

**SECONDARY PROGRAMMATIC AGREEMENT
AMONG
FEDERAL EMERGENCY MANAGEMENT AGENCY,
STATE OF LOUISIANA DIVISION OF ADMINISTRATION OFFICE OF
COMMUNITY DEVELOPMENT,
LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
LOUISIANA DEPARTMENT OF EDUCATION, THROUGH ITS
RECOVERY SCHOOL DISTRICT, AND
ORLEANS PARISH SCHOOL BOARD
REGARDING IMPLEMENTATION OF
SCHOOL FACILITIES MASTER PLAN FOR ORLEANS PARISH
NEW ORLEANS, LOUISIANA**

WHEREAS, the Federal Emergency Management Agency (FEMA) of the Department of Homeland Security proposes to provide assistance through the Governor’s Office of Homeland Security and Emergency Preparedness (GOHSEP) to the Orleans Parish School Board (OPSB) and the Louisiana Department of Education, through its Recovery School District (RSD) 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 Title 44 of the Code of Federal Regulations (44 CFR) Part 206, in response to damages caused by Hurricanes Katrina (DR-1603-LA) and Rita (DR-1607-LA); and RSD, in cooperation with OPSB, proposes to implement the School Facilities Master Plan for Orleans Parish (Master Plan) with assistance from FEMA and other Federal agencies (Master Plan Undertaking); and

WHEREAS, the Master Plan was developed to create a more effective and equitable distribution of schools throughout New Orleans and to provide for new and renovated facilities that can accommodate the educational needs of the twenty-first century. The Master Plan was adopted by OPSB on November 6, 2008 and the Louisiana State Board of Elementary and Secondary Education (BESE) on November 12, 2008; and

WHEREAS, FEMA has consulted with the Louisiana State Historic Preservation Officer (SHPO) in accordance with Section 106 of the National Historic Preservation Act (16 U.S.C. §470f) (NHPA), its implementing regulations (36 CFR Part 800) and the “*Programmatic Agreement Among the FEMA, the SHPO, the Louisiana Office of Homeland Security and Emergency Preparedness, and the Advisory Council on Historic Preservation (ACHP)*” executed in December 2004 (*2004 Statewide PA*) and determined in accordance with Stipulation VIII.A of the *2004 Statewide PA* to address its Section 106 responsibilities for this Master Plan Undertaking through a Secondary Programmatic Agreement (2PA); and

WHEREAS, FEMA proposes to revise the *2004 Statewide PA* and the terms of the revised Statewide Programmatic Agreement, including the Programmatic Allowances set out in Appendix C of the revised Statewide Programmatic Agreement and fully

incorporated as Appendix C of this 2PA, will apply immediately upon the execution of the revised Statewide Programmatic Agreement; and

WHEREAS, the Disaster Recovery Unit, within the State of Louisiana Division of Administration, Office of Community Development (OCD) administers the Infrastructure Program for OCD to implement hurricane recovery efforts using funds from the U.S. Department of Housing and Urban Development, specifically those funds that were appropriated from Fiscal Year 2006 Department of Defense Appropriations Act HR 2863, Pub. L. No. 109-148, 119 Stat. 2680 (2005), dated December 30, 2005, and Fiscal Year 2006 Department of Defense Appropriations Act HR 4939, Pub. L. No. 109-234, 120 Stat. 444 (2006), dated June 15, 2006 and will provide monies from these funds to RSD and OPSB to assist with the implementation of undertakings at school facilities as part of the Master Plan Undertaking, and OCD has determined to fulfill its Section 106 responsibilities, in cooperation with FEMA, through this 2PA; and

WHEREAS, additional Federal agencies may provide funding and assistance to RSD and/or OPSB to assist with the implementation of the Master Plan Undertaking and this 2PA allows for additional Federal agencies to elect to fulfill their Section 106 responsibilities through its terms; and

WHEREAS, FEMA and OCD have determined that FEMA will be the lead Federal agency for purposes of Section 106 for all individual projects at school facilities (undertakings) that are part of this Master Plan Undertaking unless it is determined through the process set out by the 2PA that another Federal agency will assume the lead role for an undertaking; and

WHEREAS, FEMA notified the Advisory Council on Historic Preservation (ACHP) that it determined to fulfill its responsibilities under Section 106 of the National Historic Preservation Act (NHPA) through the development and implementation of a Secondary Programmatic Agreement (2PA) under Stipulation VIII.A.2 of the *2004 Statewide PA*, and the ACHP notified FEMA in a letter dated August 22, 2008 that it will participate in the consultation; and

WHEREAS, FEMA and OCD consulted with RSD, the Subgrantee, that by virtue of Acts 2005, 1st Ex.Sess., No. 35, §1 (Act 35) of the Louisiana Legislature, has the rights and responsibilities of ownership, all as specifically enumerated at LA-R.S. 17:1990, regarding all land, buildings, facilities, and other property, with the exception of the sale of land or usable buildings, that are part of many public schools in Orleans Parish that were transferred to the RSD and which will be the subject of the Master Plan, and in recognition that RSD will assume responsibilities to perform various actions described by this 2PA, FEMA and OCD have invited RSD to participate in this consultation as a Consulting Party and execute this 2PA as an Invited Signatory; and

WHEREAS, FEMA and OCD consulted with OPSB, the Subgrantee and owner of the school facilities that are the subject of the Master Plan, and FEMA and OCD have invited

OPSB to participate in this consultation as a Consulting Party and execute this 2PA as an Invited Signatory; and

WHEREAS, GOHSEP, FEMA’s Grantee, has been invited by FEMA to participate in this consultation as a Consulting Party and execute this 2PA as a Concurring Party; and

WHEREAS, FEMA has notified the Alabama-Coushatta Tribe of Texas, Chitimacha Tribe of Louisiana, Choctaw Nation of Oklahoma, Coushatta Tribe of Louisiana, Jena Band of Choctaw Indians, Mississippi Band of Choctaw Indians, Quapaw Tribe of Oklahoma, Seminole Nation of Oklahoma, Seminole Tribe of Florida, and Tunica Biloxi Tribe of Louisiana (collectively referred to as “Tribes” in this 2PA), 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 Master Plan Undertaking of the development of this 2PA and FEMA has invited each of these Tribes to consult; and

WHEREAS, FEMA will continue to provide opportunities to Tribes to participate in this 2PA and will invite Tribes to execute the 2PA as a Concurring Party and FEMA will consult on individual FEMA undertakings with Tribes that have not notified FEMA of a decision to not to participate in certain undertakings or certain types of undertakings or have not executed this 2PA by following the terms of the revised Statewide Programmatic Agreement immediately upon its execution; and

WHEREAS, the National Trust for Historic Preservation (NTHP); the Preservation Resource Center (PRC); the Louisiana Chapter of Documentation and Conservation of Buildings Sites and Neighborhoods of the Modern Movement US (DOCOMOMO/NOLA); Common Knowledge; the New Orleans Chapter of the American Institute of Architects (AIA); Holy Cross Neighborhood Association (HCNA), and the Lower Ninth Ward Neighborhood Empowerment Network Associates (NENA) have requested Consulting Party status and are invited by FEMA and OCD to participate in this consultation as Consulting Parties and sign this 2PA as Concurring Parties; and

WHEREAS, FEMA notified the City of New Orleans Historic District Landmarks Commission, and Louisiana Landmarks Society of the Master Plan Undertaking and the opportunity to participate in this consultation; and

WHEREAS, RSD and OPSB have engaged the community in the development of recommendations for public school facilities. RSD and OPSB held a series of 21 interactive meetings between October 27, 2007, and July 11, 2008, that were attended by over 1,000 New Orleanians. These included community meetings to discuss cultural and historic aspects of sites and facility planning. Additional community meetings were held to gather public responses to specific scenarios developed for each school site; and

WHEREAS, FEMA posted notice on the Louisiana Department of Cultural Recreation & Tourism (CRT) Website, the NTHP Website, the PRC Website, City Website, and RSD/OPSB’s “nolapublicschools” Website on December 1, 2008, to provide information

to the public on the development and implementation of this 2PA and provide 15-days for the public to comment on the CRT Website; and

WHEREAS, FEMA provided information on December 1, 2008, to the NTHP's, PRC's and the City of New Orleans' websites regarding the opportunity for the public to comment on the Department of Culture, Recreation, and Tourism website or mail comments to FEMA;

NOW THEREFORE, FEMA, OCD, SHPO, ACHP, RSD and OPSB agree that the Master Plan Undertaking will be implemented in accordance with the following Stipulations to take into account the effects of the Master Plan Undertaking on historic properties and to satisfy FEMA's and OCD's Section 106 responsibilities for the Master Plan Undertaking.

STIPULATIONS

FEMA and OCD, in coordination with SHPO, ACHP, RSD, and OPSB shall ensure that the following measures are carried out:

I. APPLICABILITY

- A. Applies to the Master Plan Undertaking in Orleans Parish and undertakings at school facilities in furtherance of the Master Plan that are partially or fully funded by FEMA, OCD, or other Federal agencies that have executed the Addendum set out in Appendix A.
- B. The Master Plan provides for Phase I to be funded by monies that will be obligated by FEMA, and the 2PA applies to all FEMA undertakings that are included in Phase I. The portions of the adopted Master Plan describing Phase I are included in Appendix G. FEMA will notify the Signatories, Invited Signatories, and Concurring Parties pursuant to Stipulation III.B.2 if FEMA determines that it will have Section 106 responsibilities in future phases of the Master Plan that it will fulfill under the terms of this 2PA.
- C. The Master Plan provides for undertakings that are included in Phase I to be funded by monies that will be obligated by OCD, and the 2PA applies to all OCD undertakings that are included in Phase I. OCD will notify the Signatories, Invited Signatories, and Concurring Parties pursuant to Stipulation III.C.2 if OCD determines that it will have Section 106 responsibilities in future phases of the Master Plan that it will fulfill under the terms of this 2PA.
- D. The 2PA will apply to other Federal agencies that determine to provide funding or other assistance during Phase I to RSD and/or OPSB to implement the Master Plan Undertaking and that execute the Addendum attached as Appendix A. The Federal agency will notify the Signatories, Invited Signatories, and Concurring Parties

pursuant to Stipulation III.D.(4) if the Federal agency determines that it will have Section 106 responsibilities in future phases of the Master Plan that it will fulfill under the terms of this 2PA.

- E. Prior to the implementation of the Master Plan and during the development of this 2PA, FEMA performed Section 106 reviews for undertakings at certain school facilities owned and operated by OPSB or under the legal jurisdiction of the RSD pursuant to Act 35, in response to damages from Hurricanes Katrina and Rita and FEMA has fulfilled its Section 106 responsibilities for these undertakings under the provisions of the *2004 Statewide PA*. Certain of these undertakings are included in the comprehensive Master Plan. FEMA has no additional Section 106 responsibilities for these previously reviewed undertakings unless RSD and/or OPSB propose changes to the scope of work that FEMA determines may cause additional effects to historic properties.

II. GENERAL

- A. Time designations are in calendar days. The failure of any Signatory, Invited Signatory, or Concurring Party to comment during the time frames set in this 2PA will be treated by the lead Federal agency as concurrence, and the lead Federal agency may proceed to the next step in the review without taking additional steps to seek comments from that party.
- B. The Signatories, Invited Signatories, and Concurring Parties will send and accept official notices, comments, requests for further information and documentation, and other communications required by this 2PA by e-mail. If the size of an e-mail message is unusually large or an e-mail is returned to a Sender because its size prevents delivery, the Sender will contact the recipient(s) and determine alternative methods to deliver the message or its attachments.
- C. Time frames for review will begin on the day a message and all required attachments are sent by e-mail unless the Sender has a basis to know that the message was not received. These bases include, but are not limited to, returned messages stating that delivery has failed or knowledge that the recipient's electronic communications have been disrupted. The time frame for review does not begin until the next day if a message is sent after 4:00 pm Central time. The time frame for any request for review that is not sent by e-mail begins on the day that it is received by the reviewing Signatory, Invited Signatory, or Concurring Party. Time sensitive information that is not sent by e-mail should be sent by overnight mail, or courier, or be hand-delivered and the time frame for its review will be measured by the date the delivery is signed for by the agency or organization representing the Signatory, Invited Signatory, or Concurring Party.
- D. Responses are timely if they are sent by e-mail at any time during the days included within the time frame allowed for review. Responses sent by mail will be accepted as

timely if they are postmarked by the last day allowed for the review. Time frames for review will end on the first business day following the end of the review period.

- E. It is the responsibility of each Signatory, Invited Signatory, and Concurring Party to immediately inform FEMA of any changes in the name, address, e-mail address or phone number of the point-of-contact for the Signatory, Invited Signatory, or Concurring Party. FEMA will forward this information to the Signatories, Invited Signatories, and Concurring Parties by e-mail and will include an updated contact list in the Annual Report described in Stipulation XII. The failure by any party to this 2PA to notify FEMA of changes to their point-of-contact's information shall not be grounds for asserting that notice of a proposed action was not received.
- F. The Signatories, Invited Signatories, and Concurring Parties acknowledge the importance of all comments, and the lead Federal agency will make reasonable accommodation to extend time frames for review if requested in advance. The lead Federal agency will notify RSD and/or OPSB if it determines to extend the time frame for a review required by this 2PA.

III. ROLES AND RESPONSIBILITIES

- A. Responsibilities of all Federal agencies participating in this Agreement:
 - (1) FEMA, OCD, and other Federal agencies with Section 106 responsibilities, if any, will use Federal, State, or contractor staffs who meet the Secretary of the Interior's Professional Qualification Standards, 48 FR 44716, Sept. 1983, (*SOI Professional Standards*) as determined by that Federal agency.
 - (2) FEMA, OCD, and other Federal agencies, if any, with Section 106 responsibilities, recognize the expertise of Indian tribes to identify and evaluate historic properties of religious and cultural significance.
 - (3) FEMA, OCD, and other Federal agencies will consult with Tribes regarding the effects of an undertaking on historic properties, including properties of religious and cultural significance to Tribes. OCD and other Federal agencies will consult with Tribes that have not executed this 2PA following the process set out in 36 CFR Part 800.
 - (4) FEMA, OCD, and other Federal agencies, if any, with Section 106 responsibilities shall take steps to protect confidential information in accordance with Section 304 of NHPA and 36 CFR §800.11(c).
 - (5) FEMA, OCD, and other Federal agencies, if any, with Section 106 responsibilities for an undertaking will coordinate with RSD and/or OPSB, SHPO, and other Concurring Parties to schedule site visits and other consultation meetings to minimize or avoid disruptions to occupied school

facilities and to limit site visits to secured school facilities, particularly visits to the interior of secured school facilities. FEMA, OCD, and other Federal agencies will schedule site visits to school facilities at a time when all key participants can be represented to avoid duplicating visits. FEMA, OCD, and other Federal agencies will cooperate with RSD and OPSB to ensure that records, including photographs, are made of site visits and any decisions or recommendations resulting from the visit are documented in writing.

B. FEMA Responsibilities:

- (1) FEMA is the lead Federal agency for all Section 106 consultations when FEMA monies are involved, unless FEMA and other participating Federal agency/ies determine that it is appropriate to designate another Federal agency to take the lead role.
- (2) FEMA will notify the Signatories, Invited Signatories, and Concurring Parties if FEMA determines that it has Section 106 responsibilities for undertakings that will occur in future Phases implementing the Master Plan. FEMA's notice will describe FEMA's anticipated involvement in a later Phase and will include FEMA's determination if this 2PA will meet FEMA's Section 106 responsibilities for this future Phase.
- (3) FEMA, in cooperation with OCD, will invite all organizations and individuals that notified FEMA of their interest in the Master Plan Undertaking and participated as Consulting Parties to execute this 2PA as a Concurring Party.
- (4) FEMA will consult with Tribes that have not executed this 2PA by following the steps included in the Section 106 Statewide Programmatic Agreement in effect at the initiation of consultation for an undertaking. If a Section 106 Statewide Programmatic Agreement does not include Tribes as Consulting Parties and a Tribe has not notified FEMA of its decision to forgo participate in certain undertakings or certain types of undertakings, FEMA will consult with the Tribe following the process set out in 36 CFR Part 800.
- (5) FEMA will provide OCD and other Federal agencies that elect to participate in this 2PA with information on its steps to identify historic properties, including the Historic Context, described in Stipulation VII, and to determine if the identified properties that may be affected by the implementation of the Master Plan are eligible for inclusion in the National Register of Historic Places (NRHP).
- (6) FEMA will prepare an Annual Report, as described in Stipulation XII, to report on all undertakings where FEMA has assumed lead Federal agency responsibilities.

C. OCD Responsibilities:

- (1) OCD will notify FEMA when it determines that it will provide monies or other Federal assistance to a school facility included in the Master Plan and will consult with FEMA to identify the lead Federal agency for all undertakings that will receive monies or other Federal assistance from OCD and FEMA.
- (2) OCD will determine if it will fund undertakings in future Phases implementing the Master Plan and will notify the Signatories, Invited Signatories, and Concurring Parties if it has Section 106 responsibilities for these undertakings. OCD's notice will describe OCD's anticipated involvement in a later Phase and will include OCD's determination if this 2PA will meet OCD's Section 106 responsibilities for this future Phase.
- (3) When OCD is the lead Federal agency it will provide FEMA with information on any steps it takes to determine if properties that may be affected by the implementation of the Master Plan are eligible for inclusion in the NRHP. OCD will provide FEMA with copies of all NRHP eligibility determinations, including any supporting background documentation, that are completed in consultation with SHPO and, as appropriate, with Tribes for properties. OCD will consult with FEMA, prior to consulting with SHPO, if it does not agree with FEMA's previously reviewed determination(s) of NRHP eligibility.
- (4) OCD will prepare an Annual Report as described in Stipulation XII to report on all undertakings where OCD has assumed lead Federal agency responsibilities

D. Responsibilities of other Federal Agencies that may provide Federal funds, permits, or assistance to RSD or OPSB to implement the Master Plan:

- (1) The Federal agency will notify FEMA and OCD when it determines that it will provide Federal funding, Federal permits, or other Federal assistance constituting an undertaking, as defined in 36 CFR §800.16(y), subject to Section 106 review to a facility included in the Master Plan and will state how it proposes to meet its Section 106 responsibilities.
- (2) The Federal agency may evidence participation in 2PA by executing the Addendum that accepts the terms of the 2PA included in Appendix A.
- (3) The Federal agency will consult with FEMA and OCD to determine which Federal agency will be the lead Federal agency for purposes of Section 106 for undertakings that will receive Federal funds, Federal permits, or other Federal assistance from the participating Federal agency.
- (4) A Federal agency that is participating in this 2PA will notify the Signatories, Invited Signatories, and Concurring Parties if it determines that it has Section

106 responsibilities for undertakings that will occur in future Phases implementing the Master Plan. The Federal agency's notice will describe its anticipated involvement in a later Phase and will include a statement setting out its determination if this 2PA will meet its Section 106 responsibilities for this future Phase.

- (5) The Federal agency will review FEMA's NRHP eligibility determinations and the Historic Context described in Stipulation VII.A and determine if additional steps are necessary to identify and evaluate properties that may be directly affected by its undertakings. The lead Federal agency will provide FEMA and OCD with copies of all NRHP eligibility determinations, including any supporting background documentation, that are completed in consultation with SHPO and, as appropriate, with Tribes for properties that may be affected by the implementation of the Master Plan Undertaking. The Federal agency will consult with FEMA prior to consulting with SHPO if it does not agree with FEMA's previously reviewed determination(s) of NRHP eligibility.
- (6) The Federal agency will prepare an Annual Report as described in Stipulation XII to report on all undertakings where the Federal agency has assumed lead Federal agency responsibilities.
- (7) A Federal agency that is not a signatory to this 2PA may elect to fulfill its Section 106 responsibilities for undertakings to implement the Master Plan by following the process set out in the ACHP's regulations, 36 CFR Part 800.

E. RSD Responsibilities:

- (1) RSD will review the Master Plan annually and will revise it to reflect community needs, if necessary. RSD will notify FEMA of opportunities for the public to review and comment on revisions to the Master Plan, and FEMA will forward this information to the Signatories, Invited Signatories, and Concurring Parties to this 2PA.
- (2) RSD will forward a short written description of any changes to the approved Master Plan to any school facilities under its authority and jurisdiction to FEMA, OCD, and other Federal agencies that have executed this 2PA within one month following its annual budgeting adoption and authorization process.
- (3) RSD will inform FEMA, OPSB, and OCD if amendments to the 2PA under Stipulation XV may be needed to address FEMA's and/or OCD's Section 106 responsibilities during future Phases implementing the Master Plan.
- (4) RSD shall provide all other Federal agencies that may provide Federal funds, permits, or assistance to RSD with a copy of this 2PA and inform them that they may use this 2PA to fulfill their Section 106 responsibilities.

F. OPSB Responsibilities:

- (1) OPSB will review the Master Plan annually and will revise it to reflect community needs, if necessary. OPSB will notify FEMA of opportunities for the public to review and comment on revisions to the Master Plan, and FEMA will forward this information to the Signatories, Invited Signatories, and Concurring Parties to this 2PA.
- (2) OPSB will forward a short written description of any changes to the approved Master Plan to any school facilities under its respective authority and jurisdiction to FEMA, OCD, and other Federal agencies that have executed this 2PA within one month following its annual budgeting adoption and authorization process.
- (3) OPSB will inform FEMA, OCD, and RSD if amendments to the 2PA under Stipulation XV may be needed to address FEMA's and/or OCD's Section 106 responsibilities during future Phases implementing the Master Plan.
- (4) OPSB shall provide all other Federal agencies that may provide Federal funds, permits, or assistance to OPSB with a copy of this 2PA and inform them that they may use this 2PA to fulfill their Section 106 responsibilities.

G. SHPO Responsibilities:

- (1) SHPO will provide background data to FEMA and OCD regarding listed and eligible above and below ground historic properties that may be affected by undertakings and the Master Plan Undertaking.
- (2) SHPO will review and comment on NRHP eligibility and effect determinations made by FEMA, OCD, and other participating Federal agencies in the timelines provided for in this agreement.
- (3) SHPO may assist FEMA with the development of the Historic Context for the public schools that are subject to the Master Plan.
- (4) SHPO will assist the lead Federal agency with the identification of historically and architecturally significant features of school facilities as described in Stipulation VII.G.
- (5) SHPO will participate in the reviews of undertakings through site visits, reviews of project documentation, and consultation meetings as requested by the lead Federal agency.

H. GOHSEP Responsibilities:

- (1) GOHSEP shall assist FEMA to implement the terms of this 2PA.

I. Tribal Historic Preservation Officer (THPO)/Indian Tribe Responsibilities:

- (1) THPO/Tribe will notify FEMA of its interest in participating in the implementation of this 2PA and FEMA will invite each Tribe that notifies FEMA of its interest in the Master Plan Undertaking to execute this 2PA as a Concurring Party.
- (2) A Tribe may determine that it has no interest in consulting on an undertaking or certain types of undertakings included in this 2PA and may notify the lead Federal agency of its determination. This will fulfill the lead Federal agency's responsibilities to consult with the Tribe on that undertaking or type of undertaking except for inadvertent discoveries of properties that may have religious and cultural significance to the Tribe or that may include a pre-contact or proto-historic component.

J. Consulting and Concurring Party Responsibilities:

- (1) A Consulting Party will be recognized by FEMA, OCD, and other participating Federal agencies as a Concurring Party starting on the date the Consulting Party signs this 2PA as a Concurring Party and provides FEMA with a record of this signature.
- (2) Consulting Parties that do not execute the 2PA as a Signatory, Invited Signatory, or Concurring Party will not have a defined role in the implementation of the 2PA. Such Consulting Parties will retain all the rights and responsibilities that members of the public have in the Section 106 review process and may work with any Signatory, Invited Signatory, or Concurring Party to express views or comments on the implementation of the 2PA.
- (3) If a Concurring Party does not provide comments during the time frames provided for review, the lead Federal agency may proceed to the next step in the review without taking additional steps to seek comments from such party. Any determinations made by a Federal agency prior to the signature of a Consulting Party as a Concurring Party that are in substantial compliance with the terms of this 2PA will not be reconsidered because that Concurring Party did not have the opportunity to review and comment on the determination.

IV. PUBLIC PARTICIPATION

FEMA and OCD will consult with the Signatories, Invited Signatories, and Concurring Parties to identify if public outreach may be appropriate during the periodic public *Secondary Programmatic Agreement* 11 of 75 *School Facilities Master Plan, Orleans Parish*

reassessments of the Master Plan by RSD and OPSB and during the decision by RSD and OPSB to initiate new Phases of the Master Plan.

V. INITIATION OF THE SECTION 106 REVIEW PROCESS

- A. Following the approval of a Phase by OPSB and BESE, RSD and/or OPSB will forward a request to fund or otherwise assist with the implementation of an undertaking at a school facility through the process established by the Federal agency. RSD and/or OPSB will also provide a short description of the work proposed at the school facility including a description of any proposed ground disturbing activities.
- B. RSD and/or OPSB will provide their description of work to FEMA through the Project Worksheet (PW) process or through requests for Alternate, Improved, Consolidated, or Change of Location Projects. RSD and/or OPSB may also request FEMA reviews through the “Advance Environmental and Historic Preservation” process (form for Advance EHP request included in Appendix F).
- C. The lead Federal agency will determine the scope of an undertaking and may treat related actions proposed at a campus or a school facility as one undertaking to assist with the lead Federal agency’s identification efforts and its assessment of effects.

VI. PROGRAMMATIC ALLOWANCES

- A. The lead Federal agency shall determine if all the actions within the scope of an undertaking are included in the Programmatic Allowances in Appendix C. If so, the lead Federal agency shall document this determination in the project file and may authorize funding for the undertaking. This will complete the Section 106 review for the undertaking unless the review for unexpected discoveries and events under Stipulation X is required.
- B. If the undertaking includes any activities that are not listed as Programmatic Allowances in Appendix C, the lead Federal agency will conduct additional Section 106 review by following the terms of this 2PA only for those aspects of the undertaking not listed in the Programmatic Allowances.

VII. NATIONAL REGISTER IDENTIFICATION AND EVALUATION

- A. Historic Context: FEMA will develop a Historic Context statement for New Orleans public schools constructed before 1964, in consultation with SHPO, to guide its evaluation of school facilities directly affected by the implementation of Phase I of the Master Plan. FEMA will also review existing archaeological site information; the Revised Archeological Probability Zone Map for Orleans Parish of September 24, 2008, included as Appendix B, or any update of this map; and historic maps for all

school facilities as part of the Historic Context.

(1) Purpose of Historic Context

- a. Provide information to supplement FEMA's efforts to identify and evaluate the 122 public school campuses currently owned by the OPSB that may be included in the Master Plan Undertaking to determine if a school facility or a campus is listed in or eligible for the NRHP. A campus may contain one or more school facilities, and these facilities may be buildings, structures, or other improvements.
- b. Provide a broad overview of the development of public schools in New Orleans and information on public school facilities in Orleans Parish constructed prior to 1964. This will include a limited analysis and will describe the eras of development, including a chronology.
- c. Develop basic information on potential archaeological sites that may be located on school facility property and, based on this basic information, identify potential additional research that may be required to evaluate the property or determine project effects.
- d. Develop information that will provide a basis for FEMA to assess if a campus or school facilities located on a campus are eligible for the NRHP under Criteria A, B, C, or D as defined by 36 CFR §60.4 as undertakings that may affect a campus or school facility proposed by RSD or OPSB.

(2) Review of Historic Context

- a. FEMA has provided the Draft Outline of the Historic Context and bibliography to the Consulting Parties for review and comment.
- b. FEMA will continue to informally consult from time-to-time with SHPO, RSD, and OPSB during the development of the Draft Historic Context.
- c. FEMA will provide the Draft Historic Context on or before July 31, 2009 to all Signatories, Invited Signatories, and Concurring Parties for 30-day review and comment.

(3) Finalization of Historic Context

- a. FEMA will consider all comments provided within the 30-day review period of the Draft Historic Context in finalizing the Historic Context.
- b. FEMA will finalize the Historic Context within three months following the 30-day comment period and will notify the Signatories, Invited

Signatories, and Concurring Parties when the Historic Context is finalized and will provide electronic copies of the Historic Context to SHPO, RSD, OPSB, and to any Signatory, Invited Signatory, and Concurring Party on request.

B. Area of Potential Effects: The lead Federal agency will define the Area of Potential Effects (APE) for each undertaking as follows:

- (1) The lead Federal agency will determine and document that the APE is the school facility when the undertaking is limited to in-kind repair as defined at 36 CFR §68.3(b)(6), or rehabilitation, as defined at 36 CFR §68.2(b) of an individual facility's interior or exterior as defined at 44 CFR §206.201(c). The lead Federal agency is not required to provide SHPO with the opportunity to review this APE.
- (2) The lead Federal agency will determine and document an APE for standing structures if the Scope of Work for repairs or rehabilitation includes the construction of new buildings or additions or other types of substantial rehabilitation to existing facilities. The lead Federal agency will provide the SHPO with an opportunity to comment on such an APE when it requests SHPO's review of its effect determination pursuant to Stipulations VII.E, VIII.C, or IX.
- (3) The lead Federal agency may determine and document the APE for archaeological resources to be the area or areas of ground disturbance. The APE will include areas that are not hardscaped that may be used for staging and areas that have the potential to be disturbed through the use of heavy equipment. The lead Federal agency may expand the APE for an undertaking to include the entire campus if multiple ground disturbing activities are anticipated. For other activities, the lead Federal agency will provide the SHPO with an opportunity to comment on such an APE when it requests SHPO's review of its identification and effect determinations pursuant to Stipulations VII.E, VIII.C, or IX.
- (4) For all other undertakings the lead Federal agency may request SHPO's assistance in determining the APE at the initiation of consultation and will provide the SHPO with an opportunity to comment on such an APE when it requests SHPO's review of its identification and effect determinations pursuant to Stipulations VII.E, VIII.C, or IX.

C. Identification: The lead Federal agency will follow the steps outlined below to identify historic properties that may be affected by undertakings included in the Phase:

- (1) The lead Federal agency will review the undertaking and the APE described in Stipulation V.B to determine if any of the school facilities have previously been

evaluated for NRHP eligibility by FEMA, in consultation with SHPO, or if the campus or a school facility located on the campus has already been listed in the NRHP individually or as a contributing property within an NRHP historic district. SHPO may provide the lead Federal agency with information about previous determinations of eligibility completed by or on behalf of another Federal agency as part of this consultation, and the lead Federal agency will consider this information in evaluating the NRHP eligibility of the property. This information must be provided by SHPO to the lead Federal agency prior to the conclusion of the timeframe for the SHPO's review of the lead Federal agency's determination of a facility's or campus' National Register eligibility or ineligibility.

- (2) The lead Federal agency will determine if implementation of an undertaking has the potential to affect NRHP eligible or listed historic districts. The lead Federal agency will rely on existing information describing the district boundaries and contributors and non-contributors to the historic district.
- (3) The lead Federal agency will determine if the school facility is located within or directly adjacent to a National Historic Landmark (NHL) Historic District or is adjacent to a property that is individually listed as an NHL and will ensure that it complies with the requirements of 36 CFR §800.10 for all undertakings that may affect the NHL.
- (4) If the proposed undertaking will require ground disturbance and the undertaking does not meet the Programmatic Allowances in Appendix C, the lead Federal agency will review existing archaeological site information, including the State of Louisiana Site Records; existing Historic Context; the Revised Archeological Probability Zone Map for Orleans Parish of September 24, 2008, included as Appendix B, or any update of this map; historic maps; and existing geomorphological information.
 - a. The lead Federal agency will not take further steps to assess the National Register eligibility of a property if the State of Louisiana Site Record for the property states that it is ineligible for the NRHP.
 - b. If the lead Federal agency identifies a previously recorded archaeological site that is categorized as "eligible", "unknown", "undetermined", or "potentially eligible" on the State of Louisiana Site Record Form within the APE, the lead Federal agency's archaeologist will conduct a visual inspection and a subsurface examination, described in Stipulation VII.C. (4)d below, to confirm the presence or absence of the archaeological site. If the visual inspection and subsurface examination produce no evidence of the recorded archaeological site and the Federal agency's archaeologist determines that archaeological resources will not be affected by the undertaking at the school facility, the lead Federal agency's archaeologist

will conduct thorough background research to determine if the archaeological site is mis-mapped or may conclude that the site has been destroyed.

- c. If an undertaking may require ground disturbance and the potential for archaeological resources exists based on the background research, the lead Federal agency will require that an archaeologist conduct a site visit. The lead Federal agency may determine that the area that will be affected by the proposed ground disturbance has already been examined by an archaeologist and that no additional information will result from this effort. This determination will be based on the lead Federal agency's written records documenting the earlier site visit.
- d. As part of the site visit and upon visual inspection, the lead Federal agency's archaeologist will conduct a subsurface examination to establish the presence or absence of an archaeological site. This subsurface examination may involve one or more soil examinations based on the nature of the school facility property, but is not a Phase I archaeological survey. Archaeological collections will be limited to the minimum number of artifacts necessary to establish the presence of a site. If the area is hardscaped, the lead Federal agency will consult with RSD and/or OPSB and SHPO to determine if a subsurface examination is feasible at this point in the review process and if not, determine when the examination will occur as part of this review.
- e. If the lead Federal agency's archaeologist determines that archaeological resources are present, the lead Federal agency will complete the State of Louisiana Site Record form.

D. Evaluation: FEMA will evaluate each previously unevaluated campus or school facility located on a campus, as appropriate, that may be directly affected through the use of FEMA monies in consultation with SHPO and, as required, Tribes to determine if standing structures or archaeological resources located on the facility property are eligible for inclusion in the NRHP. This evaluation of standing structures and archaeological resources will occur prior to the implementation of an undertaking. FEMA may also elect to evaluate an entire campus or a group of facilities or campuses that are included in a Phase of the Master Plan as part of one review. Other Federal agencies that assume the role of lead Federal agency for an undertaking covered by this 2PA will follow the process outlined below for any school facility that has not been evaluated by FEMA.

- (1) Previous NRHP Eligibility Determinations: The lead Federal agency will not reassess the eligibility of facilities and archaeological sites that are listed in the NRHP or that FEMA has previously determined to be eligible or ineligible for listing in the NRHP following the process set out in the *2004 Statewide PA*

unless the lead Federal agency determines that subsequent changes to the property or substantial new information warrant its re-evaluation and the review of a proposed undertaking affecting the property has not been completed.

- (2) **Standing Structures:** The lead Federal agency will evaluate campuses or school facilities constructed before 1964 to determine if they are eligible for the NRHP under Criteria A, B, or C as described at 36 CFR §60.4. This assessment will be based on information included within the Historic Context. As part of an evaluation, the lead Federal agency will determine if an individual school facility or a campus is contributing or non-contributing to a NRHP eligible property including any existing NRHP Historic District.
- (3) **Archaeological Resources:** The lead Federal agency will evaluate any archaeological site that is likely to be affected as part of an undertaking and whose NRHP eligibility can be categorized as “unknown,” “underdetermined,” or “potentially eligible” as these terms are used on the State of Louisiana Site Record Form in order to determine if the site is eligible for the NRHP under Criteria A and/or D as described at 36 CFR §60.4 by applying standard archaeological methodologies, as defined in Louisiana Division of Archaeology Guidelines for Field Methods.

E. No Historic Properties Affected

- (1) **Standing Structures Constructed after 1963:** SHPO does not object to FEMA’s determination that all school facilities constructed after 1963 are not eligible for inclusion in the NRHP. FEMA or any other lead Federal agency will reassess this determination if it will provide assistance to undertakings beyond Phase 1.
 - a. The lead Federal agency is not required by this 2PA to request the SHPO’s review of NRHP eligibility determinations or effect determinations for undertakings to alter or demolish school facilities or campuses constructed after 1963.
 - b. The lead Federal agency will consult further with SHPO and others, as appropriate, as described in Stipulations VIII.B, VIII.C or IX, about the effects of a new school facility that will be constructed on the site of a school facility that was constructed after 1963 but is within the boundaries of a National Register Historic District or if a property that is eligible for or listed in the National Register is within the APE of the new school facility.
- (2) **Standing Structures Constructed Before 1964:** The lead Federal agency may determine that a proposed undertaking does not affect historic properties when:

- a. The lead Federal agency determines that no properties within the APE are

eligible for inclusion in the NRHP; or

- b. The lead Federal agency determines that an undertaking proposes work that is not included in the Allowances set out in Appendix C but that the proposed undertaking will not alter characteristics of a standing structure within the APE that qualifies it for inclusion in or eligibility for the NRHP.

(3) Archaeological Resources: The lead Federal agency may determine that a proposed undertaking will not affect historic properties when:

- a. The lead Federal agency identifies an archaeological site or sites that may be affected by the undertaking but determines that the site or sites do not possess research potential under NRHP criteria and the Louisiana Comprehensive Archaeological Plan, or
- b. The lead Federal agency determines that the proposed undertaking will not alter characteristics of an archaeological site that qualifies it for inclusion in or eligibility for the NRHP.

(4) Review of No Historic Properties Affected Determination

- a. Standing Structures Constructed Before 1964: If the lead Federal agency makes a finding pursuant to Stipulation VII.E.(2)(a) or (b) it will submit a “No Historic Properties Affected” finding to SHPO and RSD and/or OPSB. Unless SHPO objects within 15-days, the Section 106 process for standing structures is complete unless the review for unexpected discoveries and events under Stipulation X is required.

b. Archaeological Resources:

- i. If the lead Federal agency makes a finding that no archaeological resources are present within the APE or that all identified archaeological site or sites within the APE do not possess research potential under NRHP criteria and the Louisiana Comprehensive Archaeological Plan or that the undertaking will not alter characteristics that qualify the archaeological site for inclusion in the NRHP it will submit a “No Historic Properties Affected” finding to SHPO; Tribes; and RSD and/or OPSB for a 15-day review. The lead Federal agency will update the State of Louisiana Site Record Form for all archaeological sites that it determines are mis-mapped or destroyed. If SHPO or a Tribe does not object within 15-days to the lead Federal agency’s “No Historic Properties Affected” finding, the Section 106 process for archaeological resources is complete unless a review for

unexpected discoveries and events under Stipulation X is required;
or

- ii. If the lead Federal agency prepares an archaeological Phase I and/or Phase II Survey Report as part of its identification and evaluation efforts, the report will be provided to SHPO and Tribes for review. This Survey Report will follow the Louisiana Division of Archaeology Guidelines for Field Methods Survey. If SHPO or a Tribe does not object within 30-days to the lead Federal agency's Survey Report including the "No Historic Properties Affected" finding, the Section 106 process for archaeological resources is complete unless a review for unexpected discoveries and events under Stipulation X is required.

F. Review of NRHP Eligibility Determinations: The lead Federal agency may include documentation regarding its identification and evaluation of standing structures and archaeological resources and provide SHPO and, as required, Tribes with the opportunity to review and comment on its NRHP determinations with the review of the lead Federal agency's effect determinations pursuant to Stipulations VII.E, VIII.C, or IX. Such a review will be completed within the time frames outlined in Stipulations VII.E, VIII.C, and IX. The lead Federal agency may elect to request that the SHPO and, as requested, Tribes review the lead Federal agency's NRHP eligibility determination without a request to review an effect determination as follows:

- (1) Standing Structures: The lead Federal agency will forward its determination regarding the NRHP eligibility of campuses or school facilities that it has evaluated to SHPO for a 15-day review. It will also forward any site specific background information that is not included in the Historic Context. If SHPO does not object to the lead Federal agency's determination within 15-days, the lead Federal agency may proceed to the next step in the review.
- (2) Archaeological Resources: The lead Federal agency will identify those sites that may be affected by the undertaking that possess research potential under NRHP criteria and the Louisiana Comprehensive Archaeological Plan. The lead Federal agency will analyze field data within the appropriate context to identify archaeological properties that may warrant mitigation if they will be adversely affected. The lead Federal agency will submit its determination of NRHP eligibility and the supporting archaeological report to SHPO and Tribes for a 30-day review. If neither SHPO nor Tribes objects within the 30-days, the lead Federal agency may proceed to the next step in the review.

G. Identification of Character-defining Exterior and Interior Features of School Facilities: The lead Federal agency may elect to consult with SHPO to identify character-defining exterior and interior features to streamline the review of

undertakings to renovate National Register eligible or listed standing structures that are school facilities. This identification step is optional and should only be completed by the lead Federal agency if it anticipates that its funding or assistance will be used by RSD and/or OPSB to renovate a school facility and the lead Federal agency plans to use the process outlined in Stipulation VIII.A.(1) to streamline the review of the proposed undertaking.

- (1) FEMA will consult with SHPO to develop a template to assist the lead Federal agency in the identification of character-defining exterior and interior features. FEMA will provide RSD and OPSB with the opportunity to participate in this consultation and to review and comment on the format of the template. This template is primarily intended to assist the lead Federal agency and RSD and/or OPSB to avoid adverse effects to these features during the design of an undertaking to renovate a school facility and to provide the lead Federal agencies with information that may streamline its review of these undertakings. All lead Federal agencies that elect to use this streamlined review process will use the template developed by FEMA and SHPO to ensure consistency. FEMA may include the completed template with the description of the school facility in the Historic Context.
- (2) If the lead Federal agency, in consultation with SHPO, determines that one or more standing structures at a campus are eligible for the NRHP and RSD and/or OPSB proposes to renovate the facility or a part of the facility, the lead Federal agency may identify character-defining exterior and interior features of the facilities proposed for renovation using the template developed by FEMA in consultation with SHPO.
- (3) The lead Federal agency may consult with SHPO to identify character-defining exterior and interior features as part of its identification and evaluation of a school facility prior to finalizing a determination of NRHP eligibility.
- (4) The lead Federal agency, in cooperation with RSD and/or OPSB, will provide SHPO with the opportunity to view the school facility and to consult with the lead Federal agency to identify character-defining features prior to SHPO's review of the completed template.
- (5) The lead Federal agency will provide the completed template for each eligible facility under review to SHPO for a 15-day review. The lead Federal agency will provide a copy of the complete template to RSD and OPSB following the SHPO's review to assist RSD and/or OPSB with the development of plans to renovate the facility.
- (6) If the lead Federal agency and SHPO do not concur on the identification of character-defining elements, the lead Federal will not use the treatment strategy described in Stipulation VIII.A.(1) for the elements in dispute.

VIII. TREATMENT STRATEGIES TO AVOID OR MINIMIZE ADVERSE EFFECTS

- A. Individual Projects that may be reviewed by lead Federal agency staff: Federal agency staff who meet the *SOI Professional Standards* for Architectural History or Historic Architecture will review proposed work for standing structures and Federal agency staff who meet the *SOI Professional Standards* for Archaeology may complete the lead Federal agency's review without further consultation with SHPO or other Concurring Parties if:
- (1) Work proposed for character-defining interior spaces or features identified on the template described in Stipulation VII.G. will comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties, 36 CFR Part 68, (*SOI Standards*). Work proposed in other interior spaces is not required to comply with the *SOI Standards* if the lead Federal agency's qualified staff determines it will not adversely affect identified character-defining features. This measure only applies if the lead Federal agency has completed the consultation with SHPO to identify character-defining features described in Stipulation VII.G; and/or
 - (2) The proposed work conforms to the following Treatment Strategies to avoid or minimize adverse effects:
 - a. Existing windows are replaced with windows that have been previously reviewed by SHPO and determined to have a similar design and profile. The lead Federal agency and SHPO will determine if the existing windows are character-defining features as part of the consultation to complete the template described in Stipulation VII.G. and will determine and document as part of the consultation to finalize the template if previously identified replacement windows can be used. The color of the frame will match the existing or historic color; and/or
 - b. The work complies with the National Park Service Preservation Brief #32 ("Making Historic Properties Accessible" found at <http://www.nps.gov/history/hps/tps/briefs/brief32.htm>). Work that does not conform to the *SOI Standards* may be constructed on secondary façades identified in the template. Historic staircases on the main façade will not be altered if there are feasible alternatives to provide access, and alterations to these historic staircases that do not comply with the *SOI Standards* must be reviewed by SHPO; and/or
 - c. Solar panels on a roof are installed in such a way that they will not be visible when viewed from the street in front of the primary historic façade and are not installed on clay tile roofs; and/or

- d. The area or areas containing identified archaeological resources will be fenced off during construction activities or other measures to avoid disturbance or use of the surface during construction will be implemented; and/or
- e. The lead Federal agency determines that effects to archaeological resources may be minimized through the implementation of the Lower-Impact Demolition Stipulations (LIDS) included in Appendix D.

B. Strategy to Avoid or Minimize Adverse Effects from the Construction of New School Facilities or Additions to Existing School Facilities that may Affect National Register Historic Districts or Individually Eligible or Listed National Register Properties:

- (1) The lead Federal agency will informally consult with SHPO and RSD and/or OPSB early in the planning process for new construction that may affect a National Register Historic District or an individually eligible or listed National Register property or properties to identify measures that can be incorporated into the exterior design and/or the site plan of an addition to an existing facility, or a new building or buildings to avoid or minimize adverse effects to historic properties, including archaeological properties. The lead Federal agency will provide RSD and/or OPSB with a written description of these recommendations.
- (2) RSD and/or OPSB will address the recommendations identified by the lead Federal agency in consultation with SHPO during the development of the schematic designs for the new addition, building, or buildings. RSD and/or OPSB will provide the lead Federal agency with 2 copies of the schematic designs for the site plan and the exterior elevations, and the lead Federal agency will assess the potential effects of the schematic designs on historic properties and determine if review of the undertaking will be completed following the process outlined in Stipulation VIII.C or Stipulation IX.

C. Review Process for Individual Projects that do Not Adversely Affect Historic Properties: If the lead Federal agency's qualified staff determines that the proposed work does not conform to the work described in Stipulation VI, Programmatic Allowances, or that the undertaking is the design of a new school facility or addition to an existing facility that may affect a property that is eligible for or listed in the National Register or is within the boundaries of a National Register Historic District, but that the work does not meet the adverse effect criteria or that it meets the *SOI Standards*, the lead Federal agency will propose a finding of "No Adverse Effect" pursuant to 36 CFR §800.5(b) and notify SHPO of this finding and provide supporting documentation pursuant to 36 CFR §800.5(c). If proposed work will require ground disturbance that does not conform to an Allowance, the lead Federal agency will also forward its "No Adverse Effect" finding and supporting

documentation to Tribes. Unless the SHPO or a Tribe objects within 15-days after receipt of the notification, the Section 106 review is complete.

IX. TREATMENT OF ADVERSE EFFECTS

A. Streamlined Adverse Effect Consultations: If the lead Federal agency determines that an undertaking may adversely affect a historic property it may propose to resolve adverse effects through the following streamlined adverse effect review processes provided that the lead Federal agency determines that the undertaking will not adversely affect a National Historic Landmark.

- (1) If a project to rehabilitate a historic property or design a new school facility or addition to an existing facility does not fully conform to the Allowances, or the *SOI Standards*, or does not meet the Treatment Strategies listed in Stipulation VIII.A., or it meets the Criteria of Adverse Effect, but the lead Federal agency determines that the undertaking substantially complies with the *SOI Standards*, the lead Federal agency may propose to SHPO in writing that no mitigation, including recordation, is required and that a Memorandum of Agreement (MOA) will not be developed. The lead Federal agency will forward this notice to the Signatories, Invited Signatories, Concurring Parties, and Tribes. Unless one of the Signatories, Invited Signatories, or Tribes objects within 15 days of receipt, the lead Federal agency will complete the Section 106 review.
- (2) The lead Federal agency will consult with RSD and/or OPSB prior to determining if it will recommend that the adverse effect be addressed through Standard Mitigation Measures. If FEMA determines to implement Standard Mitigation Measures it will request that RSD and/or OPSB develop a short written description of feasible alternatives that may avoid or minimize the adverse effect and an explanation of why these alternatives were not selected by RSD and/or OPSB. Following consultation with RSD and/or OPSB, FEMA may propose to SHPO in writing that the adverse effects of an individual undertaking are adequately mitigated through implementation of one or more of the Standard Mitigation Measures set out in a., b., c., d., or e. of this Stipulation and that an MOA will not be prepared. The lead Federal agency will include the RSD and/or OPSB's short explanation of the feasible alternatives that may avoid the adverse effect and why these alternatives were not selected. The lead Federal agency will send a copy of this proposal to all Signatories, Invited Signatories, Concurring Parties, and Tribes. The lead Federal agency will not provide the ACHP with the notice described in 36 CFR §800.6(a)(1). If one of the Signatories, Invited Signatories, or Tribes objects to the proposal within 15-days, the lead Federal agency will initiate an Adverse Effect consultation as described in Stipulation IX.B. The Standard Mitigation Measures are:

- a. The lead Federal agency will ensure that all National Register eligible

school facilities that will be adversely affected are recorded following the recordation plan attached as Appendix E. This includes all school facilities that will be secured during land banking.

- b. The lead Federal agency may recommend additional recordation measures for a school facility be completed for certain facilities, including recordation meeting Historic American Building Survey (HABS) Standards (Federal Register, Vol. 68, No. 139, Monday, July 21, 2003, pp. 43159-61).
 - c. The lead Federal agency may modify the proposed design to retain certain, but not all, character-defining features into the proposed design. The retained features will be repaired or rehabilitated in conformance with the *SOI Standards*.
 - d. The lead Federal agency may recommend that an interpretive plan be developed and implemented to offset the potential adverse effect. The lead Federal agency's proposal to develop an interpretive plan will describe the plan in general terms. The lead Federal agency will agree to develop the final plan in consultation with SHPO, RSD and/or OPSB. The lead Federal agency will identify other parties that may participate in the development of the scope of work for the interpretive plan in consultation with SHPO and RSD and/or OPSB.
 - e. The lead Federal agency will implement a data recovery plan to recover data that may be destroyed by ground disturbing activities that are part of the undertaking. The lead Federal agency will notify Tribes if the archaeological resources that will be affected by the ground disturbance may have religious and cultural significance to Indian tribes and will provide the Tribes with an opportunity to consult with the lead Federal agency and SHPO to develop the data recovery plan.
- B. All Other Adverse Effect Consultations: The lead Federal agency will initiate consultation under 36 CFR §800.6 to develop an MOA for undertakings that may adversely affect a National Historic Landmark or are not resolved through the approaches outlined in Part A. of this Stipulation. These individual consultations include, but may not be limited to, the proposed demolition of the Wheatley and the Lafon Schools.
- C. Treatment Measure for the Master Plan Undertaking: The Historic Context will be further developed by RSD and/or OPSB into a publication-ready electronic document. FEMA will consult with SHPO, RSD, and OPSB within 3-months after FEMA finalizes the Historic Context described in Stipulation VII.A to identify the scope of work necessary to refine the Historic Context into a publication-ready

electronic document. These parties will also develop time frames for the development of this document, and provide for its completion prior to the end of Phase 1 of the Master Plan. RSD and/or OPSB will produce four (4) copies of the publication-ready Historic Context on archival paper and provide them to FEMA which will forward the archival copies to SHPO; State Archives; State Library; and University of New Orleans, Earl K. Long Library, Louisiana Special Collections in New Orleans, LA.

X. DISCOVERIES AND UNEXPECTED EFFECTS

- A. If, in the course of implementing a previously reviewed undertaking, previously unidentified architectural features that may be historically significant; archaeological deposits; or human remains are uncovered, RSD and/or OPSB shall ensure that its contractor immediately stops work in the general vicinity of the discovery and takes all reasonable measures to avoid or minimize harm to the finds. RSD and/or OPSB shall ensure that the discovery is secured and access to the area of the discovery is restricted.
- B. RSD and/or OPSB will notify the lead Federal agency of the discovery or unforeseen effects at the earliest possible time, but no later than 72 hours, and will e-mail digital photographs of the discovery or unforeseen effect to the lead Federal agency as part of this notification.
- C. The lead Federal agency may, in consultation with SHPO, assume that a newly discovered property is eligible for the National Register for purposes of this 2PA. If the discovery does not contain human remains and the lead Federal agency determines that the discovery is not eligible for the NRHP or that the unforeseen effect will not adversely affect a historic property, the lead Federal agency will notify the SHPO and Tribes and provide a copy of the notice to RSD and/or OPSB. The lead Federal agency will provide this notice within 48-hours after it is notified of the discovery. The SHPO and Tribes will respond within 48-hours, and the lead Federal agency will take into account any recommendations regarding National Register eligibility and proposed actions to avoid adverse effects, and determine the appropriate actions. The lead Federal agency will notify RSD and/or OPSB when this consultation is completed and identify any actions that must be implemented before work may be resumed in the area of the discovery or unforeseen effect.
- D. If the lead Federal agency determines a National Register eligible property may be adversely affected and that further steps are necessary to evaluate or treat the unforeseen effect or the newly discovered property and the discovery does not contain human remains, the lead Federal agency shall work with SHPO, RSD, OPSB, GOHSEP, and others, such as Tribes, as appropriate, to agree on timeframes and determine ways to avoid, minimize, or mitigate any adverse effects. Any party to this consultation may request an on-site meeting to review the situation. At the conclusion of this consultation, the lead Federal agency will provide all parties that participated in the discovery consultation with a written summary of the consultation

and its resolution. This summary may be provided by e-mail. If either SHPO or a Tribe objects in writing to the lead Federal agency's resolution within 3-days following receipt of the lead Federal agency's summary, or if RSD and/or OPSB notifies the lead Federal agency in writing that it will not modify the scope of work to comply with the resolution described in the summary within 3-days following its receipt, the lead Federal agency will treat the objection under Stipulation XIII, Dispute Resolution.

- E. If human skeletal remains are uncovered during an undertaking, RSD and/or OPSB shall immediately notify GOHSEP, the lead Federal agency, RSD and/or OPSB, the New Orleans Police Department, and the Orleans Parish Coroner's Office. The local law enforcement officials shall assess the nature and age of the human skeletal remains without further disturbance of the remains, if possible, unless the law enforcement officials determine that the remains are evidence of a crime. RSD and/or OPSB shall take all reasonable steps to ensure that any disturbance of the remains is photo-documented. RSD and/or OPSB shall ensure that the notice of the discovery required by the Louisiana Unmarked Human Burial Sites Preservation Act (R.S. 8:671 *et seq.*) is given to the Secretary of CRT or the Secretary's designee by contacting the Louisiana Division of Archeology at 225-342-8170 within 72-hours of the discovery. If the coroner determines that the human skeletal remains are older than 50 years of age, the Secretary, CRT has jurisdiction over the remains. The lead Federal agency shall require that RSD and/or OPSB complies with this State law, other applicable laws, and this 2PA. In addition, the lead Federal agency shall require that the guidelines contained in the ACHP's 2007 "Policy Statement Regarding Burial Sites, Human Remains, and Funerary Objects." RSD and/or OPSB shall notify the lead Federal agency in writing when it has fulfilled the requirements of the State law.

XI. ANTICIPATORY DEMOLITION

The lead Federal agency will not grant assistance to RSD or OPSB for an undertaking should either RSD or OPSB, with intent to avoid the requirements of this 2PA or Section 106 of the NHPA, significantly adversely affect a historic property to which the assistance would relate, or having legal power to prevent it, allow such significant adverse effect to occur. If the lead Federal agency determines after consultation with ACHP that circumstances justify granting such assistance despite an adverse effect created or permitted by RSD or OPSB, and the lead Federal agency will complete consultation pursuant to Stipulation IX.

XII. ANNUAL REPORT

- A. FEMA will prepare and distribute a copy of an Annual Report for its actions to implement the 2PA in the last calendar year on or about April 30 of each year by e-mail to the Signatories, Invited Signatories, and Concurring Parties. This report will describe the status of the Historic Context statement required by Stipulation VII.A. It

will track FEMA's actions to implement Stipulation VII.D.; Stipulation VII.E.; Stipulation VII.F.; Stipulation VII.G; Stipulation VIII.A; Stipulation VIII.C; Stipulation IX.A.(1); Stipulation IX.A.(2); Stipulation IX.B, and Stipulation X of the 2PA. FEMA will include copies of any descriptions of changes to the Master Plan received from OPSB and RSD since the last report and all updates to the contact list in its Annual Report.

- B. FEMA will provide the Signatories, Invited Signatories, and Concurring Parties 30-days to comment on the Annual Report. FEMA will respond to any comment received from a Signatory, Invited Signatory, or Concurring Party during the 30-day comment period.
- C. FEMA will convene a meeting of the Signatories, Invited Signatories, and Concurring Parties to discuss comments on the Annual Report including any changes to the approved Master Plan described by OPSB or RSD and the Louisiana Department of Education if requested by any Signatory, Invited Signatory, or Concurring Party during the 30-day comment period. FEMA may determine to conduct the meeting via a telephone conference call.
- D. Other Federal agencies that assume lead Federal agency responsibilities for undertakings to implement the School Facilities Master Plan that are Signatories to this 2PA will prepare and distribute an Annual Report for their actions as the lead Federal agency to implement the 2PA. The Federal agency may follow the format outlined for FEMA's report in Stipulation XII.A and the review process outlined in Stipulation XII.B. or may consult with SHPO to develop a different format, review process, and submission date. The Federal agency will convene a meeting of the Signatories, Invited Signatories, and Concurring Parties to discuss comments on its Annual Report if requested by any Signatory, Invited Signatory, or Concurring Party during the comment period. The Federal agency may determine to conduct the meeting via a telephone conference call.

XIII. DISPUTE RESOLUTION

- A. Should any Signatory, Invited Signatory, or Concurring Party object to the lead Federal agency within the timeframes provided by this 2PA to any plans, specifications, or actions provided to it for review under the terms of this 2PA, the lead Federal agency shall notify RSD and OPSB and consult further with the objecting party, RSD, OPSB, and others, as appropriate, to seek resolution.
- B. If the lead Federal agency determines that the dispute cannot be resolved, the lead Federal agency shall forward its proposed resolution of the dispute and all relevant documentation to the ACHP. Within 7 days after receipt of the documentation, the ACHP will:

- (1) Advise the lead Federal agency that it concurs with its resolution of the dispute:
or
 - (2) Provide the lead Federal agency with recommendation, which the lead Federal agency shall take into account in reaching a final decision regarding the dispute; or
 - (3) Notify the lead Federal agency that it will comment pursuant to 36 CFR §800.7(c), and proceed to comment. Any comment provided by the ACHP shall be taken into account by the lead Federal agency in accordance with 36 CFR §800.7(c)(4) with reference to the subject of the dispute.
- C. If the ACHP does not provide the lead Federal agency with comments or recommendations within 7 days, the lead Federal agency may assume that the ACHP does not object to its recommended approach and it shall proceed accordingly.
- D. Any recommendation or comment provided by ACHP shall be understood to pertain only to the subject of the dispute, and the lead Federal agency's responsibilities to fulfill all actions that are not subject of the dispute shall remain unchanged.
- E. Any dispute regarding NRHP eligibility that is not resolved pursuant to this Stipulation will be resolved in accordance with 36 CFR §800.4(c)(2).

XIV. DURATION

- A. Unless amended or terminated in accordance with Stipulation XV, this 2PA will remain in effect through December 31, 2015.
- B. FEMA, OCD, and/or other participating Federal agencies may extend the duration of this 2PA without amending this 2PA prior to December 31, 2015 by a written notification to the Signatories, Invited Signatories, and Concurring Parties. This written notice will state the new duration date and will include a statement from the Federal agency that it has reviewed the terms of the 2PA and determined that they continue to be responsive to the Federal agency's responsibilities. Unless one of the Signatories or Invited Signatories objects in writing within 30-days, the 2PA will remain in effect through the new duration date. The requesting Federal agency will ensure that information regarding the extension of this 2PA is included in the Annual Report.

XV. AMENDMENTS, TERMINATION, AND NONCOMPLIANCE

- A. FEMA will notify the Signatories, Invited Signatories, and Concurring Parties if FEMA determines that it has Section 106 responsibilities for undertakings that will occur in future Phases implementing the Master Plan. FEMA's notice will describe

FEMA's anticipated involvement in a later Phase and will include FEMA's determination if this 2PA will meet FEMA's Section 106 responsibilities for this future Phase. A Signatory, Invited Signatory, or Concurring Party may request that the parties consult to develop an amendment for future Phases by notifying FEMA and OCD and other Federal agencies that have executed this 2PA within 30-days of FEMA's notice and clearly describing the issues that must be addressed in such an amendment.

- B. If RSD and/or OPSB determines that it is not feasible to complete the Master Plan Undertaking or fulfill the requirements of this 2PA it will immediately notify FEMA, OCD, other Federal agencies that have executed the Addendum set out in Appendix A, GOHSEP, RSD or OPSB in writing of this determination. Within 21 days of the notice, FEMA will convene a meeting with the other Signatories, Invited Signatories, and Concurring Parties, in person or by telephone, to determine if the 2PA must be amended or terminated, and proceed accordingly.
- C. Any Signatory or Invited Signatory may request in writing that the 2PA be amended or terminated. Within 21 days of such a request, FEMA will convene a meeting of the Signatories, Invited Signatories, and Concurring Parties to consider this request. The Signatories, Invited Signatories, and Concurring Parties will make a good faith effort to amend the 2PA prior to any Signatory or Invited Signatory taking steps to terminate it. The 2PA may be amended only upon the written agreement of the Signatories, and the process will comply with 36 CFR §800.6(c)(7).
- D. If the 2PA is not amended, a Signatory or Invited Signatory may terminate the 2PA by providing a 30 day written notice to the Signatories, Invited Signatories, and Concurring Parties. These parties will cooperate in good faith to seek amendments or other actions that would prevent termination during this 30 day time frame. Should consultation fail, FEMA will promptly notify the Signatories, Invited Signatories, and Concurring Parties in writing of termination. Termination of the 2PA will require FEMA to comply with the Section 106 Statewide Programmatic Agreement that is in effect at the date of the termination. Other Federal agencies, including OCD, will comply with the process set out in the ACHP's regulations, 36 CFR Part 800. This 2PA may be terminated without further consultation by execution of a subsequent agreement that explicitly terminates or supersedes this 2PA.
- E. FEMA will terminate this 2PA if it does not have Section 106 responsibilities in a future phase implementing the Master Plan. OCD and/or another participating Federal agency that may have continuing Section 106 responsibilities in a future phase may request that the Signatories, Invited Signatories, and Concurring Parties consult to develop a Section 106 agreement to address its Section 106 responsibilities.
- F. OCD, and/or another participating Federal agency may terminate its participation in this 2PA without terminating the agreement if it notifies the Signatories, Invited Signatories, and Concurring Parties in writing that its responsibilities under the

Signatories, and Concurring Parties in writing that its responsibilities under the Master Plan Undertaking have ended because it will no longer provide funding or other assistance to implement the Master Plan Undertaking. A Federal agency's responsibilities under this 2PA are not terminated until it has completed all actions required by this 2PA for the years that it participated.

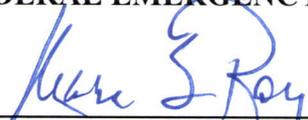
XVI. EFFECTIVE DATE AND IMPLEMENTATION OF 2PA

This 2PA shall become effective immediately upon signature by the Signatory Parties, including the Invited Signatories. FEMA shall provide each Signatory, Invited Signatory, and Concurring Party with a complete copy of the 2PA including all executed signature pages.

EXECUTION AND IMPLEMENTATION of this Secondary Programmatic Agreement evidences that FEMA and OCD have afforded ACHP a reasonable opportunity to comment on the Master Plan Undertaking and its effects on historic properties, that FEMA and OCD have taken into account the effects of the Master Plan Undertaking on historic properties, and that FEMA and OCD have satisfied its responsibilities under Section 106 of the National Historic Preservation Act and its implementing regulations.

SIGNATORY PARTIES:

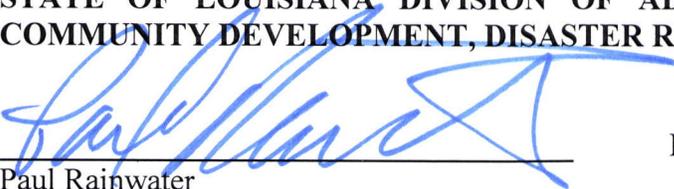
FEDERAL EMERGENCY MANAGEMENT AGENCY



Marc Roy
Environmental Liaison Officer
Louisiana Transitional Recovery Office

Date: July 20, 2009

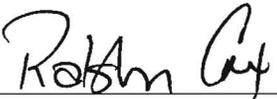
STATE OF LOUISIANA DIVISION OF ADMINISTRATION, OFFICE OF COMMUNITY DEVELOPMENT, DISASTER RECOVERY UNIT



Paul Rainwater
Executive Director
Louisiana Recovery Authority

Date: _____

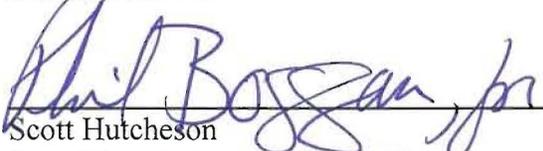
ADVISORY COUNCIL ON HISTORIC PRESERVATION

Saw


John M. Fowler
Executive Director

Date: 8/17/09

LOUISIANA STATE HISTORIC PRESERVATION OFFICER

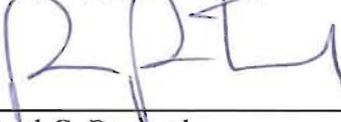


Scott Hutcheson
State Historic Preservation Officer

Date: 7-22-09

INVITED SIGNATORIES

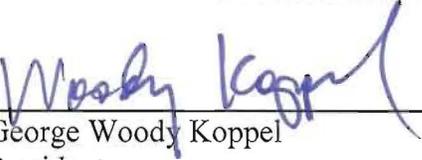
LOUISIANA DEPARTMENT OF EDUCATION, through its RECOVERY SCHOOL DISTRICT



Paul G. Pastorek
State Superintendent of Education

Date: 2/23/09

ORLEANS PARISH SCHOOL BOARD

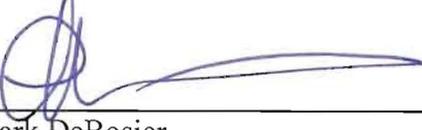


George Woody Koppel
President

Date: 7/23/09

CONCURRING PARTIES:

GOVERNOR'S OFFICE OF HOMELAND SECURITY AND EMERGENCY PREPAREDNESS



Mark DeBosier
Assistant Deputy Director
Governor's Office of Homeland Security and Emergency Preparedness

Date: 7-21-09

CONCURRING PARTIES:

PRESERVATION RESOURCE CENTER

Whimbad
Name:
Title:

Date: 8.6.09

DOCOMOMO US/LOUISIANA CHAPTER (DOCOMOMO/NOLA)

Frank Stod
Name:
Title:

Date: 5-18-10

COMMON KNOWLEDGE

Name:
Title:

Date: _____

PAGE FOR ADDITIONAL CONCURRING PARTIES:

NATIONAL TRUST FOR HISTORIC PRESERVATION

_____ Date: _____
Name:
Title:

**SECONDARY PROGRAMMATIC AGREEMENT
AMONG
FEDERAL EMERGENCY MANAGEMENT AGENCY,
STATE OF LOUISIANA DIVISION OF ADMINISTRATION OFFICE OF
COMMUNITY DEVELOPMENT,
LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
LOUISIANA DEPARTMENT OF EDUCATION, THROUGH ITS
RECOVERY SCHOOL DISTRICT, AND
ORLEANS PARISH SCHOOL BOARD
REGARDING IMPLEMENTATION OF
SCHOOL FACILITIES MASTER PLAN FOR ORLEANS PARISH
NEW ORLEANS, LOUISIANA**

CONCURRING PARTY:

ALABAMA-COUSHATTA TRIBE OF TEXAS

By: _____
Carlos Bullock, Chairman

Date: _____

**SECONDARY PROGRAMMATIC AGREEMENT
AMONG
FEDERAL EMERGENCY MANAGEMENT AGENCY,
STATE OF LOUISIANA DIVISION OF ADMINISTRATION OFFICE OF
COMMUNITY DEVELOPMENT,
LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
LOUISIANA DEPARTMENT OF EDUCATION, THROUGH ITS
RECOVERY SCHOOL DISTRICT, AND
ORLEANS PARISH SCHOOL BOARD
REGARDING IMPLEMENTATION OF
SCHOOL FACILITIES MASTER PLAN FOR ORLEANS PARISH
NEW ORLEANS, LOUISIANA**

CONCURRING PARTY:

CHITTMACHA TRIBE OF LOUISIANA

By: _____
Lonnie Martin, Chief

Date: _____

**SECONDARY PROGRAMMATIC AGREEMENT
AMONG
FEDERAL EMERGENCY MANAGEMENT AGENCY,
STATE OF LOUISIANA DIVISION OF ADMINISTRATION OFFICE OF
COMMUNITY DEVELOPMENT,
LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
LOUISIANA DEPARTMENT OF EDUCATION, THROUGH ITS
RECOVERY SCHOOL DISTRICT, AND
ORLEANS PARISH SCHOOL BOARD
REGARDING IMPLEMENTATION OF
SCHOOL FACILITIES MASTER PLAN FOR ORLEANS PARISH
NEW ORLEANS, LOUISIANA**

CONCURRING PARTY:

CHOCTAW NATION OF OKLAHOMA

By: _____
Gregory E. Pyle, Chief

Date: _____

**SECONDARY PROGRAMMATIC AGREEMENT
AMONG
FEDERAL EMERGENCY MANAGEMENT AGENCY,
STATE OF LOUISIANA DIVISION OF ADMINISTRATION OFFICE OF
COMMUNITY DEVELOPMENT,
LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
LOUISIANA DEPARTMENT OF EDUCATION, THROUGH ITS
RECOVERY SCHOOL DISTRICT, AND
ORLEANS PARISH SCHOOL BOARD
REGARDING IMPLEMENTATION OF
SCHOOL FACILITIES MASTER PLAN FOR ORLEANS PARISH
NEW ORLEANS, LOUISIANA**

CONCURRING PARTY:

COUSHATTA TRIBE OF LOUISIANA

By: _____
Kevin Sickey, Chairman

Date: _____

**SECONDARY PROGRAMMATIC AGREEMENT
AMONG
FEDERAL EMERGENCY MANAGEMENT AGENCY,
STATE OF LOUISIANA DIVISION OF ADMINISTRATION OFFICE OF
COMMUNITY DEVELOPMENT,
LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
LOUISIANA DEPARTMENT OF EDUCATION, THROUGH ITS
RECOVERY SCHOOL DISTRICT, AND
ORLEANS PARISH SCHOOL BOARD
REGARDING IMPLEMENTATION OF
SCHOOL FACILITIES MASTER PLAN FOR ORLEANS PARISH
NEW ORLEANS, LOUISIANA**

CONCURRING PARTY:

JENA BAND OF CHOCTAW INDIANS

By: _____
Christine Norris, Chief

Date: _____

**SECONDARY PROGRAMMATIC AGREEMENT
AMONG
FEDERAL EMERGENCY MANAGEMENT AGENCY,
STATE OF LOUISIANA DIVISION OF ADMINISTRATION OFFICE OF
COMMUNITY DEVELOPMENT,
LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
LOUISIANA DEPARTMENT OF EDUCATION, THROUGH ITS
RECOVERY SCHOOL DISTRICT, AND
ORLEANS PARISH SCHOOL BOARD
REGARDING IMPLEMENTATION OF
SCHOOL FACILITIES MASTER PLAN FOR ORLEANS PARISH
NEW ORLEANS, LOUISIANA**

CONCURRING PARTY:

MISSISSIPPI BAND OF CHOCTAW INDIANS

By: _____
Miko Beasley Denson

Date: _____

**SECONDARY PROGRAMMATIC AGREEMENT
AMONG
FEDERAL EMERGENCY MANAGEMENT AGENCY,
STATE OF LOUISIANA DIVISION OF ADMINISTRATION OFFICE OF
COMMUNITY DEVELOPMENT,
LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
LOUISIANA DEPARTMENT OF EDUCATION, THROUGH ITS
RECOVERY SCHOOL DISTRICT, AND
ORLEANS PARISH SCHOOL BOARD
REGARDING IMPLEMENTATION OF
SCHOOL FACILITIES MASTER PLAN FOR ORLEANS PARISH
NEW ORLEANS, LOUISIANA**

CONCURRING PARTY:

QUAPAW TRIBE OF OKLAHOMA

By: _____
John Berrey, Chairman

Date: _____

**SECONDARY PROGRAMMATIC AGREEMENT
AMONG
FEDERAL EMERGENCY MANAGEMENT AGENCY,
STATE OF LOUISIANA DIVISION OF ADMINISTRATION OFFICE OF
COMMUNITY DEVELOPMENT,
LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
LOUISIANA DEPARTMENT OF EDUCATION, THROUGH ITS
RECOVERY SCHOOL DISTRICT, AND
ORLEANS PARISH SCHOOL BOARD
REGARDING IMPLEMENTATION OF
SCHOOL FACILITIES MASTER PLAN FOR ORLEANS PARISH
NEW ORLEANS, LOUISIANA**

CONCURRING PARTY:

SEMINOLE NATION OF OKLAHOMA

By: _____
Enoch Kelly Haney, Principal Chief

Date: _____

**SECONDARY PROGRAMMATIC AGREEMENT
AMONG
FEDERAL EMERGENCY MANAGEMENT AGENCY,
STATE OF LOUISIANA DIVISION OF ADMINISTRATION OFFICE OF
COMMUNITY DEVELOPMENT,
LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
LOUISIANA DEPARTMENT OF EDUCATION, THROUGH ITS
RECOVERY SCHOOL DISTRICT, AND
ORLEANS PARISH SCHOOL BOARD
REGARDING IMPLEMENTATION OF
SCHOOL FACILITIES MASTER PLAN FOR ORLEANS PARISH
NEW ORLEANS, LOUISIANA**

CONCURRING PARTY:

SEMINOLE TRIBE OF FLORIDA

By: _____
Mitchell Cypress, Chairman

Date: _____

**SECONDARY PROGRAMMATIC AGREEMENT
AMONG
FEDERAL EMERGENCY MANAGEMENT AGENCY,
STATE OF LOUISIANA DIVISION OF ADMINISTRATION OFFICE OF
COMMUNITY DEVELOPMENT,
LOUISIANA STATE HISTORIC PRESERVATION OFFICER,
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
LOUISIANA DEPARTMENT OF EDUCATION, THROUGH ITS
RECOVERY SCHOOL DISTRICT, AND
ORLEANS PARISH SCHOOL BOARD
REGARDING IMPLEMENTATION OF
SCHOOL FACILITIES MASTER PLAN FOR ORLEANS PARISH
NEW ORLEANS, LOUISIANA**

CONCURRING PARTY:

TUNICA-BILOXI TRIBE OF LOUISIANA

By: _____
Earl J. Barbry, Sr., Chairman

Date: _____

APPENDIX A

ADDENDUM #__

TO

SECONDARY PROGRAMMATIC AGREEMENT

AMONG

FEDERAL EMERGENCY MANAGEMENT AGENCY,

STATE OF LOUISIANA DIVISION OF ADMINISTRATION OFFICE OF

COMMUNITY DEVELOPMENT,

LOUISIANA STATE HISTORIC PRESERVATION OFFICER,

ADVISORY COUNCIL ON HISTORIC PRESERVATION,

LOUISIANA DEPARTMENT OF EDUCATION, THROUGH ITS

RECOVERY SCHOOL DISTRICT, AND

ORLEANS PARISH SCHOOL BOARD

REGARDING IMPLEMENTATION OF

SCHOOL FACILITIES MASTER PLAN FOR ORLEANS PARISH

NEW ORLEANS, LOUISIANA

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 Title 44 of the Code of Federal Regulations (44 CFR) Part 206, proposes to provide assistance through the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) to the Orleans Parish School Board (OPSB) and the Louisiana Department of Education, through its Recovery School District (RSD) in response to damages caused by Hurricanes Katrina (DR-1603-LA) and Rita (DR-1607-LA); and RSD, in cooperation with OPSB, proposes to implement the School Facilities Master Plan for Orleans Parish (Master Plan) with assistance from FEMA and other Federal agencies (Master Plan Undertaking); and

WHEREAS, the Disaster Recovery Unit, within the State of Louisiana Division of Administration, Office of Community Development (OCD) administers the Infrastructure Program for OCD to implement hurricane recovery efforts using funds from the U.S. Department of Housing and Urban Development, specifically those funds that were appropriated from Fiscal Year 2006 Department of Defense Appropriations Act HR 2863, Pub. L. No. 109-148, 119 Stat. 2680 (2005), dated December 30, 2005, and Fiscal Year 2006 Department of Defense Appropriations Act HR 4939, Pub. L. No. 109-234, 120 Stat. 444 (2006), dated June 15, 2006 and will provide monies from these funds to RSD and/or OPSB to assist with the implementation of undertakings at school facilities as part of the Master Plan Undertaking, and OCD has determined to fulfill its Section 106 responsibilities, in cooperation with FEMA; and

WHEREAS, FEMA and OCD consulted with the Louisiana State Historic Preservation Officer (SHPO), Advisory Council on Historic Preservation (ACHP), OPSB, RSD, GOHSEP, National Trust for Historic Preservation (NTHP), Preservation Resource

Center (PRC), Louisiana Chapter of Documentation and Conservation of Building Sites and Neighborhoods of the Modern Movement US (DOCOMOMO/NOLA); Common Knowledge; the New Orleans Chapter of the American Institute of Architects (AIA); Holy Cross Neighborhood Association (HCNA), and the Lower Ninth Ward Neighborhood Empowerment Network Associates (NENA) and as provided in Stipulation VIII.A., of the “*Programmatic Agreement Among the FEMA, the SHPO, the Louisiana Office of Homeland Security and Emergency Preparedness, and the Advisory Council on Historic Preservation (ACHP)*” executed in December 2004 (2004 Statewide PA) and also provided in the revised FEMA Statewide Programmatic Agreement and have executed a Secondary Programmatic Agreement (2PA); and

WHEREAS, OPSB and/or RSD may receive funding or assistance from other Federal agencies to implement the Master Plan; and

WHEREAS, Stipulation III.D.2 of this 2PA allows other Federal agencies to fulfill their Section 106 responsibilities for their undertakings that provide funding or other assistance to OPSB and/or RSD for the implementation of the Master Plan by fully accepting all the terms of the 2PA and executing this Addendum;

NOW, THEREFORE, _____ has determined to accept the terms and conditions of the 2PA and thereby take into account the effects of its undertakings to implement the Master Plan Undertaking on historic properties and satisfy its Section 106 responsibilities for the Master Plan Undertaking.

STIPULATIONS

FEMA, as lead agency for the Master Plan Undertaking reviewed under the 2PA, will require that the following Stipulations are implemented as a condition of _____ participation in the 2PA:

1. _____ will notify the Signatories, Invited Signatories, and Concurring Parties of its participation in this 2PA by providing them with a copy of this executed Addendum within 7 days of its execution.
2. _____ will include the contact information required by Stipulation II.E of the 2PA with the notice advising the Signatories, Invited Signatories, and Concurring Parties of its participation.
3. _____ will notify FEMA when it determines that it will provide Federal funding, Federal permits, or other Federal actions constituting an undertaking subject to Section 106 review to a school facility included in the Master Plan.
4. FEMA is the lead Federal agency for all Section 106 consultations when FEMA monies are involved, unless FEMA and other participating Federal agency/ies

determine that it is appropriate to designate another agency to take lead role. In those instances, the lead agency will notify Signatories, Invited Signatories and Concurring Parties of its role by e-mail.

5. _____ will review FEMA’s National Register of Historic Places (NRHP) eligibility determinations and the Historic Context and will accept all National Register eligibility determinations that FEMA has finalized in consultation with SHPO under the terms of the 2004 Statewide PA or this 2PA. _____ shall consult with FEMA prior to taking any steps to evaluate or reevaluate properties that may be affected by the implementation of the Master Plan to determine if they meet the NRHP Criteria.
6. _____ will accept all determinations of effect that FEMA has finalized in consultation with SHPO under the terms of the 2004 Statewide PA or this 2PA. If _____ considers that its involvement in an undertaking to implement the Master Plan may cause unanticipated effects to historic properties, it shall notify FEMA in writing and request that FEMA reconsider its effect determination. _____ shall consult with FEMA prior to taking any steps to reopen consultation with SHPO and other appropriate parties to assess the effects of an undertaking to implement the Master Plan Undertaking.
7. Federal agencies that execute this addendum may request that the Signatories, Invited Signatories, and Concurring Parties consult to amend the 2PA. No amendment will be effective until it has been executed by the Signatories and Invited Signatories.
8. Federal agencies that execute this addendum may terminate their participation in this 2PA with a 30-day written notice to all the Signatories, Invited Signatories, and Concurring Parties setting out the reasons for termination and explaining how it proposes to fulfill its Section 106 responsibilities for other undertakings to implement the Master Plan. If the Federal agency determines that it will terminate its involvement in the 2PA because the Federal agency has determined that it has completed its Section 106 responsibilities for the Master Plan Undertaking and it does not reasonably anticipate that it will provide additional Federal funding or assistance to OPSB and/or RSD to implement the Master Plan, this addendum is terminated as of the date of the Federal agency notice without further consultation. The Federal agency requesting termination will consult with the Signatories, Invited Signatories, and Concurring Parties during the 30-day notice period to seek alternatives that will prevent termination. This 30-day period may be extended at the request of the Federal agency. If the Federal agency’s involvement is terminated, the Federal agency will address its Section 106 responsibilities by following the process set out in 36 CFR Part 800. Termination of this Addendum allowing the participation of a Federal agency in the implementation of the 2PA does not terminate the 2PA or change any of its terms as it applies to FEMA and OCD.
9. This Addendum takes effect on the last date of signature by the Signatories and

Invited Signatories.

EXECUTION AND IMPLEMENTATION of this Addendum evidences that _____ has afforded ACHP a reasonable opportunity to comment on the Master Plan Undertaking and its effects on historic properties, that _____ has taken into account the effects of the Master Plan Undertaking on historic properties, and that _____ has satisfied its responsibilities under Section 106 of the National Historic Preservation Act and its implementing regulations.

SIGNATORY PARTIES:

FEDERAL EMERGENCY MANAGEMENT AGENCY

Date: _____
Marc Roy
Environmental Liaison Officer
Louisiana Transitional Recovery Office

STATE OF LOUISIANA DIVISION OF ADMINISTRATION, OFFICE OF COMMUNITY DEVELOPMENT, DISASTER RECOVERY UNIT

Date: _____
Paul Rainwater
Executive Director
Louisiana Recovery Authority

OTHER FEDERAL AGENCY

Date: _____
Name
Title

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Date: _____
John M. Fowler
Executive Director

LOUISIANA STATE HISTORIC PRESERVATION OFFICER

Scott Hutcheson
State Historic Preservation Officer

Date: _____

INVITED SIGNATORIES:

LOUISIANA DEPARTMENT OF EDUCATION, through its RECOVERY SCHOOL DISTRICT

Paul G. Pastorek
State Superintendent of Education

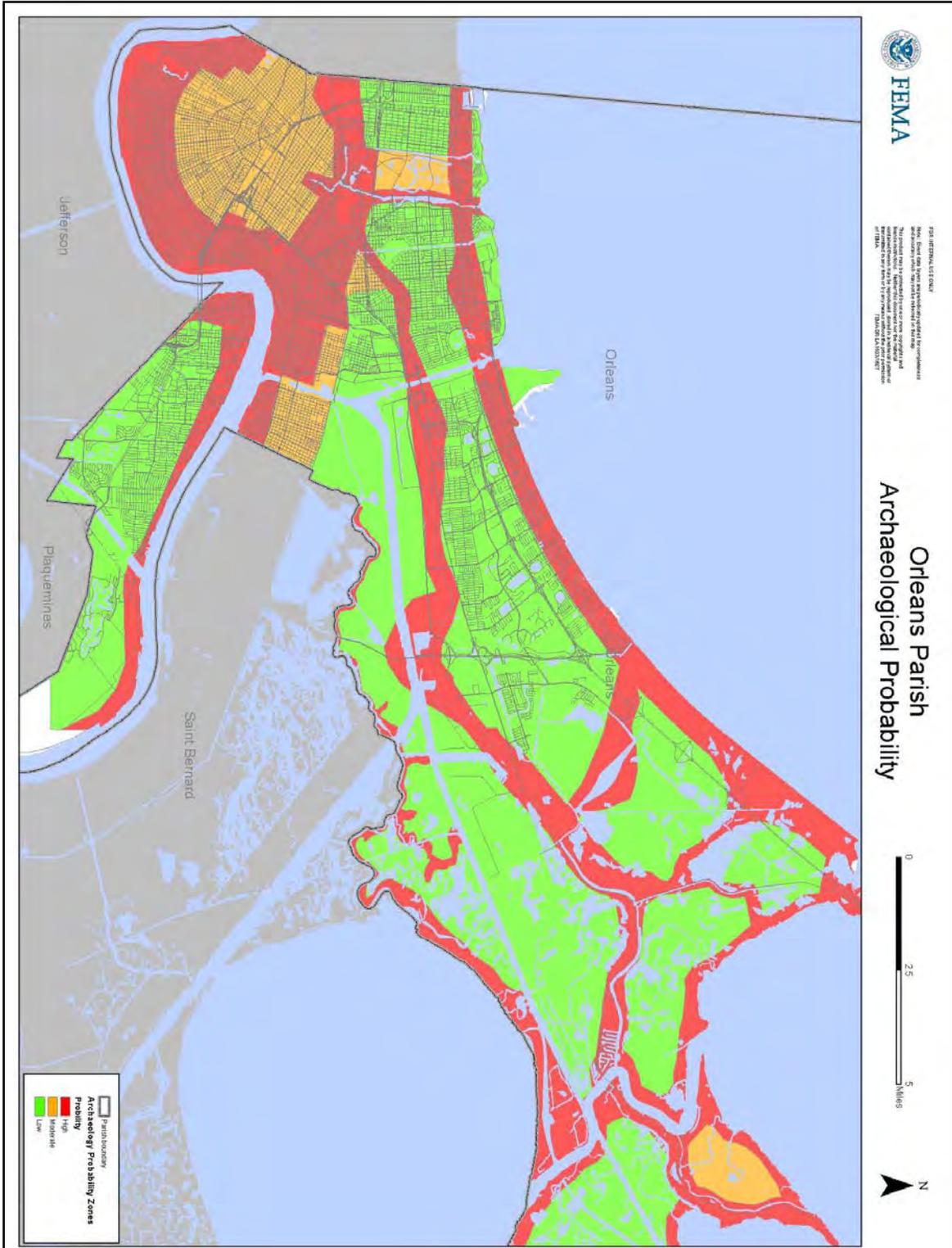
Date: _____

ORLEANS PARISH SCHOOL BOARD

George Woody Koppel
President

Date: _____

APPENDIX B



Preliminary Archeological Probability Zone Map for Orleans Parish, (Revised 9/24/08)

APPENDIX C PROGRAMMATIC ALLOWANCES

In accordance with Stipulation VI, undertakings composed entirely of the following repair or construction activities will not be reviewed by SHPO or other Concurring Parties. If an undertaking is not composed entirely of the activities listed below, FEMA will conduct the applicable Section 106 review only with regard to the activities that are not listed below. Federal agency staff who meets the SOI Professional Standards for Architectural History or Historic Architecture will review proposed work for standing structures and Federal agency staff who meet the SOI Professional Standards for Archaeology to determine if proposed repair or construction activities conform to the Programmatic Allowances. This list of Programmatic Allowances will be revised without amending this 2PA if revisions are made to the Programmatic Allowances included in the revised Statewide Programmatic Agreement, and FEMA will notify all Signatories, Invited Signatories, and Concurring Parties of any such revisions and include this information in the Annual Report required by this 2PA. In addition, FEMA may supplement these Programmatic Allowances with additional allowances to address actions that may be common to the Master Plan Undertaking through a letter concurred with by the Signatories and Invited Signatories. Any such revisions will also be included in the Annual Report required by this 2PA.

When referenced in an Allowance, “in-kind” shall mean that it is either the same or a similar material, and the result shall match all physical and visual aspects, including form, color, and workmanship. “In-kind” mortar shall also match the strength, content, color, rake, joint width, and tooling of historic mortar.

- I. GROUND-DISTURBING ACTIVITIES AND SITE WORK** shall mean all work being performed in archeologically surveyed areas with no recorded eligible archeological site(s), or previously disturbed areas. Should an unexpected discovery be encountered, work must stop and compliance with Stipulation X is required.
- A. Ground-disturbing activities related to the repair, replacement, reinforcing or pouring of footings, foundations, retaining walls, other slope stabilization systems (e.g., gabion baskets, rip-rap), and utilities in existing utility right-of-ways (including sewer, water, drains, electric service or distribution, gas, communications, leaching systems, cesspools, and septic tanks). This Allowance refers to archeological review. The Allowance also applies to historic review of character-defining features of a historic property that is listed in or eligible for listing in the Register, when the work is in-kind.
 - B. Substantial in-kind repair, replacement, or upgrade of culvert systems within rivers, streams, or drainage ways, including any moderate increase in capacity. This Allowance also applies to related features of historic properties such as headwalls and wing walls that may be included in or eligible for inclusion in the Register, when the work is in-kind.

- C. Repair, replacement, or hardening of utilities under existing improved roads or roadways, or within previously disturbed rights of way, and for repair, replacement, or hardening of above ground utilities where they are set in or immediately adjacent to their previous location.
- D. In-kind repair or replacement of driveways, paths, trails, parking areas, and walkways.
- E. In-kind repair or replacement of fencing and freestanding exterior walls.
- F. Substantially in-kind repair or replacement of metal utilitarian structures (e.g., pump houses, storage buildings), including exposed pipelines. Modern materials may be used provided their finish is compatible with existing structures and the site. Structures such as bridges, water towers, and service and antenna towers shall not be considered utilitarian structures.
- G. Installation of temporary structures for uses such as classrooms, offices, or medical support facilities, except when located in historic districts or archeological areas.
- H. Installation of scaffolding, temporary barriers (e.g., chain link fences), polyethylene sheeting, or tarps, provided such work will not result in additional damage, irreversible alterations, or significant loss of historic fabric.
- I. In-kind repair or replacement of landscaping and utilities, such as paving, planters, trellises, irrigation, lighting, signs (e.g. street signs, traffic signs, and freestanding facility signage), retaining walls, ramps and steps. This allowance also includes flag poles, playgrounds, parks, above ground swimming pools, decks, and athletic field equipment/recreational structures and equipment (e.g., benches, bleachers, permanent seating, batting cages, score boards, basketball goals, picnic tables, playground equipment such slides and swing sets) Minor mitigation measures (e.g., increased in pole diameter, addition of new safety anchors) will be covered by this Allowance.
- J. In-kind repair, replacement, or upgrade to codes and standards of existing piers, docks, boat ramps, boardwalks, stands, gazebos, and dune crossovers, provided the new footprint would substantially match the pre-existing footprint.
- K. Debris collection from public rights of way and other public areas, transport, and disposal in existing licensed solid waste facilities. The Allowance does not include the establishment or expansion of debris staging or disposal areas. However it does apply to the use of temporary storage areas located in existing hard-topped or developed graveled areas with controlled drainage such as parking lots and roads provided other issues do not exist.

- L. Sediment removal from man-made drainage facilities, including retention/detention basins, ponds, ditches, and canals, in order to restore the facility to its pre-disaster condition. The sediment may be used to repair eroded banks or disposed of at an existing licensed or permitted spoil site.
 - M. Dewatering of flooded developed areas or flooded buildings and structures by physical or mechanical means.
 - N. Placement of emergency beach berms seaward of improved property where severe erosion has occurred, with work performed under the authority of U.S. Army Corps of Engineers and/or a State environmental enforcement agency's permits for the sand deposit areas and upland or offshore borrow sites, including dredge spoil piles.
 - O. Removal of woody debris, such as sticks, small limbs, and branches from cemeteries and archeological properties if heavy equipment or other machinery is not used.
 - P. Removal of root balls except from cemeteries, known archeological sites or when there are unexpected finds.
- II. BUILDINGS**, requiring repairs or replacement, when all work is consistent with *SOI Standards*, latest edition.

A. Interior Work: Floors, Walls, Stairs, and Ceilings

1. In-kind repair, replacement, restoration, preservation, protection, maintaining of materials, or features on interior work on floors, walls, stairs, and ceilings, or partial replacement of trim. The Allowance applies to repair of interior finishes, including plaster and wallboard, provided the repair is restricted to damaged areas and does not affect adjacent materials. The Allowance does not apply to substrates for decorative materials such as murals, glazed paint, gold leaf, etc.
2. Replacement of damaged plaster and lath with drywall where the plaster is non character-defining detail, excluding properties individually listed on the National Register or contributing properties to NHL Historic Districts.
3. Interior cleaning on non-porous surfaces using a weak solution of household bleach and water, mold remediation, or mold removal. The Allowance applies to interior finishes, including plaster and wallboard, provided the repair is restricted to damaged areas, does not affect adjacent materials, and character defining features are retained.

4. In-kind repair or replacement of specialized finishes such as decorative painting, glazing, or gilding on flat or ornamental plaster; or repair or replacement of ornamental plaster, when such repair or replacement is undertaken by those experienced in such finish work. Damaged ornamental plaster shall be repaired or reattached when possible. Where severity of deterioration requires replacement, the ornamental plaster shall be replaced in-kind; every effort shall be made to minimize the loss of additional historic fabric through use of the gentlest means of repair possible, and through adequate protection of undamaged areas. All repairs or replacements shall be made in accordance with *Preservation Brief*: 21 (Repairing Historic Flat Plaster-Walls and Ceilings); 23: (Preserving Historic Ornamental Plaster); and 28: (Painting Historic Interiors). When extensive damage to specialized finishes is involved (25% or more damage to an area), coordination with SHPO shall be conducted prior to approving and funding the project.
5. Repair or replacement of suspended or glued ceiling tile.
6. Installation of grab bars and other such minor interior modifications required for compliance with the Americans with Disabilities Act (ADA)
7. Non-destructive or concealed testing for hazardous materials (e.g., lead paint, asbestos, etc.) or for assessment of hidden damages.
8. Replacement of wood gymnasium floors with contemporary gym flooring materials.
9. Replacement of damaged vinyl floor tile or asbestos floor tile with contemporary floor tile of the same dimension and thickness, and similar texture or pattern.

B. Utilities, Mechanical, and Electrical Systems

1. Minor utility system work, including interior mechanical (e.g., HVAC), electrical, or plumbing work, which is limited to upgrading, or in-kind replacement. Historic fixtures, grilles, etc., where exposed to view, shall be repaired in-kind for the Allowance to apply. The Allowance shall not apply to installation of new exposed ductwork
2. Replacement or installation of interior fire detection, fire suppression, or security alarm systems. The Allowance does not apply to surface mounted wiring, conduits, piping, etc., unless previously existing.
3. Elevation of HVAC and mechanical equipment as long as it is placed or located where it is not highly visible from the street, or if its installation does not result in significant loss of historic fabric, or character-defining details.

C. Windows and Doors

1. In-kind repair or replacement of damaged or deteriorated windows, shutters, storm shutters, and doors including all hardware.
2. Replacement of windowpanes in-kind. Clear plate, double, laminated or triple insulating glazing can be used, provided it does not result in altering the existing window material or form. This Allowance does not apply to the replacement of existing archaic or decorative glass. Historic windows or glazing may be treated with clear window films.

D. Exterior Walls, Cornices, Porches, and Foundations

1. Cleaning, repair or repainting of surfaces, provided that destructive surface cleaning and preparation treatments are not used (e.g., water blasting, sandblasting, power sanding, chemical cleaning). Surface treatments must comply with the treatment approaches outlined in *Preservation Brief: 6 (Dangers of Abrasive Cleaning to Historic Buildings)*.
2. Partial in-kind replacement of porches, cornices, siding, balustrades, stairs, or trim.
3. In-kind repair or replacement of signs or awnings.
4. Installation of temporary stabilization bracing or shoring, provided such work does not result in additional damage, significant loss of historic fabric, or irreversible alterations to this or adjacent areas.
5. Anchoring of walls to floor systems, provided the anchors are embedded and concealed from exterior view, and disturbed historic fabric is restored in-kind.
6. In-kind repair or reconstruction of concrete and masonry walls, columns, parapets, chimneys, or cornices, using compatible brick and mortar as previously described.
7. Bracing and reinforcing of walls, chimneys and fireplaces, provided the bracing and reinforcing are either concealed from exterior view or removable in the future.
8. Strengthening and reinforcing of foundations and addition of foundation bolts, provided that visible new work is in-kind, and if required, mortar repair or replacement as previously described.

9. Repairs to and replacement of elements of curtain wall assemblies or exterior cladding that is hung on the building structure, usually from floor to floor, and when the color, size reflectivity and visual patterns are unaltered.

E. Roofing

1. In-kind repair, replacement or strengthening of roofing, rafters, fascias, soffits, gutters, rafters or downspouts.
2. Replacement of three-tab asphalt shingles with dimensioned architectural shingles; replacement of cement asbestos shingles with asphalt-based shingles or other roofing of similar appearance to the original such as slate; replacement of corrugated asbestos panels with corrugated metal panels or other roofing of similar appearance to the original; replacement of untreated wood shingles or shakes with similar items of fire resistant wood; and in kind replacement of corrugated metal panels.
3. Repairs to a flat roof, including changes in roofing materials, where the repairs are not highly visible from the ground level.
4. In-kind replacement of metal roofing materials.
5. In-kind replacement of greenhouse glass panels.

F. Weatherproofing and Insulation

1. Caulking and weather-stripping to complement the color of adjacent surfaces or sealant materials.
2. In-kind replacement or installation of insulation systems, provided that existing interior plaster, woodwork, or exterior siding is not altered. The Allowance does not apply to urea formaldehyde foam insulation or any other thermal insulation containing water, when installed within wall cavities. It does not apply to exterior insulation finishing systems (EIFS) that do not include an adequate vapor and moisture drainage system, or work in enclosed spaces that are not finished.

G. Seismic, Tornado and Hurricane Upgrades

1. The installation of the following upgrades, provided that such upgrades are not visible on the exterior or within character-defining historic interiors: attic bracing, cross bracing on pier and post foundations; metal fasteners; collar ties; gussets; tie downs; strapping and anchoring of mechanical, electrical, and plumbing equipment; concealed anchoring of furniture; installation of

plywood diaphragms beneath first floor joists, above top floor ceiling rafters, and on roofs; and automatic gas shut off valves.

2. Replacement, repair or installation of lightning rods.
- H. Building contents, repair or replacement, including furniture, interior cabinetry, countertops, bathroom fixtures, and equipment (e.g., medical equipment).

III. ROADS AND ROADWAYS

- A. Repair of roads to pre-disaster geometric design standards and conditions using in-kind materials, number and width of lanes, shoulders, medians, curvature, grades, clearances, and side slopes.
- B. Repair of road composition finish course with materials to maintain pre-disaster size, traffic capacity, and load classifications of motor vehicles, including the reshaping and compacting of roadbed soil and the repair of asphalt or concrete pavements. The Allowance does not apply to the repair of brick or stone paving, or the regrading of native materials to reconstruct the roadbed.
- C. Repair or replacement of traffic control devices such as traffic signs and signals, delineators, pavement markings, traffic surveillance systems.
- D. In-kind repair of road lighting systems, including period lighting fixture styles.
- E. In-kind repair of road appurtenances such as curbs, berms, fences, and sidewalks that are not brick or stone.
- F. In-kind repair of roadway safety elements such as barriers, guardrails, and impact-attenuation devices.
- G. Repairs to road slips and landslides that do not require grading of undisturbed soils on the up-hill side of the slip and that do not require work or staging areas in sites of properties where buildings or structures are more than 45 years old.
- H. Rebuilding or re-establishing an eroded or slumped roadbed on the downhill side of the road using such methods as lag and piling walls, gabions, rock fill, etc., when all work is contained within the right of way.
- I. Re-establishing and/or armoring of existing ditches.

IV. BRIDGES

- A. In-kind repairs of abutments, wing walls, piers, decks, and fenders, where no new construction is proposed.
- B. Repair or replacement of non-historic bridges where repair work, including the establishment and use of staging areas, does not exceed the existing road right of way.

V. UTILITIES

- A. In urban or developed settings, replacement in situ or the relocation of existing utility poles between the edge of sidewalk and the road. Minor mitigation measures (e.g., increased in pole diameter) shall be covered by this Allowance.
- B. In rural settings, replacement of poles located along road shoulders. Minor mitigation measures (e.g., increased in pole diameter) shall be covered by this Allowance.
- C. In off-road alignments, replacement of power/utility poles within an established right of way that are either replaced in the same hole or replaced within 15 feet of existing poles; additions of new poles within the right of way, not to exceed 25 per mile; and relocation/realignment of segments of power lines to existing roadways or other previously disturbed rights of way. Projects involving more extensive replacement or realignment do not qualify under this Allowance. Minor mitigation measures (e.g., increases in pole diameter shall be covered by this Allowance.)
- D. Repair or replacement of damaged equipment, such as generators, switch boards, pumping equipment, etc.
- E. Collocation of communication equipment on existing telecommunication towers or buildings provided that the equipment is not located on National Register eligible or listed building or structure or located within the viewshed of a National Register eligible or listed districts. The installation may not create a substantial increase in the height or width of the tower or expansion of on-the-ground facilities that would include excavation outside the current tower site.
- F. Installation of warning or communications systems and similar devices within previously disturbed soils that are not adjacent to or on National Register-eligible or listed building or structure or within the viewshed of a National Register eligible or listed district.

VI. AIRPORTS

- A. Repair of existing runways, taxiways, roadways, aprons and other hard surface facilities.
- B. In-kind repair of safety components, including beacons, on airport property.
- C. In-kind repair of existing beacons or other navigation aids not on airport property.

VI. RAILROADS, TROLLEY LINES, AND STREETCARS

- A. In-kind repair or replacement of safety components.
- B. Repair of crossings, gates, and signals.
- C. In-kind replacement and repair of existing track system.
- D. Repair of passenger loading areas.

VII. FEES AND SERVICES, shall be based upon:

- A. Miscellaneous labor costs.
- B. Rental or purchase of vehicles or other motorized equipment.
- C. Builder's fees, dumpster rental.
- D. Fees for architectural and engineering or other design services provided the services shall not result in an adverse effect on a property listed in or eligible for the Register.
- E. Reimbursement of an Applicant's insurance deductible, not to exceed \$1,000.

VIII. VECTOR CONTROL

- A. Application of pesticides to reduce adverse public health effects, including aerial and truck mounted spraying.

APPENDIX D LOWER-IMPACT DEMOLITION STIPULATIONS

The Lower-Impact Demolition Stipulations (LIDS) will only be used when the lead Federal agency determines that effects to archaeological resources may be minimized through their implementation as described in Stipulation VIII.A.(2)e.

I. GENERAL APPROACH

- A. Major demolition activities, including placement of equipment, shall be confined to areas where soils have been previously disturbed by activities, such as site development, construction, surface grading, landscaping, utility trenching, etc. The applicant shall identify areas of obvious soil disturbance and direct their contractor to work within these areas.
- B. When heavy equipment is not in use, it shall be staged on hard or firm surfaces where equipment is not susceptible to sinking. Paved surfaces shall be used to the fullest extent possible.
- C. Tracked vehicles and/or large-tired equipment shall be used whenever possible to reduce the depth of soil disturbance and minimize soil compaction to a depth of six (6) inches or less.
- D. RSD and/or OPSB shall ensure that its contractors shall not operate heavy equipment on wet soils if the equipment begins to sink more than six (6) inches below the current ground surface. Heavy equipment may be operated in the rain, but RSD and/or OPSB shall ensure that its contractors shall pay special attention to equipment sinkage, as noted above.
- E. Shearing off structural features at the ground-surface is strongly encouraged so that further soil disturbance is minimized.
- F. There shall be no salvage of architectural materials from below-grade.
- G. Excavation of on-site materials and burial of debris are not permitted.

II. ACTIVITY SPECIFIC GUIDELINES

A. Treatment of Utilities

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

B. Footing and Pier Removal

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

C. Void and/or Feature Filling

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

D. Surface Grading and Site Clean-Up:

1. RSD and/or OPSB shall ensure that its contractors shall limit site grading to within the first six (6) inches of the existing surface elevation (e.g., side walk level, driveway level, slab level, etc.). RSD and/or OPSB shall ensure that its contractors use light equipment (e.g., small "Bobcats," hand tools, etc.) to complete final site clean-up.

APPENDIX E

RECORDATION TREATMENT MEASURE

- A. Prior to implementing an undertaking to land bank, secure, demolish, or otherwise adversely affect all or part of a National Register eligible school facility the lead Federal agency will require that the National Register eligible buildings or structures are recorded using digital photography. The photographic recordation will be performed by or under the direct supervision of an individual who meets the Secretary of the Interior's Professional Qualification Standards set out at 48 FR 44716, September 29, 1983, for History, Architectural History, Architecture, or Historic Architecture.
- B. At a minimum the photographs will include a view of the principal façade, an oblique view, two contextual views, and close-ups of any unique architectural features, the context and setting. The lead Federal agency will consult with SHPO to recommend the specific photographic documentation for each school facility that will be recorded. The digital photography must comply with the requirements from the Proposed Update Photographic Policy National Register of Historic Places (revised March 2008) including the National Archives and Records Administration's (NARA's) guidance to supplement requirements in 36 CFR §1228.270 for transferring permanent electronic records to NARA.
1. Image files must be saved as JPEG files using high quality compression settings at a minimum. These files must be transferred as first generation JPEG files that have not been degraded in quality by multiple revisions and re-saving. The image files must be saved on archival quality CD-R media.
 2. Digital camera files must be captured as 6 megapixel files or greater with a minimum pixel array of 3,000 pixels by 2,000 pixels.
 3. Color images must be produced in RGB (Red Green Blue) color mode as 24-bit or 48-bit color files.
- C. Photographic prints must comply with the Proposed Update Photographic Policy National Register of Historic Places (revised March 2008) requirements: http://www.nps.gov/history/nr/publications/bulletins/photopolicy/photo_policy.htm
1. The photographs must meet the NPS Photo Expansion Policy 75-year permanence standard.
 2. Paper prints must follow the "Acceptable Ink and Paper Combinations for Digital Images" guidelines in the Photo Expansion Policy.

3. Printed photographs must include labels that state the address including the Parish and State where the building is located; date of photograph; description of view including direction of camera; and name of photographer.
- D. RSD and/or OPSB will develop a Scope of Work (SOW) for each National Register eligible or listed school facility proposed for demolition or proposed to be secured and ventilated. The SOW will be responsive to photographic documentation requirements outlined in this Appendix E and include a list of the proposed photographs. The SOW will also state if plans of any are available and provide a description and list of the available plans. The SOW will include archival copies of building plans of any National Register eligible or listed school facility that will be demolished. The SOW will state the location and condition of the plans and list the plans that will be archivally copied for inclusion in the recordation materials. RSD and/or OPSB will notify the lead Federal agency if there is a potential that a facility identified to be secured may be reused as a school facility at some later time and may request that plans for such a facility not be copied.
 - E. RSD and/or OPSB will provide the SOW to the lead Federal agency and SHPO for 15-day review and comment period. RSD will consider the lead Federal agency's and SHPO's comments when it finalizes the SOW for the photographs.
 - F. RSD and/or OPSB will provide the lead Federal agency with 2 copies of the photographic recordation prior to finalizing the archival materials. The lead Federal agency will forward a copy of the draft recordation to SHPO for 15-day review. The lead Federal agency and SHPO will review the draft recordation materials to determine if they are responsive to the reviewed SOW.
 - G. The lead Federal agency will ensure that RSD and/or OPSB prepares three (3) archival copies of the photographs. The lead Federal agency shall forward two (2) copies to SHPO, and SHPO will forward one (1) copy to the State Library and one (1) copy to the State Archives. RSD and/or OPSB shall also submit one copy (1) to the University of New Orleans, Earl K. Long Library, Louisiana Special Collections, New Orleans, LA.

APPENDIX F

Reviewer Name: _____
MS FEMA-1603 - DR-LA – Public Assistance Alternate and Improved Project

Project Name: _____

Advance Environmental and Historic Preservation Evaluation

Project Name/ Number:

Applicant Name: Recovery School District

Project Location:

Project Description:

Approved AEHP Site Activity (select all that apply):

- Demolition of the pre-disaster structure
- Removal of pre-disaster foundation
- Removal of associated utilities
- Removal of associated sidewalks, fencing, and paved areas
- Backfill of voids created by removal of pre-disaster site features
- Clearing and grubbing of site perimeter, as described in the request

Historical Preservation Considerations

- No historic properties that are listed or eligible for the NRHP in project area.
- Existing facility is listed or eligible for listing on the NRHP. (**See Project Conditions**)
- Site is located within or adjacent to a National Register-listed or eligible historic district. (**See Project Conditions**)

Archeological monitor required? Yes No
If yes, what activities need to be monitored?

Historical Preservation Comments:

Environmental Considerations:

Project is located within or in close proximity to a sensitive environmental area?

Yes No

Environmental Comments:

CONDITIONS

1. All work excluded from the list of approved AEHP site demolition activities is **not** permitted for review under the AEHP process. Any and all construction activities will be reviewed and evaluated by EHP as part of the Applicant’s request for an Alternate or Improved Project.
2. In accordance with the Formosan Termite Initiative Act, (LA R.S. 3:3391.1 thru 3391.13) the Louisiana parish of Orleans are under quarantine. The movement of wood or cellulose material, temporary housing or architectural components (e.g. beams, doors and other wood salvaged from a structure) may not leave the quarantined parishes without written authorization from the commissioner of the Louisiana Department of Agriculture and Forestry or his designee(s).
3. Applicant is responsible to ensure potential hazardous materials, if any, shall be removed, handled, transported and disposed of in accordance with local, state and federal compliance requirements.
4. Per Clean Air Act National Emission Standards for Hazardous Air Pollutant regulations and Louisiana Administrative Code 33:III 5151, demolition activities related to Possible Asbestos-Containing Materials (PACM) must be inspected for ACM/PACM where it is safe to do so. ACM/PACM must be handled in accordance with local, state and federal regulations and disposed of at approved facilities that accept ACM. Demolition activity notification must be sent to the LDEQ before work begins.
5. If during the course of work, archaeological artifacts (prehistoric or historic) or human remains are discovered, the applicant shall stop work in the vicinity of the discovery and take all reasonable measures to avoid or minimize harm to the finds. The applicant shall inform their Public Assistance (PA) contacts at FEMA, who will in turn contact FEMA Historic Preservation (HP) staff. The applicant will not proceed with work until FEMA HP completes consultation with the SHPO. In addition, if unmarked graves are present, compliance with the Louisiana Unmarked Human Burial Sites Preservation Act (R.S. 8:671 et seq.) is

required. The applicant shall notify the law enforcement agency of the jurisdiction where the remains are located within twenty-four hours of the discovery. The applicant shall also notify FEMA and the Louisiana Division of Archaeology at 225-342-8170 within seventy-two hours of the discovery. If this scope of work and/or the footprint/location of the new building changes, this project will need to be resubmitted for further Section 106 review prior to ground disturbing activities taking place. Failure to comply with these stipulations may jeopardize receipt of federal funding.

INFORMAL ENVIRONMENTAL/HISTORIC EVALUATION OF ANTICIPATED SITE LOCATION

Proposed Project Location:

Proposed Project Description

No proposed relocation at this time. **(Review concluded)**

Proposed Project EHP Review Criteria

Project meets criteria to utilize Alternative Arrangements.

If yes, additional information will be required.

Project meets criteria to utilize Categorical Exclusions per 44 CFR 10.8.

Project requires an Environmental Assessment (EA).

Environmental Considerations:

Project is located within or in close proximity to a sensitive environmental area?

Yes No

Environmental Comments:

Reviewer Name: _____
MS FEMA-1603 - DR-LA – Public Assistance Alternate and Improved Project

Project Name: _____

Historical Preservation Considerations

- No historic properties that are listed or 45/50 years or older in project area.
- Existing facility is listed or eligible for listing on the NRHP.
- Site is located within or adjacent to a National Register-listed or eligible historic district.

Archeological Considerations

- Proposed project area adjacent to or within a known archeology site.
- Proposed project within an area with high potential for archeology.
- Proposed project within an area with low potential for archeology.

Prepared by: _____
Environmental Specialist

Date

Approved by: _____
Deputy Environmental Liaison Officer

Date

APPENDIX G

Excerpt from School Facilities Master Plan showing Scope of Phase I taken from <http://www.rsdl.net/Libraries/Documents and Reports/Adopted Facilities Master Plan.sflb>

The Superintendents' Amendments

Recommendations to the Louisiana Board of Elementary and Secondary Education (BESE)

November 6, 2008



Phase 1 PK-8 Schools

Planning District	School Name	Action	Preliminary Estimate	Current Status	Existing Capacity	Master Plan Capacity (20 students per classroom)	Building Capacity (25 students per classroom)	Site Size	FCI
PHASE 1 PK-8									
2	Crocker	Reno	\$12,000,000	Vacant	0	450	530	1.8	71%
2	Custe	Reno	\$14,700,000	Vacant	600	600	720	1.5	36%
2	Woodson	New School	\$19,800,000	Vacant	0	450	530	3.0	67%
2	Jackson, Mahalia	Reno	\$14,700,000	Vacant	340	0	0	3.3	66%
3	Wilson	Reno/Add	\$27,960,000	Vacant	350	450	530	1.9	81%
3	Audubon	Reno	\$11,517,743	Occupied	334	300	300	1.7	61%
4	Craig	Reno	\$14,500,000	Vacant	627	627	627	1.5	65%
4	Hughes	New School	\$30,000,000	Vacant	0	550	550	7.4	57%
4	Wheatley	New School	\$19,800,000	Vacant	0	450	530	2.2	80%
5	Hynes	New School	\$26,400,000	Vacant	0	600	720	9.0	92%
6	Eienville	New School	\$19,800,000	Vacant	0	450	530	4.9	97%
6	Parkview	New School	\$19,800,000	Vacant	0	450	530	5.7	77%
7	Colton Multiplex	Reno	\$15,567,000	Vacant	868	868	868	2.2	34%
7	Frantz	Reno/Add	\$28,700,000	Vacant	334	450	530	1.9	68%
7	Edwards/Moton	New School	\$19,800,000	Vacant	0	450	530	7.0	78%
9	Little Woods	New School	\$19,800,000	Vacant	0	450	530	6.5	74%
9	Osborne	New School	\$19,800,000	Vacant	0	450	530	5.1	67%
9	Williams Fannie C.	New School	\$19,800,000	Vacant	0	450	530	20.0	70%
9	Lake Forest (TBD Site)	New School	\$19,800,000	Vacant	0	450	530	5.0	81%
12	Harte	New School	\$19,800,000	Occupied	385	450	530	9.7	72%
12	New School (site TBD)	New School	\$19,800,000	Vacant	0	450	530	N/A	N/A
	PK-8 Stabilization Fund	Maintenance	\$15,000,000	Occupied	N/A	N/A	N/A		
	Total Phase 1		\$428,844,743		Seats	9845	11205		

SCHOOL FACILITIES MASTER PLAN FOR ORLEANS PARISH • AUGUST 2008

Amendments to Phase 1 PK-8 Schools

- Capacity of schools not yet in construction reduced from 600-720 to 450-530
 - Community input requested smaller PK-8 schools
 - Frees up approximately **\$50 million**
- New Schools at Woodson and Wheatley added into Phase 1 from Phase 2 to accommodate the adjoining C.J. Peete and Lafitte public housing developments—both school projects are contingent on the acquisition of tax credits
- New School at Lake Forest moved from Curran to TBD
- PK-8 Stabilization Fund increased to **\$15 Million**
- Colton relabeled a “multiplex” due to its size
- Phase 1 estimate shifts from **\$440 Million** to **\$428 Million**

SCHOOL FACILITIES MASTER PLAN FOR ORLEANS PARISH • AUGUST 2008

Landbanked PK-8 Schools

Planning District	School Name	Action	Current Status	Existing Capacity	Year	Site Size	FCI
	Landbank						
2	McDonogh 07	Landbank	Occupied	270	2012	1.2	76%
2	NO Free School	Landbank	Occupied	185	2012	0.8	60%
2	Bauduit	Landbank	Occupied	270	2016	0.9	29%
2	Laurel	Landbank	Occupied	983	2016	2.4	52%
3	Ashe	Landbank	Occupied	165	2012	0.9	77%
3	Banneker	Landbank	Occupied	414	2016	1.8	54%
3	LaSalle	Landbank	Vacant	185	2008	1.2	64%
3	Johnson	Landbank	Occupied	565	2014	2.1	42%
3	Audubon Extension	Landbank	Occupied	185	2010	1.7	71%
4	Old Jeff	Landbank	Vacant	0	2008	1.3	80%
4	Augustine	Landbank	Vacant	400	2008	2.5	57%
4	Terrell	Landbank	Vacant	205	2008	1.7	65%
4	McDonogh 28	Landbank	Occupied	360	2016	1.5	55%
4	Tureaud	Landbank	Occupied	282	2016	1.5	52%
4	Bell	Landbank	Vacant	0	2008	2.2	74%
5	Dibert	Landbank	Occupied	250	2016	1.0	42%
6	Capdau	Landbank	Occupied	380	2016	1.9	58%
7	Moton	Landbank	Vacant	590	2008	4.8	62%
8	Armstrong	Landbank	Vacant	335	2008	1.3	81%
12	Fink Site	Landbank	Vacant	0	2008	3.7	N/A
12	Fischer	Landbank	Occupied	545	2015	1.9	54%
12	McDonogh 32	Landbank	Occupied	627	2016	2.9	43%

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Landbanked PK-8 Schools to Review Options at End of Phase 1 or to Demolish

	<u>Landbank--Review Options at End of Phase 1</u>						
3	Green	Landbank--Review Options at End of Phase 1	Occupied	335	N/A	2.1	48%
Planning District	School Name	Action	Current Status	Existing Capacity	Year	Site Size	FCI
	<u>To Demolish / Demolished</u>						
2	Banks	To Demolish	Vacant	270	2009	1.6	70%
2	Lafon	To Demolish	Vacant	500	2009	3.4	66%
4	Chester	To Demolish	Vacant	295	2009	1.5	74%
4	Mondy	To Demolish	Vacant	165	2009	0.8	95%
4	Phillips	To Demolish	Vacant	525	2009	9.3	71%
4	Waters	To Demolish	Vacant	360	2009	4.9	79%
6	Bradley	To Demolish	Vacant	340	2009	7.2	80%
6	Gordon	To Demolish	Vacant	335	2009	2.8	74%
6	Gregory	To Demolish	Vacant	650	2009	15.8	66%
7	Haley	To Demolish	Vacant	460	2009	1.6	94%
7	Shaw	To Demolish	Vacant	250	2009	2.3	88%
8	Edison	To Demolish	Vacant	0	2009	1.9	78%
6	Coghill	Demolished	Vacant	270	2008	7.2	86%
8	Hardin	Demolished	Vacant	420	2008	4.4	97%

SCHOOL FACILITIES MASTER PLAN FOR ORLEANS PARISH • AUGUST 2009

Phase 1 High Schools

Planning District	School Name	Action	Preliminary Estimate	Current Status	Existing Capacity	Master Plan Capacity (20 students per classroom)	Building Capacity (25 students per classroom)	Site Size	FCI
PHASE 1 HIGH SCHOOLS									
1	Open Enrollment International Baccalaureate School	New School	\$ 4,500,000	Vacant	0	400	400	0	-
3	McMain	Stabilization and addition of gym	\$ 12,000,000	Occupied	956	956	956	4	63%
4	New School [Phipps/Waters site]	New School	\$ 49,500,000	Vacant	0	1000	1300	10	-
4	Washington, Booker T.	Revo	\$ 25,374,663	Occupied	0	1100	1350	4.2	33%
6	Lake Area	New School	\$ 38,600,000	Vacant	0	800	1025	4.1	74%
8	9th Ward HS (Carver Site)	New School	\$ 39,600,000	N/A	0	800	1025	65	TBD
9	High School Multiplex at Livingston	New School	\$ 39,600,000	Vacant	0	800	1025	21.4	61%
10	Open Enrollment NASA Laboratory site	New School	\$ 4,000,000	Vacant	0	200	200	-	-
12	Landry	New School	\$ 54,000,000	Vacant	0	1000	1300	6	65%
12	Open Enrollment Maritime/Military Academy - Federal City	New School	\$ 4,000,000	Vacant	0	400	400	-	-
13	Open Enrollment ACRES/Audubon Inst. Laboratory site	New School	\$ 4,000,000	Vacant	0	200	200	-	-
	Easton, Reed, and Ferber (Lusher HS) Stabilization Funds (Exterior Envelope)	Maintenance	\$ 12,000,000	Occupied	0	N/A	N/A		
Total Phase 1			\$287,174,663		Seats	7656	9181		

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Amendments to Phase 1 High Schools

- McMain HS inserted into Phase 1 from Landbank list, will receive building stabilization and the addition of a new gymnasium
- The New School in the Ninth Ward will be located at the Carver site
- Livingston High School is inserted into Phase 1 from Phase 2 to ensure all students are out of modular school facilities by the end of Phase 1
- Phase 1 preliminary estimate shifts from **\$235 Million** to **\$287 Million**

High Schools to be Landbanked and Demolished

Planning District	School Name	Action	Year	Current Status	Existing Capacity	Site Size	FCI
	Landbank						
1	Rabouin	Landbank	2012	Occupied	638	2	78%
4	McDonogh John	Landbank	2014	Occupied	978	2.9	77%
12	Schwarz Alternative School	Landbank	2014	Occupied	190	2.5	75%
	Landbank--Review Options at End of Phase 1						
2	Cohen	Landbank--Review Options at End of Phase 1	N/A	Occupied	1100	3.6	49%
7	Douglass	Landbank--Review Options at End of Phase 1	N/A	Occupied	800	3.9	68%
12	Walker	Landbank--Review Options at End of Phase 1	N/A	Occupied	1232	29.4	53%
	To Demolish / Demolished						
2	Derham	To Demolish	2009	Unoccupied	0	3.5	66%
5	Kennedy	To Demolish	2009	Unoccupied	0	17.8	51%
7	NO Center for Education of Adults	To Demolish	2009	Unoccupied	0	1.1	77%
8	Lawless HS	Demolished	2008	Unoccupied	0	18	85%
9	Abramson	Demolished	2008	Unoccupied	0	24.78	78%

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Amendments to the Superintendents’ Recommendations Adopted by the Orleans Parish School Board (OPSB)

- Amendment 1.- Designating the New High School [Phillips/Waters site] in Phase 1 as the new site for McDonogh #35
- Amendment 2. – Moving New (open enrollment) High School at the NASA site in Phase One and the New (open enrollment) High School at Audubon Institute/ACRES site in Phase 1 to Phase 2 (until the external funding is identified).

*Amendments adopted by OPSB Board Special Board meeting
11/06/08*