

**PROGRAMMATIC AGREEMENT
AMONG
THE UNITED STATES DEPARTMENT OF ENERGY, THE MISSOURI DEPARTMENT OF
NATURAL RESOURCES DIVISION OF ENERGY AND THE MISSOURI DEPARTMENT OF
NATURAL RESOURCES STATE HISTORIC PRESERVATION OFFICE
REGARDING THE USE OF STATE INTERAGENCY AGREEMENT
FOR SECTION 106 REVIEW OF EECBG, SEP AND WAP UNDERTAKINGS**

WHEREAS, the United States Department of Energy (DOE) administers the following financial assistance programs: *the Energy Efficiency and Conservation Block Grant Program* under the Energy Independence and Securities Act of 2007 (EECBG); *the State Energy Plan* under the Energy Policy and Conservation Act of 1975 and the State Energy Efficiency Programs Improvement Act of 1990 (SEP); and *the Weatherization Assistance Program* (WAP) for low-income Persons under Title IV of the Energy Conservation and Production Act, the Energy Policy Act of 2005, the Energy Independence and Security Act of 2007, and the American Recovery and Reinvestment Act of 2009 (ARRA); collectively referred to as the "Programs";

WHEREAS, the projects funded by the Programs are undertakings subject to review under Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470f (NHPA), and its implementing regulations at 36 CFR part 800, and include rehabilitation, energy efficiency retrofits, renewables, and weatherization (Undertakings);

WHEREAS, on February 5, 2010, the Advisory Council on Historic Preservation (ACHP) designated a Prototype Programmatic Agreement regarding the Undertakings (Prototype PA) that, under its Stipulation III, authorizes the Section 106 review of these Undertakings in accordance with State interagency agreements;

WHEREAS, the Missouri State Historic Preservation Office (SHPO) and the Missouri Department of Natural Resources Division of Energy (Recipient) agree that the *Interagency Agreement among the Missouri State Historic Preservation Office and the Missouri Department of Natural Resources Energy Center* (which has since be renamed the Division of Energy) *for the Administration of Federal Energy Programs* (interagency agreement), applies to the referenced Undertakings and provides a historic preservation review process that is similar to that provided by the other terms of the Prototype PA;

WHEREAS, the terms of the interagency agreement were in negotiation on or before February 5, 2010, and the interagency agreement was executed prior to February 19, 2010; and

WHEREAS, DOE, does not object to the use of the interagency agreement to fulfill the requirements of Section 106 for the referenced Undertakings in Missouri; and

WHEREAS, the Recipient, and the Missouri SHPO agree that (although the interagency agreement did not explicitly list the Weatherization Assistance Program as one of DOE's programs that is covered by the interagency agreement) the parties intended for the Weatherization Assistance Program to be incorporated into and covered by the interagency agreement;

NOW, THEREFORE, DOE, the Recipient, and the Missouri SHPO agree that the Programs shall be administered in accordance with the following stipulations to satisfy DOE's Section 106 responsibilities for all individual Undertakings of the Programs in Missouri.

DOE, the Recipient, and the SHPO shall ensure that the following stipulations are carried out:

1. The Recipient and SHPO will review Undertakings in accordance with the terms of the interagency agreement (attached as Appendix A to this Programmatic Agreement).
2. This Programmatic Agreement will be in effect for a period of three years from the date of its execution.
3. DOE will send a copy of this Programmatic Agreement to the ACHP upon execution.

Signatories:

Arto Chandelpl 5/26/2010

MISSOURI DEPARTMENT OF NATURAL RESOURCES DIVISION OF ENERGY Date

Mark A. Miller 5/27/2010

MISSOURI DEPUTY STATE HISTORIC PRESERVATION OFFICER Date

Clare Broadbent 6/7/10

UNITED STATES DEPARTMENT OF ENERGY Date

OFFICE OF ENERGY EFFICIENCY AND RENEWABLE ENERGY
OFFICE OF WEATHERIZATION AND INTERGOVERNMENTAL PROGRAMS

Appendix A

**INTERAGENCY AGREEMENT
AMONG
THE MISSOURI STATE HISTORIC PRESERVATION OFFICE
AND
THE MISSOURI DEPARTMENT OF NATURAL RESOURCES ENERGY CENTER
FOR THE ADMINISTRATION OF FEDERAL ENERGY PROGRAMS**

WHEREAS, the Department of Natural Resources - Energy Center, State of Missouri ("MDNR/EC"), administers or may administer federal assistance from the U.S. Department of Energy ("DOE") under the Energy Conservation in Existing Buildings Act of 1976, 42 U.S.C. 6861, enacted as Title IV, Part A of the Energy Conservation and Production Act, P.L. 94-385, 90 Stat. 1150, and amended by Title II, Part 2, of the National Energy Conservation Policy Act, P.L. 95-619, 92 Stat. 3206; by the Energy Security Act, P.L. 96-294, 94 Stat. 611, and the State Energy Efficiency Programs Improvement Act, P.L. 101-440, 104 Stat 1006, and

WHEREAS, MDNR/EC administers or may administer the Energy Efficiency and Conservation Block Grant Program through federal assistance from DOE under the Energy Independence and Securities Act of 2007, enacted as Title V, Part E, Section 541 - 548, and

WHEREAS, MDNR/EC administers or may administer the State Energy Plan through federal assistance from DOE under the Energy Policy and Conservation Act of 1975, P.L. 94 - 163, and the State Energy Efficiency Programs Improvement Act of 1990, P.L. 101 - 440, and

WHEREAS, MDNR/EC may administer other DOE funded, licensed or permitted energy related programs in the future, and

WHEREAS, pursuant to 10 CFR Part 440, community action agencies, municipalities, counties, K-12 school districts, colleges and universities, corporations, individuals, and nonprofit entities may be recipients ("Subgrantees") of federal assistance in these DOE Programs and, therefore, assume responsibility for compliance with the requirements of Section 106 of the National Historic Preservation Act, as amended [16 USC Sec. 470f] ("Section 106"); and

WHEREAS, Subgrantees may undertake activities that may be an undertaking ("Undertaking") as defined pursuant to 36 CFR § 800.16 of the regulations implementing Section 106 that include, but are not limited to, improvement of the energy efficiency of building envelopes, energy-using equipment or appliances, lighting systems, heating or air conditioning systems, agricultural operations, manufacturing operations, renewable energy projects focused on conversion of biomass to energy uses or installation of solar power systems. As part of the energy-efficiency projects, subgrantees may undertake limited repair of buildings.

WHEREAS, MDNR/EC, in keeping with its agency mandate to administer DOE Programs and to maintain regulatory oversight of Subgrantees once funds have been awarded, hereby represents Subgrantees in the formulation and signatory execution of this agreement and in any future amendments thereto; and

WHEREAS, Subgrantees, upon entering into grant agreement with MDNR/EC and under DOE environmental regulation at 10 CFR. Part 440, certify and bind themselves to the roles, responsibilities and stipulations of this agreement and its appendix; and

WHEREAS, MDNR/EC has determined that it can assist Subgrantees to more effectively carry out their Section 106 responsibilities by streamlining procedures for Undertakings having limited potential to affect properties included in or eligible for inclusion in the National Register of Historic Places and, on behalf of Subgrantees, has consulted with the Missouri State Historic Preservation Office ("SHPO") pursuant to 36 CFR § 800.14 of the regulations implementing Section 106; and

WHEREAS, DOE, on behalf of MDNR/EC, shall contact federally recognized Indian Tribes, as listed in Appendix A, to solicit their views on which types of undertakings may have potential to affect resources to which the Tribes may attach religious and cultural significance, and shall request that the tribes communicate how they wish to be consulted, and will invite the tribes to review and comment upon this agreement in the capacity of a concurring party; and

WHEREAS, all references within this Interagency Agreement ("Agreement") are with respect to regulation at 36 CFR Part 800 that became effective on August 5, 2004.

NOW, THEREFORE, MDNR/EC and SHPO agree that the Federal Energy Programs shall be administered in accordance with the following stipulations to satisfy Subgrantees Section 106 responsibilities for all individual Undertakings of the programs.

STIPULATIONS

The MDNR/EC will ensure that the following measures are carried out:

A. Roles of MDNR/EC and Subgrantees

The role of MDNR/EC under this Agreement includes but is not limited to MDNR/EC assisting Subgrantees in identifying historic properties, determining the eligibility of historic properties, and determining the effect an Undertaking may have on historic properties. MDNR/EC may also assist in facilitating consultations between the SHPO and Subgrantees regarding an Undertaking that may have an adverse effect on an historic property. However, Subgrantees retain responsibility for compliance with 36 CFR Part 800, and this responsibility is not assumed by MDNR/EC under this Agreement.

B. Qualifications of Personnel

1. MDNR/EC personnel designated to carry out the stipulations of this Agreement must meet the Secretary of the Interior's *Professional Qualifications Standards* outlined in 36 CFR Part 61, Appendix A, or attend a minimum of one (1) Section 106 training session,

as provided by the SHPO or ACHP. SHPO shall hold a Section 106 training session at the earliest date possible that will be open to MDNR/EC staff and their subgrantees as well as other interested parties. MDNR/EC is responsible for inviting the subgrantees to this training session. In addition, SHPO will hold a separate training session for MDNR/EC staff involved with federally funded projects by December 31, 2009 or at the earliest feasible date. For subgrantees unable to attend the SHPO sponsored training session, MDNR/EC staff will be responsible for providing Section 106 training. Additional training may be provided by SHPO as needed. SHPO may assist MDNR/EC during the grant application review process, upon request and to the extent feasible.

2. MDNR/EC must notify the SHPO of the personnel responsible for complying with this Agreement and will notify the SHPO when there is a change in personnel. In such event, MDNR/EC and the SHPO shall meet to review the terms, conditions and implementation of this Agreement.
3. When conditions dictate, MDNR/EC will ensure that Subgrantees employ or contract with qualified professionals who at minimum meet the Secretary of the Interior's *Professional Qualifications Standards* at 36 CFR Part 61 in the field of archaeology, history, architectural history, as appropriate, or other qualified preservation professional. MDNR/EC or a Subgrantee will make the professional's resume and contact information available to the SHPO upon request.
4. The Department of Natural Resources maintains a "List of Qualified Professionals" that meet the Secretary of the Interior's *Professional Qualifications Standards* and the SHPO shall make the list available to MDNR/EC and Subgrantees upon request. In no way does this mean that the SHPO requires applicants to use someone from this list.
5. MDNR/EC will provide technical assistance initially and on an ongoing basis to Subgrantees as needed and, in consultation with the SHPO and to the extent feasible, will provide training sessions or workshops as deemed appropriate or necessary for the Subgrantees to ensure their understanding of the terms of this Agreement. The scope of training will include a basic outline of the Section 106 process; research and identification of historic properties; obtaining qualified professional services; and limitations imposed by this Agreement (e.g., examples of Undertakings not exempted by the Agreement). Training may include additional topics relevant to the terms of this Agreement.

C. Process of Section 106 Review

1. For projects involving ground disturbing activities, MDNR/EC or the Subgrantee shall submit a completed Section 106 Project Information Form and all applicable documents listed on page 2 in the checklist (ex.: photographs, topographic map, construction drawings if buildings will be altered, project description) to the SHPO for review.
2. For projects involving alterations to a building, MDNR/EC or the Subgrantee shall review the list below of Undertakings Exempt from Further Review. If the proposed activity is included in this list, no further review is necessary, and the only required

action is to complete proper documentation as referenced in the Recordkeeping requirements, section J below.

3. If the proposed activity is not included in the list of Undertakings Exempt from Further Review, then MDNR/EC or the Subgrantee shall submit a completed Section 106 Project Information Form and all applicable documents listed on page 2 in the checklist (ex.: photographs, topographic map, construction drawings if buildings will be altered, project description) to the SHPO for review.
4. The SHPO will review the submitted information within their regulated 30 day review timeframe, or less. More information from MDNR/EC or the Subgrantee may be needed at any point in the review process. Every time information is requested, the 30-day review timeframe starts anew, so it is imperative that MDNR/EC and the Subgrantees submit complete information initially in order to minimize review timeframes. In their review, the SHPO will determine:
 - a. Whether the property involved is considered a historic resource. If the property is determined not to be a historic resource, no further action is necessary.
 - b. If the property is determined to be a historic resource, the extent of the adverse effect of the proposed activities will be assessed. If the proposed activities are determined to have no adverse effect on the historic resource, no further action is necessary.
 - c. If the property is determined to be a historic resource and the proposed activities will adversely effect the property, the SHPO will explore alternatives with the Subgrantee and MDNR/EC to avoid or reduce the adverse effect of the proposed activities. Input from the public may apply as part of this discussion, should SHPO and MDNR/EC be unable to resolve the adverse effect promptly.
 - d. Agreement on the alternative proposed activities between the SHPO, the Subgrantee and MDNR/EC will be sent to DOE.

D. Undertakings Exempt from Further Review

1. Categorical Exemptions

The following Undertakings have little or no potential to cause effect and, therefore, are categorically exempt from further review or consultation with the SHPO under this Agreement.

- a. Undertakings on Properties Less than 45 Years Old. All properties estimated to be less than forty-five (45) years of age and that do not meet the criteria established in National Register Bulletin 22, *Guidelines for Evaluating and Nominating Properties that Have Achieved Significance Within the Past Fifty Years*, do not require further review or consultation.
- b. Undertakings on Properties Recently Reviewed. If the property has been reviewed by the SHPO within the last five (5) years from the date the Subgrantee makes application to MDNR/EC for DOE assistance and provided the property is documented through written consultation with the SHPO to be ineligible for inclusion

in the National Register, the Undertaking may proceed without further review or consultation.

2. Specific Activities Exempt from Further Review

Undertakings on properties more than (or equal to) forty-five (45) years old do not require further review or consultation with the SHPO provided the Undertaking complies with the National Park Service's *Secretary of the Interior's Standards for the Treatment of Historic Properties* and related technical guidelines. Undertakings meeting this requirement are limited solely to the activities described below.

For the purpose of this Agreement, "in-kind" replacement/repair is defined as a replacement action or repair that uses materials that match the original material in terms of composition, appearance, dimension, detailing and durability. In addition, to the extent practicable, original materials will be preserved and reused for in-kind replacement/repair.

For all projects where no window or door alterations are involved, all materials included in Appendix A of 10 CFR 440, *Standards For Weatherization Materials*, excluding all windows and doors, are considered appropriate for use on historic properties, and do not require further review or consultation from the SHPO, provided that the activity meets one of the following exemptions and follows the Secretary of the Interior's *Standards for Rehabilitation*.

a. Exterior Rehabilitation

- i. Installation of scaffolding and other temporary construction-related structures including barriers, screening, fences, protective walkways, signage, office trailers and restrooms.
- ii. Application of exterior paint on previously painted surfaces, including masonry.
- iii. All lead paint abatement which does not involve removal or alteration of exterior features and/or a window's surrounding casings sash components, trim and sills.
- iv. In-kind replacement/repair of:
 - 1) masonry foundations, floor joists, and ceiling joists
 - 2) basement bulkhead doors
 - 3) wood siding and trim
 - 4) porch elements such as columns, flooring, floor joists, ceilings, railing, balusters and balustrades, and lattice
 - 5) roof cladding, flashing, gutters, soffits, and downspouts and with no change in roof pitch or configuration
 - 6) doors and door frames

- 7) window sash, frames, glazing and weather stripping. Replacement of existing clear glass with new clear glass is allowed.
- 8) exterior vents

v. Replacement/repair of:

- 1) concrete foundations
- 2) exterior heating, ventilation, and air conditioning (HVAC) mechanical units that do not require any new venting or a new location, or venting is on the rear of the structure, not viewable from any public right of way.

vi. Installation of:

- 1) dryer vents, air intakes, and outlets on secondary façades
- 2) caulk and expandable foam to prevent air infiltration so long as it is clear, painted or colored to match the existing exterior materials.
- 3) Insulation on the underbelly of Mobile Homes.
- 4) Removable film on windows if the film is transparent.
- 5) Blown in insulation where no holes are drilled through exterior siding.

b. Interior Rehabilitation

- i. Interior improvements and rehabilitation where no structural alterations are made, where no demolition of walls, ceilings and/or floors occurs, and where no drop ceilings are added or walls are furred out or moved, and consisting of:
 - 1) plumbing work, including installation of water heaters
 - 2) electrical work, including improving lamp efficiency
 - 3) heating, ventilation, and air conditioning (HVAC) systems and their components
 - 4) insulation installation in attics and crawl spaces
 - 5) blown in insulation where no decorative plaster is damaged.
- ii. In-kind replacement/repair of:
 - 1) plaster walls and ceilings
 - 2) floors, including refinishing
- iii. Installation of drywall where original plaster wall surfaces are missing, and which will not appreciably change the trim profile. No decorative plaster or other decorative features shall be covered.
- iv. All painting and carpeting, provided that carpeting installation damages no underlying wood or masonry floor surfaces.
- v. All kitchen and bathroom remodeling, provided no walls, windows, or doors are altered.
- vi. All lead paint abatement which does not involve removal or alteration of interior features.

vii. All asbestos abatement which does not involve removal or alteration of interior features.

c. Equipment

- i. Standard energy efficiency measures that do not require ground disturbance or relocation or removal of walls, ceilings or floors, such as, but not limited to: installation or replacement of motors, lighting, blowers, pumps, heating, ventilation, and air conditioning (HVAC) systems that do not require any new venting or a new location, or venting is on the rear of the structure, not viewable from any public right of way, conservation tillage equipment, Global Positioning System (GPS) Guidance Systems, solar powered electric fencing, irrigation improvements such as flow meters, pulse irrigators and drip irrigation systems, and occupancy sensors on lights.

Should the SHPO and/or MDNR/EC determine through the review process outlined above that any actions undertaken through the Federal Energy Programs result in an adverse effect on historic properties, 36 CFR Part 800.6 shall implemented.

E. Public Participation

1. When an Undertaking is determined to have an adverse effect on a historic property, and resolution of the adverse effect is not readily achievable, MDNR/EC will assist Subgrantees to take into account the public interest by ensuring information about historic properties is included, as appropriate, in applications for assistance, public hearings, or public notifications.
2. MDNR/EC will help ensure, to the extent practicable, that Subgrantees seek and consider the views of the public on their projects in a manner that reflects the nature, magnitude and complexity of the Undertaking and its effects on historic properties, the likely interest of the public in the effects on historic properties and the potential for controversy, confidentiality concerns of private individuals, Tribes and businesses, and other Federal agency involvement in the Undertaking. A list of local historic preservation commissions is available on the SHPO webpage: <http://dnr.mo.gov/shpo/clg-list.htm>. A directory of local historical societies is available on the State Historical Society of Missouri's webpage: <http://shs.umsystem.edu/directory/index.shtml>. Should these two resources not aid in identification of organizations interested in historic preservation in the local community, the SHPO shall assist the Subgrantee and / or MDNR/EC in contacting local preservationists to seek input from the public on the proposed project to the extent possible.
3. MDNR/EC will help ensure, to the extent practicable, that Subgrantees contact local historic preservation commissions and other groups or individuals known to be interested in historic resources in the area affected by the Undertaking. Subgrantees will notify

MDNR/EC and the SHPO of members of the public or Tribes who have expressed interest in an Undertaking covered under the terms of this Agreement.

F. Technical Assistance

Nothing in this agreement shall be construed as meaning that MDNR/EC or Subgrantees cannot request advice, counsel, or assistance of the SHPO at any time.

G. Monitoring

The SHPO may monitor activities carried out pursuant to this Agreement. MDNR/EC and Subgrantees will cooperate with the SHPO in carrying out their monitoring and review responsibilities. MDNR/EC and Subgrantees shall make available project information under this Agreement, as necessary.

H. Public Objection

At any time during implementation of an Undertaking covered by this Agreement, should an objection be raised by a member of the public, the Subgrantee shall take the objection into account and consult as needed with the objecting party, MDNR/EC or the SHPO to resolve the objection.

I. Dispute Resolution

1. MDNR/EC shall represent itself and Subgrantees petitioning singly or as a group in all matters of dispute resolution.
2. Should any signatory to this agreement or Subgrantee (represented by MDNR/EC) object at any time to any actions proposed or the manner in which the terms of this agreement are implemented, MDNR/EC shall consult with such party to resolve the objection. If MDNR/EC determines that such objection cannot be resolved, then MDNR/EC will forward all documentation relevant to the dispute, including MDNR/EC's proposed resolution and SHPO comments, to DOE. DOE will:
 - a. Forward all documentation relevant to the dispute, including MDNR/EC's proposed resolution and SHPO comments, to the Advisory Council on Historic Preservation (ACHP). The ACHP shall provide MDNR/EC comment on resolving the objection within fifteen (15) days of receiving adequate documentation. If the ACHP does not provide comment with this period, DOE may make a final decision on the dispute and proceed accordingly.
 - b. Prior to making a final decision on the dispute, DOE shall prepare a written response to the ACHP, SHPO and/or Subgrantees that takes into account any timely advice or comments regarding the dispute from the ACHP, SHPO and/or Subgrantees and provide them with a

copy of this written response. DOE will then notify MDNR/EC to proceed according to DOE's final decision.

3. The responsibilities of the signatories to carry out all other actions subject to the terms of this Agreement that are not the subject of the dispute remain unchanged.

J. Recordkeeping

Compliance with the terms of this Agreement will be documented by MDNR/EC or the Subgrantee through environmental recordkeeping as follows. Records will be made available to the SHPO for monitoring compliance, as necessary.

Each subgrantee shall himself/herself enter, or require that each client served by the Energy Programs enter, on a written application, the estimated year in which the building or other structure to be affected by Energy Programs was constructed. Based upon the age of the building or structure, the subgrantee shall retain the following information in the file:

For all buildings or structures, the subgrantee shall obtain the following information and retain it in the client or project file: A clear photograph showing the front of the building or structure taken from the street, sidewalk or front yard; a location map showing the location of each Undertaking; and the application upon which the client has entered the age of the building or structure. Electronic storage of photographs and maps is acceptable.

K. Term of Agreement

This Agreement will continue in full force and effect for five (5) years from the date all signatories have signed the Agreement. At any time in the six-month period prior to the Agreement's expiration, MDNR/EC may request ACHP and SHPO to extend the Agreement for five (5) more years, provided the request is made in writing, that all signatories agree, and there are no substantive modifications.

L. Amendment

Any signatory to this Agreement may request that it be amended, whereupon the parties will consult in accordance with 36 CFR Part 800.14 to consider such amendment. MDNR/EC will represent itself and Subgrantees petitioning singly or as a group in all requests to amend this Agreement. The amendment will be effective on the date it is signed by all signatories. Should DOE and the ACHP develop a nationwide agreement regarding Section 106 responsibilities that supersedes this Agreement, all parties agree to amend or terminate this Agreement as necessary.

M. Termination

Any signatory to this Agreement may terminate it by providing thirty (30) days notice to the other signatories, provided that the signatories will consult during the period prior to termination to seek amendment or other action that would avoid termination. MDNR/EC will represent itself and Subgrantees when the latter petition as a unanimous body to terminate this Agreement. In

the event of termination, Subgrantees will comply with 36 CFR Parts 800.3 through 800.6 with regard to all individual undertakings heretofore covered by this Agreement.

N. Unanticipated Discoveries

1. Archaeological sites or historic properties:

1. If previously unidentified archaeological sites or historic properties are discovered unexpectedly as a result of construction activities, the construction contractor will immediately halt all construction activity within a one-hundred (100) foot radius of the discovery, notify the Subgrantee of the discovery and implement interim measures to protect the discovery from looting and vandalism. Within forty-eight (48) hours of receipt of this notification of the discovery, the Subgrantee shall:
 - a) inspect the work site to determine the extent of the discovery and ensure that construction activities have halted;
 - b) clearly mark the area of the discovery;
 - c) implement additional measures, as appropriate, to protect the discovery from looting and vandalism; and
 - d) notify the SHPO, MDNR/EC and interested Indian Tribes or other parties of the discovery.
2. The Subgrantee will have seven (7) calendar days following notification to determine the National Register eligibility of the discovery after considering the timely filed views of the SHPO and interested Indian Tribes or other parties. The Subgrantee may assume the newly discovered property to be eligible for the National Register for the purposes of Section 106 pursuant to 36 CFR § 800.13(c).
3. For properties determined eligible, the Subgrantee will notify the SHPO, MDNR/EC and interested Indian Tribes or other parties of those actions that it proposes to resolve adverse effects in a mitigation plan.
 - a) Consulting parties will have seven (7) calendar days to provide their views on the proposed mitigation plan.
 - b) The Subgrantee will ensure that the recommendations of consulting parties are taken into account to resolve adverse effects.
 - c) The Subgrantee will carry out the approved mitigation plan.
 - d) The construction contractor will resume construction activities in the area of the discovery upon receipt of written authorization from the SHPO.
4. Dispute Resolution: The Subgrantee will seek and take into account the recommendations of the ACHP in resolving any disagreements that may arise regarding resolution of adverse effects. Within seven (7) days of receipt of such a written request, the ACHP will provide the Subgrantee with recommendations on resolving the dispute. The Subgrantee will take into account the recommendations provided by the ACHP in making a final decision about how to proceed.

2. Human remains:

1. When an unmarked human burial or skeletal remains are encountered during construction activities, the Subgrantee will comply with Missouri Rev. Stat. § 194.400, et seq. (Unmarked Human Burial Law).
2. Upon encountering unmarked human burials or skeletal remains during ground disturbing construction activities, the construction contractor will immediately stop work within a one-hundred (100) foot radius from the point of discovery and notify the Subgrantee. The construction contractor will implement interim measures to protect the discovery from vandalism and looting, but must not remove or otherwise disturb any human remains or other items in the immediate vicinity of the discovery.
3. Immediately following receipt of such notification, the Subgrantee will:
 - a) ensure that construction activities have halted within a one-hundred (100) foot radius from the point of discovery;
 - b) implement additional measures, as appropriate, to protect the discovery from looting and vandalism until the requirements of state law have been completed; and
 - c) notify the local law enforcement officer, the SHPO, MDNR/EC and interested Indian Tribes or other parties, of the discovery.
4. The investigation by the local law enforcement officer will establish jurisdiction over the remains. The Subgrantee will notify the SHPO when local law enforcement determines that the SHPO has jurisdiction. Within seven (7) days of receipt of such notification, the SHPO will determine the treatment to be implemented. If the human remains are Native American, the SHPO in consultation with interested Indian Tribes will determine the treatment to be implemented.
5. The construction contractor will resume construction activities in the area of the discovery upon receipt of written authorization from either local law enforcement or the SHPO, whomever has jurisdiction under state law.

O. Coordination with Other Federal Funding

Another Federal agency that provides permitting or financial assistance to an Undertaking covered by this Agreement may satisfy its own Section 106 compliance responsibilities by accepting and complying with the terms of this Agreement. The Federal agency shall notify MDNR/EC, the Subgrantee and the SHPO in writing of its intent to adhere to this Agreement in lieu of completing a separate Section 106 review.

P. Notification

Notification or other communication between signatories to this Agreement shall be made in accordance with the following addresses or to such other place as a signatory may designate in writing all signatories.

MDNR/EC: Energy Center
Missouri Department of Natural Resources
1101 Riverside Dr, PO Box 176
Jefferson City, MO 65102-0176
Anita.Randolph@dnr.mo.gov
Joe.Gassner@dnr.mo.gov
David.Harrison@dnr.mo.gov
Rob.Mock@dnr.mo.gov
Roger.Korenberg@dnr.mo.gov

SHPO: Review and Compliance Section
State Historic Preservation Office
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, Missouri 65102-0176
Judith.Deel@dnr.mo.gov
Rebecca.Prater@dnr.mo.gov

Execution and implementation of this Agreement evidences that the Missouri Department of Natural Resources – Energy Center and its Subgrantees have taken into account the effects of the DOE Programs on historic properties.

Missouri Department of Natural Resources- Energy Center

By: *Arto Randolph*

Date: 12/7/09

Missouri Deputy State Historic Preservation Officer

By: *Mark A. Male*

Date: 12/08/09