

PROGRAMMATIC AGREEMENT
AMONG
THE US DEPARTMENT OF VETERANS AFFAIRS,
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE CITY OF NEW ORLEANS,
THE LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING THE FUNDING TO REPAIR OR REPLACE
HEALTHCARE FACILITIES COMPRISING THE VA MEDICAL CENTER
AND
THE MEDICAL CENTER OF LOUISIANA AT NEW ORLEANS

WHEREAS, Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. §470f, and its implementing regulations at 36 CFR Part 800 (Section 106), require Federal Agencies to take into account the effects of their Undertakings on historic properties and provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment on those Undertakings;

WHEREAS, Hurricanes Katrina and Rita (Disaster) resulted in significant damage to healthcare infrastructure and severely limited medical training opportunities in New Orleans, Southern Louisiana, and the Gulf South area; and

WHEREAS, re-establishing healthcare infrastructure and medical training opportunities is critical to the recovery and vitality of New Orleans, Southern Louisiana, and the Gulf South area; and

WHEREAS, the Federal Emergency Management Agency (FEMA) of the Department of Homeland Security, pursuant to Section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. §5121-5206) and implementing regulations in 44 CFR Part 206, proposes to provide Federal disaster assistance (Public Assistance) to the State of Louisiana, Division of Administration, Office of Facility Planning and Control (FP&C), through the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP), in response to damages to the Medical Center of Louisiana at New Orleans (MCLNO) caused by the Disaster; and

WHEREAS, the U.S. Department of Veterans Affairs (VA) proposes to replace the VA Medical Center of New Orleans (VAMC) addressed at 1601 Perdido Street, New Orleans, LA that were damaged as a result of the Disaster; and

WHEREAS during the consultation process, the City of New Orleans (City) and the State of Louisiana negotiated and then executed a Cooperative Endeavor Agreement identifying the City as the "Responsible Entity" as the ultimate recipient of Community Development Block Grant (CDBG) funds; and

WHEREAS, the City, was invited to participate in the current Section 106 process at its initiation; and, if the Regional Planning Commission (RPC) Site is selected by the VA, the City will perform various actions to include but not be limited to acquisition, demolition, and site preparation, described in this Programmatic Agreement (PA), including mitigation, and the City, as the recipient of CDBG funds, will be the Responsible Entity for complying with environmental and historic preservation legal requirements (24 CFR Part 58) for the Department of Housing and Urban Development (HUD); and, the City is participating in this consultation and will execute the PA as a Signatory; and

WHEREAS, the City, in compliance with HUD regulations , intends to adopt the findings of the Section 106 consultation process upon the conclusion of the current study being conducted by VA and FEMA in cooperation with the Louisiana State Historic Preservation Officer (SHPO); and

WHEREAS, FEMA, VA, and the City, in the event CDBG funds are used by the City (collectively referred to as the “Responsible Agencies”) have agreed to jointly fulfill their responsibilities under Section 106 of the NHPA for the MCLNO (FEMA Undertaking), the VAMC (VA Undertaking), and the use of CDBG funding (City Undertaking) required to repair or replace medical facilities in Orleans Parish damaged as a result of the Disaster through the development and implementation of a PA under 36 CFR §800.14(b) of the ACHP regulations; and

WHEREAS, the project alternatives under analysis by FEMA and FP&C are (1) Repair/Renovation of Existing Facilities, New Orleans, LA; and (2) Relocation to an area bounded by Tulane Avenue, Canal Street, South Galvez Street, and South Claiborne Avenue, New Orleans, LA (Proposed New LSU Site); and

WHEREAS, the project alternatives under analysis by VA are (1) Relocation of VAMC to the RPC Site bounded by Tulane Avenue, Canal Street, South Galvez Street, and South Rocheblave Street, New Orleans, LA; (2) Relocation of VAMC to the Ochsner Site bounded by Earhart Expressway, Jefferson Highway, Osterly Street, Betz Street, and Coolidge Street, Jefferson Parish, LA; and (3) Relocation of VAMC to the Lindy Boggs Site bounded by North Carrollton Avenue, Conti Street, North Pierce Street, Bienville Street, North Jefferson Davis Parkway, Saint Louis Street, North Telemachus Street, and Toulouse Street, New Orleans, LA; and

WHEREAS, VA and FEMA have defined the Undertakings’ Areas of Potential Effect (APE) for the various alternatives as illustrated in Appendix 1; and

WHEREAS, VA and FEMA have consulted with the SHPO and determined that the Undertakings have the potential to affect historic properties that may be eligible for listing in the National Register of Historic Places (Historic Properties) as illustrated in Appendix 2; and

WHEREAS, the Chitimacha Tribe of Louisiana, Coushatta Tribe of Louisiana, Jena Band of Choctaw Indians, Mississippi Band of Choctaw Indians (MBCI), and Tunica-Biloxi Tribe of Louisiana 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 the Responsible Agencies have notified these Indian tribes of the development of this PA and invited the Tribes to participate in the consultation, and MBCI has requested Consulting Party status and is invited by the Responsible Agencies to execute this PA as a Concurring Party; and

WHEREAS, FEMA has consulted with FP&C, the Subgrantee of FEMA Public Assistance, and in recognition that FP&C will assume responsibilities to perform various actions described by this PA, FEMA has invited FP&C to participate in this consultation and sign this PA as an Invited Signatory; and

WHEREAS, FEMA has invited GOHSEP, the Grantee of FEMA Public Assistance, to participate in this consultation and sign this PA as a Concurring Party; and

WHEREAS, the Responsible Agencies have invited the City of New Orleans, Historic District Landmarks Commission (HDLC), and the Louisiana State University (LSU) to participate in this consultation and sign this PA as Concurring Parties; and

WHEREAS, the Responsible Agencies have invited 2400 Canal LLC; City of New Orleans, City Council; City of New Orleans, Mayor's Office; City of New Orleans, Office of Recovery Development Administration; Committee to Reopen Charity Hospital; Common Knowledge; Deutsches Haus; Downtown Development District of New Orleans (DDD); Foundation for Historical Louisiana; Friends of New Orleans Cemeteries; Friends of the Lafitte Corridor; Louisiana Chapter of the International Working Party for Documentation and Conservation of Building Sites and Neighborhoods of the Modern Movement (DOCOMOMO/NOLA); Louisiana Landmarks Society; Lower Mid-City Residents and Business Owners Affected by the LSU/VA Hospitals; LSU Site United Property Owners; Mid-City Neighborhood Organization; National Trust for Historic Preservation (NTHP); Orleans Parish School Board; Parkview Neighborhood Association; Phoenix of New Orleans; Preservation Resource Center; RPC; Sewerage & Water Board; State of Louisiana, Office of Community Development; and Tulane/Canal Neighborhood Development Corporation to participate in this consultation as Consulting Parties; and

WHEREAS, VA and FEMA notified Allard Boulevard Association; American Institute of Architects, Louisiana Chapter; Archdiocese of New Orleans, Cemetery Office; Delgado Community College, Charity School of Nursing; Churchill Downs; District 5 Neighborhood Recovery Group; Esplanade Ridge and Treme Civic Association; Faubourg St. John Neighborhood Association; Historic Resources Inc.; Jefferson Historical Society of Louisiana; Jefferson Parish Historical Commission; Louisiana Recovery Authority; Save Our Cemeteries; Tulane University School of Medicine; and Victory Real Estate of the Undertakings and the opportunity to participate in this consultation, but they either did not respond or declined to participate; and

WHEREAS, in keeping with 36 CFR §800.2(d), VA and FEMA have sought and considered the views of the public, and the Responsible Agencies held meetings with the Consulting Parties on 24 June 2008, 23 July 2008, 12 August 2008, 25 September 2008, and 27 October 2008, and collected comments from the Consulting Parties during and following each meeting; and

WHEREAS, VA and FEMA provided an overview of their Section 106 compliance responsibilities at National Environmental Policy Act (NEPA) scoping meetings held on 26 June 2008, 17 July 2008, 11 August 2008; and a joint NEPA/NHPA meeting to collect and consider commentary on 28 October 2008; and the VA and FEMA published advertisements in *The Times-Picayune* and the *Louisiana Weekly* to obtain the views of the public regarding the identification of historic properties in the APE for each alternative and input regarding potential effects to historic properties within the APE for each alternative, as well as publishing information regarding this project at <http://www.valsumedcenters.com>, and made information available to Consulting Parties at <http://www.consult106.org> (Website) [username=c106consultant, password=c106consultant], and employed a dedicated email address for the distribution of information to and the collection of comments from Consulting Parties; and

WHEREAS, if the VA selects its RPC Site Alternative and/or FP&C selects the proposed new LSU Site Alternative, the SHPO will develop and implement a program to promote the preservation and rehabilitation of contributing elements within the Mid-City National Register Historic District, which would be adversely affected by these alternatives; VA, the City and FP&C will support the eligible historic preservation costs of the program up to \$1,400,000; the SHPO shall consult with interested parties to develop guidelines for defining eligible preservation and rehabilitation projects to be supported by the program; the program will continue until all funds are expended or for a period of time not to exceed 3 years; and

WHEREAS, the ACHP has elected to participate in the Section 106 consultation process pursuant to 36 CFR §800.2(b)(1) and will execute this PA as a Signatory; and

NOW, THEREFORE, the Responsible Agencies, ACHP, and Louisiana SHPO agree that the implementation of the following stipulations evidence that the Responsible Agencies have taken into account the effects of these Undertakings upon historic properties, and that this PA evidences compliance with Section 106 of the NHPA in accordance with 36 CFR §800.6 (c) and 36 CFR §800.14.

STIPULATIONS

I. APPLICABILITY

- A. The stipulations of this PA describe treatment measures for all site alternatives under consideration. It is understood that following Site Selection, stipulations proposed for non-selected sites for each Undertaking are not applicable. Upon

Site Selection, the Responsible Agencies will notify the Consulting Parties of the Site Selection decisions by e-mail and posting to the Website.

- B. The City is only responsible for ensuring implementation of the stipulations associated with its Undertaking should the VA select the RPC site.
- C. VA is only responsible for ensuring the implementation of the stipulations associated with its Undertaking.
- D. FEMA is only responsible for ensuring the implementation of the stipulations associated with its Undertaking.

II. GENERAL

- A. The Signatory and Concurring Parties will send and accept receipt of official notices, comments, requests for further information and documentation, and other communications required by this PA by e-mail.
- B. Time designations shall be in calendar days. Failure to comment within specified time designations will be treated as concurrence.
- C. The Responsible Agencies will ensure that Federal, State, or contractor staff who meet the Secretary of the Interior's (SOI) *Professional Qualification Standards* as determined by FEMA's and VA's Federal Preservation Officers (FPO) and/or in the case of the City, HDLC or designees, will participate in the decision making required by this PA.
- D. Although the projects have been reviewed and evaluated jointly, the VA project to replace its medical facilities and the FEMA and FP&C project to repair or replace healthcare services and medical training are separate projects, and each may be commenced, built and completed independently of the other.

III. TRIBAL CONSULTATION

- A. The Responsible Agencies recognize the United States government-to-government relationship with Indian tribes, and have notified the Chitimacha Tribe of Louisiana, Coushatta Tribe of Louisiana, Jena Band of Choctaw Indians, Mississippi Band of Choctaw Indians, and Tunica-Biloxi Tribe of Louisiana regarding the development of this PA and invited each Indian tribe to sign this PA as Concurring Parties.
- B. The Responsible Agencies shall take steps to protect confidential information in accordance with Section 304 of NHPA and 36 CFR §800.11(c).

- C. An Indian Tribe may determine that it has no interest in consulting on certain types of Undertakings included in this PA and may notify the Responsible Agencies of its determination.

IV. PUBLIC PARTICIPATION

- A. The Responsible Agencies recognize the public interest in their respective Undertakings, and will make reasonable efforts to inform the public of the progress of these Undertakings in a timely manner. Additional public forums include but are not limited to City Council Meetings or various Council Sub-Committee Meetings.
- B. The Responsible Agencies have used various media outlets including *The Times-Picayune* and the *Louisiana Weekly* to request input from the public to inform their determinations of eligibility for historic properties. The Responsible Agencies will continue to use these outlets as well as the Baton Rouge *The Advocate* to seek input from the public at appropriate times during the implementation of this PA.
- C. The Responsible Agencies shall accept responses to its requests for public comments through the U.S. mail and e-mail submittals.
- D. The Responsible Agencies will maintain the Website to provide the Consulting Parties with project information and deliverables as stipulated in this PA. The Responsible Agencies will notify the Consulting Parties via e-mail when they post new information to the Website.
- E. VA, the City and FP&C will each identify a single point of contact to act as an community point of contact to the Consulting Parties regarding the implementation of their respective treatment measures stipulated in this PA. Contact information for these individuals will be provided by e-mail to the Consulting Parties within 30 days of the execution of this PA.

V. ARCHITECTURAL TREATMENT MEASURES: US DEPARTMENT OF VETERANS AFFAIRS

- A. This Stipulation sets forth treatment measures for standing historic properties adversely affected by the VA's Undertaking. Archaeological historic properties are addressed in Stipulation VII.
- B. RPC Site
 - 1. Should the RPC site be selected by VA, VA and the City shall ensure that the following measures are carried out to avoid, minimize, or mitigate adverse effects to historic properties.

2. Measures to Avoid Adverse Effects to Historic Properties

- a) **Site Security:** The owner of the site shall ensure that reasonable measures to provide adequate site security are accomplished. Adequate site security shall prohibit to the extent possible, looting and vandalism to historic properties contained within the site. Security measures may include supplemental exterior lighting, on-site security, and regular monitoring of historic properties.
- b) **Secure and Ventilate:** VA will continue to secure and ventilate the former VAMC addressed at 1601 Perdido Street, to avoid further deterioration of the buildings.
- c) **Retention of Historic Properties:**
 - i. VA will retain and rehabilitate the Pan-American Life Insurance Company Building addressed at 2400 Canal Street and integrate this historic building into the design of the new VAMC.
 - ii. If feasible, VA will retain and rehabilitate the Dixie Brewery addressed at 2401 Tulane Avenue and integrate this historic building into the design of the new VAMC. VA, in consultation with the SHPO, will first assess the structural stability of the Dixie Brewery and determine if it will be feasible to retain the structure in its entirety. If it is concluded that it is not possible to retain and rehabilitate the entire structure VA will identify the significant features of the Dixie Brewery and integrate those features of the historic building in the design of the new VAMC.
 - iii. Prior to any repair or renovation efforts at the Pan-American Life Insurance Company Building and the Dixie Brewery, VA will document the exterior elevations, interior, and significant architectural and iconic details of both buildings. The recordation will proceed in accordance with Appendix 3, include digital photography, and be performed by or under the direct supervision of, an individual who meets the SOI *Professional Qualification Standards* (48 FR 44716) for history, architectural history, or historic architecture.
- d) **Design of New Construction:**
 - i. Immediately following the announcement by VA of a site to replace the VAMC (site selection), VA and FEMA will begin preparation of joint or separate site specific environmental assessments (EAs) in accordance with NEPA and the programmatic environmental assessment (PEA) to analyze the potential environmental impacts

of the design, construction, and operation of the proposed medical facilities. Acquisition of all land within the boundaries of the selected site may commence upon site selection.

- ii. VA, FEMA, FP&C, and the City acknowledge and recognize that design plans for the VA and LSU Medical Centers may involve both plans for the immediate construction and utilization of facilities within the selected sites and may also involve long-term planning goals and objectives to accommodate future needs for expansion of the respective campuses.
- iii. For a period of 30 days following site selection, VA will receive comments from interested Consulting Parties concerning methods to incorporate and/or integrate into the design historic properties on the periphery of the selected site.
- iv. VA will consider in its schematic design plans the comments received during this 30-day comment period and a range of facility development solutions which will utilize setbacks, materials selections, landscaping, site layout, modification to building footprints, massing and other appropriate techniques to improve compatibility with the Mid-City National Register Historic District. No demolition of historic properties on the selected site will take place during this 30-day comment period.
- v. VA will convene 2 design review sessions where all interested Consulting Parties that participated in the Section 106 process, including the SHPO, are invited and welcome to participate. The design team will provide a presentation on the design progress, discuss design options, explain what steps were taken to meet the design goals outlined in Stipulation VI.B.2 and solicit Consulting Party input. The sessions will be held in New Orleans, and the Consulting Parties will be given at least 14 days prior notice for each design review session.
- vi. Consulting Parties may provide written comments for a period of 14 days after design review sessions. Comments will be posted on the Website. After considering all timely comments, within 30 days of the end of the comment period, VA will post on the Website a summary response to the substantive comments provided by Consulting Parties.

3. Measures to Minimize Adverse Effects to Historic Properties

a) Moving Historic Properties

- i. VA will support the SHPO by reimbursing up to \$600,000 and the City will reimburse up to \$200,000 for a total of up to \$800,000 for moving one-story residential buildings of exceptional architectural importance to the Mid-City National Register Historic District from their current locations within the RPC Site to new sites within the Mid-City National Register Historic District.
 - ii. If and when VA selects the RPC site, the SHPO will undertake an evaluation of contributing elements to the Mid-City National Register Historic District within the RPC Site, utilizing the data prepared for this Section 106 consultation, and prioritize the buildings of the most exceptional architectural importance, apparent structural integrity, and physical condition that may affect suitability for moving.
 - iii. During the acquisition process, each of the property owners of the candidates for moving will be notified in writing that up to \$40,000 of the monies described in Stipulation V.B.3(a)(i) may be available to cover costs associated with moving the building.
 - iv. The City through its redevelopment agency may provide further assistance to the property owner by making available at cost of transaction fee or legal fee only a vacant lot within the Mid-City National Register Historic District suitable to receive the moved building.
 - v. The owner of a candidate building deemed eligible for moving must agree to move the candidate building within the timeframe established during the acquisition process and must agree to any other terms and conditions established by the SHPO in administration of the Mid-City National Register Historic District Mitigation Program.
- b) Interim Treatment of the Dixie Brewery and the Pan-American Life Insurance Company Building: Subsequent to Site Selection, and within 6 months of acquisition, the City will secure and ventilate these structures to minimize deterioration of the resources until the transfer of ownership to VA.
- i. Such stabilization will secure the exterior of the building and character-defining features and ornamentation.
 - ii. The City will forward 2 copies of summary reports detailing the stabilization measures to the SHPO for comment. If the SHPO does not comment within 14 days of receipt of adequate documentation, the City may assume that SHPO concurs with the

plan. The City will finalize the stabilization measures after considering the SHPO's comments and implement those measures.

iii. The City will post summary reports of stabilization measures to the Website.

iv. VA will continue to secure and ventilate these structures after acquisition until commencement of rehabilitation work.

c) Vibration Monitoring. Prior to the commencement of any construction, demolition or site disturbance, VA and the City will establish, in consultation with the SHPO, a Vibration Tolerance and Monitoring Program (Program) to safeguard historic properties within the APE from inadvertent damage from vibration due to ground disturbing activities. A structural engineer experienced in traditional materials will develop this program and will take into consideration current soils conditions, strength and duration of disturbance, cumulative effects of ongoing vibration, construction type and current condition of built resources within the APE. The Program will reference the Bureau of Mines' and Federal Transit Administration's vibration standards and justify any discrepancies with these authorities due to site or location specific conditions.

i. The Program will define:

- acceptable ranges of vibration within the APE based on geographic proximity to resources,
- existing baseline vibration levels,
- protocols for regular on-site monitoring,
- stop work protocols,
- protocols for further reducing vibrations, as necessary, and
- specific protocols to address vibration at St. Louis Cemetery No. 2 addressed at 1600 St. Louis Street.

ii. VA and the City will submit the Program to SHPO for comment. If SHPO does not comment in a 14-day review period, VA and the City may assume that SHPO concurs with the Program. VA and the City will complete the Program after considering the SHPO's comments, post it to the Website, and implement the Program.

d) Phased Demolition and Construction: The City will phase demolition and VA will phase construction activities to avoid concentrated indirect adverse effects to surrounding neighborhoods to the extent practicable.

4. Measures to Mitigate Adverse Effects to Historic Properties

a) Participation in the SHPO Mid-City Historic Preservation Mitigation Program:

- i. Should VA select the RPC Site Alternative, VA will support the SHPO in its effort to develop and implement a program, described in the preamble to this PA, to promote the preservation and rehabilitation of contributing elements within the Mid-City National Register Historic District, which would be adversely affected by these alternatives. The VA will remit to the SHPO a total cost not to exceed \$700,000 for eligible historic preservation project costs incurred within the Mid-City National Register Historic District.
- ii. Should VA select the RPC Site Alternative, the City will support the SHPO in its effort to develop and implement a program, described in the preamble to this PA, to promote the preservation and rehabilitation of contributing elements within the Mid-City National Register Historic District, which would be adversely affected by these alternatives. The City will remit to the SHPO a total cost not to exceed \$400,000 for eligible historic preservation project costs incurred within the Mid-City National Register Historic District.

b) Recordation:

- i. Prior to any transfer or sale of VAMC, VA in consultation with the City, will document the former VA Hospital and the VA Managers and Nurses Quarters of the VAMC addressed at 1601 Perdido Street. The recordation will proceed in accordance with Appendix 3, include digital photography and narrative reports, and be performed by, or under the direct supervision of, an individual who meets the SOI *Professional Qualification Standards* (48 FR 44716) for history, architectural history, or historic architecture.
- ii. The recordation will include the documentation of the exterior elevations, interior, pumping equipment, and architectural and iconic details of Sewerage Pumping Station No. 15 addressed at 2431 Palmyra Street. The recordation will proceed in accordance with Appendix 3, include digital photography, and be performed by, or under the direct supervision of, an individual who meets the SOI *Professional Qualification Standards* (48 FR 44716) for history, architectural history, or historic architecture.
- iii. Prior to demolition or architectural salvage, VA will document all historic properties within the project footprint that will not be retained. The recordation will proceed in accordance with Appendix

3, include digital photography and narrative reports, and be performed by, or under the direct supervision of, an individual who meets the SOI *Professional Qualification Standards* (48 FR 44716) for history, architectural history, or historic architecture.

- iv. VA will post the recordation data and resulting materials to the Website.
- c) Architectural Salvage: Prior to the demolition or substantial alteration of historic properties that will not be retained, VA and the City shall ensure that the salvage of historic architectural elements from historic properties proposed for demolition in the Mid-City National Register Historic District occurs in accordance with the Architectural Salvage plan stipulated in Appendix 4.
- d) Public Interpretation: VA will design and implement a public interpretation program related to the Mid-City National Register Historic District and the history of the VAMC.
- i. This program may include:
 - oral histories;
 - museum quality, publically accessible, permanent displays;
 - traveling exhibits;
 - publically accessible website; and/or
 - popular publications.
 - ii. VA will post the public interpretation program to the Website for comment by the Consulting Parties and notify Consulting Parties via e-mail of the posting. If these parties do not comment within 14-days of receipt, VA may assume that these parties concur with the program and schedule. VA will finalize the public interpretation program after considering the comments and implement the program.
 - iii. VA will post the final public interpretation program and resulting materials to the Website.
- e) Local Historic District Designation: The City will assist local interest citizen organization(s) in pursuing the local historic district designation of the Mid-City National Register Historic District by doing the following:
- i. Within 60 days of receipt of a letter from a Mid-City neighborhood representative in support of local designation, the HDLC will

appoint a study committee to prepare a report on the local designation of the Mid-City National Register Historic District;

- ii. FEMA will provide the HDLC with the data that was gathered and prepared for identification and evaluation of the Mid-City National Register Historic District.
- iii. Within 9 months of receipt of the FEMA data and the receipt of a letter from a neighborhood representative in support of local designation, the HDLC will submit a report that could be used to nominate the Mid-City National Register Historic District as a New Orleans HDLC local historic district, should any neighborhood group choose to pursue such a designation, per the appropriate City regulations.

C. Lindy Boggs Site

1. Should the Lindy Boggs Site be selected, VA shall ensure that the following measures are carried out to avoid, minimize, or mitigate adverse effects to historic properties.
2. Measures to Avoid Adverse Effects to Historic Properties
 - a) Secure and Ventilate: VA will continue to secure and ventilate the former VAMC addressed at 1601 Perdido Street to avoid further deterioration of the buildings.
 - b) Design for New Construction:
 - i. Immediately following the announcement by VA of a site to replace the VAMC (site selection), VA and FEMA will begin preparation of joint or separate site specific environmental assessments (EAs) in accordance with NEPA and the programmatic environmental assessment (PEA) to analyze the potential environmental impacts of the design, construction, and operation of the proposed medical facilities. Acquisition of all land within the boundaries of the selected site may commence upon site selection.
 - ii. VA, FEMA, FP&C, and the City acknowledge and recognize that design plans for the VA and LSU Medical Centers may involve both plans for the immediate construction and utilization of facilities within the selected sites and may also involve long-term planning goals and objectives to accommodate future needs for expansion of the respective campuses.

- iii. For a period of 30 days following site selection, VA will receive comments from interested Consulting Parties concerning methods to incorporate and/or integrate into the design historic properties on the periphery of the selected site.
- iv. VA will consider in its schematic design plans the comments received during this 30-day comment period and a range of facility development solutions which will utilize setbacks, materials selections, landscaping, site layout, modification to building footprints, massing and other appropriate techniques to improve compatibility with the Mid-City National Register Historic District and Parkview National Register Historic District. No demolition of historic properties on the selected site will take place during this 30-day comment period.
- v. VA will convene 2 design review sessions where all interested Consulting Parties that participated in the Section 106 process, including the SHPO, are invited and welcome to participate. The design team will provide a presentation on the design progress, discuss design options, explain what steps were taken to meet the design goals outlined in Stipulation VI.C.2. and solicit Consulting Party input. The sessions will be held in New Orleans, and the Consulting Parties will be given at least 14 days prior notice for each design review session.
- vi. Consulting Parties may provide written comments for a period of 14 days after design review sessions. Comments will be posted on the Website. After considering all timely comments, within 30 days of the end of the comment period, VA will post on the Website a summary response to the substantive comments provided by Consulting Parties.

3. Measures to Minimize Adverse Effects to Historic Properties

- a) **Vibration Monitoring.** Prior to the commencement of any construction, demolition or site disturbance, VA will establish, in consultation with the SHPO, a Vibration Tolerance and Monitoring Program (Program) to safeguard historic properties within the APE from inadvertent damage from vibration due to ground disturbing activities. A structural engineer experienced in traditional materials will develop this program and will take into consideration current soils conditions, strength and duration of disturbance, cumulative effects of ongoing vibration, construction type and current condition of built resources within the APE. The Program will reference the Bureau of Mines' and Federal Transit Administration's vibration standards and justify any discrepancies with these authorities due to site or location specific conditions.

i. The Program will define:

- acceptable ranges of vibration within the APE based on geographic proximity to resources,
- existing baseline vibration levels,
- protocols for regular on-site monitoring,
- stop work protocols,
- protocols for further reducing vibrations, as necessary, and

ii. VA will submit the Program to SHPO for comment, and will post the results of the program to the Website. If SHPO does not comment in a 14-day review period, VA may assume that SHPO concurs with the Program. VA will complete the Program after considering the SHPO's comments and implement the Program.

b) Phased Demolition and Construction. VA will phase demolition and construction activities to avoid concentrated indirect adverse effects to surrounding neighborhoods wherever practicable.

4. Measures to Mitigate Adverse Effects to Historic Properties

a) Recordation

i. Prior to any transfer or sale of VAMC, VA will document the former VA Hospital and the VA Managers and Nurses Quarters of the VAMC addressed at 1601 Perdido Street. The recordation will proceed in accordance with Appendix 3, include digital photography and narrative reports, and be performed by, or under the direct supervision of, an individual who meets the SOI *Professional Qualification Standards* (48 FR 44716) for history, architectural history, or historic architecture.

ii. VA will post the recordation data and resulting materials to the Website.

b) Public Interpretation: VA will design and implement a public interpretation program related to the history of the VAMC.

i. This program may include:

- oral histories;
- museum quality, publically accessible, permanent displays;
- traveling exhibits;
- publically accessible website; and
- popular publications.

- ii. VA will post the public interpretation program to the Website for comment by the Consulting Parties and notify Consulting Parties via e-mail of the posting. If these parties do not comment within 14-days of receipt, VA may assume that these parties concur with the program and schedule. VA will finalize the public interpretation program after considering the comments and implement the program.
- iii. VA will post the final public interpretation program and resulting materials to the Website.

D. Ochsner Site

1. Should the Ochsner Site be selected, VA shall ensure that the following measures are carried out to avoid, minimize, or mitigate adverse effects to historic properties.
2. Measures to Avoid Adverse Effects to Historic Properties
 - a) Secure and Ventilate: VA will continue to secure and ventilate the former VAMC addressed at 1601 Perdido Street, to avoid further deterioration of the buildings.
 - b) VA will provide sufficient notice to the owners of the Steam Locomotive 745 to allow them to secure a new location and to move the engine to a location outside the proposed Ochsner site. VA will request that the owner of Steam Locomotive 745 notify the SHPO of the new location once it has been determined.
3. Measures to Mitigate Adverse Effects to Historic Properties
 - a) Recordation
 - i. Prior to any transfer or sale of VAMC, VA will document the former VA Hospital and the VA Managers and Nurses Quarters of the VAMC addressed at 1601 Perdido Street. The recordation will proceed in accordance with Appendix 3, include digital photography and narrative reports, and be performed by, or under the direct supervision of, an individual who meets the SOI *Professional Qualification Standards* (48 FR 44716) for history, architectural history, or historic architecture.
 - ii. VA will post the recordation data and resulting materials to the Website.

- b) Public Interpretation: VA will design and implement a public interpretation program related to the history of the VAMC.
- i. This program may include:
- oral histories;
 - museum quality, publically accessible, permanent displays;
 - traveling exhibits;
 - publically accessible website; and
 - popular publications.
- ii. VA will post the public interpretation program to the Website for comment by the Consulting Parties and notify Consulting Parties via e-mail of the posting. If these parties do not comment within 14-days of receipt, VA may assume that these parties concur with the program and schedule. VA will finalize the public interpretation program after considering the comments and implement the program.
- iii. VA will post the final public interpretation program and resulting materials to the Website.

VI. ARCHITECTURAL TREATMENT MEASURES: FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

- A. This Stipulation sets forth treatment measures for standing historic properties adversely affected by FEMA's Undertaking. Archaeological historic properties are addressed in Stipulation VII.
- B. Repair/Renovation of Existing Facilities
1. Should the Repair/Renovation alternative be selected by FP&C, FEMA will ensure the following measures are carried out to avoid, minimize, or mitigate adverse effects to historic properties.
 2. Measures to Avoid Adverse Effects to Historic Properties
 - a) Site Security: FP&C shall ensure that reasonable measures to provide adequate site security are accomplished following Site Selection. Adequate site security shall prohibit to the extent possible, looting and vandalism to historic properties contained within the site. Security measures may include supplemental exterior lighting, on-site security, and regular monitoring of historic properties.

- b) Secure and Ventilate: Within 6 months of Site Selection, FP&C shall secure and ventilate all 9 historic properties within the MCLNO campus to avoid further deterioration. These buildings are Charity Hospital addressed at 1532 Tulane Avenue, the Dibert Memorial Building addressed at 340 North Claiborne Avenue, the Lepeyre-Miltenberger Building addressed at 1550 Tulane Avenue, the General Services Building addressed at 1508 Gravier Street, the Power House addressed at 422 Freret Street, the Maintenance Shop addressed at 433 LaSalle Street, the Delgado Building addressed at 1545 Tulane Avenue, the Butterworth Building addressed at 1541 Tulane Avenue, and the Laundry Building addressed at 405 LaSalle Street.
- i. Such stabilization will secure the exterior envelope of the building and character-defining features and ornamentation.
 - ii. FP&C will forward 3 copies of summary reports detailing the stabilization measures to FEMA. FEMA will provide comments within 14-days of receipt of plan. FP&C will consider the comments provided by FEMA on the draft submissions to the extent possible and then submit the revised summary to the SHPO and Consulting Parties. If the SHPO and Consulting Parties do not comment within 14 days of receipt, FP&C may assume that SHPO and Consulting Parties concur with the plan. FP&C will finalize the stabilization plan after considering the comments and implement the plan.
 - iii. FP&C will post summary reports of stabilization measures to the Website.

3. Measures to Minimize Adverse Effects

- a) Vibration Monitoring: Prior to the commencement of any construction, demolition or site disturbance, FP&C will develop a Vibration Tolerance and Monitoring Program (Program) to safeguard historic properties within the APE from inadvertent damage from vibration due to ground disturbing activities. This Program will be developed by a structural engineer experienced in traditional materials and will take into consideration current soils conditions, strength and duration of disturbance, cumulative effects of ongoing vibration, construction type and current condition of built resources within the APE.
- i. The Program will define:
 - acceptable ranges of vibration within the APE based on geographic proximity to resources,
 - existing baseline vibration levels,
 - protocols for regular on-site monitoring,

- stop work protocols, and
 - protocols for further reducing vibrations, as necessary, and
- ii. FP&C shall submit the Program to SHPO for comment and notify FEMA in writing. If SHPO does not comment in a 14-day review period, FEMA / FP&C may assume that SHPO concurs with the Program. FP&C will finalize the Program after considering the SHPO comments, post it to the Website, and implement the Program.
- b) Design of Repair/Renovation: Designs for repair by FP&C will consider the *SOI Standards for Rehabilitation* with emphasis on preservation of the exterior front entrance and interior lobby.
- i. FP&C will submit design drawings to the SHPO for comment during the schematic design and design development stages of the design process, and notify FEMA in writing.
 - ii. If the SHPO does not provide comments to FP&C within 14-days of receipt of design drawings, FP&C may assume that SHPO concurs with the plans. FP&C will finalize the design plan after considering the comments, and implement the plan.

4. Measures to Mitigate Adverse Effects to Historic Properties

a) Recordation

- i. Prior to any repair or renovation efforts to Charity Hospital, FP&C will document the Charity Hospital building. The recordation will proceed in accordance with Appendix 3, include digital photography and narrative reports, and be performed by, or under the direct supervision of, an individual who meets the *SOI Professional Qualification Standards* (48 FR 44716) for history, architectural history, or historic architecture.
- ii. FP&C will post the recordation data and resulting materials to the Website.

C. Relocation to the Proposed New LSU Site

1. Should the Proposed New LSU Site be selected by FP&C, FEMA will ensure the following measures are carried out to avoid, minimize or mitigate adverse effects to historic properties.
2. Measures to Avoid Adverse Effects to Historic Properties

- a) Site Security: FP&C shall ensure that reasonable measures to provide adequate site security are accomplished following Site Selection and acquisition to prohibit, to the extent possible, looting and vandalism to historic properties contained within the site. Security measures may include supplemental exterior lighting, on-site security, and regular monitoring of historic properties.

- b) Secure and Ventilate
 - i. Within 6 months of Site Selection, FP&C shall secure and ventilate all 9 historic properties within the MCLNO campus. These buildings are Charity Hospital addressed at 1532 Tulane Avenue, the Dibert Memorial Building addressed at 340 North Claiborne Avenue, the Lepeyre-Miltenberger Building addressed at 1550 Tulane Avenue, the General Services Building addressed at 1508 Gravier Street, the Power House addressed at 422 Freret Street, the Maintenance Shop addressed at 433 LaSalle Street, the Delgado Building addressed at 1545 Tulane Avenue, the Butterworth Building addressed at 1541 Tulane Avenue, and the Laundry Building addressed at 405 LaSalle Street.
 - ii. Such stabilization will secure the exterior of the building and character-defining features and ornamentation.
 - iii. FP&C will forward 3 copies of summary reports detailing the stabilization measures to FEMA. FEMA will provide comments within 14-days of receipt of plan. FP&C will consider the comments provided by FEMA on the draft submissions to the extent possible and then submit the revised summary to the SHPO. If the SHPO does not comment within 14 days of receipt, FP&C may assume that SHPO concurs with the plan. FP&C will finalize the stabilization plan after considering the SHPO comments and implement the plan.
 - iv. FP&C will post summary reports of stabilization measures to the Website.

- c) Retention of Historic Properties: FP&C will retain to the extent feasible, either through avoidance or integration into the design plan, the Deutsches Haus addressed at 200 South Galvez Street and Orleans House addressed at 1800 Canal Street.
 - i. In its feasibility evaluation, FP&C will consider a multitude of factors including the spacing requirements for the project construction, future site development/use needs, set back requirements, local ordinances and Federal regulatory requirements, structural integrity

and characteristics of the property, cost to retain the property, and feasibility of use of the property.

- ii. FP&C shall provide written explanation to FEMA and the SHPO of its decision on the retention of Deutsches Haus and Orleans House and post on the Website.
- iii. If FP&C determines that it is feasible to retain the Deutsches Haus and Orleans House, the schematic design and design development plans for the rehabilitation and re-use will be included in the overall site design review described in Stipulation VI.C.2(d)(i) of this PA.
- iv. Prior to any repair or renovation efforts at the Deutsches Haus and Orleans House, FP&C will document the exterior elevations, interior, and architectural and iconic details of both buildings. The recordation will proceed in accordance with Appendix 3, include digital photography and be performed by, or under the direct supervision of, an individual who meets the SOI *Professional Qualification Standards* (48 FR 44716) for history, architectural history, or historic architecture.
- v. If FP&C determines that it is not feasible to retain the Deutsches Haus, FP&C will assist Deutsches Haus in relocating their cultural activities to a different, suitable location within the Mid-City National Register Historic District. In addition, in the event that demolition of the Deutsches Haus cannot be avoided, FP&C will feature Deutsches Haus in the public interpretation program described in VI.C.4(d) of this PA and will document the building. The recordation will proceed in accordance with Appendix 3, include digital photography and narrative reports, and be performed by, or under the direct supervision of, an individual who meets the SOI *Professional Qualification Standards* (48 FR 44716) for history, architectural history, or historic architecture.
- vi. If FP&C determines that it is not feasible to re-use Orleans House, FP&C will evaluate the feasibility of moving the building to a new location within the Mid-City National Register Historic District, preferably with frontage on Canal Street. If FP&C determines it is feasible to move Orleans House, FP&C will notify SHPO and HDLC for comment on an appropriate location. FP&C will consider the comments submitted by SHPO and HDLC, if received within 14 days of notification, before selecting a suitable location. FP&C will then move Orleans House.
- vii. If FP&C determines it is not feasible to either retain or move Orleans House, FP&C will document the building. The recordation

will proceed in accordance with Appendix 3, include digital photography and narrative reports, and be performed by, or under the direct supervision of, an individual who meets the SOI *Professional Qualification Standards* (48 FR 44716) for history, architectural history, or historic architecture. In addition, FP&C will feature Orleans House in the public interpretation program described in VI.C.4(d) of this PA.

- viii. If FP&C determines that neither the retention nor the removal of Orleans House is practicable, after documentation, FP&C will consider permitting a non-profit historic preservation third-party organization to dismantle and remove the structure, provided they can come to an acceptable agreement to use the structure in a manner sympathetic with its historic significance, and to do so without impeding FP&C's timeframe for site clearance and construction.

d) Design of New Construction:

- i. Immediately following the announcement by FP&C of a site to replace the MCLNO (site selection), FEMA will begin preparation of joint or separate site specific EAs in accordance with NEPA and the programmatic environmental assessment (PEA) to analyze the potential environmental impacts of the design, construction, and operation of the proposed medical facilities. Acquisition of all land within the boundaries of the selected site may commence upon site selection.
- ii. VA, FEMA, FP&C, and the City acknowledge and recognize that design plans for the VA and LSU Medical Centers may involve both plans for the immediate construction and utilization of facilities within the selected sites and may also involve long-term planning goals and objectives to accommodate future needs for expansion of the respective campuses.
- iii. For a period of 30 days following site selection, FP&C will receive comments from interested consulting parties concerning methods to incorporate and/or integrate into the design historic properties on the periphery of the selected site. FP&C will consider in its schematic design plans the comments received during this 30-day comment period and a range of facility development solutions which will utilize setbacks, materials selections, landscaping, site layout, modification to building footprints, massing and other appropriate techniques to improve compatibility with the Mid-City National Register District. No demolition of historic properties on the selected site will take place during this 30-day comment period.

- iv. FP&C will convene 2 design review sessions where all interested Consulting Parties that participated in the Section 106 process, including the SHPO, are invited to participate. The design team will provide a presentation on the design progress, discuss design options, explain what steps were taken to meet the design goals outlined in Stipulation VI.C.2(d) and solicit Consulting Party input. The sessions will be held in New Orleans, and the Consulting Parties will be given at least 14 days prior notice for each design review session. Consulting Parties may provide written comments for a period of 14 days. Comments will be posted on the Website. Within 30 days of the end of the comment period, VA will post on the Website a summary response to the substantive comments provided by Consulting Parties.

3. Measures to Minimize Adverse Effects to Historic Properties

- a) Vibration Monitoring: Prior to the commencement of any construction, demolition or site disturbance, FP&C will develop a Vibration Tolerance and Monitoring Program (Program) to safeguard historic properties within the APE from inadvertent damage from vibration due to ground disturbing activities. This Program will be developed by a structural engineer experienced in traditional materials and will take into consideration current soils conditions, strength and duration of disturbance, cumulative effects of ongoing vibration, construction type and current condition of built resources within the APE.
 - i. The Program will define:
 - acceptable ranges of vibration within the APE based on geographic proximity to resources,
 - existing baseline vibration levels,
 - protocols for regular on-site monitoring,
 - stop work protocols, and
 - protocols for further reducing vibrations, as necessary.
 - specific protocols to address vibration at St. Louis Cemetery No. 2 addressed at 1600 St. Louis Street.
 - ii. FP&C shall submit the Program to SHPO for comment and notify FEMA in writing. If SHPO does not comment in a 14-day review period, FEMA / FP&C may assume that SHPO concurs with the program. FP&C will finalize the Program after considering the SHPO comments, post it to the Website, and implement the Program.
- b) Phased Demolition and Construction

- i. FP&C will phase demolition and construction activities to avoid concentrated indirect adverse effects to surrounding historic properties wherever practicable.
- ii. FP&C will phase demolition and construction activities as required to ensure that treatment measures stipulated in this PA can be implemented including:
 - a. Evaluation of the feasibility of the retention of the Deutsches Haus and the retention or relocation of the Orleans House (Stipulation VI.C.2.c)
 - b. Recordation of historic properties to be demolished (Stipulation VI.C.4.b)
 - c. Architectural Salvage (Stipulation VI.C.4.c)
 - d. Identification and evaluation of historic archaeological properties and treatment measures associated with these properties such as Data Recovery (Stipulation VII)
- iii. FP&C will provide the ACHP Chairman with a notification in writing that funding stream for design and construction has been identified and a business plan has been approved for the proposed hospital. No demolition activities will be undertaken until such notice has been sent and received.

4. Measures to Mitigate Adverse Effects to Historic Properties

a) Participation in SHPO Mid-City Historic Preservation Mitigation Program:

- i. Should FP&C select the proposed new LSU Site Alternative, FP&C will support the SHPO in its effort to develop and implement a program, described in the preamble to this PA, to promote the preservation and rehabilitation of contributing elements within the Mid-City National Register Historic District, which would be adversely affected by the project. FP&C will remit to SHPO a total cost not to exceed \$300,000 for eligible historic preservation project costs incurred within the Mid-City National Register Historic District.

b) Recordation

- i. Prior to demolition and architectural salvage, FP&C will document all historic properties within the project footprint that will not be retained. The recordation will proceed in accordance with Appendix 3, include digital photography and narrative reports, and be performed by, or under the direct supervision of, an individual

who meets the SOI *Professional Qualification Standards* (48 FR 44716) for history, architectural history, or historic architecture.

- ii. Prior to any transfer or sale of Charity Hospital, FP&C will document the building. The recordation will include the documentation of exterior elevations, interior spaces and iconic details of the building. The recordation will proceed in accordance with Appendix 3, include digital photography, and be performed by, or under the direct supervision of, an individual who meets the SOI *Professional Qualification Standards* (48 FR 44716) for history, architectural history, or historic architecture.
 - iii. The recordation will include the documentation of the exterior elevations, interior, and architectural and iconic details of McDonogh School No. 11. The recordation will proceed in accordance with Appendix 3, include digital photography, and be performed by, or under the direct supervision of, an individual who meets the SOI *Professional Qualification Standards* (48 FR 44716) for history, architectural history, or historic architecture.
 - iv. FP&C will post the recordation data and resulting materials to the Website.
- c) Architectural Salvage: Prior to the demolition or substantial alteration of historic properties, FP&C shall ensure that the salvage of historic architectural elements from historic properties proposed for demolition in the Mid-City National Register Historic District occurs in accordance with the process stipulated in Appendix 4.
- d) Public Interpretation: FP&C will design and implement a public interpretation program related to the Mid-City National Register Historic District, Charity Hospital, McDonogh School No. 11, Deutsches Haus, and Orleans House.
- i. This program may include:
 - oral histories;
 - museum quality, publically accessible, permanent displays;
 - traveling exhibits;
 - publically-accessible website; and
 - popular publications.
 - ii. FP&C will post the public interpretation program to the Website for comment by the Consulting Parties and notify Consulting Parties via e-mail of the posting. FP&C will forward 2 copies of the program for the public interpretation program with an implementation schedule to

the SHPO for comment and notify FEMA in writing. If the SHPO does not comment within a 14-day review period, FP&C may assume that the SHPO concurs with the program and schedule. FP&C will finalize the public interpretation program after considering the SHPO comments and implement the program.

- iii. FP&C will post the final public interpretation program and resulting materials to the Website.
- e) Local Historic District Designation: In partnership, FEMA and the City will assist local interest citizen organization(s) in pursuing the local historic district designation process for the Mid-City National Register Historic District by doing the following:
- i. Within 60 days of receipt of a letter from a Mid-City neighborhood representative in support of local designation, the HDLC will appoint a study committee to prepare a report on the local designation of the Mid-City National Register Historic District;
 - ii. FEMA will provide the HDLC with the data that was gathered and prepared for FEMA identification and evaluation of the Mid-City National Register Historic District.
 - iii. Provided the VA selects the RPC Site, within 9 months of receipt of the FEMA data and the receipt of a letter from a neighborhood representative in support of local designation, the HDLC will submit a report that could be used to nominate the Mid-City National Register Historic District a New Orleans HDLC local historic district, should any neighborhood group choose to pursue such a designation, per the appropriate city regulations.
- f) Reuse and/or Disposition of Historic Buildings in the Medical Center of Louisiana at New Orleans (MCLNO)
- i. FP&C and LSU will develop a strategic plan to foster and encourage adaptive reuse of 9 historically significant buildings that were part of the 23 buildings that made up the former MCLNO that were damaged by Hurricane Katrina. These historic properties already have been identified, and they are: Charity Hospital, the Dibert Memorial Building, the Lepeyre-Miltenberger Building, the General Services Building, the Power House, the Maintenance Shop, the Delgado Building, the Butterworth Building, and the Laundry Building.
 - ii. LSU will determine which of the above-mentioned 9 historic properties may be suitable for its use. For those historic properties

LSU determines are not suited for its use, FP&C will offer these buildings to other state agencies in accordance with State law. For those buildings not needed by other State agencies, FP&C will consult with the SHPO on the key historic elements of each building prior to making those remaining historic properties available to other interested parties, all in accordance with state law. The SHPO will have 14 days to respond.

- iii. FP&C will endeavor to promote adaptive reuse for those nine historically significant buildings that neither it nor other state agencies use. During this process, FP&C will give notice to the SHPO and to those groups and individuals who participated in this Section 106 process as Consulting Parties. Additionally, public meetings and/or forums will be held at no less than 2 points in the process of evaluating the reuse or transfer of these properties from State control, to solicit input and comments from the interested parties.
- iv. If it is determined that Charity Hospital is not suitable for use by a state agency, FP&C and/or LSU will take input from the City, the DDD, the RPC, and the SHPO with respect to the future use of Charity Hospital. FP&C and/or LSU will prepare a marketing study that will consider state or municipal tax incentives, grants, financing, or other development incentives in addition to the potential for Federal historic preservation income tax credits for the rehabilitation of historic income producing properties.
 - a. FP&C and/or LSU will provide the Signatory and Concurring Parties documentation of the marketing study and its use and will also post this documentation on the Website to inform the public.
 - b. FP&C and/or LSU will develop the marketing study upon the conclusion of the design process for the new facility, and will actively attract and encourage offers from public or private entities to rehabilitate and re-use the existing historic Charity Hospital building for a minimum of 3 years following completion and publication of the marketing study.
 - c. Conditioned upon legislative approval, the State will deed an exterior and selective interior preservation easement to an appropriate third-party non-profit historic preservation organization prior to transferring ownership to a municipal or private entity and stipulate in the property transfer that any rehabilitation or improvements to the property be made in accordance with the SOI *Standards for Rehabilitation*.

- d. If after publication of the marketing study and attempting to attract a qualified purchaser for a minimum of 3 years, the State has been unsuccessful, the State may dispose of the property as it sees fit, up to and including transfer without easement or stipulations and/or demolition of the building, with no further obligations under this PA.
- iv. FP&C will contract for the individual National Register nomination of Charity Hospital, and will ensure that the appropriate documentation for that nomination is submitted to the SHPO within 12 months of the execution of this PA.

VII. CONSIDERATION OF ARCHAEOLOGICAL PROPERTIES: U.S. DEPARTMENT OF VETERANS AFFAIRS (VA) AND THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

A. Timing and Responsibilities

1. Immediately following site acquisition, the owner of the site will take steps to ensure that adequate site security is established to prohibit, to the extent possible, vandalism to archaeological sites. For the properties acquired by FP&C, the Louisiana Archaeological Resources Act (R.S. 41:1601 et seq.) applies to state land.
2. VA, FEMA, and FP&C will work to research the probable location of National Register-eligible archaeological properties; identify National Register-eligible archaeological properties; evaluate any such identified sites to determine if they retain integrity and meet the National Register criteria; and avoid, minimize, or mitigate National Register-eligible archaeological sites. These steps may be undertaken as right of entry becomes available or as identification and evaluation efforts are completed.
3. VA, FEMA, and FP&C may elect to collaborate in the development of background documentation and other steps to evaluate and mitigate National Register archaeological properties. If the agencies do not jointly develop materials required by this stipulation, each agency remains responsible for completing each step outlined by this stipulation for the site selected for that agency's Undertaking. FEMA will ensure that FP&C implements mitigation measures associated with the FEMA Undertaking. VA and FEMA, with FP&C may elect to pursue joint consultation, and this will be subject to the requirements of Stipulation II.C.

B. Identification of Archaeological Sites.

1. Background Research and Sensitivity Modeling: VA and/or FP&C will research and delineate the locations, within the APE, for each project which are known to possess a high potential to contain archaeological sites. This research and delineation will be based upon analyses of existing data on geomorphology and topography, historic maps, previous cultural resources investigations, cartographic information on the history of public works improvements, oral histories, and census, deed and tax records. VA and/or FP&C will also correlate geological and soils data with prehistoric, protohistoric, and historic land use patterns. These data will be recorded and analyzed using geographic information systems (GIS) technology. The background research will be used by VA and/or FP&C to develop a prehistoric and historic context that will be the basis for evaluating the National Register eligibility of archaeological properties that may be identified.
2. Disturbance Study: VA and/or FP&C will review archival and cartographic materials and will conduct a block-by-block inspection of the sites selected for the Undertakings as a part of the Disturbance Study. VA and/or FP&C will identify those portions of the selected sites that have been sufficiently disturbed by previous construction, development, grading and demolition in order to determine where there is a low potential for National Register-eligible archaeological properties.
3. Development of an Archaeological Probability Model: VA and/or FP&C will use the prehistoric and historic context, background research and the disturbance study to map the locations within the area of potential effects that have a high or low potential for containing National Register-eligible archaeological properties. After providing the prehistoric and historic context, background research, and the disturbance study, VA will consult with SHPO and MBCI regarding the results of the probability modeling. FP&C will provide information, including background documentation, showing its determinations to FEMA for a 7-day review. If FEMA does not comment within 7 days of their receipt of adequate documentation, FP&C may assume concurrence. Following FEMA concurrence, FP&C will consult with SHPO and MBCI on the results of the probability modeling. If SHPO does not comment within 14 days of their receipt of adequate documentation, VA, FP&C and FEMA will proceed with field investigation described below. VA, FP&C and FEMA will consult with SHPO and/or MBCI to address any comments.
4. Field Investigations for Identification: VA and/or FP&C may use a range of field investigation techniques to identify archaeological properties and to determine if they possess integrity and may be eligible for listing in the National Register of Historic Places, in so far as possible. Techniques may include shovel, auger, or mechanical testing, as appropriate and archaeological monitoring of demolitions in those areas determined to have a high potential for National Register-eligible archaeological sites. Fieldwork to identify archaeological sites and features will commence at site acquisition or

receipt of rights-of-entry. Historic archaeological sites will be delineated as a city block, with NR eligibility evaluated for individual loci defined as tax lots within each site.

5. Reporting: VA and/or FP&C will forward a weekly field report to FEMA, SHPO, and MBCI during each field investigation step. Each weekly report will include a brief description of the field methods used, the locations investigated, sites identified, and features found, if any. Draft site forms will be submitted to SHPO. Following the completion of field investigation, VA and FP&C will prepare a Management Summary Report. The Management Summary Report will include preliminary evaluations of archaeological sites and provide recommendations for further work.
6. VA will provide the Management Summary Report for Identification to the SHPO and MBCI for consultation. FP&C will provide the Management Summary Report for Identification to FEMA for review and comment. If FEMA does not provide comment within 7 days of their receipt of adequate documentation, FP&C may assume concurrence with the Report. Following FEMA review, FP&C will forward the Management Summary Report for Identification to SHPO and MBCI. VA, FEMA, and FP&C will consult with SHPO and/or MBCI to address any comments on the Management Summary Report. If SHPO does not comment within 14 days of receipt of a complete report, VA and/or FP&C may proceed with field investigation described below.

C. Evaluation of Archaeological Sites, Assessment of Effects, and Evaluation of Means to Avoid, Minimize, or Mitigate Adverse Effects

1. Field Investigation for National Register Eligibility: VA and/or FP&C will evaluate those sites identified in the Management Summary Report for Identification that it determines in consultation with the SHPO and MBCI require further investigation and will apply the National Register criteria for evaluation (36 CFR 60.4 [a-d]) to determine their significance and integrity. Such evaluations will apply standard archaeological methodologies, as defined in Louisiana Division of Archaeology Guidelines for Field Methods. Evaluation will identify those sites and individual loci that possess research potential under National Register criteria and the *Louisiana Comprehensive Archaeological Plan* and that retain those qualities of integrity and significance defined by the National Register criteria. This process will analyze field data within the appropriate prehistoric and historic context for the site. Fieldwork to evaluate archaeological sites and features may commence concurrently with identification efforts as necessary to allow for efficient completion of the work provided that the Responsible Agency consults with SHPO and MBCI.
2. VA and FEMA, in consultation with SHPO and MBCI, will assess the effects of their Undertakings on any archaeological sites which it finds to be National

Register-eligible. VA and FEMA will evaluate means to avoid or minimize any such adverse effects to National Register-eligible archaeological sites. Measures to be evaluated include but are not limited to encapsulation, preservation in situ, and construction fencing. If adverse effects to National Register-eligible archaeological sites may not be avoided, VA and FEMA will develop appropriate mitigation as described in Stipulation D.

3. VA and FEMA, in consultation with SHPO and MBCI, may consider a range of mitigation measures for adverse effects on National Register-eligible archaeological sites, such as individual site data recovery, representative site data recovery, education and public involvement efforts, or other reasonable and good faith efforts commensurate with the scale of the Undertaking, its effects on archaeological sites, and the significance of the adversely affected National Register-eligible archaeological sites.
4. Reporting: VA will forward a weekly field report to SHPO and MBCI during each field investigation step. FP&C will forward a weekly field report to SHPO, FEMA, and MBCI during each field investigation step. Each weekly report will include a brief description of field methods used, findings, preliminary recommendations and field investigation progress.
5. VA will provide Management Summary Reports to the SHPO and MBCI. The Management Summary Report/s will document the Responsible Agency's determination of eligibility for the archaeological site(s), its assessment of adverse effects, and its consideration of means to avoid, minimize, or mitigate any adverse effects on the archaeological site(s). VA and/or FP&C may elect to prepare multiple Management Summary Reports to allow for the phased completion of the evaluation effort. FP&C will provide the Management Summary Reports to FEMA for review and comment. If FEMA does not provide comment within 7 days of receipt of adequate documentation, FP&C may assume concurrence with the Report. Following FEMA review, FP&C will forward the Management Summary Report to SHPO and MBCI for consultation. VA, FEMA, and FP&C will further consult with SHPO and/or MBCI to address any comments. If SHPO does not comment within 14 days of receipt of a complete report, VA and/or FP&C may proceed with field investigation described below.

D. Treatment Strategies for Archaeological Properties.

1. Data Recovery Plan: If the Responsible Agency determines in consultation with the SHPO and MBCI that data recovery is required for individual or representative National Register-eligible archaeological sites, VA and/or FEMA and FP&C will develop one or more archaeological Data Recovery Plans. Data Recovery Plans may be developed separately by the individual agencies or in a joint document. VA and/or FEMA and FP&C will forward 2 copies of each Data Recovery Plan to SHPO and MBCI. If SHPO does not

comment within a 14-day review period of receipt of the plan, VA and/or FEMA and FP&C will assume that SHPO concurs with the plans. VA and/or FEMA and FP&C will finalize and implement the Data Recovery Plans after consultation with SHPO and MBCI.

- a) The Data Recovery Plan may employ a sampling strategy to achieve the objectives of the data recovery and promote the efficient completion of the Undertakings.
 - b) Oral Histories. If appropriate to enhance the Data Recovery Plan, VA and/or FP&C will conduct oral history interviews, in accordance with Oral History Association Principles and Standards, with members of the public that may contribute to the research goals of the data recovery effort or record knowledge of the local history of the selected site. The oral histories will be deposited at a public depository or archive.
 - c) Public Outreach. VA and/or FP&C will incorporate a public archaeology program into the public interpretation plan required in Stipulations V.B.4(d), V.C.4(b), V.D.3(a), and VI.C.4(d). SHPO may assume responsibility for hosting and maintaining the website and for maintaining and distributing exhibits and printed matter upon completion of the projects.
4. Data Recovery. If required, VA and/or FP&C will execute the data recovery as specified in the Data Recovery Plan(s). Data recovery may commence concurrently with evaluation efforts as necessary to allow for efficient completion of the work provided that the Responsible Agency consults with the SHPO and MBCI. Data recovery will be conducted in accordance with the Louisiana Division of Archaeology field standards.
 5. Reporting. VA and/or FP&C will ensure that a comprehensive report for each project, including the results of the archival research, sensitivity modeling and probability mapping, field identification methods and results, site evaluation methods and results, and data recovery methods and results is prepared. Final Louisiana Division of Archaeology site forms for all sites identified will accompany these reports. These reports will follow the standards of the Louisiana Division of Archaeology, and, in the case of FP&C, will be provided to FEMA, for a review and comment period, before submission to SHPO and MBCI.
 6. VA will curate all archaeological materials, reports and associated records from their project accordance with 36 CFR 79 at a federally approved facility. FP&C will curate all archaeological materials, reports and associated records from their project in accordance with the standards of the Louisiana Division

of Archaeology, and all collections and associated records will be curated with the Louisiana Division of Archaeology.

VIII. TREATMENT OF HUMAN REMAINS

- A. If, in the course of the Undertakings, human remains are uncovered the Responsible Agencies shall direct their contractor to stop work immediately in the vicinity of the discovery.
- B. The Responsible Agencies shall require that the ACHP's 2007 "Policy Statement Regarding Burial Sites, Human Remains, and Funerary Objects" or any subsequent Policy Statements that are issued after the execution of this PA are considered.
- C. If, at the time of discovery, human remains are located on federally owned land and are determined to be American Indian, the Responsible Federal Agency shall consult relevant federally recognized tribes within 3 days and shall develop and implement a plan for the appropriate treatment of those remains in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC § 3001 et. seq. as appropriate). The plan shall include provisions for in-place preservation, excavation, and analysis, in accordance with a data recovery plan approved pursuant to this Agreement, and disposition of the remains as appropriate. The Responsible Federal Agency shall, in good faith, consult with the relevant parties in accordance with applicable law. If the remains are determined to be non-native, the Responsible Agencies shall follow the procedures outlined in Louisiana Unmarked Human Burial Sites Act (R.S. 8:671 et seq).
- D. If, human remains are uncovered and not located on Federally owned land, the Responsible Agencies shall follow the procedures outlined in the Louisiana Unmarked Human Burial Sites Act (R.S. 8:671 et seq). Pursuant to the law the Responsible Agency shall notify the City Attorney's Office, the New Orleans Police Department, and the Orleans Parish Coroner's Office within 24 hours of the discovery. The local law enforcement officials shall assess the nature and age of the human remains. If the coroner determines that the human remains are older than 50 years of age and are not a crime scene, the Responsible Agency shall ensure that the notice of the discovery required by Louisiana Unmarked Human Burial Sites Preservation Act (R.S. 8:671 et seq.) is given to the Secretary of Culture, Recreation, and Tourism (CRT) or the Secretary's designee by contacting the Louisiana Division of Archaeology at 225-342-8170 within 72 hours of the discovery. Following the notification, the Louisiana State Archaeologist, as the designee of the Secretary of CRT, will administer the remainder of the requirements of the law including but not limited to permits for excavation and disposition of the human remains.

IX. POST REVIEW DISCOVERIES

- A. If potential historic properties are discovered or unanticipated effects on historic properties are found in a VA alternative, VA shall notify the SHPO, City, relevant federally recognized tribes, and the ACHP within 48 hours of discovery. If potential historic properties are discovered at the RPC site, and the City is the current owner of the property at that time, the City shall notify VA, SHPO, the relevant federally recognized tribes, and the ACHP within 48 hours of the discovery. If potential historic properties are discovered or unanticipated effects on historic properties are found in a FEMA / FP&C alternative, FP&C shall notify FEMA immediately. Within 48 hours of notification, FEMA will contact the SHPO, City, relevant federally recognized tribes, and the ACHP.
1. VA (in the case of the VA Undertaking) or FP&C (in the case of the FEMA Undertaking) immediately shall secure the jobsite and suspend work in the vicinity of the affected resource. VA or FEMA will consult with the Signatory Parties, relevant federally recognized tribes, and the ACHP to resolve adverse effects. The Responsible Agency shall take into account the recommendations of these parties and take appropriate actions and provide a report of the actions when they are completed.
- B. VA and FP&C shall insure that all construction contractors are made aware of the requirements of the PA.

X. DISPUTE RESOLUTION

- A. Should a Signatory, Invited Signatory, or Concurring Party object to the implementation of the provisions of this PA, they shall notify in writing the Responsible Agencies, who will seek to resolve such objection through consultation.
- B. If the dispute cannot be resolved through consultation, the Responsible Agencies shall forward all documentation relevant to the dispute to the ACHP, including any proposed resolution identified during consultation. Within 7 days after receipt of all pertinent documentation, the ACHP may:
1. Provide the Responsible Agency with recommendations to take into account in reaching a final decision regarding the dispute; or
 2. Notify the Responsible Agency that it will comment pursuant to 36 CFR §800.7(c) with reference to the subject of the dispute.
- C. If the ACHP does not provide the Responsible Agency with recommendations within 7 days, the Responsible Agencies may assume that the ACHP does not object to its recommended approach and shall proceed accordingly.

- D. Any recommendation provided by ACHP shall pertain only to the subject of the dispute, and the responsibilities of the Responsible Agencies to fulfill all actions that are not subject of the dispute shall remain unchanged.
- E. Any dispute regarding National Register eligibility that is not resolved pursuant to this Stipulation will be resolved in accordance with 36 CFR § 800.4(c)(2).

XI. ADMINISTRATION AND DURATION OF THIS PA

- A. This PA shall become effective immediately upon signature by all Signatory Parties. For all Signatory Parties, this PA shall be executed in counterparts, with a separate signature page for each Signatory party, and the Responsible Agencies shall provide each Consulting Party with a complete copy of the executed PA including all signature pages.
- B. This PA will remain in effect for 5 years from the date of execution, unless extended for a 2 year period by written agreement negotiated by all Signatories.
- C. The Responsible Agencies shall provide all Signatories with semi-annual Interim Progress Reports, which will be submitted every 6 months from the execution of this PA.

XII. AMENDMENT AND TERMINATION

- A. Any of the Signatory Parties to this PA may request an amendment. The PA may be amended when such an amendment is agreed to in writing by all Signatory Parties. The amendment will go into effect on the date of the signature by the final Signatory.
- B. The Signatory Parties may terminate the PA by providing a 30 day written notice to the other parties provided that the parties consult during this 30 day time frame to seek amendments or other actions that would prevent termination. Should consultation fail, the Responsible Agencies will notify the other parties in writing of the termination.
- C. Termination of the PA will require FEMA to comply with the 2004 executive Statewide Programmatic Agreement and will require VA and the City to comply with 36 CFR Part 800. This PA may be terminated without further consultation by the execution of a subsequent agreement that explicitly terminates or supersedes this PA.

EXECUTION AND IMPLEMENTATION of the Programmatic Agreement pursuant to 36 CFR §800.14(b) evidences that the Responsible Agencies have afforded ACHP a reasonable opportunity to comment on the Undertaking and its effects on historic properties, that the Responsible Agencies have taken into account the effects of the Undertaking on historic properties, and that the Responsible Agencies have satisfied

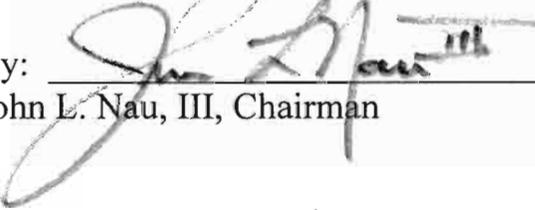
their responsibilities under Section 106 of the National Historic Preservation Act and applicable implementing regulations.

This PA shall become effective immediately upon signature by all Signatory Parties. For all Signatory Parties, this PA shall be executed in counterparts, with a separate signature page for each Signatory Party, and the Responsible Agencies shall provide each Consulting Party with a complete copy of the executed PA including all signature pages.

PROGRAMMATIC AGREEMENT
AMONG
THE US DEPARTMENT OF VETERANS AFFAIRS,
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE CITY OF NEW ORLEANS,
THE LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING THE FUNDING TO REPAIR OR REPLACE
HEALTHCARE FACILITIES COMPRISING THE VA MEDICAL CENTER
AND
THE MEDICAL CENTER OF LOUISIANA AT NEW ORLEANS

Signatories:

ADVISORY COUNCIL ON HISTORIC PRESERVATION

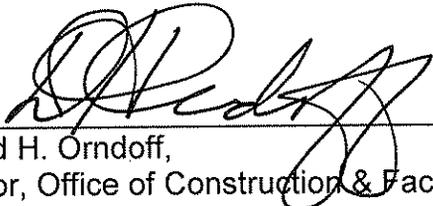
By: 
John L. Nau, III, Chairman

Date: 11.21.08

PROGRAMMATIC AGREEMENT
AMONG
THE US DEPARTMENT OF VETERANS AFFAIRS,
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE CITY OF NEW ORLEANS,
THE LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
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THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING THE FUNDING TO REPAIR OR REPLACE
HEALTHCARE FACILITIES COMPRISING THE VA MEDICAL CENTER
AND
THE MEDICAL CENTER OF LOUISIANA AT NEW ORLEANS

Signatories:

US DEPARTMENT OF VETERANS AFFAIRS

By:  _____
Donald H. Orndoff,
Director, Office of Construction & Facilities Management

Date: 11 / 20 / 08

PROGRAMMATIC AGREEMENT
AMONG
THE US DEPARTMENT OF VETERANS AFFAIRS,
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE CITY OF NEW ORLEANS,
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AND
THE MEDICAL CENTER OF LOUISIANA AT NEW ORLEANS

Signatories:

FEDERAL EMERGENCY MANAGEMENT AGENCY

By:  _____
James W. Stark

Date: Nov 21, 2008

Director, Louisiana Transitional Recovery Office
Assistant Administrator for Gulf Coast Recovery

PROGRAMMATIC AGREEMENT
AMONG
THE US DEPARTMENT OF VETERANS AFFAIRS,
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
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AND
THE MEDICAL CENTER OF LOUISIANA AT NEW ORLEANS

Signatories:

CITY OF NEW ORLEANS

By: _____

C. Ray Nagin, Mayor

Date: _____

11-20-08

FORM AND LEGALITY APPROVED:

Victoria Skines

Law Department, City of New Orleans

PROGRAMMATIC AGREEMENT
AMONG
THE US DEPARTMENT OF VETERANS AFFAIRS,
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE CITY OF NEW ORLEANS,
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AND
THE MEDICAL CENTER OF LOUISIANA AT NEW ORLEANS

Signatories:

**LOUISIANA STATE HISTORIC PRESERVATION OFFICE OF THE
DEPARTMENT OF CULTURE, RECREATION, & TOURISM**

By: Scott Hutcheson
Scott Hutcheson, State Historic Preservation Officer

Date: 11/20/08

PROGRAMMATIC AGREEMENT
AMONG
THE US DEPARTMENT OF VETERANS AFFAIRS,
THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
THE CITY OF NEW ORLEANS,
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AND
THE MEDICAL CENTER OF LOUISIANA AT NEW ORLEANS

Invited Signatories:

STATE OF LOUISIANA, DIVISION OF ADMINISTRATION

By:  Date: 11/20/08
Jerry Jones, Assistant Commissioner of Administration