



Georgia Department of Transportation

Section 106 Cultural Resources Manual



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Table of Contents

1	Introduction.....	1
1.1	FHWA/GDOT Agreement Documents 1987 to 2018	3
2	Tribal Consultation.....	6
2.1	FHWA/GDOT Tribal Consultation Protocol	6
2.2	Savannah Regulatory Guidelines for Consultation with Federally Recognized Tribes	8
2.3	Lead Federal Agency Record of Tribes and Areas of Concern	11
3	Consulting Parties and Public Involvement	13
3.1	Protocol for Identifying Consulting Parties	13
3.2	Public Involvement	14
4	Determining the Area of Potential Effects	15
4.1	Procedures for Determining the Area of Potential Effects	15
5	Section 106 Project Review Procedures	17
5.1	Project Level Screening	17
5.2	Undertakings with No Potential To Cause Effect (NPTCE) to Historic Properties.....	21
5.3	Undertakings with Minimal Potential to Cause Effect (MPTCE) to Historic Properties.....	21
5.4	Screened Project Review	36
5.5	Standard Review Procedures.....	38
5.6	Documentation of Project Changes	43
6	Post-Review Discovery	46
6.1	Procedures for Post-Review Discovery	46
7	Treatment of Human Remains	48
7.1	Procedures for Treatment of Human Remains	48
8	Historic Bridges	51
8.1	Georgia Historic Bridge Survey Program	51
9	The Low Impact Bridge Program	52
9.1	Section 106 Review Under the Low Impact Bridge Program.....	52
10	FHWA Federal Emergency Relief-Funded Projects	55
10.1	Section 106 Review Under the Emergency Relief Program	55
11	ITS Projects Within Limited Access ROW	61
11.1	Section 106 Review for ITS Projects within Limited Access ROW	61
12	Electric Vehicle Infrastructure Deployment Projects	66
12.1	Project Review for Electric Vehicle Infrastructure Deployment Projects.....	66
Appendices		68
A.	FHWA/GDOT 2025 Programmatic Agreement.....	69
B.	USACE Civil Works 2023 Tribal Consultation Policy	70
C.	Definitions and List of Abbreviations	71
D.	Screened Project Types.....	75
E.	Federal Lands Map	81
F.	GDOT Standard Specification 107.23B – Inadvertent Discovery of Cultural Resources and Treatment of Human Remains.....	82
G.	Office of the State Archaeologist NAGPRA Delegation	83
H.	Document Templates	84

List of Figures

Figure 1. Timeline for Section 106 within the Environmental Process for Federal and State Funded Projects. 18

Figure 2. Section 106 Review Procedures 19

Figure 3. Section 106 Procedures with Corps as Lead Federal Agency 20

Figure 4. Representative graphic of Operational ROW on rural and urban typical section roadways for use in exempted activity review. Image adapted from the GDOT Design Policy Manual. 22

Figure 5. Typical Bridge Components. Image from GDOT Office of Bridge Design. 22

Figure 6. Procedures for Documentation of Project Changes 45

Figure 7. Procedures for Post-Review Discovery 47

Figure 8. Procedures for Treatment of Human Remains 50

Figure 9. Categorized Zones Within Limited Access ROW. Graphic represents one half of roadway and median. 62

1 Introduction

This Cultural Resources Manual (CR Manual) describes the details of the implementation of the Programmatic Agreement (Agreement) executed _____ 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 CR Manual provides the practical application of the Agreement that is needed to advance GDOT's transportation improvement program.

The CR 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 CR Manual itself and posted to GDOT's Cultural Resources website without a formal amendment to the Agreement required. All changes to the CR 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 CR Manual that do not follow the Agreement, a formal amendment would be required per Stipulation XIV of the Agreement. Changes will be shared via the GDOT's Cultural Resources website at the following link: <http://www.dot.ga.gov/GDOT/pages/PA.aspx>. Changes to templates included in Appendix H are not considered a change to the CR Manual or the Agreement and written approval or formal amendment is not required.

As defined by Stipulation XII, Monitoring and Reporting, in the Agreement, the Agreement and its accompanying CR 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 CR Manual, a training session or email detailing these changes will be provided by GDOT's Cultural Resources staff for Secretary of the Interior (SOI) qualified professionals working on all GDOT programs. In addition, these changes will be identified on the 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 (NHPA) '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 of Historic Places (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 CR 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 CR Manual provides guidance on how to implement the Agreement. A glossary of definitions and list of abbreviations used throughout the CR Manual is provided in Appendix C and document templates are provided in Appendix H. 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 Guidebooks (EPM) located on the GDOT website: <https://www.dot.ga.gov/GDOT/pages/EnvironmentalProcedures.aspx>.

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1.1 FHWA/GDOT Agreement Documents 1987 to 2018

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 2018 as outlined in the table below. The executed PA also supersedes the 2019 Section 106 Programmatic Agreement for the Transportation Program in Georgia executed on December 13, 2019 and its subsequent amendment executed on December 13, 2024.

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

Document/Agreement	Date	Signatories	Purpose
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.
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.
Memorandum of Understanding Among FHWA, GDOT, GA SHPO Regarding Definition of the Section 106 Area of Potential Effect for Historic and Archaeological Resources for GDOT Traffic Operations Projects: Improvements to Existing Signalized Intersections	10/25/2018	FHWA, GDOT, SHPO	Identifies the area of potential effect for signal upgrade projects, including activities and associated documentation

Document/Agreement	Date	Signatories	Purpose
Programmatic Agreement Among FHWA, USACE, GDOT, GA SHPO, ACHP, Muscogee Nation, Alabama Coushatta Tribe of Texas, and the Catawba Indian Nation Regarding the Transportation Program in Georgia	12/13/2019 (Amended 12/13/2024)	FHWA, USACE, GA SHPO, GDOT, ACHP, Muscogee Nation, Alabama Coushatta Tribe of Texas, Catawba Indian Nation	

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 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. The full text of the updated 2023 *U.S. Army Corps of Engineers Civil Works Tribal Consultation Policy* can be found in Appendix B.

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 Preconstruction Notifications (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, Memorandum of Agreements (MOAs), and PAs. 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 Tribal Point of Contact (POC) for Regulatory in coordination with the District Tribal Liaison.
3. District 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 District 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 District 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 Engineer - 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 District 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 District 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 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/Tribal POC 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 District Engineer, as 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. If 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 Regulatory Project Manager should be made aware of all correspondences between Regulatory Archeologist/Tribal POC 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/Tribal POC, and/or the District Tribal Liaison, and Regulatory Project Manager as part of the project administrative record.

The above provides guidance for tribal consultation in addition to the Corps 2023 Civil Works Tribal Consultation Policy (see Appendix B). 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 District 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 CR 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

Tribe	Georgia Counties of Interest
Miccosukee Tribe of Indians of Florida	Deferred
Mississippi Band of Choctaw Indians	Baker, Calhoun, Clay, Decatur, Early, Grady, Miller, Mitchell, Quitman, Randolph, Seminole
Muscogee (Creek) Nation	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	Baker, Banks, Barrow, Bartow, Brooks, Burke, Calhoun, Carroll, Catoosa, Chatham, Chattahoochee, Chattooga, Cherokee, Clarke, Clay, Clayton, Cobb, Columbia, Coweta, Dade, Dawson, Decatur, DeKalb, Dougherty, Douglas, Early, Echols, Effingham, Elbert, Fannin, Fayette, Floyd, Forsyth, Franklin, Fulton, Gilmer, Glascock, Gordon, Grady, Gwinnett, Habersham, Hall, Haralson, Harris, Hart, Heard, Henry, Jackson, Jefferson, Jenkins, Lincoln, Lowndes, Lumpkin, Madison, Marion, McDuffie, Meriwether, Miller, Mitchell, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Pickens, Polk, Quitman, Rabun, Randolph, Richmond, Rockdale, Schley, Screven, Seminole, Stephens, Stewart, Sumter, Talbot, Taliaferro, Terrell, Thomas, Towns, Troup, Union, Walker, Walton, Warren, Webster, White, Whitfield, Wilkes
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

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 the 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 and will include the following:

- The Georgia SHPO is a required 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 location:
 - o <https://www.georgiaarchives.org/ghrac/directory>
- The DeKalb History Center and DeKalb County Historic Preservation Commission will receive Section 106 documentation for DeKalb County projects, regardless of whether a response is received requesting to become a consulting party under Section 106 for the undertaking.
- The Atlanta Urban Design Commission will be invited to participate as a consulting party for projects located within the City of Atlanta. Copies of all Historic Resources Survey Reports will be provided to the Atlanta Urban Design Commission regardless of whether or not they request to become a consulting party under Section 106 for the undertaking.
- The Atlanta Preservation Center will receive Section 106 documentation for projects within and adjacent to the City of Atlanta, regardless of whether a response is received requesting to become a consulting party under Section 106 for the undertaking.
- Easements Atlanta, Inc. will receive Section 106 documentation for projects that include any properties for which they hold an easement within the APE, regardless of whether a response is received requesting to become a consulting party under Section 106 for the undertaking.
- The 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.

GDOT, in partnership with the Lead Federal Agency, will make a reasonable and good faith effort to incorporate any information received by consulting parties during consultation and take into account their views within the transportation planning process in accordance with 36 CFR 800.2(d). Where, after consultation aimed to resolve comments from a consulting party, they were not incorporated into the decision-making process, GDOT will document why they were unable to accommodate the concern in coordination with the Lead Federal Agency.

3.2 Public Involvement

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. For those undertakings that do not routinely require public review and comment (e.g., Stipulation VII.B-C of the Agreement), 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. GDOT shall make the Lead Federal Agency and SHPO aware of 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. Public involvement efforts will be documented in the Assessment of Effects document for an undertaking (see Section 5.5.III of the CR Manual).

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

- A. 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.
- B. 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.

5 Section 106 Project Review Procedures

5.1 Project Level Screening

The following Section describes the review process and documentation requirements under Section 106 per Stipulation VII in the Agreement with both FHWA and the Corps. All proposed undertakings will be screened by GDOT's Cultural Resources SOI qualified staff and consultants to determine the required level of project review. As a result of the screening, all undertakings will be categorized as either No Potential to Cause Effect, Minimal Potential to Cause Effect, Screened Project Review, or requiring a Standard Project Review. The definition of each level is provided below and procedures for review and documentation associated with each level are provided in this section of the CR Manual. 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). Workflows showing the review process for federally funded and federally permitted projects are found in Figure 2 and Figure 3, respectively. Additional details on the review procedures for the Low Impact Bridge Program (Section 9), Federal-aid Emergency Projects (Section 10), and Intelligent Transportation Systems (ITS) projects on Interstates (Section 11) can be found in their respective sections of the CR Manual.

No Potential To Cause Effect (NPTCE)

- Defined as those actions that by their nature, will not result in effects to historic properties (PA Stipulation VII.A). FHWA and the ACHP define these actions as non-construction related activities such as purchasing equipment, planning, and design.
- Undertakings that meet the definition of NPTCE do not require any further Section 106 review and documentation.
- GDOT will document the NPTCE finding in the project file and report to the Lead Federal Agencies and Agreement Signatories annually. See CR Manual Section 5.2 for additional information.

Minimal Potential To Cause Effect (MPTCE)

- Maintenance and minor highway project activities that have been agreed to have minimal potential to effect historic properties (PA Stipulation VII.B). and based on specific conditions outlined in Section 5.3 of the Manual.
- Review of MPTCE projects will determine if the proposed activities meet the description and conditions for qualification in Section 5.3 of the CR Manual. Conditions for each activity may vary between Archaeology and History.
- Undertakings that meet the definition of MPTCE are excluded from further Section 106 review and documentation.
- GDOT will document the MPTCE finding in the project file and report to the Lead Federal Agencies and Agreement Signatories annually. See CR Manual Section 5.3 for additional information.

Screened Project Review

- A subset of project types have been agreed to have a reduced potential to effect historic properties will be subject to a Screened Project Review process (PA Stipulation VII.C). Proposed project activities will be reviewed by Cultural Resources SOI qualified staff and consultants to determine the level of review required based on activities.
- Applicable project types include Roadway Resurfacing and Rehabilitation, Signal Upgrades, Pedestrian Upgrades, Railroad Safety Improvements, and ITS on State Routes.
- Documentation of the project review and consultation with the Lead Federal Agency, GA SHPO, Tribes, and consulting parties will follow the procedures outlined in Section 5.5. of the CR Manual.

Standard Project Review Procedures

- Projects that do not meet the definitions of NPTCE or MPTCE, and do not qualify for a Screened Project Review, will follow the Standard Project Review procedures.
- The APE will be determined in accordance with Section 4.1 of the CR Manual and review and documentation will follow the procedures outlined in Section 5.5 of the CR Manual.

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

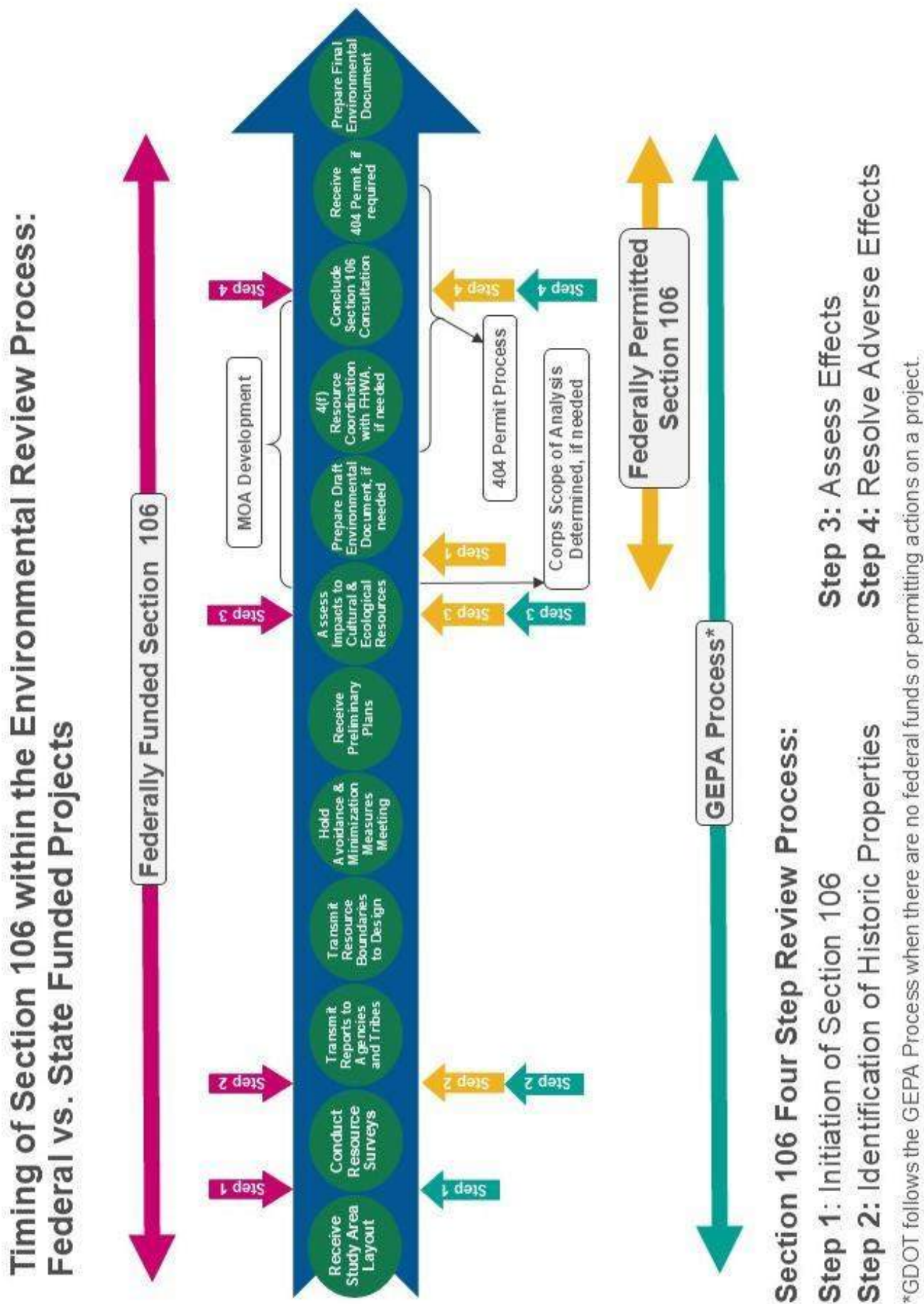


Figure 2. Section 106 Review Procedures

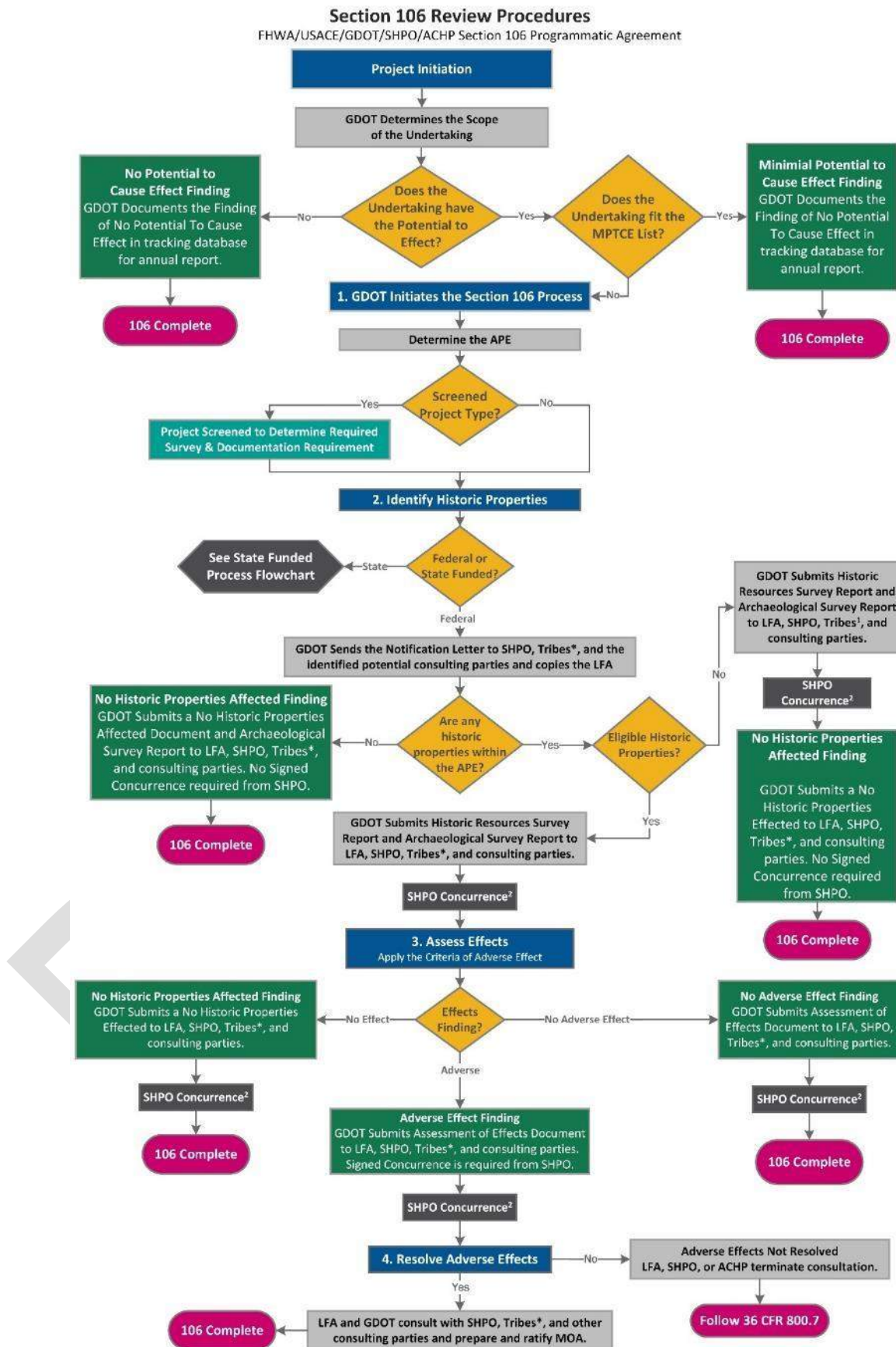
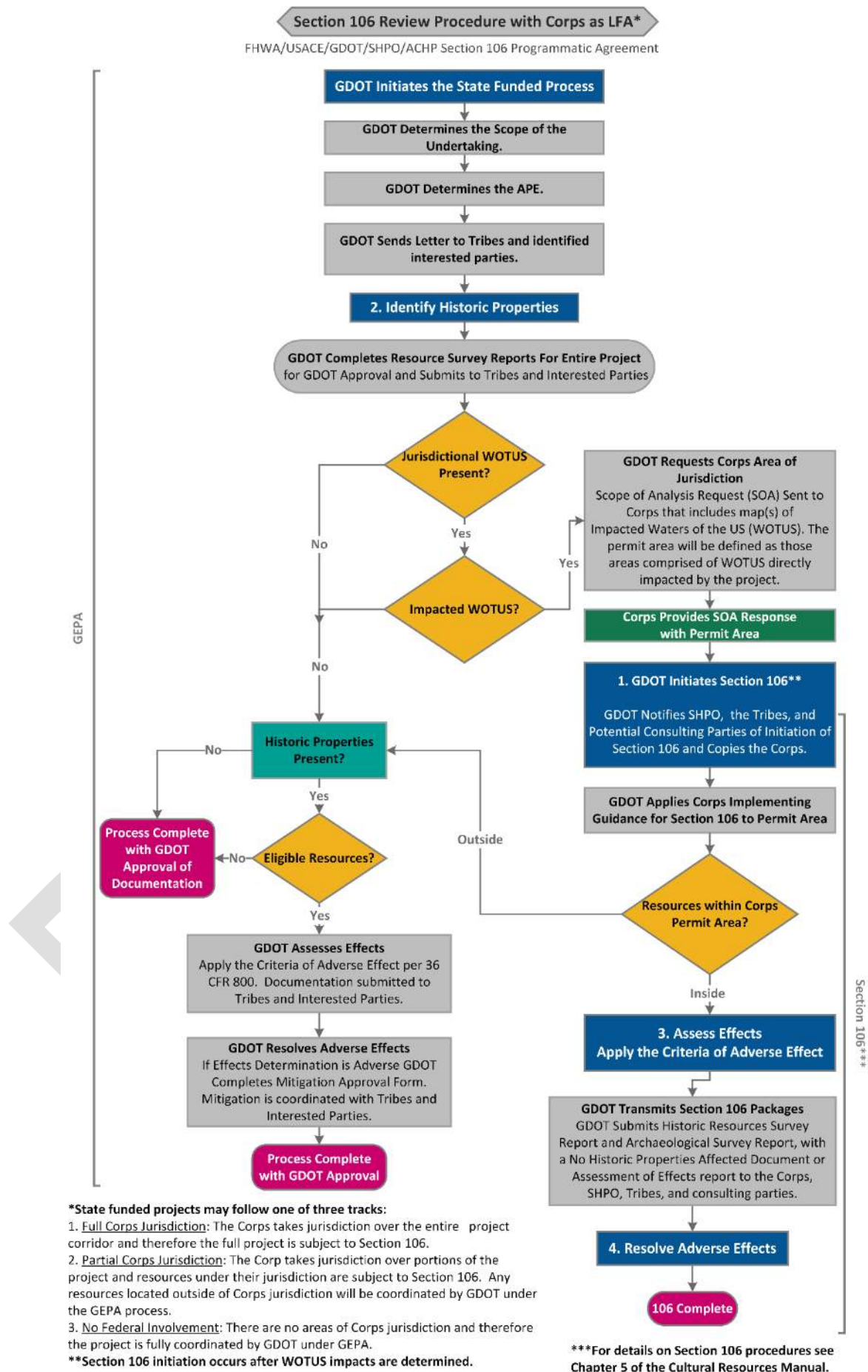


Figure 3. Section 106 Procedures with Corps as Lead Federal Agency



5.2 Undertakings with No Potential To Cause Effect (NPTCE) to Historic Properties

Per Stipulation VII.A of the Agreement, certain activities 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. Activities agreed upon by FHWA, the Corps, SHPO, the Tribes and GDOT to have no potential to cause effects to historic properties are defined as actions that consist of non-construction related activities such as purchasing equipment, planning, and design. 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 H) or email to file and are excluded from further Section 106 review. A list of all projects determined to have NPTCE will be reported to the parties of the Agreement annually per Stipulation XII.

5.3 Undertakings with Minimal Potential to Cause Effect (MPTCE) to Historic Properties

Per Stipulation VII.B of the Agreement, certain GDOT maintenance activities and minor highway projects constitute an undertaking, as defined in 36 CFR 800.16(y) but have minimal 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 to have minimal 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 H) or email to file documenting a No Historic Properties Affected finding and will be excluded from further Section 106 review and documentation. A list of all projects determined to meet the criteria for MPTCE will be reported to the parties of the Agreement annually per Stipulation XII. Figures 4 and 5 provide representative graphics of a roadway cross section and bridge components for reference. Additional reference material including visual glossaries are available on the GDOT Cultural Resources website: <http://www.dot.ga.gov/GDOT/Pages/PA.aspx>

Definitions and Requirements:

1. Historic = NRHP Eligible or Listed.
2. The term "operational right-of-way (ROW)" as used in this Section is defined as all features associated with the physical footprint of the project including but not limited to the roadway, bridges, interchanges, culverts, drainage, clear zone, traffic control signage, landscaping, and any rest areas with direct access to a controlled access roadway. This also includes fixed guideways, mitigation areas, areas maintained or used for safety and security of a transportation facility, parking facilities with direct access to an existing transportation facility, transportation power stations, transportation venting structures, and transportation maintenance facilities as defined in 23 CFR 771.117(c)(22). For the purposes of the activities identified in Section 5.3 below, this refers to the limits of the existing roadway, extending from the base of the foreslope (for portions built on fill) and/or top of the backslope (for portions cut into natural grade). The term is used to generally refer to the limits of the constructed roadway or footprint of the existing road structure and previously disturbed areas within the existing ROW. Examples of what is considered the "operational ROW" for both rural and urban typical sections are included in Figure 4 for reference.
3. No activity can involve the acquisition of additional ROW or easement (activities must be restricted to existing ROW and/or easements).
4. If a maintenance activity is not on the list below, it does not qualify as having minimal potential to cause effect and must go through Section 106 review as described in Section 5.5.
5. No activity can be a subset of a larger activity (unless otherwise outlined in Section 5.4: Screened Project Review or otherwise approved by SHPO in advance) or part of a state of emergency declared by the Governor of Georgia or the President of the United States.
6. No activity may occur on federal property or federally granted easement.

Figure 4. Representative graphic of Operational ROW on rural and urban typical section roadways for use in exempted activity review. Image adapted from the GDOT Design Policy Manual.

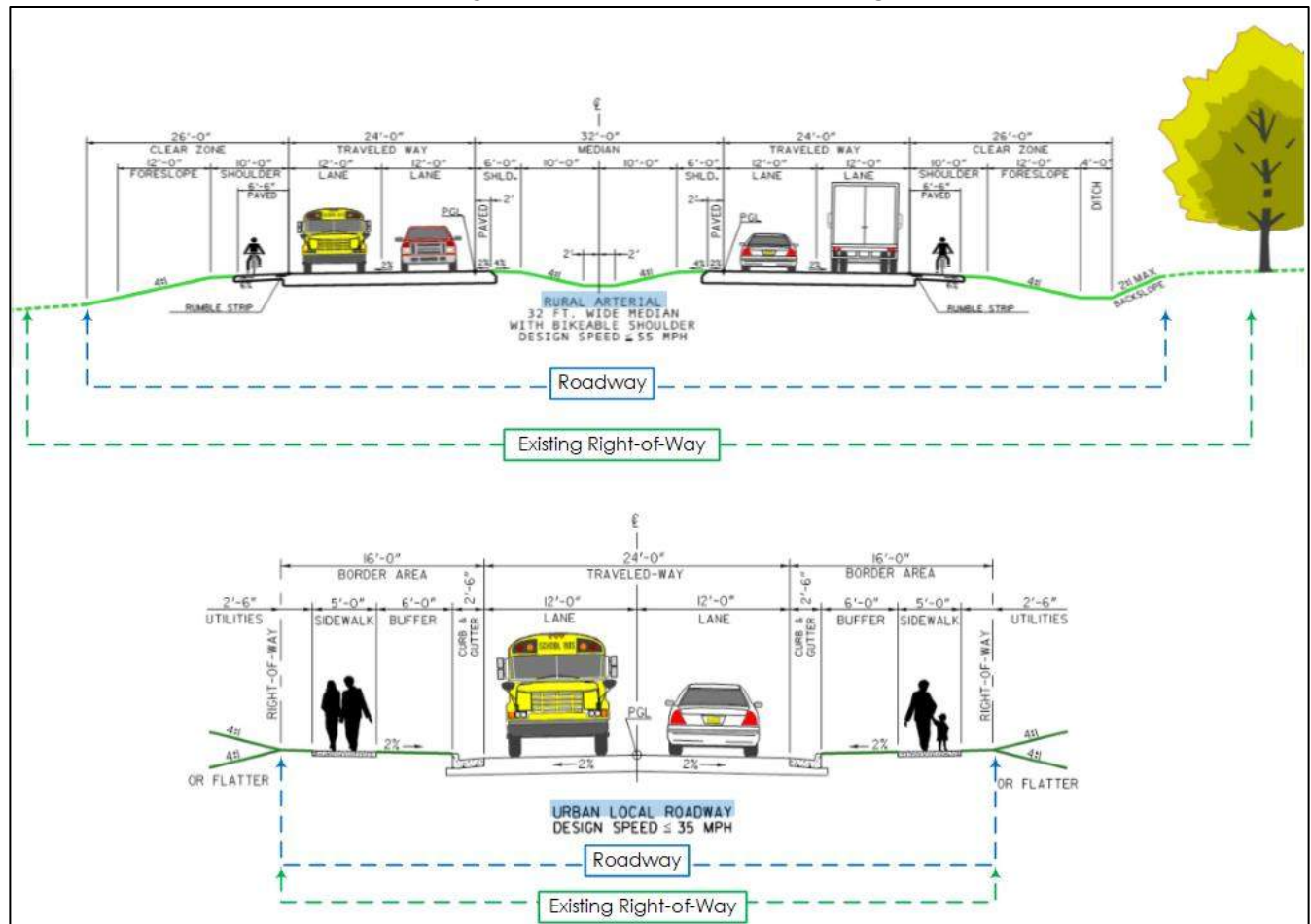
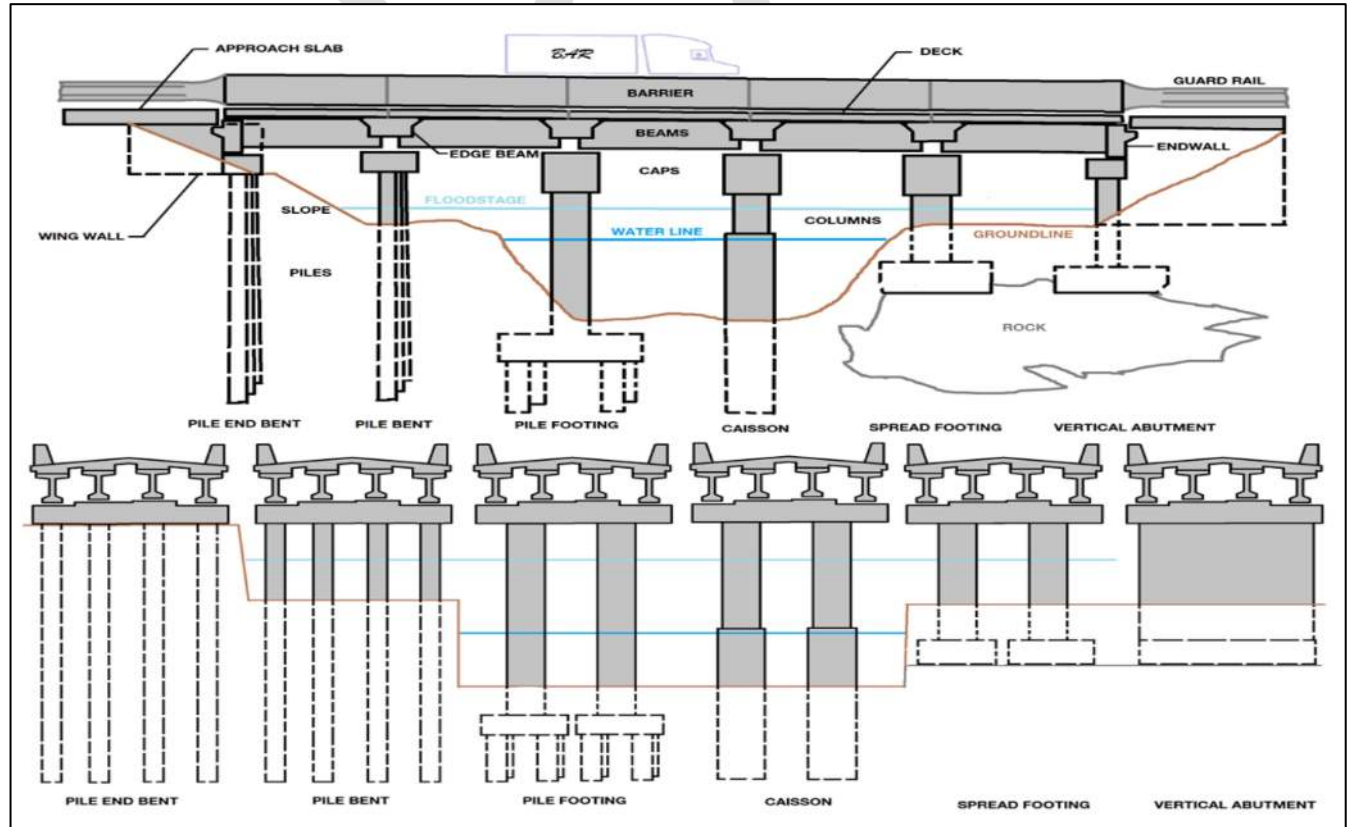


Figure 5. Typical Bridge Components. Image from GDOT Office of Bridge Design.



Section A: Bridge Repairs*/Maintenance on Interstates, State Routes, and County Routes *Activities permissible on historic/non-historic bridges unless noted in the Exceptions.

<u>No.</u>	<u>Activity</u>	<u>Description</u>	<u>Archaeology Conditions</u>	<u>History Conditions</u>
General Maintenance				
1.	Steel bridge painting	<p>Reapplication of paint for steel bridge structures H-piling, metal shell piling, and steel sway bracing includes the following specifications:</p> <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	<p>Reinforcement of piles with concrete sheaths including:</p> <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	<p>Includes the following activities:</p> <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

Section A: Bridge Repairs*/Maintenance on Interstates, State Routes, and County Routes *Activities permissible on historic/non-historic bridges unless noted in the Exceptions.

No.	Activity	Description	Archaeology Conditions	History Conditions
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/drainpipes			
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	
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			

Section A: Bridge Repairs*/Maintenance on Interstates, State Routes, and County Routes *Activities permissible on historic/non-historic bridges unless noted in the Exceptions.

No.	Activity	Description	Archaeology Conditions	History Conditions
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 	Activities must be restricted to existing roadway and bridge embankment, with no shifts in alignment of the approaches that require work outside of the existing operational ROW footprint	<ul style="list-style-type: none"> Not applicable to historic bridges Activities must be 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 grade before addition of replacement rip-rap or fill 	No disturbance below the existing grade	
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			

Section A: Bridge Repairs*/Maintenance on Interstates, State Routes, and County Routes *Activities permissible on historic/non-historic bridges unless noted in the Exceptions.

<u>No.</u>	<u>Activity</u>	<u>Description</u>	<u>Archaeology Conditions</u>	<u>History Conditions</u>
26.	Abutment Slope Repair	Repair and repave existing concrete abutments in-kind	Cannot extend abutment or increase footprint beyond current operational ROW	
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

<u>No.</u>	<u>Activity</u>	<u>Description</u>	<u>Archaeology Conditions</u>	<u>History Conditions</u>
Resurfacing and Shoulder Rehabilitation				
1.	Roadway resurfacing and/or rehabilitation	<p>Includes the following activities for asphalt roadways:</p> <ul style="list-style-type: none"> • Overlay, Milling, Crack Repair, Patching, and Resurfacing, including full depth replacement <p>Includes the following activities for concrete roadways:</p> <ul style="list-style-type: none"> • Grinding, Grooving, Pavement Rehabilitation, and Spall Repair <p>Includes in-kind reconstruction of roadways damaged by washouts within previous operational ROW footprint.</p>	No disturbance below existing grade	

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

No.	Activity	Description	Archaeology Conditions	History Conditions
2.	Shoulder work	<p>Includes the following activities:</p> <ul style="list-style-type: none">• Shoulder building through the addition of pavement to existing shoulder, within existing operational ROW• Typically associated with resurfacing or construction of turn lanes, bikes lanes, medians, etc.• May also include edge line repair of roadway• Equipment confined to existing roadway and shoulder	<ul style="list-style-type: none">• No disturbance beyond existing operational ROW• Expansion of road surface may not expand beyond shoulder paving up to four [4] feet on both the left and right sides with the exception of limited access interchanges with roadway embankment exceeding four feet and within the median of divided highways.	
Guardrail, Cable Barriers, and ROW Fencing				
3.	Guardrail Installation	Installation of new, or rehabilitation of existing, guardrail and guardrail anchors within existing roadway. Includes standard and motorcycle guardrail.		Not applicable to historic bridges
4.	Median Crossovers	<p>Includes the following activities:</p> <ul style="list-style-type: none">• Installation of, or upgrade to, median crossovers on divided highways, to include the addition of turn lanes. Includes Type A, B, and C median crossovers.• Includes grading and/or fill within median and addition of paved surface and associated striping.• Includes the addition of right turn lanes and the addition of shoulder bump-outs to facilitate U-turns (the exceptions in item B.2 above remain applicable).• Restricted to divided highways		

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

No.	Activity	Description	Archaeology Conditions	History Conditions
5.	Cable Barriers	Includes the following activities: <ul style="list-style-type: none">• Installation of new, or rehabilitation of existing, cable barriers within existing operational ROW• Includes concrete foundation, breakaway post, and cable.• Restricted to divided highways		
6.	Right-of-way Fence Replacement	Includes the in-kind installation of fencing along the ROW line, including posts and fence.		
Pedestrian Accommodations				
7.	Pedestrian Accommodations	Includes installation of the following activities: <ul style="list-style-type: none">• Curb cuts and ADA accessible ramps• Raised concrete pedestrian islands	Does not apply when island is proposed where non-Georgia Power era historic streetcars may be present.	Does not apply to Historic Districts or when historic features are present within the project footprint. See Section 5.4 for required project screening.
8.	Lane Management	Involves installation of continuous curbs using dowels to attach into existing pavement. May also include installation of flexible delineators.		
9.	Loop Detectors	Includes the installation of loop detectors through saw cuts within existing pavement connected to pull box via directional boring.	Does not apply when non-Georgia Power era historic streetcars lines may be present.	

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

No.	Activity	Description	Archaeology	History
Utilities				
1.	Railroad crossing rehabilitation	<p>Includes installation of the following:</p> <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 over the rails • Installation or removal of sidewalks, curb cuts, and curb and gutter • Installation of barrier fencing around railroad equipment • Installation of concrete medians in the vicinity of the railroad crossing. May include flexible lane delineators. • Widening center concrete or paved panel within railroad ROW 	<ul style="list-style-type: none"> • 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 operational ROW. • Paving of unpaved approaches must not extend beyond 350 feet in length on either side of the crossing 	<ul style="list-style-type: none"> • Must not require modification to the railroad alignment or railroad grade • Does not apply to Historic Districts or when historic features are present within the project footprint. See Section 5.4 for required project screening.
2.	Railroad Grade Crossing Closure Incentives	<p>May include the following activities:</p> <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 • Funding provided to local governments to assist in funding the following: <ul style="list-style-type: none"> ▪ 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 	<p>These incentives may <u>not</u> include the following activities:</p> <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 	<p>These incentives may <u>not</u> include the following activities:</p> <ul style="list-style-type: none"> • Barricades, barrier wall, and turn lanes • Installation/Rehabilitation of sidewalks

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

No.	Activity	Description	Archaeology	History
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• In-kind is defined as replacement of the same size drainage structure, no upgrades• Within the roadway or intersecting driveways• Minimum width of disturbance is two feet, maximum typically four feet in width• Potential for disturbance below grade when outfall locations are involved	<ul style="list-style-type: none">• 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 (i.e. outfalls)• Areas within cemeteries or previously recorded NRHP-listed, eligible, or unknown archaeological sites are excluded	
4.	Installation of conduit	<p>Includes the following activities:</p> <ul style="list-style-type: none">• Installation using directional underground boring within the operational ROW footprint• Typically installed 18 inches to two feet in depth, may extend deeper to avoid obstructions such as utilities, etc.• Restricted to within the roadway or adjacent driveways, typically within the existing shoulder or embankment	<ul style="list-style-type: none">• Activity must be restricted to existing operational ROW• Trench installation outside of the existing roadway excluded• Areas within cemeteries or previously recorded NRHP-listed, eligible, or unknown sites excluded	
Signage				
5.	New Signage	<p>Includes the following sign types:</p> <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 limited access roadways only

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

No.	Activity	Description	Archaeology	History
6.	Pavement markings	Includes installation of the following: <ul style="list-style-type: none">• Rumble strips, chevrons, stop bars, crosswalks, and other pavement markings (raised, reflective, or otherwise)• Additional or replacement roadway striping		
7.	New advance warning signs	<ul style="list-style-type: none">• Installation of flashing yellow lights as you approach an intersection. For limited access roadways, this is used for ramp meters only• Border lit LED warning signs (static signs or chevrons)		
8.	Directional underground boring	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• Within the roadway footprint (i.e. toe-of-slope to toe-of-slope)	<ul style="list-style-type: none">• Activity must be restricted to existing operational ROW• Areas within cemeteries or previously recorded NRHP-listed, eligible, or unknown sites excluded	
9.	Installation of ITS equipment (Also known as ATMS – Automated Traffic Management Systems)	<ul style="list-style-type: none">• Addition of ITS components to existing poles (cameras, wireless devices, radar detection, connected autonomous vehicle technology, environmental weather stations, signs, cabinets, etc.) to an <u>existing</u> pole.• Connected to existing pull box and conduit.• Applicable to state routes and interstates.	Does not include installation of new, standalone cabinets or new poles on state routes. See project screening procedures in Section 5.4.	Does not include installation of new, standalone cabinets or new poles on state routes. See project screening procedures in Section 5.4.
Traffic Signals				
10.	Traffic signal repair or replacement	Involves in-kind replacement of signal heads, signal bulbs, radar/vehicle detection devices, poles, span wires, guy wires, mast arms, cabinets, and associated conduit. Signal replacement that does not involve in-kind repair to follow procedures in Section 5.4 of the CR Manual.		

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

No.	Activity	Description	Archaeology	History
11.	Traffic signal timing adjustments	Involves opening an existing signal controller cabinet and adjusting the settings of the controller equipment inside the cabinet. No new equipment is installed.		
12.	Installation and replacement of Pedestrian Poles	Involves the installation or replacement of signal heads and/or push button stations		
13.	Installation of Rectangular Rapid Flashing Beacons (RRFB)	Involves the installation of new poles with mounted W-series signs, rapid flashing beacon light, cabinet, pedestrian push button, and solar panel.		Does not apply to Historic Districts or when historic features are present within the project footprint. See Section 5.4 for required project screening.
14.	Installation of Pedestrian Hybrid Beacons (PHB)	Involves the installation of new metal signal poles with mast arms and pedestrian activated signal heads. Includes installation of pedestrian push button stations.		Does not apply to Historic Districts or when historic features are present within the project footprint. See Section 5.4 for required project screening.

Section D: Limited Access Roadway* Specific Maintenance/Upgrade Activities

*Includes interstate and other limited access (multi-lane, controlled access) roadways such as GA 400, GA 316, US 78, etc.

No.	Activity	Description	Archaeology	History
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.	Tree planting restricted to the existing roadway	

Section D: Limited Access Roadway* Specific Maintenance/Upgrade Activities***Includes interstate and other limited access (multi-lane, controlled access) roadways such as GA 400, GA 316, US 78, etc.**

No.	Activity	Description	Archaeology	History
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 up to 120 percent of the existing vegetation within the clear zone• Vegetation is removed following the Georgia Forestry Commission's Best Management Practices (BMPs): https://gatrees.org/wp-content/uploads/2020/02/BMP-Manual-2019-Web.pdf• May include chemical treatment or grinding of stump to prevent regrowth but does not include grubbing	<ul style="list-style-type: none">• Must be within the existing roadway• Does not include grubbing• Areas within cemeteries or previously recorded NRHP-listed, eligible, or unknown archaeological sites are excluded	
Lighting and Ramp Improvements				
3.	Replacement of existing lighting	In-kind replacement of existing lighting within the right-of-way or at underpasses of limited access roadways. In-kind lighting is defined as being of similar height, material, and location.		
4.	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 roadway	

Section D: Limited Access Roadway* Specific Maintenance/Upgrade Activities

*Includes interstate and other limited access (multi-lane, controlled access) roadways such as GA 400, GA 316, US 78, etc.

<u>No.</u>	<u>Activity</u>	<u>Description</u>	<u>Archaeology</u>	<u>History</u>
Intelligent Transportation Systems (ITS)				
5.	Installation of Changeable Message Signs (CMS)	<p>Includes the following activities:</p> <ul style="list-style-type: none">• Installation of concrete footer to support sign pole or truss structure• Installation of pull boxes, cabinets, and conduit• Signs are typically 60-80 feet in height• Full Overhead CMS structures used for limited access roadways that are three or more lanes in each direction• Hybrid CMS structures used for Xpress managed lanes on limited access roadways• Butterfly CMS structures used on roadways that are at least three lanes in each direction	Must be confined within the existing roadway	Does not apply to CMS proposed for state routes less than three lanes in each direction.
6.	Installation of ITS equipment on interstates and limited access roadways	<p>The installation of this system is understood to include the following activities:</p> <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 traffic management equipment 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• ITS technology includes CCTV, Vehicle Detection System (VDS), connected vehicle technology, dynamic lane control signs, variable speed limit signs, environmental sensor stations, electronically operated gates (for emergency or Express Lane access).	<p>Must be within the existing roadway</p> <ul style="list-style-type: none">• No clearing and grubbing	

Section D: Limited Access Roadway* Specific Maintenance/Upgrade Activities***Includes interstate and other limited access (multi-lane, controlled access) roadways such as GA 400, GA 316, US 78, etc.**

No.	Activity	Description	Archaeology	History
Facilities				
7.	Weigh Station/Welcome Center improvements	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 historic Welcome Centers
8.	Sound Barrier Repair and Replacement	In-kind repair and/or replacement of sound barrier components including the following: <ul style="list-style-type: none">• Interlocking steel panels, flashing, posts, and protective color coating• Precast concrete panels, pilings, elastometric bearing pads• Concrete masonry units, mortar		

5.4 Screened Project Review

The following Section presents project types that will utilize a screened approach to project review as defined in Stipulation VII.C of the Agreement and the applicable methodology for each discipline. To qualify for the screened project approach, the project must fit one of the five project categories below and occur completely within existing ROW or have minimal required ROW and easements. For the purposes of defining projects applicable for a screened approach to project review, minimal required ROW and easements is defined as 500 square feet per intersection. Once screened, the documentation and consultation procedures will follow the process outlined in the Standard Project Review process outlined in Section 5.5 of the CR Manual.

I. Applicable Project Types

The screened project approach applies to the following project types. Additional details on the associated project activities and representative photos of each project type can be found in Appendix D:

- A. Roadway Resurfacing and Rehabilitation
- B. Signal Upgrades
- C. Pedestrian Upgrades
- D. Railroad Safety Improvements
- E. ITS on State Routes. For details on ITS Projects on Limited Access Roadways refer to Section 11 of the CR Manual.

II. Screened Review Procedures

For all project types listed above, a project screening will be conducted to determine the level of review and survey required in accordance with the following methodology. The APE will be defined in accordance with Section 4.1 of this CR Manual and a review of proposed project activities within the APE will be completed by Cultural Resources SOI qualified staff. The proposed activities will be compared with the activities agreed to by the signatories of the Agreement to have Minimal Potential to Cause Effect in Stipulation VII.B of the PA and Section 5.3 of the CR Manual to determine the level of Section 106 review and documentation. Any activities that have been agreed to have MPTCE will be excluded from further review as long as they are located within the existing ROW and fit all relevant parameters for that activity as specified in Section 5.3 of the CR Manual. All areas of newly required ROW or easement will be subject to full review and survey.

A. Historic Resources

The Area of Potential Effect for historic resources on specialized project types will include the limits of existing and proposed ROW and easements required to construct the project as defined in Section 4.1 of the CR Manual. If a historic resource is within view of the project, but no historic features (defined as vegetation, steps, retaining walls, granite curbs, sidewalk pavers, and/or any other identifiable historic feature) are located within or adjacent to the existing ROW, or historic features are being avoided by the project design; the findings will be documented in a No Historic Properties Affected document and a separate survey report identifying and evaluating eligibility is not required. Due to the minor potential for visual impact, viewshed is not a consideration for defining the APE for these project types. Projects located within NRHP-listed historic properties, historic districts, or linear historic resources, but do not impact any associated features will note their presence in the No Historic Properties Affected document and clearly note that the project is not impacting the resource.

B. Archaeological Resources

Project review for archaeological resources on screened project types will include the limits of existing and proposed ROW and easements required to construct the project. Project activities that are

GDOT Section 106 Cultural Resources Manual

agreed to have Minimal Potential to Cause Effect will be excluded from field survey and further review, under Stipulation VII.B of the Agreement and Section 5.3 of this CR Manual and occur within existing ROW. All areas of newly required ROW or easement and areas within existing ROW that include proposed activities that do not fit the parameters for MPTCE will be subjected to field investigation and further Section 106 documentation in accordance with Section 5.5 of this CR Manual. Representative examples of activities that do not fit the MPTCE parameters for specialized project types and require archaeological survey are as follows:

- Signal and Pedestrian Upgrades Projects: cabinet installation, trenching for the installation of conduit, and any previously undefined activities resulting in subsurface disturbance outside of the roadway footprint.
- Railroad Safety Projects: grading, drainage pipe extensions, and installation of new sidewalk
- ITS Projects: cabinet installation, trenching for the installation of conduit, and any previously undefined activities resulting in subsurface disturbance outside of the roadway footprint

For projects located within areas containing potential Historic Streetcar Resources, proposed locations of pedestrian islands, installation of loop detectors, or other ground disturbing activities within the paved roadway will require survey per the 2015 *Programmatic Agreement among FHWA, GDOT, and GA SHPO regarding Historic Streetcar Archaeological Sites in Georgia* due to their potential to cause effect. If ground disturbing activities are not proposed in the location of potential streetcar resources, the project does not have the potential to cause effect to potential buried streetcar resources and therefore no survey is required. If a previously recorded archaeological site is located within the proposed project limits and ground disturbing activities are proposed, field survey and further documentation is required. If no ground disturbing activities are proposed within the site boundaries, the resource will be noted in the documentation and no further survey is required.

III. Documentation and Consultation

Once the applicable project types have been screened, the documentation and consultation procedures will follow the process outlined in the Standard Project Review process detailed in Section 5.5 of the CR Manual.

5.5 Standard Review Procedures

Projects that do not fit into the parameters of NPTCE, MPTCE, or Screened Project Review will follow the Standard Review Procedures outlined in the following section. 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. Additionally, GDOT will provide project status updates to the Corps via meeting or email for projects on which they are the Lead Federal Agency. These updates will be provided on a monthly basis or other agreed upon interval. Template documents for documentation noted in the following section are included in Appendix H for reference.

I. 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 CR 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.

A. Documentation

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

B. Coordination and Consultation with SHPO and Consulting Parties

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

C. 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 CR 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 CR 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.

II. Step 2: Identify Historic Properties

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

A. Documentation

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

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

B. 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.

C. Coordination and Consultation with Tribes

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

III. **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 Affected – 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 H).
	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 Historic Properties Affected – No <u>eligible</u> historic properties are located within the APE of the undertaking.	SHPO concurs with the Historic and Archaeological Resource eligibility determinations that there are no eligible NRHP resources in the APE (under Step 2 above).	History: Language documenting a No Historic Properties Affected Finding is included in the Historic Resources Survey Report transmittal letter and the document is submitted to SHPO, Lead Federal Agency, and consulting parties. No separate NHPA document is required.
		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. No separate NHPA document is required.

Screened projects as identified in *Section 5.3: Screened Project Approach* that result in a finding of Minimal Potential to Cause Effect for archaeological resources, such as roadway resurfacing projects with curb cut locations, may be documented in a combined No Historic Properties Affected document that 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 H).

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.

A. 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

B. Coordination and Consultation with SHPO and Consulting Parties

- GDOT will coordinate and conduct Technical Assistance meetings, as needed, regarding effects to historic properties with SHPO on behalf of the Lead Federal Agency. GDOT will provide an agenda to attendees no later than five (5) days prior to the meeting.
- GDOT will submit all Section 106 documentation directly to SHPO and other consulting parties, copying the Lead Federal Agency.
- Projects that have a finding of No Adverse Effect or Adverse Effect will require written concurrence from the SHPO.
- SHPO will respond directly to GDOT on all document reviews, as applicable, and copy the Lead Federal Agency.

C. Coordination and Consultation with Tribes

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

IV. 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 an MOA for review by SHPO, the Lead Federal 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).
- Upon ratification of an MOA to resolve adverse effects, the Lead Federal Agency will file the executed agreement with the ACHP, documenting the agency's compliance with Section 106 in accordance with 36 CFR 800.6(c).

A. Documentation

- Memorandum of Agreement
 - Submitted as a Draft for review with the Assessment of Effects Document
 - Submitted for signature after ACHP coordination is complete. The draft MOA is not required to be included with the AOE during ACHP coordination.

B. Potential Mitigation

The following list represents mitigation undertaken on past projects under the Lead 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
 - SHPO's Permanent Archival Record Package
 - HABS/HAER/HAL
- Historic Narratives
- Historic Resource Surveys
- 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
- National Register Nominations

C. 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

D. Coordination and Consultation with Tribes

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

E. Documenting Completion of Section 106 Commitments to Resolve Adverse Effects

The completion of Section 106 commitments will be documented in the project file through transmittal and concurrence letters from MOA signatories, as appropriate. In addition to project level documentation, GDOT will report programmatically on the progress of implementing commitments to resolve adverse effects stipulated in an MOA or project-level PA in the annual report required under Stipulation XII of the Agreement. When all commitments included in a MOA or project-level PA are completed, GDOT shall notify all signatories to that agreement and document the completion of the commitments in the annual report required under Stipulation XII of the Agreement. Copies of the annual report with the status mitigation commitment will be provided to any MOA or project-level PA signatory that is not already a party to the statewide Agreement. Should any signatory to the MOA or project-level PA dispute that all commitments to resolve adverse effects are complete, the procedures for dispute resolution outlined in the applicable agreement document will be followed.

V. Other Section 106 Process Requirements

A. 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 XIII.

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

B. Timing of Section 106 and EA/EIS Level NEPA Documentation

Section 106 consultation regarding project effects for undertakings that require an Environmental Assessment (EA) or Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA) shall follow the coordination parameters below.

- The Cultural Resources AOE may not be submitted to FHWA, SHPO, Tribes, or consulting parties for Section 106 consultation until the level of environmental document has been declared by FHWA.
- When necessary, a technical assistance meeting with SHPO, tribes, and consulting parties can be held to discuss anticipated resource effects prior to formal submittal of the AOE and the EA declaration decision by the FHWA. Requests for formal written concurrence on an effect finding or signature on an MOA cannot be made prior to the EA declaration.
- The following activities may occur prior to the EA declaration:
 - 1) Early project notification and consultation with SHPO, Tribes, and consulting parties regarding the nature of the project and historic properties
 - 2) Survey and evaluation of NRHP eligibility for historical and archaeological resources
 - 3) Coordination with SHPO on eligibility
 - 4) Evaluate effects to NRHP eligible and/or listed resources and have a technical assistance meeting with SHPO, Tribes, and consulting parties to discuss
 - 5) Verbally come to an agreement with SHPO on anticipated effects to resources at a technical assistance meeting

5.6 Documentation of Project Changes

I. **Documentation of Project Changes After Initial Section 106 Review Has Concluded**

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. As a result of this, changes and refinements to the design of the project plans occur as they are finalized ahead of right-of-way (ROW) acquisition and project construction. To determine whether design changes have the potential to affect the Section 106 documentation or findings for a project, plan reviews are conducted by GDOT SOI qualified Cultural Resources Staff and/or consultants at project field plan reviews as well as at other project milestones. The following Section outlines the parameters for when additional Section 106 documentation is required for design changes in accordance with Stipulation VIII of the Agreement. See Figure 6 for a workflow of the review and documentation procedures for project changes.

For the purposes of this Section, 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 is not required per Section 5.5.III of this CR Manual, 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.

A. **Review of Project Changes**

All project changes will be reviewed by Cultural Resources Staff to determine the level of documentation required. Consideration will be given to whether the design changes fall within the horizontal and vertical limits of the previously documented identification efforts, and whether the design changes affect the previous effects assessment for eligible historic properties. Consideration will also be given to whether design changes occur within Environmentally Sensitive Areas (ESAs) established for archaeological sites with unknown boundaries. Upon review of the changes, the need for additional Section 106 documentation and consultation will be determined based on the following parameters:

- **Changes Requiring Additional Section 106 Documentation:**
 - Changes that extend the APE of the project beyond the horizontal or vertical extent of previous identification survey efforts
 - Changes to the proposed activities within the boundary of NRHP-eligible or Listed historic properties that were not accounted for in the original effects documentation
 - Changes to the Scope of the Undertaking (e.g. project phasing into multiple Project Identification numbers, revised concept such as a project changing from a signal upgrade to a roundabout, etc.)
 - Changes in Funding that result in a change in the Lead Federal Agency, or the addition of Project Identification numbers for new or additional fund sources associated with the project
 - Five years have passed since the last full historic resources survey and ROW has not yet been authorized for the project
- **Changes That Do Not Require Additional Section 106 Documentation:**
 - Changes to and within the project footprint that fall within the horizontal and vertical extent of previous identification survey efforts
 - Changes that do not affect any NRHP-eligible or Listed historic properties or Cultural Resource ESAs (e.g. non-historic cemeteries or archaeological sites with unknown boundaries)

B. Documentation of Project Changes

Documentation of project changes will vary depending on the nature of the change as outlined above and will fit into one of the following categories. See procedures workflow in Figure 6.

- 1) Changes Requiring Addendum Section 106 Documentation (Survey Reports/Effects Assessments): Additional Section 106 Documentation may take the form of several types of addendum document when additional survey and/or effects assessments are required. Documentation and consultation for addendum documents will follow the procedures outlined in Section 5.5 of the CR Manual.
 - Addendum Survey Reports – required when project changes extend beyond the original APE, or five years have passed since the last full survey and ROW has not yet been authorized, and additional resource survey is required. Consultation on the addendum reports will follow the parameters outlined in Section 5.5 of the CR Manual.
 - Assessment of Effects Document and MOA Amendment, when necessary – required when changes affect the overall Section 106 finding for an NRHP-eligible or Listed historic property. This applies to changes in effect level (e.g. No Effect to No Adverse Effect) or to changes that increase the adverse effect on a resource, such that additional mitigation is required to be commensurate with the new effects. In instances where additional mitigation is required, an MOA Amendment will be required. Consultation on the addendum effects assessment and MOA Amendment will follow the parameters outlined in Section 5.5 of the CR Manual.
 - Historic Resources Addendum Survey Memo for Expanded APE– required when an addendum history survey is required to document an expanded APE or resurvey due to age, however no new historic properties are identified. The memo will document the additional survey and confirm that no additional historic properties are present within the revised APE (see template in Appendix H).
- 2) Section 106 Memorandum Documenting Project Changes– Project changes that occur within an NRHP-eligible or Listed resource boundary, or ESA, that do not change the overall Section 106 effect finding shall be documented in the form of a memorandum from Cultural Resources Staff and/or Consultants detailing the following (see template in Appendix H):
 - Summarizes the original Section 106 review efforts and effect finding
 - Identifies the changes to the project and how they relate to the NRHP-eligible or Listed historic properties, or ESAs
 - Demonstrates that these changes are included within the original APE of the project and that the overall effect finding for affected resources have not changed
 - Notes the previous Section 4(f) *de minimis* acknowledgement where applicable (for projects where FHWA is Lead Federal Agency)
 - Confirms that the initial Section 106 findings are unchanged as a result of the project changes
 - Includes a figure showing the changes in relation to the resources discussed in the memoThe Lead Federal Agency, SHPO, consulting parties, and the Tribes will be provided a copy of the memo for their review and files. No written concurrence is required.
- 3) Design Changes Documented in the Project File - Project changes that do not require additional Section 106 documentation as outlined above will be documented within an email template and saved to the project file (see template in Appendix H). The documentation will include the following information:
 - Brief summary of the most recent Section 106 documentation completed for the project
 - Description of the project changes
 - Confirmation that the project changes have been reviewed by an SOI qualified Cultural Resource staff
 - Confirmation that the changes have been verified to fall within the limits of previous survey coverage and no changes occur within the limits of, or change impacts to, NRHP-eligible or Listed historic properties, or within Cultural Resource ESAs.
 - Archaeological reviews will include a map demonstrating the limits of project changes in relation to previous survey coverage and previously recorded resources for the project.

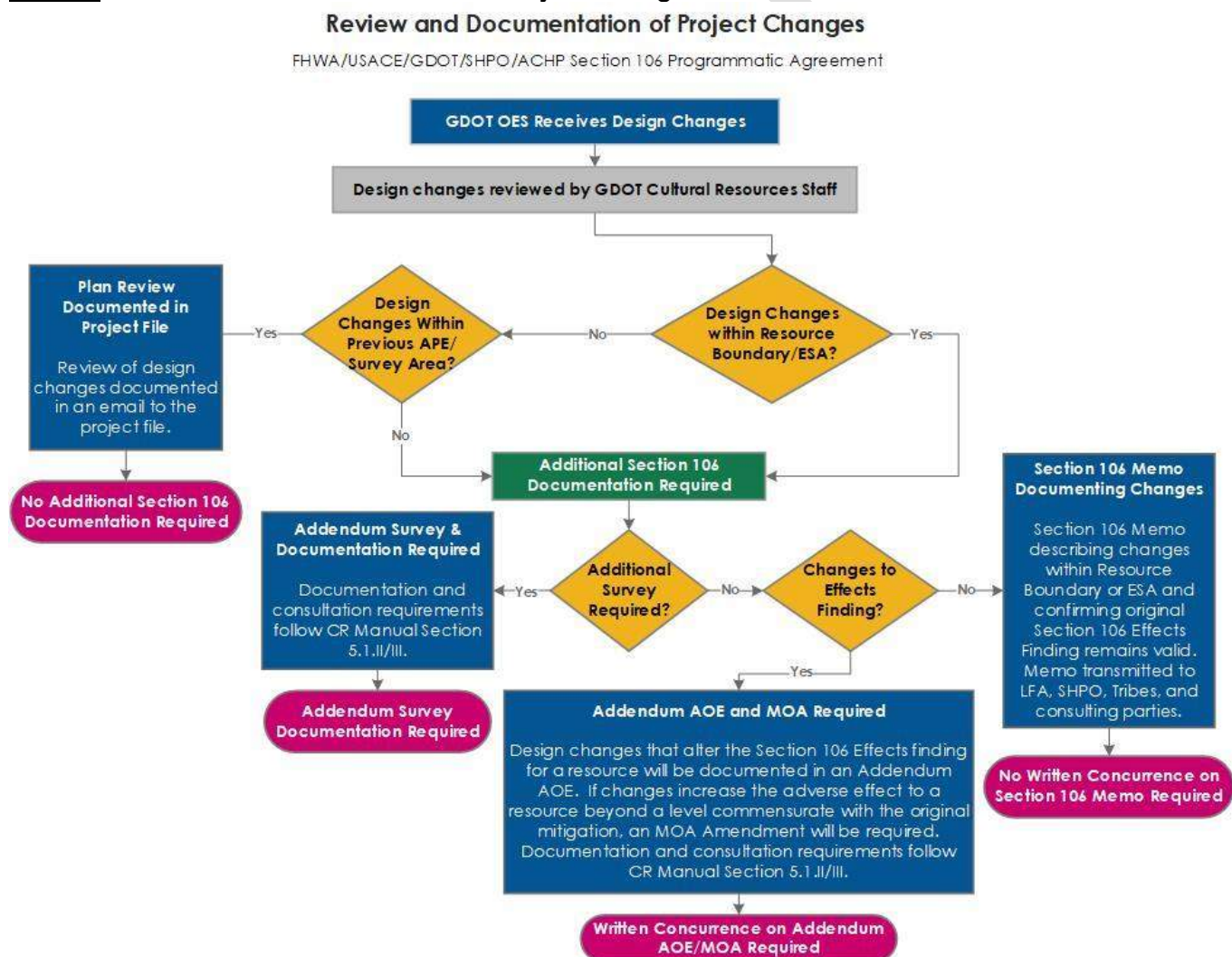
II. Changes in Lead Federal Agency

In certain circumstances, a project may change funding sources and therefore necessitate a change in Lead Federal Agency after conclusion of Section 106 documentation. In the event that Section 106 documentation was completed under one Lead Federal Agency and the project changes jurisdiction to a different Lead Federal Agency, that change may be documented in a *Transition of Lead Federal Agency for Section 106 Notification Letter* (see template in Appendix H). The Notification will document the following information and will be transmitted to the new Lead Federal Agency, SHPO, Tribes, and consulting parties:

- The timing of the original Section 106 consultation and associated documents coordinated under the original Lead Federal Agency
- A summary table of identified historic properties including the resource type, NRHP Recommendations, Date of SHPO Concurrence, and Management Recommendations, as applicable
- A map showing the location of identified resources in relation to the project limits

Use of the Transition of Lead Federal Agency Notification shall only occur if no changes are necessary to the identification of historic properties or effects assessment to NRHP eligible resources. If additional survey or effects assessment is necessary, the appropriate documentation as outlined in Section 5.5 of the CR Manual is required.

Figure 6. Procedures for Documentation of Project Changes



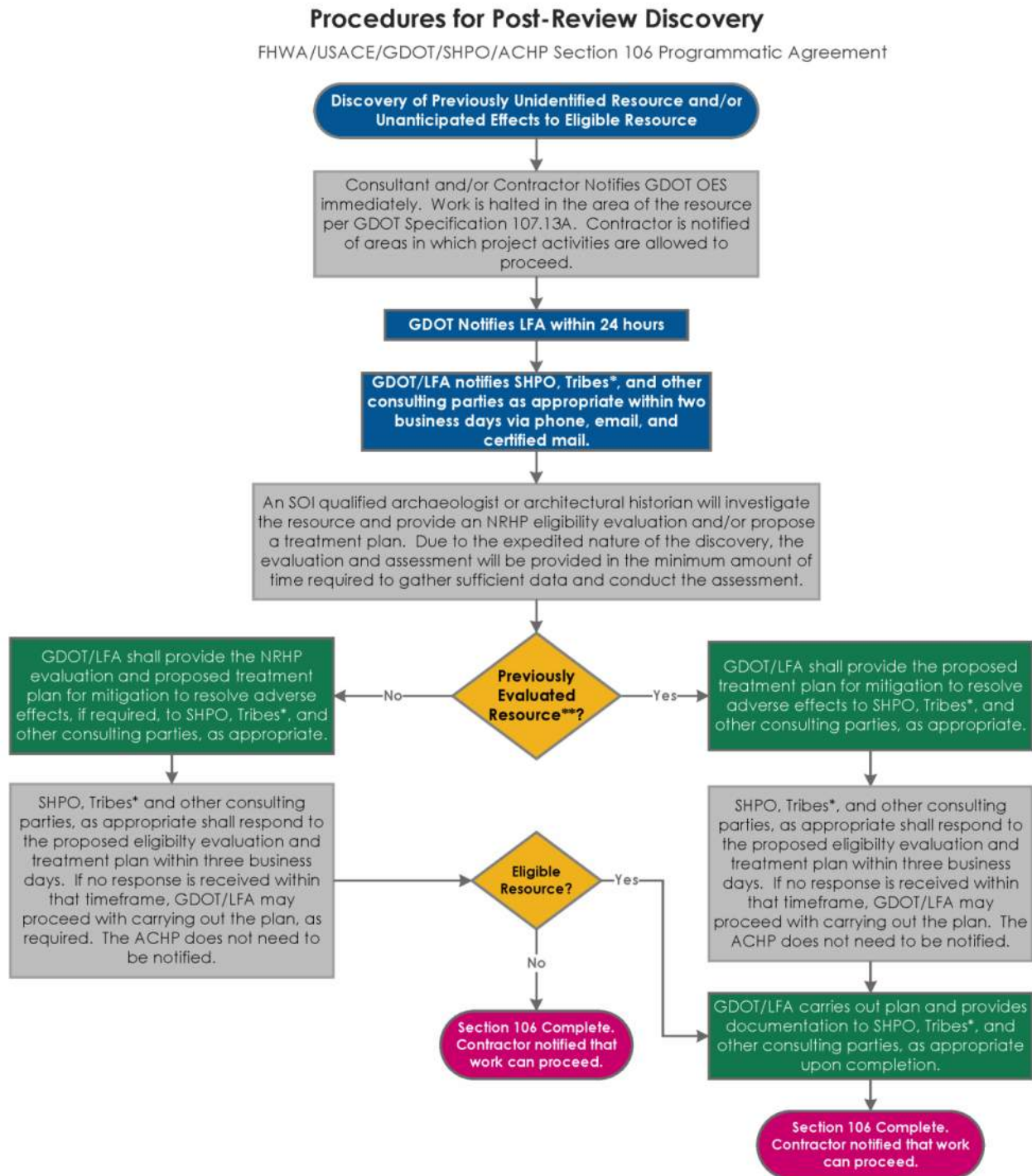
6 Post-Review Discovery

6.1 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 107.23B Inadvertent Discovery of Cultural Resources and Human Remains as published in the 2021 *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 two business days of the discovery by phone and email. For Tribes that do not accept email submittals, a notification will be sent via 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. See Figure 7 for a workflow of coordination procedures.
- IV. GDOT shall ensure that an archaeologist or architectural historian qualified pursuant to Stipulation III of the Agreement 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. Due to the expedited nature of post-review discovery, GDOT shall provide the assessment and proposed treatment plan in the minimum amount of time required to gather sufficient data and conduct assessments. 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 three business days of receipt of GDOT's assessment of NRHP eligibility of the resources and/or the proposed treatment plan for mitigation to resolve adverse effects. 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 three business days of receipt of the eligibility finding and/or proposed treatment plan for mitigation, GDOT and the Lead Federal Agency may move forward with carrying out the plan and the ACHP does not need to be notified. Due to the under construction context and expedited nature of post-review discovery, a separate MOA is not required to document the agreed upon measures proposed as the treatment plan for mitigation. GDOT will document completion of all mitigation measures pursuant to Stipulation VII.H of the Agreement and Section 5.5.IV.E of this CR Manual. In the event that an existing MOA for a project exists, or impacts to resources are of a substantial magnitude, the need for an MOA or MOA Amendment will be discussed and determined in consultation with the Lead Federal Agency, SHPO, Tribes, and consulting parties.

- 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 7. 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.

7 Treatment of Human Remains

7.1 Procedures for Treatment of Human Remains

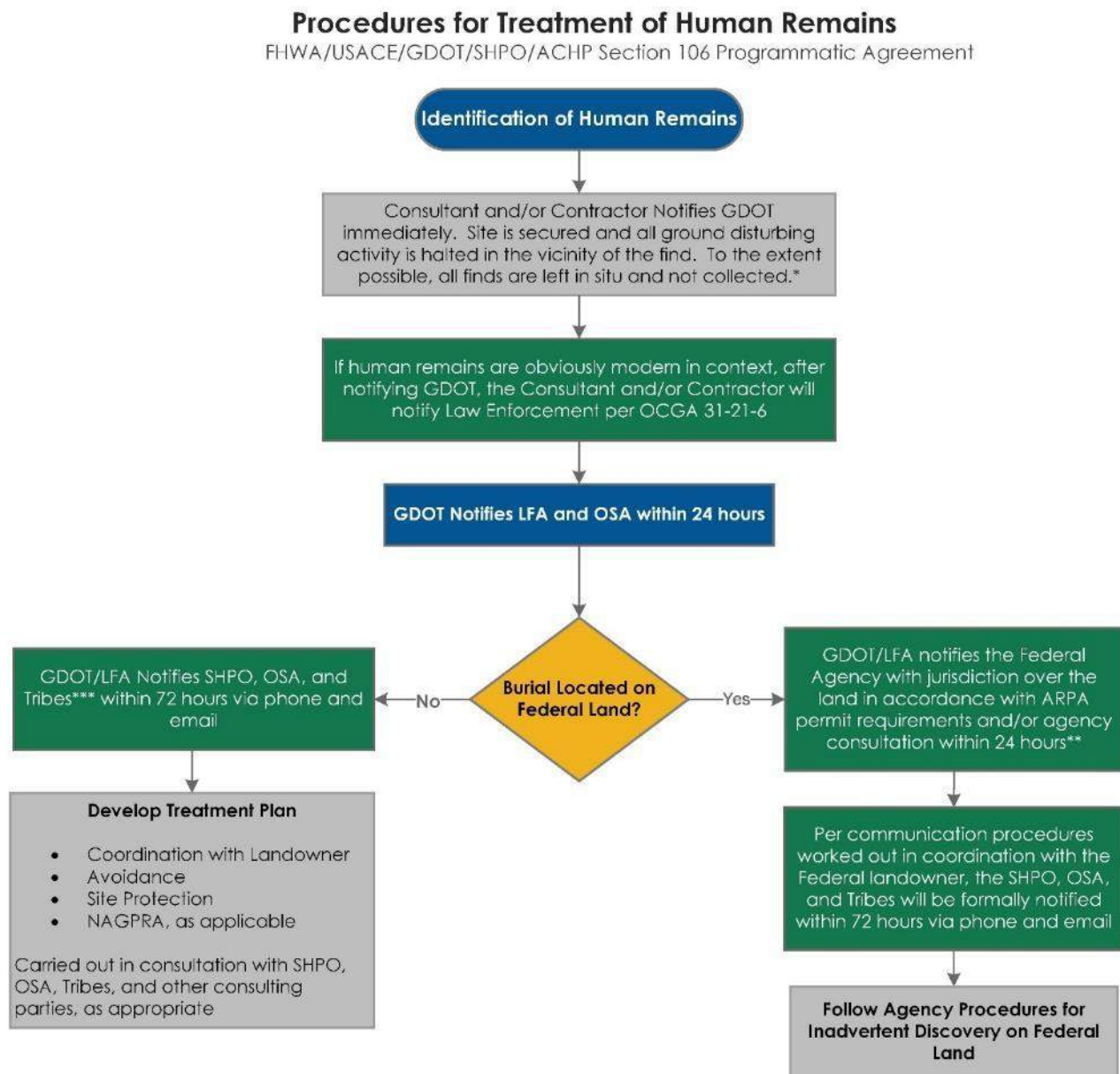
- I. GDOT shall treat human remains in a manner consistent with the ACHP "Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects" (March 1, 2023; <https://www.achp.gov/sites/default/files/policies/2023-07/PolicyStatementonBurialSitesHumanRemainsandFuneraryObjects30June2023.pdf>).
- 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 G).
- 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. See Figure 8 for procedures for the treatment of human remains.
- 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 and email. Tribes that do not receive email

communication will be contacted by phone 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 the 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.

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Figure 8. 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.

8 Historic Bridges

8.1 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 1980 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 Historic Resource Survey reports.
- D. If an ineligible bridge, as identified in the GHBS, is the only historic resource in the APE (see Section 4.1 of the CR Manual for how the APE is defined) of a GDOT project, no survey report is required, only a No Historic Properties Affected document. A copy of the GHBS form for the bridge will be appended to the document. No written concurrence is required from SHPO since they have already agreed with the GHBS findings.
- E. Bridges that fall under the purview of the ACHP Program Comment for Streamlining Section 106 Actions Affecting Post-1945 Concrete and Steel Bridges will be noted in applicable historic resource survey documentation but will not receive an evaluation for the NRHP.

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.

9 The Low Impact Bridge Program

9.1 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 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 first conduct a desktop 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 5.5 of this CR 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 Guidebooks. 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 will 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 Guidebooks. 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 5.5 of this CR Manual and the History Documentation Guidebook 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 sufficient schedules to accommodate the consultation required for adverse effects under Section 106.

10 FHWA Federal Emergency Relief-Funded Projects

10.1 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 Section 10.1.IV of the CR Manual.
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 III 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 CR 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 CR 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 CR Manual). GDOT standard operating procedures pursuant to the Archaeological Documentation EPM Guidebook 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 will not require Section 106 documentation pursuant to SHPO recommendations. GDOT will supply FHWA and SHPO a list of all GHBS ineligible bridges that are repaired or replaced as a result of Emergency Repairs.
2. Evaluation of railroads as a historic property type under this section of the CR 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 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 treatment plan for mitigation to resolve adverse effects. 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. Due to the expedited nature of emergency situations, a separate MOA is not required to document the agreed upon measures proposed as the treatment plan for mitigation. GDOT will document completion of all mitigation measures pursuant to Stipulation VII.H of the Agreement and Section 5.5.IV.E of this CR Manual.

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 Guidebooks 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 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 treatment plan for mitigation (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 treatment plan for mitigation, GDOT will assume concurrence and may proceed with the implementation of the

plan. GDOT will document completion of all mitigation measures pursuant to Stipulation VII.H of the Agreement and Section 5.5.IV.E of this CR Manual.

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.

11 ITS Projects Within Limited Access ROW

11.1 Section 106 Review for ITS Projects within Limited Access ROW

To facilitate the delivery of large scale ITS projects within limited access roadways, the FHWA, ACHP, SHPO, and GDOT have agreed upon the following procedures for Section 106 implementation for projects of this type.

I. **Applicability**

- A. These procedures are only applicable to proposed ITS projects within limited access roadways. For information on ITS projects on state routes, see Section 5.4 and Appendix D of the CR Manual.
- B. Large-scale ITS projects within limited access roadways will typically be constructed using a Design Build process through which GDOT will procure a Developer responsible for design and construction of the project.

II. **Associated Project Activities**

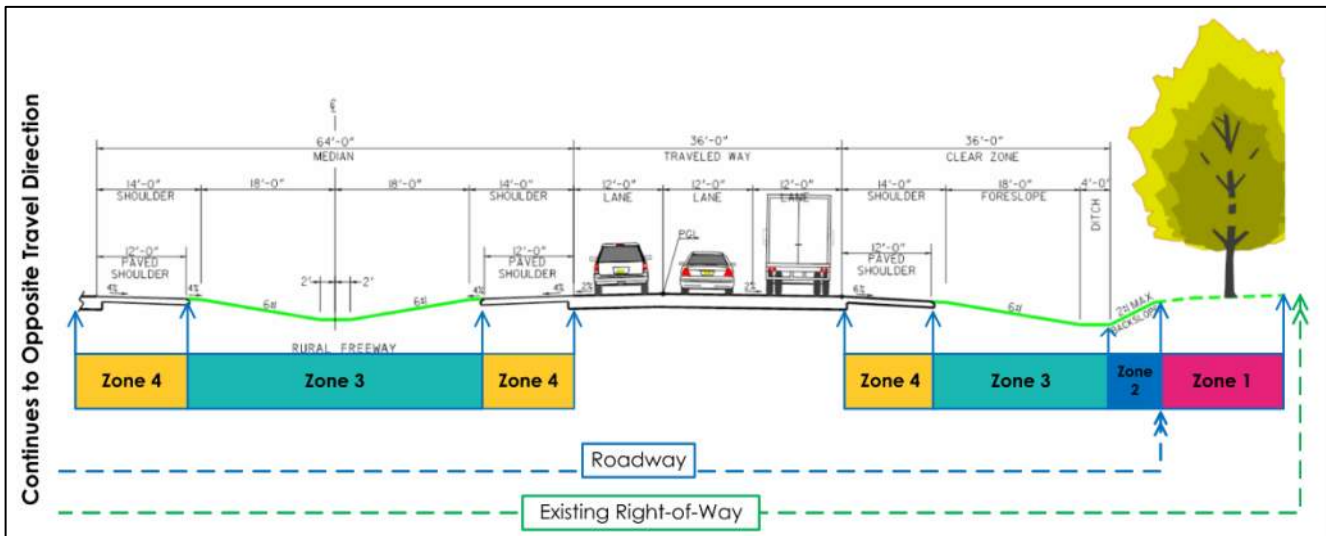
Implementation of ITS projects within limited access roadways may include installation of the following activities: conduit and fiber optic cable via plowing, trenching, or horizontal directional drilling; pull boxes and cabinets; strain poles; and equipment for traffic management and connected vehicle infrastructure. Connected vehicle infrastructure would include the deployment of Connected Vehicle Roadside Units, Closed Circuit Television Cameras, and Vehicle Detection Equipment, and other associated traffic management technology. Implementation may also include additional ITS technology such as those activities listed in Section 5.3 of the Manual including: Changeable Message Signs, connected vehicle technology, dynamic lane control signs, variable speed limit signs, environmental sensor stations, and electronically operated gates (for emergency or Express Lane access).

III. **Defining the Area of Potential Effect**

Installation activities associated with ITS projects will occur within one of four zones within the limited access roadway ROW, as defined below. A project may consist of installation activities in a combination of any of the four zones (see Figure 9):

- Zone 1: Back Edge of Existing ROW. Installation activities would take place near the maintained outer extent of the existing ROW, close to the existing tree line and/or ROW fence. No tree clearing or grubbing is anticipated for this Project.
- Zone 2: Backslope of ditchline. Installation activities would take place within the portion of the roadway corresponding to the top of backslope associated with the existing ditchline.
- Zone 3: Foreslope of Existing Roadway Berm/Graded Shoulder. Installation activities would take place within the portion of the roadway corresponding to the built-up embankment.
- Zone 4: Paved Shoulder. Installation activities would take place underneath the existing paved limited access roadway shoulder.

Figure 9. Categorized Zones Within Limited Access ROW. Graphic represents one half of roadway and median.



Because of the nature and scope of this project type it has been determined that the APE for historic properties is limited to activities and Zones within the limited access ROW that have the greater potential to affect cultural resources. ITS installation activities, when located within Zones 3 and 4, are considered to be within a disturbed context with minimal potential for effects to historic properties per Section 5.3 of this CR Manual and are therefore excluded from further review.

The following approach will be used on ITS projects within limited access roadways to define the level of review and documentation for historic and archaeological resources as it relates to Zones 1 and 2:

A. Historic Resource Methodology for ITS Projects on Limited Access Roadways

Because of the nature and scope of this project type, the APE for historic resources is limited to the existing ROW, within which all construction and ground disturbing activity would be confined. Due to the minimal ground disturbance and vertical construction outside of previously disturbed areas, the APE for historic resources does not include viewshed.

B. Archaeological Resource Methodology for ITS Projects on Limited Access Roadways

1. Due to the nature of limited access roadway construction within Zone 2, it is difficult to confirm the nature of disturbance as it relates to previously recorded archaeological sites. If installation activities will occur within the boundary of a previously recorded archaeological site located within Zone 2, it will be screened by an SOI qualified archaeologist to determine if the site requires additional investigation and evaluation, or if no further work is required.
2. Installation activities located within Zone 1 are considered to have the potential for archaeological deposits and therefore would require Phase I archaeological survey and documentation.
3. Based on the descriptions of Section 11.1.III above, the APE for archaeological resources consists of the existing ROW, however areas requiring further review shall be limited to installation activities proposed within Zone 1 and previously recorded site boundaries within Zone 2 of limited access roadways that are determined to require additional investigation and evaluations as a result of the additional screening.

IV. Implementation and Documentation

A. Background Research

A desktop review will be completed for a proposed project to identify NRHP-listed historic resources that intersect with, or are adjacent to, the existing limited access ROW. Additionally,

a desktop review will be completed to identify all cemeteries and previously recorded archaeological sites that are located within, or are adjacent to, the existing limited access ROW.

B. Review of Previously Identified Resources

1. All known cemeteries, NRHP-eligible resources, and archaeological sites recommended for Phase II testing will be designated as an Environmentally Sensitive Area (ESA) and marked for avoidance on project plans.
2. All NRHP-listed historic resources which intersect the limited access ROW will be designated as an ESA on project plans for further screening to determine if contributing features exist within the ROW. Additionally, all other previously identified archaeological sites within limited access roadway ROW that intersect Zone 2, including sites that are ineligible for the NRHP and/or have unknown eligibility, will be designated as an ESA on project plans for avoidance or further screening.

C. Avoidance and Minimization of Harm

1. Installation activities will be confined to Zones 2, 3, or 4, for the avoidance of the potential intact deposits located in Zone 1, as well as cemeteries adjacent to the ROW.
2. Archaeological Monitoring by an SOI qualified archaeologist will be conducted for all installation activities located adjacent to cemeteries within limited access roadway ROW. Additional sensitive resources may be identified on a specific project and recommended for archaeological monitoring, as necessary and determined during additional screening (e.g. the Ocmulgee Old Fields Traditional Cultural Property).
3. The Design Build Developer and their sub-contractors will be required to adhere to the provisions of this Section of the CR Manual and GDOT will ensure that the parameters and requirements of the agreement are reflected in the construction contract. All documentation prepared by the Design Build Developer will be reviewed by SOI-qualified GDOT staff who will also be responsible for all agency, tribal, and consulting party consultation per Stipulation VII of the Agreement and Section 5.5 of the CR Manual.

D. Project Review and Documentation

1. Section 106 will be initiated for this project type following the procedures outlined in Section 5.5.I of the CR Manual.
2. An Area of Potential Effect Memorandum will be prepared by the Developer's SOI qualified archaeologist and historian. The memo will document the following: verification that impacts within Zone 1 are being avoided, identification of previously recorded cultural resources, results of the Zone 2 screening, and identification of any activities located within Zones 3 or 4. The memo will be reviewed by the GDOT Archaeologist and Historian who retain responsibility for all Section 106 consultation.
3. The APE memo will include the following information: the location of the installation activities within the existing limited access roadway ROW, previously recorded archaeological sites and NRHP-listed historic resources that intersect existing limited access roadway ROW, cemeteries located directly adjacent to the ROW, and an evaluation of proposed activities in Zone 1 and screening results of sites within Zone 2.
4. The Zone 2 screening will include a review of available information on previously recorded archaeological resources that intersect this portion of the limited access roadway ROW to examine the original survey delineation methods, the nature of previously documented site conditions and deposits, NRHP recommendations, and the current site conditions to evaluate impacts from prior roadway construction on the site. The memo will include the results of the screening and whether Phase I survey of a site is required prior to construction activities or whether no further work is required.

- a) If a previously recorded site within Zone 2 is avoided by the proposed installation layout, no further work will be required.
- b) If a site was recorded and determined to be adequately investigated to current survey standards, and previously determined to be ineligible for the NRHP or has since been destroyed, no further work will be required.
- c) If an ineligible or unknown eligibility site was not recorded with modern survey methodologies, or a site was not previously evaluated for the NRHP, avoidance will be recommended, or a Phase I Survey will be required to evaluate the site.
- d) The APE Memorandum will be reviewed and approved by the GDOT Archaeologist and Historian. If review of the document meets all of the following conditions, the Project will be considered to have No Historic Properties Affected as defined in 36 CFR § 800.4(d)(1) and no additional project documentation for the fulfillment of Section 106 will be required:
 - i. No project activities are located within Zone 1, and
 - ii. No project activities are occurring within previously identified sites located in Zone 2 requiring additional survey and documentation, and
 - iii. Project activities within Zones 3 and 4 meet the parameters for minimal potential to cause adverse effect as defined in Stipulation VII.B of the Agreement and Section 5.3 of this CR Manual.
- e) A copy of the APE Memorandum will be transmitted to agencies, Tribes, and consulting parties for review and SHPO concurrence, within thirty (30) calendar days of electronic receipt from GDOT.
- f) Any required survey in Zone 1 or Zone 2 will be documented within an Archaeological Resources or Historic Resources Report, as appropriate, to document the resource identification, NRHP evaluation, resource avoidance, assessment of effects, and management recommendations.
- g) If adverse effects to historic properties cannot be avoided, GDOT will continue to consult with FHWA, SHPO, Tribes, other consulting parties and ACHP, as applicable, to resolve adverse effects. A draft Memorandum of Agreement (MOA) will be included in the documentation for review and comment in accordance with Section 5.5 of the CR Manual.
- h) The Resource Report(s), and draft MOA as needed, will be submitted by GDOT to the Lead Federal Agency, SHPO, Tribes, and consulting parties for review and comment prior to the start of any construction activities within areas of archaeological APE as defined in Section 11.III.B of the CR Manual. In the event there is disagreement from signatories regarding the eligibility or the effect determination made by FHWA, the steps outlined in Stipulation XIII, Dispute Resolution of the Agreement will be followed.
 - i) Review by the Lead Federal Agency, SHPO, Tribes, and consulting parties will follow the procedures outlined in Sections 2 and 5.5 of this CR Manual, as appropriate.
 - j) In the event that installation activities are proposed in Zone 1 or previously avoided sites within Zone 2 subsequent to the approval of the Area of Potential Effect Memo and complete avoidance is not feasible, the procedures identified in Section 11.III.E for Project Changes will be followed. Project changes that occur after approval of the APE Memorandum will be subject to additional review as described in Section 11.III.E below.
- k) The completion of archaeological monitoring will be documented in a report prepared for review and approval by the GDOT Archaeologist. A copy of the report will be transmitted to the Lead Federal Agency, SHPO, Tribes, and consulting parties, as appropriate, upon completion.

E. Project Changes

1. Should deviation from the approved Area of Potential Effect Memo be required and complete avoidance of Zone 1, or previously avoided sites within Zone 2, is not feasible, a Phase I Archaeological Survey will be required to identify potential resources and assess project impacts to any identified NRHP-eligible resources.
2. Construction activities within Zone 1 will not be permitted to proceed until completion of all necessary survey, documentation, and agency consultation.
3. The results of Phase I archaeological survey within Zone 1, or previously avoided sites within Zone 2, will be documented as outlined in Section 11.1.IV.D.III.f above.

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12 Electric Vehicle Infrastructure Deployment Projects

12.1 Project Review for Electric Vehicle Infrastructure Deployment Projects

I. **Applicability**

- A. The following procedures apply to projects proposed under GDOT's National Electric Vehicle Infrastructure (NEVI) Deployment Program, the goal of which is to deploy part of a national network of electric vehicle charging stations throughout the state to provide convenient, reliable, affordable, and equitable access throughout the state.
- B. Applicable projects will be developed along alternative fuel corridors on the national highway system throughout Georgia.
- C. The following procedures do not apply to electric vehicle charging stations that are included as part of a larger GDOT project.

II. **ACHP Exemption from Historic Preservation Review for Electric Vehicle Supply Equipment (EVSE)**

In accordance with 36 CFR 800.14(c), the ACHP has issued a national exemption relieving federal agencies from the Section 106 requirement to consider the effects of installation of EVSE on historic properties. The exemption applies to undertakings that propose the installation, maintenance, repair, or expansion of Level 1, 2, or 3 charging stations provided that the following conditions are met:

1. Take place in existing parking facilities with no major electrical infrastructure modifications and are located as close to an existing electrical service panel as practicable;
2. Use reversible, minimally invasive, non-permanent techniques to affix the infrastructure;
3. Minimize ground disturbance to the maximum extent possible, and ensure that it does not exceed previous levels of documented ground disturbance;
4. Use the lowest profile EVSE reasonably available that provides the necessary charging capacity;
5. Place the EVSE in a minimally visibly intrusive area; and
6. Use colors complementary to surrounding environment, where possible.

The full text of the exemption is available on the ACHP website: <https://www.achp.gov/digital-library-section-106-landing/exemption-historic-preservation-review-electric-vehicle-supply>.

III. **Project Review**

Application of the ACHP's EVSE Exemption to projects proposed under the NEVI program will be carried out by GDOT Cultural Resources staff using the following procedures.

A. Desktop Screening

A desktop review of each proposed NEVI location will be conducted to identify known cultural resources including NRHP-listed resources, cemeteries, and previously recorded archaeological sites. The desktop screening will use tax assessor's data, historic aerials, historic maps, GNAHRGIS, the NRHP listings, proposed NRHP nominations, National Historic Landmarks, the Georgia Historic Bridge Survey (GHBS), and other tools applicable to proposed locations (i.e. Battlefields, Trail of Tears, etc.). Additionally, a desktop review will seek to identify if any known contributing features are located in a proposed site location.

B. Exemption Applicability

1. Upon receipt of information on each proposed NEVI location, the site will be reviewed for the applicability of the ACHP exemption. The site proposal will be evaluated in relation to the six parameters of the exemption and the results of the desktop screening.
2. For the purposes of establishing exemption applicability to a given proposed NEVI site, the following parameters have been established for the conditions of the exemption:
 1. *Condition 1 – Takes place in existing parking facilities with no major electrical infrastructure modifications and are located as close to existing electrical service panels as practicable.* Major electrical infrastructure modifications are defined as those where no existing electrical service is present and lengthy utility line installation is required. Connection to existing utility lines through the use of limited directional boring or

trenching is not considered a major modification for the purposes of exemption applicability.

2. *Condition 3 – Minimize ground disturbance to the maximum extent possible and ensure that it does not exceed previous levels of documented disturbance.* Installation activities within existing parking facilities will be considered within areas of previous disturbance for the purposes of the exemption. When previously recorded sites are present within the location of a proposed NEVI site, a review of the available site information, including depth of associated deposits, will be undertaken in relation to the existing parking facility and proposed installation activities. If, based upon this review, previously recorded NRHP-eligible or unknown archaeological site deposits may be impacted by the proposed project, the exemption will not apply and archaeological monitoring of the location during installation may be implemented.
3. *Condition 5 - Place the EVSE in a minimally visibly intrusive area.* For the purposes of this condition, if existing lighting is present within the parking facility the proposed addition of new lighting will be considered minimally visibly intrusive. If new lighting is proposed where no existing lighting is present, then the exemption will not apply.
3. The exemption does not apply to proposed NEVI sites that include photovoltaic canopy or solar panels.

C. Documentation

1. All proposed project locations that are determined to fit within the parameters of the ACHP EVSE Exemption will be documented in the project file and itemized as part of the annual report required under Stipulation XII of the Agreement.
2. Sites for which the ACHP EVSE Exemption does not apply will be reviewed following the procedures outlined in Stipulation VII of the Agreement and Section 5 of the CR Manual.

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Appendices

A. FHWA/GDOT 2025 Programmatic Agreement

To be updated with new PA once it is ratified.

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B. USACE Civil Works 2023 Tribal Consultation Policy

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DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

SACW

5 December 2023

MEMORANDUM FOR COMMANDING GENERAL, U.S. ARMY CORPS OF
ENGINEERS

SUBJECT: Updated U.S. Army Corps of Engineers Civil Works Tribal Consultation
Policy

1. References:

- a. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, 06 Nov 2000.
- b. Presidential Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships, 26 January 2021.
- c. Presidential Memorandum on Uniform Standards for Tribal Consultation, November 30, 2022.

2. The Presidential Memorandum in reference 1.a requires each agency to formulate a detailed plan of actions that it will undertake to implement the policies and directives of E.O. 13175. E.O. 13175 requires all federal agencies to formulate "an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This document affirms the U.S. Army Corps of Engineers (USACE) commitment to engage in consultation with Tribal Nations and Alaska Native Corporations (ANCs).

3. The Civil Works Tribal Consultation Policy (Enclosure 1) provides guidance and definition for the USACE to build the collaborative and close relationships required for proper stewardship of our Nation's water resources and to fulfil our Constitutionally required treaty and trust responsibilities. Specifically, this policy provides meaningful definitions and clear guidance to USACE Civil Works on consultation, coordination and consensus building when working with Tribal Nations and ANCs.

4. As directed in reference 1.b, my office and USACE have collaboratively developed a comprehensive Tribal Consultation Policy. We also developed an enclosure capturing Best Practices for USACE leaders to reference when consulting or coordinating with tribal leaders. This policy was then promulgated for tribal comment and received fulsome feedback and collaboration from Tribal Nations and ANCs.

5. This memorandum directs USACE to apply the Tribal Consultation Policy to its Civil

SACW

SUBJECT: Updated U.S. Army Corps of Engineers Civil Works Tribal Consultation Policy

Works Program, to develop implementing guidance promulgating this Policy, and to plan the commensurate training and culture changes required to implement this policy as we prepare to announce its forthcoming completion at the 2023 White House Tribal Nations Summit, currently targeted in late November or early December 2023.

6. If there are any questions, please contact COL Xander Bullock, Tribal Policy Advisor at alexander.l.bullock@usace.army.mil or at 703-340-5750.



MICHAEL L. CONNOR
Assistant Secretary of the Army
(Civil Works)

Encl

CF:
DCG-CEO, USACE
DCW, USACE

**U.S. Army Corps of Engineers – Civil Works
Tribal Consultation Policy**

1. References.

- a. U.S. Constitution, Article I, Section 8; Article VI.
- b. National Historic Preservation Act (54 U.S.C. 300101 et seq.), 15 Oct 1966, as amended.
- c. Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), 18 Dec 1971, as amended.
- d. American Indian Religious Freedom Act (42 U.S.C. 1966 et seq.; Public Law 95-341), 11 Aug 1978, as amended.
- e. Archaeological Resources Protection Act (16 U.S.C. 470aa et seq.; Public Law 96-95), 31 Oct 1979, as amended.
- f. 33 CFR part 325, Processing of Department of the Army Permits, 13 Nov 1986, as amended.
- g. Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.; Public Law 101-601), 16 Nov 1990.
- h. Religious Freedom Restoration Act (42 U.S.C. 2000bb et seq.; Public Law 103-141), 16 Nov 1993.
- i. Executive Order 13007, *Indian Sacred Sites*, 24 May 1996.
- j. Department of Defense American Indian and Alaska Native Policy, 20 Oct 1998.
- k. Engineer Regulation 1105-2-100, *Planning Guidance Notebook*, 22 Apr 2000.
- l. Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments*, 06 Nov 2000.
- m. Executive Order 14096, Revitalizing Our Nation's Commitment to Environmental Justice, 21 April 2023.
- n. Consolidated Appropriations Act, 2004, as amended, Public Law 108-199, Division H., Section 161.
- o. Consolidated Appropriations Act, 2005, Public Law 108-447, Div. H., Section 518.
- p. Army Regulation 200-1, *Environmental Protection and Enhancement*, 13 Dec 2007.
- q. Engineer Regulation 1130-2-540, Project Operations – Environmental Stewardship Operations and Maintenance Guidelines and Procedures, 11 Aug 2008.
- r. Presidential Memorandum, *Tribal Consultation*, 05 Nov 2009.

- s. Announcement of Presidential support for the *United Nations Declaration on the Rights of Indigenous Peoples*, Public Papers of the President, December 16, 2010.
 - t. Section 1129 of the Water Resources Development Act of 2018, Section 1129, Public Law 115-270, 23 Oct 2018.
 - u. Department of Defense Instruction Number 4710.02: DoD Interactions with Federally Recognized Tribes, 24 Sep 2018.
 - v. Department of Defense Instruction Number 4715.16: Cultural Resources Management, Sept. 18, 2008.
 - w. Presidential Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships, January 26, 2021.
 - x. Advisory Council on Historic Preservation, Consultation with Indian Tribes in the Section 106 Review Process: The Handbook, June 2021.
 - y. Memorandum of Understanding Regarding Interagency Coordination and Collaboration for the Protection of Tribal Treaty Rights and Reserved Rights, November 15, 2021.
 - z. Guidance for Federal Department and Agencies on Indigenous Knowledge, November 30, 2022.
 - aa. Presidential Memorandum on Uniform Standards for Tribal Consultation, November 30, 2022.
2. Purpose. On January 26, 2021, the President issued a Memorandum to the heads of all federal agencies entitled *Tribal Consultation and Strengthening Nation-to-Nation Relationships*. The Memorandum reaffirmed Executive Order (E.O.) 13175, *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249) signed on November 6, 2000, and the policy announced in the Presidential Memorandum signed on November 5, 2009. The Presidential Memorandum also requires each agency to formulate a detailed plan of actions that it will undertake to implement the policies and directives of E.O. 13175. E.O. 13175 requires that all federal agencies formulate “an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” This document affirms the U.S. Army Corps of Engineers (USACE) commitment to engage in consultation with federally recognized Tribes and Alaska Native Corporations (ANCs).¹
 3. Background. There are responsibilities to Tribal Nations resulting from the Federal Trust Doctrine, which is derived from Treaties, statutes, regulations, Executive Orders, case law, and agreements between the United States government and Tribal governments. The references in paragraph 1 provide additional guidance on coordination and consultation with Tribal Nations.

¹ A separate consultation policy with Native Hawaiian Communities is under development.

4. For the purpose of this policy, the following definitions apply:
 - a. Alaska Native Corporation (ANC): Any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with 43 U.S.C. §1601, *et seq.*
 - b. Consultation: Regular, meaningful, and robust communication process involving USACE and Tribal officials with decision-making authority and which emphasizes trust, respect, and shared responsibility between USACE and the Tribal Nation or ANC. To the extent practicable and permitted by law, consultation works toward mutual consensus and begins at the earliest planning stages before decisions are made and actions are taken. Consultation is an active, respectful and timely dialogue concerning actions taken by USACE that have Tribal implications on Tribal resources, Tribal rights (including treaty rights), or tribal lands- Consultations are also conducted for actions which have a substantial direct effect on ANCs including actions on or affecting ANCSA lands, or actions for which any Tribes have expressed interest in consultation.
 - c. Coordination: Regular, informal, and/or staff level communications between USACE and the Tribal Nation or ANC. Coordination can and should occur before formal consultation, and is highly encouraged to keep all parties informed, to improve consultation, and to aid in determining when consultation is required. Tribal Nation or ANC coordination should be the primary tool to determine when formal consultation is required.
 - d. Tribe/Tribal Nation: Indian Tribes as defined in E.O. 13175, “an Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 USC 479a.”
 - e. Policies that have Tribal implications: Regulations, proposed legislation and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on treaty or other reserved rights or resources, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. A further extensive list of events or actions that could have tribal implications and therefore trigger consultation is in Para 6.d.ii.
5. Applicability. This Policy applies to all Civil Works elements of USACE, including the Regulatory, Planning, and Operations Programs, at HQUSACE, Major Subordinate Commands, District Commands, the Institute for Water Resources, the Humphreys Engineering Center Support Activity, and the Engineer Research and Development Center.
6. The Tribal Policy Principles. USACE will incorporate the following six Tribal Policy Principles into its planning, management, budgetary, operational, regulatory, and legislative initiatives, management accountability systems and ongoing policy and regulation development processes.
 - a. Tribal Sovereignty.
 - i. All federally recognized Tribes are inherent sovereign governments that have not relinquished powers of self-governance and will be treated with dignity and respect.
 - ii. Sovereignty is the foundation of Tribal governments.
 - iii. Tribal governments set their own priorities, and develop and manage Tribal and trust resources, which may be based on cultural practices and timelines.
 - iv. Tribal Nations are responsible for their own governance and management.

- v. USACE recognizes and respects the distinct, unique, and individual cultural traditions and values of Alaska Native peoples and the statutory relationship between ANCSA Corporations and the Federal Government.
- b. Trust Responsibility.
- i. The trust responsibility will be honored and fulfilled.
 - ii. The federal government has a unique legal and political relationship with Tribal governments that recognizes self-government and self-determination.
 - iii. USACE shall work to meet its trust responsibilities, protect trust resources, and obtain Tribal views of trust and treaty responsibilities for actions related to USACE, in accordance with provisions of treaties, laws and Executive Orders as well as principles lodged in the Constitution of the United States. Integrating consideration of tribal treaty and reserved rights into agency decision-making and regulatory processes is consistent with the federal government's trust responsibility to federally recognized Tribes and to fundamental principles of good government.
 - iv. As a matter of Federal law, only Congress has the authority to abrogate or interfere with tribal treaty rights, which has not been delegated to USACE. USACE cannot authorize, approve, or carry out any activities which would result in a violation of a Tribal treaty right. See Appendix A for Best Practices for Identifying and Protecting Tribal Treaty Rights, Reserved Rights, and Other Similar Rights in Federal Regulatory Actions and Federal Decision-Making for USACE use.
 - v. USACE is committed to supporting projects and programs beneficial to Tribal Nations through partnership with them, including co-management and full-operability where appropriate.
 - vi. USACE will ensure that it considers and addresses Tribal and ANC concerns regarding protected Tribal resources, Tribal rights (including treaty rights) and lands, and ANCSA lands in a respectful way to the Tribes and to the maximum extent allowed under law by taking measures to ensure that agency actions do not impair Tribes' ability to exercise those rights.
 - vii. Through consultation with the affected Tribe(s), USACE will protect and allow access to protected Tribal resources on, under and in USACE managed lands and water resources development projects to the extent practicable and will work to develop and implement access policies as requested by Tribes or ANC.
 - viii. Through consultation with the affected Tribe(s), USACE will ensure reasonable and respectful access to sacred sites on USACE managed lands and water resources development projects in accordance with the American Indian Religious Freedom Act and other applicable laws, regulations, and guidance. Further, USACE shall to the extent practicable, permitted by law, and not clearly inconsistent with essential agency functions, accommodate access to and ceremonial use of tribal sacred sites.
 - ix. USACE will share non-privileged information in a timely manner when requested by Tribal Nations and ANCs to the maximum extent allowed under law. In addition, federally recognized Tribes and ANCs do not need to submit a FOIA request for non-privileged information that is otherwise releasable under the law.
 - x. USACE welcomes receiving Indigenous Knowledge throughout the consultation process on the implementation of Civil Works functions and will respect and consider such Indigenous Knowledge throughout Civil Works implementation.

- c. Government-to-Government and Nation-to-Nation Relations.²
- i. USACE will maintain a government-to-government and Nation-to-Nation relationship with Tribal governments and Nations which may include establishing new means or processes to engage with Tribal Nations, separate from those provided to the general public or other governmental entities.
 - ii. Consultation for decision-making occurs between Tribal Leaders and USACE Commanders/Leaders and USACE Commanders/Leaders will work to achieve regular, meaningful, and robust communication with Tribal Leaders on a programmatic as well as a project-specific basis.
 - iii. A Tribal Nation or ANC has access to the Chief of Engineers, the Assistant Secretary of the Army (Civil Works), and other high-level individuals. USACE should also conduct consultation at any time that a Tribal Nation requests consultation. USACE should conduct consultation at the lowest effective level (starting at District) and elevate to resolve issues as required.
 - iv. A Tribal Nation may initiate a request for Government-to-Government or Nation-to-Nation consultation, or coordination at any time.
 - v. Regular and recurring interactions, which may include processes under Section 106 of the NHPA and environmental compliance under the National Environmental Policy Act, will primarily be staff-to-staff unless otherwise requested by the Tribes. As outlined in paragraph 6.d(x), specific protocols for elevating issues to the Government-to-Government or Nation-to-Nation level may be included to ensure resolution at the level the decision is being made.
 - vi. Tribal consultations will be assisted by an appropriate Tribal Liaison. A Tribal Liaison will be designated at each District, MSC, HQ USACE and identified as such on its website. The USACE Tribal Liaisons are assets in engaging and implementing Tribal consultation.
 - vii. Each Tribal Nation or ANC shall be consulted with separately, unless Tribal Nations or ANCs agree to act collectively, for example, after receipt of such request from USACE or on their own initiative.
- d. Consultation Elements.
- i. Consultation will be an integral, invaluable process of USACE planning and implementation for all of USACE's Civil Works projects and programs.
 - ii. Consultation will be triggered by any USACE Civil Works policy or activity that has Tribal implications or substantial direct effect on Tribes or ANCs, including but not limited to planning for and implementation of individual projects, studies, programs, general permit developments (incl Nationwide Permits), permit applications, requests for approved jurisdictional determinations, real estate outgrants and other actions, Section 408 permission requests, operations and maintenance activities, rulemaking processes, and promulgation of regulations and policies, including policy guidance on treaty rights effect determinations, regardless of land status. USACE will conduct an analysis to determine whether such USACE activities has Tribal implications or substantial direct effect on ANCs regardless of whether a Tribal Nation or ANC requests consultation.

² For purposes of this Tribal Consultation Policy, government-to-government and Nation-to-Nation are equivalent terms regarding fulfillment of Tribal trust responsibility and consultation requirements. The USACE wants to reflect the sovereignty of Tribal Nations in the use of Nation-to-Nation but does not convey any additional legal status or implications through the use of Nation-to-Nation.

Such analysis should be conducted by an individual who effectively interacts with Tribal Nations and/or ANCs.

- iii. To ensure a full understanding of when consultation will be required, USACE – through its Divisions and Districts will consult with Tribal Nations upon issuance of this Policy to further scope and identify the types of projects, actions, and decisions that will impact the Tribes and trigger consultation from the perspective of the Tribes. As stated above, USACE should also conduct consultation at any time that a Tribal Nation requests consultation, particularly if a Tribe indicates an action has substantial direct effect or tribal implications.
- iv. Robust coordination between USACE and Tribes will be central to determining when consultation is required. Good examples of coordination opportunities include planning charettes or draft project documents where coordination seeks to clarify tribal interest. USACE should consider coordination even if a determination is made that a policy will not have Tribal implications or will not have substantial direct effect on ANCs if the policy is of interest to a Tribal Nation or ANC.
- v. Potentially affected Tribal Nations and ANCs, as determined by USACE, including Tribal Nations whose ancestral territories or resource use areas extend to the lands or waters where a proposed activity would occur, will be contacted by USACE using the Tribal Nations' and ANCs preferred mode of communication (letter, telephone and/or e-mail) sufficiently early to allow a timely review of the proposed action and for initiation of consultation. A public notice sent to Tribal Nations or ANCs is not sufficient for notification or initiation of consultation protocols, unless requested by a Tribe or ANC.
 - 1. Sufficiently early means at the earliest known planning stage or phase of a proposed project, to include scoping meetings; project kick-off meetings; pre-application/request meetings; as soon as possible upon receipt of an application or request (if a pre-application meeting has not occurred); and prior to signature of any partnering agreements.
 - 2. See Appendix B (Presidential Memorandum on Uniform Standards for Tribal Consultation) for the protocols for the Notice of Consultation. Appendix B does not supersede existing laws and regulations with established comment timelines and requirements.
 - 3. USACE may leverage coordination with Tribes to identify potential effects, preferred modes of communication, and timing, when consultation is either desired or required.
- vi. USACE district Tribal Liaisons will work to use existing resources and information from Tribal Nations and ANCs to develop and maintain a list of Tribal and ANC points of contact, preferred method of communication, and the Tribal or ANC designated decision-maker for ease of reference in consultation. USACE will also provide Tribal Nations and ANCs with points of contact on project-related issues, and issues in general.
- vii. If Tribal Nations, ANCs, or other sources identify that the USACE activity has Tribal implications on other Tribal Nations or has a substantial direct effect on other ANCs, USACE has the responsibility to notify those Tribal Nations or ANCs as well.
- viii. Consultation will provide Tribal Nations and ANCs the opportunity for a collaborative process designed to ensure information exchange, consideration of disparate viewpoints, before and during decision making.
- ix. Consultation will generally be conducted at the district or division level involving USACE and Tribal or ANC officials with decision-making authority assisted by an

individual who effectively interacts with Tribal Nations or ANCs, preferably a Tribal Liaison, unless there is a request for HQUSACE (and/or OASA(CW)) input, or if HQUSACE determines input is necessary. A Tribal Nation shall determine who represents the Tribal Nation for consultation. Consultation will be conducted at the HQUSACE and/or OASA(CW) level for actions which have nationwide implications, such as rulemaking actions.

- x. Commands will ensure that all Tribal Nations or ANCs with an interest in a particular activity that has Tribal implications or has substantial direct effect on ANCs are contacted, and their comments, views, perspectives, and knowledge are taken into consideration before decisions affecting Tribal or ANC interests are made. USACE will not assume that lack of response by a Tribal Nation or ANC is acceptance of a USACE decision or presumption of no implications to Tribal trust and treaty rights or establishes or suggests that a project or activity within USACE jurisdiction would not violate or interfere with a Tribal Nation's rights or interests. This can only be confirmed through consultation.
 - xi. In recognition of the varied organizations and customs of different Tribal Nations and ANCs, written protocols for consultation procedures may be developed and implemented at the local level with a specific Tribal Nation or ANC on an individual or programmatic basis. These protocols could include how and to what extent project proponents or non-Federal interests for water resources development projects may coordinate directly with Tribal Nations or ANCs on specific projects and programs.
 - xii. Consultation requires that information obtained from Tribes be given meaningful consideration, and agencies should strive for consensus with Tribes or a mutually desired outcome.
- e. USACE will support Tribal self-determination, self-reliance, and capacity building, to the fullest extent permitted by law and policy, by:
- i. Partnering with Tribal Nations on studies, projects, programs and permitting and implementation processes.
 - ii. Providing early and timely information on opportunities to compete for requests for proposals or other potential contracts with USACE.
 - iii. Sharing appropriate information on USACE programs, policies and procedures, and public documents.
 - iv. Utilizing Indigenous Knowledge for planning purposes and to inform operational activities and permit application reviews.
 - v. Supporting Tribal efforts to lease, operate, and co-manage water resource projects and lands, where appropriate.
 - vi. Identifying and implementing, within existing authority, other capacity-building opportunities as they occur.
 - vii. Identifying, assisting in pursuing, securing, and implementing existing funding opportunities for Tribes to cover expenses related to consultation, co-management, or other coordinated activities between the Tribes and USACE where they exist.
- f. Protection of natural and cultural resources.
- i. USACE recognizes the importance of strict compliance with Native American Graves Protection and Repatriation Act (NAGPRA), the National Historic Preservation Act (NHPA), the National Environmental Policy Act, the Endangered Species Act, and other statutes concerning cultural and natural resources.

- ii. USACE acknowledges that compliance with the above statutes may not compromise the full range of consultation, nor of cultural property and natural resource protection.
 - iii. To the extent allowed by law, USACE will protect the location of historic properties of religious and cultural significance, and archaeological resources, in consultation with and when requested by the affected Tribes(s).ⁱ
- 7. Responsibilities of Commanders and other USACE officials interacting with federally recognized Tribes and ANCs, supported by a Tribal Liaison.
 - a. Build relationships with Tribal Nations and ANCs soon after each change of command, preferably by face-to-face interaction and on tribal lands when practicable.
 - b. Develop a plan for knowledge management transfer specifically related to tribal histories and relationships from the previous Commander prior to assuming command.
 - c. Identify and remove procedural impediments to working with Tribal Nations and ANCs whenever possible.
 - d. Share appropriate USACE procedures, regulations, and organizational information with Tribal Nations and ANCs through regular, meaningful, and robust communication with Tribal leaders on a programmatic basis.
 - e. Maintain open lines of communication and transparency through consultation with Tribal Nations and ANCs during the decision-making process for those matters that have implications for Tribal Nations or have substantial direct effect on ANCs.
 - f. Correspondence with Tribal council, chair-people, and other Tribal or ANC governing leadership, will generally occur at the Commander level. Routine correspondence and follow up communications, such as a request for additional information for consultation under Section 106 of the NHPA, may be delegated. Although these interactions may be delegated, they are subject to the same level of trust obligation as those interactions at the Tribal and USACE leadership levels.
 - g. Encourage partnerships on projects with Tribal Nations wherever possible.
 - h. Encourage collaborative cooperation and partnerships with other federal and state agencies to further Tribal goals and projects.
 - i. Shall use best efforts to understand, uphold the treaties with Tribal Nations in their area of responsibility.
- 8. Documenting Tribal Input into USACE Decisions. Each Tribal Nation that is engaged in Nation-to-Nation consultation and ANCs that are engaged in consultation shall receive a timely response, in writing or in person, from the appropriate decision-maker on how its input, including the consideration and use of Indigenous Knowledge, was considered in decision-making, if provided. The decision-maker shall timely disclose to the affected Tribal Nation or ANC the outcome of the consultation and decisions made as a result of the consultation. Any in person responses provided will be followed with a written response within a timely and respectful manner. USACE will also document whether mutual consensus with a Tribal Nation or ANC was achieved in the decision-making and provide reasoning when mutual consensus was not achieved. See Appendix B Section 7.a for a description of the contents of the Record of Consultation. If the USACE does not adopt and incorporate the Tribal Nation's input or recommendations into its decision or did not modify its decision to avoid adverse effects on the Tribal Nation's rights and interests, including treaty or other reserved rights and resources, the USACE's written response should explain why the agency did not do so. The written response should also explain how the USACE decision will protect the Tribal Nation's rights and interests, including treaty or other reserved rights and resources. In certain circumstances, USACE responses may be limited by

legal or statutory restrictions, such as where the release of information may implicate safety or security functions. In those circumstances, a non-disclosure agreement may be considered to allow Tribal Nations or ANCs to receive a comprehensive response.

9. Alaska Native Corporation Consultation. When taking an action that has substantial direct effects on an ANC, USACE will initiate consultation with the ANC. To the extent concerns expressed by federally recognized Tribes and ANCs substantively differ, USACE shall give due consideration to the right of sovereignty and self-governance of federally recognized Tribes, and to the unique legal status and rights of ANCs.

10. Protocols.

- a. When participating in a consultation, USACE should take into consideration and respect Tribal protocols. In doing so, keep in mind that:
 - i. Tribal representatives may want to open a meeting with a traditional ceremony, although USACE representatives are not obligated to participate.
 - ii. USACE may need to schedule meetings well in advance in coordination with the Tribal Nation or ANC to enable the Tribal Nation or ANC to decide on appropriate attendees, such as Tribal elders, traditional religious leaders, and translators.
 - iii. Tribal representatives may be reluctant to discuss culturally sensitive information outside the Tribal Nation or at certain times of the year. Tribal representatives may need to clear information with traditional religious leaders or Tribal council members before making commitments.
 - iv. Tribal governments differ from each other in their organizational structures and corporate cultures. USACE representatives should be mindful that these differences may affect formal titles and forms of address (such as chief, governor, president, and chair) and other forms of protocol. Tribal representatives may be elected, political and/or spiritual, and exhibit other variations from Tribal Nation to Tribal Nation.
 - v. While acknowledging Tribal sovereignty, the uniqueness of Tribes in the role of government, and the usefulness of protocols, creating Tribal-specific protocols with each Tribe will be helpful in defining which engagements with the Tribe should be taken as coordination, and which should be taken as consultation.
- b. USACE will accept culturally specific information (*e.g.*, letter, e-mail, *etc.*) in any format the Tribal Nation or ANC utilizes to share, unless otherwise specified by statute, regulation, policy or agreement.
- c. Culturally specific information obtained from a recognized leader or the designated representative of a Tribal Nation or ANC in consultation should be respected. USACE will also consider specific details submitted by Tribal members regarding their exercise of a reserved treaty right.
- d. During the consultation process, USACE staff will take into account confidentiality concerns raised by Tribal Nations, including the sharing and protection of Indigenous Knowledge. See reference 1.t. USACE recognizes that a Tribal Nation may wish to keep confidential some of the culturally sensitive information during consultation. To the extent practicable and permitted by law, USACE should:
 - i. Assure Tribal Nations that USACE will make every reasonable effort, consistent with the law, to withhold from public disclosure any specific information that a Tribal Nation identifies as confidential.

- ii. Inform Tribal Nations that USACE is required to provide public access to its records in accordance with 5 U.S.C. § 552 (also known as the “Freedom of Information Act”), except those records protected from disclosure by a statutory exemption.
 - iii. Encourage Tribal Nations to seek the advice of their own legal counsel before providing sensitive information to USACE.
 - iv. Make an effort to identify confidentiality concerns then develop and agree on a process for dealing with culturally sensitive information as early as possible in the consultation process. In appropriate circumstances, consider the use of Consultation Protocol agreements.
 - v. Agreements can be made in accordance with Section 106 of the National Historic Preservation Act of 1966, as amended, and 36 CFR § 800.2(c)(2)(ii)(E), to memorialize an agreed-on process for handling culturally sensitive information related to historic properties (Section 304 NHPA) or archaeological resources over 100 years old (Section 9 Archaeological Resources Protection Act).
 - vi. In addition, USACE and the Tribal Nation may identify alternative means of providing culturally sensitive information to best ensure confidentiality, such as exploring orally provided information.
11. Education and Consistency. To develop a proactive well-informed workforce with consistent application of this Policy, in-house trainings and workshops have been developed and will be attended by USACE employees who interact with Tribal Nations and ANCs – liaisons, project managers, planners, engineers, program managers, real estate professionals, regulators, leaders, contracting specialist, legal counsel, etc. In addition, an annual meeting of USACE Tribal Liaisons will continue to occur. Trainings shall include coverage of the documents listed in the paragraph 1 references in this Policy. USACE commits to improve understanding of the federal trust responsibility and treaty rights for all USACE employees, including jointly led opportunities with Tribal members. In addition, USACE commits to ensuring regular and robust coordination will occur in all directions, both vertically to/from districts to/from divisions and to/from HQUSACE, as well horizontally within districts, divisions, and HQUSACE. For example, specific business lines within a district will ensure awareness with other business lines within the district when they have engaged in Nation-to-Nation consultation. USACE is encouraged to consult with and coordinate with the Tribes when developing and implementing training, and to use the services and expertise of the Tribal Nations Technical Center of Expertise in implementing this paragraph.
12. Accountability. To assess the effectiveness of USACE consultation, USACE will keep records of Tribal and ANC consultation meetings and other Tribal and ANC interactions and correspondence. These records will be accessible and can be made available for purposes of reporting to the Office of Management and Budget through the Department of Defense. The report will be synthesized at HQUSACE and transmitted to DoD, Office of the Secretary of Defense, on a yearly basis. A copy of this report will be distributed to federally recognized Tribes or ANCs upon request. In addition, under reference 1.s., tribal consultation on water resources development projects will be reported annually to the Senior Tribal Liaison, HQUSACE, by all MSCs for annual reporting requirements and consideration for development of annual training. Districts and divisions will report all consultations to the designated district and division Tribal Liaisons for roll-up to their designated MSC. HQUSACE will then provide a report on water resources project Tribal consultations to Congress on an annual basis (Section 1120 of Public Law 114-322).

13. General Provisions: This policy is not intended to, and does not grant, expand, create, or diminish any legally enforceable rights, benefits, or trust responsibilities, substantive or procedural, not otherwise granted or created under existing law. Nor shall this policy be construed to alter, repeal, interpret, or modify Tribal sovereignty, any treaty rights, or other rights of any Indian Tribes or ANCs, or to preempt, modify or limit the exercise of any such right.

Appendix A - Best Practices for Identifying and Protecting Tribal Treaty Rights, Reserved Rights, and Other Similar Rights in Federal Regulatory Actions and Federal Decision-Making

**BEST PRACTICES FOR IDENTIFYING AND PROTECTING TRIBAL TREATY
RIGHTS, RESERVED RIGHTS, AND OTHER SIMILAR RIGHTS IN FEDERAL
REGULATORY ACTIONS AND FEDERAL DECISION-MAKING**

November 30, 2022

**WORKING GROUP OF THE MEMORANDUM OF UNDERSTANDING REGARDING
INTERAGENCY COORDINATION AND COLLABORATION FOR THE
PROTECTION OF TRIBAL TREATY AND RESERVED RIGHTS**

Advisory Council on Historic Preservation, U.S. Department of Agriculture, U.S. Department of
Commerce, U.S. Department of Defense, U.S. Department of Education, U.S. Department of
Energy, U.S. Department of Homeland Security, U.S. Department of Housing and Urban
Development, U.S. Department of the Interior, U.S. Department of Justice, U.S. Department of
Labor, U.S. Department of State, U.S. Department of Transportation, U.S. Department of
Veterans Affairs, U.S. Environmental Protection Agency, U.S. Office of Personnel Management,
White House Council on Environmental Quality

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Disclaimer

Recommendations in this Report do not impose legally binding obligations on any federal agency. Each of the federal agencies will act as an independent party with respect to performance of recommendations in this Report. This Report does not, and does not intend to, restrict the authority of any party to act as provided by law, statute, or regulation. This Report does not, and does not intend to, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any person against the United States, its departments, agencies, or entities, its officers, employees, or agents or any other person. Each federal agency will bear its own expenses in connection with the preparation, negotiation, and execution of any recommendations of this Report. Any activities of the agencies in implementing this Report are subject to the availability of appropriated funds. Nothing in this Report obligates any of the agencies to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, or incur other financial obligations.

This is not a stand-alone document, but a living document which should be read in conjunction with other agency policies, including departmental and agency Tribal Consultation policies, the Memorandum Of Understanding Regarding Interagency Coordination And Collaboration For The Protection Of Indigenous Sacred Sites,¹ the commitment expressed by the White House to Elevate Indigenous Knowledge in Federal Policy Decisions,² and the Joint Secretarial Order on Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters.³ This document contains legal principles, best practices, and aspirational and intentionally transformative policy goals intended to strengthen the protection of treaty and reserved rights, agency Tribal consultation practices, and the government-to-government relationship.

Federal agencies retain the discretion whether to adopt some or all of the best practices identified in this report, in accordance with their authorities, practical considerations, and other factors.

¹ <https://www.doi.gov/sites/doi.gov/files/mou-interagency-coordination-and-collaboration-for-the-protection-of-indigenous-sacred-sites-11-16-2021.pdf>.

² <https://www.whitehouse.gov/ostp/news-updates/2021/11/15/white-house-commits-to-elevating-indigenous-knowledge-in-federal-policy-decisions>.

³ <https://www.doi.gov/sites/doi.gov/files/elips/documents/so-3403-joint-secretarial-order-on-fulfilling-the-trust-responsibility-to-indian-tribes-in-the-stewardship-of-federal-lands-and-waters.pdf>.

This document is not intended to be a comprehensive statement of all considerations that should go into treaty rights decisions. This Report is intended only to improve the internal management of the executive branch, and its provisions are not intended to be applied by a court.

I. Background	5
II. Purpose of the Best Practices Report.....	6
III. Overview of Key Concepts and Legal Framework	6
IV. Consultation on Treaty and Reserved Rights MOU Implementation	10
V. Tribal Comments	10
VII. Key Principles and Recommendations from the Work Group	13
IX. Definitions in Federal Consultation Policies – To be defined through additional Tribal consultation.....	18
XV. Conclusion.....	19

I. Background

Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments* (Nov. 6, 2000), directs federal agencies to “have an accountable process to ensure meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications.”⁴ The Executive Order further directs that “[o]n issues relating to Tribal self-government, Tribal trust resources, or Indian Tribal treaty and other rights, each agency should explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.”⁵ By Presidential Memorandum of January 26, 2021, President Biden reaffirmed the federal government’s commitment to Tribal consultation, and directed agencies to develop a plan of action for the implementation of the policies and directives in the Executive Order.⁶

In November 2021, the Administration announced that 17 federal agencies signed the *Memorandum of Understanding Regarding Interagency Coordination and Collaboration for the Protection of Tribal Treaty and Reserved Rights* (MOU).⁷ In the MOU, the agencies committed to enhance efforts to integrate consideration of Tribal treaty and reserved rights early into agency decision-making and regulatory processes, and to strengthen consultation policies in this regard. The MOU calls for the formation of a Working Group made up of members of each of the signatory parties to enhance interagency collaboration and coordination and identify best practices for the protection of Tribal treaty and reserved rights, as well as a legal subgroup. The Treaty and Reserved Rights Working Group (Working Group) was formed and began work in August 2021. The Working Group collected and reviewed the MOU signatory agency Tribal consultation policies, as well as other federal department and agency Tribal consultation policies to inform its efforts.

In November 2022, the Administration announced a new Presidential Memorandum on Uniform Standards for Tribal Consultation, developed in response to the plans and reporting of reforms undertaken pursuant to the President Memorandum of January 26, 2021. These new standards for Tribal consultation are incorporated into this Best Practices document.

⁴ Executive Order 13175, at Section 5(a), (Nov. 9, 2000), available at: <https://www.federalregister.gov/documents/2000/11/09/00-29003/consultation-and-coordination-with-indian-tribal-governments>.

⁵ *Id.* at Section 5(d).

⁶ White House, *Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships*, (January 26, 2021), available at: <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-on-tribal-consultation-and-strengthening-nation-to-nation-relationships/>.

⁷ Advisory Council on Historic Preservation, et al., *Memorandum of Understanding Regarding Interagency Coordination and Collaboration for the Protection of Tribal Treaty Rights and Reserved Rights*, (November 15, 2021), available at: <https://www.doi.gov/sites/doi.gov/files/interagency-mou-protecting-tribal-treaty-and-reserved-rights-11-15-2021.pdf>.

II. Purpose of the Best Practices Report

The Working Group has prepared this document to outline legal principles and best practices for integrating the consideration of Tribal treaty⁸ and reserved rights into agency consultation processes. Although the efforts of the Working Group have been directed at Tribal treaty and reserved rights, the application of these best practices applies with equal force to Tribal rights recognized by other sources of law, including Executive orders, statutes, regulations, or case law.

This Report serves several functions. First, it provides information about the existing federal policy framework governing both Tribal consultation and federal decision-making on treaty and reserved rights. Second, it serves as a record of Tribal input on this topic, summarizing both written and oral comments received during two consultation sessions and a written comment period; the Report provides an initial federal response to Tribal comments and recommendations made during tribal consultation on the MOU. Third, to improve the protection of treaty and reserved rights, this Report urges agencies to undertake a thorough review of their consultation policies and practices, while considering the principles and best practices identified in this Report.

III. Overview of Key Concepts and Legal Framework

Treaties are legally binding formal agreements between two or more sovereign nations and are, along with the Constitution and federal laws, the supreme law of the United States.⁹ Through these treaties, Indian Tribes ceded land and natural resources to the United States, while retaining all rights not expressly granted. The United States Supreme Court has affirmed this principle of reserved rights, explaining that treaties are “not a grant of rights to the Indians, but a grant of rights from them, a reservation of those not granted.” *United States v. Winans*, 198 U.S. 371, 381 (1905).

The United States Constitution’s Treaty Clause, Article II, Section 2, Clause 2, authorizes the President to make Treaties, with the concurrence of two thirds of the Senate. In total, the U.S. ratified approximately 374 treaties with Native nations. These treaties were not always entered into voluntarily by Tribal Nations. The United States sometimes failed to live up to Tribal treaties as the country expanded westward across the North American continent.

Tribal treaties, executive orders, judicial decisions, and other agreements not only recognize Tribal sovereign authority, but also reserve to Indian Tribes all rights not expressly granted to the United States. Treaties with Tribal Nations may explicitly secure rights to the Tribe, including lands, fishing and hunting rights, water rights, and goods and services such as food, education, and healthcare. In addition to expressing reservation of Tribal authority and property, Treaties also implicitly reserved Tribal rights necessary to further the purposes associated with the Treaty—often the creation of a Tribal homeland—including rights to water and other natural resources. Under the “reserved rights doctrine,” rights not addressed by Tribal treaty provisions are presumptively reserved, so long as the rights retained are consistent with

⁸ References here and throughout this document, when referring to “treaty” or “treaties,” are referencing treaties between the United States and Tribal nations, unless otherwise indicated.

⁹ An international organization may also be party to treaty.

federal law and the Tribe's sovereign status; agencies should generally interpret silence in a Tribal treaty in accordance with the reserved-rights doctrine. Tribal treaties are to be interpreted as a grant of rights from Tribes, and a reservation of those rights not granted; thus, Tribes possess proprietary and use rights and sovereign control not conveyed away by the Tribal treaty or other federal law. After 1871, other legal mechanisms were utilized by the various branches of government to recognize Tribal rights, including, but not limited to, Executive orders, military decrees, federal legislation, and judicial decisions.

Through Tribal treaties and other means, several Tribes exchanged some of their sovereign powers and lands for other interests, as well as the federal government's acknowledgement and assumption of a special duty of protection. *See, e.g., Worcester v. Georgia*, 31 U.S. 515, 552, 555 (1832). Many Tribal treaties include stipulations that the Tribe would be "under the protection of the United States," or similar language. *See, e.g., Treaty with the Cherokee*, July 2, 1791, Art II, 7 Stat. 39; *Treaty with the Navaho*, Sept. 9, 1849, Art. I, 9 Stat. 974. The Supreme Court has repeatedly recognized the federal government's duty of protection and a general trust relationship with Tribes. *See Board of Com'rs of Creek County v. Seber*, 318 U.S. 705, 715 (1943); *see also United States v. Jicarilla Apache Nation*, 564 U.S. 162, 173-74 (2011).

The Supreme Court has long applied "canons," or rules of interpretation, for Indian treaties. These include: (1) treaty language must be construed as the Indians would have understood it at the time of treaty negotiation; (2) doubtful or ambiguous expressions in a treaty should generally be resolved in favor of the Tribes; and (3) treaty provisions should be interpreted in light of the surrounding circumstances and history. *See Minnesota v. Mille Lacs Band of Chippewa Indians*, 526 U.S. 172, 196 (1999); *Oneida County, N.Y. v. Oneida Indian Nation of N.Y.*, 470 U.S. 226, 247 (1985); *Choctaw Nation of Indians v. United States*, 318 U.S. 423, 432 (1943). Furthermore, Congress must clearly express any intent to abrogate Indian treaty rights. *Herrera v. Wyoming*, 139 S. Ct. 1686, 1696 (2019). Agencies should be cognizant of these canons when making decisions that impact Tribal treaty, reserved rights, or other similar rights.

A. Executive Actions

The Executive Branch has expressly stated its policy of consulting with Tribal Nations on policies with Tribal implications via Executive Order 13175, *Consultation and Coordination With Indian Tribal Governments*, as well as through numerous federal policies and guidance documents on consultation and the consultation process. Executive Order 13175 explicitly references the United States' protection of Tribal Nations and the self-governance rights of Tribes inherent to Tribal sovereign powers.¹⁰ When formulating and implementing policies that have Tribal implications, the Executive Order directs federal agencies, to the extent permitted by law, to encourage Tribal Nations to develop their own policies to achieve agency program

¹⁰ Executive Order 13175, Sec. 2 Fundamental Principles (a) - "Since the formation of the Union, the United States has recognized Indian tribes as domestic dependent nations under its protection;" and (b) - "Our Nation, under the law of the United States, in accordance with treaties, statutes, executive orders, and judicial decisions, has recognized the right of Indian tribes to self-government. As domestic, dependent nations, Indian Tribes exercise inherent sovereign powers over their members and territory."

objectives;¹¹ to defer to Tribal standards where possible;¹² and, in determining whether to establish federal standards, to consult with Tribal officials as to the need for federal standards and any alternatives that would limit the scope of federal standards or otherwise preserve the prerogatives and authority of Indian Tribes.¹³ When departments and agencies undertake regulatory rulemakings that have Tribal implications, they are directed to consult with Tribal governments to the extent practicable and permitted by law.¹⁴ On issues relating to Tribal self-government, resources held in trust by the federal government on behalf of Tribes, or Tribal treaty or reserved rights, federal departments and agencies are directed to “explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.”¹⁵

In November 2022, the White House issued a Presidential Memorandum on Uniform Standards for Tribal Consultation. This report reaffirms and expands upon many of the principles from that Presidential Memorandum. Of particular importance is that the President identifies formal Tribal consultation as acknowledging the nation-to-nation relationship between federally recognized Tribes and the United States; acknowledges that the United States owes treaty and trust responsibilities to Tribal Nations; and recognizes Tribal sovereignty as the basis for consultation.

Treaties are substantive federal law of equal importance to other federal laws and obligations. Federal agencies must give effect to treaty rights and should seek to safeguard them as agencies contemplate action. When a federal agency is engaging in certain regulatory or other decision-making processes with Tribal implications, the agency must engage, through consultation, with Tribes to determine whether Tribal treaty or reserved rights would be impacted by the proposed federal action. Consistent with Executive Order 13175, when a federal agency is engaging in regulatory action, undertaking decisions, or commenting on legislation that affect Tribes, the federal-Tribal relationship or on the distribution of power between the federal government and Tribes, the agency shall engage, through consultation, with Tribes to determine whether Tribal treaty, reserved rights, or other similar rights would be impacted by the proposed federal action. Through consultation, agencies should give weight and effect to Tribal views on the nature and scope of the treaty and reserved rights. Agencies should inquire about Tribal perspectives of the likelihood and level of impact to those rights by the proposed agency action, and how to ensure that agency actions do not impair Tribes’ ability to exercise those rights.

It is not uncommon for Indian Tribes to raise treaty rights concerns during the Section 106 review required by the National Historic Preservation Act for proposed federal undertakings (see 54 U.S.C. § 306108). Cultural resources, including those of religious and cultural significance to Indian Tribes, are considered in the Section 106 process if the property meets the eligibility criteria for listing in the National Register of Historic Places. There may be instances in which a historic property may also be protected or impacted by treaty or reserved rights. The federal agency should assess potential impacts to treaty and reserved rights prior to proceeding

¹¹ *Id.* at Sec. 3 Policymaking Criteria (c)(1).

¹² *Id.* at Sec. 3 Policymaking Criteria (c)(2).

¹³ *Id.* at Sec. 3 Policymaking Criteria (c)(3).

¹⁴ *Id.* at Sec. 5 Consultation.

¹⁵ *Id.* at Sec. 5 Consultation (d).

with the Section 106 review for a proposed undertaking. Federal agencies should be prepared to explain to consulting parties how consideration of treaty or reserved rights may affect its decision-making.

B. United Nations Declaration on the Rights of Indigenous Peoples

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) has influenced federal policy towards Tribal Nations.¹⁶ The UNDRIP is a nonbinding document that discusses both the human rights of indigenous individuals and the collective rights of indigenous peoples.

The MOU on Treaty and Reserved Rights references the UNDRIP. Among the relevant provisions of the UNDRIP is Article 37:

“Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.”¹⁷

Although the U.S. voted against the UNDRIP when it was adopted in 2007, in 2010, it announced its support for the UNDRIP, noting that “[f]or the United States, the Declaration’s concept of self-determination is consistent with the United States’ existing recognition of, and relationship with, federally recognized Tribes as political entities that have inherent sovereign powers of self-governance.”¹⁸ The United States supports the Declaration, which – while not legally binding or a statement of current international law – has both moral and political force.

Of particular relevance to this document is this paragraph outlining the policy of the United States under the Obama-Biden Administration regarding Tribal consultation:

The United States intends to continue to consult and cooperate in good faith with federally recognized Tribes and, as applicable, Native Hawaiians, on policies that directly and substantially affect them and to improve our cooperation and consultation processes, in accordance with federal law and President Obama’s call for better implementation of Executive Order 13175. The United States does so with the firm policy objective, where possible, of obtaining the agreement of those Tribes consistent with our democratic

¹⁶ United Nations General Assembly, Declaration on the Rights of Indigenous Peoples, (October 2, 2007), available at: https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf; see also United States Department of State, “U.S. Announcement of Support for the United Nations Declaration on the Rights of Indigenous Peoples,” reprinted in DIGEST OF UNITED STATES PRACTICE IN INTERNATIONAL LAW 262 *et seq* (Elizabeth R. Wilcox ed., 2010) (“U.S. Announcement of Support”), available at <https://2009-2017.state.gov/documents/organization/154782.pdf>.

¹⁷ UNDRIP at 25-26. Also of relevance is Article 19, which reads “States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior, and informed consent before adopting and implementing legislative or administrative measures that may affect them.” The United States 2011 Statement of Support of UNDRIP “recognizes the significance of the Declaration’s provisions on free, prior and informed consent, which the United States understands to call for a process of meaningful consultation with tribal leaders, but not necessarily the agreement of those leaders, before the actions addressed in those consultations are taken.”

¹⁸ U.S. Announcement of Support, *supra* note 16 at 5.

system and laws. At the same time, the United States intends to improve our engagement with other indigenous individuals and groups. The United States will also continue to implement the many U.S. laws that require the agreement of federally recognized Tribes or indigenous groups before certain actions can be taken or that require redress for takings of property.¹⁹

IV. Consultation on Treaty and Reserved Rights MOU Implementation

The Treaty and Reserved Rights Work Group consulted with Tribal governments on the implementation of the Treaty and Reserved Rights Memorandum of Understanding, this Best Practices document, a Field Guide for Federal Staff, and a Flow Chart in September 2022. Two consultation sessions were held, and Tribal leader comments were invited before and during the consultations, including for a period of 30 days after the consultations.

V. Tribal Comments

In addition to comments received during two days of Tribal consultations, the Treaty and Reserved Rights Work Group received written comments from twenty-four (24) Tribes and two Tribal organizations.

While most Tribes expressed support for the efforts of the Tribal Treaty Rights (TTR) MOU and the three best practices documents it was equally clear that Tribal governments believe there are many opportunities to improve the federal government's identification and protection of Tribal treaty and reserved rights. Tribal input received during the consultations identified systemic opportunities to improve the way federal agencies solicit and account for Tribal input regarding the protection of Tribal treaty and reserved rights and repeatedly emphasized the need for government-wide consistency in federal Tribal consultation efforts.

A more detailed Tribal Consultation Summary Report will be available on the White House Council on Native American Affairs (WHCNA) website and shared with Tribes who shared verbal or written consultation comments.

Summary of Tribal Comments

Tribes and Tribal organizations made over 30 recommendations in relation to the Best Practices Documents. They also made several comments about improving consultation generally and made several legislative recommendations. Specific responses will be developed in a Tribal Consultation Summary Report, which will be attached to this document as a future appendix.

Tribal comments acknowledged the importance of protecting Tribal treaty rights, while also underscoring that an emphasis on Tribal treaty rights should not diminish other Tribal rights. Tribal comments called on the U.S. to maintain a government-to-government relationship and fulfill the trust responsibility to all Indian Tribes irrespective of individual treaty status. One Tribal organization and a coalition of recently federally recognized Tribes stressed the need for the federal government to honor the treaties that were made by Tribes before the creation of the United States, through the Doctrine of Universal Succession.

¹⁹ *Id.*

Tribes requested additional consultation on the MOU and that the WHCNAA furnish a list of the 17 agencies' consultation policies reviewed by the TTR MOU Work Group to tribal officials for review and consideration.

Tribes were extremely supportive of the statement that "treaties are substantive law" but commented that the implementation of this fundamental principle through decision-making and regulatory drafting is lacking. Tribes asserted agencies have a legal duty and a trust responsibility to uphold Tribal treaty rights and protect and improve treaty-reserved resources, not whenever convenient or "where applicable," but in all matters and manners. Tribes stated that treaty rights are not subject to an agency's discretion.

Tribes raised concerns regarding agency identification of treaty rights and urged that Tribes should be part of the process for identifying treaty rights that may be impacted by a proposed federal action. Tribes called for agencies to revise their permit applications to include requirements to identify potential Tribal impacts, which would trigger agency consultation requirements. Tribes pointed to federal regulations as failing to require affirmative steps to ascertain whether treaty or reserved rights may be impacted by an agency action. Multiple Tribal comments emphasized the need for agencies to recognize the need for earlier interagency collaboration and coordination where projects or decisions implicate multiple treaties or where there are overlapping federal agency interests.

Tribes were supportive of the training efforts begun by the TTR MOU Work Group but urged agencies to require annual federal training for all federal employees, including managers and political leadership. In regional and field offices, training should be developed in consultation and with the participation of Tribal governments, particularly regarding treaties and other agreements creating Tribal rights in the areas in which they serve and their abrogation and historical treatment of Tribes by the United States, to develop cultural competency of federal staff.

Tribes raised concerns with consultation generally. Tribes highlighted the need for consistency of Tribal consultation policies and processes across federal departments and agencies, including when Administrations change after elections. They called for harmonization of agency Tribal consultation policies and processes as a means of reducing the resource and administrative burden that variations place on Tribal governments. Tribal leaders stressed the need for agencies to ensure that they are communicating only with designated Tribal leaders during consultation. Tribes asked federal agencies to ensure that officials with decision making authority be present at Tribal consultations, as well as to commit to a singular, government-wide, Tribal consultation calendar.

Tribes spoke of a need for agencies to develop Tribal protocols. Tribes recommended that each agency should develop culturally and historically sensitive protocols for consultation, respectful of Tribally enacted consultation policies and laws, to improve regular communication, provide better service, promote information sharing, respect Tribal sovereignty, and reduce resource constraints on Tribal governments.

Tribes expressed concern over agency, office, and mission “siloeing”, causing agencies to fail to see fully how the federal trust responsibility may be impacted by a decision or action. Tribes called for a “Whole of Government” approach and emphasized that the burden should be on agencies to facilitate multi-agency coordination efforts when federal actions implicate treaty or reserved rights. Tribes clarified that some treaty and reserved rights are exercised outside of ceded land boundaries and urged agencies to inquire about historical land use and lands of cultural significance. They urged agencies to inquire about historical context and look holistically beyond treaties to other relevant documents, agreements, executive orders, and judicial decisions.

The topics of consensus and free, prior, and informed consent were raised by multiple Tribes. Some Tribes characterized current federal consultation practice solely as information sharing and listening to differing perspectives, and noted consultation requires neither consensus, nor consent on the part of Tribes. Tribes urged a return to the practice of seeking consent when treaty rights are implicated. Meaningful consultation requires sovereigns to have an open dialogue to identify relevant treaties and work in good faith towards consensus in federal decision-making and regulatory development that may impact Tribal interests, particularly where Tribal treaty and reserved rights may be impacted. Where there may be Tribal treaty impacts, Tribes asserted that the federal government go beyond simply considering Tribal treaty and reserved rights and require agencies to secure the free, prior, and informed consent of Tribal Nations. Some Tribes pointed out that their treaty language specifically requires Tribal consent for federal actions.

Tribes expressed concern that states continue to undermine treaty rights in a variety of areas. Tribes pointed to instances of being forced to litigate state restrictions on exercising treaty rights to hunt and fish. Tribes asserted that the federal government’s treaty and trust responsibility should stop looking at how treaty rights are diminished but should aspire to enhance treaty and trust resources and called for expanded detail on the duties of care for each federal trustee.

Tribes also called for greater awareness and protection of culturally sensitive resources and lands. Concerns regarding the public release of potential agency mapping of culturally sensitive, religious, and anthropological significance were expressed. Multiple Tribes requested the Administration seek an amendment to the Freedom of Information Act (FOIA) to exempt culturally sensitive information shared with agencies during consultation from public disclosure.

Tribes cited a need for an enforcement mechanism to ensure that agencies are held accountable to the best practices identified in this report. Tribes were cautiously optimistic about a dispute resolution or elevation mechanism but stated that treaty rights were not subject to agency determinations.

Tribes called for more thorough follow up with tribes following consultation. Tribes want to know how the information they shared with federal agencies was utilized and impacted the final agency decision or regulation, or if it did not, why their information or concerns were not utilized or addressed.

VII. Key Principles and Recommendations from the Work Group

The Administration has stated that respect for Tribal treaty rights is a cornerstone of federal Indian policy.²⁰ Federal agencies should work to improve their processes for identifying Tribal treaty, reserved and similar rights, and undertake, through Tribal consultation, how to protect treaty-protected rights and enhance trust resources consistent with the applicable treaties and authorities provided in federal law.

This Report serves as a first step toward identifying and recommending actions and best practices that federal agencies can implement to honor Tribal treaty, reserved, and other similar rights; to update and strengthen Tribal consultation policies to help protect those rights; and to improve the government-to-government relationship. The following principles and recommendations have been revised based on the Tribal feedback received during the consultation sessions and written comment period.

This effort is undertaken as a living document with the hope that it can be revisited and continually improved as Tribes and federal agencies learn to better provide for treaty protection of Tribal resources.

A. Fundamental Principles for Tribal Consultation Policies

Agencies should consider including the following fundamental principles in consultation policies:

1. Federal Tribal consultation policies should strive for uniformity, including using common definitions, processes, and time frames, for purposes of consistency, ease of Tribal use, and for promoting a whole-of-government approach.
2. Tribes are sovereign nations with self-governance and self-determination rights.²¹
3. Tribes have a two-way Nation-to-Nation relationship with the United States.
4. Tribal consultation may be initiated at the request of a Tribal government.
5. Tribal treaties are substantive federal law and do not derive from other federal statutes.
6. Treaties, like the U.S. Constitution and federal statutes, are the supreme law of the land.²²
7. Tribal treaties are binding legal agreements between or among two or more sovereign nations.
8. Tribal consultation should be meaningful. A meaningful consultation is, among other inclusive practices: carried out in a timely, efficient, and responsive manner; transparent,

²⁰ White House, *Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships*, Jan. 26, 2021, available at: <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-on-tribal-consultation-and-strengthening-nation-to-nation-relationships/>. “It is a priority of my Administration to make respect for Tribal sovereignty and self-governance, commitment to fulfilling Federal trust and treaty responsibilities to Tribal Nations, and regular, meaningful, and robust consultation with Tribal Nations cornerstones of Federal Indian policy.”

²¹ This reference to Tribal self-determination is distinct from the right of peoples to self-determination in international law; it is consistent with the United States’ existing recognition of, and relationship with, federally recognized Tribes as political entities that have inherent sovereign powers of self-governance. This statement also applies to all Tribes, not just those with self-determination contracts or self-governance compacts under the Indian Self-Determination and Education Assistance Act of 1979, Pub. L. 93-638, as amended.

²² U.S. Const. art. VI, cl. 2.

and predictable; accessible, reasonable, flexible, and fair; founded in the principles of good faith and respectful of the sovereignty of Indian Tribes; and includes reasonable accommodation (e.g., changing of timelines, project parameters), where appropriate.

9. The general trust relationship is between the United States (including all agencies of the federal government) and Indian Tribes, in which the government “has charged itself with moral obligations of the highest responsibility and trust.”²³ The nature of the trust relationship is defined by federal law (i.e., treaties, statutes, executive orders, federal regulations) and can include particular duties or fiduciary obligations.
10. Tribal consultation policies should incorporate a process for notifying, coordinating and collaborating with other federal agencies if multiple agencies have a vested interest in an action or decision, especially when that federal action or decision may implicate multiple Tribal Nations and/or multiple Tribal treaties.
11. Tribal consultation requires that information obtained from Tribes be given meaningful consideration and should strive for consensus or a mutually desired outcome. Tribal consultation policies should acknowledge that information received from Tribes will be given meaningful consideration.
12. Tribal consultation should generally include both federal and Tribal officials with decision-making authorities regarding the proposed policy that has Tribal implications. The head of each agency should ensure that federal representatives with appropriate expertise and, to the extent practicable, decision-making authority regarding the proposed policy are present at the nation-to-nation consultation.
13. The head of each agency should consider conducting the consultation in a manner that prioritizes participation of official Tribal government leaders. Tribal consultation policies should state that if federal agencies receive information during consultation from a source other than a Tribal government official, the agency should ascertain whether that source has appropriate Tribal authority to speak for the Tribal government, by communicating directly with Tribal government officials.
14. Agencies should be familiar with Tribally enacted consultation laws, statutes, policies, or protocols and, as appropriate, develop mutually agreed upon consultation protocols tailored to the consultation standards of individual Tribes. Employees of federal agencies and Tribal nations can and should maintain open channels of communication and readily share information. Such communication is not consultation, nor does informal engagement between federal agency and Tribal nation staff serve as a substitute for consultation and the nation-to-nation relationship.
15. In conducting the consultation agencies are required to respect and elevate Indigenous Knowledge including cultural norms and practices relevant to such consultations.
16. Tribal consultation policies should identify the department’s or agency’s process for notifying Tribes of how the Tribal input influenced the federal decision-making after the consultation has concluded and the federal decision or action has been made.
17. All of these principles should be applied to the extent practicable and permitted by law.

²³ *Seminole Nation v. United States*, 316 U.S. 286 (1942).

B. Best Practices for Tribal Consultation Processes

Agencies are encouraged to consider the following best practices to better establish and implement consultation policies.

1. **Begin Early:** Consultation should begin early in a project, policy, or other federal action planning. Federal agencies should consult with potentially affected Tribes before decisions on regulatory policies affecting Tribal interests (or other actions that trigger consultation under the agency's consultation policy) are made. Agency heads should ensure that agency staff undertake an analysis to determine whether consultation is required or appropriate as early as possible in their planning efforts, regardless of whether a Tribal government requests consultation. When a Tribal government requests consultation, the agency should conduct a similar analysis and respond to the Tribe within a reasonable time.
2. **Establish Protocols:** Federal agencies should develop consultation protocols ahead of time (including effective notice, establishing minimum consultation periods and timelines for written comments, ensuring appropriate access, agency follow-up) to formalize how consultation will occur.²⁴ Agencies should inquire regarding Indigenous Knowledge and Tribally developed consultation policies/processes/protocols and be respectful of those protocols in seeking consultation. In conducting the consultation agencies are required to respect and elevate Indigenous Knowledge including cultural norms and practices relevant to such consultations.
3. **When to Consult:** If there is any question as to whether an agency policy will have Tribal implications, then consultation should be conducted. In consultation with potentially affected Indian Tribe(s), federal departments and agencies should assess whether Tribal treaty, reserved rights, or other similar rights are affected by the proposed action.
 - Do treaties, reserved rights, or other similar rights exist that are implicated by proposed agency actions?
 - What Tribal treaty rights, reserved rights, or other similar rights may exist in, or what Tribal treaty-protected resources rely upon, the area affected by the proposed action? How might Tribal treaty rights, reserved rights, or other similar rights potentially be affected by the proposed action?
4. **Identify the Appropriate Federal Decisionmaker:** Given the subject matter (treaty and/or reserved rights), each agency should ensure that federal representatives with appropriate expertise and, to the extent practicable, decision-making authority regarding the proposed policy are present at consultation.

²⁴ See Advisory Council on Historic Preservation, *CONSULTATION WITH INDIAN TRIBES IN THE SECTION 106 REVIEW PROCESS: THE HANDBOOK*, p. 15/33 (2021), available at: <https://www.achp.gov/sites/default/files/2021-06/ConsultationwithIndianTribesHandbook6-11-21Final.pdf>. See also United States Department of the Air Force, Interactions With Federally Recognized Tribes, Instruction 90-2002, at p. 19, available at: <https://www.denix.osd.mil/na/policy/dod-instructions/af-instruction-90-2002/Tab%20USAF%20Instruction%2090-2002%20Interactions%20with%20Federally%20Recognized%20Tribes%2024%20Aug%202020%20FINAL.pdf>.

5. **Creating Effective Notice:** Consultation should be scheduled such that the Tribe(s) are given timely, adequate notice, absent extenuating circumstances. Notice should, to the extent practicable, be sent at least 30 days in advance to allow participation by interested Tribe(s). Most Tribal comments recommended at least 60-day notice periods to allow for Tribal governmental actions to provide meaningful comments. Dear Tribal Leader Letters are often used to provide notice, in addition to publishing in the Federal Register, and posting on agency websites.

The federal government should create and thereafter regularly maintain a single comprehensive list of Tribal governmental leadership who would receive electronic notification of consultation opportunities.

6. **Read-Ahead Materials with Notice:** The consultation notice should include all pertinent information about the topic of the consultation, including an agenda, framing paper, and relevant legal or other documents (including identifying potentially relevant treaties) already collected or prepared in anticipation of the consultation or action. This could be a draft proposal, analysis, and initiatives. The materials should identify the agency's current understanding of what Tribal treaty rights, reserved rights, or other similar rights may be implicated and invite a tribal response to better inform agency decision-making.

7. **Access:** Federal agencies should provide consultation opportunities that will be accessible and convenient to Tribal participants.

8. **Notifying Appropriate Tribal Participants:** Federal agencies should notify and invite all potentially affected Tribes to consult. For purpose of determining/identifying Tribes that may have Tribal treaty rights, reserved rights, or other similar rights implicated by a proposed agency action, invite Tribes with historical or cultural connections to the project area to consult regardless of the Tribe's current location. Note: Tribal traditional and historical lands may be located far from a Tribe's existing reservation. Off- reservation rights to hunt and fish may be located on lands that are not treaty-ceded land.

9. **Meaningfully Consider Information Received from Tribal Nations:** Information obtained from Tribes should be given meaningful consideration; this can happen only if Tribes are both properly informed and Tribal input is solicited early enough in the planning process that it may actually influence the decision to be made.

10. **Information from Non-Tribal Government Official:** When agencies receive information during consultation from a source other than a Tribal government official, the agency should ascertain whether that source has appropriate Tribal authority to speak for the Tribal government, by communicating with Tribal government officials.

11. **Inter-agency Consultations:** Federal agencies should identify and notify all potentially relevant departments and agencies that may have an interest in the proposed action, decision or regulation and coordinate their collaboration in the consultation and decision-making.

12. **Treaty Research Pre-Consultation:** Agencies should seek to review every treaty a Tribe has entered into when conducting research for consultation related to a Tribal treaty right,

reserved right, or other similar right matter (rather than just the most recent treaty) to understand historical context and identify potential rights, resources or impacted historical lands.

13. **Indigenous Knowledge (IK):** Consistent with the Indigenous Knowledge Guidance announced at the 2022 White House Tribal Nations Summit, federal agencies should consider opportunities to apply IK consistent with Tribal direction. Application of IK should follow dialogue between federal agencies and Tribes that identifies the proposed application of the IK as well as the associated benefits and risks to allow Tribes to decide whether to share IK. As part of this dialogue, federal agencies should inform Tribal representatives that certain federal laws (e.g., FOIA) may require disclosure of information provided by the Tribe. Federal agencies should take measures to preserve the confidentiality of any sensitive IK consistent with Tribal direction and the law.

14. **Decision-making and the Indians Canons of Construction:** Briefing materials prepared for the decisionmaker should include the Indians Canons of Construction and the judicial branch's long-standing positions regarding Tribal treaty interpretation.

- a. Federal officials, departments, and agencies should endeavor to interpret Tribal treaty and reserved rights, in consultation with Indian Tribes, as they would have been understood by the Indian Tribes at the time of Tribal treaty signing.
- b. Federal officials, departments, and agencies should recognize that ambiguous Tribal treaty provisions are to be interpreted in the Indian Tribe's favor, in consultation with Indian Tribes.

15. **Considering Multiple Perspectives:** The existence, nature, or scope of an asserted Tribal right may not be clearly established, or may be disputed by other Tribes, third parties, or others. In these instances, agencies should carefully consider information and views provided by Tribes and coordinate within their agency (and as appropriate, with other agencies with related interests and responsibilities that may be impacted by the decision) before addressing any such disputes in agency decision-making.

16. **Record of Consultation:** In accordance with the Presidential Memorandum on Uniform Standards for Consultation, for any consultation required under E.O. 13175, each agency must maintain a record of the consultation process that includes: a summary of Tribal input received; an explanation of how Tribal input influenced or was incorporated into the agency action; and the reasoning for why Tribal suggestions were not incorporated into the agency action or why consensus could not be attained. Each agency shall disclose to the affected Tribe(s) the outcome of the consultation and decisions made as a result of consultation in a timely manner. To the extent permitted by applicable law, the head of each agency should seek to ensure that information designated as sensitive by a Tribal government is not disclosed. For national and regional consultations, or if otherwise appropriate, the head of each agency should also consider publicly posting the record of consultation.

17. **List of Potentially Impacted Treaties:** Federal agencies should utilize an established Tribal treaty database to identify any treaties that may be affected by a proposed consultation. Potential databases include the Oklahoma State Tribal Treaty Database tool

(<https://treaties.okstate.edu/>) or the National Archives Digital Tribal Treaty Database (<https://www.archives.gov/research/native-americans/treaties/catalog-links>).

18. **Mapping Areas of Agency Operations:** Agencies should map the spaces in which they operate (i.e., in which they carry out actions, or permit, license, or assist actions), in consultation with Tribes, to help illustrate where agency actions may impact Tribal treaty rights, reserved rights, or similar rights. Such mapping may consider:

- Where are agency installations, offices, or other facilities?
- What physical territory does an agency administer or manage?
- In what areas does the agency license, permit, or fund actions?
- What Tribes may have cultural, ancestral, or historical connections to such spaces?
- What Tribes' natural or cultural resources may be implicated by agency actions?

19. **Training for Federal Staff:** Federal agency staff should be trained on appropriate consultation protocols; Tribal treaty rights, reserved rights, and other similar rights; and working with Tribal governments. Agency regional and field staff should receive regular annual trainings on the treaties for the geographic areas in which they serve. Agencies should develop regional trainings, in consultation and coordination with the Tribes in the area in which they serve, relating to the applicable treaties of that service area.

20. **Permitting and Regulatory Processes:** Federal departments and agencies should undertake a review of permitting forms and regulatory development processes to identify whether agencies are asking the threshold question of whether there is the potential for a Tribal impact in an agency action, decision, or proposed regulation and, where allowable, modify those permits or processes to require that that question be asked.

21. **Particular Expertise in Federal Attorney Offices:** Federal agencies should have attorney and program staff with expertise in federal Indian law. Consistent with the *Executive Order on Diversity, Equity, Inclusion, and Accessibility* in the Federal Workforce, agencies should consider inclusion of persons with Tribal perspectives on Indian law in its diversity and inclusion efforts.

22. **All-of-Government Tribal Consultation Calendar:** The WHCNA should strive to establish a single federal Tribal consultation calendar as a means of reducing administrative burdens on Tribes to track Tribal consultations across multiple federal agencies pursuant to its authority under Executive Order 13647 *Establishing the White House Council on Native American Affairs* Sec. 4(c), to coordinate a more efficient and effective process for Tribal consultation among departments and agencies.

IX. Definitions in Federal Consultation Policies – To be defined through additional tribal consultations

Following President Biden's 2021 Presidential Memorandum, many agencies undertook Tribal consultations on agency consultation policies. In these consultations, Tribes pointed out the lack of consistency in definitions among agency consultation policies, resulting in additional administrative cost to Tribal governments. While Tribal comments were supportive of efforts to

harmonize Tribal consultation policies and processes to ease administrative burden on Tribal government resources, Tribes specifically requested additional consultation on the development of these terms.

The Treaty and Reserved Rights Work Group recommends that the White House Council on Native American Affairs continue to coordinate departments and agencies in harmonizing consultation terms relating to treaty and reserved rights, with additional Tribal consultation as appropriate. The Treaty and Reserved Rights Work Group recommends that agencies and departments whose existing policies do not currently contain “Definition” or “Glossary” sections should add this section pursuant to the above process.

XV. Conclusion

There is ample opportunity for continued improvement of the federal government’s commitment to honor Tribal treaty rights, reserved rights, or other similar rights; protect Tribal treaty and enhance trust resources; and consult with Tribes on a government-to-government basis. Treaty rights and the trust responsibility are matters for the entirety of the federal government to abide by, not just the seventeen signatories of this Memorandum of Understanding. But it is by laying the groundwork here that the federal government recommits itself to those ideals and recognizes that by continuing to improve these Best Practices, it will improve the federal-Tribal relationship and meet U.S. obligations under its treaties with Tribal sovereign nations.

Appendix B – Presidential Memorandum on Uniform Standards for Tribal Consultation

Presidential Documents

Title 3—**The President****Memorandum of November 30, 2022****Uniform Standards for Tribal Consultation****Memorandum for the Heads of Executive Departments and Agencies**

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Background. The United States has a unique, legally affirmed Nation-to-Nation relationship with American Indian and Alaska Native Tribal Nations, which is recognized under the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions. The United States recognizes the right of Tribal governments to self-govern and supports Tribal sovereignty and self-determination. The United States also has a unique trust relationship with and responsibility to protect and support Tribal Nations. In recognition of this unique legal relationship, and to strengthen the government-to-government relationship, Executive Order 13175 of November 6, 2000 (Consultation and Coordination With Indian Tribal Governments), charges all executive departments and agencies (agencies) with engaging in regular, meaningful, and robust consultation with Tribal officials in the development of Federal policies that have Tribal implications. Executive Order 13175 also sets forth fundamental principles and policymaking criteria.

The Presidential Memorandum of January 26, 2021 (Tribal Consultation and Strengthening Nation-to-Nation Relationships), requires agencies to submit detailed plans of action to implement the policies and directives of Executive Order 13175. In response, all agencies subject to Executive Order 13175 submitted plans of action, including over 50 agencies that submitted a consultation plan of action for the first time. Agencies also conducted more than 90 national-level Tribal consultations, focusing specifically on agency Tribal consultation policies. The purpose of this memorandum is to establish uniform minimum standards to be implemented across all agencies regarding how Tribal consultations are to be conducted. This memorandum is designed to respond to the input received from Tribal Nations regarding Tribal consultation, improve and streamline the consultation process for both Tribes and Federal participants, and ensure more consistency in how agencies initiate, provide notice for, conduct, record, and report on Tribal consultations. These are baseline standards; agencies are encouraged to build upon these standards to fulfill the goals and purposes of Executive Order 13175 consistent with their unique missions and engagement with Tribal Nations on agency-specific issues.

Sec. 2. Consultation Principles. Tribal consultation is a two-way, Nation-to-Nation exchange of information and dialogue between official representatives of the United States and of Tribal Nations regarding Federal policies that have Tribal implications. Consultation recognizes Tribal sovereignty and the Nation-to-Nation relationship between the United States and Tribal Nations, and acknowledges that the United States maintains certain treaty and trust responsibilities to Tribal Nations. Consultation requires that information obtained from Tribes be given meaningful consideration, and agencies should strive for consensus with Tribes or a mutually desired outcome. Consultation should generally include both Federal and Tribal officials with decision-making authority regarding the proposed policy that has Tribal implications. Consultation will ensure that applicable information is readily available to all parties, that Federal and Tribal officials have adequate time

to communicate, and that after the Federal decision, consulting Tribal Nations are advised as to how their input influenced that decision-making. All of these principles should be applied to the extent practicable and permitted by law.

Sec. 3. *Designating an Agency Point of Contact for Tribal Consultation.*

(a) The head of each agency shall designate a primary point of contact for Tribal consultation matters who is responsible for advising agency staff on all matters pertaining to Tribal consultation and serving as the primary point of contact for Tribal officials seeking to consult with the agency.

(b) The head of each agency shall consider designating additional points of contact as necessary to facilitate consultation on varied subject matter areas within the agency.

(c) Each agency shall provide the names and contact information of the designated agency points of contact for Tribal consultation on its website, as well as to the White House Office of Intergovernmental Affairs and the White House Council on Native American Affairs.

(d) The designated agency points of contact may delegate consultation responsibilities to other decision-making agency officials within their agency as necessary and appropriate.

Sec. 4. *Determining Whether Consultation Is Appropriate.* The head of each agency shall ensure that agency staff undertake an analysis as early as possible to determine whether Tribal consultation is required or appropriate consistent with Executive Order 13175. This analysis should occur regardless of whether a Tribal government requests consultation. When a Tribal government requests consultation, the agency—to the extent that it has not yet performed the analysis to determine whether consultation is appropriate—shall conduct that analysis as soon as possible and respond to the Tribe within a reasonable time period. If there is a reasonable basis to believe that a policy may have Tribal implications, consistent with the definition in Executive Order 13175, the agency shall follow the applicable requirements for consultation. Agencies may still engage in Tribal consultation even if they determine that a policy will not have Tribal implications, and should consider doing so if they determine that a policy is of interest to a Tribe or Tribes.

Sec. 5. *Notice of Consultation.* (a) When inviting a Tribe or Tribes to consult, the head of each agency should:

(i) develop a notice of consultation, which includes:

(A) sufficient information on the topic to be discussed, in an accessible language and format, and context for the consultation topic, to facilitate meaningful consultation;

(B) the date, time, and location of the consultation, as requested by the agency or as developed in consultation with the Tribe or Tribes;

(C) if consulting virtually or by telephone, links to join or register in advance;

(D) an explanation of any time constraints known to the agency at that time, such as statutory deadlines;

(E) deadlines for any written comments on the topic; and

(F) names and contact information for agency staff who can provide more information;

(ii) transmit the notice of consultation, using the agency's standard method of communication, to each affected Tribal government and consider posting it to the agency's website or any centralized Federal Government site for providing notice of or coordinating Tribal consultations;

(iii) provide notice of at least 30 days to the Tribe or Tribes of any planned consultations, except as provided in subsection (c) of this section;

(iv) provide appropriate, available information on the subject of consultation including, where consistent with applicable law, a proposed agenda,

framing paper, and other relevant documents to assist in the consultation process; and

(v) allow for a written comment period following the consultation of at least 30 days, except as provided in subsection (c) of this section.

(b) The head of each agency shall ensure that agency officials responsible for sending invitations to consult to interested or potentially affected Tribal governments use available tools, databases, and agency documentation, as well as communicate with agency representatives who may be knowledgeable about those Tribes and the location(s) affected by the policy with Tribal implications, to ensure their invitation efforts are appropriately inclusive. Such efforts should account for the fact that Tribes may have connections or legally protected rights to locations and resources beyond their current Tribal lands and Tribal government offices such as off-reservation fishing, hunting, gathering, or other rights.

(c) If there are time constraints such that 30 days' notice of consultation is not possible, or that the post-consultation written comment period described in subsection (a)(v) of this section must be shorter than 30 days, the notice of consultation should include information as to why the standard notice or written comment period cannot be provided. Upon the request of a Tribe, or where it would serve Tribal interests or fulfill certain trust obligations to Tribal Nations, agencies should consider adjusting deadlines for notice of consultations and for accepting written comments.

Sec. 6. *Conducting the Consultation.* Throughout a consultation, the head of each agency, or appropriate representatives, shall recognize and respect Tribal self-government and sovereignty; identify and consider Tribal treaty rights, reserved rights, and other rights; respect and elevate Indigenous Knowledge, including cultural norms and practices relevant to such consultations; and meet the responsibilities that arise from the unique legal relationship between the Federal Government and Tribal governments. The head of each agency should ensure that agency representatives with appropriate expertise and, to the extent practicable, decision-making authority regarding the proposed policy are present at the Nation-to-Nation consultation. The head of each agency should consider conducting the consultation in a manner that prioritizes participation of official Tribal government leaders.

Sec. 7. *Record of the Consultation.* (a) The head of each agency shall maintain a record of the consultation process that includes:

(i) a summary of Tribal input received;

(ii) a general explanation of how Tribal input influenced or was incorporated into the agency action; and

(iii) if relevant, the general reasoning for why Tribal suggestions were not incorporated into the agency action or why consensus could not be attained.

(b) The head of each agency shall timely disclose to the affected Tribe or Tribes the outcome of the consultation and decisions made as a result of the consultation. To the extent permitted by applicable law, the head of each agency shall seek to ensure that information designated as sensitive by a Tribal government is not publicly disclosed. Agencies should obtain advance informed consent from Tribal communities for the use of sensitive information provided by the Tribe, and should inform Tribal representatives that certain Federal laws, including the Freedom of Information Act, may require disclosure of such information.

(c) For national and regional consultations, or if otherwise appropriate, the head of each agency should also consider publicly posting the record of consultation to foster ease of reference and use by other agencies, employees, and processes, and to minimize burdens on Tribes to provide similar input in multiple consultations. Decisions regarding whether to publicly post a record of consultation should be made with Tribal input.

(d) The record of consultation does not waive any privilege or other exception to disclosure pursuant to the Freedom of Information Act or its implementing regulations.

Sec. 8. Training. (a) The head of each agency shall require annual training regarding Tribal consultation for agency employees who work with Tribal Nations or on policies with Tribal implications. This training shall include, at minimum, review of Executive Order 13175, this memorandum, and any applicable Tribal consultation policy of the agency.

(b) In addition, the Secretary of the Interior and the Director of the Office of Personnel Management (OPM), in consultation with Tribal Nations, shall establish training modules regarding Tribal consultation to be available for agency employees who work with Tribal Nations or on policies with Tribal implications. These training modules should explain the concepts of Tribal consultation, the Nation-to-Nation relationship, and Tribal sovereignty. Agencies may use these training modules to satisfy the annual training requirement set forth in subsection (a) of this section.

(c) Within 180 days of the date of this memorandum, the Director of OPM, in consultation with the Secretary of the Interior, shall report to the President on progress toward establishing training modules regarding Tribal consultation and shall identify additional resources or other support necessary to implement this training.

Sec. 9. Definitions. The terms “Tribal officials,” “policies that have Tribal implications,” and “agency” as used in this memorandum are as defined in Executive Order 13175. The terms “Tribes” and “Tribal Nations” as used in this memorandum have the same definition as the term “Indian Tribe” as defined in Executive Order 13175.

Sec. 10. Scope. Nothing in this memorandum shall be construed to impair or otherwise affect the ability of heads of agencies to set more specific or more stringent standards, or to incorporate other best practices, for conducting Tribal consultation.

Sec. 11. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

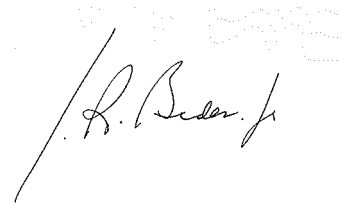
(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) Independent agencies are strongly encouraged to comply with the provisions of this memorandum.

(e) The Director of the Office of Management and Budget is authorized and directed to publish this memorandum in the *Federal Register*.

A handwritten signature in black ink, appearing to read "R. B. Biden", is written over a faint, dotted grid pattern.

THE WHITE HOUSE,
Washington, November 30, 2022

[FR Doc. 2022-26555
Filed 12-2-22; 11:15 am]
Billing code 3110-01-P

C. Definitions and List of Abbreviations

AST – Absentee-Shawnee Tribe

ACHP – Advisory Council on Historic Preservation

ACTT – Alabama-Coushatta Tribe of Texas

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

AQTT – Alabama-Quassarte Tribal Town (AQTT)

ATMS – Automated Traffic Management Systems

CAV – Connected Autonomous Vehicle

CCTV – Closed Circuit Television

CE – Categorical Exclusion

CFR – Code of Federal Regulations

CHN – Chickasaw Nation

CIN – Catawba Indian Nation

CLGs – Certified Local Governments

CMS – Changeable Message Signs

CN – Cherokee Nation

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

CTL – Coushatta Tribe of Louisiana

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

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

GDOT Section 106 Cultural Resources Manual

EBCI – Eastern Band of Cherokee Indians

EST – Eastern Shawnee Tribe

EER – Environmental Effects Report

EIS – NEPA Environmental Impact Statement

Environmental Coordinator – FHWA, Georgia Division Environmental Review Coordinator

EPM – GDOT Environmental Procedures Manual Guidebooks. The EPM Guidebooks are GDOT's guidance for design and environmental professionals to develop its program in compliance with all federal and state laws as applicable. In particular, the Cultural Resource Guidebooks of the EPM provide the practical project level requirements for SOI qualified professionals to conduct cultural resources surveys, evaluate resources for eligibility, assess effects to eligible resources, and prepare the associated documentation. The EPM Guidebooks are available on GDOT's website:

<https://www.dot.ga.gov/GDOT/pages/EnvironmentalProcedures.aspx>.

EVSE – Electric Vehicle Supply Equipment as defined in the ACHP Exemption Regarding Historic Preservation Review Process for Undertakings Involving Electric Vehicle Supply Equipment.

<https://www.achp.gov/sites/default/files/exemptions/2022-11/Exemption%20for%20Electric%20Vehicle%20Supply%20Equipment%2010.26.22.pdf>

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.
<https://www.gnahrgis.org/PublicHome>

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 Community Affairs - Historic Preservation Division

ITS – Intelligent Transportation Systems

JBCI - Jena Band of Choctaw Indians

KTT – Kialegee Tribal Town

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.

Limited Access Roadway – Multi-lane roadways including interstates and certain segments of state routes where access to and from the roadway is limited to interchanges with grade separations.

MBCI – Mississippi Band of Choctaw Indians

MCN – Muscogee (Creek) Nation

MOA – Memorandum of Agreement

MPTCE – Minimal Potential to Cause Effect. Projects with minimal potential to effect historic properties as defined in Stipulation VII.B of the PA and Section 5.3 of the CR Manual.

MTIF – Miccosukee Tribe of Indians of Florida

NAGPRA – Native American Graves Protection and Repatriation Act

NEVI – National Electric Vehicle Infrastructure Deployment Program

NRHP – National Register of Historic Places

NHPA - National Historic Preservation Act

OCGA – Official Code of Georgia

OES – Office of Environmental Services

Operational Right-of-Way - all features associated with the physical footprint of the project including but not limited to the roadway, bridges, interchanges, culverts, drainage, clear zone, traffic control signage, landscaping, and any rest areas with direct access to a controlled access roadway. This also includes fixed guideways, mitigation areas, areas maintained or used for safety and security of a transportation facility, parking facilities with direct access to an existing transportation facility, transportation power stations, transportation venting structures, and transportation maintenance facilities as defined in 23 CFR 771.117(c)(22).

OSA – Office of the State Archaeologist

PA – Programmatic Agreement

PAR – Permanent Archival Record

PCBI – Poarch Band of Creek Indians

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)

PHB – Pedestrian Hybrid Beacon

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

RRFB – Rectangular Rapid Flashing Beacon

SAD – South Atlantic Division

SHPO – State Historic Preservation Officer

SME – Subject Matter Expert

SNO – Seminole Nation of Oklahoma

SOI – Secretary of Interior

ST – Shawnee Tribe

STF – Seminole Tribe of Florida

TL – Tribal Liaison

THPO – Tribal Historic Preservation Officer

Tribes – Federally recognized Indian tribes

TTT – Thlopthlocco Tribal Town

UKB – United Keetoowah Band of Cherokee Indians

USACE – U.S. Army Corps of Engineers

D. Screened Project Types

Stipulation VII.C of the Agreement and Section 5.4 of the CR Manual outline procedures for projects that qualify for a Screened Project Review. The following appendix provides a detailed list of activities associated with the applicable project types and representative photos of associated project activities.

I. **Roadway Resurfacing and Rehabilitation Projects:**

Associated Project Activities

The following project activities are included in Roadway Resurfacing and Rehabilitation Projects. Projects of this type typically do not require new right-of-way or easements and all work is conducted within the existing ROW.

- Activities on asphalt roadways include overlay, milling, crack repair, patching, and resurfacing (including full depth replacement)
- Activities on concrete roadways include grinding, grooving, pavement rehabilitation, and spall repair
- Shoulder filling
- Installation of new, or replacement of existing:
 - curb cuts and associated ADA accessible ramps
 - rumble strips
 - striping
 - raised pavement markers



Representative Example of Curb Cut/ADA Ramp Installation, Asphalt Resurfacing, and Striping



Representative Example of Asphalt Resurfacing, Curb Cut/ADA Ramp Installation, and Striping



Representative Example of Curb Cut/ADA Ramp Installation, Asphalt Resurfacing, and Striping



Representative Example of Curb Cut/ADA Ramp Installation, Asphalt Resurfacing, and Striping

II. Signal Upgrade Projects:

For the purposes of project screening pursuant to Stipulation VII.C and Section 5.4 of the CR Manual, the Lead Federal Agencies, GA SHPO, and GDOT agree that the following considerations apply to signal upgrade projects:

- 1) Projects of this type do not include the addition of new signals at previously unsignalized intersections or changes to the radii of existing intersections. Projects that include new signalization or changes to the radii of an existing intersection do not fit the parameters of this Screened Project type and must follow a Standard Project Review.
- 2) Signal Upgrade Projects typically do not require new right-of-way and in instances where ROW or easement is required, amounts are less than 400 square feet per intersection (or approximately 100 square feet in each quadrant).
- 3) The GDOT default color for signal poles and mast arms is silver, or unpainted, however it is acknowledged that local communities typically dictate a preference for alternative pole treatments and colors, such as powder coating with black or green treatments. The final pole color does not have a bearing on the applicability of the project for the Screened Project Approach.
- 4) New or replacement poles may have design elements, such as fluting, as requested by local entities. As with color, the final pole style does not have a bearing on the applicability of the project for the Screened Project Approach.

Associated Project Activities

The following project activities are included in Signal Upgrade Projects:

- Upgrade of existing signalized intersections with new signal heads and new signal poles with mast arms
- Installation of new, or replacement of existing:
 - signal cabinets
 - pedestrian poles with pedestrian signal heads and/or push button stations
 - curb cuts and associated wheelchair ramps for ADA compliance
 - pedestrian islands
 - conduit and fiber optic cable through the use of directional boring, trenching, or aerial attachment
 - pull boxes
 - loop detectors
 - wireless detection devices
 - pavement markings including stop bar and crosswalk striping



Representative Example of Mast Arms, Signal Heads, Pedestrian Pole, Pavement Markings, and Signal Cabinet



Representative Example of Pedestrian Pole and Pull Boxes (foreground) and Mast Arms and Signal Heads (background)



Representative Example of Mast Arms, Signal Heads, Cabinet, Pedestrian Pole, and Vehicle Detection/CCTV Equipment



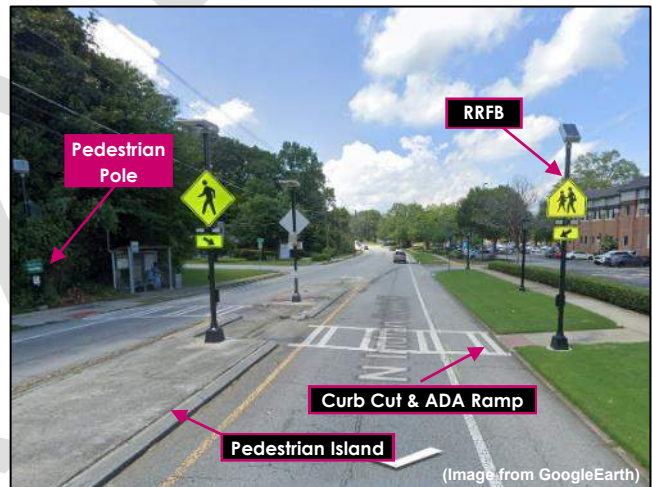
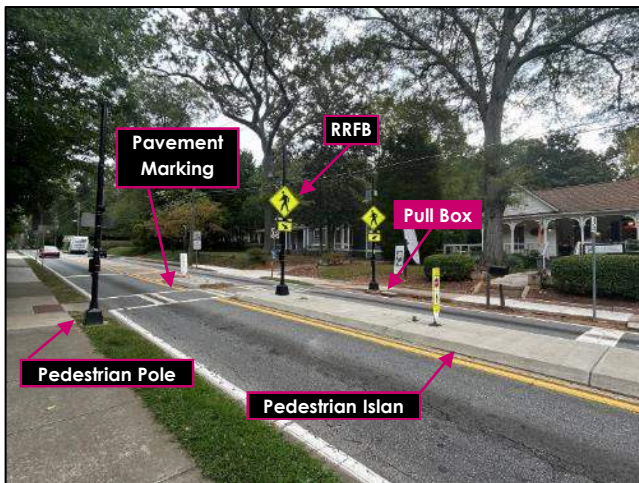
Representative Example of Mast Arms, Signal Heads, Cabinet, Vehicle Detection/CCTV Equipment, Pavement Marking, and Curb Cut and ADA Ramp.

III. Pedestrian Upgrade Projects:

Associated Project Activities

The following project activities are included in Pedestrian Upgrade projects, many of which are similar to Signal Upgrade projects. Projects typically do not require new right-of-way and in instances where ROW or easement is required, amounts are less than 400 square feet per intersection (or approximately 100 square feet in each quadrant).

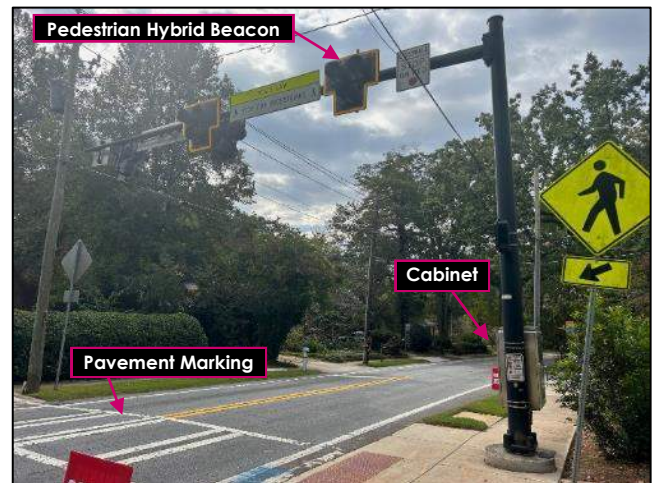
- Minor sidewalk extensions or improvements such as replacement of existing sidewalks
- Culvert extensions
- Rectangular Rapid Flashing Beacons (RRFBs)
- Pedestrian Hybrid Beacons (PHBs)
- Installation of new, or replacement of existing:
 - signal cabinets
 - pedestrian poles with pedestrian signal heads and/or push button stations
 - curb cuts and associated wheelchair ramps for ADA compliance
 - pedestrian islands
 - conduit and fiber optic cable through the use of directional boring or trenching
 - pull boxes
 - pavement markings including stop bar and crosswalk striping



Representative Examples of Pedestrian Push Button, RRFB, Pedestrian Island, and Pavement Markings



Representative Example of RRFB, Curb Cut/ADA Ramp, and Pavement Markings



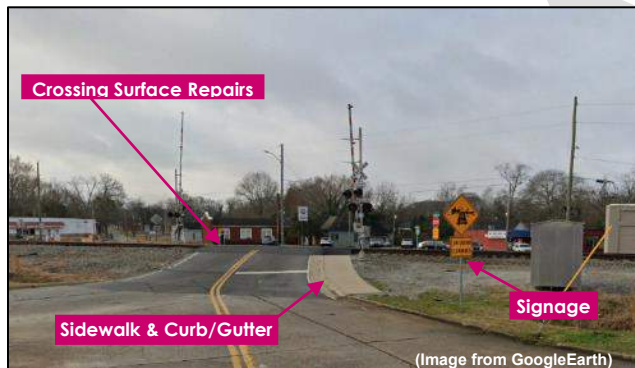
Representative Example of PHB, Curb Cut/ ADA Ramp, Pavement Markings, and Signal Cabinet (pole mounted)

IV. Railroad Safety Improvement Projects:

Associated Project Activities

The following project activities are included in Railroad Safety Improvement projects. Projects typically do not require new right-of-way and in instances where ROW or easement is required, amounts are less than 400 square feet per crossing (or approximately 100 square feet in each quadrant).

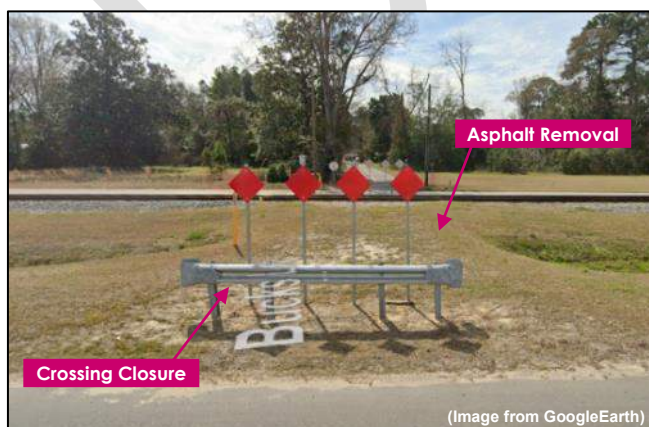
- Upgrade or installation of railroad warning device equipment including gates, lights and bells, cantilevers, preemption, and track circuit improvements
- Crossing channelization including raised concrete medians and flexible delineators within existing pavement within immediate vicinity of the railroad crossing
- Signing and marking upgrades and installation
- Crossing surface repairs
- Crossing closures (limited to closure and asphalt removal and does not include long term crossing closures)
- Installation or removal of sidewalks, curb cuts, and curb and gutter
- Installation of barrier fencing around railroad equipment
- Widening of the center concrete panel within railroad ROW
- Roadway Realignments
- Crossing reconstruction as part of a consolidation project
- Traffic Signal installations
- Pipe Extensions
- New illumination (lighting)



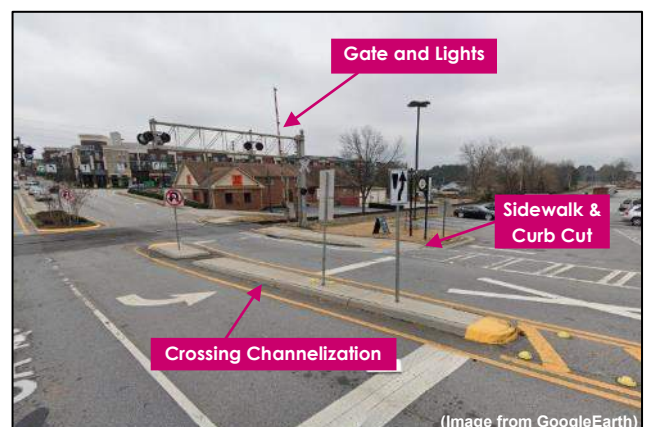
**Representative Example of Sidewalk Installation
Signage, and Crossing Surface Repairs**



**Representative Example of Concrete Panel,
Gate, Signs, Lights, Bells, and Crossing
Channelization**



**Representative Example of Crossing Closure
with Asphalt Removal and Signage**



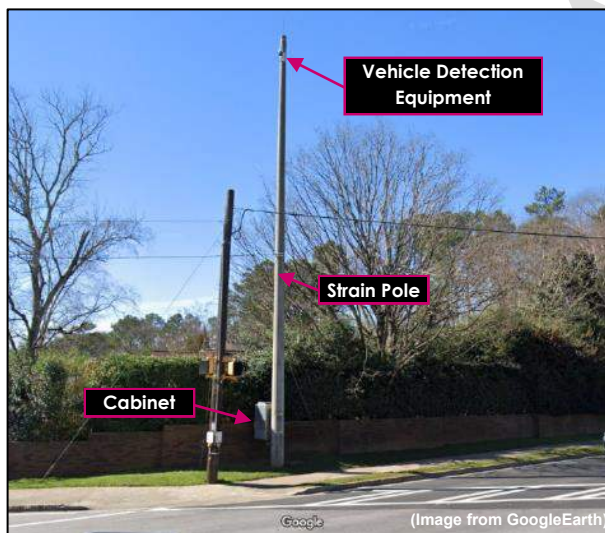
**Representative Example of Crossing Channelization
and Gates/Lights**

V. ITS Projects on State Routes:

Associated Project Activities

The following project activities are included in ITS projects installed on both state routes and limited access roadways. ITS projects on state routes will follow the Screened Project Approach outlined in Stipulation VII.C of the PA and Section 5.4 of the CR Manual. For details on Section 106 review and documentation for ITS projects on limited access roadways, see Section 11 of the CR Manual. ITS projects on state routes typically do not require new right-of-way and in instances where ROW or easement is required, amounts are minimal and less than 100 square feet per occurrence.

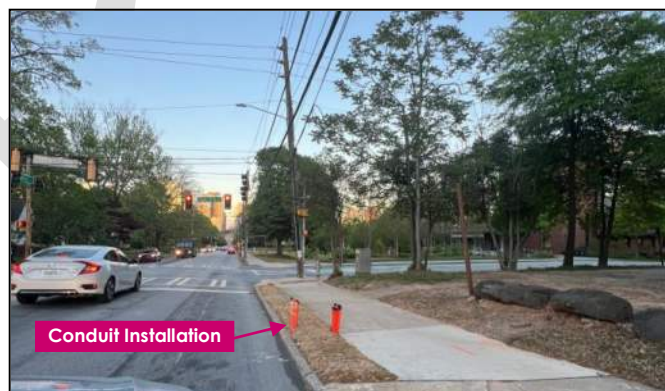
- Installation of the following technologies onto existing or new strain poles:
 - a. CCTV cameras
 - b. Vehicle detection equipment
 - c. Connected vehicle technology
 - d. Dynamic Message Signs
 - e. Dynamic Lane Control Signs
 - f. Environmental Sensor Stations
- Installation of conduit and fiber optic cable through the use of directional boring, plowing, or trenching
- Pull boxes
- Field cabinets



Representative Photo of ITS Pole with Vehicle Detection Equipment and Cabinet on State Route



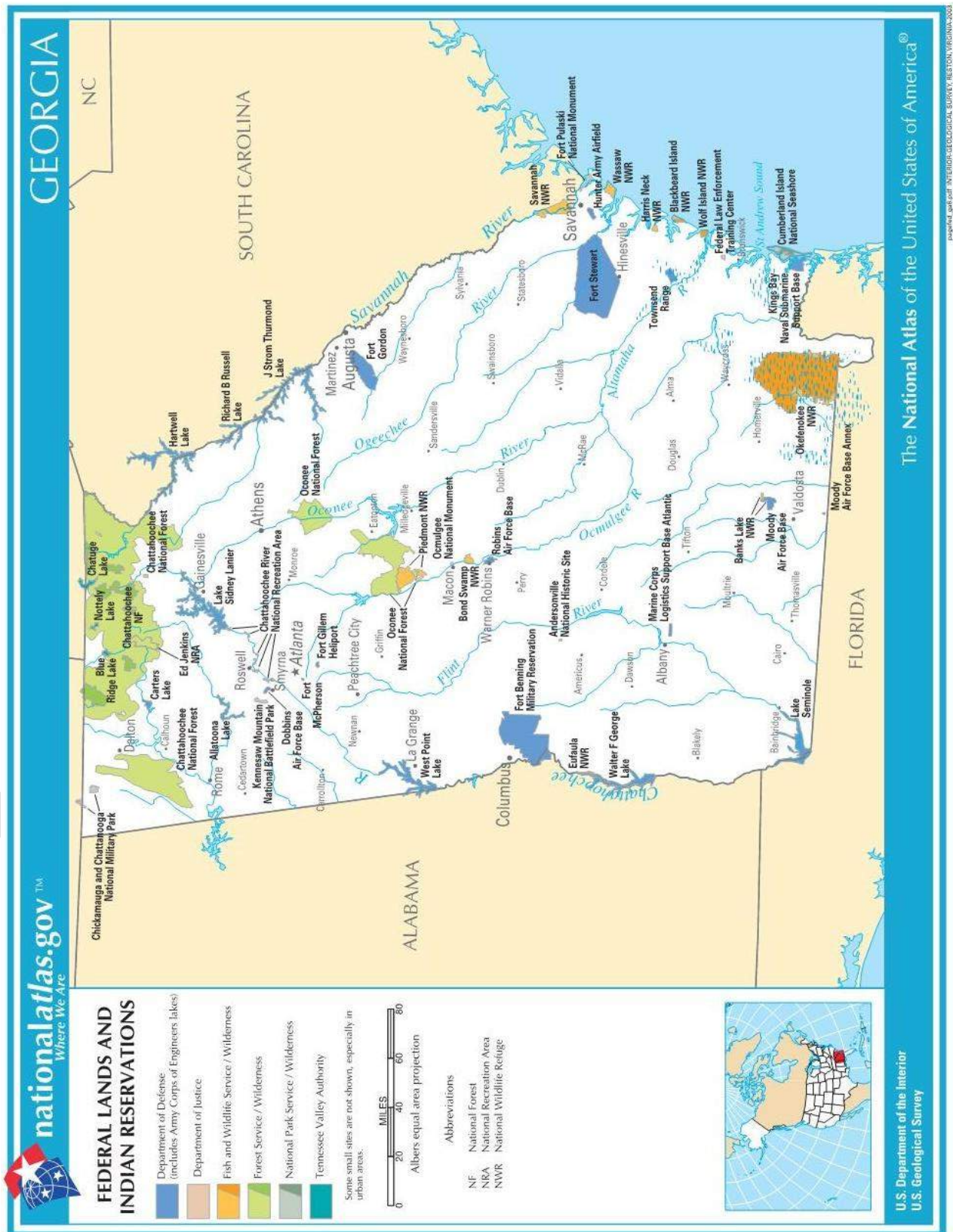
Representative Photo of pull box (foreground) and ITS Pole and Cabinet (background) on State Route



Representative Photo of Conduit Installation via Directional Boring (Prior to Pull Box Installation)

E. 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.



F. GDOT Standard Specification 107.23B – Inadvertent Discovery of Cultural Resources and Treatment of Human Remains

Section 107 – Legal Regulations and Responsibility to the Public

Operations required within rivers or streams, i.e. jetting or spudding, shall be performed within silt containment areas, cofferdams, silt fence, sediment barriers or other devices to minimize migration of silt off the project.

For plan sets that include an Environmental Resources Impacts Table in the General Notes section, the Contractor shall abide by all restrictions noted in the Environmental Resources Impact Table.

B. Inadvertent Discovery of Cultural Resources and Human Remains

If objects thought to be historic material or archaeological artifacts are encountered during construction on the Project site or during the excavation of a previously approved off-site facility, the Contractor shall immediately cease the operation in the in the area of the find and notify the Engineer within twenty-four hours of the find. The Engineer shall then immediately contact the State Environmental Administrator in the Office of Environmental Services to determine the coordination required and the disposition of the find in accordance with Section 106 of the National Historic Preservation Act (54 U.S.C § 300101 et seq.) and the Georgia Environmental Policy Act (OCGA § 12-16-9 et seq.), as applicable. The Contractor shall not remove any historic or archaeological materials from the Project site and shall not resume activity in the area of the find until specifically authorized in writing by the Engineer.

If human remains or associated burial items are encountered during construction on the project site or during excavation of a previously approved off-site facility, the Contractor shall immediately cease all activity in the in the area of the find and notify the Engineer within twenty-four hours of the find. The Engineer shall then immediately contact the State Environmental Administrator in the Office of Environmental Services. The Office of Environmental Services will determine if the human remains are modern or historic/archaeological in context. If the human remains are determined to be modern in context (i.e. not associated with a historic burial or an archeological context), the Engineer will then notify law enforcement in accordance with OCGA § 31-21-6. If they are historic or archaeological in context, law enforcement will not be notified as provided for in OCGA § 31-21-6 and the Georgia Office of the State Archaeologist Policy on Encountering American Indian Human Remains. The Contractor shall not remove any human remains or associated burial objects from the project site and shall not resume activity in the area of the find until specifically authorized in writing by the Engineer.

The area of the find shall be secured and protected to the extent possible to prevent harm while coordination and additional investigation are conducted pursuant to the Georgia Abandoned Cemeteries and Burial Ground Act (OCGA § 36-72-1 et seq.), Section 106 of the National Historic Preservation Act (54 U.S.C § 3001001 et seq.), Native American Graves Protection and Repatriation Act (25 U.S.C. § 3001 et seq.), and the Archaeological Resources Protection Act (16 U.S.C. § 470aa-470mm), as applicable. The Contractor shall limit discussion of the presence of human remains or associated burial items to Department personnel only and shall not share information with the public through personal or mass media, subject to the Georgia Open Records Act (OCGA § 58-18-70 et seq.). The Office of Environmental Services will notify and coordinate with federal and state agencies, federally-recognized tribes, and other entities, as applicable regarding the find and communicate the subsequent plan for treatment and/or disposition to the Engineer. The Engineer will communicate to the Contractor the status of any restrictions implemented that will affect the work as a result of the required coordination by the Office of Environmental Services, including the time necessary to resolve required consultation and the identification of areas within the project where the Contractor may work while coordination is ongoing.

When directed by the Engineer, the Contractor shall conduct work to implement any subsequent treatment plan. Such work will be considered extra work pursuant to Specification 104.04. If the work is suspended, the Contractor may submit a request for additional contract time as allowed under Section 108.06.

If the Contractor fails to immediately notify the Engineer of the find of historic material, archaeological artifacts, human remains or associated burial objects (not to exceed 24 hours), the Contractor shall be liable for any and all resulting and associated costs and damages incurred by the Department. Should damage to a find of historic material, archaeological artifacts, human remains or associated burial objects occur as a result of the Contractor's action in violation of this section, and notwithstanding any subsequent approved correction by the Contractor, the Contractor shall be liable for any and all costs resulting or arising from such action, including but not limited to, the cost of repair, costs of remediation, fines, and mitigation fees assessed against the Department by another government entity.

G. 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

2610 GA HWY 155, SW | STOCKBRIDGE, GA 30281
770.389.7844 | FAX 770.389.7878 | WWW.GEORGIAHPO.ORG

H. Document Templates

The following document templates are included for reference. Changes to the enclosed templates do not constitute an amendment to the CR Manual requiring written approval by all signatories nor an amendment to the Agreement subject to the requirements of Stipulation XIV.

- 1) Minimal Potential to Cause Effects Findings
- 2) Section 106 Notification Template (FHWA/Corps)
- 3) Change in Lead Federal Agency Notifications (FHWA/Corps)
- 4) No Historic Properties Affected Document
- 5) Archaeological Survey Report
- 6) Historic Resources Survey Report
- 7) Template for Documentation of Project Changes (Memo)
- 8) Template for Documentation of Project Changes (Email Documentation)
- 9) Change in Eligibility Memo
- 10) Assessment of Effects
- 11) Memorandum of Agreement

TEMPLATE FOR MINIMAL 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 Minimal 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 has minimal 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 qualifies for the application of Stipulation VII.B of the Section 106 Programmatic Agreement between the FHWA, Corps, 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

SECTION 106 NOTIFICATION TEMPLATES (FHWA/CORPS VERSIONS)



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

July 16, 2025

**NOTIFICATION: Initiation of Section 106 Process for
GDOT Project _____, _____ County
P.I. # _____**

The Georgia Department of Transportation (Department) is in the beginning stages of project development for **this/these** proposed transportation project(s). In compliance with Section 106 of the National Historic Preservation Act, the Department has determined that because of the nature and the scope of this undertaking, the proposed project(s) **has/have** the potential to cause effects to historic properties if any such properties exist in the project area. The Department is attempting to identify historic properties already listed in the National Register of Historic Places (NRHP) and any properties not already listed that would be considered eligible for listing that are located within the geographic area of potential effects (APE) of the proposed project(s).

The proposed project(s) would consist of the **(describe project)** (see attached location map). Existing right-of-way (ROW) is **(number)** feet. Proposed ROW would be **(number)** feet.

(Select this option if ROW is required)

The APE for the proposed project(s) would include the 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) **OR** The potential for indirect effects will be evaluated as projected data becomes available and a clearer picture of possible changes in traffic patterns and development pressures emerge (*tailor to your project*).

OR (Select this option if ROW is not required.)

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) **OR** The potential for indirect effects will be evaluated as projected data becomes available and a clearer picture of possible changes in traffic patterns and development pressures emerge (*tailor to your project*).

Section 106 of the National Historic Preservation Act requires the Federal Highway Administration and the Department, in consultation with the Georgia State Historic Preservation Officer (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).

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

Eric Duff (Consultants provide your name and address)

Department of Transportation
Office of Environmental Services
One Georgia Center
600 West Peachtree Street, NW, 16th Floor
Atlanta, Georgia 30308

Attn: _____ (historian name or name of consultant)

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 _____ Regional Commission, Georgia SHPO, **DeKalb History Center (for DeKalb County projects only), DeKalb County Historic Preservation Commission (for DeKalb County projects only), Georgia Trust for Historic Preservation (if listed or landmark properties in the APE), Atlanta Urban Design Commission and Atlanta Preservation Center (for projects within city of Atlanta)** and the _____ County Commission. 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 Federal Highway Administration Georgia Division (FHWA), 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 Nation, 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 Federal Highway Administration Georgia Division (FHWA), 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 Nation, 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.

Existing information on previously identified historic properties has been checked to determine if any are located within the APE of this undertaking. This review of existing information revealed that no properties listed in or nominated for listing in the NRHP and no National Historic Landmarks are located within the proposed project's(s') APE. **[revise if any were identified]** No bridge(s) determined eligible **[revise if any determined eligible]** for inclusion in the National Register in the updated Georgia Historic Bridge Survey (GHBS) were identified. GDOT Bridge **[add bridge number]** was/were constructed in **[provide date(s) of construction]**. **[If applicable]** A segment of **[add railroad name]** is located within the APE of the proposed project. This segment of the **[add railroad name]** was determined **eligible/not eligible** for listing in the NRHP in *Georgia's Railroads, 1833-2015: Historic Context and Statewide Survey*. No properties **OR (Number of Properties)** 50 years old or older were identified within the APE in the **[year]** Department of Natural Resources (DNR) **[name] County(ies) Survey(s)** or in Georgia's Natural, Archaeological, and Historic Resource Geographic Information System (GNAHRGIS) database reviewed at <https://www.gnahrgis.org>. These survey sites are **[site number(s)]**.

***Note – GHBS form no longer required attached to Notification Letter* [delete this note before finalizing Notification Letter]**

The proposed project(s) will be field surveyed for both historic properties and archaeological sites and the Criteria of Eligibility will be applied to any identified properties in consultation with the Georgia SHPO and other consulting parties to determine if any of those properties are eligible for inclusion in the NRHP.

OR

Because of the minimal scope of the proposed project(s) and because current and historic aerial photography, Google Streetview, and online tax assessor records (*taior to available desktop resources*) indicate that the project area is composed entirely of modern residential subdivision or commercial development (*taior as needed*), a field survey for historic buildings and structures will not be conducted. A Department archaeologist will conduct an archaeological site field survey.

Consulting parties are also invited to provide information concerning any historic or archaeological properties already listed in the NRHP or that could be eligible for listing in the NRHP that are not identified in this Notification letter. 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. 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).

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 throughout the plan development process. Historic resource concerns can be addressed to ***name of historian*** (404-631-***number*** or ***name of historian@dot.ga.gov***); archaeological resource concerns, including cemetery and other human burials, can be addressed to Heather Mustonen (404-631-1166 or hmustonen@dot.ga.gov) of this office. Questions concerning general design or location issues may be addressed to ***[GDOT Project Manager]*** (404-***[number]*** or ***[e-mail address]***) of the Department's ***[choose applicable office, i.e. Office of Program Delivery or Office of Innovative Delivery]***.

Distribution List:

Sabrina S. David, AICP, FHWA GA Division (Attn: Chetna Dixon-Thomas **OR** Aaron Hernandez **OR** Ramses McKinstry)
Jennifer Flood, Deputy SHPO
Regional Commission
Tribes **[Archaeologist to list tribes in cc line here, separate tribal distribution list does not need to be attached]**
Historical Societies (or other organizations with known interest in historic resources)
GDOT Historian
GDOT Archaeologist

Attach a project location map 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. 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.



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 600 West Peachtree Street, NW, 16 th Floor Atlanta, Georgia 30308 Or Email: hmustonen@dot.ga.gov	Eric Duff (Consultants provide your name and address) Department of Transportation Office of Environmental Services One Georgia Center 600 West Peachtree Street, NW, 16 th Floor Atlanta, Georgia 30308

	Attn: _____ (historian name or name of consultant) 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 Nation, 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 Nation, 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 resources 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 Jennifer Cowles, 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.

DRAFT

July 16, 2025

**NOTIFICATION: Initiation of Section 106 Process for
GDOT Project _____, _____ County
P.I. # _____**

The Georgia Department of Transportation (Department) is in the beginning stages of project development for **this/these** proposed transportation project(s). In compliance with Section 106 of the National Historic Preservation Act, the Department has determined that because of the nature and the scope of this undertaking, the proposed project(s) **has/have** the potential to cause effects to historic properties if any such properties exist in the project area. The Department is attempting to identify historic properties already listed in the National Register of Historic Places (NRHP) and any properties not already listed that would be considered eligible for listing that are located within the geographic area of potential effects (APE) of the proposed project(s).

The proposed project(s) would consist of the **(describe project)** (see attached location map). Existing right-of-way (ROW) is **(number)** feet. Proposed ROW would be **(number)** feet.

(Select this option if ROW is required)

The APE for the proposed project(s) would include the 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) **OR** The potential for indirect effects will be evaluated as projected data becomes available and a clearer picture of possible changes in traffic patterns and development pressures emerge *(tailor to your project)*.

OR (Select this option if ROW is not required.)

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) **OR** The potential for indirect effects will be evaluated as projected data becomes available and a clearer picture of possible changes in traffic patterns and development pressures emerge *(tailor to your project)*.

Section 106 of the National Historic Preservation Act requires the Federal Highway Administration and the Department, in consultation with the Georgia State Historic Preservation Officer (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).

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

Eric Duff **(Consultants provide your name and address)**

Department of Transportation
Office of Environmental Services
One Georgia Center
600 West Peachtree Street, NW, 16th Floor
Atlanta, Georgia 30308

Attn: _____ (historian name or name of consultant)

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 _____ Regional Commission, Georgia SHPO, **DeKalb History Center (for DeKalb County projects only), DeKalb County Historic Preservation Commission (for DeKalb County projects only), Georgia Trust for Historic Preservation (if listed or landmark properties in the APE), Atlanta Urban**

Design Commission and Atlanta Preservation Center (for projects within city of Atlanta) and the _____ County Commission. 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 Federal Highway Administration Georgia Division (FHWA), 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 Nation, 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 Federal Highway Administration Georgia Division (FHWA), 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 Nation, 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.

Existing information on previously identified historic properties has been checked to determine if any are located within the APE of this undertaking. This review of existing information revealed that no properties listed in or nominated for listing in the NRHP and no National Historic Landmarks are located within the proposed project's(s') APE. ***[revise if any were identified]*** No bridge(s) determined eligible ***[revise if any determined eligible]*** for inclusion in the National Register in the updated Georgia Historic Bridge Survey (GHBS) were identified. GDOT Bridge ***[add bridge number]*** was/were constructed in ***[provide date(s) of construction]***. ***[If applicable]*** A segment of ***[add railroad name]*** is located within the APE of the proposed project. This segment of the ***[add railroad name]*** was determined **eligible/not eligible** for listing in the NRHP in *Georgia's Railroads, 1833-2015: Historic Context and Statewide Survey*. No properties **OR (Number of Properties)** 50 years old or older were identified within the APE in the ***[year]*** Georgia Historic Resources ***[name]*** County(ies) Survey(s) or in Georgia's Natural, Archaeological, and Historic Resource Geographic Information System (GNAHRGIS) database reviewed at <https://www.gnahrgis.org>. These survey sites are ***[site number(s)]***.

****Note – GHBS form no longer required attached to Notification Letter* [delete this note before finalizing Notification Letter]***

The proposed project(s) will be field surveyed for both historic properties and archaeological sites and the Criteria of Eligibility will be applied to any identified properties in consultation with the Georgia SHPO and other consulting parties to determine if any of those properties are eligible for inclusion in the NRHP.

OR

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 will not be conducted. A Department archaeologist will conduct an archaeological site field survey.

Consulting parties are also invited to provide information concerning any historic or archaeological

properties already listed in the NRHP or that could be eligible for listing in the NRHP that are not identified in this Notification letter. 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. 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).

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 throughout the plan development process. Historic resource concerns can be addressed to **name of historian** (404-631-**number** or **name of historian@dot.ga.gov**); archaeological resource concerns, including cemetery and other human burials, can be addressed to Heather Mustonen (404-631-1166 or hmustonen@dot.ga.gov) of this office. Questions concerning general design or location issues may be addressed to **[GDOT Project Manager]** (404-**[number]** or **[e-mail address]**) of the Department's **[choose applicable office, i.e. Office of Program Delivery or Office of Innovative Delivery]**.

Distribution List:

Sabrina S. David, AICP, FHWA GA Division (Attn: Aaron Hernandez **OR** Ramses McKinstry)
Jennifer Flood, Deputy SHPO
Regional Commission

Tribes **[Archaeologist to list tribes in cc line here, separate tribal distribution list does not need to be attached]**

Historical Societies (or other organizations with known interest in historic resources)

GDOT Historian

GDOT Archaeologist

Attach a project location map 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. 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.

CHANGE IN LEAD FEDERAL AGENCY NOTIFICATION TEMPLATES (FHWA/CORPS VERSIONS)



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

Date _____

NOTIFICATION: TRANSITION OF LEAD FEDERAL AGENCY FOR 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]**.

Section 106 consultation began with the Federal Highway Administration (FHWA) as lead federal agency with a Notification dated **[insert date]** which was sent to the following potential consulting parties as an invitation to participate in the Section 106 process: **[list organizations and tribes invited in FHWA notification letter]**. The Georgia Historic Preservation Office (GA SHPO) previously assigned HP# (INSERT HP#) to this project at that time. The results of the subsequent field surveys and background research were summarized in a **Survey Report, No Historic Properties Affected report, Archaeological Assessment, and Assessment of Effects report [tailor to project]**. Those reports were provided for review and comment to the GA SHPO and all consulting parties participating in the Section 106 process. Section 106 consultation was concluded with FHWA as the lead federal agency.

Since that time, the Department changed the funding source of the subject project from federal to state, and since a permit under Section 404 of the Clean Water Act is required, the Regulatory Branch, Savannah District, U.S. Army Corps of Engineers (Corps) will be the lead federal agency responsible for Section 106 consultation going forward for the portions of the project(s) under their jurisdiction (see attached Corps jurisdiction map). ***If the Corps is not taking jurisdiction of the entire project include the following: The Corps' Scope of Analysis for this project is limited to impacts to waters of the United States that will be directly and indirectly affected by the proposed undertaking. The Corps permit area is defined by a 100 meter buffer encompassing the proposed impacted waters.*** The center point of the undertaking is located at **[Insert Coordinates of Project Center Point or Corps jurisdiction]**.

Choose one of the following options to indicate presence/absence of resources within the Corps' jurisdiction. If there are resources present that were previously coordinated under Section 106 through FHWA, include the table below and a second map showing the resource boundaries in relation to the Corps SOA. Attach copies of all relevant SHPO concurrence letters to the notification.

No historic properties are located within the Corps' area of jurisdiction. **OR**

The Corps' area of jurisdiction contains the following historic properties that were recorded and concurred with by GA SHPO prior to the lead federal agency switching from FHWA to Corps (Figure 2):

Resource Name	Resource Type	NRHP Recommendation	Date of SHPO Concurrence	Management Recommendations, as applicable
9xx123	Artifact Scatter	Unknown, portion within the survey area lacks significant data potential	1/17/2019	Designation of unknown portions as an Environmentally Sensitive Area (ESA) and protection with Orange Barrier Fencing (OBF)
The Varsity	Streamline Moderne Style Drive-In Diner	Eligible under Criterion A and C	12/2/2018	
Peachtree Cemetery/ 9xx124	Historic Cemetery	Unknown under Criterion D, Eligible under Criterion A	1/17/2019	Avoidance, designation as an ESA and protection with OBF

In accordance with the Section 106 Programmatic Agreement (PA) between FHWA, the Corps, the Advisory Council on Historic Places (ACHP), the GA SHPO, and the Department, the Corps is adopting the previous

Section 106 consultation and documentation referenced above with the Department's verification of Corps' Scope of Analysis and continued validity of the studies conducted for the subject project with FHWA as the lead federal agency.

As the lead federal agency, the Corps would like to make you aware of this change in lead federal agency status and provide updated contact information should you have any questions about the adopted Section 106 findings, and also make you aware that if consultation is reopened on the subject project, the Corps will take the lead going forward. Copies of the previous reports are available from the Department, and all applicable signed SHPO concurrence letter(s) are attached.

Corps specific Cultural Resource concerns can be addressed to Jennifer Cowles, Regulatory Archaeologist for the Corps' Savannah District at 912-652-5964 or Jennifer.C.Cowles@usace.army.mil or Andrea Farmer, District Tribal Liaison at 912-412-3363 or Andrea.A.Farmer@usace.army.mil. 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 **[GDOT Project Manager]** (404-**[number]** or **[e-mail address]**) of the Department's **[choose applicable office, i.e. Office of Program Delivery or Office of Innovative Delivery]**.

Distribution List:

Send to same organizations and tribes as FHWA notification letter – list them here. Include tribes or groups that are new with Corps as lead federal agency and email those tribes/groups a link to the previous 106 documentation.

{Corps PM}, Project Manager, USACE, Savannah District
Jennifer Cowles, Regulatory Archaeologist, USACE, Savannah District
Andrea Farmer, Tribal Liaison, USACE, Savannah District
Jennifer Flood, Deputy SHPO
Regional Commission

Tribes **[Archaeologist to list tribes in cc line here, separate tribal distribution list does not need to be attached]**

Historical Societies (or other organizations with known interest in historic resources)

GDOT Historian

GDOT Archaeologist

When the Corps takes full jurisdiction, attach a project location map (Figure 1) 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. If the Corps takes partial jurisdiction, only show the locations of Corps jurisdiction and not the entire GDOT project. If resources are present within the Corps’ area of jurisdiction, include a second map (Figure 2) showing the resource boundaries in relation to the Corps’ APE.

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.

*****This template is only appropriate for use when there are no new documents requiring review by SHPO pursuant to Section 106. If any updates to the project occurred under GEPA or that require new documentation since previous clearance under FHWA, a standard Corps Section 106 Notification and full Section 106 Package must be submitted.*****



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

Date _____

NOTIFICATION: TRANSITION OF LEAD FEDERAL AGENCY FOR 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]** (Figure 1).

Section 106 consultation began with the Regulatory Branch of the Savannah District, U.S. Army Corps of Engineers (Corps) as lead federal agency with a Notification dated **[insert date]** which was sent to the following potential consulting parties as an invitation to participate in the Section 106 process: **[list organizations and tribes invited in Corps notification letter]**. The Georgia State Historic Preservation Office (GA SHPO) previously assigned HP# (INSERT HP#) to this project at that time. The results of the subsequent field surveys and background research were summarized in a **Survey Report, No Historic Properties Affected report, Archaeological Assessment, and Assessment of Effects report [tailor to project]**. Those reports were provided for review and comment to the GA SHPO and all consulting parties participating in the Section 106 process. Section 106 consultation was concluded with the Corps as the lead federal agency.

Since that time, the Department changed the funding source of the subject project from state to federal, therefore the Federal Highway Administration, Georgia Division (FHWA) will be the lead federal agency responsible for Section 106 consultation going forward. The center point of the undertaking is located at **[Insert Coordinates of Project Center Point]**.

Choose one of the following options to indicate presence/absence of resources within the APE. If there are resources present that were previously coordinated under Section 106 through the Corps, include the table below and a second map showing the resource boundaries in relation to the project area. Attach copies of all relevant SHPO concurrence letters to the notification.

No historic properties are located within the project APE. **OR**

The project APE contains the following historic properties that were recorded and concurred with by SHPO prior to the lead federal agency switching from Corps to FHWA (Figure 2):

Resource Name	Resource Type	NRHP Recommendation	Date of SHPO Concurrence	Management Recommendations, as applicable
9xx123	Artifact Scatter	Unknown, portion within the survey area lacks significant data potential	1/17/2019	Designation of unknown portions as an Environmentally Sensitive Area (ESA) and protection with Orange Barrier Fencing (OBF)
The Varsity	Streamline Moderne Style Drive-In Diner	Eligible under Criterion A and C	12/2/2018	
Peachtree Cemetery/ 9xx124	Historic Cemetery	Unknown under Criterion D, Eligible under Criterion A	1/17/2019	Avoidance, designation as an ESA and protection with OBF

In accordance with the Section 106 Programmatic Agreement (PA) between FHWA, the Corps, the Advisory Council on Historic Places (ACHP), the GA SHPO, and the Department, the FHWA is adopting the previous Section 106 consultation and documentation referenced above with the Department's verification of the APE and continued validity of the studies conducted for the subject project with FHWA as the lead federal agency.

As the lead federal agency, the FHWA would like to make you aware of this change in lead federal agency status and provide updated contact information should you have any questions about the adopted Section 106 findings, and also make you aware that if consultation is reopened on the subject project, FHWA will take the lead going forward. Copies of the previous reports are available from the Department, and all applicable signed SHPO concurrence letter(s) are attached.

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 **[GDOT Project Manager]** (404-**[number]** or **[e-mail address]**) of the Department's **[choose applicable office, i.e. Office of Program Delivery or Office of Innovative Delivery]**.

Distribution List:

Send to same organizations and tribes as Corps notification letter – list them here. Include tribes or groups that are new with FHWA as lead federal agency and email those tribes/groups a link to the previous 106 documentation.

Sabrina S. David, AICP, FHWA GA Division (Attn: Chetna Dixon-Thomas **OR** Aaron Hernandez **OR** Ramses McKinstry)
Jennifer Flood, Deputy SHPO
Regional Commission
Tribes
Historical Societies (or other organizations with known interest in historic resources)
GDOT Historian
GDOT Archaeologist

Attach a project location map (Figure 1) 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. If resources are present, include a second map (Figure 2) showing the resource boundaries in relation to the APE.

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.

*****This template is only appropriate for use when the previous Section 106 documentation was coordinated under full Corps jurisdiction and there are no new documents requiring review by SHPO pursuant to Section 106. Projects that were partial jurisdiction under the Corps will require new document submittals under FHWA for full Section 106 compliance. If portions of the project were only coordinated under GEPA, or require new documentation since previous clearance under the Corps, a standard FHWA Section 106 Notification and full Section 106 documentation must be submitted.*****

NO HISTORIC PROPERTIES AFFECTED TEMPLATE

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 properties. Per 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 (GA SHPO)*, 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 **[standard language to use if both historic and archaeological documentation are included]**. **OR** Per 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)*, 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 per 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 SHPO*. A report, which fulfills the Department's responsibilities under Section 106 for archaeological sites, will be submitted separately.

____/

cc: Sabrina S. David, AICP, FHWA, w/attachment (Attn: Chetna Dixon-Thomas **OR** Aaron Hernandez **OR** Ramses McKinstry)
Jennifer Flood, 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 guidance in Section 5.4 and Appendix D of the Cultural Resources Manual regarding the Screened Project Approach for **(Signal Upgrade/Pedestrian Upgrade/Railroad Safety Crossing Improvements/ITS Installation on State Routes)** projects. **(Select applicable project type.)**

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 Georgia Historic Resources **[name] County(ies)** survey dated **[date]** was also consulted and no historic resources were identified within the proposed project's APE OR A Georgia Historic Resources **[name] County(ies)** survey has not been conducted and could not be consulted. **OR** The NRHP-listed **[name]** is located within the proposed project area; however, it is not being impacted by the project and is therefore exempt from further review based on the methodology outlined in Section 5.4 of the Cultural Resources Manual regarding the Screened Project Approach for **(Signal Upgrade/Pedestrian Upgrade/Railroad Safety Crossing Improvements/ITS Installation on State Routes)** projects. **(Select applicable project type.)**

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 _____. ***[Include this paragraph only if archaeology is included in the NHPA for projects with specialized APEs. If included, 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 NRHP 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 NRHP 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)

ARCHAEOLOGICAL SHORT REPORT TEMPLATE

[TEMPLATE AVAILABLE IN PDF DRAFT]

The following instructions are intended for use in the preparation of an Archaeological Short Report for submittal to the Archaeology Unit of the GDOT Office of Environmental Services.

Appropriate Use and Applicability*: This abbreviated report format is approved for use on Phase I archaeological surveys that result in the following findings:

- ✓ **Negative Findings** – no new or previously recorded archaeological sites located within the survey area
- ✓ **Isolated Finds** – with documentation of artifact(s) and demonstration of adequate shovel test delineation
- ✓ **Previous Archaeological Survey Coverage** – previous surveys are proposed for use as survey coverage. Previous surveys must demonstrate appropriate methodology consistent with current archaeological standards. Delineation of previously recorded sites must be demonstrated as adequate, and current site conditions must be documented, regardless of the need for additional survey, and a revisit site form prepared. SHPO concurrence is required when sites are present in areas of previous coverage. Coordination with the GDOT archaeologist is required and use of previous coverage must be approved prior to report submittal.
- ✓ **Modern Cemeteries** – a cemetery with no historic burials (50 years of age or older) is present within the survey area. Supporting documentation demonstrating archaeological delineation of burials is required to ensure compliance with Georgia's Abandoned Cemetery and Burial Ground Act (OCGA 36-72).
- ✓ **Historic Cemeteries within Viewshed** – located outside archaeological survey limits but within historic resource survey viewshed. No National Register evaluation or SHPO concurrence for archaeology is required, however reference to the Historic Resources Survey Report and its resource evaluation is required.
- ✓ **Possible Historic Streetcar Resources within Project APE** – with documentation on historic streetcar lines in association with the project area. Survey methodology, results, and interpretation of Ground Penetrating Radar Surveys in accordance with the 2015 Historic Streetcar Programmatic Agreement is required. When data indicates possible streetcar resources, a recommendation for avoidance or archaeological monitoring shall be included.

A full Phase I archaeological report prepared in accordance with the GDOT Archaeological Report Guidelines must be submitted for all projects that identify new and/or previously identified archaeological sites within the project survey area, unless the previously recorded site(s) fit within the parameters noted above regarding previous survey coverage. ***Any questions regarding the applicability of the Archaeological Short Report to a specific project should be directed to the GDOT Archaeology Team Leaders or assigned Project Archaeologist, as appropriate.**

Formatting & Figures: The Archaeological Short Report (ASR) template is intended to be flexible in terms of the amount of content and figures that may be included. The first two pages represent a summary of findings and all required signatures and therefore should be kept as a distinct section from the rest of the document with a page break after the "Report Distribution" section. Figures including maps and photographs are to be incorporated into the body of the short report form where appropriate and provided a figure caption with sequential numbering. All maps should be of a sufficient size, orientation, and resolution to ensure that the data is legible. Consideration should be given to minimizing the amount of white space included in the document, as well as minimizing the use of attachments for supplementary information. For all documents prepared for projects under the jurisdiction of the U.S. Army Corps of Engineers, Savannah District (Corps), the Corps permit area pursuant to the identified Corps Scope of Analysis (SOA) should be clearly identified on all figures throughout the ASR. Refer to the Cultural Resources APE Mapping Guidance for GEPA Projects with Corps Involvement for additional information on mapping the Corps Section 106 APE.

Submittal Process: A PDF of all draft Archaeological Short Reports shall be submitted electronically (email or FTP transfer) to the assigned Project Archaeologist or the Archaeology Team Leaders, via the ArchSubmittals@dot.ga.gov inbox, if the project is unassigned. **A complete submittal package includes the draft form and all required review documents per current GDOT policy and protocol (i.e. QA/QC documentation, Prime Verification, Errata, etc.) in addition to the landowner notification and a copy of the plans and/or layout provided for survey.** Any required ESC waivers and documentation regarding the appropriateness of prior survey coverage should be included in the ASR submittal but do not need to be appended to the report itself. Ensure th

at the Principal Investigator has signed the document under Consultant Certification and that all attachments are included.

PROJECT INFORMATION:

1. **Report Title:** Report titles should clearly indicate if the survey is an addendum and if so which number addenda the present survey represents. ASRs prepared for projects with partial Corps jurisdiction should include “ – USACE Section 106 Report” to the end of the report title to help distinguish it from previous project reports in the Georgia Archaeological Site Files.
2. **Prime Consultant:** Insert company name and contact email.
3. **Sub Consultant:** Insert company name and contact email.
4. **GDOT PI Number:** Include Project Identifier(s). If a GDOT PI number has not yet been assigned, see #5 below, Other ID.
5. **Other ID:** If the ASR is used for a surplus parcel or other project without a PI number such as a Low Impact Bridge Project (LIBP), please include the appropriate identifier (i.e., PM number, LIBP Bridge ID, etc.) in Other ID. For older state funded GEPA projects, a GP number may have been assigned by the GA SHPO office. If available, include that number in the Other ID section (this will be rare).
6. **Date Submitted:** Insert Date report is submitted to GDOT.
7. **GA SHPO HP No.:** Include HP number for federally funded or permitted projects. Please note that projects that change from FHWA to Corps as the Lead Federal Agency will be issued a new HP number from the SHPO. The new Corps HP number should be included in this section of the form for Corps documents. For cross reference in those scenarios, or when a project shifts to GEPA and Corps jurisdiction is still unknown, the previous FHWA HP number should be moved to the previous survey section of the ASR in relation to the prior survey and reporting. For older state funded GEPA projects, a GP number may have been assigned by the GA SHPO office and should be included in Other ID, see #5 above.
8. **Document Type:** Select proper document type according to project funding. If the project is state funded and the Corps SOA area for the 404 Permit is known, select “Federally Permitted”, enter the Corps’ SAS tracking number, and indicate whether the Corps has taken partial or full jurisdiction using the Corps Jurisdiction drop down. This designation can be added to previously prepared GEPA short reports if the Corps is taking full jurisdiction of the project without additional revision.

RESULTS: (select all that apply)

9. **Negative Findings:** Select this box if no archaeological resources, newly or previously identified, were recovered from the survey. Surveys using specialized methodology such as underwater archaeological surveys can be reported using the ASR template if the findings are negative for archaeological resources. Supplementary technical reports can be appended to the document for such surveys, as needed, however the overall methods and results should be summarized within the form.
10. **Isolated Archaeological Find(s):** Select this box if an isolated find (as defined by the GCPA) was recorded during the survey. If selected, a description of the find(s), photos, and documentation of field delineation is required.
11. **Previous Archaeological Survey Coverage:** Select this box if portions of the project survey area have been previously surveyed and this earlier work is proposed for use as coverage under the present survey. Previous surveys may be used as coverage if the original methodology is consistent with current Georgia Council of Professional Archaeologist survey standards and GDOT requirements (Environmental Procedures Manual, PA and Cultural Resources Manual, etc.) If a site within the previous survey coverage has not been evaluated for the NRHP, additional work and a full report would be required. The appropriateness of prior surveys, regardless of age, should be vetted using all available information including, at a minimum, the original

report(s), site form(s), etc. Additional documentation and maps are required to support the use of previous coverage and coordination with the GDOT Archaeologist is required prior to survey. If areas of previous survey coverage contain previously recorded archaeological sites, additional shovel testing may not be required if the original delineation is found to be adequate and consistent with current archaeological survey standards and the current site conditions have not changed. A field visit and revisit site form is required for all sites within areas of proposed prior coverage to assess and document the current site conditions and any changes to the conditions of a site since the time of the previous survey (i.e. disturbed by development, graded, etc.) All eligible sites, or sites that contribute to the eligibility of a larger historic property or district, will require a full report. Additionally, unknown sites where further Phase II testing is recommended will require a full report and use of the ASR is not considered appropriate in those instances. No SHPO concurrence is required if areas of previous coverage are negative for archaeological resources, however SHPO concurrence is required for any projects containing archaeological resources in these areas, even if concurrence was received on site eligibility recommendations during a previous project. Select the appropriate box indicating if SHPO concurrence is required and append previous concurrence letters, when available.

12. **Modern Cemetery Delineation:** Select this box if a cemetery is located within the survey area but does not contain any historic burials (50 years of age or older). Because the cemetery is modern and not considered an historic property, a National Register eligibility recommendation and Georgia Archaeological Site Form are not required. The modern cemetery must be archaeologically delineated to identify any marked or unmarked burials within the survey area to facilitate compliance with Georgia's *Abandoned Cemeteries and Burial Grounds Act* (OCGA 36-72). For projects requiring modern cemetery delineation, a discussion of methodology, results, and data interpretation should be included with the report. Documentation of the survey is required, including a description of all background research and fieldwork, including photos and maps, descriptions of probing and/or Ground Penetrating Radar, survey results, data interpretation, and management recommendations. *Any cemeteries containing burials greater than 50 years of age cannot be documented using the ASR and should be recorded as archaeological sites and documented in a full Phase I survey report.*
13. **Historic Cemetery(ies) within Viewshed:** Select this box if a cemetery is located within the historic resources viewshed of the project but outside of the archaeological survey limits. Include a reference to the associated history report(s), including the National Register evaluation, and include the report reference in the References Cited section. A draft archaeological site form should be prepared and attached to the report. Coordination with the project historian should occur as to the NRHP eligibility to list on the site form as well as the boundary. If the History report has a proposed resource boundary, that may be used on the site form however if no boundary is provided, a visual boundary should be determined by the archaeologist and noted as such on the site form. A draft site form without the official state site number should be submitted with draft report submittal to allow the GDOT Archaeologist to review the form and proposed boundary. The official site number can be obtained after GDOT review and incorporated into the report prior to submittal of a revised short report.
14. **Possible Historic Streetcar Resources within Project APE:** Select this box for project areas within an area containing possible historic streetcar resources in accordance with the Georgia's Historic Streetcar Context and GIS data. Also select recommendations based on results, either no resources identified, or avoidance/archaeological monitoring recommended. For projects requiring GPR survey, a discussion of methodology, results, and data interpretation should be included with the report. An attachment of the GPR survey and results should be provided and include documentation of all background research and fieldwork including maps of anticipated streetcar resources within the survey area, Ground Penetrating Radar survey methodology including transect placement, survey results, data interpretation, and management recommendations. A sufficient number of cross-sections should be provided to indicate the presence or absence of potential streetcar resources, along with their approximate depth. Survey and recommendations shall be consistent with the *2015 Historic Streetcar Programmatic Agreement for Historic Streetcar Archaeological Sites in Georgia*.

RECOMMENDATIONS:

15. Select the appropriate paragraph for the Section 106 or GEPA finding based on the project's federal jurisdiction at the time of preparation. If an ASR is prepared under GEPA and the Corps' Scope of Analysis

identified the entire project as their permit area, this section does not need to be updated prior to SHPO coordination. The transmittal of the Section 106 documentation to SHPO will capture this Section 106 finding separately. After selecting the correct paragraph based on project funding, select the appropriate effects finding. For projects that have no resources or no eligible archaeological resources, select the No Historic Properties Affected option. For projects that have cemeteries (regardless of age) and/or historic streetcars, select the option that references additional coordination under OCGA 36-72 and/or the streetcar PA may be required if avoidance is not possible.

PREPARATION AND REVIEW:

16. **Principal Investigator (PI):** List the name of the PI meeting Secretary of Interior Standards who assumes responsibility for the survey. Provide email address of the Principal Investigator.
17. **Project Archaeologist(s) (PA):** If the archaeological fieldwork was not under the direct supervision of the PI, please list the name of the Project Archaeologist in charge of all personnel in the field. Provide email address of the Project Archaeologist.
18. **Document Author:** List the name of the primary author of the document and provide their email address. When applicable, include the co-author for technical reports in this section as well.
19. **Consultant Certification:** The Principal Investigator meeting Secretary of Interior Standards and responsible for the project shall certify the survey and its findings by adding their name and signature to the completed document. A digital signature is preferred and can be added by clicking the center icon in the image box next to "PI Signature" and selecting the appropriate signature file (.jpeg format). The complete draft document should be saved to PDF format prior to submittal to GDOT.
20. **GDOT Review and Approval:** The assigned GDOT Project Archaeologist will review the draft Short Report to ensure compliance with the GDOT Environmental Procedures Manual and applicable state and federal laws. If changes to the draft are required, comments will be provided digitally to the Consultant by the GDOT Project Archaeologist to request the necessary revisions. All document reviews shall adhere to the GDOT Office of Environmental Services Document Review Policy.
21. **SHPO Concurrence (when applicable):** In instances where the results of the project as presented in the Short Report require SHPO Concurrence (i.e. Historic Streetcar Surveys, Sites within Previous Coverage), the SHPO will concur with the findings by including their signature in the space provided. When sites are located within areas of previous coverage, the site number, type, NRHP recommendation, and management recommendations (i.e. Avoidance, ESA, Monitoring, etc.) should be included in the table. For sites of unknown eligibility, the NRHP recommendation should explicitly note that the portion within the survey area lacks significant data potential and/or integrity. Management recommendations provided in the ASR should pertain to the present project and treatment of the site, rather than a reiteration of recommendations from the project survey used as coverage. The recommendations should either confirm the previous recommendations are applicable to the current project or provide updated recommendations. For Corps projects where the ASR requires concurrence and is submitted in a full Section 106 package to SHPO, concurrence may be received on the form in conjunction with a standalone letter response.
22. **Report Distribution:** The GDOT Project Archaeologist will complete this section of the report upon final approval and distribute to the appropriate lead federal agency, SHPO, and tribal governments, as necessary.

PROJECT DESCRIPTION AND AREA OF POTENTIAL EFFECTS:

23. **County(ies):** List all counties in which the proposed project falls.
24. **USGS Quadrangle:** List all USGS Quadrangle Maps, 7.5-minute series, and 1:24,000 scale applicable to the proposed project area.
25. **Lat/Long Coordinates of Undertaking Centerpoint:** To assist in tribal review of the short report, provide the lat/long coordinates of the centerpoint for the undertaking in decimal degrees. For FHWA, GEPA, or Corps projects with full jurisdiction, this will be the project centerpoint. For projects with partial Corps jurisdiction, the centerpoint of the Corps permit area should be provided. If the project has discrete ESBs (e.g., signal or

pedestrian upgrade projects), the approximate center point of each location should be provided and may be provided in a table format inserted below this location in the form.

26. **UTM Zone(s):** List all UTM Zone(s) applicable to the proposed project area.
27. **Project Description:** Enter a detailed description of the project. Describe the type of project including existing conditions and proposed improvements (including existing and proposed ROW widths). If the report is submitted for an addendum survey, a description of the changes since the last approved survey should be provided. The project description should be consistent with the NEPA project description. For projects with partial Corps jurisdiction, the project description should include a general description of the overall GDOT project, as well as a paragraph describing the Corps undertaking (permit area) as identified in the Corps' SOA response for the project's Section 404 Permit (defined as the Corps APE). The project location map, or additional supporting figure, should clearly identify the Corps' APE and be referenced in this section.
28. **Definition of Survey Area:** Enter a detailed definition of the survey area including the overall project length along centerline and tie-ins, existing and proposed right-of-way (ROW), easements, and project begin and end points. Generally, an earlier concept-level ESB will be described in terms of the width of the survey area if ROW estimates are unknown, while a more defined APE will be discussed in terms of required ROW limits and easements. For projects with partial Corps jurisdiction, the Survey Area should describe the Corps APE for the undertaking as defined by the Corps' SOA response and subsequent permit area, which generally equates to the extent of the impacted waters plus a 100-meter buffer. For projects with discrete APEs based on project activities such as signal or pedestrian upgrades, provide a general description of the ground disturbing activities included in the APE per the 2018 Signal Upgrade MOU or Section 5.2 of the GDOT Cultural Resources Manual.
29. **Survey Area Check Boxes:** Select the correct checkbox for the type of survey boundary used (APE, Expanded Survey Corridor, or Environmental Survey Boundary) and provide accompanying documentation as necessary. If an ESC waiver was obtained from the GDOT Archaeology Team Leaders or Project Archaeologist, supporting documentation is required, except for surveys with programmatic ESC waivers such as LIBP, emergency projects, etc. Documentation of coordination with GDOT on the waiver should be submitted with the ASR but does not need to be appended to the document itself.
30. **Project Location Map:** Attach a project location map depicting the precise location of the project showing beginning and end points. The map must include a north arrow, scale, GDOT project number and PI number, as well as the map date. The map may be on a USGS topographic map, aerial photograph, a county map, or combination thereof. If an aerial photograph is used as the base map, a USGS topographic map shall also be included with the documentation either as the Survey Results Map or as a separate map. All figures should include a sequential figure number and caption. For projects with partial Corps jurisdiction, the Project Location Map should clearly indicate the Corps' APE as defined by the Corps' SOA response and subsequent permit area, which generally equates to the extent of the impacted waters plus a 100-meter buffer. The 100-meter buffer should be shown on all associated maps as the full extent of the buffer and not clipped to the edge of the survey area. Additional figures related to the Corps APE may be added as necessary and will include the location of the impacted Water(s) of the US, 100-meter buffer, and the GDOT project limits (defined as the extent of all existing and required ROW and easements). If the full project survey was negative under GEPA, the original project location map can include the full project corridor, however the Corps permit area should be clearly identified and labeled within the overall project. No resources outside of the Corps permit area should be included on any maps for ASRs documenting partial Corps jurisdiction. *Refer to the Cultural Resources APE Mapping Guidance for GEPA Projects with Corps Involvement for additional guidance.*

ARCHAEOLOGICAL BACKGROUND RESEARCH:

31. **Previously Recorded Sites Within 1km:** List all sites within 1km of the project survey area, measuring from the project centerline (beginning-end) at a minimum. Provide a map showing GNAHRGIS polygon results; include site type, eligibility determination, year recorded, and distance from the survey area in a table. The boundaries of all previously recorded sites should be derived from review of the original archaeological report and site forms, rather than the polygons included in GNAHRGIS to ensure their accuracy. Searches should utilize site polygons rather than point data to ensure that any large site boundaries that extend into the survey

area are captured. All previously recorded sites that fall within the survey area of the present project, and within an area of approved previous survey coverage, should be listed and discussed first. If any previously recorded sites fall within the present survey area but outside of an area of approved previous survey coverage, then a site revisit must be conducted and a full report must be submitted, regardless of whether any cultural material was located during the current survey.

32. **Previous Surveys Intersecting Current Project Survey Area:** List all previous archaeological surveys whose coverage intersects with and includes all or portions of the present project's survey area. Provide a map showing the survey locations relative to the survey area (identified by Author and year) and provide the report citations in the References section. For projects that are proposing to use previous survey coverage for any portion of the current survey, provide sufficient detail to justify that the original methodology was adequate and consistent with current archaeological methods, including survey intervals and site delineation methodologies. Surveys without available full reports to verify survey coverage and site information will not be approved for use as previous survey coverage. Surveys proposed for previous coverage should be presented first in this section. For repackaged ASRs prepared for projects with partial Corps jurisdiction, the original GEPA survey and report should be included in this section and referenced appropriately as the original documentation for the survey if it has been finalized by the time that the repackage is prepared. All maps should be of sufficient scale and resolution to ensure that all data is clear and legible.
33. **Additional Contextual Information (as appropriate):** Include discussion of any other relevant contextual information as needed, including but not limited to, the presence of an eligible or NRHP-listed Historic District, vicinity to the Trail of Tears National Historic Trail, vicinity of Civil War battlefields, Traditional Cultural Properties (TCPs), the Gullah-Geechee National Heritage Area, National Historic Landmarks, Historic Streetcar Resources, etc. Additionally, include information on any federal lands or Georgia DNR-managed lands that fall within the survey area (i.e., parks, historic sites, wildlife management areas, etc.). Add figure of boundaries as appropriate.

ARCHAEOLOGICAL SURVEY: Insert Photos under each section to demonstrate described conditions, as appropriate. The entirety of the project area should be described below, including areas that fall within previous coverage, as applicable.

34. **Soil Descriptions:** Enter a description of the observed soils and approximate locations if variable within the APE. USDA Soil Survey classifications should also be included. Please be sure to include color, soil type, and depth of the strata from representative shovel test(s). No soil map is necessary for the ASR, just a written description of the USDA soils is needed.
35. **Topography:** Describe the topographic setting of the project, the range of landforms, and slope percentages. Also list any special characteristics (springs, caves, Carolina Bays, terracing, etc.)
36. **Land Use/Vegetation/Ground Cover:** Enter all current (and previous, if known) land use conditions within the survey area (i.e. agricultural, commercial, etc.) Describe the current vegetation and percentage of surface visibility. In addition to photos, provide aerial maps to help demonstrate disturbance, development, etc., as applicable. If those are provided elsewhere in the ASR for another purpose, refer to them here to support this discussion.
37. **Survey Limitations and Disturbance(s):** List all conditions within the survey area that have altered the natural landscape and/or have caused extensive disturbance (i.e. pavement, sidewalk, fill, washouts, borrowed areas, erosion, etc.) For documents using prior coverage and containing archaeological sites, document any changes observed during the field visit that may have occurred since the time of the original survey here in general and more specific to the site later in the site-specific discussion under #39, Additional Information.
38. **Survey Methods:** List all survey techniques undertaken to survey the project for archaeological sites or deposits. Include the number of Shovel Test Units excavated and the number of locations where no shovel test was possible ("no digs"). If an isolated find is recorded, detail the delineation methods and provide supporting maps below under "Additional Survey Information". Describe any special methodologies employed during the survey as necessary, such as probing, metal detection, ground penetrating radar, augering, etc. Additional methods used on a given survey should be appropriate to the project area and site type based on the results of background research (i.e. metal detection in areas of potential Civil War resources). Include methods for any site visits of previously recorded sites within prior survey coverage. For

projects that are proposing to use previous survey coverage for any portion of the current survey, provide a description of the previous work and justification that the original methodology was adequate and consistent with current archaeological standards. This description of previous methodologies should be separate from the description of any new survey conducted for the current document.

39. Additional Survey Information: Provide additional information relevant to the field survey and results, as necessary. Additional information is required in each project scenario as detailed below.

- ✓ ARPA or DNR Permits: If an ARPA permit or DNR fieldwork permit is required, include reference to the Agency, permit number, and any special survey requirements. Include the approved permit as an attachment.
- ✓ Isolated Finds: Include a description of isolated finds (IFs) recovered during survey. Isolated find discussions should describe the location, artifact(s) recovered, and delineation of each isolated find. Include a sketch map of delineation shovel tests including a north arrow, legend, and scale. Include representative photographs of the isolated find and the area from which it was recovered. A statement should be included indicating that, by definition, an isolated find in most instances does not qualify as a site under the Georgia Council Professional Archaeologists guidelines and is therefore not eligible for inclusion on the National Register of Historic Places.
- ✓ Previous Survey Coverage: An assessment of current conditions for all areas of previous coverage should be included here and in sections #34-37 described above, as applicable. For all sites that fall within areas of proposed previous coverage, provide a discussion of the site delineation and NRHP evaluation, including justification that identification and delineation methods specific to the site are consistent with current archaeological standards. Include the original site delineation maps from the original report within the site discussion. Provide a description of the current site conditions, including any changes since the time of the original survey/recording. Attach the original site form(s), an updated Archaeological Site Form(s), and SHPO concurrence letter, if available.
- ✓ Modern Cemeteries: Provide a discussion of cemetery delineation fieldwork, including probing, GPR, and documentary research that is sufficient to ensure compliance with *Georgia's Abandoned Cemeteries and Burial Grounds Act*, OCGA 36-72. Provide adequate information resulting from background information to demonstrate that the cemetery is less than 50 years of age and therefore is not considered an historic property. Attach additional information regarding GPR survey, as needed. Because a modern cemetery is not considered an archaeological site, a GASF site form is not required.
- ✓ Historic Cemeteries Within Viewshed: Include a brief description of all historic cemeteries located within the viewshed of a project in reference to the Historic Resources Survey Report, including the NRHP recommendation, and SHPO concurrence date, if available. If SHPO concurrence is not available or still outstanding, note that as well. Provide a description of the relative location of the cemetery to the archaeological survey area and justification that the fieldwork was adequate to confirm that the cemetery does not extend into the survey area, including the use of probing, GPR, etc., as needed. Include an archaeological site form for each historic cemetery within the viewshed. An updated ASR is not required if a cemetery's eligibility changes after ASR approval; however, an updated site form will be required.
- ✓ Possible Historic Streetcar Resources: If a GPR survey for Historic Streetcar resources is included, it should be noted in this section and reference made to the appended technical report. An overall summary of the findings provided in an attached technical report should be provided in this section including whether any potential historic streetcar resources were identified, their location, and any management recommendations such as monitoring. All survey and recommendations must be consistent with the *2015 Programmatic Agreement for Historic Streetcar Archaeological Sites in Georgia*.

40. Survey Results Maps: Maps must include a north arrow, scale, legend, GDOT PI number, and appropriate labels for roads and other identifying features. For projects without a GDOT PI number, other identifiers such as the LIBP bridge structure ID or PM number for surplus parcel surveys should be included in the "Other ID" field on the first page. Maps should show all shovel test and transect locations, including No Digs. Areas of No Digs should be annotated on the maps with a text box or call-outs to provide justification for no dig placement. Appropriate data source information and map dates should be included. The maps may be on a USGS topographic map, aerial photograph, or some combination thereof. If an aerial photograph is used as the base map, a USGS topographic map shall also be included with the documentation either as the Project Location Map or as a separate map. All maps should be provided a sequential figure number and caption. Areas of prior coverage should be clearly identified and labeled on all maps, using the author and

year of the original report. For projects with partial Corps jurisdiction, survey maps should clearly indicate the Corps' APE as defined by the Corps' SOA response, which generally equates to the extent of the impacted waters plus a 100-meter buffer. If the full project survey was negative under GEPA, the original survey map can include the full project corridor, however the Corps APE should be clearly identified within the overall project on all figures. No resources outside of the Corps APE should be included on any maps for ASRs documenting partial Corps jurisdiction, except for the previously recorded sites map. *Refer to the Cultural Resources APE Mapping Guidance for GEPA Projects with Corps Involvement for additional guidance.*

41. **Photographs:** Include photographs that will give a sufficient representation of the survey area and to support other data as presented throughout the report, including assessments of current site conditions for areas of previous coverage. Key the photograph locations to the survey results map or a separate figure as needed. Consider formatting multiple photographs per page to ensure space efficiency and add photographs as figures within the body of the report to support descriptions of survey conditions, etc. All photographs should be incorporated throughout the report and provided a sequential figure number and caption and cited through the report where relevant.

REFERENCES CITED:

42. Provide citations for all sources used in the body of the report, including the Historic Resources Survey Report as applicable. For addendum surveys, cite all previous project reports. References should refer to the full archaeological report and author for both sites and surveys, rather than the Georgia Archaeological Site Form, unless no report is available.

ATTACHMENT CHECKLIST:

43. **Curriculum Vitae of PI:** PI should attach a condensed, one-page CV.
44. **Historic Cemetery Site Form(s):** A draft archaeological site form should be prepared and attached to the report. For cemeteries within the viewshed, coordination with the project historian should occur as to the NRHP eligibility to list on the site form as well as the boundary. If the History report has a proposed resource boundary, that may be used on the site form however if no boundary is provided, a visual boundary should be determined by the archaeologist and noted as such on the site form. A draft site form without the official state site number should be submitted with draft report submittal to allow the GDOT Archaeologist to review the form and proposed boundary. The official site number can be obtained after GDOT review and incorporated into the report prior to submittal of a revised short report. Site forms are not required for modern cemeteries documented with an ASR.
45. **Historic Streetcar Survey Documentation:** Attach documentation of all background research and fieldwork including maps of anticipated streetcar resources within the survey area, Ground Penetrating Radar survey methodology including transect placement, survey results, data interpretation, and management recommendations. A sufficient number of cross-sections should be provided to indicate the presence or absence of potential streetcar resources, along with their approximate depth. Survey and recommendations shall be consistent with the *2015 Programmatic Agreement for Historic Streetcar Archaeological Sites in Georgia*.
46. **Field Notes:** Provide scanned copies of all project field notes. Because there is no artifact curation associated with surveys documented using this short report, submittal of the field notes serves as curation of the project field data.
47. **Documentation of Previous Coverage:** Provide shovel test maps and site forms (original and revisit) for all areas/sites where previous coverage is proposed for use in lieu of survey. Original site delineations maps should be provided within the body of the report under #39, Additional Information during the discussion of previous work and site descriptions. Include copies of previous SHPO concurrence letters, when available.
48. **Other:** Provide any additional attachments necessary to document and support the survey results. Such as SOA Maps, ARPA Permits, DNR Fieldwork Permits, technical reports for underwater surveys, GPR surveys, etc. and any other relevant supporting project documentation.

****The following items shall be provided with the draft report submittal but should not be included as attachments to the document: landowner letters, the plans or layout used to develop the survey area, ESC waivers, and documentation of OES coordination regarding appropriateness of prior survey coverage. These will be stored in the project file but will not be distributed with the final report.**

Report Title: [Click here to enter text.](#)

Prime Consultant: [Click here to enter text.](#)

Sub Consultant: [Click here to enter text.](#)

GDOT PI No.: [Click here to enter text.](#) **Other ID:** [Click here to enter text.](#)

Date Submitted: [Click arrow to choose date.](#) **GA SHPO HP No.:** [Click here to enter text.](#)

Document Type: ☐ Federally Funded (FHWA) ☐ State Funded (GEPA)

☐ Federally Permitted (Corps) **SAS No.:** [Click or tap here to enter text.](#) **Corps Jurisdiction:** [Choose an item.](#)

RESULTS: [Select all that apply.]

☐ Negative Findings

By agreement, because no archaeological resources were located within the project's area of potential effect, no signed concurrence from the State Historic Preservation Office is required.

☐ Isolated Archaeological Find(s) [Include a description of all isolated find(s) and their delineation]

Per Georgia Council of Professional Archaeologists Standards, with rare exception, an isolated archaeological find is not considered an archaeological "site" or an historic "property" and is therefore by definition, ineligible for the National Register of Historic Places. Therefore, no signed concurrence from the State Historic Preservation Office is required.

☐ Previous Archaeological Survey Coverage [Include required documentation as outlined in the ASR Template Instructions and attach site form(s), previous concurrence letters, etc. as applicable. Coordination with the GDOT archaeologist is required and use of previous coverage must be approved prior to survey.]

Portions of the project's area of potential effect have been previously surveyed for archaeological resources using methodology consistent with current archaeological survey standards. Per coordination with the State Historic Preservation Office, previous archaeological survey coverage may be used to satisfy identification efforts when the methodology of the original survey has been verified as consistent with current standards.

☐ Previous Coverage Containing Archaeological Sites within Current Survey Area – SHPO Concurrence Required

☐ Previous Coverage with Negative Findings - SHPO Concurrence Is Not Required

☐ Modern Cemetery Delineation [Include documentation of archaeological delineation]

In compliance with Georgia's Abandoned Cemeteries and Burial Grounds Act (OCGA 36-72), a modern cemetery (containing no burials 50 years of age or older) has been identified and archaeologically delineated to identify the presence of potential burials within the survey area. Because the cemetery does not constitute an historic property, it has not been designated by an official Georgia State Site number, nor evaluated for the National Register under Criterion D. Therefore, no signed concurrence from the State Historic Preservation Office is required.

☐ Historic Cemetery within Viewshed [Attach site form(s) and refer to the project Historic Resources Survey Report]

Per GDOT Cemetery Procedures, an Archaeological Site Form has been prepared for all historic cemeteries outside of the archaeological survey area but within the historic resources survey viewshed of the project. The cemetery has not been investigated archaeologically or evaluated for the National Register under Criterion D as a result of the survey detailed in this enclosed report. No SHPO Concurrence is required.

☐ Possible Historic Streetcar Resources within Project APE [Please include results and analysis of GPR survey, if required]

Per the 2015 Historic Streetcar Programmatic Agreement, background research and appropriate fieldwork were conducted to evaluate the potential presence of historic streetcar resources within the project survey area.

☐ Potential Streetcar Resources Identified, Avoidance or Monitoring Recommended – SHPO Concurrence Required

☐ No Streetcar Resources Identified - SHPO Concurrence Is Not Required

RECOMMENDATIONS:

Based on the results of the enclosed archaeological survey, no archaeological sites listed in or considered eligible for listing in the NRHP were located within the APE of this undertaking. Choose an item. A report which fulfills the Department's responsibilities under Section 106 for historic resources will be submitted separately. **(Include for federally-funded projects and/or when Corps area of jurisdiction is known.)**

OR

Based on the results of the enclosed archaeological survey, no archaeological sites listed in or considered eligible for listing in the NRHP were located within the APE of this undertaking. Choose an item. The determination of any federal jurisdiction over the project has not been made and will be decided as project planning progresses. **(Include for GEPA projects when Corps jurisdiction is unknown.)**

CONSULTANT INFORMATION:

Principal Investigator:	Click here to enter text.	Email Address:	Click here to enter text.
Project Archaeologist:	Click here to enter text.	Email Address:	Click here to enter text.
Document Author:	Click here to enter text.	Email Address:	Click here to enter text.
Document Co-Author:	Click here to enter text.	Email Address:	Click here to enter text.

CONSULTANT CERTIFICATION:

I, [Click here to enter text.](#), the Principal Investigator, do hereby certify that the Survey Area for the above referenced project (as described in the enclosed form) has been thoroughly surveyed for archaeological resources per the requirements of the GDOT Environmental Procedures Manual and that no archaeological sites were located or identified within the survey area.

PI Signature: [Click here to enter text.](#) **Date:** [Click arrow to choose date.](#)

GDOT REVIEW AND APPROVAL:

Reviewer Signature: _____ **Approval Date:** _____

SHPO CONCURRENCE *(when applicable):*

- ☐ Potential Streetcar Resources Identified, Avoidance or Monitoring Recommended
☐ Archaeological Sites Identified During Previous Coverage and Located Within the Current Survey Area:

Site Number	Site Type	NRHP Recommendation	Management Recommendations for Current Project (ESAs, Monitoring, Etc.)

SHPO Signature: _____ **Date:** _____
Jennifer Flood, Deputy SHPO

REPORT DISTRIBUTION:

PROJECT DESCRIPTION AND DEFINITION OF SURVEY AREA:

County(ies): Click here to enter text. USGS Click here to enter text.
Quadrangle(s):

Coordinates of Click here to enter text. UTM Zone(s): Click here to enter text.
Undertaking
Centerpoint:

Project Description (proposed improvements, existing and proposed ROW, Corps APE, if known, etc.):
Click here to enter text.

Definition of Survey Area (length, width, etc.):
Click here to enter text.

- ☐ This archaeological survey included all areas within an Environmental Survey Boundary (**ESB**) provided by the project Designer.
- ☐ This archaeological survey included all areas of the **APE** and an additional 100-foot Expanded Survey Corridor (**ESC**).
- ☐ This archaeological survey covers the **APE only** and does not include an additional 100-foot Expanded Survey Corridor. A waiver was obtained on [Click arrow to choose date](#) from the GDOT Archaeology Team Leaders or Project Archaeologist. (Include Documentation with ASR submittal.)

[Insert Project Location Map and Corps APE map, when applicable]

ARCHAEOLOGICAL BACKGROUND RESEARCH:

Previously Recorded Sites within 1km:
Click here to enter text.

[Insert Figure Showing Previously Recorded Sites within 1km of Survey Area]

Previous Surveys Intersecting Current Project Survey Area:
Click here to enter text.

[Insert Figure Showing Previous Surveys – Can be combined with above map]

Additional Contextual Information (including Historic Districts, Historic Streetcar Lines, Battlefields, TCPs, Historic Trails, etc., as appropriate):
Click here to enter text.

[Insert Figure Showing Historic District/TCP/Trail Boundaries as appropriate – Can be combined with above map]

ARCHAEOLOGICAL SURVEY INFORMATION: (Insert maps and photos for each section as needed)

Soil Descriptions:
Click here to enter text.

Topography:
Click here to enter text.

Land Use/Vegetation/Ground Cover:
Click here to enter text.

Survey Limitations and Disturbance(s):

Click here to enter text.

Survey Methods (Including cemetery, historic streetcar survey efforts, metal detection, etc.):

Click here to enter text.

No. of excavated STs: Click here to enter text. No. of No Digs: Click here to enter text.

Additional Survey Information: (See instructions for required information for Previous Survey Coverage, Modern Cemetery Delineation, Cemeteries within viewshed, Isolated Find Delineation, Streetcar GPR Surveys, etc.)

Click here to enter text.

[Insert Survey Maps and Representative Photos throughout the above section, as appropriate]

REFERENCES CITED:

Click here to enter text.

ATTACHMENT CHECKLIST:

- | | |
|--|---|
| <input type="checkbox"/> 1. Curriculum Vitae of Principal Investigator | <input type="checkbox"/> 4. Field Notes |
| <input type="checkbox"/> 2. Historic Cemetery Site Form(s) | <input type="checkbox"/> 5. Documentation of Previous Coverage
(including original and revisit site forms) |
| <input type="checkbox"/> 3. Historic Streetcar Survey Documentation | <input type="checkbox"/> 6. Other: Click here to enter text. |

HISTORIC RESOURCES SURVEY REPORT TEMPLATE

[TEMPLATE AVAILABLE IN PDF DRAFT]

DATE: Date

FROM: Name, Historian, Office of Environmental Services

TO: Files

SUBJECT: GDOT Project , County;
 P.I. # and HP # :
 Historic Resources Survey Report

Attached is the Historic Resources Survey Report, prepared by **(firm name)** of **(location)**, Georgia for the subject project. This document describes the Department's efforts to identify historic properties located within the proposed project's area of potential effects and the evaluation of all identified properties through the application of the Criteria of Eligibility to determine eligibility for inclusion in the National Register of Historic Places.

____/

cc: Sabrina S. David, AICP, FHWA GA Division (Attn: Aaron Hernandez **OR** Ramsey McKinstry)
Jennifer Flood, 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)**
Lisha Chen, City of Atlanta Office of Design, Historic Preservation Studio **(for City of Atlanta projects only)**
David Y. Mitchell, Atlanta Preservation Center, w/attachment **(for City of Atlanta projects only)**
Ian Michael Rogers, Easements Atlanta, Inc. **(for projects with resources that have an Easements Atlanta easements only)**
ANY OTHER CONSULTING PARTY, w/attachment

CONCUR: _____ **DATE:** _____
Jennifer Flood, Deputy SHPO

cc: , GDOT NEPA
 , Consultant
 , GDOT Project Manager, Office of Program Delivery

HISTORIC RESOURCES SURVEY REPORT

GDOT PROJECT , COUNTY

P.I. #

HP #

The proposed project(s) **was/were** field surveyed for historic properties in compliance with Section 106 of the National Historic Preservation Act of 1966 and amendments thereto **[or the Georgia Environmental Policy Act; any areas of federal jurisdiction have not been identified]**. The survey boundary and methodology were established using the Section 106 Programmatic Agreement between the Federal Highway Administration (FHWA), the United States Army Corps of Engineers (Corps), the Advisory Council on Historic Preservation (ACHP), the State Historic Preservation Officer (SHPO), and Georgia Department of Transportation (GDOT) and its corresponding Section 106 Cultural Resources Manual (PA).

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

Select this option if ROW is required

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 on the nature and the scope of the undertaking, the guidance in the PA and past experience with similar projects, 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) **OR** The potential for indirect effects will be evaluated as projected data becomes available and a clearer picture of possible changes in traffic patterns and development pressures emerge (*tailor to your project*).

Select this option if ROW is not 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) **OR** The potential for indirect effects will be evaluated as projected data becomes available and a clearer picture of possible changes in traffic patterns and development pressures emerge (*tailor to your project*).

The review of existing information on previously identified historic properties revealed that no National Register listed properties, proposed National Register nominations, National Historic Landmarks, or bridges determined eligible for inclusion in the National Register in the updated Georgia Historic Bridge Survey (GHBS) were identified within the proposed project's(s') APE. No properties 50 years old or older were identified within the proposed project's(s') APE in the **[year]** Department of Natural Resources (DNR) **[name] County(ies) Survey(s)**.

OR

The review of existing information on previously identified historic properties revealed ***[how many of each kind were identified]*** within the proposed project's(s') area of potential effects (APE). These properties are ***[name of property(ies)]***. A copy of the National Register nomination form for listed property is attached.

In addition, **[number]** property(ies) 50 years old or older were identified within the proposed project's(s') APE in the **[year]** DNR **[name]** County survey. These survey sites are **[site numbers]**. These sites were field surveyed by a Department historian on **[date]**. Of those **[number]** survey sites identified on the DNR survey, **[number]** no longer exist. The sites that no longer exist are **[site numbers]**.

A total of **[number]** additional property(ies) 50 years of age or older not identified in the DNR survey **was/were** identified within the proposed project's(s') APE during the field survey. **These/This** property(ies) **is/are** listed in the following table **[name of property, date of construction, type and/or style and location for each]**. :

Name of Resource	Date of Construction	Type and/or Style	Location	National Register Recommendation

In addition to the Georgia SHPO, other potential consulting parties were identified based on the nature of the undertaking and the guidance in the PA. The other potential consulting **party(ies)** invited to participate in the Section 106 process **was/were** the **[name]** Regional Commission **(include all parties identified in the notification letter or as a result of the notification letter)**. **OR** The interested parties invited to comment on the undertaking in accordance with Section 12-16-4(b) of GEPA **was/were** the **[name]** Regional Commission **(include all parties identified in the notification letter or as a result of the notification letter)**. The consulting (or invited) **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 National Register 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)]** to the Department's invitation to become a consulting party in the Section 106 process (see correspondence in Appendix).

For each property 50 years old or older identified within the APE, a Property Information Form with attached photographs has been prepared. The Criteria of Eligibility was applied to each property and a recommendation regarding National Register eligibility has been made. For those properties recommended eligible for listing in the National Register, a site plan sketch, and proposed boundary depiction have also been attached to the Property Information Form. **[Tailor if only one resource is eligible or nothing eligible.]**

Of the **[number]** properties 50 years old or older that were surveyed and to which the Criteria of Eligibility was applied, **[number]** have been recommended eligible for inclusion in the National Register of Historic Places.

PROPERTY INFORMATION FORM

Property Identification: The *[name of property]* is also identified as Property *[number]* in the field notes and on the project location map. This property was identified as *[site number]* in the *[year]* DNR *[name]* County Survey. **OR** This property was not identified in the *[year]* DNR *[name]* County Survey.

Location: The property is located *[describe]* (refer to resource location map).

Date(s) of Development: According to (the field assessment/the tax assessor's record), the *[name of property]* (appears to have been/was) constructed *[date of construction]*. Also include dates or approximate dates of alterations or additions, and changes in use of the property.

Description: The *[name of property]* is a *[property type and/or style]* (see attached photographs). Describe the features and details of the resource. Discuss the character of the setting of the resource. Refer to attached photographs by number.

For ineligible districts, insert a table that lists the individual property(ies) within the APE. Append the Ineligible District Property Form(s) for each property(ies) to the end of the PIF.

National Register Recommendation: The property is considered **(Not) Eligible** for inclusion in the National Register of Historic Places.

National Register Criteria and Level of Significance: *[Name of property]* was evaluated for eligibility for listing in the National Register using the National Register Criteria for Evaluation as outlined in 36 CFR Part 60.4. There are no known associations with events that have made a significant contribution to the broad patterns of our history (use if not being evaluated under Criterion A). There are no known associations with individuals whose specific contributions to history can be identified and documented with this property (use if not being evaluated under Criterion B). No associations were indicated or suggested as a result of background research on the project area *and deed research on the property*, in any response to the Department's early consultation correspondence received from consulting parties or *in an interview with the current owners or occupants of the property* (tailor). Therefore, there was no basis for evaluating the property under Criteria A or B (tailor). Also, there are no indications that the property is likely to yield information on important research questions in history or prehistory. ***[may not be applicable if a district]*** This property does not appear to have the potential to be the principal source of important information. Therefore, there was no basis for evaluating the property under Criterion D. ***[Tailor paragraph to property]***

[Name of property] was evaluated under Criterion (A, B, C, D) and appears to possess a *[local, state, national]* level of significance in the *area(s)* of *[agriculture, architecture, engineering, etc.]* as a *[significant property type]*. ***[Justify significance]***

OR

[Name of property] was evaluated under Criterion (A, B, C, D) and does not appear to possess significance in the area of *[area evaluated]*. **Justify.** Therefore, *[name of property]* is not considered eligible for inclusion in the National Register.

EXAMPLE - Although a historic barn and shed formerly associated with the resource's agricultural history are still extant on the property, neither building is currently utilized for agricultural purposes. In addition, the remaining land within the legal property boundary does not contain any agricultural fields. Only wooded areas remain. Therefore, this property does not convey significance under Criterion A as a good and representative example of an early-twentieth century agricultural farm complex. (Consult the agriculture context to support your argument for or against significance under this criterion.)

EXAMPLE - The property represents a house type not identified in Georgia's Living Places: Historic Houses in Their Landscaped Settings and does not appear to represent a significant trend in Georgia's architectural

history. Therefore, the property is not considered eligible under Criterion C in the area of architecture. **Justify. OR** While the property represents a house type identified in Georgia's Living Places: Historic Houses in Their Landscaped Settings that is significant in Georgia's architectural history, the property does not retain integrity and can no longer convey significance in the area of architecture. **Justify.**

Integrity: (discuss whether or not the property retains integrity in terms of the seven areas of integrity: location, setting, design, materials, workmanship, feeling and association).

[Name of property] has been determined to possess integrity in the areas of... **Justify. OR**

[Name of property] has been determined not to possess integrity in the areas of... **Justify.**

Note: If property is considered not eligible, include the next paragraph heading, but state N/A (not applicable):

Proposed Boundary (Justification and Description): The proposed National Register boundary of **[name of property]** corresponds to the legal property boundary, and contains ____ acre(s). **OR** Because the historic boundary is no longer intact and because there are no other features within the legal boundary that contribute to the architectural significance of the property, the proposed National Register boundary is a visual boundary, and contains approximately ____ acre(s). The proposed boundary contains all National Register qualifying characteristics and features of the property and includes the house, associated outbuildings and the immediate surrounds. **Tailor**

[Boundary description including dimensions. If the boundary corresponds to the current legal boundary, no verbal description or graphic representation of the dimensions is necessary. Merely give the legal parcel number and attach a boundary graphic. For visual boundaries, either verbally describe the boundary or show the dimensions on the boundary graphic] (see attached boundary graphic).

Add statement re: if boundary extends to existing right-of-way line or edge of pavement and why. The right-of-way line along (name of roadway) has been proposed as the (direction i.e.: northern, southern) border of the proposed boundary because the area within the right-of-way consists of a ditch and does not contain any landscape or other features that contribute to the National Register eligibility of this property. **Or** The edge of pavement along (name of roadway) has been proposed as the (direction i.e.: northern, southern) border of the proposed boundary because the area within the existing right-of-way contains a portion of the property's grassed lawn (or whatever features). This landscape feature is considered a contributing element of the setting of the proposed eligible property.

UTM Coordinates: 7.5 Minute Series Topographic Map. **NAD 27 or NAD 83 (select appropriate source – if you used GNAHRGIS it is NAD 27) [Name]** Quadrangle Zone (16 **OR** 17) Easting **[number]** Northing **[number]**.

Prepared: Completed pursuant to 36 CFR Part 800.4(c) in compliance with Section 106 of the National Historic Preservation Act or **OCGA 12-16-1 and GDOT's Policy 4415-10** for GDOT Project(s) **[number]**, PI# **[number]**, **[name]** County(ies) by:

Historian
Georgia Department of Transportation
Office of Environmental Services
One Georgia Center
600 West Peachtree Street, NW, 16th Floor
Atlanta, Georgia 30308
(404) 631-**[number]**

For all properties, attach a site plan sketch and photographs. For properties considered eligible, attach the following: site plan sketch, photographs, photo key (with photos keyed) and boundary depiction. Also attach a floor plan sketch (not to scale is acceptable) when access to the interior of the resource is available, especially when a sketch of the floor plan will help determine eligibility. For ineligible districts, attach the Ineligible District Property Form(s).

APPENDIX
NOTIFICATION
AND
EARLY CONSULTATION CORRESPONDENCE

ASSESSMENT OF EFFECTS TEMPLATE

[TEMPLATE AVAILABLE IN PDF DRAFT]

ASSESSMENT OF EFFECTS

GDOT PROJECT _____, _____ COUNTY

P.I. #

HP #

FINDING OF NO EFFECT/NO ADVERSE EFFECT/ADVERSE EFFECT TO

[NAME OF PROPERTY]

July 15, 2025 (update after each edit)

This document has been produced for use in compliance with Section 106 of the National Historic Preservation Act of 1966 and subsequent amendments.

FOR ELIGIBLE BRIDGES THE STATEMENT BELOW MUST BE INCLUDED ON TITLE PAGE.

This document also serves in compliance with commitments attendant to the “Nationwide Programmatic 4(f) Statement for Historic Bridges” approved July 1983 by the Federal Highway Administration and the U.S. Department of Transportation pursuant to 23 U.S.C. Section 138.

INTRODUCTION

This document has been prepared for use in completion of applicable Section 106 procedures in compliance with the National Historic Preservation Act (NHPA) of 1966 and subsequent amendments. The documentation has been developed in accordance with the Section 106 Programmatic Agreement between the Federal Highway Administration (FHWA), the United States Army Corps of Engineers (Corps), the Advisory Council on Historic Preservation (ACHP), the State Historic Preservation Officer (SHPO), and Georgia Department of Transportation (GDOT) and its corresponding Section 106 Cultural Resources Manual (PA). As such, this document assesses the effects to historic properties identified within the area of potential effects of GDOT Project(s) _____, _____ County(ies).

The design of the proposed project(s) was developed by GDOT engineering personnel who, as a standard procedure, include environmental parameters as a part of the initial investigations prior to laying out a proposed design. Basic data of the project area that was gathered and studied included aerial photography, topographic maps, traffic (existing and projected), previous studies, wetland inventory maps, soil survey maps, flood plain maps, and Georgia Department of Natural Resources' historic resource survey maps.

That data was used to delineate wetland or hydric soil boundaries, flood plains, parks and recreational facilities, known or suspected historic properties and archaeological sites, existing rights-of-way, possible UST/landfill/hazardous waste sites, and areas of possible endangered species habitat on the aerial photography prior to laying out an alignment. In addition, other "controls" such as churches, cemeteries, schools, hospitals, and any other noise sensitive areas were also identified.

Only at this point was the proposed alignment developed with every attempt being made to avoid sensitive ecological, historic and archaeological areas. In the event that avoidance was not possible, every attempt was made to minimize harm to such resources. The proposed alignment, once laid out, was then field checked and additional refinements were made to further minimize harm to both the natural and built environment.

NEED AND PURPOSE

NEPA TO PROVIDE.

DESCRIPTION OF THE UNDERTAKING

GDOT Project(s) _____ is/are federally funded. Therefore, Section 106 compliance is being processed through the Federal Highway Administration (FHWA) **OR** 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).

[PROJECT DESCRIPTION]

NEPA writer to provide. Confirm it is the same as was used in Notification and Survey Report. If the project description has been updated since the submittal of the Notification, modify the description accordingly and provide an explanation for the changes.

Figure 1 will be referred to in this section. Figure 1 will be a project location map with listed and eligible historic properties located within APE identified. It should include a project vicinity in the way of an outline of the state of Georgia with county(ies) highlighted. Figure 1 and all subsequent Figures will be embedded in document and not appended to end.

As defined in 36 CFR 800.16(d), the area of potential effects (APE) of an undertaking is defined as "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 on this definition, the nature and scope of the undertaking, the guidance in the PA and past experience with similar projects, the APE was defined, in consultation with the Georgia SHPO, as **[description of APE from Survey Report]**.

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 listed properties, proposed National Register nominations, National Historic Landmarks, and the updated Georgia Historic Bridge Survey (GHBS). The Department of Natural Resources (DNR) County survey dated **[date]** was consulted **OR** A Department of Natural Resources (DNR) County survey has not been conducted and could not be checked. The state archaeological site files at the University of Georgia and existing survey reports were consulted to locate previously identified archaeological sites within the APE. Also topographic maps and aerial photography were reviewed to identify areas of high archaeological site potential within the APE.

Following the review of existing information on previously identified historic properties, potential consulting parties in the Section 106 process were identified. In addition to the Georgia SHPO, other potential consulting parties were identified based on the nature of the undertaking and the guidance in the PA. The other potential consulting party(ies) invited to participate in the Section 106 process was/were the [consulting party(ies)] and 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]. In accordance with 36 CFR 800.2, these consulting parties were informed of our efforts to locate previously identified historic properties and the results of those efforts and were asked to provide information on any unidentified National Register listed or potentially eligible historic properties located within the proposed project's(s') APE by a Notification dated [date] (see Notification in Appendix A). The Department also requested available information on past, present and future local developments or zoning plans that could result in indirect or cumulative impacts to historic properties. A response was received from the [name of consulting party(ies)] by a letter dated [date] (see copies of correspondence in Appendix A). **OR** No response was received from the Department's invitation to become a consulting party in the Section 106 process.

After reviewing any additional information received from consulting parties, field surveys and background research were conducted within the APE of the proposed project(s) to identify any historic properties or archaeological sites eligible for listing in the National Register. During the field survey and while conducting research on historic resources located along the project corridor, interviews were conducted with various property owners regarding the history of the resources (***tailor to your project and situation***). The results of the field surveys and background research were summarized in a Survey Report and an Archaeological Assessment. That report was provided to all consulting parties participating in the Section 106 process for review and comment.

As a result of these identification efforts, **[number]** National Register **listed or eligible** historic properties were identified within the proposed project's APE (refer to Figure 1). These historic properties are **[name of property(ies)]**. No National Register listed or eligible archaeological sites were identified **OR** **[number]** National Register listed or eligible archaeological sites were identified. These archaeological sites are **[site number(s)]**. The historic properties Survey Report was submitted to the SHPO and FHWA on **[date]**. The Archaeological Assessment was submitted to the SHPO and FHWA on **[date]**. In accordance with 36 CFR 800.4(c)(2), these properties were considered eligible for listing in the National Register by the FHWA and the SHPO.

If Survey Report was not submitted previously, omit previous sentences.

PUBLIC INVOLVEMENT

Pursuant to 23 CFR 771.111, various public involvement efforts have been undertaken by the Department from the earliest stages of project planning. These public involvement efforts include the following activities: ***[list and describe any and all public involvement activities including but not limited to Public Information Open House (PIOH) meetings – date held and number of citizens in attendance; Citizens Advisory Group meetings, NEPA notifications, meetings held by the project manager with the public, etc. Elaborate as necessary and indicate whether or not concerns regarding cultural resources were raised by the public and how those concerns were resolved.***

OR

Use the following wording if the Section 106 notification letter was the only public involvement effort needed for the project:

Pursuant to 23 CFR 771.111, due to the low complexity of the project, the nature of the effects, and the anticipated minimal general public feedback anticipated as a result, the early notification outreach to interested parties under Section 106 was considered sufficient public involvement for this project (refer to Appendix A for correspondence).

DESCRIPTION OF HISTORIC PROPERTIES

Name of Property

The ***[name of property]*** is a ***[property type and/or style]*** located ***[location]*** (refer to Figure 1). ***[Brief Description (a two or three sentence summary of the description provided in the Property Information Form) of the Property to include all character defining and significant features of the property]*** (refer to Property Information Form in Appendix B). This property was evaluated for eligibility for listing in the National Register under ***[Criteria/Criterion] [A, B, C, D]***. The property possesses a ***[local, state, national]*** level of significance in the ***[area/areas]*** of ***[agriculture, architecture, etc.]*** as a ***[Justify significance in each area—but only justify those areas under which the resource is significant]***.

The eligible National Register boundary of the property corresponds to the legal property boundary and comprises approximately ***[number]*** acres. All significant and character defining features of the property are included within the legal boundary (refer to property information form in Appendix B). **OR** Because the historic boundary is no longer intact and because there are no other significant or character defining features within the legal boundary that contribute to the architectural significance of the property, the eligible National Register boundary consists of a visual boundary. The eligible boundary, comprising approximately ***[number]*** acres, contains all National Register qualifying characteristics and features of the property and includes the house, associated outbuildings and the immediate surrounds (refer to property information form in Appendix B). **OR** The listed National Register boundary of the property comprises approximately ***[number]*** acres.

Repeat for each additional property.

ASSESSMENT OF EFFECTS

Name of Property

A finding of ***[No Effect/No Adverse/Adverse Effect]*** is anticipated for the ***[Name of Property]*** **OR** A finding of No Adverse Effect is anticipated for the ***[Name of Property]*** based on the condition(s) imposed

on the proposed project through stipulation(s) included in the Statement of Conditions for No Adverse Effect. In the area of the resource, project implementation would consist of ***[describe project implementation in the area of the property. This could include right-of-way acquisition and clearing and grubbing within that right-of-way, temporary and/or permanent easements, removal of designed landscaping, walls or other significant or character defining features.]***

Physical destruction of or damage to all or part of the property ***[would/would not]*** occur. [e.g. Project implementation would result in the physical destruction of the ***[name of property]***, resulting in a finding of Adverse Effect. **OR** Project implementation would result in physical destruction of or damage to all or part of the property; however, this effect would not be considered adverse. **OR** Project implementation would result in physical destruction of or damage to all or part of the property; however this effect is not considered adverse based on the conditions imposed on the project design outlined in the Statement of Conditions for No Adverse Effect.] ***[Describe construction and ground disturbing activity within listed or eligible boundary to support your effects determination. Justify why effect is or is not considered adverse. Whenever applicable (activity within the eligible boundary only), use distance in feet/meters to show the increase/decrease in distance of edge-of-pavement from resources and the percentage of loss/gain of setback.]***

NOTE: An Adverse Effect would result from an alteration of the property that is not consistent with the Secretary's Standards for the Treatment of Historic Properties (36 CFR Part 68) and applicable guidelines.

NOTE: If property is being destroyed or removed from its historic location, go directly to Alternatives to Avoid Adverse Effect.

Figure 2 and all subsequent Figures will be "Proposed Improvements in the Area of the [Name of Property]"

Project implementation ***[would/would not]*** result in a change in the character of the property's use. There are no direct or indirect effects anticipated to the ***[name of property]*** that would alter the character of the continued ***[residential, commercial, agricultural, institutional]*** use of the property. **OR** Because of the house's proximity to the roadway, the change/removal in access to the resource, the widening of the existing two lane road in front of the property to four lanes and the reduction in size of the front yard would diminish the future desirability of the property for residential use ***(tailor)***. **OR** The property is currently abandoned and has been abandoned for many years. Because of the type of the house, the structural condition of the property and its location, there is very little potential for the property to be returned to its historic use ***(tailor)***. Therefore, project implementation would not result in a change in the character of the property's use.

Project implementation ***[would/would not]*** result in a change in the character of the property's physical features within the property's setting that contribute to its historic significance (Describe in detail the setting of the property and how the resource and its contributing features would or would not be affected by project implementation).

Project implementation ***[would/would not]*** result in the introduction of visual elements that diminish the integrity of the property's significant historic characteristics or features. ***[Justify.]*** [e.g. The existing facility always has been and would continue to be an element of the visual character of the property. **AND/OR** The property is shielded from the existing facility by vegetation and would be shielded from the improved facility by this same vegetation. **AND/OR** The distance from the property to the transportation facility would not change. **AND/OR** The visual perception from the property would not change. **AND/OR** The visual character of the area surrounding the resource has been compromised by modern commercial/residential/industrial development. **AND/OR** The enlargement of the existing transportation facility would not further compromise the visual character of the property. ***Tailor to your property. Whenever applicable (activity inside or outside of eligible boundary), use distance in feet/meters***

to show the increase/decrease in distance of edge-of-pavement from resources and the percentage of loss/gain of setback.]

Project implementation would not result in the introduction of atmospheric elements that diminish the integrity of the property's significant historic characteristics or features. There would be no atmospheric effect to this property as a result of project implementation. The project is consistent with the State Implementation Plan for air quality in the region.

Project implementation would not audibly affect the ***[name of property]*** or Project implementation would audibly affect the ***[name of property]***; however, this effect would not be adverse or Project implementation would audibly affect the ***[name of property]***, and this effect would be adverse. The existing noise level at the property is ***[number]*** dBA ***LEQ***. The no-build noise level at the property is ***[number]*** dBA ***LEQ***. The build noise level (design year ***[year]***) at the resource is ***[number]*** dBA ***LEQ***. This ***[number]*** decibel increase would occur over twenty years and **would/would not** be perceptible to the human ear. **If perceptible, state whether or not substantial - (0-4 decibel increase barely perceptible), (5-14 decibel increase noticeably perceptible but not substantial), (15 decibel or greater increase substantial).** Also, the build noise level would/would not approach or exceed the FHWA noise abatement criterion of **67 dBA LEQ established for residential and/or commercial historic properties**. (If noise levels exceed these federal criteria, the effect to the resource is not necessarily adverse. Refer to the *GDOT Guidelines for Determining Noise Impacts to Historic Resources* for guidance and examples).

If applicable (build noise level exceeds 14 decibels) ...The construction of a noise abatement wall was considered to minimize the audible impact. However, this wall would be ***[number]*** feet tall and located ***[number]*** feet from the front of the resource. The visual intrusion of this wall would introduce an element adversely out of character with the visual setting of this historic building. Also, the driveway opening required to permit access to the resource would diminish the effectiveness of this barrier. Therefore, this wall is not a prudent means of minimizing project effects. Refer to *GDOT Guidelines for Determining Noise Impacts to Historic Resources* for guidance and other minimization recommendations.

Project implementation ***[is/is not]*** anticipated to affect indirectly the ***[name of property]***. ***Justify. Discuss all that apply to the specific property: any change in traffic patterns resulting from the creation of additional access or the removal of current access to an existing transportation facility, the creation of new intersections on a new location facility and the proximity of those intersections to the historic property, existing and planned development/zoning in the area of the property, the future viability of the property following project implementation.***

Repeat for each additional resource.

SUMMARY *[Included if more than one property discussed]*

Implementation of the proposed project would result in a finding of ***[No Adverse/Adverse Effect]*** for the ***[Name of Property]***. ***OR*** Implementation of the proposed project would result in a finding of No Adverse Effect for the ***[Name of Property]*** based on conditions imposed on the proposed project which have already been incorporated into the construction plans and through stipulations included in the proposed Statement of Conditions for No Adverse Effect.

Note: If more than five historic properties are discussed, prepare a summary table, refer to it here and append to report.

ALTERNATIVES TO AVOID ADVERSE EFFECT

[Detail Avoidance Alternatives that were investigated.]

NOTE: - *If Adverse Effect is due to a use of land and this is a federal aid project, Alternatives will be authored by the NEPA writer. If Adverse Effect is due to impacts other than physical alteration, then Historian and/or Archaeologist will author.*

PLANNING TO MINIMIZE HARM AND (if applicable for your project) PROPOSED MITIGATION AND/OR PROPOSED CONDITIONS FOR NO ADVERSE EFFECT

Planning to minimize harm was taken into consideration to the extent possible during project development. ***[Discuss alignment shifts, reduced typical section, construction of a retaining wall or anything else that was considered to obtain a finding of No Effect/No Adverse Effector to minimize the impact to an adversely affected property and state whether or not the measures were incorporated into project design. If they were not, state why.]***

The following mitigation measure(s) **is/are** proposed for discussion at consultation between the FHWA and the SHPO:

- 1) ***Stipulation(s)***

NOTE: *Mitigation is proposed if effect is adverse*

APPENDICES

APPENDIX A
NOTIFICATION
AND
EARLY CONSULTATION CORRESPONDENCE

APPENDIX B

PROPERTY INFORMATION FORMS FOR HISTORIC RESOURCES
[Eligible properties only]

DETERMINATIONS OF ELIGIBILITY FOR ARCHAEOLOGICAL RESOURCES

AND

NATIONAL REGISTER NOMINATION FORM(S)*[Delete if not applicable]*

APPENDIX C
GEORGIA HISTORIC BRIDGE SURVEY FORMS

APPENDIX D
SUMMARY TABLE

Delete this appendix if not applicable (five or fewer resources in AOE)

MEMORANDUM OF AGREEMENT TEMPLATES (FHWA/CORPS VERSIONS)

[TEMPLATE AVAILABLE IN PDF DRAFT]

**MEMORANDUM OF AGREEMENT
AMONG
FEDERAL HIGHWAY ADMINISTRATION,
GEORGIA DEPARTMENT OF TRANSPORTATION,
AND
GEORGIA STATE HISTORIC PRESERVATION OFFICER
FOR
GDOT PROJECT
PI#
COUNTY, GEORGIA
HP-#####-###**

WHEREAS, the Federal Highway Administration (FHWA) plans to fund the Georgia Department of Transportation (GDOT) Project _____, PI# _____, _____ County, Georgia (undertaking) and FHWA has determined that the undertaking will affect historic property(ies) and is therefore subject to Section 106 of the National Historic Preservation Act (NHPA) pursuant to 36 CFR § 800 regulations implementing Section 106 of the NHPA (54 U.S.C. § 306108); and

WHEREAS, the undertaking consists of [insert brief explanation of the undertaking – one or two sentences]; and

WHEREAS, FHWA has defined the undertaking's area of potential effect (APE) as [insert written description and/or "described in Attachment XXX"]; and

WHEREAS, FHWA has determined the undertaking will have an adverse effect upon [insert name of historic property(ies)], which ["is" or "are"] ["listed in" "eligible for listing in"] the National Register of Historic Places (NRHP), in consultation with the Georgia State Historic Preservation Officer (GA SHPO); and

WHEREAS, GDOT (*and the City or County, as applicable – tailor to project*) is a consulting party as an applicant for federal assistance and is therefore an invited signatory, pursuant to 36 CFR § 800.2(c)(4); and

WHEREAS, FHWA has consulted with the [insert name of Indian tribe(s)], and [insert name of Indian tribe(s) or none] have requested to enter into this agreement as an invited signatory/concurring party (if no tribes are signing, indicate this here); and

WHEREAS, FHWA notified [insert names of potential consulting parties, excluding the GA SHPO, to whom a notification letter was submitted] regarding the nature of the undertaking and informed those entities of our efforts to identify historic properties and were invited to participate in the Section 106 process. As a result of these efforts, [insert name of consulting parties, or none] have elected to participate (for those consulting parties who elect to be a signatory, indicate their involvement here as well [concurring vs. invited]); and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), FHWA has notified the Advisory Council on Historic Preservation (Council) of its adverse effect determination with specified documentation, and the Council has chosen not to participate [update as needed] in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii);

NOW, THEREFORE, the FHWA, GDOT, and the GA SHPO [*and the City or County, as applicable*] agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on the historic **property(ies)**.

STIPULATIONS

The FHWA will ensure the following measures are carried out by a professional meeting the applicable Secretary of Interiors Qualifications Standards:

[Insert negotiated measures to avoid, minimize, or mitigate the adverse effects on historic properties. After adding stipulations, check numbering to ensure all stipulation numbers are consecutive throughout since they will change based on number of stipulations proposed.]

I. BRIEF STIPULATION HEADER (i.e. RESOURCE NAME PERMANENT ARCHIVAL RECORD, ARCHAEOLOGICAL DATA RECOVERY, HISTORIC NARRATIVE, ETC.)

Add mitigation stipulation text here. See mitigation stipulation templates on the Cultural Resources Template Library. Add additional stipulations as necessary.

II. BRIEF STIPULATION HEADER (i.e. HISTORIC HOUSE PERMANENT ARCHIVAL RECORD, ARCHAEOLOGICAL DATA RECOVERY, HISTORIC NARRATIVE, ETC.)

Add mitigation stipulation text here. See mitigation stipulation templates on the Cultural Resources Template Library.

III. BRIEF STIPULATION HEADER (i.e. HISTORIC HOUSE PERMANENT ARCHIVAL RECORD, ARCHAEOLOGICAL DATA RECOVERY, HISTORIC NARRATIVE, ETC.)

Add mitigation stipulation text here. See mitigation stipulation templates on the Cultural Resources Template Library.

IV. DURATION

This Memorandum of Agreement (MOA) will expire if its terms are not carried out within seven (7) years from the date of its execution (***this timeframe may be tailored to suit a particular project if needed or requested by a signatory***). Prior to such time, FHWA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VIII ***[Edit this stipulation number as needed and as determined by the overall number of stipulations in the document. The number should always correspond with the Amendments stipulation number]*** below.

V. POST-REVIEW DISCOVERIES

If properties are discovered that may be historically significant or unanticipated effects on historic properties are found, FHWA shall implement post-review discovery procedures in accordance with Stipulation IX of the 2019 *Section 106 Programmatic Agreement for the Transportation Program in Georgia* and Chapter 5.3 of the accompanying GDOT Cultural Resource Manual (available on GDOT's website <http://www.dot.ga.gov/IS/Environment/CulturalResources/PA>). In the event that human remains are encountered, FHWA shall implement procedures for the treatment of human remains in accordance with Stipulation X of the aforementioned agreement and Chapter 5.4 of the accompanying manual.

VI. MONITORING AND REPORTING

Annually, following the execution of this MOA until it expires, is completed, or is terminated, GDOT will provide all parties to this MOA [and the Council, if appropriate] a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in FHWA's efforts to carry out the terms of this MOA.

VII. DISPUTE RESOLUTION

Should any signatory or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, FHWA shall consult with such party to resolve the objection. If FHWA determines that such objection cannot be resolved, FHWA will do the following:

A. Forward all documentation relevant to the dispute, including FHWA's proposed resolution, to the Council. The Council shall provide FHWA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the Council, signatories, and concurring parties, and provide them with a copy of this written response. FHWA will then proceed according to its final decision.

B. If the Council does not provide its advice regarding the dispute within the thirty (30) day time period, FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FHWA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the Council with a copy of such written response.

C. FHWA's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

VIII. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the Council.

IX. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatories to attempt to develop an amendment per Stipulation VIII ***[Edit this stipulation number as needed and as determined by the overall number of stipulations in the document. The number should always correspond with the Amendments stipulation number]***, above. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, FHWA must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the Council under 36 CFR § 800.7. FHWA shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by the FHWA, GDOT, and the GA SHPO, ***[and the City or County, as applicable]***, its subsequent filing with the Council, and implementation of its terms, is evidence that FHWA has taken into account the effects of the undertaking on historic properties and afforded the Council an opportunity to comment.

X. EXECUTION OF AGREEMENT IN COUNTERPARTS

This MOA may be executed in counterparts with a separate page for each signatory. FHWA will ensure that each party is provided a copy of the fully executed agreement.

SIGNATORY

FEDERAL HIGHWAY ADMINISTRATION

BY: _____ DATE: _____
Sabrina S. David, Division Administrator

SIGNATORY

GEORGIA STATE HISTORIC PRESERVATION OFFICER

BY: _____ DATE: _____
Jennifer Flood, Division Director, Deputy SHPO

INVITED SIGNATORY

GEORGIA DEPARTMENT OF TRANSPORTATION

BY: _____ DATE: _____
Eric Duff, State Environmental Administrator

**MEMORANDUM OF AGREEMENT
AMONG
UNITED STATES ARMY CORPS OF ENGINEERS,
GEORGIA DEPARTMENT OF TRANSPORTATION,
AND
GEORGIA STATE HISTORIC PRESERVATION OFFICER
FOR
SAS #####-#####
HP-#####-###
GDOT PROJECT
PI#
COUNTY, GEORGIA**

WHEREAS, the United States Army Corps of Engineers, Savannah District (Corps) has been delegated the responsibility of overseeing the implementation of Section 404 of the Clean Water Act (CWA) (33 United States Code (U.S.C.) 1344) and Section 10 of the Rivers and Harbors Act (RHA) of 1899 (33 U.S.C. 401), and the authority to issue permits under these Acts; and,

WHEREAS, the Corps issues permits under Section 404 of the CWA and Section 10 of the RHA in accordance with regulations set forth in Title 33 Code and Section 10 of the RHA in accordance with regulations set forth in Title 33 Code of Federal Regulations (CFR) Parts 320-332; and,

WHEREAS, in accordance with the regulations at 33 CFR Parts 320-332, the Corps is responsible for considering effects of its permit actions on historic properties in the processing and issuance of permits under its authorities, as one of several public interest factors, and is further required to make its permit decisions consonant with other related Federal environmental laws, including the National Historic Preservation Act (NHPA) of 1966, as amended (NHPA; formerly 16 U.S.C. 470 et seq.; now 54 U.S.C. 300101 et seq.), especially Sections 106 (formerly 16 U.S.C. 470(f); now 54 U.S.C. 306108) and 110 (formerly 16 U.S.C. 470h-2; now 54 U.S.C. 306101 et seq.) and its implementing regulation, 36 CFR § 800, of that Act; and,

WHEREAS, the heads of all state and Federal agencies are required to take into account the effects of their actions and decisions (i.e. undertakings) on historic properties listed in or eligible for inclusion in the National Register of Historic Places (NRHP) and to allow the Advisory Council on Historic Preservation (Council) a reasonable opportunity to comment on those effects, in accordance with Section 106 of the NHPA (54 U.S.C. 306108), as amended; and,

WHEREAS, the Corps is delegated the regulatory responsibility for implementing Sections 404 of the CWA and 10 of the RHA within the geopolitical boundaries of the State of Georgia, and Section 106 for permit actions on which it is the Lead Federal agency, or the sole Federal agency; and,

WHEREAS, the Georgia Department of Community Affairs, Historic Preservation Division (Georgia HPD), acting as the professional staff for the Georgia State Historic Preservation Officer (GA SHPO), advises Federal agencies in making determinations of eligibility for inclusion in the NRHP and effects of the undertaking, and comments on those agencies' determinations; and,

WHEREAS, the Georgia Department of Transportation (GDOT) Project _____, PI# _____, County, Georgia, intends to apply for a permit (undertaking) under Section 404 of the CWA or Section 10 of the RHA from the Corps; and the Corps has determined that the undertaking will affect historic properties and is therefore subject to Section 106 of the NHPA pursuant to 36 CFR § 800; and,

WHEREAS, the GDOT Project consists of [insert brief explanation of the GDOT Project – one or two sentences]; and

WHEREAS, the Corps has defined the undertaking's Scope of Analysis (Scope) for the project and further identified the Area of Potential Effects (APE) for resources located within the Scope based on impacts to aquatic resources. ***Include the following language if the Corps is taking partial jurisdiction: The Scope is limited and defined by a 100-meter buffer encompassing the proposed impacted aquatic resources and does not include the entirety of the project corridor.*** The Scope also took into consideration any potential visual, audible, and atmospheric effects the project might have by taking into account such factors as existing vegetation, changes in topography, and density of development along the corridor; and,

WHEREAS, the Corps has determined the undertaking will have an adverse effect upon [insert name of historic property(ies)], which ["is" or "are"] [**"listed in" "eligible for listing in"**] the NRHP, in consultation with the GA SHPO pursuant to 36 CFR § 800, the regulations implementing Section 106 of the NHPA (54 U.S.C. 306108); and,

WHEREAS, GDOT (***and the City or County, as applicable – tailor to project***) is a consulting party as an applicant for federal permitting and is therefore an invited signatory, pursuant to 36 CFR § 800.2(c)(4); and

WHEREAS, the Corps has consulted with the [insert name of Indian tribe(s)], and [insert name of Indian tribe(s) or none] have requested to enter into this agreement as an invited signatory/concurring party [if no tribes are signing, indicate this here]; and

WHEREAS, the Corps notified the following potential consulting parties (***append as list to the MOA as needed, if the list of potential parties is lengthy***) regarding the nature of the undertaking and informed those entities of our efforts to identify historic properties and were invited to participate in the Section 106 process: [list potential consulting parties identified in 106 Notification Letter]. As a result of these efforts, [insert name of consulting parties or none] have elected to participate (for those consulting parties who elect to be a signatory, indicate their involvement here as well [concurring vs. invited]); and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), the Corps has notified the Council of its adverse effect determination with specified documentation, and the Council has chosen not to participate [update as needed] in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii);

NOW, THEREFORE, the Corps, GDOT, and the GA SHPO [***and the City or County, as applicable***] agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on the historic **property(ies)**.

STIPULATIONS

The Corps will ensure the following **measure is/measures are** carried out by a professional meeting the applicable Secretary of Interiors Qualifications Standards:

[Insert negotiated measures to avoid, minimize, or mitigate the adverse effects on historic properties. After adding stipulations, check numbering to ensure all stipulation numbers are consecutive throughout since they will change based on number of stipulations proposed.]

I. BRIEF STIPULATION HEADER (i.e. RESOURCE NAME PERMANENT ARCHIVAL RECORD, ARCHAEOLOGICAL DATA RECOVERY, HISTORIC NARRATIVE, ETC.)

Add mitigation stipulation text here. See mitigation stipulation templates on the Cultural Resources Template Library. Add additional stipulations as necessary.

II. BRIEF STIPULATION HEADER (i.e. HISTORIC HOUSE PERMANENT ARCHIVAL RECORD, ARCHAEOLOGICAL DATA RECOVERY, HISTORIC NARRATIVE, ETC.)

Add mitigation stipulation text here. See mitigation stipulation templates on the Cultural Resources Template Library.

III. BRIEF STIPULATION HEADER (i.e. HISTORIC HOUSE PERMANENT ARCHIVAL RECORD, ARCHAEOLOGICAL DATA RECOVERY, HISTORIC NARRATIVE, ETC.)

Add mitigation stipulation text here. See mitigation stipulation templates on the Cultural Resources Template Library.

IV. DURATION

This Memorandum of Agreement (MOA) will expire if its terms are not carried out within seven (7) years from the date of its execution (***this timeframe may be tailored to suit a particular project if needed or requested by a signatory***). Prior to such time, the Corps may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VIII (***edit stipulation number as needed to refer to the Amendments stipulation***) below.

V. POST-REVIEW DISCOVERIES

If properties are discovered that may be historically significant or unanticipated effects on historic properties are found, the Corps shall implement post-review discovery procedures in accordance with Stipulation IX of the *2019 Section 106 Programmatic Agreement for the Transportation Program in Georgia* and Chapter 5.3 of the accompanying GDOT Cultural Resource Manual (available on GDOT's website <http://www.dot.ga.gov/IS/Environment/CulturalResources/PA>). In the event that human remains are encountered, the Corps shall implement procedures for the treatment of human remains in accordance with Stipulation X of the aforementioned agreement and Chapter 5.4 of the accompanying manual. Undertaking activities shall not resume in the area of the discovery without written authorization from the Corps.

VI. MONITORING AND REPORTING

Annually, following the execution of this MOA until it expires, is completed, or is terminated, GDOT will provide all parties to this MOA [and the Council, if appropriate] a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in the Corps' efforts to carry out the terms of this MOA.

VII. DISPUTE RESOLUTION

Should any signatory or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the Corps shall consult with such party to resolve the objection. If the Corps determines that such objection cannot be resolved, the Corps will do the following:

- A. Forward all documentation relevant to the dispute, including the Corps' proposed resolution, to the Council. The Council shall provide the Corps with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the Corps shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the Council, signatories, and concurring

parties, and provide them with a copy of this written response. The Corps will then proceed according to its final decision.

B. If the Council does not provide its advice regarding the dispute within the thirty (30) day time period, the Corps may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Corps shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the Council with a copy of such written response.

C. The Corps' responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

VIII. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the Council.

IX. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatories to attempt to develop an amendment per Stipulation VIII, **(edit stipulation number as needed to refer to the Amendments stipulation above)** above. If within thirty (30) days, or another timeframe agreed to by the signatories, an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, the Corps must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the Council under 36 CFR § 800.7. The Corps shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by the Corps, GDOT, and the GA SHPO, **[and the City or County, as applicable]**, its subsequent filing with the Council, and implementation of its terms, is evidence that the Corps has taken into account the effects of the undertaking on historic properties and afforded the Council an opportunity to comment.

X. EXECUTION OF AGREEMENT IN COUNTERPARTS

This MOA may be executed in counterparts with a separate page for each signatory. The Corps will ensure that each party is provided a copy of the fully executed agreement.

GDOT Project _____, PI# _____, _____ County
SAS-#### #####
HP-XXXXXX-XXX
Memorandum of Agreement
Page 5 of 7

SIGNATORY

U.S. ARMY CORPS OF ENGINEERS, SAVANNAH DISTRICT

BY: _____
Ronald J. Sturgeon, PMP, Colonel, U.S. Army, Commanding

DATE: _____

GDOT Project _____, PI# _____, _____ County
SAS-#### #####
HP-XXXXXX-XXX
Memorandum of Agreement
Page 6 of 7

SIGNATORY

GEORGIA STATE HISTORIC PRESERVATION OFFICER

BY: _____ DATE: _____
Jennifer Flood, Division Director, Deputy SHPO

GDOT Project _____, PI# _____, _____ County
SAS-#### #####
HP-XXXXXX-XXX
Memorandum of Agreement
Page 7 of 7

INVITED SIGNATORY

GEORGIA DEPARTMENT OF TRANSPORTATION

BY: _____ DATE: _____
Eric Duff, State Environmental Administrator

DOCUMENTATION OF PROJECT CHANGES TEMPLATE (MEMO)

DATE: Date

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

TO: Files **(Consultant prepared memos should be addressed to the GDOT SME and submitted on firm letterhead)**

SUBJECT: GDOT Project , County;
P.I. # and HP # :

Documentation of Project Changes **(indicate number if this is not the first, i.e. "Second Re-evaluation". For memos that include an expanded history APE, refer to the memo as "Re-evaluation Memo for Project Changes and Expanded APE")**

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 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: Sabrina S. David, AICP, FHWA, w/attachment (Attn: Aaron Hernandez **OR** Ramses McKinstry)
Jennifer Flood, 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)**
David Y. Mitchell, Atlanta Preservation Center, w/attachment **(for City of Atlanta projects only)**
Sarah Borcharding, Easements Atlanta, Inc. **(for projects with resources that have an Easements Atlanta easements only)**

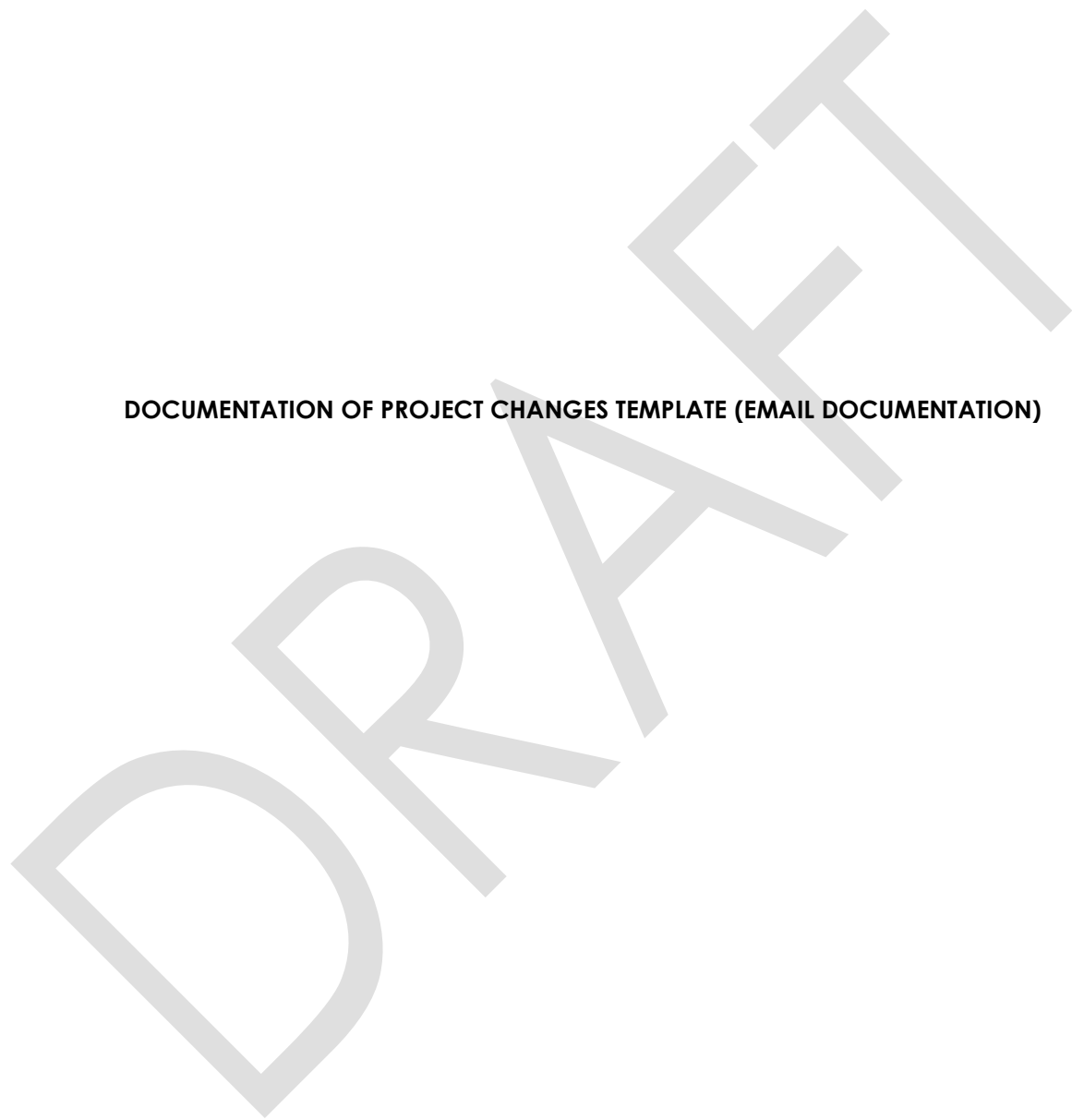
TRIBES (per current Consultation Matrix, if archaeology included for Traffic Ops/Curb Cut Projects)
ANY OTHER CONSULTING PARTY, w/attachment

, GDOT NEPA

, GDOT Project Manager, Office of Program Delivery

***Consultant prepared memos should be submitted on consultant letterhead and be directed to the GDOT SME rather than “To Files”.**

DRAFT



DOCUMENTATION OF PROJECT CHANGES TEMPLATE (EMAIL DOCUMENTATION)

Email Template Instructions:

Update body of email with details specific to your review and update the Subject line with the appropriate discipline, PI#, HP#, SAS# (when applicable), and County specific to your project(s). Attach a figure(s) showing the limits of the project changes in relation to the limits of the original archaeological survey(s).

Consultant reviews should forward the email to the GDOT SME for review. Upon approval, the GDOT SME will distribute to NEPA and save to the project file. In house projects will be sent directly from the GDOT SME.

Delete these instructions prior to sending.**

TO: GDOT NEPA Analyst

CC: Consultant Historian or Archaeologist, GDOT PM

SUBJECT: Archaeology OR History Review of Project Changes, GDOT PI#, SAS#, HP#, County

[Email Greeting]

A review of design changes on the subject project has been completed as it relates to **archaeological/historic** survey coverage and resources. The most recent **archaeology/history** review consisted of a **[document type]** completed on **[date]**.

Since the last project review, the project has refined the design and the following changes have occurred: ***[list the changes here; general descriptions of the changes are acceptable in paragraph, bulleted list, or table formats, i.e. "various amounts of temporary and permanent easement have been added along the project corridor, changes to rip-rap, reduction of project limits, correction to project description, etc."]***

All of the changes described above have been verified to fall within the previous survey coverage and do not occur within any resource boundaries or Environmentally Sensitive Areas or alter the previous Section 106 finding. Therefore, no further coordination under Section 106 is required. A copy of this document will be saved to the project file.

[Insert Signature]

CHANGE IN ELIGIBILITY MEMO TEMPLATE

DATE: _____ Date

FROM: _____ Name, Historian, Office of Environmental Services

TO: _____ Files

SUBJECT: _____ GDOT Project _____, _____ County;
P.I. # _____, SAS # _____ and HP # _____ : *(edit as needed)*
Change in Eligibility of the _____ *(add resource[s] name[s])*

The proposed project(s) would consist of the ***(describe project as described in most recent document [HRSR or GEPA/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 (NRHP). The State Historic Preservation Officer (SHPO) concurred with this finding via a memo dated _____. **OR** The Historic Resources Survey Report was approved by GDOT 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** GDOT approved **this/these** findings via a memo dated _____. The project(s) **was/were** reevaluated in _____ (date) for design changes; these design changes were documented in separate re-evaluation memorandums.

Since that time, the _____ ***(resource name[s])*** has/have been demolished and the **parcel(s) is/are** comprised of ***(provide a general description and attach photos illustrating the former location of the resource)***. As a result, the _____ ***(resource name[s])*** is/are no longer considered eligible for inclusion in the NRHP.

____/

cc: Sabrina S. David, AICP, FHWA GA Division (Attn: Aaron Hernandez **OR** Ramses McKinstry)
OR
USACE, Savannah District, w/attachment (Attn: Corps PM)
USACE, Savannah District, w/attachment (Attn: Jennifer Cowles, Regulatory Archaeologist)
Jennifer Flood, 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)***
David Y. Mitchell, Atlanta Preservation Center, w/attachment ***(for City of Atlanta projects only)***
Sarah Borcharding, Easements Atlanta, Inc. ***(for projects with resources that have an Easements Atlanta easements only)***
ANY OTHER CONSULTING PARTY, w/attachment

CONCUR: _____ DATE: _____
Jennifer Flood, Deputy SHPO

cc: _____, GDOT NEPA **OR** Environmental Analyst
_____, GDOT Project Manager, Office of ***(office name)***

APPENDIX PHOTOGRAPH(S)