

**PROGRAMMATIC AGREEMENT AMONG  
THE MISSISSIPPI DEVELOPMENT AUTHORITY;  
THE MISSISSIPPI STATE HISTORIC PRESERVATION OFFICER;  
THE MISSISSIPPI BAND OF CHOCTAW INDIANS  
AND  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
REGARDING  
THE MISSISSIPPI ELEVATION GRANT PROGRAM OF THE  
HOMEOWNERS ASSISTANCE PROGRAM,  
AND  
THE SMALL RENTAL ASSISTANCE PROGRAM  
IN RESPONSE TO HURRICANE KATRINA**

**WHEREAS**, the U.S. Department of Housing and Community Development (HUD), is providing funding to the Mississippi Development Authority (MDA) for its implementation of the Mississippi Homeowners Assistance Program (HAP) to assist eligible homeowners in the repair or replacement of their damaged primary residence located in Harrison, Hancock, Jackson, and Pearl River counties affected by Hurricane Katrina in August 2005, utilizing Community Development Block Grant (CDBG) Program funds that were approved under the Emergency Supplemental Appropriations Act for Defense, Global War on Terror, and Hurricane Recovery 2006 (P.L. 109-234); and

**WHEREAS**, as over 70,000 renter-occupied affordable housing units were also damaged or destroyed throughout Mississippi as a result of Hurricane Katrina, HUD is also providing CDBG funding through P.L. 109-234 to MDA for its implementation of the Small Rental Assistance Program (SRAP), through which owners of small rental properties (defined as fewer than 4 units) in Harrison, Hancock, Jackson, and Pearl River counties will receive rental income subsidy assistance, reimbursement for repair or reconstruction of Katrina-damaged property, reimbursement for reconstruction or conversion of existing property to rental, or new construction reimbursement funding; and

**WHEREAS**, the projects to be carried out by the ultimate recipients of the HAP Elevation Grant Program (EGP) and the SRAP (Undertakings) will be Federally funded, and are therefore considered to be undertakings subject to review under Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f, and its implementing regulations at 36 CFR Part 800 (Section 106); and

**WHEREAS**, as HUD has unique legislative authority, as specified in several statutes, including the Housing and Community Development Act of 1974, as amended, that allows States, Tribal and local governments (“responsible entities,” or REs) to assume responsibility for all of HUD’s environmental requirements, including Section 106 of NHPA, and as noted in the regulations governing 24 CFR Part 58 programs and grants, including the CDBG Program, 36 CFR Part 800 responsibilities may be assumed by the RE, and

**WHEREAS**, MDA will act on behalf of HUD as a RE for purposes of this Programmatic Agreement (PA); and

**WHEREAS**, MDA has determined that it is reasonable to believe that the Undertakings may have an effect on properties listed, or eligible for listing, in the National Register of Historic Places (NRHP) and in accordance with 36 CFR Part 800 must address these effects; and

**WHEREAS**, the Chickasaw Nation (CN), the Choctaw Nation of Oklahoma (CNO), the Jena Band of Choctaw Indians (JBC), Mississippi Band of Choctaw Indians (MBCI), the Tunica-Biloxi Tribe of Louisiana (TBTL), and the Quapaw Tribe of Oklahoma (QTO) (collectively Participating Tribes) are Federally recognized sovereign Indian Nations, that have a government-to-government relationship with the United States and an interest in the lands included in the Undertakings and have been notified by MDA of the development of this PA; and

**WHEREAS**, an “Accord Between the Executive Branches of the Mississippi Band of Choctaw Indians and the State of Mississippi” was signed on November 24, 1997, in which each party pledged to work with the other on a government-to-government basis, and as a result of this Accord, the MBCI has requested, and MDA has agreed, that MBCI shall sign this PA as a full signatory; and

**WHEREAS**, MDA in consultation with MBCI and CNO (Participating Tribes), has determined and acknowledges that the Undertakings can result in activities that may affect historic properties such as, but not limited to, historic properties that are of religious and cultural significance to Participating Tribes, and historic properties that may include burials with human remains and/or associated cultural items and MDA agrees to consult to identify historic properties that may be affected by the Undertakings and MDA will comply with all applicable Federal and state legal requirements, including the Native American Graves Protection and Repatriation Act (P.L. 101-601) and the Mississippi Antiquities Law (39-7-31); and;

**WHEREAS**, MDA, the Mississippi State Historic Preservation Officer (SHPO), MBCI and the Advisory Council on Historic Preservation (ACHP) acknowledge that executing a PA pursuant to 36 CFR § 800.14(b), the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f) (NHPA), to identify programmatic conditions and define treatment measures that address the effects related to the Undertakings will streamline further consultation, thereby allowing MDA and SHPO to satisfy their Section 106 responsibilities, the regulations implementing Section 106 of the NHPA, as well as minimize delays to the implementation of the Undertakings; and

**WHEREAS**, based on the advice of the SHPO, MDA has notified the cities of Bay St. Louis, Biloxi, Ocean Springs, Pascagoula, and Pass Christian of the development of this PA and the provisions of 36 CFR § 800.2(c), and invited each of those cities to participate in the consultation for this PA as a Concurring Party; and

**WHEREAS**, the National Trust for Historic Preservation (NTHP) has been notified by MDA of the development of this PA and has been invited to participate in the consultation for this PA as a Concurring Party; and

**WHEREAS**, in keeping with 36 CFR § 800.2(d) of the Section 106 regulations, MDA shall seek and consider the views of the public in a manner that reflects the nature and complexity of individual actions that may qualify for funding or assistance as a part of these Undertakings and their potential to affect historic properties, the likely interest of the public in those effects, confidentiality concerns of private individuals and businesses, and the relationship of the Federal involvement to the Undertakings; and

**NOW, THEREFORE**, MDA, SHPO, MBCI, and ACHP agree that these Undertakings shall be implemented in accordance with the following Stipulations to satisfy HUD's and MDA's Section 106 responsibilities.

## **STIPULATIONS**

To the extent of its legal authority, and in coordination with SHPO, MBCI and ACHP, MDA shall ensure that the following are carried out:

### **I. APPLICABILITY**

- A. This PA applies to the review of all individual applications for projects which will be completed after the execution of this PA, and for projects that will receive retroactive funding for work completed prior to execution of this PA, that will receive MDA funding or assistance from the Elevation Grant Program and Small Rental Assistance Program in counties of Hancock, Harrison, Jackson, and Pearl River in response to Hurricane Katrina. Applications with the potential to affect historic properties (NRHP listed or eligible archaeological sites, buildings, structures, districts and objects) will be reviewed following the procedures outlined in Stipulations II.-V. of this PA.
- B. The HAP program as currently approved by HUD requires owners of all properties, whether non-historic or historic, to elevate buildings to the Advisory Base Flood Elevation (ABFE) level in each jurisdiction, or subsequent standards adopted by MDA in its implementation of this program.

### **II. GENERAL**

- A. MDA will utilize Architectural Historians and Historians who meet the Secretary of the Interior's Professional Qualification Standards (SOI Standards, 36 CFR Part 61) to develop MDA's findings regarding National Register of Historic Places (NRHP) eligibility of buildings and structures, effects, and treatments. MDA will also require that Archeologists who meet the SOI Standards provide MDA with recommendations regarding the NRHP eligibility of archeological sites, projects effects, and the treatment of NRHP eligible archeological sites. These qualified professionals will serve as MDA's Cultural Resource Management consultants (HP Team) and will help carry out MDA's Section 106 responsibilities for the Undertaking as outlined in Stipulations IV. and V.

- B. MDA acknowledges that Participating Tribes have the authority and the primary expertise to identify and evaluate historic properties which are of religious and cultural significance to them, and that Tribal representatives, Traditional Cultural Authorities, or other religious/traditional practitioners need not meet Federal and/or state standards.
- C. All time designations shall be in business days except where specifically noted. If a party does not provide written comments to MDA within the agreed-upon period, MDA may assume that the party does not object to the proposed determination and MDA may proceed to the next step in the review. Confirmation of the date of receipt of correspondence will be the date used to establish timeframes for review. However, if received after 4:30 pm Central Time (CT), the date used will be the next business day.
- D. MDA will include information regarding the implementation of this PA in an annual report and will provide a copy of this report to all signatories, concurring parties, and consulting parties. The first of these is due one year after execution of this PA.

### **III. AGENCY RESPONSIBILITIES**

- A. MDA shall not approve funding of any grants to individual property owners that may affect a historic property until review of each project is completed pursuant to this PA. This requirement pertains to both projects that will be completed after the date of execution of this PA, as well as projects that will receive retroactive funding for work completed prior to execution of this PA.
- B. For projects that will be reviewed after the date of execution of this PA, MDA shall notify all applicants that they must not demolish the existing residential or rental property improvements or otherwise carry out ground-disturbing activities or otherwise clear the property, until MDA, in consultation with SHPO, Participating Tribes, and other consulting parties, has completed the Section 106 review of the project in accordance with the PA and has authorized the applicant in writing that demolition or property clearance may proceed. The MDA notice will be provided in a written document that is given to each applicant and will inform the applicant that demolition of the residential improvements, clearance of the site, or initiation of other construction activities prior to authorization by MDA may jeopardize approval of their application. MDA will provide SHPO, Participating Tribes, and other consulting parties, with the opportunity to review, comment on, and approve this written notice.
- C. Upon receipt and approval of a written position description, agreement and budget, including all associated costs, by the SHPO, MDA will provide funding for staff that will work under the direction of SHPO to assist MDA with expedited reviews of NRHP eligibility, determinations of effect, the identification of treatments or mitigation to address adverse effect(s), proposed Section 106

agreements, and informal consultations to assist MDA and its HP Team in its decision-making responsibilities. These staff members may be hired as employees or contractors, as determined by the SHPO. These staff members will be temporary, and will provide services for a duration of up to 24 months, unless modified by agreement of MDA and the SHPO. MDA and the SHPO agree that these staff members will only work on projects related to Hurricane Katrina, and MDA programs will take precedence over other duties related to Hurricane Katrina projects. Further the SHPO agrees that there will be no duplication of benefits for these positions and reimbursed activities.

1. MDA will assist SHPO with identifying and recruiting one or two SHPO Project Liaisons who will provide day-to-day communications between MDA and SHPO as Section 106 Identification and Evaluation and Effects determinations are conducted. SHPO will determine the extent to which the SHPO Project Liaisons may provide concurrence with determinations as Project work moves forward.
  2. SHPO will have final approval of the individuals who will serve as SHPO Project Liaisons.
- D. SHPO will accept electronic copies of customized identification, NRHP evaluation, and effects determination review forms, including location maps, field and research data, and photographs for National Register eligibility determinations, and will not require hard copy submissions for review unless unforeseen circumstances occur. Submittals will be transmitted on compact disks or through electronic File Transfer Protocol (FTP). MDA will work with SHPO to ensure that the electronic records are compatible with the SHPO's electronic files.
- E. In order to determine the nature and scope of public participation efforts for the Undertakings, MDA and SHPO shall consult to determine the appropriate level and kind of public outreach required for the Undertakings. The agencies may use various media outlets to implement this public participation process.

#### **IV. TRIBAL CONSULTATION**

- A. MDA has notified the Participating Tribes about this PA. MDA recognizes the government-to-government relationship between MDA and the tribes, and MDA invites the tribes to concur in this PA, unless otherwise provided for in the PA.
- B. MDA shall keep all Participating Tribes informed and up-to-date when historic properties of religious and cultural significance to a tribe are identified or may be affected by this Undertaking. The extent and timing of these updates shall be jointly negotiated by MDA and Participating Tribes representatives. A schedule for these updates will be developed in consultation with the Participating Tribes within 30 days of execution of this PA.
- C. Should historic properties of religious and cultural significance to Participating

Tribes be identified within the APE of any Undertaking funded or assisted by HAP program, consultation may be extended to include future management, protection, and preservation of such historic properties.

D. MDA shall ensure, to the extent allowed by applicable laws including Section 304 of the NHPA, that its consultation with other consulting parties shall not include the dissemination of information that might risk harm to a historic property or that might impede the use of that site by Participating Tribes.

E. The Point of Contact for MBCI is:

Mississippi Band of Choctaw Indians  
Kenneth H. Carleton  
Tribal Historic Preservation Officer/Archaeologist  
P.O. Box 6257  
Choctaw, MS 39350  
Phone: 601-650-7316  
Cell: 601-562-0032  
E-Mail: [karleton@choctaw.org](mailto:karleton@choctaw.org)

The Point of Contact for CNO is:

Choctaw Nation of Oklahoma  
Terry Cole  
Tribal Historic Preservation Officer  
16<sup>th</sup> & Durant  
Durant, OK 74701  
Phone: (800) 522-6170 X2137 or (580) 924-8280  
E-Mail: [terrycole@choctawnation.com](mailto:terrycole@choctawnation.com)

## V. REVIEW PROCESS FOR INDIVIDUAL PROJECTS

A. The procedures in Stipulation V.C.-F. will be used for Section 106 review of Undertakings with the potential to affect above-ground and archaeological historic properties, specifically any building, structure, or archaeological site listed or determined eligible for the NRHP, in consultation with the SHPO, Participating Tribes, and other consulting parties, as outlined in Stipulation V.D. and F. In order to expedite Section 106 review so as to provide funding to property owners as soon as feasible, MDA will consult with SHPO and Participating Tribes concerning Undertakings involving one or more of the following:

1. New construction, which shall include Elevation Grant Program applicants reconstructing on a different site within the same parcel;
2. Expansion of a structure more than 3 feet beyond its existing footprint;

3. Any Undertaking that consists of elevation of a building or structure on piers when the project consists of a new pier structure or when new piers will penetrate the ground beyond the historical depth of the existing pier structure;
  4. Any building or structure within or adjacent (defined as being located in an area with the potential to cause visual effects) to a NRHP-listed or eligible historic district or individual property; and/or;
  5. Historic above-ground properties that are more than fifty years of age.
- B. Data Management. MDA shall provide information from individual Elevation Grant Program and Small Rental Assistance Program applications to its HP Team at the earliest possible time following MDA's receipt of an adequately documented application. MDA will supply the following information from each individual application defined as subject to SHPO and Participating Tribes review in Stipulation V.A., in database form, to the SHPO:
1. Complete street address, City/County, and ZIP Code;
  2. Latitude/Longitude in decimal degrees;
  3. Actual construction date (based on county tax assessment data) and/or estimated date from homeowner or other source as a 4-digit year;
  4. Two or more photographs from opposite corners of the primary façade that have been scanned and linked to other MDA geospatial data; and
  5. Type of assistance requested from HAP.
- C. Determine Area of Potential Effects (APE). MDA will determine the geographic area or areas for all Undertakings that may directly, or indirectly, affect historic properties. MDA may discuss issues regarding the identification of the APE, 36 CFR § 800.16(d), with SHPO and Participating Tribes, but may defer its request that SHPO or Participating Tribes review and comment on its APE determination until MDA seeks their review and comment on its identification, evaluation and effect determinations. In making an APE determination, MDA's HP Team will also consider, as appropriate, the cumulative effects of elevation and/or reconstruction of more than one property on groupings of historic properties, such as those within historic districts, or individual historic properties, or the cumulative effects of elevation and/or reconstruction on an archaeological site. MDA will consult with the SHPO and Participating Tribes, as appropriate, to provide comments and information related to the APE.
- D. Identify and Evaluate Archaeological Properties within the APE; Assess Effects; Resolve Adverse Effects on Archaeological Properties. Because of the large four-county area in which individual Undertakings will take place, MDA will expedite

Section 106 review involving potential archaeological sites by:

1. Eliminating the consideration of the potential presence of archaeological sites for projects where the homeowner will perform elevation activities within three feet of the boundaries of the current footprint of the building or structure; and
2. Developing a basic Archaeological Sensitivity Map. The Archaeological Sensitivity Map will be developed using background research, pedestrian survey, and consultation with the SHPO and Participating Tribes.
3. MDA will consult with the SHPO and Participating Tribes on the development of the archaeological sensitivity map depicting the areas where archaeological review will, and will not, occur. The Archaeological Sensitivity Map will be used by the HP Team as an aid in carrying out archaeological site identification and NRHP evaluation tasks, as more fully described below.
4. Where MDA determines that an individual project will occur 3 feet or more outside of the footprint of an existing residence, an initial archaeological assessment will be undertaken:
  - a. This effort will include development of a standard research design, examination of appropriate background records, including such source materials as NRHP listings, Mississippi Archaeological Site file records, archeological maps, Cultural Resource Management reports, SHPO archeological subject/topic files, historic maps, aerial photographs, and remote sensing data).
  - b. Each Project site will be physically examined by a SOI-qualified Archaeologist, who will record the results of a systematic pedestrian survey. No subsurface testing will occur as a result of this archaeological assessment.
  - c. The results of this assessment will be combined with other information routinely used by archaeologists to determine if there is a low, medium, or high probability for an archaeological site to be present at a particular location. These factors include, but may not be limited to, extreme slopes (those over 15%), level of previous disturbance, proximity/distance to water, physiographic provinces, locations of historic road systems and other features, and soils and drainage.
  - d. The result of this study will be reported to the SHPO and to Participating Tribes, with a determination of either No Historic Properties Present or Affected, accompanied by a recommendation that no further work be undertaken, or a determination that additional work will be required. If the SHPO and Participating Tribes concur with MDA's recommendation that further work be undertaken, MDA will then complete a Phase I Survey ("Terrestrial Archaeological Resources Survey"). All work will be conducted pursuant to applicable state and Federal laws, regulations, and guidelines, including the Mississippi Department of Archives and



History's "Guidelines for Archaeological Investigations and Reports in Mississippi" (1999, revised 2001).

5. If the SHPO and Participating Tribes concur with MDA's Phase I Survey findings indicating that there is a site present and potentially adversely affected by a given project within the APE, MDA will continue consultation and determine whether a Phase II (National Register eligibility) and/or Phase III (Mitigation of Terrestrial Archeological Resources) assessment is warranted. If one or both of these actions must occur, all work will be conducted pursuant to appropriate state and Federal laws, regulations, and guidelines, including the Mississippi Department of Archives and History's "Guidelines for Archaeological Investigations and Reports in Mississippi" (1999, revised 2001). The cost of any Phase III mitigation will be the sole responsibility of the applicant.
7. For purposes of this PA, if MDA, the SHPO, and/or Participating Tribes, after considering the views of other consulting parties, disagree on NRHP eligibility of a historic property referenced in this Stipulation, or if MDA, the SHPO, and/or Participating Tribes are unable to agree within the time stipulated, MDA intends to accept the Participating Tribes' recommended determination and proceed to the next step in the review. If a disagreement on NRHP eligibility cannot be resolved, after further consultation with the SHPO, MDA will submit a request for a determination of NRHP eligibility to the Keeper of the National Register of Historic Places, as referenced in Stipulation II.E, to resolve this issue. The Keeper's determination shall be final, and MDA shall adhere to this determination.
8. Except for those properties eliminated from Section 106 Review according to Stipulation V.E.2. and 4., MDA shall ensure compliance with the Lower-Impact Construction Stipulations in Appendix B and will require that these stipulations are made explicit in the certification documents signed by each property owner who receives funding under HAP and/or the SRAP. MDA shall stress this requirement through documents transmitted to each property owner receiving funding, to reinforce the legal obligation to comply with the Lower-Impact Construction Stipulations.
9. MDA may, in consultation with SHPO and Participating Tribes, and other parties that may have an interest in the property, monitor construction and demolition activities to determine if the terms of the Lower-Impact Construction Guidelines are being met.
  - a. If MDA or the party designated to monitor the construction and/or demolition activity observes the presence of archaeological materials that have been uncovered or have been disturbed by construction and/or demolition activities, that party shall have the authority to request that the demolition activities cease in the area of the discovery until the effects of the Undertaking can be assessed through intensive visual inspection or

other investigations as agreed upon in consultation with the SHPO and Participating Tribes.

- b. If potential effects are observed, the monitoring party will notify MDA which in turn shall notify SHPO, Participating Tribes, and other consulting parties, pursuant to 36 CFR § 800.13(b) to determine if adverse effects are occurring. If MDA has already approved the Undertaking and construction and/or demolition has occurred, MDA shall carry out its responsibilities, in consultation with Participating Tribes and other consulting parties, to resolve the adverse effects under 36 CFR § 800.13(b)(3).
10. If a demolition or other ground disturbing activity is proposed on or adjacent to a recorded archaeological site, MDA shall consult with SHPO and other consulting parties including Participating Tribes, as necessary, to develop site-specific treatment recommendations for the applicant including background research and site-specific avoidance measures. MDA will not be required to monitor sites or develop treatment plans for archaeological sites that have been determined ineligible for the NRHP pursuant to this PA.
  11. If unexpected discoveries, including archaeological artifacts and human remains are uncovered during the Project, these shall be treated in accordance with the terms of this PA including the following procedures that shall be a condition of assistance for the Undertakings for any applicant that may be demolishing or constructing properties as a result of implementation of the Undertakings:
    - a. If potentially significant archaeological resources (e.g., features including, but not limited to, postmolds, trash pits, foundations, fire pits, wells, privies, and artifact concentrations) in urban areas or broad artifact scatters in rural areas are identified by a member of the public, or a SOI-qualified archaeologist, the applicant shall ensure that its contractors shall immediately stop work in the vicinity of the discovery and take all reasonable measures to avoid or minimize harm to the finds. The applicant shall immediately notify MDA and shall ensure that the archeological findings are secured and access to the sensitive area is restricted. Within 24-hours of notification, MDA shall notify SHPO and Participating Tribes of the findings. The applicant is required to stop work in the vicinity of the discovery and may not resume until MDA has completed consultation with the SHPO and other consulting parties, as necessary. MDA shall notify the applicant when work may resume.
  12. If human skeletal remains are uncovered during the Project, MDA shall ensure that the applicant and their contractor to stop work immediately in the vicinity of the discovery. MDA shall immediately notify the local Police Department and the county Coroner's Office of the discovery. Within 24-hours of the notification, MDA shall also notify SHPO (Archaeology Program, Historic Preservation Division, Mississippi Department of Archives and History

(SHPO) at 601-576-6940) and Participating Tribes. MDA shall require the applicant to contact local law enforcement officials to assess the nature and age of the human skeletal remains to determine whether it is part of a crime investigation. MDA shall take the lead in working with the applicant, SHPO, and Participating Tribes, and other consulting parties who may have an interest to ensure compliance with the Mississippi Antiquity Law (39-7-31) and other applicable laws. In addition, MDA shall follow guidelines set forth by the ACHP in its “Policy Statement Regarding Treatment of Human Burial Sites, Human Remains, and Funerary Objects.”

13. In cases where the human remains are determined to be American Indian but not considered by the local authorities to be part of a crime investigation, MDA shall hold a consultation meeting to consider the treatment of the remains and will invite Participating Tribes to attend. In cases where human remains are determined to be of another historic cultural group other than American Indian but not considered by local authorities to be part of a crime scene investigation, MDA shall hold a consultation meeting with SHPO and the consulting parties to this PA, other than Participating Tribes, to consider treatment of the remains.

E. Preliminary NRHP Evaluation of Above-ground Properties (Buildings and Structures).

1. In order to expedite Section 106 review of numerous properties, MDA will conduct a preliminary review of above-ground properties, including those adjacent to NRHP historic districts and individual NRHP properties, to identify properties that will not be subject to consultation with the SHPO.
2. MDA’s HP Team will review photographs of each Undertaking and make a determination if the property appears to be less than fifty years of age, based on architectural style, physical construction and materials, and the available data and research information at hand. If the property is determined to be less than fifty years of age, MDA will make a determination that this property will not be treated as eligible for the NRHP, for purposes of this PA.
3. MDA will also consider whether the property is clearly eligible under National Register Criterion Consideration G, and is therefore a property achieving significance within the past 50 years because it is of exceptional importance.
4. MDA’s HP Team will develop Historic Physical Integrity Guidance Materials (Integrity Guidance), in consultation with the SHPO and other consulting parties, regarding how historic physical integrity will be determined. Using this Integrity Guidance, the HP Team will review photographs of each property to evaluate the historic physical integrity of the property. For the purposes of this PA, if the property clearly no longer retains its historic physical integrity based on the Integrity Guidance, MDA will make a

determination that it is not eligible for the NRHP because it no longer retains the ability to convey its significance according to NRHP Criteria for Evaluation.

4. MDA will not consult with the SHPO and Participating Tribes concerning above-ground properties that are determined by MDA to be less than fifty years of age or that no longer retain historic integrity and will document and archive to the program files information pertaining to all Projects that are determined not to affect historic properties. This information will be provided to the SHPO in electronic format on a monthly basis and to any other consulting party or local government in the same format if requested in writing and limited to data needed for a specific community or purpose.

F. National Register Eligibility and Effects Evaluation of Above-ground Historic Properties (Buildings and Structures) More Than Fifty Years of Age; Assess Effects; Resolve Adverse Effects on Above-ground Historic Properties. For all properties that are determined by MDA to be more than fifty years of age, or are otherwise eligible for the NRHP, MDA will review existing information, conduct additional research as required, undertake field survey, and apply the NRHP Criteria for Evaluation to determine if historic properties are located within the application project APE. MDA will also apply the Section 106 criteria of adverse effects to historic properties identified within the APE:

1. At least on a monthly basis, MDA will submit an electronic NRHP Eligibility and Effects Determination Report (106 Report, Appendix A) for the group of projects that have been completed up to that time to SHPO for review. The 106 Report will contain the following information as appropriate:
  - a. A determination of “No Historic Properties Present or Affected,” if a property or properties within the APE is/are deemed not to be listed in or eligible for the NRHP.
  - b. A determination of “No Adverse Effect” if a property or properties within the APE is/are determined to be listed in or eligible for the NRHP but the project will not have an adverse effect because the treatment follows standardized protocols:
    - i. The Project’s proposed design and treatment meets the *Secretary if the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (Secretary’s Standards) (36 CFR Part 67), and follows approaches included in Elevation Design Guidelines described in Stipulation VII.E. (See Stipulation VII. for additional information on what standards that must be met by owners of historic properties to ensure this project effects determination.)
    - ii. Use of Lower-Impact Construction Guidelines (Appendix B).

- c. A determination of “Adverse Effect” if a property or properties within the APE is/are determined to be listed in or eligible for listing in the NRHP, and the proposed Project treatment may result in an adverse effect requiring additional consultation under Section 106.
2. The 106 Report information will be provided to any other consulting party or local government in the same format if requested in writing and limited to data needed for a specific community or purpose.
3. For purposes of this PA, if MDA and SHPO, after considering the views of other consulting parties, disagree on the NRHP eligibility of a historic property as referenced in this Stipulation, or if MDA and SHPO are unable to agree within the time stipulated, MDA intends to accept the SHPO’s recommended determination and proceed to the next step in the review. However, MDA reserves the right to formally disagree with the SHPO’s NRHP determination, in which case it will submit its request for a determination of NRHP eligibility to the Keeper of the National Register of Historic Places in accordance with 36 CFR § 800.4(c)(2) and “Determinations of Eligibility for Inclusion in the National Register of Historic Places” (36 CFR Part 63). The Keeper’s determination shall be final, and MDA shall adhere to this determination.
4. SHPO will respond within 15 business days to MDA’s determination(s). If MDA does not receive an objection to this determination within 15 business days, MDA may authorize the funding of the individual Project. MDA shall not authorize funding of any individual project where a determination of Adverse Effect has been made until the mitigation of such Adverse Effect has been completed and approved by the SHPO and MDA.
5. MDA will make its best effort to identify areas where there will be concentrations of Projects that may affect numerous historic properties, including historic districts and archaeological sites. MDA will determine if it is advisable to invite other consulting parties who may have an interest in these areas as early as feasible in the identification and evaluation steps to promote the full consideration of historic preservation issues in the planning process.
6. MDA will ensure that a historic building that cannot be preserved will be recorded, prior to demolition (Appendix C).

## **VI. NATIONAL HISTORIC LANDMARKS**

- A. Within the four counties within the scope of this PA, there are currently only two National Historic Landmarks (NHLs): Beauvoir (Biloxi, Harrison

County) and the Rocket Propulsion Test Complex (Hancock County). MDA does not anticipate that the Undertakings will affect either of these NHLs.

1. If and when a Project is determined to potentially adversely affect a National Historic Landmark (NHL), MDA shall invite the ACHP and the Secretary of the Interior (Secretary) to participate in consultation.

## **VII. PROJECT DESIGN TO AVOID OR MINIMIZE ADVERSE EFFECTS**

- A. As a result of Mississippi House Bill 1406 (April 2006), jurisdictions within the four coastal counties in which the HAP will be undertaken have adopted either the 2003 International Residential Code (IRC) or the 2003 International Building Code (IBC). Under these codes, provisions exist that allow owners of NRHP listed or eligible properties to exclude these properties from meeting requirements of the Federal Emergency Management Agency's National Flood Insurance Program. Provided that a historic building will retain its eligibility for the NRHP, historic buildings are not required to be "substantially improved," as defined by either of two building codes or the NFIP Program, and thus are not required to be elevated to ABFE levels adopted by the jurisdiction. However, under the current Mississippi EGP approved by HUD, only applicants who elevate to the current ABFE are eligible for grants under the program.
- B. Upon signature of this PA, MDA shall immediately seek approval from HUD to provide MDA with the authority to review and fund elevation projects involving historic properties that are unable to meet the ABFE elevation requirement in a manner consistent with the Secretary's Standards. This authority will enable MDA to consult with SHPO, on a case-by-case basis, using information that results from local historic district commission review, to determine if a project may be funded to provide the owners of a historic property with the majority of safety benefits derived from the EGP or SRAP, while retaining the ability of the historic property to remain listed or eligible for the NRHP. As outlined in Stipulation VII.E. below, the SHPO Historic Architect will provide assistance to property owners on the best way to minimize or avoid adverse effects and meet requirements of the local historic district guidelines. MDA will provide signatories of this PA with a copy of any requested EGP or SRAP modification.
- C. Owners of historic properties will design their elevation projects using principles outlined in the Elevation Guidelines described in Stipulation VII.E. below. The Guidelines will provide information on approaches to elevation that would avoid or minimize adverse effects to historic buildings by elevating buildings in a manner consistent with the recommended approaches in the *Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (Secretary's Standards).
- D. In order to evaluate information pertaining to adverse effects, other than those addressed in Stipulation VII.A. and B. above, that will result from individual

projects proposed after the date of this PA, MDA shall gather data on Undertakings where an adverse effect has been determined by MDA, in consultation with the SHPO, and Participating Tribes as outlined in Stipulation IV. and V. MDA shall also consult with SHPO and Participating Tribes every 30 days to review these Undertakings to both identify activities that will mitigate the adverse effect(s):

1. MDA will submit a report to the SHPO, Participating Tribes, and other consulting parties outlining all adverse effects with recommended mitigation measures. Those mitigation measures will include those outlined in Stipulation VIII. or other measures as appropriate given the nature and scale of the Undertakings. MDA will also sponsor a meeting or teleconference call so that the signatories of the PA may discuss and evaluate this information collectively.
- E. In order to facilitate the elevation of historic buildings in a manner that is consistent with Federal historic preservation design guidelines and to ensure that their eligibility for the NRHP is maintained, MDA shall provide funding to the SHPO for the hiring of a Historic Architect. This Historic Architect shall work directly with property owners and local historic district commissions to help merge the elevation requirements recommended by the Federal Emergency Management Agency (FEMA) with historic preservation requirements. Hiring of this individual will be carried out in the same manner as described in Stipulation III.C. of this PA.
- F. To assist local historic district commissions in reviewing proposed elevation and/or other building plans, MDA and its HP Team shall develop Elevation Design Guidelines (Guidelines) for all locally designated districts within Harrison, Hancock, Jackson, and Pearl River counties. The Guidelines will focus primarily on the issue of elevation of historic properties, and will provide visual and related technical guidance to be used by applicants to ensure that historic preservation design principles are merged with Federally-published elevation standards and guidelines, such as FEMA's "Recommended Residential Construction for the Gulf Coast" (FEMA publication 550). These Guidelines will also suggest a process to be used in the review of Undertakings by local historic district commissions, and address how information and project review decisions will flow between the local commissions, MDA and its applicants, and the SHPO. These Guidelines will be developed in consultation with the SHPO and representatives of all local historic district commissions. MDA's intent is to complete these Guidelines within 150 days of signature of this PA. MDA shall also ensure that each commission receives multiple copies of the Guidelines.
- G. MDA will ensure that owners of historic buildings will coordinate development of Construction Documents and specifications with local building officials and, if pertinent, local historic district commissions, to ensure that the proposed designs for rehabilitation and substantial improvement are reviewed and approved by

these entities. MDA shall require owners of such properties to provide evidence to the SHPO that this review has been successfully completed.

- H. If a known NRHP listed or eligible archaeological site is situated within, or adjacent to, an area where a property owner plans to construct and elevate a new residence, MDA, in consultation with SHPO and Participating Tribes, will evaluate whether plans can be modified to relocate the planned construction outside the boundaries of the known NRHP listed or eligible site. This action will be taken to avoid an adverse effect on the archaeological site. Any adverse effect must be mitigated by the applicant before becoming eligible for an Elevation Grant or forgivable loan under the SRAP.

## **VIII. PROGRAMMATIC MITIGATION OF ADVERSE EFFECTS FOR ALL PROJECTS**

- A. To assist the consulting parties in better understanding and evaluating the nature and extent of adverse effects on historic properties associated with Undertakings that may be retroactively funded through the EGP and the SRAP, MDA will ensure that quantitative information pertaining to these Undertakings is organized and assembled. This data gathering effort will obtain enough information to constitute a representative sampling of projects that may be retroactively funded. This information will be shared with all consulting parties within 60 days of execution of this PA.
- B. It is clear that the Katrina/Rita disasters resulted in the need for a large number of EGP and SRAP projects to address an enormous number of damaged and potentially threatened properties, historic or otherwise. Many EGP and SRAP projects are located in or adjacent to historic communities and properties and will result in a range of effects, some of which may be adverse. MDA, in consultation with SHPO, Participating Tribes, and the other consulting parties, will implement both of the following mitigation approaches that are either directly related to specific adversely-affected historic properties and/or districts, that are compensatory in nature, or that mitigate adverse effects on a larger scale.
  - 1. MDA will immediately seek approval by HUD for the transfer of \$2.5 million in HUD funds to the SHPO to augment its Hurricane Relief Grant Program for Historic Preservation. These funds will be used to assist property owners and other applicants in the rehabilitation of Katrina-damaged historic properties, especially those in National Register and locally-designated historic districts in the four counties where the Undertakings will occur. A portion of the funds shall also be used to carry out other programmatic mitigation measures including the funding of additional archaeological survey, targeted archaeological excavation, purchase of lands containing significant archaeological sites to protect these for the future, and the development of one or more public education products on the archaeological and above-ground heritage within the four county area in which the Undertakings will occur.



- a) MDA shall develop a written description of this program, including a comprehensive list of eligible project activities, which will be considered for funding. This description shall be developed within 45 days of signature of this PA and transmitted to all signatories of this PA, for review and comment. If requested by any of the signatories, a meeting or teleconference will be scheduled to discuss the program in greater detail.
  - b) A schedule for disbursement of funds from MDA to the SHPO will be developed and approved within 60 days of execution of this PA. MDA anticipates that these funds will be disbursed within two years of execution of this PA. Upon disbursement of all funds, the SHPO will prepare a report on the grants awarded, and submit this to all signatories of this PA.
2. MDA will provide funding to the SHPO to continue refinement of GIS-based archaeological mapping of archaeological sites within the four county area in which the undertaking will occur. Funding will be used to develop new predictive modeling aspects of the GIS-based archaeological map data. Specifically, the project will graphically depict information on low, medium, and high sensitivity areas within the four county area. This system will improve public's knowledge about range and extent of historic sites as well as prehistoric sites, including those associated with the Participating Tribes, throughout the Mississippi Gulf Coast region, and provide the SHPO with a new tool to better evaluate and manage archaeological sites. Based on MDA's review and approval of a Scope of Work for this project, MDA shall provide funding to the SHPO within three months of execution of the PA. This project will be completed within nine months of receipt of funding from MDA.

## **IX. NOTICES**

- A. The consulting parties share an interest in minimizing delays during the consultations set out in this PA, and will send and accept official notices, comments, requests for further information and documentation, and other communications required by this agreement by e-mail. The date of the e-mail message will be date used to establish timeframes for review.
- B. If requested by a recipient, the author of any correspondence required by this agreement will provide the recipient with a written, signed original copy.

## **X. ANTICIPATORY ACTIONS**

- A. MDA shall provide written information to applicants to notify them about the potential for adverse effects related to anticipatory demolition of historic properties and how such actions may jeopardize their application. Additional information will also be presented to applicants during the application process,

when visiting MDA regional application centers.

- B. In order to educate the public about archaeological sites so that they are not inadvertently affected by project activities, MDA shall develop and distribute a flyer discussing archaeological sites and depicting related archaeological artifacts, with information on which agencies to contact if they are discovered. This flyer will be made available to applicants whose projects have the potential to affect archaeological sites, and widely distributed to the general public. MDA shall consult with and gain the concurrence of the SHPO and Participating Tribes on the content of this flyer.
- C. MDA shall not grant assistance to an applicant who, with the intent to avoid the requirements of Section 106, has intentionally significantly adversely affected a historic property to which the assistance would relate. MDA will take the steps set out in Stipulation III.B. of this PA to ensure that applicants who propose to sell their property do not demolish the improvement or otherwise clear the land until MDA has determined that the property is not eligible for the NRHP or is not salvageable and the property owner has been notified in writing.
- D. If a historic property is significantly and adversely affected before the review required by this PA is completed, MDA shall determine if Section 110(k) of NHPA is applicable and if circumstances may justify granting such assistance despite the adverse effect created or permitted by the applicant and will consult with the ACHP to finalize the review following the process set out in 36 CFR §800.9(c).

## **XI. AMENDMENTS, DURATION, AND TERMINATION**

- A. Any of the signatories may request consideration of an amendment to this PA if circumstances change; any of the parties is not materially fulfilling their responsibilities under the terms of the agreement, or it appears that the effects of the Undertakings were not fully considered and addressed by this agreement. An amendment shall be effective on the date of the signature by the last signatory or an alternative date provided by the terms of the amendment.
- B. Unless terminated, this PA shall remain in effect from the date of implementation until MDA, in consultation with all other consulting parties, determines that the terms of this PA have been satisfactorily fulfilled. Upon such determination, this PA shall terminate, and MDA shall so notify other consulting parties in writing.
- C. MDA, the SHPO, MBCI, or the ACHP may terminate this PA by providing 30 days' written notice to the other parties, provided that the parties shall consult during this period to seek amendments or other actions that would prevent termination. Upon such termination, MDA shall seek, consider and respond to ACHP formal comments in accordance with 36 CFR § 800.7.

- D. If this PA is terminated, MDA shall review all projects assisted by the Undertakings according to the standard Section 106 review process as described in 36 CFR § 800.3-9.

## **XII. DISPUTE RESOLUTION**

- A. Should any signatory or concurring party object within the timeframes provided to any plans, specifications, or actions provided for review pursuant to this PA, MDA shall notify SHPO, Participating Tribes, and all other consulting parties, and consult further with the objecting party and SHPO to seek resolution.
- B. If MDA determines that the dispute cannot be resolved, MDA shall forward MDA's proposed resolution of the dispute, as well as all pertinent documentation, to the ACHP. The ACHP shall notify MDA within 15 days after receipt of all pertinent documentation to:
  - 1. Advise MDA that it concurs with MDA's resolution of the dispute;
  - 2. Provide MDA with recommendations, which MDA shall take into account in reaching a final decision regarding the dispute; or
  - 3. Notify MDA that it shall comment pursuant to 36 CFR § 800.7(c), and proceed to comment. Any comment provided shall be taken into account by MDA in accordance with 36 CFR § 800.7(c)(4) with reference to the subject of the dispute.
- C. If the ACHP does not provide MDA with comments or recommendations within 15 days, MDA may assume that the ACHP does not object to its recommended approach and it shall proceed accordingly.
- D. Any recommendation or comment provided by ACHP shall be understood to pertain only to the subject of the dispute, and MDA's responsibility to fulfill all actions that are not subject of the dispute shall remain unchanged.

## **XIII. IMPLEMENTATION OF THIS PA**

- A. This PA shall become effective immediately upon signature by all signatory parties. For the signatory parties, this PA shall be executed in counterparts. MDA shall provide each signatory party with a complete copy of the PA including all signature pages.
- B. For the concurring parties, this PA shall be executed in counterparts, with a separate signature page for each concurring party, and MDA shall provide each concurring party with a complete copy of the PA including all signature pages.
- C. Execution of this PA by all signatory parties and implementation by MDA evidences that MDA has taken into account the effects of the Undertaking on historic properties.

**PROGRAMMATIC AGREEMENT AMONG  
THE MISSISSIPPI DEVELOPMENT AUTHORITY;  
THE MISSISSIPPI STATE HISTORIC PRESERVATION OFFICER;  
THE MISSISSIPPI BAND OF CHOCTAW INDIANS  
AND  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
REGARDING  
THE MISSISSIPPI ELEVATION GRANT PROGRAM OF THE  
THE HOMEOWNERS ASSISTANCE PROGRAM,  
AND  
THE SMALL RENTAL ASSISTANCE PROGRAM  
IN RESPONSE TO HURRICANE KATRINA**

**SIGNATORIES:**

**MISSISSIPPI DEVELOPMENT AUTHORITY**

By: Kevin U. Collins  
Kevin U. Collins, Manager, Disaster Recovery Division

Date: 1-15-2008

**PROGRAMMATIC AGREEMENT AMONG  
THE MISSISSIPPI DEVELOPMENT AUTHORITY;  
THE MISSISSIPPI STATE HISTORIC PRESERVATION OFFICER;  
THE MISSISSIPPI BAND OF CHOCTAW INDIANS  
AND  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
REGARDING  
THE MISSISSIPPI ELEVATION GRANT PROGRAM OF THE  
HOMEOWNERS ASSISTANCE PROGRAM,  
AND  
THE SMALL RENTAL ASSISTANCE PROGRAM  
IN RESPONSE TO HURRICANE KATRINA**

**SIGNATORIES:**

**MISSISSIPPI STATE HISTORIC PRESERVATION OFFICER**

By:   
H.T. Holmes, State Historic Preservation Officer

Date: 12-28-2007

**PROGRAMMATIC AGREEMENT AMONG  
THE MISSISSIPPI DEVELOPMENT AUTHORITY;  
THE MISSISSIPPI STATE HISTORIC PRESERVATION OFFICER;  
THE MISSISSIPPI BAND OF CHOCTAW INDIANS  
AND  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
REGARDING  
THE MISSISSIPPI ELEVATION GRANT PROGRAM OF  
THE HOMEOWNERS ASSISTANCE PROGRAM,  
AND  
THE SMALL RENTAL ASSISTANCE PROGRAM  
IN RESPONSE TO HURRICANE KATRINA**

**SIGNATORIES:**

**ADVISORY COUNCIL ON HISTORIC PRESERVATION**

for  
By: Bruce John Milham, acting  
John M. Fowler, Executive Director

Date: Dec. 26, 2007

**PROGRAMMATIC AGREEMENT AMONG  
 THE MISSISSIPPI DEVELOPMENT AUTHORITY;  
 THE MISSISSIPPI STATE HISTORIC PRESERVATION OFFICER;  
 THE MISSISSIPPI BAND OF CHOCTAW INDIANS  
 AND  
 THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
 REGARDING  
 THE MISSISSIPPI ELEVATION GRANT PROGRAM OF THE  
 HOMEOWNERS ASSISTANCE PROGRAM,  
 AND  
 THE SMALL RENTAL ASSISTANCE PROGRAM  
 IN RESPONSE TO HURRICANE KATRINA**

**SIGNATORIES:**

**MISSISSIPPI BAND OF CHOCTAW INDIANS**

By:   
 Beasley Denson, Chief

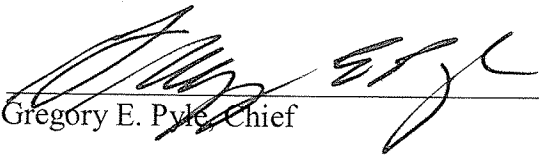
Date: 1-11-08

**PROGRAMMATIC AGREEMENT AMONG  
THE MISSISSIPPI DEVELOPMENT AUTHORITY;  
THE MISSISSIPPI STATE HISTORIC PRESERVATION OFFICER;  
THE MISSISSIPPI BAND OF CHOCTAW INDIANS  
AND  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
REGARDING  
THE MISSISSIPPI ELEVATION GRANT PROGRAM OF THE  
HOMEOWNERS ASSISTANCE PROGRAM,  
AND  
THE SMALL RENTAL ASSISTANCE PROGRAM  
IN RESPONSE TO HURRICANE KATRINA**

**CONCURRING PARTIES:**

**CHOCTAW NATION OF OKLAHOMA**

By:

  
\_\_\_\_\_  
Gregory E. Pyle, Chief

Date:

12/28/07



**PROGRAMMATIC AGREEMENT AMONG  
THE MISSISSIPPI DEVELOPMENT AUTHORITY;  
THE MISSISSIPPI STATE HISTORIC PRESERVATION OFFICER;  
THE MISSISSIPPI BAND OF CHOCTAW INDIANS  
AND  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
REGARDING  
THE MISSISSIPPI ELEVATION GRANT PROGRAM OF THE  
HOMEOWNERS ASSISTANCE PROGRAM,  
AND  
THE SMALL RENTAL ASSISTANCE PROGRAM  
IN RESPONSE TO HURRICANE KATRINA**

**CONCURRING PARTIES:**

**CITY OF BAY ST. LOUIS**

By:   
Edward Favre, Mayor

Date: 1-7-08

**PROGRAMMATIC AGREEMENT AMONG  
THE MISSISSIPPI DEVELOPMENT AUTHORITY;  
THE MISSISSIPPI STATE HISTORIC PRESERVATION OFFICER;  
THE MISSISSIPPI BAND OF CHOCTAW INDIANS  
AND  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
REGARDING  
THE MISSISSIPPI ELEVATION GRANT PROGRAM OF THE  
HOMEOWNERS ASSISTANCE PROGRAM  
AND  
THE SMALL RENTAL ASSISTANCE PROGRAM  
IN RESPONSE TO HURRICANE KATRINA**

**CONCURRING PARTIES:**

**CITY OF BILOXI**

By: \_\_\_\_\_  
A.J. Holloway, Mayor

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

**PROGRAMMATIC AGREEMENT AMONG  
 THE MISSISSIPPI DEVELOPMENT AUTHORITY;  
 THE MISSISSIPPI STATE HISTORIC PRESERVATION OFFICER;  
 THE MISSISSIPPI BAND OF CHOCTAW INDIANS  
 AND  
 THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
 REGARDING  
 THE MISSISSIPPI ELEVATION GRANT PROGRAM OF THE  
 HOMEOWNERS ASSISTANCE PROGRAM  
 AND  
 THE SMALL RENTAL ASSISTANCE PROGRAM  
 IN RESPONSE TO HURRICANE KATRINA**

**CONCURRING PARTIES:**

**CITY OF OCEAN SPRINGS**

By: Connie Moran  
 Connie Moran, Mayor

Date: 12-21-07

**PROGRAMMATIC AGREEMENT AMONG  
THE MISSISSIPPI DEVELOPMENT AUTHORITY;  
THE MISSISSIPPI STATE HISTORIC PRESERVATION OFFICER;  
THE MISSISSIPPI BAND OF CHOCTAW INDIANS  
AND  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
REGARDING  
THE MISSISSIPPI ELEVATION GRANT PROGRAM OF THE  
HOMEOWNERS ASSISTANCE PROGRAM,  
AND  
THE SMALL RENTAL ASSISTANCE PROGRAM  
IN RESPONSE TO HURRICANE KATRINA**

**CONCURRING PARTIES:**

**CITY OF PASCAGOULA**

By: \_\_\_\_\_  
Matthew J. Avara, Mayor

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

**PROGRAMMATIC AGREEMENT AMONG  
THE MISSISSIPPI DEVELOPMENT AUTHORITY;  
THE MISSISSIPPI STATE HISTORIC PRESERVATION OFFICER;  
THE MISSISSIPPI BAND OF CHOCTAW INDIANS  
AND  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
REGARDING  
THE MISSISSIPPI ELEVATION GRANT PROGRAM OF THE  
HOMEOWNERS ASSISTANCE PROGRAM  
AND  
THE SMALL RENTAL ASSISTANCE PROGRAM  
IN RESPONSE TO HURRICANE KATRINA**

RECL  
DEC 28 2007  
OFFICE REC'D

**CONCURRING PARTIES:**

**CITY OF PASS CHRISTIAN**

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

Leo McDermott, Mayor

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

12/21/07

**PROGRAMMATIC AGREEMENT AMONG  
THE MISSISSIPPI DEVELOPMENT AUTHORITY;  
THE MISSISSIPPI STATE HISTORIC PRESERVATION OFFICER;  
THE MISSISSIPPI BAND OF CHOCTAW INDIANS  
AND  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
REGARDING  
THE MISSISSIPPI ELEVATION GRANT PROGRAM OF THE  
HOMEOWNERS ASSISTANCE PROGRAM,  
AND  
THE SMALL RENTAL ASSISTANCE PROGRAM  
IN RESPONSE TO HURRICANE KATRINA**

**CONCURRING PARTIES:**

**NATIONAL TRUST FOR HISTORIC PRESERVATION**

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

Richard Moe, President

Date: 1-15-08

## APPENDIX A

### Mississippi Elevation Grant Program of the Homeowners Assistance Program and the Small Rental Assistance Program NRHP ELIGIBILITY AND EFFECTS DETERMINATION FORM

<b>Agency/Project/HAP Application ID #:</b>	
<b>Owner's Name:</b>	
<b>Street Address:</b>	<b>City, County:</b>
<b>USGS Quad Name:</b>	
<b>Tax Lot #:</b>	
<b>Latitude/Longitude:</b>	
<b>District, Grouping or Ensemble? Name:</b>	

<b>Current Use:</b>	<b>Date of Construction:</b>
<b>Architectural Classification/Resource Type:</b>	<b>Alterations &amp; Dates:</b>
<b>Window Type &amp; Material:</b>	<b>Exterior Surface Materials:</b>  Primary: Secondary: Decorative:
<b>Roof Type &amp; Material:</b>	
<b>Condition:</b> <input type="checkbox"/> Excellent <input type="checkbox"/> Good <input type="checkbox"/> Fair <input type="checkbox"/> Poor	<b>Integrity:</b> <input type="checkbox"/> Excellent <input type="checkbox"/> Good <input type="checkbox"/> Fair <input type="checkbox"/> Poor

**NOTE:** insert one general photograph of surveyed property here

**View:**

**Designated Mississippi Landmark?**     Yes     No

**Preliminary National Register Evaluation Findings:**

National Register Listed      Potentially Eligible:     Individually     As part of District  
 Not Eligible:     In current state     Irretrievable integrity loss     Lacks Distinction     Not 50 Years

**Description of Undertaking:**

- Build on same footprint
- Build on same footprint and expand building size
- Build on new footprint/demolish existing building

## APPENDIX A

### Assessment of Effects

No Historic Properties Present or Affected    Additional Survey Required    No Adverse Effect    Adverse Effect

### State Historic Preservation Office Comments:

Concur    Do Not Concur:  
 Potentially Eligible Individually    Potentially Eligible As Part of District    Not Eligible

Signed \_\_\_\_\_ Date \_\_\_\_\_

### Comments:

## Mississippi Elevation Grant Program of the Homeowners Assistance Program and the Small Rental Assistance Program NRHP ELIGIBILITY AND EFFECTS DETERMINATION FORM

### Location Map (Aerial Photograph) Showing Area of Potential Effects:

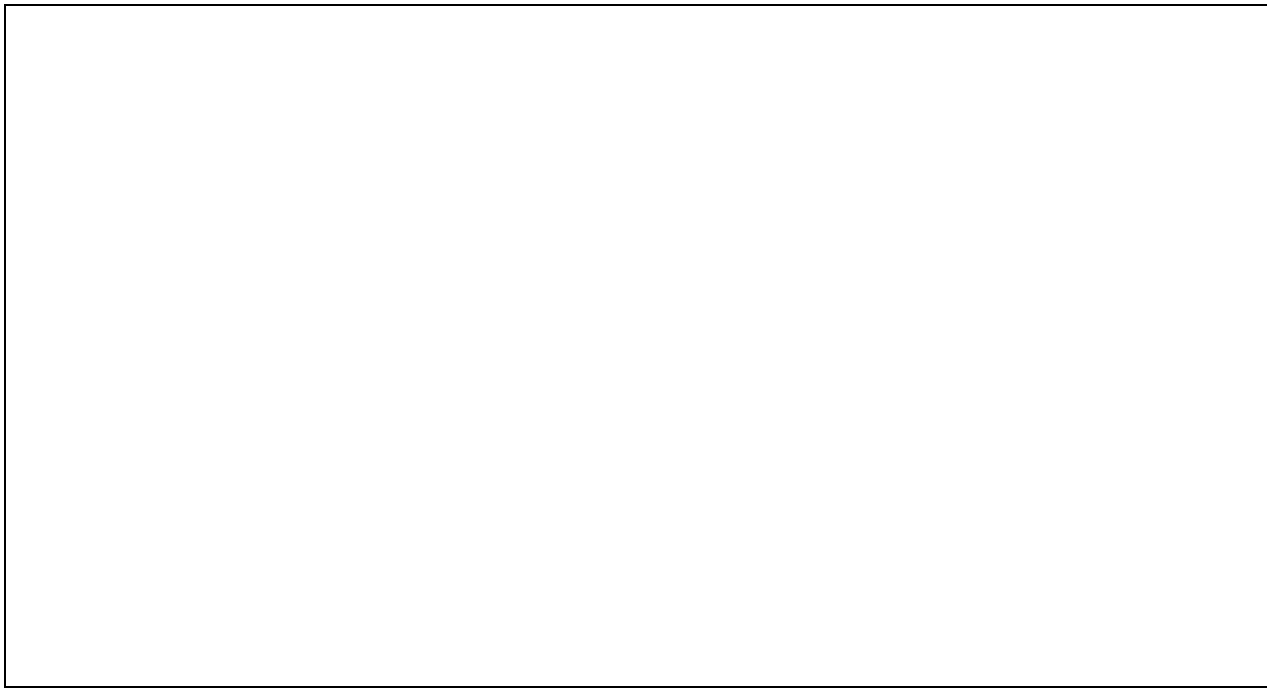
Note: uses county inset map

Note: Uses aerial photograph from URS-developed webpage; location highlighted with color dot; APE boundary added by historic survey team

### USGS 7.5 Minute Topographic Map:



**APPENDIX A**

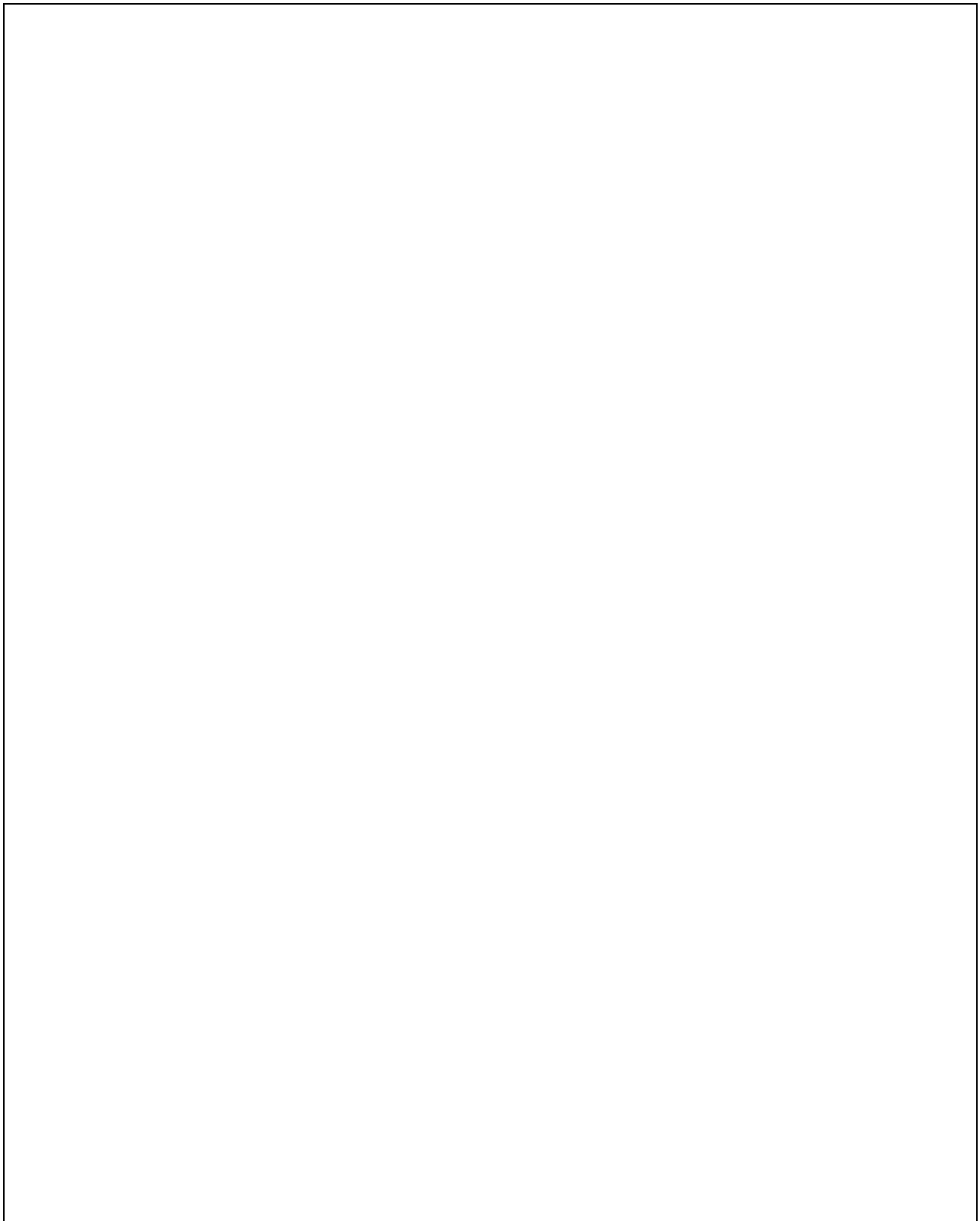


**Quad Map Name & Date:**

**Mississippi Elevation Grant Program of the Homeowners Assistance Program  
and the Small Rental Assistance Program  
NRHP ELIGIBILITY AND EFFECTS DETERMINATION FORM**

**Legal Property Map for Parcel**

**APPENDIX A**



**Mississippi Elevation Grant Program of the Homeowners Assistance Program  
and the Small Rental Assistance Program  
NRHP ELIGIBILITY AND EFFECTS DETERMINATION FORM**

## APPENDIX A

<b>Street Address:</b>	<b>City, County:</b>
<b>Architect, Builder or Designer</b> (if known):	<b>Property Category:</b> <input type="checkbox"/> Building <input type="checkbox"/> Structure <input type="checkbox"/> District <input type="checkbox"/> Site <input type="checkbox"/> Object
<b>Owner:</b> <input type="checkbox"/> Private <input type="checkbox"/> Local Government <input type="checkbox"/> State <input type="checkbox"/> Federal <input type="checkbox"/> Other:  Name:  Address:  City, State, Zip:  Phone:	
<b>Description of Property (including exterior alterations &amp; approximate dates), Significance Statement, and Sources.</b> <b>(Use continuation sheets if necessary):</b>	

**Mississippi Elevation Grant Program of the Homeowners Assistance Program  
and the Small Rental Assistance Program**



**APPENDIX A**

**Mississippi Elevation Grant Program of the Homeowners Assistance Program  
and the Small Rental Assistance Program  
NRHP ELIGIBILITY AND EFFECTS DETERMINATION FORM**

**CONTINUATION SHEET - PHOTOGRAPHS**

<b>Street Address:</b>	<b>City, County:</b>
<b>View:</b>	

<b>Street Address:</b>	<b>City, County:</b>
<b>View:</b>	

<b>Street Address:</b>	<b>City, County:</b>
<b>View:</b>	

**APPENDIX A**

**Mississippi Elevation Grant Program of the Homeowners Assistance Program  
and the Small Rental Assistance Program  
NRHP ELIGIBILITY AND EFFECTS DETERMINATION FORM**

**CONTINUATION SHEET - PHOTOGRAPHS**

<b>Street Address:</b>	<b>City, County:</b>
<b>View:</b>	

<b>Street Address:</b>	<b>City, County:</b>
<b>View:</b>	

<b>Street Address:</b>	<b>City, County:</b>
<b>View:</b>	

## APPENDIX A

## APPENDIX B

### *Lower-Impact Construction Guidelines*

MDA shall ensure that all Lower-Impact Construction Guidelines are made explicit in contract documents for the demolition of any and all improvements remaining on properties where a property owner chooses to construct an improved and elevated residence. MDA shall not permit a demolition contractor to initiate ground-disturbing work prior to receiving approval from an MDA representative. Failure to comply with the Lower-Impact Construction Guidelines may jeopardize the receipt of Federal funding.

MDA can provide professional archeologists to conduct on-sight educational briefings for heavy-equipment operators. These briefings shall reiterate the Lower-Impact Construction Guidelines and provide guidance on the nature of potential archaeological findings. Guidance shall include providing these individuals with access to physical examples of archaeological artifacts, and images of artifacts and features in pamphlet format. This pamphlet is intended to be used as a visual reference cue for feature and artifact identification.

MDA may conduct oversight inspections of selective demolition sites to verify compliance with Lower-Impact Construction Guidelines. This will include inspection of all demolition sites that the existing archeological geospatial database indicates has a high probability for archeological resources .

- **General Approach:**

- Major demolition activities, including placement of equipment, shall be confined to areas where soils have been previously disturbed by activities, such as site development, construction, surface grading, landscaping, utility trenching, etc. The monitoring party shall identify areas of obvious soil disturbance and direct their contractor to work within these areas.
- When heavy equipment is not in use, it shall be staged on hard or firm surfaces where equipment is not susceptible to sinking. Paved surfaces shall be used to the fullest extent possible, but streets shall not be used for this purpose.
- Tracked vehicles and/or large-tired equipment shall be used whenever possible to reduce the depth of soil disturbance and minimize soil compaction **to a depth of eight (8) inches or less.**
- The monitoring party shall ensure that its contractors shall not operate heavy equipment on wet soils if the equipment begins to sink **more than eight (8) inches below the current ground surface.** Heavy equipment may be operated in the rain, but USACE QA/QC monitoring party shall ensure that its contractors shall pay special attention to equipment sinkage, as noted above.
- Shearing off structural features at the ground-surface is strongly encouraged so that further soil disturbance is minimized.
- There shall be no salvage of architectural materials from below-grade.
- Excavation of on-site materials and burial of debris are not permitted.



- **Activity Specific Guidelines:**

- Treatment of Utilities:

- Utility lines shall be disconnected and capped. Extraction of utility lines is not an eligible HAP cost. In cases where there are no shut-off valves, limited excavation within the utility rights-of-way shall be required to cap these service lines. To limit unnecessary ground disturbance, excavation shall be limited to the existing ROW to the greatest extent feasible.

- Footing and Pier Removal:

- If it is absolutely necessary to remove footings and piers to ensure public health and safety, the soil disturbance caused by these activities should be limited to a depth no greater than six (6) inches below the footing or pier to be extracted. The excavation shall not exceed a 3-foot lateral width from the footing or pier being extracted.

- Slab Removal:

- Slab removal is only an eligible MDA cost if the slab, or portions thereof, present a public health and safety threat (i.e. broken and angled upward). MDA anticipates that slab removal will be a rare occurrence and eligibility calls shall be made by a MDA official. If slab removal is funded by MDA, the slab shall not be removed through excavation. It will be hoisted off the lot, and MDA shall ensure that contractors shall make every effort to limit any soil disturbance necessary to facilitate this process.

- Void and/or Feature filling

- Any voids which require filling because they are a “health and safety issue” shall be filled with clean fill from off-site. Whenever possible this shall be a sand matrix, however sand is not required. These voids may include, but are not limited to, those created as the result of exposing cisterns, privies, wells, and/or basement-like depressions.

- Surface Grading and Site Clean-Up:

- The monitoring party shall ensure that the contractors shall limit site grading to within the first six (6) inches of the existing surface elevation (e.g., side walk level, driveway level, slab level, etc.). and that the contractors use light equipment (e.g., small “Bobcats,” hand tools, etc.) to complete final site clean-up.

## APPENDIX C

### *Recordation Measures for Section 106 Compliance*

**A. Recordation:** MDA shall ensure that all buildings that are eligible for listing or are listed in the NRHP and are to be demolished shall be digitally photographed as a Treatment Measure. The digital photography must comply with the following requirements, which are taken from the National Park Service's March 2005 Photo Policy Expansion for the National Register of Historic Places and National Historic Landmarks Survey, <http://www.cr.nps.gov/nr/policyexpansion.htm>:

- The photographs must meet the NPS Photo Expansion Policy 75-year permanence standard.
- Image files must be saved as uncompressed Tagged Image File Format (TIF) files on CD-R media.
- Paper prints must follow the "Acceptable Ink and Paper Combinations for Digital Images" guidelines in the Photo Expansion Policy.
- Image size must be 1600x1200 pixels at 300 pixels per inch (ppi) or larger.
- Images must be saved in 8-bit (or larger) color format.
- Images of each building must include:
  - A view of the principal façade, an oblique view, two contextual views, and close-ups of any unique architectural features;
  - Address followed by name of the Historic District, if applicable;
  - County and state where Building is located;
  - Date of photograph;
  - Description of view including direction of camera; and
  - Name of photographer.

MDA shall prepare two sets of documents (including photographic prints, CD-ROM containing the digital versions of the photographs and the electronic survey data). MDA shall submit the two sets to the Mississippi State Historic Preservation Office (SHPO) in Jackson.

If demolition occurs within National Register listed historic districts within the four counties, MDA shall prepare one additional set of documents, and submit this set of to the respective historic district or historic preservation commission.

**B. Archive Public Participation Records:** MDA shall ensure that the Public Participation summaries and the appropriate materials accumulated as a result of the Public Participation process are placed in an appropriate archival facility in Mississippi such as the State Archives.