

**1<sup>ST</sup> AMENDMENT TO  
PROGRAMMATIC AGREEMENT  
AMONG  
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,  
THE LOUISIANA STATE HISTORIC PRESERVATION OFFICER,  
THE LOUISIANA GOVERNOR'S OFFICE OF HOMELAND SECURITY AND  
EMERGENCY PREPAREDNESS,  
THE ALABAMA-COUSHATTA TRIBE OF TEXAS,  
THE CADDO NATION,  
THE CHITIMACHA TRIBE OF LOUISIANA,  
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THE SEMINOLE NATION OF OKLAHOMA,  
THE SEMINOLE TRIBE OF FLORIDA,  
THE TUNICA-BILOXI TRIBE OF LOUISIANA,  
AND  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**

**WHEREAS**, the Federal Emergency Management Agency (FEMA) of the Department of Homeland Security has requested under Stipulation XV.C to amend Stipulation VIII.F.3 of the *Programmatic Agreement among the Federal Emergency Management Agency, the Louisiana State Historic Preservation Officer, the Louisiana Governor's Office of Homeland Security and Emergency Preparedness, the Alabama-Coushatta Tribe of Texas, the Caddo Nation, the Chitimacha Tribe of Louisiana, the Choctaw Nation of Oklahoma, the Coushatta Tribe of Louisiana, the Jena Band of Choctaw Indians, the Mississippi Band of Choctaw Indians, the Quapaw Tribe of Oklahoma, the Seminole Nation of Oklahoma, the Seminole Tribe of Florida, the Tunica-Biloxi Tribe of Louisiana, and the Advisory Council on Historic Preservation* executed on August 17, 2009 (*2009 Statewide PA*); and

**WHEREAS**, the purpose of the amendment is to strike and replace Stipulation VIII.F.3 with a process to resolve objections to FEMA's "no adverse effect" determinations that is consistent with 36 CFR §800.5(c)(2) and (3) and to include the Muscogee (Creek) Nation as an Invited Signatory, and;

**WHEREAS**, FEMA convened the meeting of the Signatories and Invited Signatories required by Stipulation XV.C on June 8, 2011 to consider this request; and

**WHEREAS**, all remaining Stipulations of the *2009 Statewide PA* are unaltered by this 1<sup>st</sup> Amendment and remain in full effect and the *2009 Statewide PA* is restated by reference;

**NOW, THEREFORE**, FEMA, GOHSEP, SHPO, THPO, Tribes, and ACHP agree that the *2009 Statewide PA* is amended as follows:

- A. As provided in the introduction to the *2009 Statewide PA*, FEMA has invited the Muscogee (Creek) Nation, a Federally-recognized tribe that has sites of religious and cultural significance in Louisiana, to be an Invited Signatory and each of the provisions in the 2009 Statewide PA shall apply to this Tribe. FEMA will update Appendices A and B to include contact information and geographic areas of interest for the Muscogee (Creek) Nation. These updates do not require an amendment per Stipulation XV. C.
- B. Stipulation VIII.F.3 of the *2009 Statewide PA* is struck in its entirety and replaced with the following provision:
- “3. If an undertaking cannot be modified to address written objections by SHPO/THPO, Tribe, or a consulting party to FEMA’s “no adverse effect” finding or FEMA does not agree upon reexamination of information provided by the objecting party that the undertaking will have an adverse effect, FEMA will consult with the objecting party to resolve the disagreement:
- a. If the objection is resolved, FEMA will notify the SHPO/THPO, Tribes, and consulting parties of the resolution and proceed in accordance with the resolution. FEMA’s Section 106 responsibilities for the undertaking will then be fulfilled; or
  - b. If the objection is not resolved and FEMA determines not to revise its “no adverse effect” finding, FEMA will request the ACHP’s review of the finding pursuant to 36 CFR §800.5(c)(3)(i) and (ii). FEMA will include the documentation specified in 36 CFR §800.11(e) with its request to the ACHP and concurrently notify SHPO/THPO, Tribes, and consulting parties that it has requested the ACHP’s review and provide them with a copy of the documentation. FEMA will take the ACHP’s opinion into account in reaching a final decision on the finding as provided in 36 CFR §800.5(c)(3)(ii)(A) and (B). If FEMA’s final decision is to retain its “no adverse effect” finding, FEMA’s Section 106 responsibilities for the undertaking are fulfilled. If FEMA’s final decision is to revise its finding to an “adverse effect” finding, it will proceed in accordance with Stipulation IX.”
- C. This 1<sup>st</sup> Amendment to the *2009 Statewide PA* shall be executed in counterparts, with a separate page for each signatory, and FEMA shall ensure that each party is provided with a fully executed copy.
- D. In accordance with Stipulation XV.C of the *2009 Statewide PA*, this 1<sup>st</sup> Amendment will go into effect when signed by FEMA, GOHSEP, SHPO, and the ACHP. It will go into effect with regards to a Tribe once it has been signed by the Tribe.

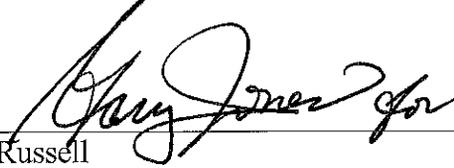
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AND  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**

**SIGNATORY:**

**FEDERAL EMERGENCY MANAGEMENT AGENCY**

By:   
Kevin Jaynes  
Environmental Officer  
Region VI

Date: 6/23/2011

By:   
Tony Russell  
Regional Administrator  
Region VI

Date: 6-23-11

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**SIGNATORY:**

**LOUISIANA STATE HISTORIC PRESERVATION OFFICER**

By: *Pam Breaux*

Pam Breaux

Louisiana State Historic Preservation Officer

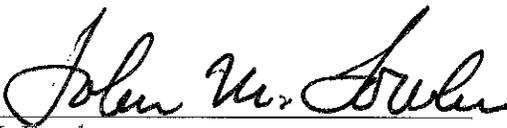
Louisiana Department of Culture, Recreation and Tourism

Date: 6-23-11

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**SIGNATORY:**

**ADVISORY COUNCIL ON HISTORIC PRESERVATION**

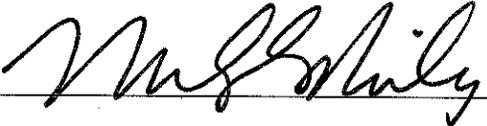
By:   
John M. Fowler  
Executive Director

Date: 7/22/09

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**INVITED SIGNATORY:**

**LOUISIANA GOVERNOR'S OFFICE OF HOMELAND SECURITY AND  
EMERGENCY PREPAREDNESS**

By:  Date: 14 July 2011

Mark S. Riley  
Deputy Governor's Authorized Representative

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AND  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**

**INVITED SIGNATORY:**

**ALABAMA-COUSHATTA TRIBE OF TEXAS**

By: Carlos Bullock  
Carlos Bullock, Chairman

Date: 8-11-11

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AND  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**

**INVITED SIGNATORY:**

**CADDO NATION**

By: \_\_\_\_\_  
Brenda Shemayne Edwards, Chairwoman

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

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THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**

**INVITED SIGNATORY:**

**CHITTMACHA TRIBE OF LOUISIANA**

By: \_\_\_\_\_  
John Paul Darden, Chairman

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

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**INVITED SIGNATORY:**

**CHOCTAW NATION OF OKLAHOMA**

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

Date: 8/1/11

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THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**

**INVITED SIGNATORY:**

**COUSHATTA TRIBE OF LOUISIANA**

By: \_\_\_\_\_  
Kevin Sickey, Chairman

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

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THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**

**INVITED SIGNATORY:**

**JENA BAND OF CHOCTAW INDIANS**

By: B. Cheryl Smith  
B. Cheryl Smith, Chief

Date: 8-31-11

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**INVITED SIGNATORY:**

**MISSISSIPPI BAND OF CHOCTAW INDIANS**

By: \_\_\_\_\_  
Miko Beasley Denson

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

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THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**

**INVITED SIGNATORY:**

**MUSCOGEE (CREEK) NATION**

By:   
George Tiger, Principal Chief

Date: 6-14-12

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THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**

**INVITED SIGNATORY:**

**QUAPAW TRIBE OF OKLAHOMA**

By: \_\_\_\_\_  
John Berrey, Chairman

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

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**INVITED SIGNATORY:**

**SEMINOLE NATION OF OKLAHOMA**

By: \_\_\_\_\_  
Enoch Kelly Haney, Principal Chief

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

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**INVITED SIGNATORY:**

**SEMINOLE TRIBE OF FLORIDA**

By: \_\_\_\_\_  
Mitchell Cypress, Chairman

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

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**INVITED SIGNATORY:**

**TUNICA-BILOXI TRIBE OF LOUISIANA**

By: \_\_\_\_\_  
Earl J. Barbry, Sr., Chairman

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