrantees are made aware through the use of project specific language and/or conditions incorporated into Project Worksheets and their attachments, HMGP approval letters, project specific MOA's or any subgrant agreement, that in the event of an unexpected discovery involving an Undertaking that has affected a previously unidentified historic property, human remains, or affected a known historic property in an unanticipated manner, of the subgrantee's responsibility to comply with Stipulation III.B, Unexpected Discoveries. This shall include any scope of work involving ground disturbance, and resultant contracts to execute work, and provide for the protection of and notification protocols for unexpected discoveries of cultural materials and human remains.

f. If a Signatory Tribe assumes the role of Grantee for projects on Tribal lands, it will assume the same responsibilities as outlined in Stipulation I.B.4. of this Agreement, Roles and Responsibilities of the Signatories.

C. Tribal Consultation

1. For Tribe(s)/Nation(s) that have assumed the responsibilities of the SHPO through appointment of a Tribal Historic Preservation Officer (THPO) per Section 101 of the NHPA, FEMA shall consult with the THPO in lieu of the SHPO for undertakings occurring on or affecting tribal lands.

2. Where no Tribal-specific consultation agreements or protocols are in place, FEMA shall consult with affected Tribe(s)/Nation(s) in accordance with 36 CFR Part 800. In determining who the affected Tribe(s)/Nation(s) may be, FEMA will first establish that an Undertaking has the potential to affect historic properties with religious or cultural importance. FEMA may consult with the SHPO, affected Tribe(s)/Nation(s), any State Tribal Agency, and access the National Park Service (NPS) Native American Consultation Database to identify Tribal geographic interests.

3. FEMA shall ensure that its consultations with other consulting parties shall not include the dissemination of information, when advised of data sensitivity by the affected Tribe(s)/Nation(s) that might risk harm to an American Indian site or property of religious or cultural significance or that might impede the use of such a site by the affected Tribe(s)/Nation(s) in accordance with Section 304 of the NHPA and other applicable laws. Information provided is exempt from public knowledge and disclosure under the Freedom of Information Act (FOIA) by both Section 304 of the NHPA and Section 9 of the Archaeological Resources Protection Act (ARPA) (16 U.S.C. §470aa – 470mm).

4. FEMA shall invite affected Tribe(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 review process. FEMA will notify the public of proposed Undertakings in a manner that reflects the nature, complexity, and effect(s) of the Undertaking, the likely public interest given FEMA's specific involvement, and any confidentiality concerns of affected Tribe(s)/Nation(s), and private individuals and businesses.

2. FEMA will consult with DHSES, the subgrantee, SHPO, and Participating Tribe(s)/Nation(s) to determine if there are individuals or organizations with a demonstrated interest in historic properties that should be made aware of an Undertaking. If such parties are identified or identify themselves to FEMA, FEMA will provide them with information regarding the Undertaking and its effect 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)/Nation(s), for involving the public, FEMA will identify the appropriate stages for seeking public input during the Section 106 process.

4. FEMA will consider all views provided by the public regarding an Undertaking and will consider all written requests of individuals and organizations to participate as consulting parties, and in consultation with the SHPO and Participating Tribe(s)/Nation(s), determine which should be consulting parties. FEMA will invite any individual or organization that will assume a specific role or responsibility outlined in a Section 106 agreement document to participate as an invited signatory party in that agreement document.

5. FEMA also may provide public notices and the opportunity for public comment or participation in an Undertaking through the public participation process of the National Environmental Policy Act (NEPA) and its implementing regulations set out at 44 CFR Part 10 or superseding FEMA NEPA implementing procedures, and/or Executive Orders 11988 and 11990 relating to floodplains and wetlands as set out in 44 CFR Part 9, and Executive Order 12898, Environmental Justice, provided such notices specifically reference Section 106 as a basis for public involvement.

6. Should a member of the public object in writing to implementation of the Agreement's terms, FEMA will notify the other signatories in writing and take the objection into consideration. FEMA shall consult with the objecting party and, if that party so requests, the other Signatories, for not more than 30 days. In reaching its decision regarding the objection, FEMA shall take into consideration all comments from these parties. Within 15 days after closure of this consultation period, FEMA shall provide the other parties with its final decision in writing.

E. Timeframes and Communications

1. All time designations will be in calendar days unless otherwise stipulated. If any signatory or invited signatory does not object to FEMA's determination related to a proposed action within an agreed upon timeframe, FEMA may proceed to the next step in the review process as described in Stipulation II, Project Review.

2. Due to the varied nature of Undertakings, the individual response times to FEMA's requests for comment/concurrence will vary. These response times are contingent upon FEMA ensuring that its findings and determinations are made by Qualified staff and supported by documentation as required by 36 CFR § 800.11(d) and 36 CFR § 800.11(e), and consistent with FEMA guidance.

   a. For Emergency Undertakings as outlined in Stipulation II.B, Expedited Review of Emergency Undertakings, the SHPO and Participating Tribe(s)/Nation(s) will 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.

   b. For Undertakings associated with the Individual Assistance (IA) and Public Assistance (PA) programs, the review time shall be a maximum of fifteen (15) days for delineation of the Area of Potential Effects (APE), determinations of National Register eligibility, and findings of effect.

   c. For the Hazard Mitigation Grant Program (HMGP) and all non-disaster grant programs, the response time for each request for concurrence shall be a maximum of thirty (30) days.

   d. Should the SHPO have insufficient staff to commit to review and comment within the timeframes in Stipulation I.E.2.a. and I.E.2.b. above, the SHPO may within the first 15 days after a Disaster Declaration, provide a written request to the other signatory, invited signatory parties and the concurring party, if participating, to increase the timeframes to 30-days review for Undertakings associated with the PA Program and 7 days for a response time to comment on requests for emergency undertakings. FEMA will provide a written approval within 15 days of the receipt of SHPO's request provided that the parties consult during this period to seek ways to resolve the problem of insufficient staff. The suspension of the timeframes as described above will apply only to that Federal Declaration.

II. PROJECT REVIEW

A. Programmatic Allowances

1. If FEMA determines an Undertaking conforms to one or more of the allowances in Appendix B of this Agreement, FEMA will complete the Section 106 review process

by documenting this determination in the project file, without SHPO and Tribal(s)/Nation(s) review or notification.

2. If the Undertaking involves a National Historic Landmark (NHL), FEMA shall notify the SHPO and Participating Tribe(s)/Nation(s) and the NHL Program Manager in the NPS Northeast Regional Office that the Undertaking conforms to one or more allowances. FEMA will 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 Undertaking, 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 Disaster Declaration process, FEMA will 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 Federal assistance and/or funding for emergency work (as defined in 44 CFR § 206.201(b)) that occurs during the incident period, including work already completed, in response to an immediate threat to human health and safety or improved property. FEMA will conduct expedited review of emergency Undertakings from October 27, 2012, the beginning of the incident period, until January 27, 2013, for the Hurricane Sandy disaster declaration only.

   b. For the other federally declared disasters declared after the Amended Agreement has been executed, FEMA may conduct expedited review of emergency Undertakings for 30 days from the beginning of the incident period pursuant to 36 CFR § 800.12(d).

   c. If FEMA determines it is necessary to extend the expedited review period beyond the initial 30 days, FEMA shall, in 30-day increments as needed, request in writing, prior to the expiration of the expedited review period, an extension from ACHP and notify SHPO, Participating Tribe(s)/Nation(s), and DHSES.

2. Conduct Expedited Reviews

a. If the emergency Undertaking is an immediate rescue and salvage operations conducted in response to an event to preserve life and property, FEMA has no Section 106 review responsibilities in accordance with 36 CFR § 800.12(d); or

b. If the Undertaking meets one or more of the Allowances in Appendix B of this Agreement, FEMA will 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 may propose treatment measures that would address adverse effects during implementation, and request the comments of the SHPO and/or the affected Tribe(s)/Nation(s) within 3 days of receipt of this information unless FEMA determines the nature of the emergency warrants a shorter time period. FEMA may elect to consult with the SHPO and/or the affected Tribe(s)/Nation(s) regarding the emergency Undertaking at any point before or during the implementation of an emergency Undertaking if FEMA determines circumstances are appropriate for expedited consultation.

ii. FEMA may provide this information through written requests, telephone conversations, meetings, or electronic media. In all cases, FEMA will clarify that an "expedited review" is being requested for the Undertaking.

iii. FEMA will take into account any timely comments provided by SHPO and/or the affected Tribe(s)/Nation(s) in making decisions on how to proceed

iv. Should the SHPO and/or Participating Tribe(s)/Nation(s) not comment within 7 days, FEMA may fund the emergency Undertaking based on the available information. This will complete the Section 106 review for the Undertaking.

v. FEMA shall notify the SHPO and participating Tribe(s)/Nation(s)) of the final decision, indicating how any comments received were considered in reaching that decision.

C. Emergency Demolition and Debris Removal of Privately-Owned Properties

1. FEMA may need to carry out debris removal activities involving the potential demolition and removal of buildings and structures that are damaged beyond repair or that are completely collapsed and/or disassembled by the actions of the declared event and therefore must be removed for health and safety reasons. Damage to historic properties by the effects of natural disasters to such a degree that demolition is required for health and safety reasons is not an adverse effect as defined under Section 106 of NHPA. However, FEMA is required by the NHPA to determine if its specific actions in

response to disasters will cause adverse effects to any historic properties. After FEMA Public Assistance Program (PA) determines a property initially eligible for demolition, FEMA EHP will review these projects using the following expedited emergency process outlined below:

2. FEMA EHP will evaluate all properties proposed for demolition to determine if they are listed in the National Register or have previously been determined to be eligible for the National Register. If a property has not been previously evaluated for National Register eligibility, FEMA will make a determination whether or not the property is eligible for the National Register. Historic properties include both those above the ground (buildings and structures) and below the ground (archaeological sites and artifacts).

3. FEMA's evaluation will include a database review of SHPO information to identify previously-identified historic properties, field review and photography, and additional research of properties that are more than 45 years of age, including archaeological analysis if necessary.

4. FEMA EHP will evaluate all properties proposed for demolition to determine if they are LPC designated or calendared for designation. This will include a database review at http://geo.nycnet/doitt/nycgovmap/ for designated properties and http://a810-bisweb.nyc.gov/bisweb/bsqpm01.jsp (New York City Buildings Department) for calendared properties.

5. FEMA will conduct an analysis of effects for any historic property identified for demolition or for any demolition that will affect other historic properties within an Area of Potential Effects (APE) and will determine if the project will result in adverse effects. The APE shall include properties within the view shed of the Undertaking that are LPC designated or calendared. The APE for historic properties that are not located within a designated National Register or LPC historic district, or within a geographic area that is eligible as a National Register district, will be the building footprint. For all others, FEMA will determine a project-specific APE. FEMA will also provide information to the SHPO for these properties that describes the specific nature of the damage to each property.

6. FEMA will document its findings concerning each property that is proposed for demolition and will submit a report to the SHPO and other consulting parties, as appropriate that includes two (2) photographs of each property (more if associated resources are present) and text that briefly but adequately explains FEMA's determination of National Register eligibility and effects. These reports will be submitted via the SHPO's digital information system NY CRIS.

7. SHPO will review the reports, provide its concurrence or ask for more information via electronic mail within three (3) business days. If SHPO does not concur with FEMA's finding for any property, both agencies will conduct further consultation as soon as possible to clarify FEMA's determinations or to resolve any disagreements.

8. To the extent practicable, demolition of every structure will be carried out following low impact protocols, which entail limiting the ground disturbance to the footprint of the existing structure, limiting the use of heavy equipment on the property, pushing all foundation materials into the building basement and emphasizing that the contractors make reasonable efforts to avoid or minimize harm to any archaeological deposits. In addition, FEMA's PA Program does not fund the removal of intact slabs, further ensuring that these undertakings will likely have minimal impact on archaeological resources. In most instances, FEMA will make the determination that no historic properties will be affected by the demolition.

9. In cases where a demolition site is considered to be archaeologically sensitive, monitoring will be required by an archaeologist who meets the Professional Standards. This determination will be made on a case-by case-basis by FEMA in consultation with the SHPO and other consulting parties. Eligibility determinations, assessment of effects and resolution of adverse effects will be made subsequent to identification of an archeological property. Uprooted trees and exposed stumps will be removed in accordance with the Stump Removal Policy in Appendix E.

10. Demolition of eligible historic buildings/structures may be adverse and may require development of a Memorandum of Agreement (MOA) to mitigate any adverse effects. If FEMA determines that any property demolition is an Undertaking that will result in adverse effects, it will enter into consultation with the SHPO and other appropriate consulting parties to develop an MOA to mitigate the adverse effects as required under Section 106. FEMA may choose to identify, in consultation with the SHPO, standard treatment measures to mitigate adverse effects to multiple properties.

11. This agreement only pertains to the residential structure itself and does not include the demolition or removal of any other infrastructure on these properties, including sidewalks, driveways, pools, retaining walls or similar structures that would not be eligible for FEMA Public Assistance funding.

D. Standard Project Review

For Undertakings not exempt from further Section 106 review, FEMA will ensure that the following standard project review steps are implemented. In the interest of streamlining, FEMA may combine some of these steps during consultation in accordance with 36 CFR § 800.3(g).

1. Consulting Parties: FEMA will consult as appropriate with the SHPO and affected Tribe(s)/Nation(s) to identify any other parties that meet the criteria to be consulting parties and invite them to participate in the Section 106 review process. FEMA may invite others to participate as consulting parties as the Section 106 review proceeds. FEMA shall invite any individual or organization that will assume a specific role or responsibility outlined in an MOA or Programmatic Agreement to participate as an invited signatory to the agreement.

2. Area of Potential Effects:

   a. For standing structures, qualified staff shall define the APE as the individual structure when the proposed Undertaking is limited to the repair or rehabilitation (as defined in 36 CFR § 68.3(b)(6) and 36 CFR § 68.2(b)) of a structure located outside of a National Register listed or eligible historic district.

   b. For all other undertakings, qualified staff will determine the APE in consultation with the SHPO and Participating Tribe(s)/Nation(s). FEMA may also consider information provided by other parties, such as local governments, LPC, local preservation advocacy organizations, and the public, when establishing the APE.

3. Identification and Evaluation: Qualified staff shall determine, in consultation with the SHPO and Participating Tribes Tribe(s)/Nation(s) if the APE contains historic properties, including archaeological sites or properties of religious or cultural significance, that are listed in or potentially eligible for the National Register, or LPC designated and calendared properties. This may include the review of preliminary documentation collected by DHSES or the subgrantee 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 define the limits of archaeological properties. For historic properties of religious and cultural significance to Participating Tribe(s)/Nation(s), FEMA shall consult with the Tribe(s)/Nation(s) to identify geographic areas where properties may be affected by an Undertaking and determine the necessary level of effort to identify and evaluate or avoid any such historic properties. FEMA may also consult with LPC regarding identification and treatment of archaeological properties.

   b. National Historic Landmarks: When FEMA identifies an Undertaking with the potential to affect an NHL, FEMA shall notify the Secretary of the Interior (Secretary) through the NHL Program Manager in the NPS Northeast Regional Office in addition to the SHPO and Participating Tribe(s)/Nation(s). The purpose of this notification is to ensure early coordination for the Undertaking which FEMA later may determine adversely affects the NHL as outlined in Stipulation II.C.8.

   c. Determinations of Eligibility: FEMA shall review or determine National Register eligibility based on identification and evaluation efforts, and consult with SHPO and Participating Tribe(s)/Nation(s) regarding these determinations. Should the SHPO or Participating Tribe(s)/Nation(s) disagree with the determination of eligibility, FEMA shall either:

      i. may elect to either continue consultation with the objecting party until the objection is resolved;

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

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

4. Findings of No Historic Properties Affected: FEMA shall make a finding of "no historic properties affected" under the following circumstances:

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

   b. The Undertaking is designed to avoid historic properties, including archaeological sites or properties of religious or cultural significance to Participating Tribe(s)/Nation(s);

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

   d. FEMA shall notify the SHPO, Participating Tribe(s)/Nation(s), and any other consulting parties of this finding and provide supporting documentation in accordance with 36 CFR § 800.11(d) and applicable documentation standards. Unless the SHPO or Participating Tribe(s)/Nation(s) objects to the finding pursuant to the appropriate timeframe outlined in Stipulation I.E.2. Timeframes and Communications, the Section 106 review of the Undertaking will have concluded.

   e. If the SHPO or Participating Tribe(s)/Nation(s) objects to a finding of "no historic properties affected", FEMA may elect to consult with the objecting party to resolve the disagreement.

      i. If the objection is resolved, FEMA may proceed with the action in accordance with the resolution. FEMA also may elect to reconsider effects on the historic property by applying the criteria of adverse effect pursuant to Stipulation II.D.5, Application of the Criteria of Adverse Effect.

      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 will 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.D.5. below.

5. Application of the Criteria of Adverse Effect: If FEMA finds an Undertaking may affect identified historic properties in the APE, including properties of religious or cultural significance to Participating Tribe(s)/Nation(s), or if a consulting party objects to the finding of "no historic properties affected," FEMA will apply the criteria of adverse effect to historic properties within the APE(s), taking into account the views of

the consulting parties and 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 or, for a standing structure, that the Undertaking meets the Treatment Standards, 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)/Nation(s), and all other consulting parties of its finding and provide supporting documentation pursuant to 36 CFR §800.11(e) and applicable documentation standards.

   ii. Unless a consulting party objects within the appropriate timeframe, FEMA will proceed with its "no adverse effect" determination and complete the Section 106 review.

   iii. If a consulting party objects to a finding of "no adverse effect," FEMA will elect to consult with the objecting party to resolve the disagreement.

      1.) If the objection is resolved, FEMA will proceed with the undertaking in accordance with the resolution, or;

      2.) If the objection cannot be resolved, FEMA will forward its findings and supporting documentation to the ACHP and request that the ACHP review the findings in accordance with 36 CFR § 800.5(c)(3)(i-ii). FEMA will consider the ACHP's comments in making its final determination.

b. If FEMA finds the Undertaking may have an adverse effect, FEMA shall request through DHSES that the subgrantee revise the scope of work to substantially conform to the Standards for standing structures, or avoid or minimize adverse effects for archaeological properties, in consultation with the SHPO, Participating Tribe(s)/Nation(s), and any other consulting parties.

   i. If the subgrantee modifies the scope of work to avoid the adverse effect, FEMA shall notify the consulting parties, and provide supporting documentation. Unless a consulting party makes a timely objection, FEMA shall proceed with its "no adverse effect" determination and complete the Section 106 review.

c. If an Undertaking will not be modified to avoid adverse effects FEMA will initiate consultation to resolve the adverse effect(s) in accordance with Stipulation II.D.6, Resolution of Adverse Effects.

6. Resolution of Adverse Effects: If FEMA determines that an Undertaking will adversely affect a historic property, it shall resolve the effects of the Undertaking in consultation with SHPO, DHSES, Participating Tribe(s)/Nation(s), subgrantee, ACHP, if participating, and any other consulting parties, by one of the following methods depending upon the nature and scale of the adverse effects as well as the determination of the historic property's significance on a local, state or national level.

   a. Abbreviated Consultation Process: After taking into consideration the nature of the historic properties affected and the severity of the adverse effect(s), FEMA may propose to resolve the adverse effect(s) of the Undertaking through the application of Treatment Measures outlined in Appendix C as negotiated with the SHPO, DHSES, Participating Tribe(s)/Nation(s). FEMA will not propose to use the abbreviated Consultation process if the Undertaking may affect an NHL. The application of these Treatment Measures will not require the execution of a Memorandum of Agreement (MOA) or Programmatic Agreement.

      i. FEMA will notify the consulting parties in writing of its proposed use 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), as well as provide the ACHP with an adverse effect notice in accordance with 36 CFR § 800.6(a)(1) and notify them of FEMA's intent to apply the Treatment Measure(s). Unless a consulting party or the ACHP objects within fifteen (15) days of receipt of FEMA's proposal, FEMA will proceed with the use of Treatment Measure(s) and will complete Section 106 review.

      ii. If any of the consulting parties or the ACHP objects within the 15 day review and comment period to the resolution of adverse effects through the application of the Abbreviated Consultation Process, FEMA shall consult further with the consulting parties to explore options for resolution of the adverse effect(s). If consultation is not successful after an additional 15 day period, FEMA shall request that the ACHP arbitrate the consultation and help identify a final resolution of the adverse effect(s). If no consensus is reached, FEMA shall resolve the adverse effect(s) using procedures outlined below in Stipulation II.E.6.b, Memorandum of Agreement.

      iii. Because funding and implementation details of Treatment Measure(s) for specific Undertakings may vary by program, FEMA will 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 will also include information pertaining to the completion of Treatment Measures in the biannual or annual report pursuant to Stipulation I.B.1.e, FEMA Roles and Responsibilities.

b. Memorandum of Agreement (MOA): If the Abbreviated Consultation Process is determined infeasible or is objected to by any of the consulting parties, FEMA, in consultation with the other consulting parties, will develop an MOA in accordance with 36 CFR § 800.6(c) to stipulate treatment measures to avoid, minimize, and/or mitigate adverse effects on historic properties. If the ACHP was not previously notified of the adverse effect, FEMA will provide the documentation outlined in 36 CFR § 8000.(e) § 800.11(e) and the ACHP will have 15 days to review the undertaking and determine if its participation is necessary to complete the consultation process. The MOA may also include feasible treatment measures that serve an equal or greater public benefit in promoting the preservation of historic properties in lieu of more traditional treatment measures. Should the execution of an MOA not be appropriate given the nature and significance of historic properties, scale of adverse effects, or include one or more complex Undertakings, FEMA shall resolve the adverse effects using the procedures outlined below in Stipulation II.E.6.c, Programmatic Agreement.

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, the SHPO, DHSES, Participating Tribe(s)/Nation(s), the ACHP, as appropriate, and any other consulting party may consult to develop a Programmatic Agreement in accordance with 36 CFR § 800.14(b) to identify programmatic conditions or treatment measures to govern the resolution of potential or anticipated adverse effects from certain complex project situations for an Undertaking or for multiple but similar Undertakings by a single subgrantee.

III. OTHER CONSIDERATIONS

A. Changes to an Approved Scope of Work: DHSES is required to notify FEMA and will require its subgrantees to notify it immediately when there are proposed changes to an approved scope of work for an Undertaking.

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

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

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

B. Unexpected Discoveries: Consistent with the Stipulation of Section 1.B, FEMA shall prepare, and DHSES shall transmit, PWs and approval letters specifying the steps a subgrantee should take in the event of unexpected discovery involving a previously

identified historic property, human remains, or affected a known historic property in an unanticipated manner.

1. Upon notification, the subgrantee will immediately stop construction activities in the vicinity of the discovery; and take all reasonable measures to avoid or minimize harm to the property until FEMA has completed consultation with the SHPO, Participating Tribe(s)/Nation(s), and any other consulting parties. As soon as possible, the subgrantee will contact: local law enforcement and the country coroner/medical examiner (for human remains), DHSES, SHPO, and FEMA using points of contact identified in Attachment F. FEMA will immediately coordinate with the SHPO, notify Participating Tribe(s)/Nation(s) and any other consulting parties that may have an interest in the discovery, and consult to evaluate the discovery for National Register eligibility. The phone numbers of consulting parties to be immediately contacted are included in Appendix F and will be update by FEMA and distributed to the consulting parties to this agreement should they change.

2. FEMA will consult with the consulting parties in accordance with the review process outlined in Stipulation II, Project Review, to develop a mutually agreeable action plan with timeframes to identify the discovery, take into account the effects of the Undertaking, resolve adverse effects if necessary, and ensure compliance with applicable Federal and State statutes.

3. In cases where discovered human remains are determined to be American Indian, FEMA shall consult with the appropriate Tribal representatives and SHPO. In addition, FEMA shall follow the guidelines outlined in the ACHP's *Policy Statement Regarding the Treatment of Burial Sites, Human Remains, and Funerary Objects* (2007).

4. FEMA will coordinate with DHSES and the subgrantee regarding any needed modification to the scope of work for the Undertaking necessary to implement recommendations of the consultation and facilitate proceeding with the Undertaking.

C. Curation

1. FEMA and DHSES shall ensure that all records and materials (collections) produced during the course of an archaeological survey, testing, and any data recovery operations for the implementation of its Undertakings are curated at a facility that meets the standards of, and in accordance with the applicable provisions of 36 CFR Part 79, "Curation of Federally Owned and Administered Archaeological Collections," and applicable State law and guidelines.

2. In cases where the survey, testing, or data recovery are conducted on private land, any recovered collections remain the property of the land owner and FEMA will return the collections to them with the assistance of the SHPO. In such instances, FEMA and DHSES, in coordination with the SHPO or Participating Tribe(s)/Nation(s), shall encourage land owners to donate the collection(s) to an appropriate public or Tribal entity. In cases where the property owner declines to accept responsibility for the collection(s) and wishes to transfer ownership of the collection(s) to a public or Tribal

entity, FEMA and DHSES will ensure curation of the collection(s) in accordance with Stipulation III.C.1 above.

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

1. DHSES shall advise its subgrantees 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, including an approved Project Worksheet (PW) for a Public Assistance project, and an approved Application for an HMGP project.

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

3. In circumstances where FEMA determines a subgrantee has initiated an Undertaking without willful intent to avoid the requirements of this Agreement or Section 106 of NHPA, FEMA will determine if the Undertaking would have required Section 106 review in accordance with Stipulation II.D, Standard Project Review.

4. If FEMA determines no Section 106 review or consultation with SHPO and Participating Tribe(s)/Nation(s) would have been required pursuant to Stipulation II.D, Standard Project Review, FEMA will document this determination to the project files and consider the project Section 106 compliant.

5. If FEMA determines the Undertaking would have required Section 106 review, FEMA will coordinate with SHPO and Participating Tribe(s)/Nation(s) to determine if consultation is feasible.
   a. If after coordination with the SHPO and affected Participating Tribe(s)/Nation(s), FEMA determines that consultation is feasible, FEMA will review the Undertaking in accordance with Stipulation II.D, Standard Project Review.

   b. If after coordination with the SHPO and Participating Tribe(s)/Nation(s), FEMA determines that review is infeasible, FEMA will document that the project is noncompliant with Section 106, and the FEMA program then will make a funding eligibility decision.

6. FEMA will ensure that all Undertakings considered for after the fact review in accordance with this stipulation are included in the biannual or annual reports, as described in Stipulation I.B.1.e.

IV. IMPLEMENTATION OF AGREEMENT

A. Amendments

1. If any signatory or invited signatory to the terms of the Agreement determines that the Agreement cannot be fulfilled, or that an amendment to the terms of this agreement must be made, the signatories and the invited signatories will consult for no more than 30 days to seek amendment of the Agreement.

2. This Agreement may be amended only upon the written consensus of the signatories. This Stipulation does not apply to amendments made to Appendices A, B, and C pursuant to Stipulation IV.A.3, Amendments, below.

3. Appendix A (FEMA Programs), Appendix B (Programmatic Allowances) and Appendix C (Treatment Measures) may be amended at the request of FEMA, a signatory party, or an invited signatory party in the following manner:

   a. FEMA, on its own behalf or on behalf of another signatory or invited signatory, shall notify all signatory and invited signatory parties to this Agreement of the intent to add to or modify the current Appendix or Appendices and shall provide a draft of the updated Appendix or Appendices to all signatory and invited signatory parties.

   b. If no signatory party or invited signatory objects in writing within 15 days of receipt of FEMA's proposed addition or modification, FEMA will date and sign the amended Appendix and provide a copy of the amended Appendix to all signatory and invited signatory parties.

B. Dispute Resolution

1. Should any signatory or invited signatory to this Agreement object in writing within 30 days to the terms of this Agreement, FEMA will consult with the objecting party for not more than 30 days to resolve the objection.

2. If the objection is resolved within 30 days, FEMA shall proceed in accordance with the resolution.

3. If FEMA determines within 30 days that the objection cannot be resolved, FEMA will forward to ACHP all documentation relevant to the objection, including FEMA's proposed resolution. Within 30 days of receipt, ACHP will:

a. Concur in FEMA's proposed resolution; or

b. Provide FEMA with recommendations, which FEMA will take into account in reaching a final decision regarding the objection; or

4. Notify FEMA that the objection will be referred for comment in accordance with 36 CFR § 800.7(a)(4), and proceed to do so. FEMA will take the resulting comment into account. FEMA will take into account any ACHP recommendations or comments, and any comments from the other signatories and invited signatories, in reaching a final decision regarding the objection in accordance with 36 CFR § 800.7(c)(4). The signatories will continue to implement all other terms of this Agreement that are not subject to objection.

5. Should ACHP not respond within 30 days, FEMA may assume ACHP has no comment and proceed with its proposed resolution to the objection.

6. FEMA will provide the signatories with its final written decision regarding any objection brought forth pursuant to this Stipulation.

7. FEMA may authorize any disputed action to proceed, after making its final decision.

8. At any time while this Agreement is in effect, should a member of the public object in writing to implementation of its terms, FEMA will notify the other signatories and invited signatories in writing and take the objection into consideration. FEMA will consult with the objecting party and, if that party so requests, the other signatories and invited signatories, for not more than 21 days. In reaching its decision regarding the objection, FEMA will take into consideration all comments from these parties. Within 15 days after closure of this consultation period, FEMA will provide the other parties with its final decision in writing. FEMA's decision will be final.

9. Any dispute regarding National Register eligibility that is not resolved pursuant to this Stipulation will be resolved in accordance with Stipulation II.D.3.c, Determinations of Eligibility.

C. Severability, Termination and Suspension

1. In the event any provision of this Agreement shall be deemed contrary to, or in violation of, any applicable existing law or regulation of the United States of America and/or the State New York, 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, DHSES, or Participating Tribe(s)/Nation(s), may terminate this Agreement by providing 30 days' written notice to the other signatory and invited signatory parties, provided that the parties consult during this period to seek amendments or other actions that would prevent termination. If this Agreement is terminated, FEMA will comply with 36 CFR Part 800. Upon such determination,

FEMA will provide all other signatories and invited signatories with written notice of the termination of this Agreement.

3. A Participating Tribe(s)/Nation(s) may notify the other signatories and invited signatories that it is fully withdrawing from participation in the Agreement. Following such a withdrawal, FEMA will review undertakings that may affect historic properties of religious and cultural significance to the Tribe(s)/Nation(s) in accordance with 36 CFR §§ 800.3 through 800.7 or an applicable alternative under 36 CFR § 800.14. Withdrawal from this Agreement by a Participating Tribe(s)/Nation(s) does not terminate the Agreement. A Tribe(s)/Nation(s) that has withdrawn from the Agreement may at any time that this Agreement remains in effect notify FEMA, DHSES, 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 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. The Amended Agreement shall remain in effect from the date of final signature for a period not to exceed 5 years unless otherwise extended pursuant to Stipulation IV.D.2., 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 to minimize delays of FEMA assistance.

2. The Signatories and Invited Signatories may collectively agree to execute this Agreement to cover additional calendar years, or portions thereof, provided that the original agreement has not expired or if the Agreement has expired while a new agreement is in preparation.

E. Execution and Implementation

1. This Agreement may be implemented in counterparts, with a separate page for each signatory, invited signatory and concurring party and will become effective after executed by FEMA, SHPO, and ACHP on the date of execution by ACHP. FEMA will ensure that each signatory, invited signatory and concurring party is provided with a complete copy.

2. Execution and implementation of this Agreement evidence that FEMA has afforded ACHP a reasonable opportunity to comment on FEMA's administration of all referenced Programs, and that FEMA has satisfied its Section 106 responsibilities for all individual Undertakings of the Programs.

**STATEWIDE PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER,
THE NEW YORK STATE DIVISION OF HOMELAND SECURITY
AND EMERGENCY SERVICES,
THE DELAWARE NATION,
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THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS,
THE ST. REGIS MOHAWK TRIBE,
THE CAYUGA NATION,
OTHER PARTICIPATING TRIBES,
THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,
AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION**

Signatory
FEDERAL EMERGENCY MANAGEMENT AGENCY

By: _____ Date: 10/30/14
Jerome Hatfield
Regional Administrator, Region II

**STATEWIDE PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
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AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION**

Signatory
NEW YORK STATE HISTORIC PRESERVATION OFFICER

By: Ruth A Pierpont Date: 10/16/14
By: Ruth Pierpont
Director

**STATEWIDE PROGRAMMATIC AGREEMENT AMONG
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AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION**

Signatory
ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____ Date: 10/24/14
John M. Fowler
Executive Director

**STATEWIDE PROGRAMMATIC AGREEMENT AMONG
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AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION**

Invited Signatory
**THE NEW YORK STATE DIVISION OF HOMELAND SECURITY
AND EMERGENCY SERVICES**

By: _____ Date: _____
Jerome M. Hauer
Commissioner

**STATEWIDE PROGRAMMATIC AGREEMENT AMONG
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ADVISORY COUNCIL ON HISTORIC PRESERVATION**

Invited Signatory
CAYUGA NATION OF NEW YORK

By: _____ Date: _____
Clint Halfdown
Chief

**STATEWIDE PROGRAMMATIC AGREEMENT AMONG
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THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,
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ADVISORY COUNCIL ON HISTORIC PRESERVATION**

Invited Signatory
THE DELAWARE NATION

By: _____ Date: _____
Clifford Peacock
President

**STATEWIDE PROGRAMMATIC AGREEMENT AMONG
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THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,
AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION**

Invited Signatory
THE DELAWARE TRIBE OF INDIANS

By: _____ Date: _____
Paula Pechonick
Chief

**STATEWIDE PROGRAMMATIC AGREEMENT AMONG
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ADVISORY COUNCIL ON HISTORIC PRESERVATION**

Invited Signatory
ONEIDA INDIAN NATION

By: _____ Date: _____
Ray Halbritter
Nation Representative

**STATEWIDE PROGRAMMATIC AGREEMENT AMONG
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ADVISORY COUNCIL ON HISTORIC PRESERVATION**

Invited Signatory
ONONDAGA NATION

By: _____ Date: _____
Irving Powless
Chief

**STATEWIDE PROGRAMMATIC AGREEMENT AMONG
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ADVISORY COUNCIL ON HISTORIC PRESERVATION**

Signatory
SENECA NATION OF INDIANS

By: _____ Date: _____

President

**STATEWIDE PROGRAMMATIC AGREEMENT AMONG
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THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,
AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION**

Invited Signatory
THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS

By: _____ Date: _____
Wallace Miller
President

**STATEWIDE PROGRAMMATIC AGREEMENT AMONG
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THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,
AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION**

Signatory
ST. REGIS MOHAWK TRIBE

By: _____ Date: _____
Ron LaFrance, Jr.
Chief

**STATEWIDE PROGRAMMATIC AGREEMENT AMONG
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THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,
AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION**

Invited Signatory
TONAWANDA BAND OF SENECA INDIANS OF NEW YORK

By: _____ Date: _____
Darwin Hill
Chief

By: _____ Date: _____
Roger Hill
Chief

**STATEWIDE PROGRAMMATIC AGREEMENT AMONG
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THE CAYUGA NATION,
OTHER PARTICIPATING TRIBES,
THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION,
AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION**

Concurring Party
NEW YORK CITY LANDMARKS PRESERVATION COMMISSION

By: _____ Date: _____
Meenakshi Srinivasan
Chair

APPENDIX A

FEMA Program Summaries

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

Disaster Response and Recovery Programs

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

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

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

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

Hazard Mitigation Grant Program (HMGP)
The HMGP provides grants to States, Territories, Tribe(s)/Nation(s), and local governments to implement long-term hazard mitigation measures after a Declaration. Activities may include buyouts, retrofits, relocations, elevations, and minor flood control projects.

Non-Disaster Programs

Pre-Disaster Mitigation Program (PDM)
The PDM program provides competitive grants to States, Territories, Tribe(s)/Nation(s), and local governments for hazard mitigation planning and the implementation of mitigation projects prior to

a disaster event. Activities may include planning, buyouts, retrofits, relocations, elevations, minor flood control projects, and vegetative fuels reduction.

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

Assistance to Firefighters Grant Program (AGF)
The AFG program provides funding for purchase of equipment and retrofit or construction of fire stations to improve first responder capabilities.

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

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

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

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

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

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

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.

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

Freight Rail Security Grant Program (FRSGP)
The FRSGP funds security training for frontline employees, the completion of vulnerability assessments, the development of security plans within the freight rail industry and GPS tracking systems for railroad cars transporting toxic inhalation materials.

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

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

Intercity Bus Security Grant Program (IBSGP)
The IBSGP provides funding to create a sustainable program for the protection of intercity bus systems and the traveling public from terrorism. The program seeks to assist operators of fixed-route intercity and charter bus services in obtaining the resources required to support security measures such as enhanced planning, facility security upgrades and vehicle and driver protection. events.

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

Buffer Zone Protection Program (BZPP)
The BZPP provides funding to increase the preparedness capabilities of jurisdictions responsible for the safety and security of communities surrounding high-priority pre-designated Tier-1 and Tier-critical infrastructure and key resources (CKIR) assets, including chemical facilities, financial institutions, nuclear and electric-power plants, dams, stadiums and other high-risk/high-consequence facilities, through allowable planning and equipment acquisition.

Emergency Management Performance Grants (EMPG)
The purpose of the EMPG program is to assist State and local governments in enhancing and sustaining all-hazards emergency management capabilities.

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

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

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

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 transmitters, which provide significantly powerful signals for this purpose, and is responsible for upgrading, maintaining, and managing the agency installed and owned auxiliary fuel systems at each of these radio transmission sites.

Homeland Security Grant Program (HSGP)
The HSGP plays an important role in the implementation of the National Preparedness System (NPS) by supporting the building, sustainment, and delivery of core capabilities essential to achieving the National Preparedness Goal (NPG) of a secure and resilient Nation. HSGP is comprised of three interconnected grant programs including (1) the State Homeland Security Program (SHSP), (2) the Urban Areas Security Initiative (UASI) and 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, and management and administration.

APPENDIX B

Programmatic Allowances

This list of Allowances enumerates FEMA funded activities that based on FEMA experience have no effect or limited effect on historic properties if implemented as specified in this Appendix and will not require review by the SHPO and Participating Tribe(s)/Nation(s) pursuant to Stipulation II.A.1, Programmatic Allowances.

The allowances consist of two tiers – Tier I and Tier II. Staff may apply Tier I allowances without meeting any professional historic preservation qualification standards, while only staff meeting the applicable Professional Standards in accordance with Stipulation I.B.1.a of this Agreement may apply Tier II allowances.

When referenced in the 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 Tiers I and Tier II allowances in Appendix B should be limited to pre-existing architectural features and physical components of buildings and structures that were in existence prior to the event but are not extant after the event and in general should not be utilized when a building or structure has been substantially altered.

When referenced in the allowances, "previously disturbed soils" will refer to soils that are not likely to possess intact and distinct soil horizons and have the reduced likelihood of possessing archaeological artifacts, features, and phenomena within their original depositional contexts.

Tier I Allowances

I. **GROUND DISTURBING ACTIVITIES AND SITE WORK**, when proposed activities described below substantially conform to the original footprint and/or are performed in previously disturbed soils and the area proposed to be disturbed does not exceed the previous disturbance in depth or footprint, including the area where the activity is staged.

A. Debris and Snow Removal

1. Debris removal and collection, including removal of snow, uprooted trees, limbs and branches from public rights of way, public area and the transport and disposal of such waste to existing licensed waste facilities or landfills. Uprooted trees and exposed stumps must be removed in accordance with the stump removal policy in Appendix E. This includes the temporary establishment and expansion of non-hazardous debris staging, reduction, and disposal areas at licensed transfer stations, or existing hard-topped or graveled surfaces (e.g. parking lots, roads, athletic courts) but not the creation of new or temporary access roads.

2. 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.

3. Chipping and disposal of woody debris by broadcasting within existing rights-of-way.

4. Sediment removal from man-made drainage facilities, including retention/detention basins, ponds, ditches, and canals, in order to restore the facility to its pre-disaster condition. The sediment may be used to repair eroded banks or disposed of at an existing licensed or permitted spoil site.

5. Dewatering flooded developed areas by pumping.

B. Temporary Structures and Housing

1. Installation of temporary structures for uses such as school classrooms, offices, or shelters for essential public service agencies, such as police, fire, rescue and medical care, as well as temporary housing for disaster personnel and victims, at the following types of locations:

   a. Single units on private residential sites when all utilities are installed above ground or tie into pre-existing utility lines.

   b. Existing multi-family units.

   c. Existing RV/Mobile Home Parks and campgrounds with utility hookups that existed prior to the event.

   d. Paved areas, such as parking lots and paved areas at such facilities as conference centers, shopping malls, airports, business parks, and military bases when all utilities are installed above ground or tie into pre-existing utility lines.

   e. Sites that have been previously cleared and prepared for planned construction, such as land being developed for public housing, office buildings, city parks, ball fields, military bases, schools, etc. when all utilities are installed above-ground or tie into pre-existing utility lines.

   f. Areas previously filled to depths of at least six feet so that subsurface utilities can be installed.

C. Recreation and Landscaping

1. Installation of temporary removable barriers.

2. In-kind repairs or replacement, and minor upgrades/mitigation of bollards and associated protective barriers when in previously disturbed areas.

II. BUILDINGS

A. Repair or retrofit of buildings less than 45 years old.

B. Removal of water, soil, muck or mud by physical or mechanical means.

C. Installation of grab bars and other such minor interior modifications required for compliance with the Americans with Disabilities Act (ADA).

D. Sheltering and Temporary Essential Power (STEP) Pilot Program: The STEP program provides essential power to affected residents and thereby reduces the demand for other shelter options by allowing individuals to return to or remain in their home while awaiting major repairs. STEP accomplishes this by 3 measures:

1. Residential Meter Repairs: Repairs to exterior weather head, service cable, and meter box.

2. Temporary Essential Electric Measures: Repairs to restore temporary power to residences where the utility will not turn the power back on due to damages in order to restore a minimal amount of power to allow heat and/or hot water and some power to targeted appliances, including installation of a temporary power supply, outlet panels, and other equipment that will be removed when permanent repairs are made.

3. Rapid Temporary Exterior Repairs: Securing broken windows, covering damaged exterior walls and patching or otherwise securing damaged exterior doors. These repairs utilize raw, unfinished materials for temporary emergency repairs, such as plywood secured with a padlock.

III. TRANSPORTATION FACILITIES, when proposed activities substantially conform to the original footprint and/or performed in previously disturbed soils, including any staging areas.

A. Roads and Roadways

1. 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.

2. Construction of temporary emergency access roads in previously disturbed soils to allow for passage of emergency vehicles.

3. Repairs to road slips and landslides that do not require grading of undisturbed soils on the up-hill side of the slip.

4. Re-establishment, armoring and/or upgrading of existing roadway ditches.

5. In-kind repair or replacement of traffic control devices such as traffic signs and signals, delineators, pavement markings, traffic surveillance systems.

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

7. 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 allowed.

B. Airports

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

C. Rail Systems

1. In-kind repair or replacement of safety components.

2. In-kind repair or replacement of existing track system and passenger loading areas.

Tier II Allowances

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

A. Footings, Foundations, Retaining Walls, Slopes, and Slope Stabilization Systems

1. 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.

2. Installation of perimeter drainage (e.g. French drains) when performed in previously disturbed soils.

B. Recreation and Landscaping

1. 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).

2. In-kind repair, replacements, and minor upgrades to landscaping elements (e.g., fencing, free standing walls, paving, planters, irrigation systems, lighting elements, signs, flag poles, ramps, steps).

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

1. In-kind repair and replacement and minor upgrades to existing piers, docks, boardwalks, boat ramps and dune crossovers in areas of previously disturbed soils.

D. Cemeteries

1. Removal of woody debris such as branches, limbs, and uprooted trees from cemeteries, provided that heavy equipment and other machinery are not operated or staged on areas potentially containing human remains. Uprooted trees and exposed stumps must be removed in accordance with the stump removal policy in Appendix E. If this condition does not adequately protect human remains, then monitoring will be required by an archaeologist who meets the Professional Standards to oversee stump removal.

II. BUILDINGS

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

1. In-kind repair and replacement of floors, walls, stairs, ceilings, and/or trim. The allowance does not apply to decorative finishes, including murals, glazed paint, gold leaf, or ornamental plaster.

2. Interior cleaning of surfaces using a weak solution of household bleach and water for 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.

3. Non-destructive or concealed testing for hazardous materials (e.g., lead paint, asbestos, mold) or for assessment of hidden damages.

B. Utilities and Mechanical, Electrical, and Security Systems

1. In-kind repair or replacement, or limited upgrading of interior utility systems, including mechanical (e.g., heating, ventilation, air conditioning), electrical, and plumbing systems. This allowance does not provide for the installation of new exposed ductwork.

2. Elevation of heating, ventilation, and air conditioning system (HVAC) and mechanical equipment as long as it is placed or located where it is not highly visible from the street.

3. Replacement or installation 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.

4. Installation of building 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.

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

6. New exposed ductwork, air handler units and electric conduit in unfinished basements and historically-unfinished upper floors, and attics.

C. Windows and Doors

1. 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.

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

3. Replacement of exterior, utilitarian, non-character-defining metal doors and frames with metal blast resistant doors and frames.

4. Installation of security bars over windows on rear elevations

D. Exterior Walls, Cornices, Porches, and Foundations

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

2. 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.

3. In-kind repair or replacement of signs or awnings.

4. Installation of temporary stabilization bracing or shoring, provided such work does not result in additional damage.

5. Anchoring of walls to floor systems, provided the anchors are embedded and concealed from exterior view.

6. 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.

7. Bracing and reinforcing of walls, chimneys and fireplaces, provided the bracing and reinforcing are either concealed from exterior view or reversible in the future.

8. 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.

9. In-kind repairs or 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.

E. Roofing

1. Installation of scaffolding, polyethylene sheeting, or tarps, provided such work will not result in additional damage or irreversible alterations to character defining features.

2. In-kind repair or replacement of roofing, rafters, fascia, soffits, gutters, verge boards, leader boxes, downspouts, or other damaged roof system components.

3. Repairs to a flat roof cladding, including changes in roofing materials, where the repairs are not highly visible from the ground level.

F. Weatherproofing and Insulation

1. Caulking and weather-stripping to complement the color of adjacent surfaces or sealant materials.

2. In-kind repair or replacement of insulation systems, provided that existing interior plaster, woodwork, exterior siding, or exterior architectural detail is not altered.

G. Structural Retrofits

1. 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 (roof to wall, wall to foundation); 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.

2. Replacement, repair or installation of lightning rods.

3. Earthquake bracing used on refrigerators and against-the-wall shelving in schools and other public facilities

III. TRANSPORTATION FACILITIES, when proposed activities substantially conform to the original footprint and/or performed in previously disturbed soils, including the area where the activity is staged.

A. Roads and Roadways

1. 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.

2. In kind repair to historic paving materials for roads and walkways.

4. In-kind repair or replacement, or minor upgrade of culvert systems and arches beneath roads or within associated drainage systems, including provision of headwalls, riprap and any modest increase in capacity for the purposes of hazard mitigation or to meet current codes and standards, provided that the work substantially conforms to the existing footprint. For stone or brick culverts or arches beneath roadways, this allowance only applies to in-kind repair.

5. In-kind repair or replacement of road lighting systems, including period lighting fixture styles.

6. In-kind repair or replacement of road appurtenances such as curbs, berms, fences, and sidewalks.

B. Bridges

1. 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.

2. In-kind repair or replacement of bridges and bridge components (e.g. abutments, wing walls, piers, decks, and fenders in previously disturbed soils).

IV. UTILITIES, COMMUNICATIONS SYSTEMS AND TOWERS, when proposed activities substantially conform to the original footprint and/or performed in previously disturbed soils, including the area where the activity is staged (Note, these Allowances do not refer to those communication towers that are covered under Stipulation of I.A.2. of this Agreement that fall within the jurisdiction of the FCC).

A. General

1. 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.

2. Installation of new utilities and associated features within existing rights-of-way.

3. Directional boring of new/replacement service line and related appurtenances involving boring or silt trenches within previously disturbed soils of rights-of-way or utility corridors.

4. 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.

B. Generators and Utilities

1. In-kind repair or replacement, or minor upgrades elevation, and/or installation of generators, HVAC systems, and similar equipment provided activities occur within previously disturbed soils and any roof mounted equipment is not visible from the ground level.

C. Communication Equipment/Systems and Towers

1. Acquisition, installation, or operation of communication and security equipment/systems that use existing distribution systems, facilities, or existing infrastructure right-of-way.

2. The collocation of communication and security equipment on existing towers and buildings/structures less than 45 year in age, provided that the work does not increase existing tower height or footprint by more than 10% and occurs within previously disturbed soils.

3. Enhancement, repair or replacement of existing communication towers and antenna structures provided the work does not increase existing tower height or footprint by more than 10%and occurs within previously disturbed soils.

4. Installation of new temporary (not to exceed 12 months) communications towers and antenna structures provided that the work occurs does not require modification of buildings/structures older than 45 years and occurs within previously disturbed soils.

5. Installation of new communication towers, less than 200 feet tall, in previously developed urban complexes when the work does not require modification of buildings/structures older than 45 years, occurs within previously disturbed soils and is not within 500 feet of the boundaries of a historic property.

V. WATER RESOURCE MANAGEMENT AND CONTROLS, when proposed activities substantially conform to the original footprint and/or performed in previously disturbed soils, including the area where the activity is staged.

A. Canal Systems

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

B. Breakwaters, Seawalls, Revetments, and Berms

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

C. Dams, Levees, and Floodwalls

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

D. Fish Hatcheries

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

E. Waste-Water Treatment Lagoon Systems

1. In-kind repair or replacement, or minor upgrades of waste-water treatment lagoon systems.

VI. OTHER PROGRAM ACTIVITIES

A. Elevation, Demolition, and Reconstruction

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

B. Safe Rooms

1. Installation of individual safe rooms within the property limits of a residence where the installation will occur within an existing structure or building that is less than 45 years of age and has been determined by FEMA not to be significant under Criterion G, or within previously disturbed soils.

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 result or will result in adverse effects, FEMA, the SHPO, DHSES, and Participating Tribe(s)/Nation(s), may develop a treatment measure plan that includes one or more of the following Treatment Measures, depending on the nature of historic properties affected and the severity of adverse effects. If an Undertaking will adversely affect a LPC designated or calendared properties, LPC may participate in development of a treatment measure plan. This Appendix may be amended in accordance with Stipulation IV.A.3 of this Agreement, Amendments.

A. Recordation Package

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 that meet the Professional Qualifications for Architectural History, History, Architecture, or Historic Architecture, as appropriate. The Digital Photography Package will meet the standards cited in the NPS *National Register of Historic Places Photographic Policy March 2010* or subsequent revisions (http://www.nps.gov/nr/publications/bulletins/photopolicy/index.htm).

    a. The Digital Photography Package shall include a comprehensive collection of photographs of both interior and exterior views showing representative spaces and details of significant architectural features and typical building materials. Exterior photographs shall include full oblique and contextual images of each elevation. Exterior views shall be keyed to a site plan while interior views shall be keyed to a floor plan of the building/structure. The photographs shall be indexed according to the date photographed, site number, site name, site address, direction, frame number, subject matter and photographer's name recorded on the reverse side in pencil.

    b. The Digital Photography Package shall include printed color copies of the digital photographs (on appropriate paper, per *NPS Photographic Policy*), a CD/DVD of the digital photographs, a completed state architectural inventory form, and a written site history of the historic property.

    c. The designated responsible party shall submit the Digital Photography Package to the SHPO and Participating Tribe(s)/Nation(s) for review and approval. Once approved by the SHPO and Participating Tribe(s)/Nation(s), the designated responsible party shall

submit full copies of the approved Digital Photography Package to _____for permanent retention.

2. 35 mm Black and White Film Photography Package: Prior to project implementation, the designated responsible party shall oversee the successful delivery of a 35 mm Black and White Film Photography Package prepared by staff or contractors that meet the Professional Qualifications for Architectural History, History, Architecture, or Historic Architecture, as appropriate.

   a. The 35 mm Black and White Film Photography Package shall include a comprehensive collection of photographs of both interior and exterior views showing representative spaces and details of significant architectural features and typical building materials. Exterior photographs shall include full oblique and contextual images of each elevation. Exterior views shall be keyed to a site plan while interior views shall be keyed to a floor plan of the building/structure. The photographs shall be indexed according to the date photographed, site number, site name, site address, direction, frame number, subject matter and photographer's name recorded on the reverse side in pencil.

   b. The 35 mm Black and White Film Photography Package shall include one (1) full set of 35mm film black and white photographs printed on acid free paper, the corresponding 35mm film negatives in acid free sleeves, a completed state architectural inventory form, and a written site history of the historic property.

   c. The designated responsible party shall submit the 35 mm Black and White Film Photography Package to the SHPO and Participating Tribe(s)/Nation(s) for review and approval. Once approved by the SHPO and Participating Tribe(s)/Nation(s), the designated responsible party shall submit full copies of the approved 35 mm Black and White Film Photography Package to _____ for permanent retention.

3. Large Format Film Photography Package: Prior to project implementation, the designated responsible party shall oversee the successful delivery of a Large Format Film Photography Package prepared by staff or contractors that meet the Professional Qualifications for Architectural History, History, Architecture, or Historic Architecture, as appropriate.

   a. The Large Format Film Photography Package shall include a comprehensive collection of photographs of both interior and exterior views showing representative spaces and details of significant architectural features and typical building materials. Exterior photographs shall include full oblique and contextual images of each elevation. Exterior views shall be keyed to a site plan while interior views shall be keyed to a floor plan of the building/structure. The photographs shall be indexed according to the date photographed, site number, site name, site address, direction, frame number, subject matter and photographer's name recorded on the reverse side in pencil.

b. The 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 Participating Tribe(s)/Nation(s) for review and approval. Once approved by the SHPO and affected Tribe(s)/Nation(s), the designated responsible party shall submit full copies of the approved Large Format Film Photography Package to _____ for permanent retention.

B. Design Review by SHPO and Participating Tribe(s)/Nation(s)

Prior to project implementation, FEMA, the Grantee, and subgrantee shall work with the SHPO and Participating Tribe(s)/Nation(s) to develop a historically compatible design. Plans and specifications will, to the greatest extent feasible, preserve the basic character of a building. Primary emphasis shall be given to the major street elevations that are visible. Significant contributing features (e.g. trim, windows, doors, porches) will be repaired or replaced with either in-kind materials or materials that come as close as possible to the original materials in basic appearance. Aesthetic camouflaging treatments such as use of veneers, paints, texture compounds and other surface treatments and/or use of sympathetic infill panels and landscaping features will be employed to the greatest extent feasible. Final construction drawings used in the bidding process will be submitted to the SHPO and Participating Tribe(s)/Nation(s) for review and comment prior to the award of a construction contract and the initiation of construction activities.

C. Tribal Treatment Plan

FEMA shall work with the Participating Tribe(s)/Nation(s) to develop a plan for the protection and treatment of, including but not limited to, Native American 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 will also formalize procedures for Tribal monitoring during archaeological studies, grading, and ground disturbing activities for the Undertaking. No photography of Native Americans human remains or funerary objects will be allowed.

D. Public Interpretation

Prior to project implementation, FEMA, DHSES, and the subgrantee will work with the SHPO and Participating Tribe(s)/Nation(s) to design an educational interpretive plan. The plan may include signs, displays, educational pamphlets, websites, workshops and other similar mechanisms to educate the public on historic properties within the local community, state, or region. Once an interpretive plan has been agreed to by the parties, SHPO, Participating Tribe(s)/Nation(s), and the designated responsible party will continue

to consult throughout implementation of the plan until all agreed upon actions have been completed by the designated responsible party.

E. Historical Context Statements and Narratives

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

F. Oral History Documentation

Prior to project implementation, FEMA, DHSES, and the subgrantee will work with the SHPO and Participating Tribe(s)/Nation(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 Participating Tribe(s)/Nation(s) through the data collection, drafting of the document, and delivery of a final product. The SHPO and Participating Tribe(s)/Nation(s) shall have final approval on the quality of the documentation provided by the designated responsible party. The designated responsible party will use staff or contractors that meet the Professional Qualifications for the appropriate discipline.

G. Historic Property Inventory

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

responsible party will use staff or contractors that meet the Secretary's Professional Qualifications for the appropriate discipline.

H. National Register and National Historic Landmark Nominations

Prior to project implementation, FEMA, DHSES, and the subgrantee will work with the SHPO, and Participating Tribe(s)/Nation(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 Participating Tribe(s)/Nation(s) through the drafting of the nomination form. The SHPO and Participating Tribe(s)/Nation(s) will 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 will use staff or contractors that meet the Professional Qualifications for the appropriate discipline.

I. Geo-References of Historic Maps and Aerial Photographs

Prior to project implementation, FEMA, DHSES, and the subgrantee will work with the SHPO and Participating Tribe(s)/Nation(s) to identify the historic maps and/or aerial photographs for scanning and geo-referencing. Once a list of maps and/or aerial photographs have been agreed upon, the designated responsible party shall continue to coordinate with the SHPO and Participating Tribe(s)/Nation(s) through the scanning and geo-referencing process and shall submit drafts of paper maps and electronic files to them for review. The SHPO and Participating Tribe(s)/Nation(s) shall have final approval on the quality of the documentation provided by the designated responsible party. The final deliverable 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.

(TEMPLATE)

APPENDIX D

TO THE STATEWIDE PROGRAMMATIC AGREEMENT AMONG THE FEDERAL EMERGENCY MANAGEMENT AGENCY, THE NEW YORK STATE HISTORIC PRESERVATION OFFICER, THE NEW YORK STATE DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES, THE DELAWARE TRIBE OF INDIANS, THE STOCKBRIDGE-MUNSEE COMMUNITY BAND OF MOHICANS, (ADDITIONAL XXX TRIBES/NATIONS HERE) THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION, AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION

WHEREAS, FEMA makes assistance available to States, Commonwealths, communities, Federally recognized Indian Tribes and Nations (Tribe(s)/Nation(s)) and other eligible entities through programs (Programs) set forth in Appendix A, pursuant to the Homeland Security Act of 2002, Pub. L. No. 107-296 (2002) (codified as amended at 6 U.S.C. § 101 *et seq.*); Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288 (1974) (codified as amended at 42 U.S.C. § 5121 *et seq.*, (Stafford Act); the National Flood Insurance Act of 1968, Pub. L. No. 90-448 (1968) (as amended); the National Flood Insurance Reform Act of 1994, Pub. L. No. 103-325 (1994) (as amended); the Post-Katrina Emergency Management Reform Act of 2006, Pub. L. No. 109-295 (2006) (as amended); implementing regulations contained in Title 44 of the Code of Federal Regulations (CFR); Executive Order 13407 (2006); and the Sandy Recovery Improvement Act, Pub. L. No. 113-2 (2013); and such other acts, executive orders, implementing regulations, or Congressionally authorized programs as are enacted from time to time; and

WHEREAS, FEMA consulted with New York State Division of Homeland Security and Emergency Services (DHSES), the New York State Historic Preservation Officer (SHPO), the Advisory Council on Historic Preservation (ACHP) and [insert others here] to develop and execute a Programmatic Agreement (PA) for its disaster recovery activities in [insert date of PA execution]; and

WHEREAS, [federal agency will fill in name, statutory authority, and undertaking]; and

WHEREAS, Stipulation [insert number here] of this PA allows Other Federal Agencies to fulfill their Section 106 responsibilities for their undertakings that projects addressed in this PA by fully accepting all the terms of the PA and executing this Addendum;

NOW, THEREFORE, [federal agency] has determined to accept the terms and conditions of the PA and thereby take into account the effects of its undertakings and satisfy its Section 106 responsibilities.

EXECUTION AND IMPLEMENTATION of this Addendum to the PA evidences that [federal agency] has taken into account the effects of its undertaking on historic properties, and that through the execution of this Addendum and implementation of the PA, the [federal agency] will satisfy its responsibilities under Section 106 of the National Historic Preservation Act and its implementing regulations for the referenced [program or undertaking].

SIGNATORY PARTIES:

FEDERAL EMERGENCY MANAGEMENT AGENCY

_____ Date: _____
[name]
[title]

NEW YORK STATE HISTORIC PRESERVATION OFFICER

_____ Date: _____
[name]
[title]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

_____ Date: _____
[name]
[title]

[OTHER FEDERAL AGENCY]

_____ Date: _____
[name]
[title]

APPENDIX E

Stump Removal Guidance

Removal of stumps will be accomplished by attaching a chain to the stump and a piece of heavy equipment which will then pull the unexposed portion of the stump from the ground. If this method is not practicable, then the bucket of the machine will be used to grab and pull the stump out. Additional excavation in the surrounding soil will be avoided whenever possible and minimized when it is necessary. Void spaces will be backfilled with fill soil and any original loose native soil from the rootball when possible. Locations for proposed stump removal that are proposed to occur in areas with known archeological sites will undergo further evaluation and consultation. An archeologist will be present during the removal of rootballs within or adjacent to previously recorded archeological sites or when there are unexpected discoveries. If any potential archeological resources are discovered, work will immediately cease, and the subgrantee or contractor will notify the Grantee and FEMA.

APPENDIX F

Contact Information for Discoveries

FEMA: Mary Neustadter
Deputy Regional Environmental Officer
FEMA Regional Office (212) 680-8677
212-680-8677 (desk)
917-561-3292 (cell)

SHPO: 518-237-8643

DHSES: Richard Lord
Agency Preservation Officer and Chief of Mitigation Programs
518-292-2304