

**AMENDMENT #1 TO
PROTOTYPE PROGRAMMATIC AGREEMENT
BETWEEN THE
US DEPARTMENT OF AGRICULTURE,
TEXAS NATURAL RESOURCES CONSERVATION SERVICE STATE OFFICE,
TEXAS STATE HISTORIC PRESERVATION OFFICER,
REGARDING CONSERVATION ASSISTANCE**

WHEREAS, the Agreement was executed on October 16, 2015; and

WHEREAS, [The United States Department of Agricultural (USDA) Natural Resources Conservation Service (NRCS) has observed the need for 1) a provision in the Agreement which will allow the efficient creation of and modification of appendices to the Agreement without the need of an amendment as agreed to in writing by the Agreements' signatories, and 2) replace references to "GMSS TX401.21" in Stipulation V with "Appendix A"; and

WHEREAS, United States Department of Agricultural (USDA) Natural Resources Conservation Service (NRCS) will send a copy of this executed amendment to the ACHP;

NOW THEREFORE, in accordance with Stipulation I of the Agreement, the State Conservationist of Texas Natural Resources Conservation Service and the Texas State Historic Preservation Officer agree to amend the Agreement as follows:

I. Amend Stipulation V so it reads as follows:

V. Review Procedures.

- a. In consultation with the Texas SHPO, NRCS shall identify those undertakings with little to no potential to affect historic properties and list those undertakings in Appendix A under the designation "NG" (Not Ground or Site Disturbing). Upon the determination by the CRS/Archaeologist that a proposed undertaking is NG in Appendix A, the NRCS is not required to consult further with the SHPO/Indian Tribe for that undertaking.
- b. Additional appendices to this Agreement may be added and existing appendices to this Agreement may be modified through consultation and written agreement between the NRCS State Conservationist and the SHPO without requiring an amendment to this State-based Prototype Agreement. This may include the list of undertakings provided in Appendix A, which the NRCS State office will maintain the master list and will provide an updated list to all consulting parties with an explanation of the rationale (metadata) for classifying the practices accordingly. Additional appendices or their modifications shall be distributed to the signatories and appended to this PA.
- c. Undertakings not identified in the Appendix A as NG shall require further review as outlined in Stipulation V.c. The NRCS shall consult with SHPO to define the undertaking's APE, identify and evaluate historic properties that may be affected by the undertaking, assess potential effects, and identify strategies for resolving adverse effects prior to approving the financial assistance for the undertaking.

- I. NRCS may provide its proposed APE, identification of historic properties and/or scope of identification efforts, and assessment of effects in a single

transmittal to the SHPO, provided this documentation meets the substantive standards in 36 CFR Part 800.4-5 and 800.11.

2. The NRCS shall attempt to avoid adverse effects to historic properties whenever possible; where historic properties are located in the APE, NRCS shall describe how it proposes to modify, buffer, or move the undertaking to avoid adverse effects to historic properties.
3. Where the NRCS proposes a finding of “no historic properties affected” or “no adverse effect” to historic properties, the SHPO who shall have 30 calendar days from the receipt of this documented description and information to review it and provide comments. In addition, all surveys conducted by the CRS with no findings of cultural resources, will be reported to the SHPO for review and concurrence. The NRCS shall take into account all timely comments.
 - i. If the SHPO or another consulting party, disagrees with NRCS’ findings and/or determination, it shall notify the NRCS within the 30 calendar day time period. The NRCS shall consult with the SHPO or other consulting party to attempt to resolve the disagreement. If the disagreement cannot be resolved through this consultation, NRCS shall follow the dispute resolution process in Stipulation VIII below.
 - ii. If the SHPO does not respond to the NRCS within the 30 calendar day period and/or the NRCS receives no objections from other consulting parties, or if the SHPO concurs with the NRCS’ determination and proposed actions to avoid adverse effects, the NRCS shall document the concurrence/lack of response within the review time noted above, and may move forward with the undertaking.
4. Where a proposed undertaking may adversely affect historic properties, NRCS shall describe proposed measures to minimize or mitigate the adverse effects, and follow the process in 36 CFR 800.6, including consultation with other consulting parties and notification to the ACHP, to develop a Memorandum of Agreement to resolve the adverse effects.

**AMENDMENT #1 TO
PROTOTYPE PROGRAMMATIC AGREEMENT
BETWEEN THE
US DEPARTMENT OF AGRICULTURE,
TEXAS NATURAL RESOURCES CONSERVATION SERVICE STATE OFFICE,
TEXAS STATE HISTORIC PRESERVATION OFFICER,
REGARDING CONSERVATION ASSISTANCE**

SIGNATORY

Name: **KRISTY OATES** Digitally signed by KRISTY OATES
Date: 2023.01.17 11:29:05 -06'00' Date: 1/17/2023

Kristy Oates
State Conservationist, Texas
USDA Natural Resources Conservation Service

**AMENDMENT #1 TO
PROTOTYPE PROGRAMMATIC AGREEMENT
BETWEEN THE
US DEPARTMENT OF AGRICULTURE,
TEXAS NATURAL RESOURCES CONSERVATION SERVICE STATE OFFICE,
TEXAS STATE HISTORIC PRESERVATION OFFICER,
REGARDING CONSERVATION ASSISTANCE**

SIGNATORY

Name: Mark Wolfe Date: 2/13/23
Mr. Mark S. Wolfe
Texas State Historic Preservation Officer

