



Georgia Department of Transportation

Section 106

Cultural Resources Manual

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1 Introduction

This Cultural Resources Manual (Manual) describes the details of the implementation of the Programmatic Agreement (Agreement) executed December 13, 2019 between FHWA, the Corps, ACHP, SHPO, and GDOT (see Appendix A). While the Agreement sets the framework for how Section 106 compliance and consultation activities will be conducted between the signatories, the Manual provides the practical application of the Agreement that is needed to advance GDOT's transportation improvement program.

The Manual also allows for flexibility in modifying the guidance contained therein as techniques, understanding, and procedures evolve over time. With written agreement from the signatories of the Agreement, updates will be made to the Manual itself and posted to GDOT's Cultural Resources website without a formal amendment to the Agreement required. All changes to the Manual, regardless of how minor, will be tracked and shared with all parties of the Agreement. Version history will also be provided and logged. For any changes to the Manual that do not follow the Agreement, a formal amendment would be required per Stipulation XIII of the Agreement. Changes will be shared via the GDOT's Cultural Resources website at the following link: <http://www.dot.ga.gov/IS/Environment/CulturalResources/PA>

As defined by Stipulation XI, Monitoring and Reporting, in the Agreement, the Agreement and its accompanying Manual will be reviewed annually by the signatory parties of the Agreement on the anniversary of the effective date of the Agreement. If, as a result of these annual reviews, changes occur to either the PA or the Manual, a training session or email detailing these changes will be provided by GDOT's Cultural Resources staff for SOI qualified professionals working on all GDOT programs. In addition, these changes will be identified on the aforementioned website.

SOI professionals are defined by the National Park Service (48 FR 44738-44739). The minimum qualifications for architectural historians include a graduate or bachelor's degree in architectural history, art history, historic preservation or a closely related field. A SOI qualified professional archaeologist must have a graduate degree in archaeology, anthropology, or a closely related field. In addition to SOI requirements, the GDOT requires a prequalification for individuals in archaeology 1.06(f) and architectural history area class 1.06(b). To obtain prequalification for architectural history, a person must demonstrate three years of experience in all phases of Section 106 assessments including survey, resource identification, resource evaluation and mitigation. Archaeologists must have demonstrated experience in work and scholarship in the southeast and experience in performing archaeological survey (Phase I), archaeological testing (Phase II), and data recovery (Phase III).

Per the National Historic Preservation Act 'historic property' or 'historic resource' means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on the National Register, including artifacts, records, and material remains related to such a property or resource." For ease and clarity of use within the Agreement and the Manual, when it is necessary to distinguish between archaeological resources and the built environment, the following terms will be used: Historic Resource refers to the built environment only; and Archaeological Resource refers to archaeological sites only.

The Manual provides guidance on how to implement the Agreement. A glossary of definitions and list of abbreviations used throughout the Manual is provided in Appendix B and document templates are provided in Appendix C. For detailed guidance on how to complete cultural resources work for GDOT's program, including resource identification, evaluation of National Register eligibility, and effects assessments, consult the Environmental Procedures Manual (EPM) located on the GDOT website.

1.1 FHWA/GDOT AGREEMENT DOCUMENTS 1987 to 2015

The executed PA supersedes memoranda of understanding, letter agreements, and the 2012 Emergency Relief Programmatic Agreement previously agreed to among GDOT and the FHWA, and/or SHPO, dating between 1987 and 2015 as outlined in the table below:

Document/Agreement	Date	Signatories	Purpose
FHWA/GDOT Cultural Resource Survey Guidelines	1987	FHWA, GDOT, SHPO	Standardizes procedures for determining APE and performance of surveys for historic resources
Letter Regarding No Historic Properties Affected Documents	5/29/2001	FHWA, GDOT, SHPO	When no resources 50 years or older exist within the APE, SHPO signed concurrence is not required
Memorandum of Understanding Between FHWA, GDOT, and SHPO Reevaluation of Environmental Documents for Section 106 Compliance with the National Historic Preservation Act of 1966 as Amended	3/13/2003	FHWA, GDOT, SHPO	Expedites Re-evaluation process for Section 106 project which previously complied with Section 106
Letter Regarding No Historic Properties Affected Documents	5/12/2005	FHWA, GDOT, SHPO	Eliminates need for SHPO Concurrence on No Historic Properties Affected document when no National Register eligible resources are within APE
Streamlined AOE Procedure for Sidewalk Improvement Projects and Wheelchair Ramp Projects	2/15/2006	FHWA, GDOT, SHPO	Establishes a process for streamlining Section 106 documentation and review process for sidewalk improvement projects
Memorandum of Understanding Between the GA Division FHWA and GDOT Regarding Tribal Consultation	4/6/2006	GDOT, FHWA	Allows GDOT to solicit comments from tribal Governments on behalf of FHWA
Archaeological Reports with Negative Findings Streamlining Agreement	8/22/2007	FHWA, GDOT, SHPO	Section 106 streamlining process for projects with no eligible archaeological resources. Reports documenting negative findings do not require SHPO signed concurrence
Letter Agreement Update to the FHWA/GDOT Cultural Resources Survey Guidelines	6/20/2011	FHWA, GDOT, SHPO	Updated GDOT archaeological survey standards from previous 1987 agreement. Established procedures for GDOT In-House Archaeological Reports where signed concurrence from HPD is not required for negative findings.

Document/Agreement	Date	Signatories	Purpose
Programmatic Agreement Among FHWA, GDOT, GA SHPO, and the ACHP on Historic Preservation for Taking into Account Historic Properties Under the Emergency Relief Program	3/8/2012	FHWA, GDOT, ACHP, SHPO	Establishes process for treatment of historic resources under the emergency relief program
Memorandum of Understanding Between GA DNR HPD, FHWA GA Division, and GDOT for Procedures for Compliance with Section 106 of the National Historic Preservation Act for the Low Impact Bridge Program	7/8/2014	FHWA, GDOT, SHPO	Establishes process for treatment of historic resources under GDOT's Low Impact Bridge Program
Memorandum of Understanding Between FHWA, GDOT, GA DNR HPD No Potential to Cause Effects GDOT Maintenance and Minor Highway Projects	1/28/2000 (original); 2005, 2007, 2014, most recently amended 2/9/2015	FHWA, GDOT, SHPO	Identifies activities that have been jointly determined not to have the potential to cause effects to historic resources
Georgia Historic Bridge Survey Acknowledgement Statewide, Georgia	1994 through 2014	FHWA, GDOT, SHPO	Documents SHPO concurrence with NRHP eligibility determinations of Georgia's historic bridges.

2 Tribal Consultation

2.1 FHWA/GDOT Tribal Consultation Protocol

FHWA acknowledges that federally recognized Tribes are sovereign governments and as such, have a unique legal relationship with the federal government. GDOT, in partnership with FHWA, may provide general coordination information to the Tribes in accordance with 36 CFR 800.2(c)(2)(4); however, FHWA shall retain the ultimate responsibility for complying with all Federal requirements pertaining to direct government-to-government consultation with the Tribes. At any time, FHWA shall honor the request of any Tribe for direct government-to-government consultation regarding an undertaking.

The following tribal consultation protocol applies to projects in which FHWA is the Lead Federal Agency:

A. Maintenance of GDOT Archaeological Unit Professional Staff

GDOT shall maintain staff that meet the National Park Service's Professional Qualifications Standards as identified in 48 FR 44738-44739 in the field of archaeology or other relevant field to carry out its historic preservation programs and responsibilities and whose duties shall include implementing Stipulation V of the Agreement.

B. Points of Contact

1. The point of contact for correspondence to the FHWA shall be the Georgia Division Administrator. Project-related information can be addressed to the attention of the appropriate Environmental Coordinator or Tribal Liaison.
2. The point of contact for correspondence to GDOT shall be the designated American Indian Liaison and/or the staff archaeologist assigned to individual Federal undertakings.

C. Consultation Activities

1. GDOT, in partnership with FHWA, shall conduct the following activities so that Tribes have a reasonable opportunity to identify their concerns about historic properties; advise on the identification and evaluation of historic properties, including those of traditional religious and cultural importance to them; articulate their views on the undertaking's effects on such properties; and participate in the resolution of adverse effects:
 - a. Notify Tribes about individual undertakings and transmit project information including a description of the undertaking and location information
 - b. Provide results of identification and evaluation efforts, acknowledging that Tribes possess special expertise in assessing the eligibility of historic properties that may possess religious and cultural significance to them
 - c. Provide assessment of effects to historic properties, as applicable
2. GDOT, in partnership with FHWA, will make a reasonable and good faith attempt to incorporate any information or comments received by Tribes into the transportation planning process and notify the Tribes of how their comments were incorporated into the decision making process. Where, after consultation aimed to resolve a Tribe's comments, they were not incorporated into the decision making process, GDOT, in

partnership with FHWA, will provide documentation clarifying why they were unable to accommodate the Tribe's concern.

3. As warranted, GDOT, in partnership with FHWA, will facilitate conference calls, webinars, and/or face-to-face project consultations for individual undertakings.
4. The FHWA and GDOT shall provide each other with copies of correspondence provided to, and received from, Tribes regarding individual undertakings.
 - a. Correspondence received from a Tribe shall be saved as part of the official project file. If information and/or documentation provided by a Tribe is deemed sensitive, consideration shall be given to its proper handling and storage in consultation with the Tribe.
 - b. Correspondence and information shared by a Tribe in direct consultation with FHWA in a government-to-government capacity will not be provided to GDOT without prior approval by the Tribe.
5. The above referenced tribal consultation protocols apply only to federally recognized tribal governments. In the event that a state-recognized tribe expresses interest in an undertaking, consultation will occur per standard consulting party protocol.

2.2 Savannah Regulatory Guidelines for Consultation with Federally Recognized Tribes

I. Purpose

The U.S. Army Corps of Engineers (Corps) Regulatory program recognizes the sovereign status of Native American Tribal Governments, and their obligation for meaningful consultation on a government-to-government basis. The Corps is committed to fulfilling their trust responsibility to Tribes in accordance with the Constitution, Treaties, Executive Orders, statutes, and the Supreme Court decisions that gave rise to and define that responsibility. The Corps must also consult if a federal action may affect tribal rights or resources; or, historic properties, including sites of traditional religious or cultural significance to Tribes in accordance with the National Historic Preservation Act.

II. District Personnel Responsibilities for Tribal Consultation.

The following provides an understanding of the various roles of staff within the Savannah District to ensure Regulatory effectively conducts Tribal consultation in accordance with policies and procedures:

1. Regulatory Specialist and Project Manager - Provide initial review to determine potential effect of regulatory action on cultural resources. Contact Regulatory Archeologist/Cultural Resource Specialists/District Tribal Liaison to identify tribes that may be impacted by proposed project and tribal resources that may be impacted by proposed project.
2. Archeologists/Cultural Resource Specialists - Provide full time cultural resource support and review all PCNs and applications to determine if cultural resource assessment, which may include a survey, is required. When GDOT is the applicant, and in coordination with Corps Archeologist or Cultural Resource Specialists, GDOT will provide surveys, eligibility determinations, effects assessment, and mitigation documents. The Archeologists/Cultural Resource Specialists will assist with preparation of consultation documents, permitting special conditions, MOA's, and PA's. For undertakings where GDOT is the applicant, GDOT may facilitate tribal consultation with the Corps Archeologist or Cultural Resource Specialist. This position will manage communication with Tribes as it pertains to the Section 106 Process and act as a conduit between Regulatory and the Tribe(s), serving as District Tribal Liaison for Regulatory in the absence of a dedicated District Tribal Liaison.
3. Tribal Liaison - Provide support to Regulatory by training personnel on government-to-government relationships and Corps responsibilities to federally recognized tribes. Assist with drafting consultation letters and organizing and preparing for consultation meetings with Tribes. Will work to develop and maintain tribal relationships, cultural competencies, and immersion/training opportunities, when available. Tribes may request the Tribal Liaison engage in a particular project.
4. Regulatory Chief – Provide oversight of government-to-government relations related to regulatory actions and programs. Provide support to the District Engineer and Tribal Liaison to resolve regulatory issues, identify opportunities to improve government-to-government coordination and efficiencies, review and sign correspondence letters to Tribal Historic Preservation Officers (THPO) and Memorandum of Agreements, and attend government-to-government meetings, when appropriate.

5. District Commander - Signs all official government-to-government consultation letters addressed to Tribal leaders. Attend Tribal consultation meetings, specifically where Tribal leaders are also in attendance. Coordinate with Tribal Liaison to receive briefing on Tribal concerns relating to Regulatory permitting actions.

III. Determining Tribes for Consultation

Determining which Tribe to consult with and when, as well as the appropriate individual at each Tribe based on the circumstance are important initial steps in the Tribal consultation process. Each Tribe is unique and may have different processes and points of contacts for consultation. The Tribal Liaison will retain an active list of Tribal staff, THPO's and Tribal Leaders. For a list of Tribes and county areas of concern, please see Section 2.3 *Lead Federal Agency Record of Tribes and Areas of Concern*

IV. Process for Consultation

Consultation may occur at all levels. The Savannah District recognizes that while Tribes are included in Public Notification and Preconstruction Notification (PCN) Distribution lists, they are insufficient means to initiate government-to-government consultation. If a Tribe provides a written or verbal request to be left off the lists, the Corps will consent to the Tribe's wishes. If Tribes have any questions or concerns regarding actions which have the potential to significantly affect tribal resources, tribal rights, and tribal lands, the Regulatory Archeologist is tasked with engaging with the appropriate Regulatory Project Manager to ensure they are addressed accordingly. Based upon the nature of the action, and size of reporting documentation, GDOT may provide support to the Corps in dissemination of notifications and correspondences to Tribes, as determined appropriate.

1. Tribal consultation will be initiated on a Regulatory action when a cultural resource survey is performed to identify historic properties. In accordance with 36 CFR 800.4(a)(4), the agency official shall gather information from any Tribe to assist in identifying properties, including those which may be of religious and cultural significance to them and may be eligible for the National Register. The Tribes will be offered an opportunity to consult, provided copies of the reports, associated documentation, and Corps' recommended effects, and their opinions and concerns solicited. Based on the nature of the action and the size of information to transmit, GDOT may support the Corps' efforts for transmittal of documentation to Tribes. The Corps will be sensitive to issues of confidentiality in the event that Tribes request specific information be withheld from the Section 106 process, in accordance with 36 CR 800.11(c).
2. Correspondence shall be distributed by electronic mail, or by U.S. Postal System if requested. Reports and associated documentation will be provided with electronic copies via GDOT's file transfer system, as determined appropriate; bound copies and CD's will be provided, upon request from a Tribe.
3. By federal law, Tribes are given 30 days to review a project and provide comments, but if no response is received within five business days from the end of comment period, the Regulatory Archeologist is encouraged to contact the THPO or Tribal POC and ask if they intend to respond. Tribes request additional time, it is recommended extensions be granted in 15-day increments.
4. Upon receipt of tribal comments, the Corps shall respond in a timely manner. The Project Manager should be made aware of all correspondences between Regulatory Archeologist and Tribe(s). As appropriate, and in coordination with the

Corps, GDOT may support efforts to provide coordination information in timely responses to Tribes.

5. If an agreement document is needed, the Tribe(s) will be invited to participate as consulting parties, or invited signatories. Their input will be requested, and they will be provided copies of the draft to review.
6. When a Tribe accepts an invitation as a consulting party, issued permits should be provided to the Tribes, to close the consultation process.
7. Copies of documents and correspondence shall be maintained by the Regulatory Archeologist, and or the Tribal Liaison, and Project Manager as part of the project administrative record.

The above provides guidance for tribal consultation. The Corps recognizes that consultation and communication with the Tribes is a fluid and dynamic process with multiple components, dependent on the Tribe(s), THPOs, and the undertaking and its impacts. This guidance may be modified as necessary to adjust these factors. The Tribal Liaison should be contacted with any questions related to guidance on facilitating government-to-government relations.

2.3 Lead Federal Agency Record of Tribes and Areas of Concern

The Federal Agencies, in partnership with GDOT, shall work to identify Tribes with ancestral homelands in Georgia and establish general preferred consultation protocols with each tribe on an individual tribe basis. The GDOT tribal liaison, in partnership with Federal Agency tribal liaisons, shall maintain a tribal contact list, record of area of interest, and preferred consultation matrix for use in accordance with Sections 2.1 and 2.2 of the Manual. Information regarding any changes in designated tribal contacts or preferred methods of consultation shall be shared between GDOT, SHPO, and the Federal Agencies.

Tribe	Georgia Counties of Interest
Absentee-Shawnee Tribe	Burke, Columbia, Chatham, Chattahoochee, Effingham, Muscogee, Quitman, Richmond, Screven, Stewart
Alabama-Coushatta Tribe of Texas	Bartow, Carroll, Catoosa, Chattahoochee, Chattooga, Cherokee, Clayton, Cobb, Coweta, Dade, Douglas, Floyd, Fulton, Gilmer, Gordon, Haralson, Harris, Heard, Fayette, Marion, Meriwether, Murray, Muscogee, Paulding, Pickens, Pike, Polk, Quitman, Spalding, Stewart, Talbot, Troup, Upson, Walker, Whitfield
Alabama-Quassarte Tribal Town	Entire State
Catawba Indian Nation	Burke, Chatham, Effingham, Richmond, Screven
Cherokee Nation	Banks, Barrow, Bartow, Catoosa, Chattooga, Cherokee, Clarke, Cobb, Columbia, Dade, Dawson, DeKalb, Elbert, Fannin, Floyd, Forsyth, Franklin, Fulton, Gilmer, Gordon, Gwinnett, Habersham, Hall, Hart, Jackson, Lincoln, Lumpkin, Madison, Murray, Oconee, Oglethorpe, Paulding, Pickens, Polk, Rabun, Stephens, Taliaferro, Towns, Union, Walker, Walton, White, Whitfield, Wilkes
Chickasaw Nation	Deferred
Coushatta Tribe of Louisiana	Entire State
Eastern Band of Cherokee Indians	Banks, Barrow, Bartow, Catoosa, Chattooga, Cherokee, Clarke, Cobb, Dade, Dawson, Elbert, Fannin, Floyd, Forsyth, Franklin, Gilmer, Greene, Gordon, Gwinnett, Habersham, Hall, Hart, Jackson, Lumpkin, Madison, Murray, Oconee, Oglethorpe, Paulding, Pickens, Polk, Rabun, Stephens, Towns, Union, Walker, White, Whitfield
Eastern Shawnee Tribe	Burke, Columbia, Chatham, Chattahoochee, Effingham, Muscogee, Quitman, Richmond, Screven, Stewart
Jena Band of Choctaw Indians	Baker, Calhoun, Clay, Decatur, Early, Grady, Miller, Mitchell, Quitman, Randolph, Seminole, Stewart
Kialegee Tribal Town	Entire State
Miccosukee Tribe of Indians of Florida	Deferred

Tribe	Georgia Counties of Interest
Mississippi Band of Choctaw Indians	Baker, Calhoun, Clay, Decatur, Early, Grady, Miller, Mitchell, Quitman, Randolph, Seminole, Stewart
Muscogee (Creek) Nation	Entire State
Muscogee (Creek) National Council	Entire State
Poarch Band of Creek Indians	Entire State
Seminole Nation of Oklahoma	Entire State
Seminole Tribe of Florida	Does not consult when FHWA is Lead Federal Agency. Entire State when Corps is Lead Federal Agency.
Shawnee Tribe	Burke, Columbia, Chatham, Chattahoochee, Effingham, Muscogee, Richmond, Screven, Stewart, Quitman
Thlopthlocco Tribal Town	Entire State
United Keetoowah Band of Cherokee Indians	Banks, Barrow, Bartow, Catoosa, Chattooga, Cherokee, Clarke, Cobb, Dade, Dawson, Elbert, Fannin, Floyd, Forsyth, Franklin, Gilmer, Gordon, Gwinnett, Habersham, Hall, Hart, Jackson, Lumpkin, Madison, Murray, Oconee, Oglethorpe, Paulding, Pickens, Polk, Rabun, Stephens, Towns, Union, Walker, White, Whitfield

3 Consulting Parties and Public Involvement

3.1 Protocol for Identifying Consulting Parties

- The Georgia SHPO will be a consulting party for all projects.
- The County government and City government will be invited to become a consulting party for all projects within their jurisdiction.
- All regional commissions will be invited to become consulting parties for all projects within their areas of responsibility.
- All historical societies, preservation commissions, and other groups with known interest in historic properties will be invited to become a consulting party for projects located within their areas of interest. A list of potential groups can be found at the following locations:
 - <https://www.georgiaarchives.org/ghrac/directory>
 - <https://georgiahistory.com/education-outreach/affiliate-chapter-program/affiliate-chapter-list-by-county/>
- The DeKalb History Center and DeKalb County Historic Preservation Commission will receive Section 106 documentation for DeKalb County projects.
- The Cherokee County Historical Society will be invited to participate as a consulting party for projects located in Cherokee County.
- The Atlanta Urban Design Commission will be invited to participate as a consulting party for projects located within the City of Atlanta.
- The Advisory Council on Historic Preservation (ACHP) must be notified when an undertaking may adversely affect a historic property. The ACHP exercises its discretion in deciding to participate in the consultation process based on the Appendix A Criteria found in 36 CFR 800.
- The National Park Service Southeast Regional Office National Historic Landmark Contact will be invited to participate on all projects with a National Historic Landmark within the APE.
- All National and/or State Park property located within the APE of projects will be invited to become a consulting party.
- The Superintendent of the Chickamauga-Chattanooga National Battlefield Park will be invited to become a consulting party for all projects located within Walker, Catoosa and Dade Counties.
- The Georgia Trust for Historic Preservation will be invited to become a consulting party for all projects that involve historic properties of a state or national level of significance.
- The National Park Service Intermountain Trail Office will be invited to become a consulting party for all projects located within the vicinity of the Trail of Tears National Historic Trail.
- The Gullah-Geechee Cultural Heritage Corridor Commission will be invited to become a consulting party for all projects located within the Gullah-Geechee Cultural Heritage Corridor.
- The Georgia Civil War Commission and Georgia Battlefield Association will be invited to become a consulting party for all projects that involve known Civil War era properties.

Other consulting parties will be identified based upon the nature and the scope of the undertaking in consultation with the Lead Federal Agency and the SHPO. In the event that a state-recognized tribe identifies interest in an undertaking, they will be invited to participate as a consulting party to the Section 106 process as a member of the public; however, this consultation will not be considered government-to-government consultation in the manner of federally recognized tribal governments.

4 Determining the Area of Potential Effects

4.1 Procedures for Determining the Area of Potential Effects

General Guidance:

GDOT will define the Area of Potential Effects (APE) per 36 CFR 800.16(d). The following guidance supplements the regulation to assist the practitioner when determining the APE on a project-by-project basis and shall be used by GDOT Cultural Resources Staff and consultants to determine the APE for proposed projects; however, GDOT shall consult with the SHPO and the Tribes on the determination of the APE on a project specific basis as needed.

Definition

According to 36 CFR 800.16(d), the Area of Potential Effects is the **geographic area** or areas within which an undertaking may directly or indirectly cause changes in the character or use of historic properties, if such properties exist. The area of potential effects is influenced by the **scale and nature of the undertaking** and may be different for different kinds of effects caused by the undertaking.

Determining the APE is a process that considers the interplay of both the geographic area and the scale and nature of the undertaking. Consideration of geographic area in determining the APE varies between historic resources and archaeological resources; thus the procedures are described separately for each in the section below.

Geographic Area:

Historic Resources

In defining in the field and/or on plans and aerial photography the APE for historic resources within which effects could occur, and to what degree they may be generated by a specific project, consideration is given to a number of factors present or absent within the existing environmental context of a historic resource.

These factors, which have become apparent over the years of practice in defining the APE and in assessing effects to historic resources on an individual basis are as follows:

- 1) Topography - The character of the existing terrain (i.e. flat, gently rolling, hilly, mountainous) and the distance between the resource and the proposed project are taken into consideration when defining the APE. Topographic features can either directly enhance or inhibit the visual effects a project might have on a historic property.

A new location transportation project located in mountainous terrain might be less likely to have an effect on a historic property because of intervening topography than a new location transportation project located on flat terrain the same distance from the resource. However, a historic property on the lower slopes of a valley might be in direct view of a new location transportation project on the valley floor even more so than a historic property located the same distance away on flat wooded land.

- 2) Vegetation - The presence or absence of vegetation is taken into consideration. The presence of vegetation may act as a visual buffer between the project and the resource. Removal of vegetation may result in a visual effect and may also alter the character defining features of a historic resource's setting.
- 3) Setting - The degree to which the setting or surroundings of a historic resource have changed, especially in the non-historic period, is taken into consideration. A project is more likely to have an effect on a resource located within an environment which has

undergone little change than it would in an environment where intrusive modern commercial development has occurred.

- 5) Physical Siting of a Historic Resource - The physical siting of a resource is taken into consideration. A resource purposefully located on a knoll or hill to overlook a broad expanse of landscape could be visually affected by the placement of a facility on that landscape and would also alter the character defining features of the historic resource's setting, absent other recent changes in the vista.
- 6) Existing/Planned Future Land Use - The existing and planned future land uses in the vicinity of the project are taken into consideration. Although not a primary factor in establishing the APE, it is an important factor when considering the type, if any, of development a project may generate in the reasonably foreseeable future, which could affect a historic resource.

Applicability of any or all geographic factors is dependent on the scale and nature of the undertaking.

Archaeological Resources

- 1) The APE for archaeological resources is generally defined by the limits of a proposed project's physical footprint, including the existing ROW and any proposed new ROW and/or easements required to construct the project.
- 2) Generally, the APE is limited to the area of direct physical disturbance; however, broader investigations may be conducted on a case-by-case basis.

Scale and Nature of the Undertaking:

The scope of the project greatly affects the effort required to identify historic properties. In determining the APE, it is important to consider the full range of possible project impacts and effects, both those that will be direct results of the project and those that could be indirect consequences. Examples of this consideration may include the following scenarios:

- The APE could be limited to the existing right-of-way (ROW) within which all construction and ground-disturbing activity would occur without any potential for indirect effects.
- The APE could also consist of a broad corridor extending well beyond the existing or proposed ROW from the project begin point to the project end point.
- For the construction of a new location transportation facility, the historic property APE area would be broader since the introduction of a new roadway would cause impacts and effects to a larger area.

4.2 Defining the Area of Potential Effects for Curb Cut Improvements

The following guidance defines a limited APE for curb cut installation or improvements based upon the limited potential for effect. Projects of this type occur completely within existing ROW.

DEFINING THE APE:

METHODOLOGY FOR HISTORIC RESOURCES

A site visit will be conducted, and any features in the area of curb cut installation or improvement will be identified and noted. If features associated with historic resources noted in the site visit, such as vegetation, steps, retaining walls, granite curbs, and/or sidewalk pavers would be physically impacted by the project, they will be considered located within the APE and the effect of the undertaking would be evaluated under Section 106. Viewshed is not a consideration in defining the APE for this project type due to the minor visual impact potential.

METHODOLOGY FOR ARCHAEOLOGICAL RESOURCES

With the exception of proposed activities within, or adjacent to, previously recorded archaeological site boundaries, the installation or improvement of curb cuts is not considered to have the potential to cause an effect to archaeological properties and will, therefore, be considered outside of the APE for curb cut improvements or installations.

5 Section 106 Project Review Procedures

5.1 Review Procedures

The following describes the review process and documentation requirements under Section 106 per Stipulation VII in the Agreement with both FHWA and the Corps. Unless otherwise noted, the requirements outlined below are the same for both Federal Agencies, however the timing of certain steps varies between Lead Agencies (see Figure 1). Also, unless otherwise noted, all project documentation will be distributed by GDOT for direct consultation with SHPO, the Tribes, and consulting parties. The Lead Federal Agency will be copied on all documentation, and the SHPO, the Tribes, and consulting parties will respond directly to GDOT and copy the Lead Federal Agency. The Corps Project Managers will be copied on all communication and documentation for the undertakings under their review as will the Corps Regulatory Archaeologist. Template documents for documentation noted in the following section are included in Appendix C for reference.

Step 1: Initiate the Section 106 Process

- FHWA as Lead Federal Agency – GDOT will determine the scope of the undertaking and its APE, as defined in 36 CFR 800.16(d) and in consultation with SHPO and per Section 4.1 of this Manual.
- Corps as Lead Federal Agency - GDOT shall consult with the Corps on the definition of the APE on a project by project basis. The Corps will consult with SHPO as needed. This consultation is initiated once impacts to the Waters of the United States (WOTUS) are determined.

Documentation

GDOT transmits a Notification of Initiation of Section 106 Consultation Letter (Notification) and copies the Lead Federal Agency (see Template in Appendix C)

Coordination and Consultation with SHPO and Consulting Parties

GDOT transmits the Notification directly to SHPO and the consulting parties, copying the Lead Federal Agency

Coordination and Consultation with Tribes

- FHWA as Lead Federal Agency - FHWA has consulted with individual Tribes and allows GDOT to coordinate directly with Tribes on behalf of FHWA (see Section 2.1 of this Manual for the protocol). As such, GDOT will transmit the Notification directly to the Tribes, copying the Lead Federal Agency.
- Corps as Lead Federal Agency – the Corps will consult with individual Tribes and copy GDOT on all communication; however, on a case by case basis, the Corps may allow GDOT to assist in supporting its consultation efforts (see Section 2.2 of this Manual for the protocol). As such, the Corps will transmit the Notification directly to the Tribes, copying GDOT. For projects in which the Corps has allowed GDOT to assist in consultation efforts, GDOT will transmit the Notification directly to the Tribes, copying the Corps.

Step 2: Identify Historic Properties

GDOT will conduct field surveys within the APE using approved methodologies as described in GDOT's EPM, and specifically Chapter 5.3 of that manual, which outlines the survey and documentation requirements for the Cultural Resources Staff and/or consultants.

Documentation

GDOT will submit the following documentation to SHPO, the Lead Federal Agency, the Tribes, and other consulting parties as applicable in the following format:

- Historic Resources Survey Report
- Archaeological Short Report, GDOT In-House Archaeological Survey Report, or Phase I and/or Phase II Archaeological Survey Reports

Coordination and Consultation with SHPO and Consulting Parties

- GDOT will consult with SHPO on all determinations of eligibility for historic properties.
- GDOT will coordinate and conduct Technical Assistance meetings regarding NRHP eligibility with SHPO on behalf of the Lead Federal Agency.
- GDOT will submit all Section 106 documentation directly to SHPO and other consulting parties, copying the Lead Federal Agency.
- SHPO will respond directly to GDOT on all document review and copy the Lead Federal Agency.

Coordination and Consultation with Tribes

GDOT will consult and coordinate with the Tribes in accordance with Sections 2.1 and 2.2 of the Manual.

Step 3: Assess Effects

SHPO signed concurrence is not required for submitted Section 106 findings of **No Historic Properties Affected** if the following circumstances are applicable:

Section 106 Finding	Conditions	Section 106 Documentation
No historic properties are located within the APE of the undertaking.	History: Upon completion of background research and/or field surveys, no historic resources are identified within the APE of an undertaking.	No Historic Properties Affected Finding document from the GDOT Historian and/or Consultant submitted to SHPO, Lead Federal Agency, and consulting parties (see Template in Appendix C).
	Archaeology: The findings of archaeological field surveys are negative and no previously recorded archaeological sites are located within the APE.	Archaeological In-House Survey Report from the GDOT Archaeologist or Archaeology Short Report from the Consultant submitted to SHPO, Lead Federal Agency, Tribes, and consulting parties.
No <u>eligible</u> historic properties are located within the APE of the undertaking.	SHPO has previously concurred with the Historic and Archaeological Resource eligibility determinations that there are no eligible NRHP resources in the APE.	<p>History: No Historic Properties Affected Finding document from the GDOT Historian and/or Consultant submitted to SHPO, Lead Federal Agency, and consulting parties (see Template in Appendix C).</p> <p>Archaeology: Language documenting a No Historic Properties Affected Finding is included in the final In House Survey Report from the GDOT Archaeologist or the Archaeological Survey Report from the Consultant and the document is submitted to SHPO, Lead Federal Agency, Tribes, and consulting parties.</p>

For projects that include curb cuts (see Section 4.2: Defining the Area of Potential Effects for Curb Cut Improvements) as the only activities which have the potential to cause effect, the No Historic Properties Affected document will record this finding for both Archaeology and History, and a standalone archaeology document will not be prepared. The cover page of the report will indicate that it is a joint document that contains both Archaeology and History (see Template in Appendix C).

Applying the Criteria of Adverse Effect

For NRHP listed or eligible properties, GDOT will apply the Criteria of Adverse Effect in consultation with the SHPO to any historic properties in accordance with 36 CFR 800.4(d) and 800.5 and consult with the SHPO, the Tribes, and others regarding avoidance and minimization of adverse effects, if needed.

Documentation

Assessment of Effects Document

- Submitted separately from survey reports when FHWA is the Lead Federal Agency
- Submitted with the survey reports when the Corps is the Lead Federal Agency unless otherwise coordinated with the Corps

Coordination and Consultation with SHPO and Consulting Parties

- GDOT will coordinate and conduct Technical Assistance meetings regarding effects to

- historic properties with SHPO on behalf of the Lead Federal Agency.
- GDOT will submit all Section 106 documentation directly to SHPO and other consulting parties, copying the Lead Federal Agency.
- SHPO will respond directly to GDOT on all document review and copy the Lead Federal Agency.

Coordination and Consultation with Tribes

GDOT will consult and coordinate with the Tribes in accordance with Sections 2.1 and 2.2 of the Manual.

Step 4: Resolve Adverse Effects

If adverse effects to historic properties cannot be avoided, GDOT and the Lead Federal Agency will consult with SHPO, the Tribes, and other consulting parties in order to resolve adverse effects in accordance with 36 CFR 800.6.

- Upon SHPO concurrence with the finding of adverse effect, GDOT will coordinate with the Lead Federal Agency to notify the ACHP per 36 CFR 800.6(a).
- GDOT's Cultural Resources Staff and consultants will draft a Memorandum of Agreement (MOA) for review by SHPO, the Lead Agency, the Tribes, other consulting parties, and the ACHP (if participating in consultation).
- The MOA will indicate the timing of the completion of mitigation as it relates to the certification of a project for construction (i.e. before project letting for construction, during construction, prior to completion of construction).

Documentation

- Memorandum of Agreement
 - Submitted as a Draft for review with the Assessment of Effects Document
 - Submitted for signature after ACHP coordination is complete

Potential Mitigation

The following list represents mitigation undertaken on past projects under the Federal Agencies but is not exhaustive and is provided here merely to suggest ideas and approaches. The actual mitigation will be determined on a project by project basis and will be recommended by GDOT commensurate with the significance of the affected resource and the degree of the effect. Development and execution of agreed upon mitigation measures, including review of research designs and draft materials, will be done in coordination with the Lead Federal Agency, SHPO, Tribes, and consulting parties.

- Archival Photography
 - SPHO's Permanent Archival Record Package
 - HABS/HAER
- Historic Narratives
- Context Studies – new and/or updated topics, to include consideration of oral histories
- Additions to Georgia's Living Places (SHPO's Resource Identification Guidelines for Georgia)
- Archaeological Data Recovery – including opportunities for tribal participation
- Interpretive Displays, Publications, or Media
- Documentaries
- FindIt Surveys (County surveys of historic resources performed by a division of UGA)
- National Register Nominations
- Landscape Plans

Coordination and Consultation with SHPO and Consulting Parties

- GDOT will submit all Section 106 documentation directly to SHPO and other consulting parties, copying the Lead Federal Agency
- SHPO will respond directly to GDOT on all document review and copy the Lead Federal Agency

Coordination and Consultation with Tribes

GDOT will coordinate with the Tribes in accordance with Sections 2.1 and 2.2 of the Manual.

Other Section 106 Process Requirements

Coordination on Projects Involving Archaeological Resources Protection Act (ARPA) Permits

If a proposed project requires archaeological survey on federal land, an ARPA permit is required prior to the survey in accordance with 16 U.S.C. 470ee. GDOT will coordinate with the federal land manager (e.g. National Park Service, US Forest Service, US Army Corps of Engineer, US Fish and Wildlife Agency, etc.) regarding the permit application, submittal process, and any required application fees prior to submittal of the application. Additionally, GDOT will coordinate with the Lead Federal Agency and Federal land manager regarding SHPO consultation for any resources identified on federal land.

For state-funded projects that require an ARPA permit from the Mobile District of the US Army Corps of Engineers, and involve a regulatory action from the Savannah District, GDOT will notify both Districts if the federal land falls under jurisdiction of regulatory action.

In instances where a disagreement over eligibility or effects to historic properties on Federal land occurs, the Federal agencies will coordinate and, if needed, follow dispute resolution as outlined in Stipulation XII.

A map of federal lands within Georgia is included for reference in Appendix D. The boundaries of federally owned parcels will be verified prior to submittal of an ARPA permit application.

Re-evaluation of Project Changes after Section 106 Review has concluded

In certain situations described below, design changes to projects previously cleared under Section 106 (after Step 4 above is complete) will not require re-opening Section 106. The completion of Section 106 is understood to mean the following:

- 1) SHPO's signed concurrence and consultation with the Tribes on NRHP eligibility and effects.
- 2) Consultation with SHPO and the Tribes on survey reports documenting negative findings. SHPO's signed concurrence was not required per Stipulation VII of the Agreement, including negative findings documented in an Archaeology Short Report, GDOT In-House Archaeological Report, or No Historic Properties Affected Report.
- 3) Less than 5 years have passed since the full project survey for historic resources was completed and concurred with by SHPO, or ROW has been authorized.

Re-evaluation of project changes that fall within portions of the project previously subject to Section 106 documentation do not require SHPO written concurrence and can include the following:

- Addition of ROW (including within an historic property under the condition that it does not change the overall effects finding)
- Construction easements (including driveway easements and easements for sediment basins)

- Minor alignment shifts
- Cross street and side street tie-ins and minor extensions

Section 106 documentation for a re-evaluation not requiring SHPO written concurrence shall be in the form of a memorandum from Cultural Resources Staff and/or Consultants to the project file which details the following (see Appendix C):

- Provides the original Section 106 finding
- Notes the Section 4(f) *de minimis* acknowledgement where applicable on projects where FHWA is Lead Federal Agency
- Identifies the changes to the project
- Demonstrates that these changes are included within the original APE of the project
- States that the initial Section 106 findings are unchanged

Archaeological reevaluations will include a map demonstrating the limits of project changes in relation to previous survey coverage for the project. The Lead Federal Agency, SHPO, and the Tribes will be provided this Memorandum for their review and files.

Any re-evaluation for project changes that results in the following would require re-opening Section 106 and would require a revised survey report or survey report addendum and a revised Section 106 document as applicable:

- 1) A change in the APE beyond the limits of previous survey coverage documented in the original survey report
- 2) Changes in the effects finding to a NRHP eligible or listed resource

Figure 1. Timeline for Section 106 within the Environmental Process for Federal and State Funded Projects.

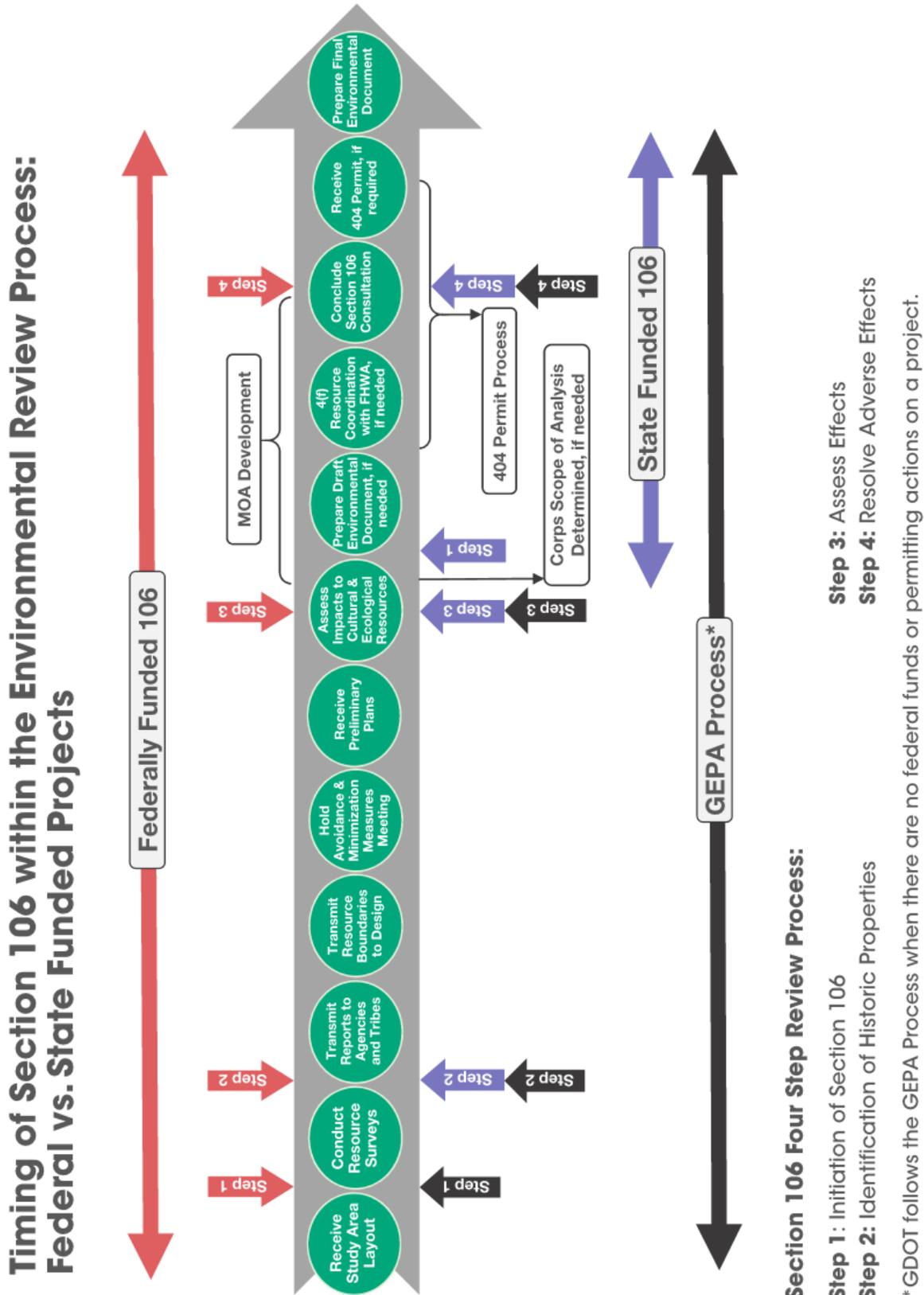


Figure 2: Section 106 Review Procedures

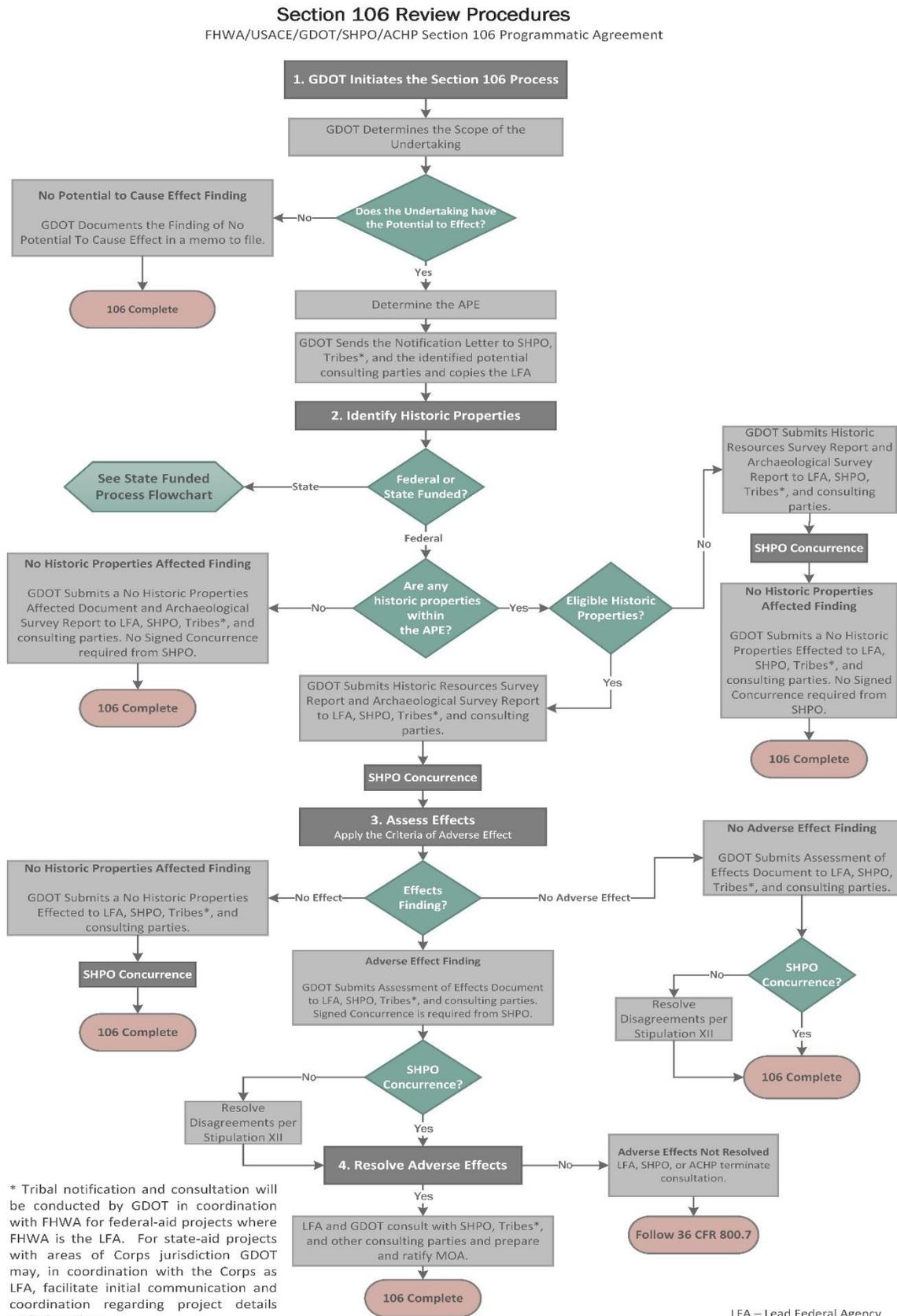
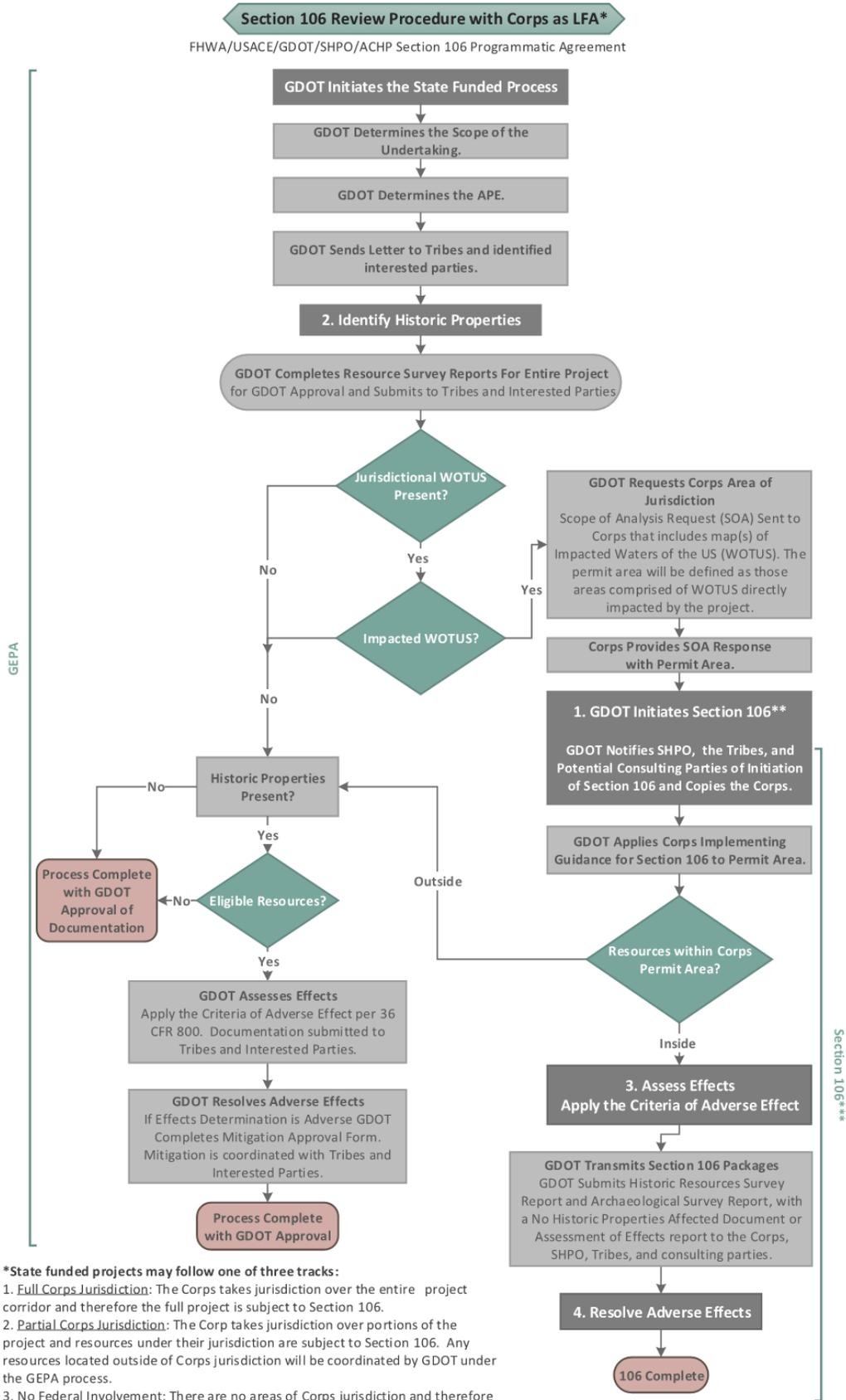


Figure 3: Section 106 Procedures with Corps as Lead Federal Agency



5.2 List of GDOT Maintenance and Minor Highway Projects with No Potential to Cause Effect

Per Stipulation VII.A of the Agreement, certain GDOT maintenance activities and minor highway projects constitute an undertaking, as defined in 36 CFR 800.16(y) but do not have the potential to affect historic properties included in or considered eligible for the NRHP due to the nature of the activity and the specific scope of work. The following activities have been jointly determined by FHWA, the Corps, SHPO, the Tribes and GDOT not to have the potential to cause effects to historic properties. Projects of this type will be reviewed for applicability by GDOT's SOI qualified historians and archaeologists and documented by GDOT internally with a memo (see Template in Appendix C) or email and a list of projects reported to the parties of the Agreement annually per Stipulation XI. Reference material including visual glossaries are available on the GDOT Cultural Resources website: <http://www.dot.ga.gov/IS/Environment/CulturalResources/PA>

Definitions and Requirements:

1. Historic = NRHP Eligible or Listed.
2. No activity can involve the acquisition of additional right-of-way (ROW) or easement (activities must be restricted to existing ROW and/or easements).
3. If a maintenance activity is not on the list below, it does not qualify as having no potential to cause effect and must go through Section 106 review as described in Section 5.1.
4. No activity can be a subset of a larger activity (unless approved by SHPO in advance, i.e. curb cuts that are part of a longer resurfacing project) or part of a state of emergency declared by the Governor of Georgia or the President of the United States.
5. No activity may occur on federal property or federally granted easement.

Section A: Bridge Repairs*/Maintenance on Interstates, State Routes, and County Routes

*Activities permissible on historic/non-historic bridges unless noted in the Exceptions.

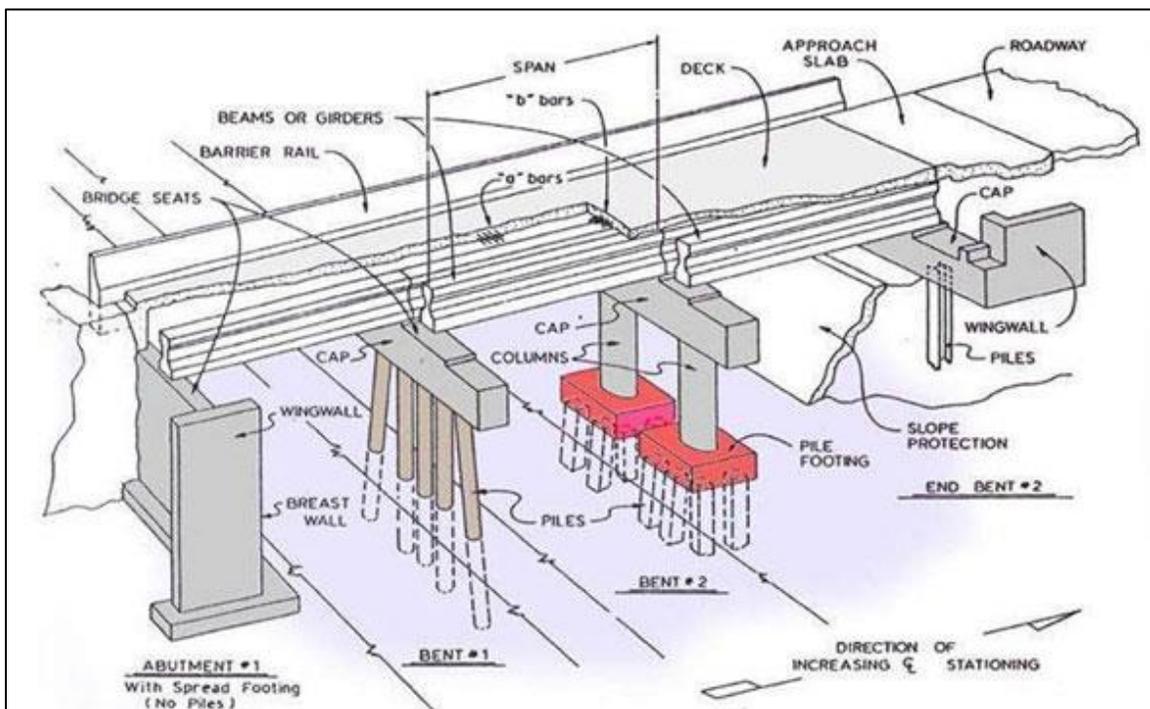


Figure 4. Typical Bridge Components. Image courtesy of www.sketchup3dconstruction.com.

No.	Activity	Description	Exceptions
General Maintenance			
1.	Steel bridge painting	Reapplication of paint for steel bridge structures H-piling, metal shell piling, and steel sway bracing includes the following specifications: <ul style="list-style-type: none"> • Nonattainment areas require System VI (waterborne) green paint application • Counties outside of nonattainment counties require a System VII (zinc primer) green paint application 	Not applicable for new painting on historic bridges
2.	Pile encasement for steel bridges	Reinforcement of piles with concrete sheaths including: <ul style="list-style-type: none"> • Addition of concrete encasement approximately 6 in in diameter • Use of sand bags and plastic to dewater around pile • Does not include the use of cofferdams 	Not applicable to historic bridges
3.	Hydro-demolition of concrete bridge decks	<ul style="list-style-type: none"> • Demolition of the deck is confined to the roadway pavement surface itself • All work is performed at least one foot from the gutter line 	Full deck replacement not applicable to historic bridges
4.	Full deck replacement		Not applicable to historic bridges
5.	Replacement of edge beams	Concrete stiffening member placed transversely at the end of a span	Not applicable to historic bridges
6.	Installation of chain link safety fencing	Addition of brackets and fence posts attached to the bridge with the fencing stretched atop the bridge railing	Not applicable to historic bridges
7.	Repair/replace portions of approach slabs & bridge deck	Includes the following activities: <ul style="list-style-type: none"> • Overlay with permanent asphalt • Fill voids with flowable fill 	
8.	Post tension duct repair/internal post-tensioning	Steel strands passed through ducts formed in the concrete then grouted in place	Not applicable to historic bridges
9.	Repair/replace co-polymer overlay on deck	Replaced with conductive polymer overlay system to protect concrete bridge deck and improve friction.	
10.	Reset bearings	Strengthening bearings by jacking bridge less than 1 inch and replacing or repairing.	
11.	Clean drainage scuppers/drain pipes		
12.	Vegetation Removal	Includes the following: <ul style="list-style-type: none"> • Hand cutting vegetation around bridge, including the substructure to allow access by bridge inspection team • Typically cut 10-20ft from either side of bridge structure 	No clearing and grubbing

No.	Activity	Description	Exceptions
13.	Epoxy injection repair of all concrete members (i.e. decks, beams, caps, columns, etc.)		
14.	Replacement of existing bridge fender structures by driving piles	Involves cutting the existing fenders to 2ft below the mud line for removal and installing new fenders in close proximity to the original location	
15.	Use of temporary load transfer system ("jumper bridge")	Facilitates equipment access, typically over culverts, and is restricted to the existing roadway	
16.	Installation of sway braces	Braces used for H-pile bents where the unbraced length of piles exceeds 10 feet.	
17.	Installation of carbon fiber reinforcement or post-tensioning design for the substructure/caps	Strengthening technique for substructure and caps	Not applicable to historic bridges
18.	Heat straightening and/or in-kind replacement of damaged steel beams		
19.	Repair/replace existing box girder drainage system	Drainage system found on larger bridges. Includes repair of internal PVC drainage system within the bridge structure.	
20.	Bridge Jacking	Includes the following activities: <ul style="list-style-type: none"> Increases vertical clearance by elevating the bridge through use of bearings Approaches are modified, as needed, within existing roadway 	<ul style="list-style-type: none"> Not applicable to historic bridges Activities restricted to existing roadway and bridge embankment, with no shifts in alignment of the approaches
Scour Repairs			
21.	Repair undermined abutment caps	Fills voids with flowable fill	
22.	Replacement of floor beams	Includes the following activities: <ul style="list-style-type: none"> the removal of concrete and rebar and the subsequent setting of Pre-stressed concrete or steel beams the placing of framework, rebar, and concrete 	Not applicable to historic bridges
23.	Replacement of rip rap or fill	Includes the following activities: <ul style="list-style-type: none"> In-kind replacement over existing materials at bridge bents and/or abutments as a result of wash out If existing rip-rap is fully washed away, filter fabric is applied to existing 	No disturbance below the existing grade

No.	Activity	Description	Exceptions
		grade before addition of replacement rip-rap or fill	
24.	Repair/replace bridge headers, voids, end & back walls, concrete bent caps, bridge/pot bearings	Activities confined to the bridge structure itself	
25.	Repair/replace bridge expansion joints		
26.	Abutment Slope Repair	Repair and repave existing concrete abutments in-kind	Cannot extend abutment or increase footprint
Cable Stay Bridges			
27.	Replace gasket, neoprene washers, and anchorage covers		
28.	Installation of cable damping systems		
29.	Replace cable end grout patches		
30.	Heat straightening of anchor pipes		

Section B: Pavement Resurfacing/Shoulder Rehabilitation and Guardrail/Cable Barriers on Interstates, State Routes, and County Routes

No.	Activity	Description	Exceptions
Resurfacing and Shoulder Rehabilitation			
1.	Roadway resurfacing and/or rehabilitation	Includes the following activities for asphalt roadways: <ul style="list-style-type: none"> • Overlay • Milling • Crack Repair • Patching • Resurfacing, including full depth replacement Includes the following activities for concrete roadways: <ul style="list-style-type: none"> • Grinding • Grooving • Pavement rehabilitation • Spall repair 	<ul style="list-style-type: none"> • No expansion of the wearing surface allowed • No disturbance below existing grade
2.	Shoulder work	Includes the following activities: <ul style="list-style-type: none"> • Shoulder building through the addition of pavement to existing shoulder, within toe-of-slope • Typically associated with resurfacing or construction of turn lanes, bikes lanes, medians, etc. • May also include of edge line repair of roadway • Equipment confined to existing roadway and shoulder 	<ul style="list-style-type: none"> • Expansion of road surface may not expand beyond shoulder paving up to four [4] feet on both the left and right sides

<u>No.</u>	<u>Activity</u>	<u>Description</u>	<u>Exceptions</u>
			<ul style="list-style-type: none"> No disturbance beyond existing toe-of-slope
Guardrail and Cable Barriers			
3.	Guardrail Installation	Installation of new, or rehabilitation of existing, guardrail and guardrail anchors within existing roadway toe-of-slope	Not applicable to historic bridges
4.	Median Crossovers	Includes the following activities: <ul style="list-style-type: none"> Installation of, or upgrade to, median crossovers on divided highways, to include the addition of turn lanes. Includes grading and/or fill within median and addition of paved surface and associated striping 	Restricted to divided highways
5.	Cable Barriers	Includes the following activities: <ul style="list-style-type: none"> Installation of new, or rehabilitation of existing, cable barriers within existing roadway toe-of-slope. Includes concrete foundation, breakaway post, and cable. 	Restricted to divided highways

Section C: Utilities/Signage/Traffic Signals on Interstates, State Routes, and County Routes

<u>No.</u>	<u>Activity</u>	<u>Description</u>	<u>Exceptions</u>
Utilities			
1.	Railroad crossing rehabilitation	Includes installation of the following: <ul style="list-style-type: none"> Bells, lights, gates Pavement marking LED upgrades Paving of unpaved approaches (The Exceptions in Section B.1 and B.2 above remain applicable) No pavement will be placed on the railroad 	<ul style="list-style-type: none"> Must not require modification to the railroad alignment or grade Paving of unpaved approaches must not exceed 24 feet in width or past the existing dirt roadbed whichever is greater, nor extend past the existing toe of slope. Paving of unpaved approaches must not extend beyond 350 feet in length on either side of the crossing

No.	Activity	Description	Exceptions
2.	Railroad Grade Crossing Closure Incentives (GDOT provides monetary incentives to Locals for closing crossings)	May include the following activities: <ul style="list-style-type: none"> • Activities in Section B.1, B.2, B.3 above as well as C.5, C.6, and C.7 below • Multi-use path safety features • Emergency vehicles, primarily responding to highway incidents • Emergency equipment (i.e. "Jaws of Life") • Sirens and flashing lights for emergency response vehicles • Radar guns • Sponsorship of a community driver's education class 	These incentives may <u>not</u> include the following activities: <ul style="list-style-type: none"> • Grading, paving, and drainage improvements associated with crossing removal • Barricades, barrier wall, and turn lanes • Installation/Rehabilitation of sidewalks
3.	Installation and in-kind replacement of pipes or rehabilitation of existing pipes	<ul style="list-style-type: none"> • Pipes could include those required for drainage, water, gas, or other utility • Within the roadway or adjacent driveways 	Activity must be restricted to the existing roadway and cannot go below existing grade unless associated with in-kind replacement within footprint of previous ground disturbance
4.	Installation of conduit	Includes the following activities: <ul style="list-style-type: none"> • Typically installed two feet in depth, may extend deeper to avoid obstructions such as utilities, etc. • Restricted to within the roadway or adjacent driveways • Installation using directional underground boring within the roadway footprint (i.e. toe-of-slope to toe-of-slope) 	Does not include trenching
Signage			
5.	New Signage	Includes the following sign types: <ul style="list-style-type: none"> • R-Series Signs (Regulatory Signs) such as speed limit signs • D-Series Signs (Destination/Guide Signs) • W-Series Signs (Warning Signs) 	Large truss supported signs confined to Interstates only
6.	Pavement markings	Includes installation of the following: <ul style="list-style-type: none"> • Rumble strips, chevrons, stop bars, and other pavement markings (raised, reflective, or otherwise) • Additional or replacement roadway striping 	

No.	Activity	Description	Exceptions
7.	New advance warning signs	<ul style="list-style-type: none"> • Installation of flashing yellow lights as you approach an intersection • For the interstate, this is used for ramp meters only 	
8.	Directional underground boring	<p>Includes the following activities:</p> <ul style="list-style-type: none"> • Typically installed two feet in depth, may extend deeper to avoid obstructions such as utilities, etc. • Restricted to within the roadway or adjacent driveways • Within the roadway footprint (i.e. toe-of-slope to toe-of-slope) 	
9.	Installation of Intelligent Transportation Systems (ITS) equipment to existing poles (Also known as ATMS – Automated Traffic Management Systems)	<ul style="list-style-type: none"> • Addition of ITS components (cameras, wireless devices, signs, cabinets, etc.) to an existing pole. • Connected to existing pull box and conduit. • Applicable to state routes and interstates. 	Does not include installation of new, standalone cabinets on state routes
Traffic Signals			
10.	Traffic signal timing adjustments	<p>Involves opening an existing signal controller cabinet and adjusting the settings of the controller equipment inside the cabinet.</p> <p>No new equipment would be installed</p>	
11.	Installation and replacement of Pedestrian Poles	Involves the installation or replacement of signal heads and/or push button stations	

Section D: Interstate* Specific Maintenance/Upgrade Activities

*Also includes the “Interstate like” portions (multi-lane, controlled access) of GA 400 (from Atlanta to SR 369) and GA 316

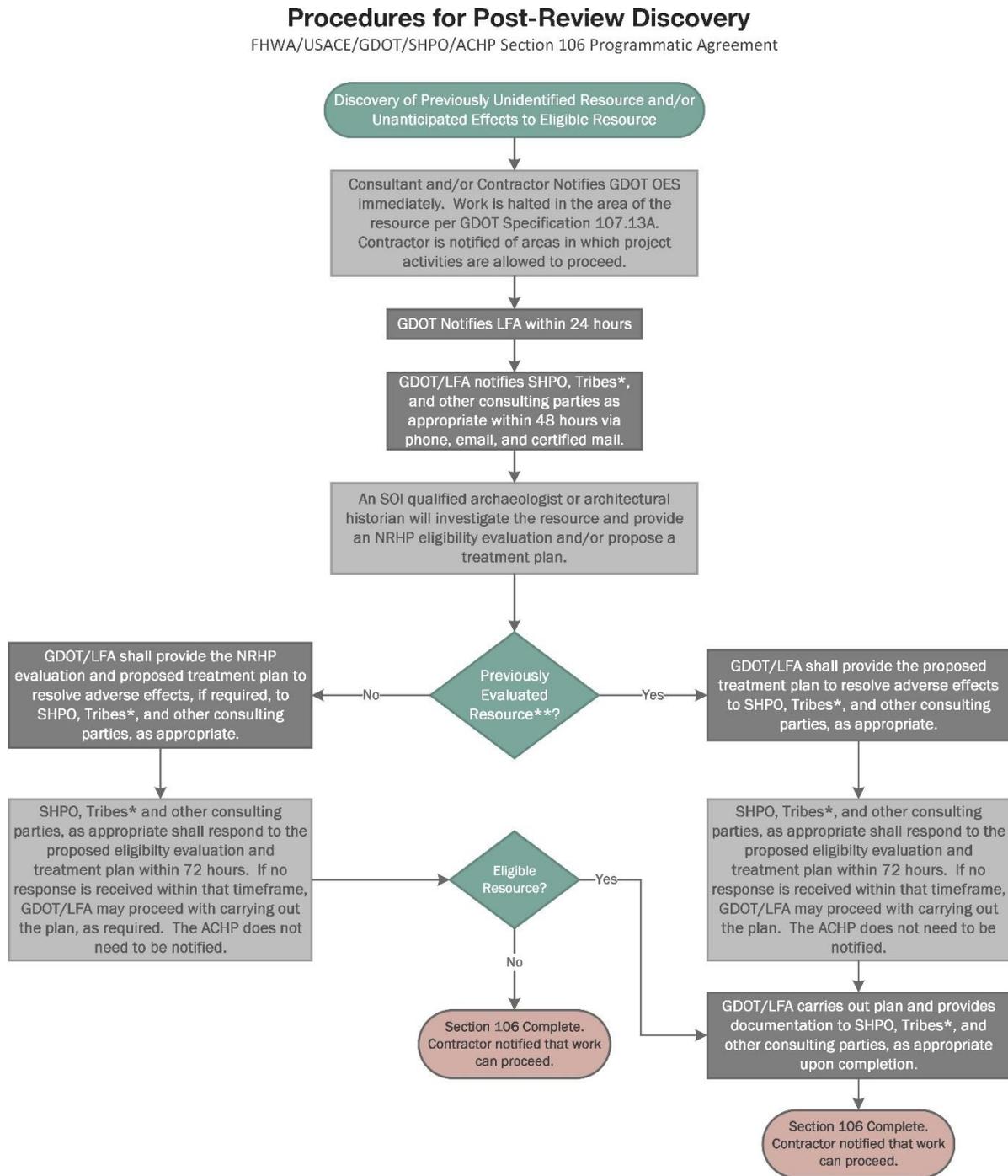
No.	Activity	Description	Exceptions
Landscaping			
1.	Landscaping	<p>Includes the following activities:</p> <ul style="list-style-type: none"> • Shallow grading, tilling, and planting. Grading and tilling, if needed, are used to smooth surface and/or bring in soil prior to planting. • Typical disturbance is less than six inches for soil amendments, grass and wildflower seeds planted approximately one inch in depth • Tree planting may require excavation up to 30 inches deep for root ball. Typically restricted to interchanges. 	
2.	Right-of-way Reclamation	<p>Includes the following activities:</p> <ul style="list-style-type: none"> • Removal of vegetation which has grown since original construction, or reconstruction, of the interstate • Consists of cutting back existing vegetation within the clear zone 	<ul style="list-style-type: none"> • Must be within the existing toe of slope • No clearing and grubbing

		<ul style="list-style-type: none"> • May include chemical treatment or grinding of stump to prevent regrowth 	
Lighting and Ramp Improvements			
3.	Replacement of existing lighting	In-kind replacement of existing lighting within interstate right-of-way or at underpasses. In-kind lighting is defined as being of similar height, material, and location.	
4.	Interstate ramp and intersection improvements	Consists of in-place replacement or upgrading of ramps and the addition of ramp turn lanes	Must be confined within the existing toe-of-slope
Intelligent Transportation Systems (ITS)			
5.	Installation of Changeable Message Signs	Includes the following activities: <ul style="list-style-type: none"> • Installation of concrete footer to support sign pole or truss structure • Installation of pull boxes, cabinets, and conduit 	
6.	Installation of interstate ramp meters within existing interstate ROW and within the existing ROW along GA 400 (from Atlanta to SR 369/Browns Bridge Road) and SR 316.	The installation of this system is understood to include the following activities: <ul style="list-style-type: none"> • Placing electrical communication boxes, pull boxes, conduits, and fiber optic cables along both sides of the highway outside the clear zone • Mounting CCTV and Vehicle Detection System (VDS) cameras above the travel way on strain poles located on both sides of the highway outside the clear zone or on camera poles, bridge overpasses, or in the median 	<ul style="list-style-type: none"> • Must be within the existing toe of slope • No clearing and grubbing
Facilities			
7.	Weigh Station/Welcome Center improvements-within existing ROW including installation of weigh-in-motion equipment, vehicle classification detection equipment, signage, and conduit routing for power service and communications back to the weigh station facility	Installation of the following: <ul style="list-style-type: none"> • weigh-in-motion equipment • vehicle classification detection equipment • signage • conduit routing for power service communications back to the weigh station facility 	<ul style="list-style-type: none"> • Not applicable to the installation of new high mast lighting • Not applicable to historic Welcome Centers

5.3 Procedures for Post-Review Discovery

- I. GDOT shall resolve post-review discoveries that occur prior to construction in accordance with 36 CFR 800.13(b)(1) or (b)(2).
- II. In the event, previously unidentified historic properties are discovered within the APE during project construction, or if unanticipated effects on historic properties occur during construction activities, GDOT shall immediately halt all construction work in the area of the resource and, for any archaeological resources, in surrounding areas where additional finds can reasonably be expected to occur and be disturbed by project construction. Notification to the Contractor to stop work in the vicinity of the resource shall be provided per GDOT Standard Specification 107.13A Protection and Restoration of Property and Landscape as published in the 2013 *Standard Specifications: Construction of Transportation Systems*. Construction work in all other areas of the project may continue.
- III. GDOT shall notify the Lead Federal Agency within twenty-four hours of the discovery, including clarification on which portions of the project had activities halted and the areas for which construction activities are being allowed to proceed. In coordination with the Lead Federal Agency, GDOT shall notify the SHPO, Tribes, and other consulting parties as appropriate within forty-eight hours of the discovery by phone, email, and certified mail. For federal-aid projects with FHWA as Lead Federal Agency, tribal notification and consultation will be conducted by GDOT in coordination with FHWA. For state-aid projects with areas of Corps jurisdiction, the Corps as Lead Federal Agency will conduct tribal notifications and consultations for any finds within areas of their jurisdiction.
- IV. GDOT shall ensure that an archaeologist or architectural historian qualified pursuant to Stipulation III shall investigate the project area and the resource and shall forward an assessment of the NRHP eligibility of the resource and proposed treatment actions to resolve adverse effects to the Lead Federal Agency, SHPO, Tribes, and other consulting parties, as appropriate. In accordance with 36CFR800.13(c), the eligibility of a newly identified resource under post-review discovery may be assumed to be eligible for the purposes of Section 106. In this case, GDOT and the Lead Federal Agency shall notify the SHPO, Tribes, and other consulting parties as appropriate of this finding and the criteria under which it is being treated as eligible.
- V. The SHPO shall respond within seventy-two hours of receipt of GDOT's assessment of NRHP eligibility of the resources and/or the proposed treatment plan. GDOT shall consider the recommendations of the SHPO, Tribes, and other consulting parties regarding NRHP eligibility of the resources and/or the proposed treatment plan to resolve adverse effects, and then carry out appropriate actions including documentation of the actions provided to the Lead Federal Agency, SHPO, Tribes, and other consulting parties, as appropriate. If no objections are received within seventy-two hours of receipt of the eligibility finding and/or proposed treatment plan, GDOT and the Lead Federal Agency may move forward with carrying out the plan and the ACHP does not need to be notified.
- VI. GDOT shall ensure that construction activities within the affected area does not proceed until appropriate treatment measures are developed and implemented, or the determination is made that the resource is not eligible for inclusion in the NRHP.

Figure 5. Procedures for Post-Review Discovery



LFA – Lead Federal Agency

* Tribal notification and consultation will be conducted by GDOT in coordination with FHWA for federal-aid projects where FHWA is the LFA. For state-aid projects with areas of Corps jurisdiction, the Corps as LFA will conduct tribal notifications and consultations for any finds within areas of their jurisdiction.

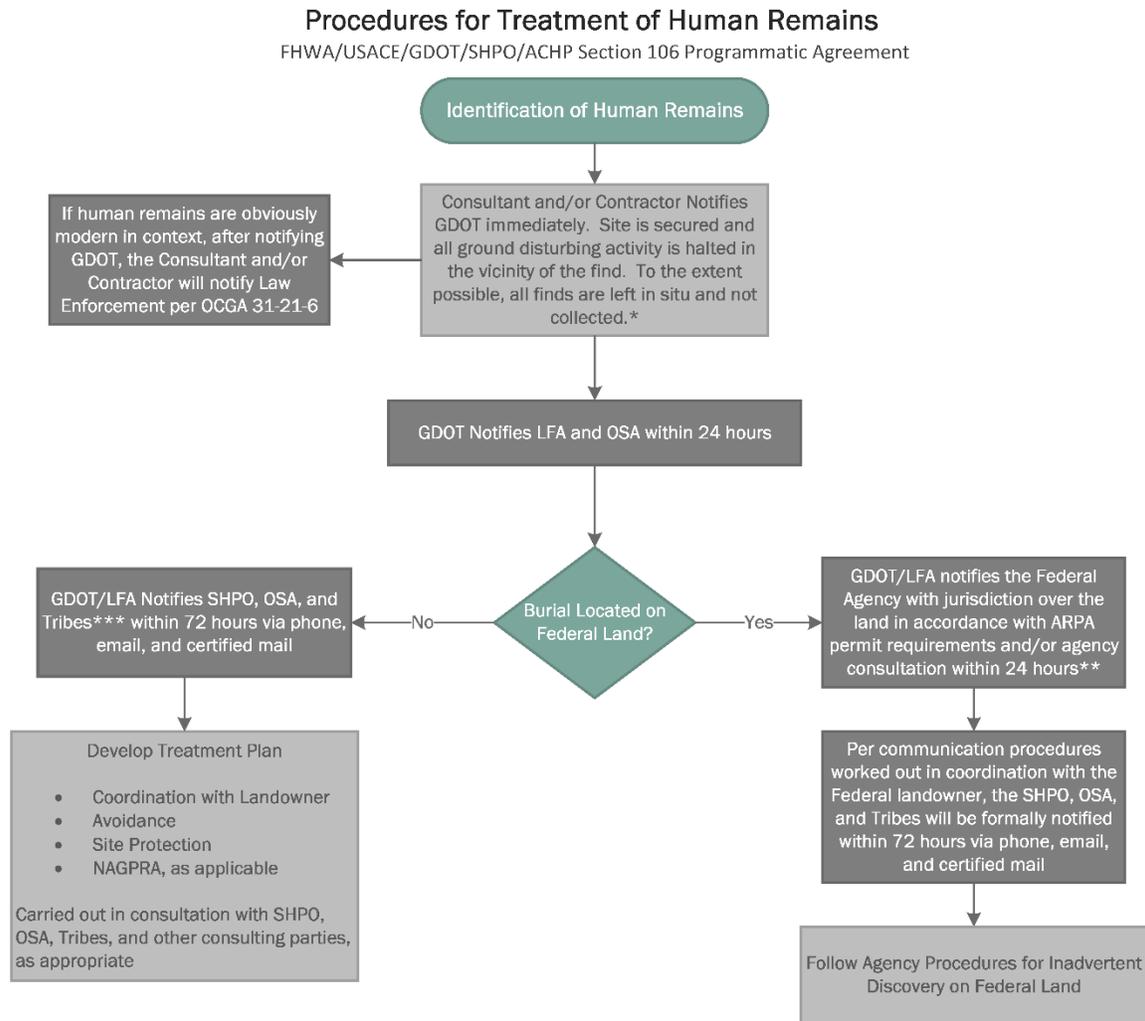
** In accordance with 36CFR800.13(c), the eligibility of a newly identified resource under post-review discovery may be assumed to be eligible for the purposes of Section 106. In this case, GDOT and the LFA shall notify the SHPO, Tribes, and other consulting parties as appropriate of this finding and the criteria under which it is being treated as eligible.

5.4 Procedures for the Treatment of Human Remains

- I. GDOT shall treat human remains in a manner consistent with the ACHP "Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects" (February 23, 2007; <https://www.achp.gov/sites/default/files/policies/2018-06/ACHPPolicyStatementRegardingTreatmentofBurialSitesHumanRemainsandFuneraryObjects0207.pdf>).
- II. Human remains and associated funerary objects encountered during the course of actions taken as a result of this Agreement shall be treated in a manner consistent with the Georgia Abandoned Cemeteries and Burial Ground Act (OCGA 36-72), Georgia Dead Bodies Law (OCGA 31-21-6), and the Georgia Office of the State Archaeologist (OSA) Policy on Encountering American Indian Human Remains enacted May 4, 2018. Pursuant to interagency communication dated March 1, 2019, the OSA has delegated its duties and responsibilities under NAGPRA, as outlined in the policy noted above, to GDOT for human remains and associated funerary objects identified on GDOT-owned property (see Appendix F).
- III. GDOT is considered a museum under the provisions of the Native American Graves Protection and Repatriation Act (NAGPRA; 25 U.S.C. 3001) and therefore human remains and associated funerary objects identified on GDOT projects are subject to the requirements included therein. Therefore, the provisions of the Georgia Protection of American Indian Human Remains and Burial Objects Act (OCGA 44-12-260 through 264) do not apply. Additionally, all tribal consultation regarding the inadvertent discovery of human remains and associated funerary objects shall be restricted to federally recognized tribal governments.
- IV. Upon discovery of human remains or associated funerary objects, the Consultant and/or Contractor shall immediately notify GDOT, who will notify the Lead Federal Agency and OSA within 24 hours. Every effort will be made to secure the site and all ground disturbing activity in the vicinity of the find shall be halted. Photographs, video, or other means of visual documentation will be restricted. Additionally, every effort will be made to avoid the displacement and collection of human remains and associated funerary objects from the field. The Consultant, GDOT, and the Lead Federal Agency will take precautions to ensure confidentiality and that only essential personnel are notified of the find(s) through secure methods of communication such as telephone or email, and that information regarding burial locations and other sensitive information is not shared with the public, including personal and mass media.
- V. If the human remains appear to be modern in context, the Consultant shall notify law enforcement in accordance with OCGA 31-21-6(a) after notification of GDOT. If the finds are identified within an archaeological context, law enforcement will not be notified as provided for in OCGA 31-21-6(a) and OSA Policy on Encountering American Indian Human Remains.
- VI. If human remains are identified on lands controlled or owned by the U.S. Government, GDOT and the Lead Federal Agency shall inform the Federal land managing agency within 24 hours. In instances where land is owned by a Federal agency and managed by the Georgia Department of Natural Resources (DNR), DNR shall also be notified in coordination with the Federal agency. Notification and coordination shall occur per the stipulations of any active ARPA permit, if the human remains are identified during the course of archaeological survey. Notification of the SHPO, OSA, Tribes, and other consulting parties will occur within 72 hours, or in accordance with established agency specific policy and procedures of the Federal land managing agency. If human remains or associated funerary objects are American Indian in origin, the Federal land managing agency will assume responsibility for compliance with NAGPRA, as necessary.

- VII. In the event, human remains are encountered on private lands not controlled or owned by the U.S. Government, the SHPO, OSA, Tribes, and other consulting parties as appropriate shall be officially notified within 72 hours by phone, email, and certified mail. For federal-aid projects with FHWA as Lead Federal Agency, tribal notification and consultation will be conducted by GDOT in coordination with FHWA. For state-aid projects with areas of Corps jurisdiction, the Corps as Lead Federal Agency will conduct tribal notifications and consultations for any finds within areas of their jurisdiction.
- VIII. GDOT and the Lead Federal Agency, in coordination with the SHPO, OSA, Tribes, and other consulting parties as appropriate, shall develop and carry out a treatment plan that details plans for site protection and avoidance, landowner coordination, and compliance with the provisions of NAGPRA, as applicable.
- IX. The Lead Federal Agency and GDOT shall make all reasonable efforts to ensure the general public is excluded from viewing any American Indian burials and associated funerary objects, restricting exposure in both personal and mass media. The Lead Federal Agency and GDOT will take precautions to ensure that only essential personnel are notified of the find(s) and that information regarding burial locations and other sensitive information is not shared with the public and information remains confidential. The signatories to this Agreement shall release no location information or photographs of any American Indian burial or associated funerary objects to the press or to the general public, subject to the requirements of the Federal Freedom of Information Act (5 U.S.C. 552), Georgia Open Records Act [OCGA 50-18-71 (a)(14)], the National Historic Preservation Act (54 U.S.C. 307103), and other laws as applicable.

Figure 6. Procedures for Treatment of Human Remains



LFA – Lead Federal Agency
OSA – Office of the State Archaeologist

* Every effort will be made to avoid the displacement and collection of human remains and associated funerary objects from the field. GDOT and the LFA will take precautions to ensure that only essential personnel are notified of the find(s) and that information regarding burial locations and other sensitive information is not shared with the public and remains confidential. If human remains and/or associated funerary objects are collected from the field, the provisions of NAGPRA may apply. Coordination with GDOT, the LFA, SHPO, and OSA will be required to establish the applicability of NAGPRA and to establish the party responsible for conducting NAGPRA consultations. Chapter 5.4.

** In the event that human remains are encountered on land owned by a Federal agency but managed by the Georgia Department of Natural Resources (DNR), DNR shall also be notified of the inadvertent discovery in coordination with the Federal landowner.

*** Tribal notification and consultation will be conducted by GDOT in coordination with FHWA for federal-aid projects where FHWA is the LFA. For state-aid projects with areas of Corps jurisdiction, the Corps as LFA will conduct tribal notifications and consultations for any finds within areas of their jurisdiction.

6 Historic Bridges

6.1 Georgia Historic Bridge Survey Program

The Georgia Historic Bridge Survey (GHBS) program is a process by which GDOT identifies all historic bridges in its bridge inventory, and through the development and application of context in consultation with SHPO determines eligibility of bridges both owned and inspected by GDOT. With SHPO concurrence on eligibility prior to project programming, GDOT is able to plan project schedules taking into account the presence of an NRHP eligible bridge in the APE. The program also provides management plans for eligible bridges giving options for preservation rather than replacement where possible.

The GHBS program currently consists of the historic context and survey of all bridges in GDOT's inventory dating from 1965 and earlier in the GDOT inventory. The bridges are evaluated for their NRHP eligibility with each update of the inventory in batches per the period of study under review.

I. Documentation Requirements

- A. Periodically (every 5 to 10 years), and ideally staying ahead of the 50 year NRHP guideline, GDOT will update the GHBS context, inventory, and management plans. The Federal Agencies and SHPO will be included in the development of each updated context and afforded an opportunity to review and comment. SHPO's concurrence on the NRHP eligibility of the bridges in the inventory will be requested during the updates so that the NRHP eligibility of bridges will be known in advance of any GDOT project. GDOT will also consult with SHPO on the proposed treatments outlined in the management plans for the NRHP eligible bridges.
- B. Once SHPO concurs with the results of the context, survey, and eligibility recommendation for each bridge in the GHBS inventory, additional individual evaluation of the eligibility of a given bridge is not required on a project by project basis.
- C. The GHBS form will be appended to the 106 Notification Letters.
- D. The GHBS form will be appended to the Historic Resource Survey reports.
- E. If an ineligible bridge, as identified in the GHBS, is the only historic resource in the APE (see Section 4.1 of the Manual for how the APE is defined) of a GDOT project, no survey report is required, only a No Historic Properties Affected document. No written concurrence is required from SHPO since they have already agreed with the GHBS findings.

II. Management of Eligible Bridges

A management plan will be provided for each eligible bridge in one of two ways:

- 1) As part of the GHBS program update
- 2) On a project by project basis as a bridge is programmed for repair or replacement

Ideally, funding will allow for the creation of management plans for all bridges determined eligible for the NRHP with any update of the GHBS program. The management plan will explore whether or not the bridge can or should be preserved and if not why. In both cases, a structural engineer will be consulted in the development of the plan with input from a historian. The management plan will be provided as part of the AOE as justification for the finding of effect for review by SHPO per Stipulation VII of the Agreement. If the management plan is created as part of the periodic update of the GHBS inventory (rather than on a project basis), SHPO's review and concurrence on the preservation potential of the bridge will be requested at that time. Unless circumstances have changed since the management recommendation was made (i.e. traffic counts increased, damage to the bridge, etc.), SHPO's concurrence on the management plan for these bridges will not be required at the time of the submission of the AOE and will expedite the review of the AOE.

7 The Low Impact Bridge Program

7.1 Section 106 Review Under the Low Impact Bridge Program

The Low Impact Bridge Program (LIBP) is a program that expedites project delivery for the least complicated bridge replacement projects with a focus on three major principles: safety, stewardship, and streamlining. The program establishes procedures for compliance with Section 106 of the NHPA for the LIBP by establishing criteria under which bridge replacement projects would qualify for the LIBP. Bridges listed or eligible for listing on the NRHP (inventoried in the GHBS) are excluded from the LIBP. To facilitate the LIBP, the Federal Agencies, SHPO, and GDOT have agreed upon the APE for projects of this type.

I. Applicability

- A. These procedures are applicable only to bridge replacement projects identified as potential candidates for screening for program eligibility pursuant to the LIBP (see GDOT's Cultural Resources website for copy of the LIBP Manual).
- B. The procedures described below are applicable only to bridge replacement projects to be screened for eligibility for the LIBP using the process defined in the LIBP Manual.
- C. This project type only includes bridge replacements where no ROW is required but can include minor easements (no more than 75 feet upstream and downstream of the centerline or the limits of the existing ROW whichever distance is greater) for construction of the project and installation of roadway safety features.

II. First Screening/In-House Review

- A. GDOT will conduct a desktop first screening to eliminate program candidates from the LIBP because of potential adverse impacts to known historic properties. GDOT will utilize available resources to conduct the first screening. These resources will include the following data sources:
 - 1. Georgia Historic Bridge Survey (GHBS);
 - 2. Georgia's Natural, Archaeological, and Historic Resources GIS (GNAHRGIS);
 - 3. NRHP/National Historic Landmark databases; and
 - 4. Previously documented historic property surveys.
- B. Based on the results of the first screening, project candidates will be eliminated from consideration for the LIBP if the following occur:
 - 1. The bridge has been determined NRHP eligible according to the GHBS; or
 - 2. The bridge is located within the boundary of a NRHP listed historic district; or
 - 3. Documented NRHP eligible historic properties (archaeological or historic) have been previously identified within the APE and cannot be avoided or measures cannot be implemented to minimize harm through design efforts to ensure that adverse effects would not occur; or
 - 4. The bridge project adjoins a National Historic Landmark.

III. Second Screening/Survey/Identification of Historic Properties

- A. GDOT will conduct a second screening consisting of field surveys to identify historic properties on all LIBP candidates not eliminated during the first screening by any GDOT team members (historic, archaeological, ecological, social, design, etc.), and the reports (per Section 5.1 of this manual) will be submitted to SHPO for review and comment

- B. GDOT standard survey methodological approaches for archaeology will be followed pursuant to GDOT's EPM. The 100-foot expanded corridor normally surveyed by archaeology on typical GDOT projects may be waived in some instances, given that projects in the LIBP will not extend beyond existing ROW, with the exception of minor easements that may be required for construction. This consideration will be determined based on available design information and consultation with the GDOT Bridge Design Office.
- C. If there is an intersecting road within 500 feet of the bridge approaches, in either direction, an additional 200 feet will be surveyed on the intersecting road, within existing ROW.
- D. If the height of the bridge will increase more than five feet, GDOT consult with SHPO regarding the potential effect and determine whether or not the project is still a candidate for the LIBP.
- E. Based upon the low potential for impacts to historic properties due to the LIBP eligibility criterion that no ROW or easements be required for the project, except where minor easements (no more than 75 feet upstream and downstream of the centerline or the limits of the existing ROW whichever distance is greater) are needed for construction of the project and installation of roadway safety features, the surveys for historic resources will be undertaken in the following manner in consideration of a smaller APE:
 - 1. In most cases, identification and evaluation of individual resources will not be undertaken.
 - 2. In most cases, a windshield survey or desktop survey (using current aerial photography and/or historic aerials where available), tax assessor records, Google Streetview, and other desk top resources will constitute the historic resource survey.
 - 3. If a historic resource is within view of the project, but no historic features (see definition of "historic features" below) are located within or adjacent to GDOT's ROW or easement, or the historian has already worked with design to avoid impacting historic features, the historian will not produce a survey report identifying and evaluating eligibility. The historian will instead proceed to a No Historic Properties Affected finding per the defined APE.
 - 4. If the legal boundary for a resource 50 years of age or older adjoins GDOT ROW and there are no historic features located within or adjacent to GDOT ROW, and the resource itself is outside of view of the proposed bridge replacement, the resource will be considered outside the APE, and the project will be cleared for history with a No Historic Properties Affected document.
 - 5. If a replacement bridge is identified within or adjacent to a potential historic district, the historian will complete a survey report identifying and evaluating the eligibility of the district in consultation with SHPO as per the EPM. If the historic district is determined NRHP eligible in consultation with SHPO, the historian will work with design and SHPO to determine a context sensitive solution that would result in a finding of No Adverse Effect in an expedited manner.
- F. Based on the results of the second screening, candidates will be eliminated from the LIBP in consultation with SHPO if the following occur:
 - 1. The bridge, although not eligible singularly, is determined to be a contributing NRHP feature in an eligible historic district.
 - 2. Historic properties are located adjacent to the project corridor and project implementation will result in an adverse effect (visual or otherwise) that cannot be avoided or measures cannot be implemented to minimize harm through design efforts.
 - 3. Eligible or potentially eligible archaeological sites are identified and cannot be avoided or measures cannot be implemented to minimize harm through design efforts to ensure that adverse effects would not occur to archaeological deposits via "Environmentally Sensitive Area" designations.
- G. If surveys of project candidates result in a No Historic Properties Affected or No Adverse Effect finding without conditions for historic resources and negative findings for

archaeological resources, attendance by SHPO and GDOT Cultural Resources Staff and/or consultants at the Field Scoping Meeting outlined in the LIBP Manual will not be required.

IV. GDOT Survey Reporting

- A. GDOT will produce cultural resource reports for all LIBP projects brought forward after the first screening. These reports will follow standard GDOT reporting guidelines for archaeology and history per Section 5.1 of this Manual and Chapter 5.3 of the EPM.
- B. In an effort to expedite the reporting process, program candidates with similar findings may be combined into a single report format, such as No Historic Properties Affected documents (no historic properties present or there are historic properties present but the project will have no effect upon them), AOE's, or GDOT Archaeology Short Report.

These reports will be provided separately (Archaeology and History reports) to FHWA, SHPO, identified consulting parties, and the Tribes per Stipulation VII of the Agreement.

V. GDOT Assessment of Effects

- A. No Adverse Effect determinations with conditions are applicable to offset potential visual impacts associated with historic properties. In such cases, context sensitive design must be incorporated into the new bridge structure (Kansas Corral, Texas Rail, etc.). Prior to this assessment, GDOT (Environmental Services and Bridge Design) will have technical assistance meetings with SHPO to determine the applicability of the No Adverse Effect finding with conditions and what the proper context sensitive design treatment will be. In such instances, the context sensitive design measures will be codified with a Statement of Conditions for No Adverse Effect document.
- B. Projects resulting in adverse effects do not qualify for the LIBP and are re-programmed by GDOT as regular projects with longer schedules that account for the consultation required for adverse effects under Section 106.

8 FHWA Federal Emergency Relief-Funded Projects

8.1 Section 106 Review Under the Emergency Relief Program

I. Applicability

This guidance may be activated by the FHWA consistent with 23 CFR 668 upon the declaration of a state of emergency by the President of the United States and/or the Governor of Georgia. Emergency Repairs under the stated declaration may follow this process for complying with 36 CFR 800.

GDOT may, on behalf of FHWA, initiate consultation with Tribes for individual undertakings carried out under the provisions that follow. To the extent possible, GDOT and FHWA shall ensure that Tribes are provided information regarding proposed undertakings and are invited to participate in consultation in accordance with the requirements of Section 101(d)(6) of the NHPA and 36 CFR 800. Upon receipt of a written request from any Indian tribe or officially designated representative of an Indian tribe, to consult with FHWA in lieu of or in addition to GDOT, FHWA shall consult with that Indian tribe for the particular undertaking or program to the extent possible for the particular emergency repair.

II. Eligible Emergency Repairs

All eligible Emergency Repairs are reviewed and approved by FHWA. Construction for the eligible Emergency Repair under the Emergency Relief Program normally will be completed within 180 calendar days of the occurrence of the declared emergency event. The procedures in this Agreement apply only to those Emergency Repairs for which construction is completed within 180 calendar days of the emergency unless the FHWA finds there to be an extenuating circumstance to construction completion that would warrant a minor time deviation.

The FHWA performs a disaster assessment and makes an Emergency Relief Program eligibility determination for Emergency Repair projects. FHWA will provide a listing of Emergency Relief projects to GDOT and SHPO when it becomes available as a result of FHWA's disaster assessment for informational purposes.

It is understood that emergency repairs will be made to existing facilities and structures.

III. Exempt Section 106 Repairs

- A. Rescue and salvage operations conducted to respond to immediate threats to life and property are exempt from the provisions of Section 106 [36 CFR 800.12(d)] provided that the Emergency Repairs are implemented (completed) within 30 calendar days after the disaster or emergency has been formally declared by the appropriate authority.
- B. If possible, based on site conditions and accessibility, GDOT Cultural Resources Staff and/or consultants will visit the project location and issue an immediate finding of effect. Where measures are needed to avoid adverse effects, or to minimize or mitigate adverse effects, GDOT will work closely with construction personnel to ensure all reasonable measures are implemented. Documentation of the finding of effect will be provided to FHWA and the SHPO for their file no later than 45 calendar days after the field visit.
- C. The following will be considered immediate response Emergency Repairs conducted to preserve life or property, including to restore essential traffic operations (operations necessary to allow emergency responders to reach a disaster site or the public to reach emergency responders or shelters), which are exempt from Section 106 for 30 calendar days after the disaster or emergency is formally declared by the appropriate authority pursuant to [36 CFR 800.12(d)]. GDOT need not identify historic properties in the vicinity of the Emergency Repairs or consider the effects of Emergency Repairs provided that the repairs are limited to those specified, are not part of larger undertakings, and repairs are made in-kind to existing facilities. GDOT will document these findings when they occur and the information will be provided to

FHWA and SHPO. The following Emergency Repairs may begin immediately without prior FHWA authorization and are exempt from Section 106.

1. Regrading of roadway surfaces, roadway fills, and embankments
 2. Temporary repairs to bring washed-out fills and slip-outs back to grade with a gravel surface or, in heavy traffic areas, with bituminous surface
 3. Debris removal necessary to restore essential traffic operations
 4. Erection and removal of barricades and detour signs, flagging and pilot cars during the emergency period, and placement of riprap around piers and bridge abutments to relieve severe on-going scour action
 5. Dynamiting and other removal of drift piling up on bridges, including rental of boats
 6. Placement of riprap on the downstream slopes of approach fills to prevent scour during overtopping of the fill
 7. Removal of slides
 8. Temporary repair of retaining walls
 9. Construction of temporary roadway connections (detours)
 10. Erection of temporary detour bridges
 11. Replacement of approach fills
 12. Use of ferryboats to provide temporary substitute highway traffic service
 13. Other immediate Emergency Repairs conducted to preserve life or property and quickly restore and maintain essential traffic and minimize the extent of damage to protect remaining facilities.
- D. When the immediate completion of the permanent work is the most economical and feasible operation to quickly restore essential traffic, the Permanent Repairs listed below accomplished with FHWA approval and completed within 30 calendar days of the disaster declaration may also be considered exempt from Section 106. Permanent Repairs not completed within the 30 calendar day time period are not exempt and should be addressed as described in Stipulation IV of the Agreement.
1. Repair of roads to pre-disaster conditions: number of lanes; shoulders; medians; curvature; grades; clearances; and side slopes; roadway surface; and no changes in the road elevation or width
 2. Repair or replacement of traffic control devices such as traffic signs, delineators, pavement markings, interconnection and railroad warning devices, ramp and traffic surveillance control systems, improved crossing surfaces, and traffic signals
 3. Repair or replacement of road lighting
 4. Repair or replacement of other road infrastructure, such as curbs, berms, sidewalks, and fences
 5. Repair or replacement of roadway safety elements such as barriers, guardrails, and impact attenuation devices
 6. Repair of bridges to include bridge decking, expansion joints, and overlay of existing approach roads to bridges where there will be no expansion of the original wearing surface
 7. Placement of permanent fill at bridge piers, wingwalls, and abutments to repair scour.
 8. In-kind permanent repair or replacement of retaining walls
 9. In-kind repair or replacement of culvert systems (structures less than or equal to 8 feet in span length), to include headwalls and wingwalls, without altering the pre-disaster disturbed earth cross-section
 10. Repairs that include milling, overlay, grooving, or resurfacing of ramp, roadway, and parking lot surfaces where there will be no expansion of the original wearing surface.

IV. Streamlined Section 106 Process for Non-Exempt Emergency Repairs

GDOT will carry out the following procedures for Emergency Repairs not identified as exempt in section 3 above. The following processes apply to all Emergency Repairs carried out within 180 calendar days under the Emergency Relief Program that are not exempt. Agencies, Tribes, and consulting parties will have 7 calendar days to respond to consultation requests and documentation at each occurrence. If GDOT in coordination with FHWA determines that circumstances do not permit 7 calendar days for comment, FHWA will notify the ACHP, the SHPO,

identified consulting parties, and applicable Tribes and invite any comments within the time available:

A. Notification of Declared State of Emergency

Immediately after the declared state of emergency by the President of the United States and/or the Governor of Georgia, GDOT will transmit notification to the SHPO and identified consulting parties, while FHWA/GDOT will notify the ACHP and applicable Tribes that may attach religious and cultural significance to historic properties likely to be affected as a result of the declared state of emergency. The notification letter will be succinct as possible given available information, will detail the proposed reporting and review/comment schedule for Emergency Repairs as outlined in this section of the Manual and will include an outlet for consulting parties to view information on designated Emergency Repairs. Pursuant to 36 CFR 800.12(b)(2), after receipt of the notification, identified parties will have 7 calendar days to review and provide comments to GDOT. If GDOT/FHWA determine that circumstances do not permit 7 calendar days for comment, the agency official will notify the ACHP, the SHPO, identified consulting parties, and applicable Tribes and invite any comments within the time available. Any comments received will be taken into account by FHWA/GDOT and incorporated into the planning process for designated projects under the Emergency Relief Program.

B. Identification and Evaluation of Historic Properties

1. GDOT Cultural Resources Staff and/or consultants will be responsible for the identification and evaluation of NRHP listed and/or eligible historic properties within the APE for Emergency Repairs. All surveys will be conducted in accordance with the process described in Section 5 of this Manual in place at the time of the declared state of emergency. These guidelines have been established as a result of consultation with the SHPO and previously approved by the FHWA, SHPO, and GDOT (see Section 4.1 of the Manual). GDOT standard operating procedures pursuant to the EPM will be utilized regarding documentation, curation of archaeological materials, late discovery of historic properties, and treatment of human remains inadvertently discovered during an Emergency Repair in consultation with FHWA, SHPO, consulting parties, and applicable Tribes.
2. The APE for above ground historic properties for typical Emergency Repairs will be limited to within the existing right-of-way (ROW) of the project boundary. GDOT will evaluate all individual historic properties or historic districts 50 years old or older within the existing ROW of a proposed roadway/bridge removal, repair, or replacement for eligibility pursuant to 36 CFR 800.4 for in-kind Emergency Repairs. For Emergency Repairs (such as justified betterments) that are not typical and require additional ROW or easements and have potential to introduce effects (visual, atmospheric, etc.), GDOT will consult with SHPO to determine the appropriate APE prior to the implementation of the Emergency Repair.
3. The APE for archaeological properties for all Emergency Repairs will be limited to within 100 feet of the project boundary. GDOT will conduct an archaeological investigation for Emergency Repairs that have the potential to affect archaeological properties.
4. Bridges will be evaluated using the applicable GHBS concurred with by SHPO, or any subsequent modifications or updates to that survey developed by GDOT in consultation with FHWA and SHPO. Any discrepancy in the GHBS pertaining to bridge materials, construction, history, or other pertinent information discovered by GDOT bridge maintenance or other personnel will require GDOT to comply with the sections IV.C and IV.D of this guidance described below.
5. Evaluation of NRHP eligible historic roadways and approaches to bridges will be conducted in consultation with the SHPO. Historic roadways subjected to previous

evaluation by GDOT and FHWA, or others, and accepted by SHPO will not require consultation. A list of applicable historic roadways within areas subject to the declared state of emergency by the President of the United States and/or the Governor of Georgia will be provided to FHWA and SHPO pursuant to Section IV.A, "Notification of Declared State of Emergency".

C. Assessment of Effect

For each Emergency Repair where NRHP eligible or listed historic properties, bridges, historic roadways, etc. have been identified in the APE, GDOT will assess the effects of the proposed project on historic properties by applying the Criteria of Adverse Effect pursuant to 36 CFR 800.4 & 800.5. The following resources are exempt from this process:

1. Bridges determined by the GHBS to be ineligible for the NRHP or determined NRHP eligible at the local level of significance will not require Section 106 documentation pursuant to SHPO recommendations. GDOT will supply FHWA and SHPO a list of all GHBS ineligible and NRHP eligible bridges (local level of significance) that are repaired or replaced as a result of Emergency Repairs. Treatment of bridges determined NRHP eligible at the local level of significance will not be applicable to this provision when comments are received pursuant to IV.A of this section of the Manual demonstrating the significance of the bridge to the local community. In such instances, NRHP eligible bridges with local level of significance will be documented pursuant to section IV.D.3.a below.
2. Evaluation of railroads as a historic property type under this section of the Manual will not be required as long as Emergency Repairs do not directly affect physical components of the resource such as the rail bed and alignment that contribute to its NRHP eligibility.

D. Findings of Effect

1. No Effect/No Historic Properties Affected

Upon written determination by GDOT that no historic properties are located in the APE, or there are historic properties within the APE, but Emergency Repairs will have no effect to the resources, GDOT will transmit the findings to FHWA, SHPO, consulting parties, and applicable Tribes. Emergency Repairs that have similar findings of No Effect/No Historic Properties Affected will be submitted to FHWA, SHPO, consulting parties, and applicable Tribes together as one transmittal. No written concurrence from SHPO is required, and if no party objects within 7 calendar days to an adequately documented finding, GDOT may proceed with the undertaking.

2. No Adverse Effect

GDOT will document findings of No Adverse Effect to historic properties located in the APE of Emergency Repair projects and will transmit the findings to FHWA, SHPO, consulting parties, and applicable Tribes. No Adverse Effect determinations with conditions will be formalized with a Statement of Conditions document. No written concurrence from SHPO is required, and if no party objects within 7 calendar days to an adequately documented finding, GDOT may proceed with the undertaking.

3. Adverse Effect

- a. For Emergency Repairs in which the affected property is a GHBS NRHP eligible bridge determined to have a state or national level of significance (to include NRHP eligible bridges with local level of significance pursuant to section IV.C.1 above when applicable) and in which no other historic properties will be affected, GDOT will, prior to project implementation, photograph the structure and its related features (as is feasible) in one of the two following ways:

- i. Pursuant to SHPO's *Guidelines for Establishing a Photographic Permanent Archival Record*, a photo archival record will be created. The photography will be submitted to the SHPO for acceptance and retention and shared with historical societies, archives, and libraries in the vicinity of the affected bridge.
- ii. Alternatively, if a Historic American Engineering Record is deemed appropriate in consultation with SHPO (such as a historic property of national significance), GDOT will coordinate with the National Park Service regarding the appropriate level of documentation for acceptance and retention at the Library of Congress.

Once the recordation is accepted by the SHPO or the National Park Service as applicable, Section 106 compliance with the Emergency Repair will be considered complete without further review by the ACHP.

- b. If project implementation will result in an adverse effect to historic properties, GDOT will consult with FHWA, SHPO, consulting parties, and applicable Tribes to consider means to avoid or minimize effects to historic properties. Agreed upon measures such as standard treatments, data recovery, or implementation of alternative mitigation measures may be considered. If FHWA in consultation with the SHPO, consulting parties, and applicable Tribes agree that a data recovery or alternative mitigation measure is appropriate, the GDOT will develop a mitigation implementation plan. GDOT will submit the plan to FHWA, SHPO, ACHP (on behalf of FHWA), consulting parties, and applicable Tribes, and with concurrence and/or no objections from the other parties, GDOT may proceed with implementation of the plan.

E. Section 106 Review Process

1. During the period that begins 30 calendar days after the occurrence of the declared state of emergency by the President of the United States and/or the Governor of Georgia and normally ending no later than 180 calendar days after the occurrence of the emergency, consultation will be streamlined according to this section. GDOT is strongly encouraged to consult with all appropriate parties in an informal but expedited manner, utilizing telephone, fax, and e-mail on Emergency Repairs that may have adverse effects to historic properties and where there are likely to be differences in opinion regarding the effect on historic properties. Section 106 compliance requirements will be met upon completion of the following:
 - a. GDOT will concurrently submit findings of identification and determinations of NRHP eligibility directly to FHWA, SHPO, consulting parties, and applicable Tribes for review and comment simultaneously with Assessment of Effects (where applicable) to expedite the Section 106 review process (section IV.D above). The report will be formatted and submitted according to GDOT's EPM and will be accompanied by a description of the proposed Emergency Repair, a description of the historic property affected, a description of the Emergency Repair's effects to the historic property, and proposed treatment measures (which may be separate document attachments).
 - b. GDOT may provide Section 106 documentation in writing, via electronic media, or at meetings at its discretion.
 - c. If the evaluation of historic properties results in negative findings (no historic properties are located in the APE), Section 106 requirements will be deemed to have been met. FHWA, SHPO, consulting parties, and applicable Tribes will receive documentation for their files.

- d. If historic properties are identified in the APE of an Emergency Repair and result in No Effect/No Historic Properties Affected or No Adverse Effect (including when the undertaking is modified or conditions are imposed to avoid adverse effects), FHWA, SHPO, consulting parties, and applicable Indian tribes will have 7 calendar days after receipt of the findings accompanied by supporting documentation to comment upon the recommendations made by GDOT, unless GDOT determines the nature of the Emergency Repair warrants a shorter review period. Any comments received will be taken into account by GDOT when finalizing any treatment for historic properties.
 - e. If it is determined that that the proposed undertaking may have an adverse effect on historic properties, GDOT will propose actions to avoid or minimize the adverse effects. GDOT will document the resolution of Adverse Effects in a Commitment Letter that includes proposed mitigation measures (pursuant to section IV.D.3) in lieu of an individual Memorandum of Agreement, and provide it concurrently to FHWA, SHPO, ACHP (on behalf of FHWA), consulting parties, and applicable Indian tribes. If the FHWA, SHPO, ACHP, consulting parties, and applicable Indian tribes provide concurrence to GDOT or if no objection is received within 7 calendar days of the receipt of the Commitment Letter (GDOT will assume concurrence), GDOT may proceed with the implementation of the commitments.
2. All documentation related to Emergency Repairs will be made available for public review via a link to GDOT's web site prior to construction. The documentation will be listed by individual Emergency Repair and schedule thereof and will include a description of historic properties identified (if applicable) and the proposed effects to each. If applicable, Commitment Letters and Statement of Conditions for No Adverse Effect documents will also be made available for public review at this time. All information will be posted on GDOT's web site and made available on GDOT's social media platforms at the time the information is made available to the agencies and applicable Tribes for review. The public will be asked to submit comments within 7 calendar days of the posting.
 3. GDOT will retain all documentation related to Emergency Repair projects in accordance with standard retention procedures.

GDOT and FHWA may extend the period to which Section IV applies as conditions warrant by first notifying the ACHP, the SHPO, consulting parties, and applicable Tribes, providing justification for the extension. The extension will be granted after all comments have been taken into account and concurrence has been received from the ACHP and SHPO.

Appendices

A. FHWA/GDOT 2018 Programmatic Agreement

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
THE U.S. ARMY CORPS OF ENGINEERS, SAVANNAH DISTRICT,
THE GEORGIA STATE HISTORIC PRESERVATION OFFICER,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, PARTICIPATING TRIBES, AND
THE GEORGIA DEPARTMENT OF TRANSPORTATION
REGARDING THE SECTION 106 PROCESS FOR THE TRANSPORTATION PROGRAM IN GEORGIA**

WHEREAS, the Federal Highway Administration (FHWA), under the authority of 23 U.S.C. 101 et seq., implements the Federal-aid Highway Program (Program) in the State of Georgia by funding and approving state and locally sponsored transportation projects that are administered by the Georgia Department of Transportation (GDOT); and

WHEREAS, for federally funded projects, the Georgia FHWA Division Administrator is the "Agency Official" responsible for ensuring that the Program in the State of Georgia (sometimes herein "State") complies with Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. § 306108), as amended, and codified in its implementing regulations, 36 CFR 800, as amended (August 5, 2004) and is the Lead Federal Agency for federally funded projects; and

WHEREAS, GDOT administers Federal-aid projects throughout the State of Georgia as authorized by 23 U.S.C. 302 and Title 32 of the Official Code of Georgia Annotated; and

WHEREAS, the U.S. Army Corps of Engineers, Savannah District (Corps) administers a Department of the Army permit program under the authority of the Rivers and Harbors Act of 1899, Section 10 (33 U.S.C. 401 and 403), and the Clean Water Act of 1973, Section 404 (33 U.S.C. 1344), hereafter referred to as Permits, to which highway projects in Georgia may be subject; and

WHEREAS, for State funded projects, the Corps District Commander is the "Agency Official" responsible for ensuring that the Permits in the State of Georgia comply with Section 106 of the NHPA (54 U.S.C. § 306108), as amended, and codified in its implementing regulations, 36 CFR 800, as amended (August 5, 2004) and is the Lead Federal Agency for state funded projects when a permit is required; and

WHEREAS, the responsibilities of the Georgia State Historic Preservation Officer (SHPO) under Section 106 of the NHPA and 36 CFR 800 are to advise, assist, review, and consult with Federal Agencies as they carry out their historic preservation responsibilities and to respond to Federal Agencies' requests within a specified period of time; and

WHEREAS, FHWA has determined that construction, maintenance, and emergency relief projects as part of the Program, and related FHWA approvals for changes in access to the Interstate System in Georgia are undertakings pursuant to Section 106 of the NHPA and may have an effect upon properties included in, or eligible for inclusion in, the National Register of Historic Places (NRHP), hereafter referred to as Historic Properties, and has consulted with the SHPO and the Advisory Council on Historic Preservation (ACHP) pursuant to Section 800.14(b) of the regulations implementing Section 106 of the NHPA; and

WHEREAS, the Corps has determined that projects authorized by Department of the Army Permits are undertakings pursuant to Section 106 and may have an effect on Historic Properties and the Corps will utilize this Programmatic Agreement (Agreement) for GDOT projects subject to its Permits; and

WHEREAS, pursuant to the consultation conducted under 36 CFR 800.14(b), the signatories have developed this Agreement in order to establish an efficient and effective Program alternative for taking into account the effects of the Program on Historic Properties in Georgia and for affording the ACHP a reasonable opportunity to comment on undertakings covered by this Agreement; and

WHEREAS, GDOT, in consultation with FHWA, the Corps, ACHP, and the SHPO, will develop a Cultural Resources Manual to accompany this Agreement containing guidance on how to implement the Agreement; and

WHEREAS, the following Federally recognized Indian tribes (Tribes) maintain ancestral and cultural connections to the land now recognized as Georgia, and the FHWA and the Corps have determined that undertakings subject to this agreement have the potential to affect historic properties having religious and cultural significance to the Tribes and therefore have consulted pursuant to 36 CFR 800.14(f): Absentee-Shawnee Tribe (AST), Alabama-Coushatta Tribe of Texas (ACTT), Alabama-Quassarte Tribal Town (AQTT), Catawba Indian Nation (CIN), Cherokee Nation (CN), Chickasaw Nation (CHN), Coushatta Tribe of Louisiana (CTL), Eastern Band of Cherokee Indians (EBCI), Eastern Shawnee Tribe (EST), Jena Band of Choctaw Indians (JBCI), Kialegee Tribal Town (KTT), Miccosukee Tribe of Indians of Florida (MTIF), Mississippi Band of Choctaw Indians (MBCI), Muscogee (Creek) Nation (MCN), Poarch Band of Creek Indians (PBCI), Seminole Nation of Oklahoma (SNO), Seminole Tribe of Florida (STF), Shawnee Tribe (ST), Thlopthlocco Tribal Town (TTT), United Keetoowah Band of Cherokee Indians (UKB); and

WHEREAS, the FHWA and the Corps, collectively referred to as Federal Agencies or separately each as Lead Federal Agency as further defined below, recognize that they have a unique legal relationship with Tribes as set forth in the Constitution of the United States, treaties, statutes, and court decisions, and that consultation with Tribes must, therefore, recognize the government-to-government relationship between the Federal government and Tribes; and

WHEREAS, the Federal Agencies have consulted with the Tribes about this Agreement, have requested their comments, have taken any comments received into account, and pursuant to 36 CFR 800.2(c)(2)(ii)(E) have invited the Tribes to enter into an agreement that specifies how the Federal Agencies and the Tribes will carry out Section 106 responsibilities; and

WHEREAS, the aforementioned Tribes are sovereign governments and Federally recognized Indian tribes and participation in this agreement does not constitute a conveyance of tribal rights or sovereignty; and

WHEREAS, notwithstanding the aforementioned invitation to enter into an agreement, the Federal Agencies have invited AST, ACTT, AQTT, CIN, CN, CHN, CTL, EBCI, EST, JBCI, KTT, MTIF, MBCI, MCN, PBCI, SNO, STF, ST, TTT, UKB to enter into this Agreement as an invited signatory party to fulfill the requirements of Section 106; and

WHEREAS, any project involving tribal lands as defined in 36 CFR 800.16(x), or any project that may affect a property identified by a Tribe as possessing historic or traditional religious and cultural significance, shall not be governed by this Agreement, but shall be reviewed by the Federal Agencies in accordance with 36 CFR 800; and

WHEREAS, as of the date of this Agreement, no Tribe has agreed to enter into a separate Programmatic Agreement or other agreement with the Federal Agencies; and

WHEREAS, as of the date of this Agreement, the Muscogee (Creek) Nation has agreed to enter into this Agreement as an invited signatory party and the Cherokee Nation and the Catawba Indian Nation have agreed to enter into this Agreement as a concurring party; and

WHEREAS, as of the date of this Agreement, the Chickasaw Nation, the Coushatta Tribe of Louisiana, the Miccosukee Tribe of Indians of Florida, the Mississippi Band of Choctaw Indians, and the Seminole Tribe of Florida have declined to participate as a signatory to the Agreement; and

WHEREAS, the Federal Agencies may invite additional Tribes that have sites of religious and cultural significance to enter into the terms of this Agreement as invited signatories or concurring parties in accordance with 36 CFR 800.14(f), and nothing in this Agreement prevents a Tribe from

entering into a separate Programmatic Agreement or other agreement with the Federal Agencies for administration of Section 106; and

WHEREAS, GDOT has participated in the consultation and has been invited to be an invited signatory to this Agreement; and

WHEREAS, the Federal Agencies have consulted with the Advisory Council on Historic Preservation (ACHP) pursuant to 36CFR800.14(b) and the ACHP has opted to participate as a signatory to this agreement; and

WHEREAS, the Federal Agencies have notified the public, Federal and State agencies, and Certified Local Governments (defined in 54 U.S.C.A. § 300302) about this Agreement, have requested their comments, and have taken any comments received into account; and

WHEREAS, this Agreement shall supersede memoranda of understanding, letter agreements, and the 2012 Emergency Relief Programmatic Agreement among GDOT and the FHWA, and/or SHPO, dating between 1987 and 2015 (see Cultural Resources Manual for list); and

NOW, THEREFORE, FHWA, the Corps, participating Tribes, the SHPO, the ACHP, and GDOT (hereinafter collectively referred to as parties, signatories or signatory parties and individually as party, signatory, or signatory party) agree that federal and State funded projects in Georgia shall be carried out in accordance with the following stipulations in order to take into account the effects of the Program and/or Permits on Historic Properties in Georgia and that these stipulations shall govern compliance with the Program and/or Permits with Section 106 of the NHPA until this Agreement expires or is terminated and do hereby agree as follows:

To aid the signatories of this Agreement, the stipulations are organized in the following order:

- I. Applicability and Scope
- II. Cooperating with Other Federal Agencies
- III. Professional Qualifications Standards
- IV. Responsibilities
- V. Consultation with Federally Recognized Tribes
- VI. Participation of Other Consulting Parties and the Public
- VII. Project Review
- VIII. Emergency Situations
- IX. Post-Review Discoveries
- X. Identification and Treatment of Human Remains
- XI. Monitoring and Reporting
- XII. Dispute Resolution
- XIII. Amendment
- XIV. Termination
- XV. Confidentiality
- XVI. Duration of Agreement

STIPULATIONS

The FHWA and Corps, shall ensure, for undertakings of their respective agencies and with the assistance of GDOT that the following measures are carried out:

I. APPLICABILITY AND SCOPE

- A. This Agreement supersedes and replaces in its entirety the Agreement among FHWA, SHPO, and GDOT regarding FHWA's Emergency Relief Program dated March 8, 2012.
- B. This Agreement sets forth the process by which the FHWA and Corps, with the assistance of GDOT, will meet its responsibilities pursuant to Section 106 of the NHPA (54 U.S.C. § 306108).

- C. This Agreement applies to all highway projects subject to FHWA and Corps review under 23 CFR 771.115, 23 CFR 771.117, 33 CFR 320, and 33 CFR 330 (see Stipulation VII for details regarding the extent of delegated reviews).
- D. The FHWA is the Lead Federal Agency for Program undertakings and FHWA approved changes in access to the Interstate System in Georgia that require Permits pursuant to Section 10 of the Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act of 1973 in accordance with 36 CFR 800.2(a)(2) (references to Lead Agency in this context refer to FHWA).
- E. The Corps is the Lead Federal Agency for State funded highway undertakings, that require Permits pursuant to Section 10 of the Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act of 1973 in accordance with 36 CFR 800.2(a)(2) (references to Lead Federal Agency in this context refer to the Corps).
- F. The objective of this Agreement is to make more efficient the methods by which FHWA, the Corps, and GDOT review individual undertakings processed under Section 106 that may affect Historic Properties and to establish the process by which FHWA and the Corps (who retain ultimate Section 106 responsibility) carry out their Section 106 responsibilities.
- G. Through this Agreement, FHWA and the Corps authorize GDOT to initiate on their behalf and, in many cases, conclude consultation with the SHPO and other consulting parties for purposes of compliance with Section 106 of the NHPA.
- H. The FHWA and Corps retain the responsibility to consult with Tribes as required under 36 CFR 800, as amended. GDOT may assist FHWA and the Corps if individual Tribes agree to alternate procedures.
- I. FHWA and the Corps recognize that Tribes do have sites and land of religious and cultural significance within the State of Georgia, and in meeting its Federal trust responsibility pursuant to 36 CFR 800.2 (c)(2)(ii), FHWA and the Corps have invited the Tribes to enter (consult) on this Agreement that specifies how FHWA, the Corps, and the Tribes will carry out Section 106 responsibilities, including confidentiality of information.

II. COOPERATING WITH OTHER FEDERAL AGENCIES

Cooperating Federal Agencies as defined in 40 CFR 1508.5 who recognize FHWA as the Lead Federal Agency for federally-assisted projects, and the Corps as the Lead Federal Agency for State funded projects, may fulfill their obligations under Section 106 of NHPA according to 36 CFR 800.2(a)(2), provided that FHWA, the Corps, and GDOT follow the requirements of this Agreement and the Cooperating Federal Agency's undertaking does not have the potential to cause effects to Historic Properties beyond those considered by FHWA, the Corps, and GDOT.

In the event that another federal agency not initially a party to or subject to this Agreement receives an application for funding/license/permit for an undertaking subject to this Agreement, that agency may fulfill its Section 106 responsibilities by stating in writing it concurs with the terms of this Agreement and notifying the FHWA, the Corps, SHPO, and the ACHP that it intends to do so, and adherence to the terms of this Agreement.

III. PROFESSIONAL QUALIFICATIONS STANDARDS

Actions prescribed by this Agreement that involve the identification, evaluation, recording, treatment, monitoring, or disposition of Historic Properties, or that involve the reporting or documentation of such actions in the form of reports, forms, or other records, shall be carried out by or under the direct supervision of a person or persons who meets the Secretary of the Interior's (SOI) Professional Qualifications Standards (published in 48 FR 44738-44739). However, nothing in

this stipulation may be interpreted to preclude FHWA, the Corps, or GDOT or any agent or contractor thereof from using the services of persons who do not meet these qualifications standards, including tribal representatives, providing their activities are conducted under the direct supervision of a person who does meet the standards.

IV. RESPONSIBILITIES

The following section identifies the responsibilities of the Federal Agencies, and of GDOT in complying with the terms of this Agreement.

A. Lead Federal Agency Responsibilities

1. Consistent with the requirements of 36 CFR 800.2(a) and 800.2(a)(1-4), the Lead Federal Agency remains legally responsible for ensuring that the terms of this Agreement are carried out and for all findings and determinations made pursuant to this Agreement by GDOT under the authority of the Lead Federal Agency. At any point in the Section 106 process, the Lead Federal Agency may inquire as to the status of any undertaking carried out under the authority of this Agreement and may participate directly in any undertaking at its discretion.
2. The Lead Federal Agency retains responsibility for government-to-government consultation with Tribes as defined in 36 CFR 800.16(m). At its discretion, the Lead Federal Agency may ask GDOT to assist in consultation if the individual Tribes agree to alternate procedures.
3. Pursuant to 36 CFR 800.6(a)(1), the Lead Federal Agency is responsible for notifying the ACHP of an adverse effect determination and offering the ACHP the opportunity to participate in the consultation.
4. The Lead Federal Agency shall provide ACHP copies of any Memorandum of Agreement (MOA) developed for undertakings with adverse effects to Historic Properties if the ACHP is not participating in the consultation.
5. The Lead Federal Agency shall be responsible for resolving disputes and objections pursuant to Stipulation XI of this Agreement.
6. The Lead Federal Agency will ensure that the steps in the Section 106 process are coordinated with Section 4(f) of the Department of Transportation Act and the National Environmental Policy Act, in accordance with 36 CFR 800.3(b).

B. GDOT Responsibilities

GDOT, using staff and/or consultants meeting the SOI's professional qualifications standards (48 FR 44738-44739), will independently perform the work and consultation described in 36 CFR 800.3 – 36 CFR 800.6 (including any succeeding revisions to the regulations) on behalf of the Lead Federal Agency. Assignment of these responsibilities is based on adequate and appropriate performance by GDOT as evaluated through monitoring by the Federal Agencies pursuant to Stipulation X of this Agreement. These responsibilities include carrying out the following requirements:

1. 36 CFR 800.3(a) Determine whether the undertaking is a type of activity that has the potential to cause effects on Historic Properties.
2. 36 CFR 800.3(e) Solicit public comment and involvement.
3. 36 CFR 800.3 Identify additional consulting parties who should be invited to participate in the undertakings covered by this Agreement.
4. 36 CFR 800.4(a) and (b) Determine and document, in consultation with the SHPO, the scope of identification efforts and level of effort, including the undertaking's area of potential effect (APE).
5. 36 CFR 800.4 In consultation with the SHPO, identify Historic Properties within the APE included in or eligible for listing in the NRHP.
6. 36 CFR 800.5(a)(1) In consultation with SHPO, determine whether Historic Properties may be affected by the undertaking by applying the criteria of adverse effect.
7. 36 CFR 800.6 In consultation with the Lead Federal Agency, the SHPO, the ACHP (if it has chosen to participate), and any other consulting parties address any adverse

- effects through the development of avoidance, minimization, and mitigation measures and if needed, the development, circulation, and execution of a MOA, as appropriate.
8. Provide the Lead Federal Agency copies of all correspondence sent out on its behalf (e.g. letters to SHPO or Tribes).
- C. GDOT, in consultation with the Federal Agencies, the ACHP, and the SHPO, will develop a manual containing guidance on how to implement this Agreement, specifically, how the agencies will coordinate and consult on GDOT projects. The Cultural Resources Manual must be completed and approved by the Federal Agencies prior to implementation of this Agreement. A table of contents for the manual is included in the Appendix. The manual will be made publicly available via GDOT's Cultural Resources website. GDOT will ensure that their staff and consultants act consistently with the procedures contained therein. The Cultural Resources Manual establishes the framework for the implementation of GDOT's Environmental Procedures Manual (EPM), specifically, Chapter 5, Section 3 of the EPM (available via GDOT's Cultural Resources Website) which outlines the survey and documentation requirements for GDOT's Cultural Resources Staff and/or consultants.
 - D. GDOT's Cultural Resources Manual may be revised or amended from time to time. Any changes to the Cultural Resources Manual must be agreed upon in writing by FHWA, the Corps, SHPO, ACHP, and GDOT, and, upon approval, published on GDOT's Cultural Resources website. Such changes shall not be considered an amendment subject to Stipulation XII.

V. CONSULTATION WITH FEDERALLY RECOGNIZED TRIBES

- A. FHWA as Lead Federal Agency
 1. The Lead Federal Agency shall take the lead in identifying and establishing consultation with federally recognized Tribes consistent with the requirements of 36 CFR 800.2(c)(2) and 36 CFR 800.3(c)-(f). GDOT may provide general coordination information to Tribes with the Tribes agreement but the Lead Federal Agency shall retain ultimate responsibility for complying with all federal requirements pertaining to government-to-government consultation with Tribes.
 2. GDOT, the primary recipient of Federal-aid Highway funds in the State of Georgia (OCGA, Title 32) will provide assistance to FHWA in consulting with the Tribes in compliance with Section 106 of the NHPA.
 3. GDOT, on behalf of FHWA, shall solicit comments from Tribes for undertakings that may affect Historic Properties of traditional religious and cultural significance to the Tribes and will consider these Tribal governments as consulting parties for these undertakings. FHWA shall retain the ultimate responsibility for complying with all Federal requirements pertaining to direct government-to-government consultation with the Tribes. Notwithstanding any other provision of this Agreement, FHWA shall honor the request of any Tribe for direct government-to-government consultation regarding an undertaking covered by this Agreement.
- B. Corps as Lead Federal Agency
 1. The Corps shall retain the responsibility of complying with all federal statutes, Executive Orders and Corps policy memos mandating government to government consultation with federally recognized Tribes on federally permitted projects that impact Tribal areas of interest and traditional and religious cultural heritage.
 2. The Corps consults with the Tribes which claim cultural affiliation in the area of interest by keeping them informed of undertakings, by providing requested materials, seeking Tribal opinions, and attempting to reach mutual agreements. For Corps Tribal consulting operating procedures, see the *Savannah Regulatory Guidelines for Consultation with Federally Recognized Tribes* in the Cultural Resources Manual.

VI. PARTICIPATION OF OTHER CONSULTING PARTIES AND THE PUBLIC

- A. Additional Consulting Parties
 1. Consulting parties shall be identified in writing by GDOT in consultation with the SHPO

pursuant to 36 CFR 800.3(c-f) and their participation in undertakings covered under this Agreement shall be governed by 36 CFR 800.3(f)(3). Individuals and organizations with a demonstrated interest in an undertaking shall be invited by GDOT in consultation with the Lead Federal Agency to participate in the Section 106 process (see Cultural Resources Manual for procedures). Any land-managing agency whose land may be affected by an undertaking shall be invited by GDOT to participate in the Section 106 process. Written requests by individuals, organizations, and agencies to become consulting parties will be evaluated on a case-by-case basis by GDOT and the Lead Federal Agency in consultation with the SHPO.

B. Public Involvement

1. Public involvement in planning and implementing undertakings covered by this Agreement shall be governed by the Lead Federal Agency and GDOT's Public Involvement Plan (Plan) for NEPA Projects and GDOT's environmental compliance procedures (Plan available on GDOT's Cultural Resources website). The Public Involvement Plan provides guidance for identifying, informing, and involving the public. GDOT Cultural Resources Staff and consultants also follow a protocol for inviting potential consulting parties when initiating Section 106 (see the Cultural Resources Manual). The Lead Federal Agency's regulations regarding early coordination, public involvement, and project development will be followed. FHWA's regulations concerning public involvement can be found at 23 CFR 771.111. The Corps' regulations concerning Public Notices and Public Hearings can be found at Appendix B of 33 CFR Part 325 and at 33 CFR Part 327. Public involvement and the release of information hereunder shall be consistent with 36 CFR 800.2(d), 800.3(e), and 800.11(c)(1 and 3).
2. GDOT shall seek and consider the views of the public in a manner that reflects the nature and complexity of the undertaking and its effects on Historic Properties, in keeping with the intent of 36 CFR 800, as amended.
3. For those undertakings that do not routinely require public review and comment (e.g., Stipulation VII A below), appropriate public involvement should be based on the specifics of the situation and commensurate with the type and location of Historic Properties, and the undertaking's potential impacts on them.
4. GDOT shall make the Lead Federal Agency and SHPO aware of any and all public interest and/or controversy as it relates to the Historic Properties potentially affected by the proposed undertaking, including properties of religious and/or cultural significance to the Tribes.

VII. PROJECT REVIEW

GDOT's SOI qualified Cultural Resources Staff and consultants will implement the following review and consultation process for each finding under Section 106 for federally funded projects and State funded projects with a Permit:

A. No Potential to Cause Effects

Certain GDOT maintenance activities and minor highway projects may constitute an undertaking, as defined in 36 CFR 800.16(y) but do not have the potential to affect Historic Properties included in or considered eligible for the NRHP as agreed upon by the signatory parties and enumerated in Section 5.2 of the Cultural Resources Manual.

1. Each project will be reviewed for applicability per 36 CFR 800.16(y) by GDOT Cultural Resources Staff.
2. Each project fitting the activities described in Section 5.2 of the Cultural Resources Manual will be documented by GDOT Cultural Resources Staff and/or consultants with an internal GDOT memo or email (see Appendix B of the Cultural Resources Manual for template) and itemized as part of the Annual Report defined in Stipulation X.

B. No Historic Properties Affected

1. For those undertakings in which there are a) no previously recorded properties within the APE and b) no newly identified Historic Properties within the APE as a result of survey, GDOT's Cultural Resources Staff and/or consultants will issue a finding of "no historic properties affected" in a No Historic Properties Affected Document and an

Archaeology Short Report or In House Survey Report as appropriate (See Section 5.1 of the Cultural Resources Manual for details).

2. If there are potential Historic Properties identified within the APE, GDOT's Cultural Resources Staff and/or consultants will apply the NRHP Evaluation Criteria per 36 CFR Part 63 in coordination with the SHPO and other consulting parties, as appropriate, to assess the need for any additional investigation and determine NRHP eligibility in accordance with 36 CFR 800.4 and 36 CFR 60.4. For those properties determined in consultation with SHPO as ineligible for the NRHP, GDOT will submit a No Historic Properties Affected Document for historic resources and/or a final draft Archaeology Report to conclude Section 106. For those properties determined in consultation with SHPO as eligible for the NRHP, GDOT will proceed with Part C or Part D of this stipulation as applicable.

C. No Adverse Effect

1. For those undertakings where Historic Properties may be affected, GDOT's Cultural Resources Staff and/or consultants will apply the criteria of adverse effect in consultation with the SHPO, Tribes, and other consulting parties, as appropriate, in accordance with 36 CFR 800.5. Subsequent to avoidance and minimization efforts, if the effect of the undertaking will not be adverse, the GDOT Cultural Resources Staff and/or consultants will propose a finding of No Adverse Effect and will document their finding in an Assessment of Effects document that will include the project Need and Purpose, Description, maps, photographs of the resource in the area of proposed construction, Determinations of Eligibility (DOEs) for archaeological resources, construction plans in the area of the resource, and planning to minimize harm.

D. Adverse Effect

1. Subsequent to avoidance and minimization efforts, if the GDOT Cultural Resources Staff and/or consultants determine that the undertaking will have an adverse effect on Historic Properties in consultation with the SHPO, Tribes, and other consulting parties, as appropriate, GDOT will issue a finding of Adverse Effect and will document the finding in an Assessment of Effects document that will include the project Need and Purpose, Description, maps, photographs of the resource in the area of proposed construction, DOEs for archaeological resources, construction plans in the area of the resource, avoidance alternatives, planning to minimize harm, and proposed mitigation.
2. GDOT Cultural Resources Staff and/or consultants will consult with the SHPO, the Lead Federal Agency, Tribes, and any other consulting parties to evaluate the Adverse Effect finding and/or discuss options that would avoid or minimize adverse effects.
3. If the GDOT Cultural Resources Staff and/or consultants determine that an undertaking may adversely affect a National Historic Landmark, GDOT's Cultural Resources Staff will notify the Lead Federal Agency, and the Lead Federal Agency will notify and request the SHPO, the ACHP, and the SOI to participate in consultation to resolve any adverse effects, as outlined in 36 CFR 800.10.
4. For all undertakings in which adverse effects to Historic Properties cannot be avoided, GDOT's Cultural Resources Staff and/or consultants will notify the Lead Federal Agency, and the Lead Federal Agency will notify the ACHP of the finding of adverse effect. GDOT will continue to consult with SHPO, Tribes, and other consulting parties, as applicable, to resolve adverse effects and conclude the Section 106 process in accordance with 36 CFR 800.6.

E. Re-Evaluations

Because Section 106 Review begins and is carried forward very early in GDOT's Plan Development Process so that Historic Properties can be given full consideration during the preliminary design phase, design changes are common as plans are finalized and right-of-way (ROW) acquisition begins. Often these design changes are minor in nature; therefore, the following procedures provide a way to document and communicate these changes without re-opening Section 106 consultation.

1. If, after Section 106 Review has concluded, there are changes to the design of a project, additional Section 106 consultation will not be required as long as the following conditions apply (see Cultural Resources Manual for details):

- a. The APE has not changed beyond the limits of previous survey coverage documented in the original survey report;
 - b. The effects to NRHP eligible or listed Historic Properties have not changed; and
 - c. Less than 5 years have passed since the full project survey for Historic Properties, not including archaeological resources, was completed and concurred with by SHPO, or ROW has been authorized.
2. The design changes will be documented in a Memorandum that will be provided to the SHPO, Lead Federal Agency, and participating Tribes for review and files (see Cultural Resources Manual, Appendix B for template).

VIII. EMERGENCY SITUATIONS

In the event that the State of Georgia (or a county or counties in Georgia) experiences a disaster (natural or otherwise) event triggering a state of emergency, as declared by the President of the United States and/or the Governor of Georgia, the guidance in the Cultural Resources Manual expedites the Section 106 review for Emergency Repairs as defined in 23 CFR 668.103 for federally funded projects where FHWA is the Lead Federal Agency. On State funded projects where the Corps is the Lead Federal Agency, emergency procedures will be conducted in accordance with 33 CFR 325.2(e)(4).

IX. POST-REVIEW DISCOVERIES

B. Planning for Subsequent Discoveries

When GDOT's identification efforts indicate that Historic Properties are likely to be discovered during implementation of an undertaking, GDOT shall include in any environmental document, contract, and specifications a plan for discovery of such properties. Implementation of the plan as originally proposed, or modified as necessary owing to the nature and extent of the properties discovered, will be in accordance with 36 CFR 800.4-6 (see the Cultural Resources Manual for process).

C. Late Discoveries

1. If previously unidentified Historic Properties, or unanticipated effects are discovered after GDOT has completed its review under this Agreement, that portion of the project will stop immediately, in accordance with Specification 107.13A Protection and Restoration of Property and Landscape in the current version of GDOT's *Standard Specifications Construction of Transportation Systems* current edition and as may be amended from time to time (see the Cultural Resources Manual). GDOT will notify the Lead Federal Agency within twenty-four (24) hours of the discovery.
2. No further construction activities in the area of discovery will proceed until the requirements of 36 CFR 800.13 have been satisfied, including consultation with Tribes that may attach traditional cultural and religious significance to the discovered property.
3. GDOT and the Lead Federal Agency will notify SHPO, the Tribes, and other consulting parties as appropriate within forty-eight (48) hours. GDOT will further consult with the Lead Federal Agency, SHPO, the Tribes, and consulting parties to record, document, and evaluate NRHP eligibility of the property, if it has not been previously determined, assess the project's effect on the property, and to design a plan for avoiding, minimizing, or mitigating adverse effects if it is determined that the property is eligible.
4. If neither the SHPO nor a Tribe files an objection within seventy-two (72) hours of GDOT's plan for addressing the discovery, GDOT may carry out the requirements of 36 CFR 800.13 on behalf of the Lead Federal Agency, and the ACHP does not need to be notified.

X. IDENTIFICATION AND TREATMENT OF HUMAN REMAINS

- A. In the event that human remains are identified prior to, during, or after project construction, GDOT will develop a treatment plan in consultation with the Lead Federal Agency, the SHPO, the Office of the State Archaeologist (through the SHPO), and other

consulting parties, as applicable (see the Cultural Resources Manual for process).

- B. If it is determined that the human remains, including funerary objects, are associated with an American Indian or Native American occupation (as defined in 25 U.S.C. 32 § 3001(9)), the Lead Federal Agency and GDOT, at the discretion of the Lead Federal Agency, will consult with the Tribes prior to the development or execution of a treatment plan in accordance with the provisions of the Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. §3001-3013, 18 U.S.C. § 1170).
- C. All work involving the presence of human remains and abandoned cemeteries will comply with applicable State and Federal laws (36 CFR 800.13; 43 CFR Part 10, Subpart B; Official Code of Georgia Annotated (OCGA) § 36-72; OCGA § 31-21-6).
- D. Discoveries of unmarked graves, burials, human remains, or items of cultural patrimony on Federal lands shall be subject to NAGPRA (25 U.S.C. §3001-3013, 18 U.S.C. § 1170) and the Archaeological Resources Protection Act of 1979 (ARPA)(16 U.S.C. §470aa – 470mm).

XI. MONITORING AND REPORTING

- A. The Federal Agencies and GDOT Cultural Resources Staff will arrange for an annual meeting with SHPO, the ACHP, and the Tribes to evaluate the Agreement, suggest revisions to its provisions, and to evaluate the quality of the resource identification and protection activities carried out under the Agreement. This evaluation meeting will take place annually within two (2) months of the anniversary of the effective date of the Agreement. The ACHP's participation in these meetings is optional, at the discretion of the ACHP.
- B. If a party of the Agreement concludes that performance under the Agreement is less than satisfactory, the parties shall consult at any time to improve performance and reconvene within six (6) months to evaluate improvements.
- C. One month prior to the scheduled annual meeting, GDOT Cultural Resources Staff shall submit to SHPO, the ACHP, the Tribes, and the Lead Agencies an Annual Report of projects reviewed by GDOT Cultural Resources Staff in accordance with Stipulation VII over the last calendar year from the effective date of the Agreement. Based upon a review of this list of projects, GDOT Cultural Resources Staff will make recommendations in the report for improving the implementation of the Agreement. The report will serve as the basis of the annual review meeting. GDOT Cultural Resources Staff will also update consulting party lists in the Cultural Resources Manual to reflect any updates made during the preceding year.
- D. If, upon review of the list and recommendations, the parties of the Agreement agree via email that an in-person meeting is not necessary, the parties of the Agreement may defer to a conference call or agree a meeting is not required for a particular year.

XII. DISPUTE RESOLUTION

- A. Should any signatory party object in writing to the Lead Federal Agency regarding the manner in which the terms of this Agreement are carried out, the Lead Federal Agency will immediately notify the other signatory parties of the objection and proceed to consult with the objecting party to resolve the objection. The Lead Federal Agency will honor the request of any signatory party to participate in the consultation and will take any comments provided by such parties into account. The Lead Federal Agency shall establish a reasonable time frame for such consultations.
- B. Should any signatory party object to a Lead Federal Agency determination of eligibility, the Lead Federal Agency will submit the determination to the Keeper of the NRHP for resolution.
- C. Should any signatory party object to a Lead Federal Agency assessment of effect, the Lead Federal Agency will submit the assessment to the ACHP for resolution.
- D. If the objection is resolved through consultation, the Lead Federal Agency may authorize the disputed action to proceed in accordance with the terms of such resolution.
- E. If after initiating such consultation, the Lead Federal Agency determines that the objection

cannot be resolved through consultation, the Lead Federal Agency shall forward all documentation relevant to the objection to the ACHP and other signatory parties, including the Lead Federal Agency's proposed response to the objection. Within 30 days after receipt of all pertinent documentation, ACHP shall exercise one of the following options:

- a. Advise the Lead Federal Agency that ACHP concurs with the Lead Federal Agency's proposed response to the objection, whereupon the Lead Federal Agency will respond to the objection accordingly; or
 - b. Provide the Lead Federal Agency with recommendations, which the Lead Federal Agency shall take into account in reaching a final decision regarding its response to the objection; or
 - c. Notify the Lead Federal Agency that the objection will be referred for comment pursuant to 36 CFR 800.7(a)(4) and proceed to refer the objection and comment. In this event, the Lead Federal Agency shall ensure that the Agency Official is prepared to take the resulting comments into account in accordance with 36 CFR 800.7(c)(4).
- F. Should ACHP not exercise one of the foregoing options within 30 days after receipt of all pertinent documentation, the Lead Federal Agency may make a final decision on the dispute and proceed accordingly.
- G. The Lead Federal Agency shall take into account any ACHP recommendation or comment and any comments from the other signatory parties to this Agreement in reaching a final decision regarding the objection.
- H. The Lead Federal Agency shall provide all other signatory parties to this Agreement with a written copy of its final decision regarding any objection addressed pursuant to this Stipulation.
- I. The Lead Federal Agency may authorize any action subject to objection under this Stipulation to proceed, provided the objection has been resolved in accordance with the terms of this Stipulation.
- J. At any time during implementation of the terms of this Agreement, should any member of the public raise an objection in writing pertaining to such implementation to any signatory party to this Agreement, that signatory party shall immediately notify the Lead Federal Agency. The Lead Federal Agency shall immediately notify the other signatory parties in writing of the objection. Any signatory party may choose to comment on the objection to the Lead Federal Agency. The Lead Federal Agency shall establish a reasonable time frame for this comment period. The Lead Federal Agency shall consider the objection, and in reaching its decision, the Lead Federal Agency will take all comments from the other parties into account. Within 15 days following closure of the comment period, the Lead Federal Agency will render a decision regarding the objection and respond to the objecting party. The Lead Federal Agency will promptly notify the other parties of its decision in writing, including a copy of the response of the objecting party. The Lead Federal Agency's decision regarding resolution of the objection will be final. Following issuance of its final decision, the Lead Federal Agency may authorize the action subject to dispute hereunder to proceed in accordance with the terms of that decision.
- K. The Lead Federal Agency's responsibility to carry out all actions under this Agreement that are not the subject(s) of the objection shall remain unchanged.

XIII. AMENDMENT

Any signatory party to this Agreement may at any time propose amendments, whereupon all signatory parties shall consult to consider such amendment for no more than 90 days. This Agreement may be amended only upon written concurrence of all signatory parties. The amended Agreement will be filed with the ACHP.

XIV. TERMINATION

- A. Any signatory party may terminate this Agreement. If this Agreement is not amended as

provided for in Stipulation XIII, or if any signatory party proposes termination of this Agreement for other reasons, the party proposing termination shall notify the other signatory parties in writing, explain the reasons for proposing termination, and consult with the other parties for no more than 30 days to seek alternatives to termination.

- B. Should such consultation result in an agreement on an alternative to termination, the signatory parties shall proceed in accordance with that agreement pursuant to Stipulation XIII.
- C. Should such consultation fail, the signatory party proposing termination may terminate this Agreement by promptly notifying the other parties in writing.
- D. Should this Agreement be terminated, the Lead Federal Agency would carry out the requirement of 36 CFR 800 for individual undertakings.
- E. Beginning with the date of termination, the Lead Federal Agency shall ensure that until and unless a new Agreement is executed for the actions covered by this Agreement, such undertakings shall be reviewed individually in accordance with 36 CFR 800.4-6.

XV. CONFIDENTIALITY

All parties to this Agreement acknowledge that information about Historic Properties, potential Historic Properties, or properties considered historic for purposes of this Agreement are or may be subject to the provisions of Section 304 of NHPA. Section 304 allows the Lead Federal Agency to withhold from disclosure to the public, information about the location, character, or ownership of a historic property if any party determines that disclosure may 1) cause a significant invasion of privacy; 2) risk harm to the historic property; or 3) impede the use of a traditional religious site by practitioners. Having so acknowledged, all parties to this Agreement will ensure that all actions and documentation prescribed by this Agreement are, where necessary, consistent with the requirements of Section 304 of the NHPA.

XVI. DURATION OF AGREEMENT

This Agreement shall remain in effect for a period of five (5) years after the date it takes effect (the date the last party signs), unless it is terminated prior to that time. Ninety (90) days prior to the conclusion of the five-year period, GDOT will notify all parties in writing. If there are no objections from consulting parties, the term of the Agreement will automatically be extended for an additional five (5) years. If any party objects to extending the Agreement, or proposes amendments, GDOT will consult with the parties to consider amendments or other actions to avoid termination.

XVII. INCORPORATION OF WHEREAS CLAUSES

The above "Whereas" clauses are hereby incorporated by reference as though fully set forth herein.

Execution and implementation of this Agreement evidences that the signatory Federal Agencies have delegated certain Section 106 responsibilities to GDOT, and have afforded ACHP a reasonable opportunity to comment on the undertakings identified in this Agreement, and that the signatory Federal Agencies have taken into account the effects of the Program and Corps permit program and their individual undertakings on Historic Properties, and that the signatory Federal Agencies have complied with Section 106 of the NHPA and 36 CFR 800 for the program and its individual undertakings.

B. Definitions and List of Abbreviations

ACHP – Advisory Council on Historic Preservation

ADA – Americans with Disabilities Act

Agreement – Programmatic Agreement

AOE – Assessment of Effects

APE – Area of Potential Effects

AMrDEC – Aviation and Missile Research Development and Engineering Center

ATMS – Automated Traffic Management Systems

CCTV – Closed Circuit Television

CE – Categorical Exclusion

CFR – Code of Federal Regulations

CLGs – Certified Local Governments

CMS – Changeable Message Signs

Corps – U.S. Army Corps of Engineers. Used to specifically refer to the Savannah District.

Cultural Resource Manual (Manual) – Provides guidance on how to implement the Programmatic Agreement. For project level guidance is found in the EPM.

District - A district is defined as a collection of significant archaeological sites, buildings, structures, or objects that are linked historically or aesthetically. Districts are comprised of individual properties that achieve significance as a whole, regardless of individual properties' eligibility. For archaeological districts the groupings of sites should derive from the same common components and contexts. For districts defined by the built environment as a collection of structures, buildings, or objects a historical context, such as a principal activity, must be shared or the plan and/or physical development is interrelated.

DPPE – District Planning and Programming Engineer

EA – NEPA Environmental Assessment

EER – Environmental Effects Report

EIS – NEPA Environmental Impact Statement

Environmental Coordinator – FHWA, Georgia Division Environmental Review Coordinator

EPM – GDOT Environmental Procedures Manual. The EPM is GDOT's guidance for design and environmental professionals to develop its program in compliance with all federal and state laws as applicable. In particular, Chapter 5.3 of the EPM provides the practical project level requirements for SOI qualified professionals to conduct cultural resources surveys, evaluate resources for eligibility and assess effects to eligible resources.

Federal Agencies – Corps and FHWA. Used to refer to the collective agencies.

FHWA – Federal Highway Administration

GDOT – Georgia Department of Transportation

GHBS – Georgia Historic Bridge Survey

GNAHRGIS – Georgia's Natural, Archaeological, and Historic Resources GIS

Historic Features - Retaining walls, designed landscapes (ex. pecan groves or formal gardens/landscaping), historic sidewalks, granite curbing, and/or historic steps

HPD – Georgia Department of Natural Resources - Historic Preservation Division

Lead Federal Agency – Corps or FHWA. Used to refer to a singular agency.

LIBP – GDOT Low Impact Bridge Program

LIBP Eligible project - A bridge replacement project identified as a result of the LIBP screening process to be eligible for implementation as an LIBP project. Projects with adverse effects to historic resources will *not* be found eligible for implementation under the LIBP.

MOA – Memorandum of Agreement

NAGPRA – Native American Graves Protection and Repatriation Act

NRHP – National Register of Historic Places

NHPA - National Historic Preservation Act

OCGA – Official Code of Georgia

OES – Office of Environmental Services

OSA – Office of the State Archaeologist

PA – Programmatic Agreement

Permits - Rivers and Harbors Act of 1899, Section 10 (33 U.S.C. 401 and 403), and the Clean Water Act of 1973, Section 404 (33 U.S.C. 1344)

PHOH - Public Hearing Open House

PIOH – Public Information Open House

PIP – Public Involvement Plan

Program – Federal-Aid Highway Program

PSC – Pre-stressed Concrete

PTA – Parent Teacher Associations

ROW– Right-of-Way

SAD – South Atlantic Division

SHPO – State Historic Preservation Officer

SME – Subject Matter Expert

SOI – Secretary of Interior

TL – Tribal Liaison

Tribes – Federally recognized Indian tribes

THPO – Tribal Historic Preservation Officer

USACE – U.S. Army Corps of Engineers

C. Document Templates

TEMPLATE FOR NO POTENTIAL TO CAUSE EFFECTS FINDINGS

DATE: [Date]
FROM: [Name], Archaeologist, Office of Environmental Services
TO: Files
SUBJECT: GDOT District X Maintenance Project, X County; P.I. # [xxxxxxx]:
Determination of No Potential to Cause Effects

The proposed project would consist of resurfacing, milling, leveling, striping, patching, and earth shoulder rehabilitation (tailor to project) along SR X from ___ to ___ in X, County, Georgia. All work would be performed within the existing right-of-way.

This project would constitute an undertaking as defined in 36 CFR 800.16(y). However, the implementation of this undertaking does not have the potential to cause effects to historic properties as defined in 36 CFR 800.16(i). Because of the nature and scope of the proposed project, no potential to alter "the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register" exists. The scope of this project is applicable for application of Stipulation VII A of the Section 106 Programmatic Agreement between FHWA, the Corps, the ACHP, SHPO, and GDOT. Since the project involves maintenance of the existing roadway within the existing roadbed (tailor to project), no potential for effects to historic resources or effects to archaeological resources exists.

Therefore, in accordance with 36 CFR 800.3(1) there is a finding of no potential to cause effects for this proposed project. This finding fulfills the Department's obligations under Section 106 of the National Historic Preservation Act.

initials

cc: [name], GDOT Historian
[name], GDOT Environmental Analyst
[name], GDOT Project Manager

TEMPLATE FOR SECTION 106 INITIATION (CORPS AS LEAD FEDERAL AGENCY)



Russell R. McMurry, P.E., Commissioner
 One Georgia Center
 600 West Peachtree NW
 Atlanta, GA 30308
 (404) 631-1990 Main Office

Date _____

NOTIFICATION: INITIATION OF SECTION 106
 GDOT Project _____, _____ County

SAS # _____

P.I. # _____

The above referenced Georgia Department of Transportation (Department) project(s) consist(s) of the proposed *[brief one or two sentence project description as provided in the GEPA notification letter]*.

In a letter dated _____ the Department informed the following Tribes and interested parties of our efforts to locate previously identified historic properties and were asked to provide information on any unidentified Georgia Register of Historic Places (GRHP) or National Register of Historic Places (NRHP) listed or potentially eligible historic properties located within the proposed project's(s') Area of Potential Effects (see attached letter): **List Tribes and interested parties who were sent the GEPA notification letter.** A response was received from the [name of interested party(ies)] by a letter dated [date] (see copies of correspondence in Appendix A). **OR** No response was received from the Department's request for information.

Through project planning and development, it has been determined that a permit under Section 404 of the Clean Water Act is required; and the Regulatory Branch, Savannah District, U.S. Army Corps of Engineers (Corps) will be the lead federal agency responsible for Section 106 consultation for the portions of the project(s) under their jurisdiction (see attached project location and Corps jurisdiction map). The project center point is located at *[Insert Coordinates of Project Center Point]*.

As the lead federal agency, the Corps will be conducting government-to-government consultation regarding the project in accordance with the Section 106 of the National Historic Preservation Act (NHPA) of 1966 as amended 2014 and maintains this authority. In coordination with the Corps, GDOT may facilitate initial communication and coordination regarding project details with project tribal partners, the Georgia SHPO (GA SHPO), and potential consulting parties.

Section 106 of the NHPA requires the Corps and the Department, in consultation with the Georgia SHPO, to identify potential consulting parties and to invite them to participate in the Section 106 process. This Notification letter is one of several methods the Department uses to encourage public participation in this process and it serves as your invitation to participate as a consulting party in the Section 106 process for **this/these** project(s). Even if you previously responded to the initiation of the subject project under GEPA, please respond to this request as well as it now falls under the purview of the Corps in compliance with Section 106.

A written request to become a consulting party for cultural resources for **this/these** project(s) should be directed to one of the contacts below:

Tribes	Non-tribal Consulting Parties
Heather Mustonen, Tribal Liaison Department of Transportation Office of Environmental Services One Georgia Center	Eric Duff (Consultants provide your name and address) Department of Transportation Office of Environmental Services

600 West Peachtree Street, NW, 16 th Floor Atlanta, Georgia 30308 Or Email: hmustonen@dot.ga.gov	One Georgia Center 600 West Peachtree Street, NW, 16 th Floor Atlanta, Georgia 30308 Attn: _____ (<i>historian name or name of consultant</i>) Email: Historian's email
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Responses would be appreciated within thirty (30) days of receipt of this Notification letter. Please refer to the project identification number (P.I. _____) in your response. The potential consulting party (*ies*) identified and invited to participate in the Section 106 process for **this/these** project(s) are the Georgia SHPO, [*refer to Section 3.1 of the Cultural Resources Manual of the Section 106 Programmatic for a list of required and potential consulting parties in addition to SHPO*]. If you are aware of other organizations or individuals interested in cultural resources in the project area not already identified, please forward their names to the Department.

Also, on behalf of the Corps, in keeping with a government-to-government relationship and in compliance with 36CFR800, the following tribal governments are invited to participate in the Section 106 process for this project: Alabama-Quassarte Tribal Town, Muscogee (Creek) Nation, Muscogee (Creek) National Council, Poarch Band of Creek Indians, Seminole Nation of Oklahoma, and the Thlopthlocco Tribal Town. Responses to this Notification regarding tribal concerns should be addressed to the attention of Heather Mustonen, the Department's American Indian liaison.

OR

Also, on behalf of the Corps, in keeping with a government-to-government relationship and in compliance with 36CFR800, the following tribal governments are invited to participate in the Section 106 process for this project: Mississippi Band of Choctaw Indians, Jena Band of Choctaw Indians, Absentee-Shawnee Tribe, Shawnee Tribe, Eastern Shawnee Tribe, Catawba Indian Nation, Eastern Band of Cherokee Indians, United Keetoowah Band of Cherokee Indians, Cherokee Nation, Alabama-Coushatta Tribe of Texas, Alabama-Quassarte Tribal Town, Muscogee (Creek) Nation, Muscogee (Creek) National Council, Poarch Band of Creek Indians, Seminole Nation of Oklahoma, and the Thlopthlocco Tribal Town. Responses to this Notification regarding tribal concerns should be addressed to the attention of Heather Mustonen, the Department's American Indian liaison.

Prior to the Department's identification of Waters of the U.S. and impacts to those waters, the entire proposed project(s) was field surveyed for both historic properties and archaeological sites in compliance with the amended Georgia Environmental Policy Act (GEPA) [Code Section 12-16-9], and under GEPA, you may have received reports from the Department documenting the results of those field investigations. For any historic properties identified within Corps jurisdiction, an evaluation of historic significance will be applied in consultation with the Georgia SHPO and other consulting parties to determine if any of those properties are eligible for inclusion in the NRHP.

The Department also wishes to know of any past, present or future local developments or zoning plans which may result in indirect or cumulative impacts to archaeological sites and historic structures as they relate to the proposed project(s). In accordance with Section 106 of the National Historic Preservation Act, the Department will assess project effects to any identified historic properties as preliminary project plans become available, endeavor to minimize harm to all identified historic properties and produce an Assessment of Effects report. This document will be provided to all consulting parties for comment when completed.

Individuals and organizations that do not wish to become a consulting party, but would still like to comment on the proposed project(s) will also have that opportunity. Corps specific Cultural Resource

concerns can be addressed to Rodney Parker, Tribal Liaison and Regulatory Archaeologist for the Corps. Historic resource concerns can be addressed to ***name of historian*** (404-631-***number*** or ***name of historian@dot.ga.gov***) with the Department (or name of consultant firm); archaeological resource concerns, including cemetery and other human burials, can be addressed to Heather Mustonen (404-631-1166 or hmustonen@dot.ga.gov) of the Department. Questions concerning general design or location issues may be addressed to ***[design engineer]*** (404-***[number]*** or ***[e-mail address]***) of the Department's ***[choose applicable district office location]*** ***Gainesville, Tennille, Thomaston, Tifton, Jesup, Cartersville or Chamblee*** (District #_____) Office.

Attach a project location map showing the full project extents with North Arrow, Project Number(s), County(ies), and Scale bar (or indicate "not to scale") to a scale where road names and closest landmark (town/city) are legible. Also, show the locations of Corps jurisdiction on this map or a separate graphic as needed.

Only show the high level project location and/or begin and end points with a call-out box. Do not show the Environmental Survey Boundary or construction limits.

TEMPLATE FOR NO HISTORIC PROPERTIES AFFECTED

DATE: [Date]

FROM: [Name], Historian, Office of Environmental Services
 [Name], Archaeologist, Office of Environmental Services **[If applicable]**

TO: Files

SUBJECT: GDOT Project [], [] County;
 P.I. # [] and HP # [] :
Finding of No Historic Properties Affected

Attached is the Finding of No Historic Properties Affected document for the subject project(s). This finding fulfills the Department's responsibilities under Section 106 of the National Historic Preservation Act (NHPA) of 1966 and subsequent amendments for historic districts, buildings, structures, or objects. **OR** Attached is the Finding of No Historic Properties Affected document for the subject project(s). This finding fulfills the Department's responsibilities under Section 106 of the National Historic Preservation Act (NHPA) of 1966 and subsequent amendments for historic properties **[include if archaeological documentation is included]**. By agreement, because no resources fifty (50) years of age or older were found within the Area of Potential Effects of **this/these** project(s), no signed concurrence from the State Historic Preservation Officer is required. **OR** By agreement, because the State Historic Preservation Officer (SHPO) has concurred with the Historic Resources Survey Report that there are no eligible resources within the Area of Potential Effects of **this/these** project(s), no signed concurrence from the SHPO is required. A report, which fulfills the Department's responsibilities under Section 106 for archaeological sites, will be submitted separately. **OR** Because the only historic resource identified in the APE is a bridge determined ineligible by the Department and the State Historic Preservation Officer (SHPO) in the Georgia Historic Bridge Survey, no signed concurrence from the SHPO is required. A report, which fulfills the Department's responsibilities under Section 106 for archaeological sites, will be submitted separately.

___/

cc: Moises Marrero, FHWA, w/attachment (Attn: Jennifer Giersch **OR** Chetna Dixon **OR** Aaron Hernandez)
 David Crass, Deputy SHPO, w/attachment
 Regional Commission, w/attachment
 Melissa Forgey, DeKalb History Center, w/attachment **(for DeKalb County projects only)**
 David Cullison, DeKalb County Historic Preservation Commission, w/attachment **(for DeKalb County projects only)**
TRIBES (per current Consultation Matrix, if archaeology included for Traffic Ops/Curb Cut Projects)
ANY OTHER CONSULTING PARTY, w/attachment
 , GDOT NEPA
 , Consultant
 , GDOT Project Manager, Office of Program Delivery

FINDING OF NO HISTORIC PROPERTIES AFFECTED

GDOT PROJECT , COUNTY

P.I. #

HP #

Description of the Undertaking

GDOT Project _____ is federally funded. Therefore, Section 106 compliance is being processed through the Federal Highway Administration (FHWA) **OR** GDOT Project _____ is proposed to be implemented with state funds. However, the Federal Highway Administration (FHWA) authorized preliminary engineering (PE) on **[date]** allowing the Department to conduct environmental studies with federal funds and preserve the option of implementing the project with federal funds in the future. Therefore, Section 106 compliance is being processed through the Federal Highway Administration (FHWA).

[Insert the project description used in the Notification. Describe any changes to the project description since the Notification, as needed.]

The area of potential effects (APE), as defined in 36 CFR 800.16(d), is the geographic area or areas within which an undertaking may directly or indirectly cause changes in the character or use of historic properties if any such properties exist. Based upon the nature and the scope of the undertaking and per guidance in *Section 4 of the Cultural Resources Manual of the Section 106 Programmatic Agreement between FHWA, the US Army Corps of Engineers (Corps), the Advisory Council on Historic Preservation (ACHP), federally recognized Tribes, and the State Historic Preservation Office (SHPO)* the Department has evaluated and defined the APE for this proposed project.

Because of the nature and scope of the undertaking, the area of potential direct effects consists of areas within the proposed ROW and the viewshed of the proposed project(s). No potential for indirect effects outside this corridor is anticipated as a result of implementation of the proposed project(s). **(Select this option if ROW is required)**

OR

Because of the nature and scope of the undertaking, the APE is limited to the existing ROW and viewshed of the proposed project(s), within which all construction and ground disturbing activity would be confined. No potential for indirect effects outside of the corridor is anticipated as a result of implementation of the proposed project(s). **(Select this option if ROW is not required.)**

OR

The area of potential effects (APE), as defined in 36 CFR 800.16(d), is the geographic area or areas within which an undertaking may directly or indirectly cause changes in the character or use of historic properties if any such properties exist. Because of the nature and scope of the undertaking, the area of potential direct effects would include the areas within the proposed ROW of the proposed project per the 2018 Memorandum of Understanding between FHWA, SHPO, and GDOT regarding Definition of Area of Potential Effects for GDOT Traffic Operations Projects, Improvements to Existing Signalized Intersections.

OR

Because of the nature and scope of the undertaking, the area of potential direct effects would only include the areas of proposed curb cut locations within the existing ROW and would not include the viewshed.

Identification of Historic Properties

Existing information on previously identified historic properties was checked to determine if any are located within the APE of this undertaking. This review included National Register of Historic Places (NRHP) listed properties, pending NRHP nominations, National Historic Landmarks, Trail of Tears National Historic Trail, and the updated Georgia Historic Bridge Survey (GHBS). No properties listed in or nominated for listing in the NRHP, National Historic Landmarks or bridges determined eligible for inclusion in the NRHP were identified within the proposed project's APE OR One NRHP listed property was identified within the proposed project's APE. This property is ____ OR GDOT Bridge #_____ is included in the GHBS, but was determined not eligible. The Department of Natural Resources (DNR) **[name] County(ies)** survey dated **[date]** was also consulted and no historic resources were identified within the proposed project's APE OR A Department of Natural Resources (DNR) **[name] County(ies)** survey has not been conducted and could not be consulted.

Additionally, the Georgia Archaeological Site Files was reviewed for the presence of previously recorded archaeological sites within the APE and none were identified OR __ previously recorded sites were identified within the APE, including sites _____. **[List site numbers and NRHP eligibility recommendations/determinations in text or table format. If a site is located within the project area and coordination with SHPO has resulted in the determination that the proposed activities within its boundary do not have the potential to cause effect, documentation of this coordination should be included in the Appendix].**

In addition to the SHPO, other potential consulting parties were identified based on the nature of the undertaking and the guidance in the GDOT/FHWA Cultural Resource Survey Guidelines. The other potential consulting party(ies) invited to participate in the Section 106 process **was/were** the **[name]** Regional Commission. Also, on behalf of the FHWA, in keeping with a government-to-government relationship and in compliance with 36 CFR 800, applicable federally recognized tribal governments were invited to participate in the Section 106 process **[list tribal governments and append relevant correspondence only if an eligible archaeological resource was identified within the APE]**. The consulting party(ies) **was/were** informed of our efforts to identify historic properties by consulting existing information and the results of those efforts and asked to provide information on any unidentified NRHP listed or eligible properties within the project's APE by a Notification dated **[date]** (see Notification in Appendix). A response was received from the **[name(s)]** by a letter dated **[date]** (see correspondence in Appendix) OR No response was received from the Department's invitation to become a consulting party in the Section 106 process.

Because of the minimal scope of the proposed project(s) and because current and historic aerial photography, Google Streetview, and online tax assessor records (*tailor to available desktop resources*) indicate that the project area is composed entirely of modern residential subdivision or commercial development (*tailor as needed*), a field survey for historic buildings and structures was not conducted. As a result of these efforts, no property listed in or considered eligible for listing in the NRHP was identified within the proposed project's APE. No property 50 years old or older was identified.

OR

Because buildings and structures were visible on aerial photography and Google Streetview (*tailor to available desktop resources*), the proposed project was field surveyed for historic properties. As a result of these efforts, no property listed in or considered eligible for listing in the NRHP was identified within the proposed project's APE. No property 50 years old or older was identified OR **[Number] property(ies)** 50 years old or older **was/were** identified within the proposed project's APE OR No property 50 years old or older was identified within the proposed project's APE other than

the bridge itself which was determined ineligible per the GHBS. The NHRP Criteria of Eligibility were applied and **that property was/those properties were** determined not eligible for listing in the National Register in consultation with SHPO.

Because the proposed activities, in consultation with SHPO, have been determined not to have the potential to cause affect to archaeological resources, no field survey was conducted. ***[if applicable]***

Determination

Based on the results of our historic property identification efforts, no properties listed in or considered eligible for listing in the National Register were located within the APE of this undertaking. Therefore, there is a finding of No Historic Properties Affected for this undertaking in accordance with 36 CFR 800.4(d)(1)

TEMPLATE FOR RE-EVALUATION

DATE: Date

FROM: Name, Historian **OR** Archaeologist **[choose one]**, Office of Environmental Services

TO: Files

SUBJECT: GDOT Project [redacted], [redacted] County;
P.I. # [redacted] and HP # [redacted] :
Re-evaluation (**indicate number if this is not the first, i.e. "Second Re-evaluation"**)

The proposed project(s) would consist of the (**describe project as described in final 106 document [NHPA or AOE]**).

A historic resources survey was conducted on (date) and **[Number]** of property(ies) were identified within the proposed project's(s') APE and determined to be eligible for the National Register of Historic Places **OR** no eligible historic properties were identified within the proposed project's(s') APE. The State Historic Preservation Officer (SHPO) concurred with this finding via a memo dated _____. A finding of No Adverse Effect/Adverse Effect was determined for _____ (modify as necessary for additional resources), and SHPO concurred with **this/these** findings in a letter dated _____. **OR** No properties 50 years old or older were identified within the proposed project's(s') APE. **OR** A finding of No Historic Properties Affected was determined for the project and because there were no historic properties located within the APE of the project. No signed concurrence was required from the State Historic Preservation Officer **OR** A finding of No Historic Properties Affected was determined for the project and because State Historic Preservation Officer (SHPO) concurred with the Historic Resources Survey Report that there are no eligible resources within the Area of Potential Effects of this project, no signed concurrence from the SHPO was required.

OR

An archaeological resources survey was conducted on June 28, 2017 by **[GDOT Archaeologist (Name) or Consultant]**. A total of **[number]** of archaeological sites were identified within the proposed project's(s') APE. **None OR [Number]** were determined to be eligible for the National Register of Historic Places. An **Archaeological Short Report/GDOT In House Survey Report/Archaeological Resources Survey Report** was prepared and submitted to the State Historic Preservation Office (SHPO), the Federal Highway Administration (FHWA), and tribal partners. Concurrence was received by the SHPO in a letter dated _____. **OR** Because the survey resulted in negative findings, no signed concurrence was required from SHPO. **[Repeat as necessary for each addendum survey.]**

Since that time, the design of the project has been modified **[describe the changes in detail - Detail is only necessary if the changes occur in the vicinity of a resource; otherwise, general descriptions of the changes are acceptable, i.e. "various amounts of temporary and permanent easement have been added along the project corridor." Always provide specific descriptions of changes to project extents. And if this is the second, third, or fourth re-eval, do not describe those changes since they have already been memorialized in previous memos. Refer to them here, only by date (2002, 2005, 2009).**

To conclude your memo, review the following three scenarios, and select the option which most closely fits your project circumstances. These scenarios are just suggestions and should not be copied verbatim:

The extended APE was surveyed, and since no buildings or structures are located within the expanded APE, and since there are no previously identified historic resources located within the APE of the project, no additional documentation under Section 106 is required, and the finding of No Historic Properties Affected is still valid

OR

Since none of the eligible resources is located in the area of the proposed changes (increased ROW, easement, etc.), and since the changes are included within the original APE of the project, the original finding of No Adverse Effect is still valid, and no further documentation under Section 106 is required.

OR

All of the project changes fall within the limits of the previous archaeological survey(s) and therefore, no further documentation under Section 106 is required.

OR

*Although a small driveway easement is required from within the National Register boundary of the **(name of resource)**, there are no contributing features located in this area that would be affected by the easement required to tie-in the driveway **(tailor for your project/resource and expand as necessary)**. In addition, all other proposed changes occur outside of the eligible boundary of the resource. Since the proposed changes have not enlarged the footprint of the project, and since the proposed changes would not affect the eligible resource, the original finding of No Adverse Effect is still valid, and no further documentation under Section 106 is required.*

Special Instructions if De Minimis is applicable:

When additional permanent easement or ROW is required from within the boundary of an eligible resource, reference the original *de minimis* acknowledgement from SHPO. Calculate the increase of use and copy Jonathan Cox on your memo.

If incrementally over time, additional permanent easement or ROW is taken from a property, calculate the cumulative increase in your justification for the effect finding remaining the same.

Attachments:

Attach a figure(s) showing the limits of the project changes in relation to the limits of the original archaeological survey(s).

Attach a construction limits graphic when the changes occur within the boundary of an eligible resource.

Attach SHPO's letter giving their concurrence with the finding of effect for the resource(s).

___/

cc: Moises Marrero, FHWA, w/attachment (Attn: Jennifer Giersch **OR** Chetna Dixon **OR** Aaron Hernandez)

David Crass, Deputy SHPO, w/attachment

Regional Commission, w/attachment

David Cullison, DeKalb County Historic Preservation Commission, w/attachment **(for DeKalb County projects only)**

TRIBES (*per current Consultation Matrix, if archaeology included for Traffic Ops/Curb Cut Projects*)

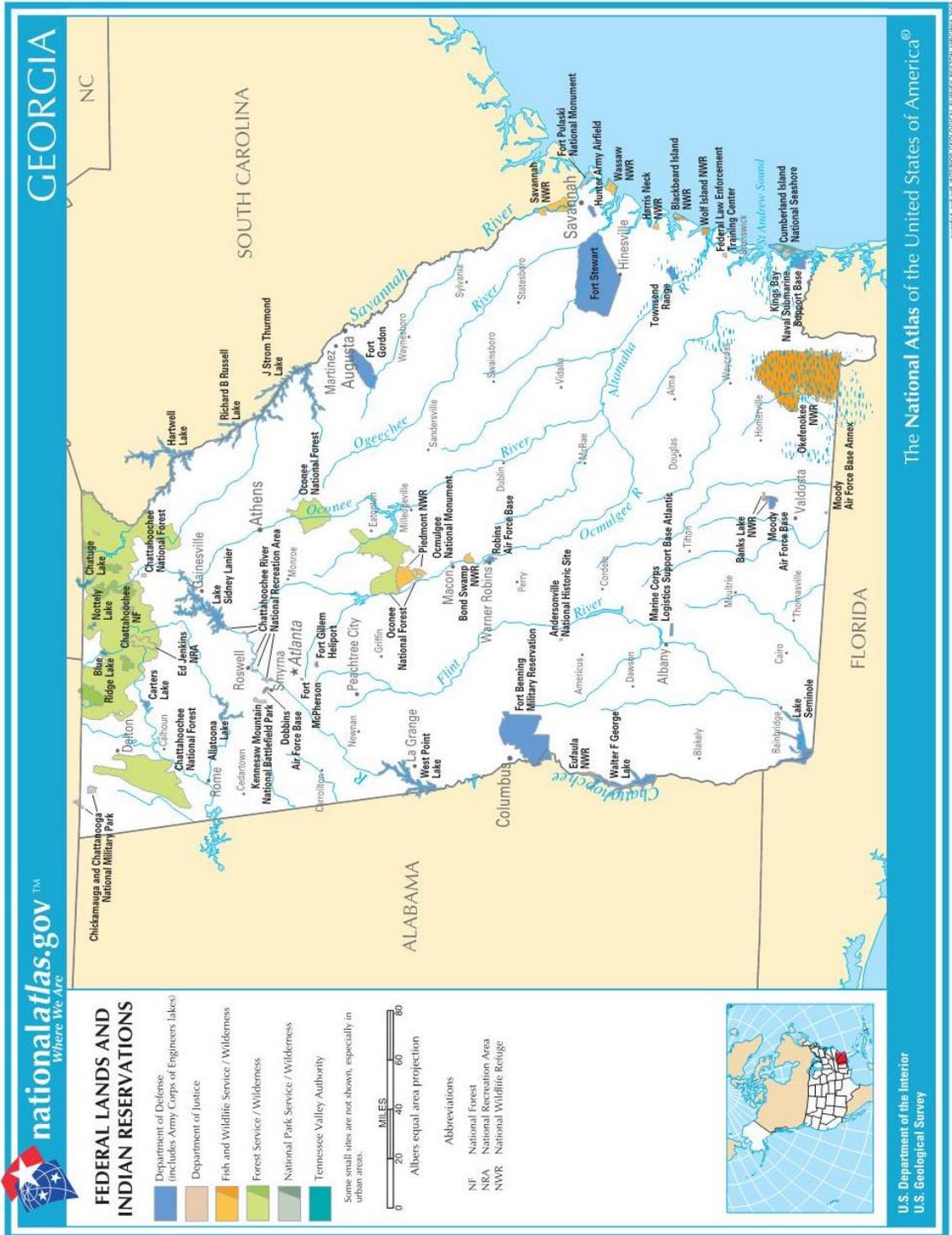
ANY OTHER CONSULTING PARTY, w/attachment

, GDOT NEPA

, GDOT Project Manager, Office of Program Delivery

D. Federal Lands Map

The following map from the National Map Atlas represents all federally-owned land within Georgia. The current legal boundaries of federally-owned parcels will be verified prior to archaeological field surveys to verify ARPA permit requirements.



E. GDOT Standard Specification 107.13A

Section 107-Legal Regulations and Responsibility to the Public

Contractor's agents, or employees; and shall hold the Department harmless from all claims of damages resulting in any manner therefrom.

The Contractor shall notify each public utility owner having structures or other installations, above or below ground, near the site of The Work of his intention to use explosives. Such notice shall be given sufficiently in advance to enable the utility owners to take such steps as they may deem necessary to protect their property from injury. Such notice shall not relieve the Contractor of responsibility for all damages resulting from his blasting operations.

All explosives shall be stored securely in compliance with all laws and ordinances, and all such storage places shall be clearly marked DANGEROUS EXPLOSIVES. Explosives and detonators shall be stored in separate storage facilities in separate areas. Where no laws or ordinances apply, locked storage shall be provided satisfactory to the Engineer, never closer than 1,000 ft (300 m) from any travel-road, building, or camping area.

In all cases where the transport, storage, or use of explosives is undertaken, such activities shall be controlled and directed by fully qualified representatives of the Contractor.

Whenever electric detonators are used, all radio transmitters shall be turned off within a radius of 500 ft (150 m). No blasting supplies shall be transported in vehicles with two-way radio unless the transmitter is turned off, or extra shielding precautions are taken. Appropriate signs shall be placed so as to give ample warning to anyone driving a vehicle equipped with two-way radio. Electrical detonators will not be used within 500 ft (150 m) of a railroad.

Submit a blasting plan to the Engineer a minimum of five working days prior to use of explosives that provides details of the proposed blasting plan, including, but not limited to, the type and amount of explosives, the shot sequence, the description of and distance to the closest inhabitable structure, and other information as requested by the Engineer. Do not begin blasting until the blasting plan has been reviewed and approved in writing by the Engineer. Such approval does not relieve the contractor of the responsibility for the adequate and safe performance of the blasting.

107.13 Protection and Restoration of Property and Landscape

A. General Provisions

The Contractor shall be responsible for the preservation of all public and private property, crops, fish ponds, trees, monuments, highway signs and markers, fences, grassed and sodded areas, etc. along and adjacent to the highway, and shall use every precaution necessary to prevent damage or injury thereto, unless the removal, alteration, or destruction of such property is provided for under the Contract. The Contractor shall use suitable precaution to prevent damage to all underground structures, whether shown on the Plans or not, and shall protect carefully from disturbance or damage, all land monuments and property marks until the Engineer has witnessed or otherwise referenced their location and shall not move them until directed. The Contractor shall not willfully or maliciously injure or destroy trees or shrubs, and he shall not remove or cut them without proper authority.

The Contractor shall be responsible for all sheet piling, shoring, underpinning, etc., as may be required for the protection of abutting property, nearby buildings, streets, and the like.

The Contractor shall be responsible for all damage or injury to property of any character, during the prosecution of The Work, resulting from any act, omission, neglect, or misconduct in his manner or method of executing The Work, or at any time due to defective work or materials, and said responsibility will not be released until the Project shall have been completed and accepted.

When the Contractor's excavating operations encounter remains of prehistoric people's dwelling sites or artifacts of historical or archeological significance, the operations shall be temporarily discontinued. The Engineer will contact archeological authorities and the Office of Environment and Location to determine the disposition thereof. When directed by the Engineer, the Contractor shall excavate the site in such a manner as to preserve the artifacts encountered and shall remove them for delivery to the custody of the proper authorities. Such excavation will be considered and paid for as Extra Work.

When the Contractor's normal operations are delayed by such stoppage or extra work, an appropriate time extension will be granted.

The Contractor shall plan, coordinate, and prosecute the work so that disruption to personal property and business is held to a practical minimum.

F. Office of the State Archaeologist NAGPRA Delegation



MARK WILLIAMS
COMMISSIONER

DR. DAVID CRASS
DIVISION DIRECTOR

Dr. David Crass
2610 GA HWY 155, SW
Stockbridge, GA 30281

March 1, 2019

Eric Duff
State Environmental Administrator
Office of Environmental Services
One Georgia Center
600 West Peachtree Street, NW
16th Floor
Atlanta, GA 30308

Dear Mr. Duff:

Effective immediately, the Historic Preservation Division of the Georgia Department of Natural Resources (HPD) delegates its duties and responsibilities under NAGPRA to the Georgia Department of Transportation (GDOT) for situations involving GDOT projects on GDOT-owned property. This delegation, which was requested by GDOT, shall remain in place until rescinded in writing by HPD. The legal basis for this delegation is advice from the Georgia Department of Law that such a delegation from HPD is permissible.

Sincerely,

A handwritten signature in blue ink that reads "Dave Crass".

Dr. Dave Crass
Director and Deputy State Historic Preservation Officer

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