

## **MEMORANDUM OF UNDERSTANDING**

### **Between the South Carolina Department of Commerce and the South Carolina State Historic Preservation Office Regarding the Implementation of Guidelines for Cultural Resource Identification Surveys Conducted for the South Carolina Site Certification Program**

#### **Introduction and Intent**

The purpose of the South Carolina Department of Commerce Site Certification Program is to identify and clarify issues pertaining to the development of a specific commercial or industrial site. To that end, the South Carolina Department of Commerce (DOC) and the State Historic Preservation Office (SHPO) developed guidelines for collecting initial information regarding cultural resources, including historic buildings, structures, districts, objects, and archaeological sites, that may be affected by potential development at Certification Sites. Such guidelines are set forth in Appendix A and the definitions of certain terms used herein and in the guidelines are set forth in Appendix B. These guidelines are specific to the Site Certification Program and are not intended as guidance for a reasonable and good faith identification of historic properties or other cultural resources under Section 106 of the National Historic Preservation Act (NHPA), the National Environmental Policy Act (NEPA), the South Carolina Coastal Zone Management Act (CZMA), the South Carolina Mining Act, or other applicable federal, state, or local laws and regulations.

The entity requesting site certification will hire a consultant who meets the Secretary of the Interior's Professional Qualification Standards (36 CFR 61) in Archaeology, History, and/or Architectural History (as appropriate) to prepare a Cultural Resource Identification Survey (CRIS). A CRIS is designed to provide preliminary identification of clearly or potentially significant cultural resources on or near the Certification Site. A CRIS does not, however, provide a thorough and systematic archaeological survey of the Certification Site. In some cases a CRIS may show that significant cultural resources are so unlikely to be present that there is no need for additional investigations. In other cases a CRIS may indicate that additional surveys be focused only on particular subareas or types of resources, or that an intensive systematic survey of the entire Certification Site may be warranted to identify potentially significant resources.

#### **Project Coordination**

Once a CRIS is completed, the consultant will send the completed report to the DOC and the SHPO for review. The SHPO will respond to the DOC and the consultant within forty-five (45) days from the date of receipt of the report. The SHPO will render an opinion as to whether identified resources meet the criteria for listing in the National Register of Historic Places (36 CFR 60) if there is sufficient information, agree or disagree with the consultant's recommendations regarding the probability for the Certification Site to contain significant cultural resources, and agree or disagree with the provided recommendations for future cultural resources surveys, if warranted. If the SHPO believes that the CRIS report does not meet the minimum requirements outlined in Appendix A, it will notify the DOC and the consultant, in writing, of its objections. The SHPO may require the reissuance of the report if it does not meet the Memorandum of Understand (MOU) requirements. The DOC and SHPO will attempt to resolve any disagreements concerning the adequacy of the report. If a resolution cannot be reached within 30 days of receipt of notice of disagreement, the DOC will make the final determination as to the adequacy of the report for site certification purposes, with the exception of National Register of Historic Places eligibility

decisions which will be made only by SHPO. Any written comments or objections by SHPO will be included as part of the site certification package.

**Limitations**

Completion of a CRIS does not fulfill the requirements of Section 106 of the NHPA, NEPA, CZMA or the South Carolina Mining Act. The DOC will make Site Certification applicants aware that if compliance with these or other applicable federal, state, or local laws is required, additional consultation with the appropriate agencies, SHPO, Indian tribes, and other interested parties may be required.

**Dispute Resolution**

The DOC and SHPO shall use their best efforts to resolve any disagreements arising from the implementation of this MOU.

**Amendment and Modification**

Either party to this MOU, including Appendix A and Appendix B, hereto, may request that it be amended or modified at any time, whereupon the parties will consult with each other to consider such amendment or modification. Any such amendment or modification must be approved in writing by both parties.

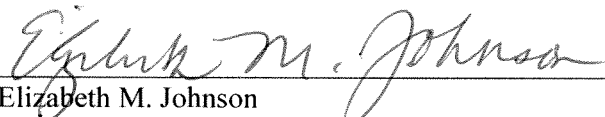
**Duration**

This MOU will continue in force through the year 2019 with annual reviews (e.g., e-mail, phone calls, or meetings, as appropriate) by the DOC and SHPO for possible modifications, termination, or extension.

IN WITNESS WHEREOF, the parties hereto have caused this MOU to be executed by their duly authorized representatives as of the last date signed.

  
\_\_\_\_\_  
George Patrick  
Deputy Secretary  
South Carolina Department of Commerce

10/31/14  
Date

  
\_\_\_\_\_  
Elizabeth M. Johnson  
Deputy State Historic Preservation Officer  
South Carolina Department of Archives and History

10/30/2014  
Date

## APPENDIX A

### **Guidelines for Conducting a Cultural Resource Identification Survey for the South Carolina Department of Commerce Site Certification Program**

A Cultural Resource Identification Survey (CRIS) is a streamlined process designed to provide the South Carolina Department of Commerce (DOC) and Site Certification applicants with the basic information necessary to assess the probability for a Certification Site to contain significant cultural resources. Significant cultural resources are those buildings, structures, objects, sites, and districts that meet or appear to meet the eligibility criteria for inclusion in the National Register of Historic Places (NRHP) (36 CFR 60). These resources must be important in American history, architecture, archaeology, engineering, or culture and retain integrity of location, design, setting, materials, workmanship, feeling and association. A CRIS will contain background historical research on the Certification Site, field work, and the summary report with probability recommendations.

The DOC and SHPO have developed the following guidelines to be used for conducting a CRIS. The results of the CRIS will be presented to the DOC and SHPO in a report that contains the information listed in the ‘Summary Report’ section below.

#### **Background Research**

Background research shall include the Certification Site as well as a 0.25-mile radius around the Certification Site. The following sources, at a minimum, will be utilized as part of the background research:

- ArchSite database at the subscriber level
- Historic maps of the project area (Mills’ atlas; county road maps; topographic maps; historical soil maps, Sanborn maps, and historic aerial photographs, as appropriate)
- Current aerial photographs

If a search of the ArchSite database indicates that previously identified cultural resources are present, then the following additional sources of information will need to be reviewed, as appropriate:

- Archaeological site files at the South Carolina Institute of Archaeology and Anthropology (SCIAA)
- National Register of Historic Places files at the South Carolina Department of Archives and History (SCDAH)
- Statewide survey files at SCDAH

#### **Previous Cultural Resources Surveys**

If a Certification Site or a portion of a Certification Site was previously surveyed for cultural resources, the cultural resources survey reports may be submitted to the SHPO for their review prior to conducting CRIS field work. SHPO will determine if additional field work is necessary. In general, if the survey was completed in the past fifteen (15) years and meets the criteria of the MOU, no additional survey will be necessary. If the previous survey is older than fifteen (15) years or is unable to be submitted to the SHPO for review, then additional fieldwork and an updated summary report will need to be produced. If this cannot be done, a CRIS must be completed on the entire Certification Site, depending on the individual project circumstances, as determined by SHPO. The CRIS should include a discussion of any previous research as well as the findings of the new field work. If only a portion of a Certification Site was surveyed, complete a CRIS for the remainder of the Certification Site.

If the 0.25-mile radius around the Certification Site contains previously surveyed above-ground properties that have been determined as not eligible for listing in the National Register of Historic Places, these properties do not need to be re-surveyed for the CRIS. Any above-ground properties determined to be eligible for listing in the National Register should be re-photographed and submitted with the CRIS.

### **CRIS Requirements for Certification Site Updates**

If a CRIS was completed on a Certification Site more than five (5) years ago, an updated CRIS of the site will be necessary. If the CRIS was completed in the past five (5) years, an updated CRIS of the site is unnecessary. An updated CRIS should consist of:

- Updated background research for the Certification Site using the methods outlined above in the ‘Background Research’ section of the document.
- Additional shovel tests, if the previously conducted archaeological investigations included less than one shovel test per five acres of land., Additional shovel testing will be necessary to meet the minimum one test per five acres shovel test requirement.
- An updated architectural survey of buildings or structures that are 40 years of age or older within or immediately adjacent to the Certification Site.
- An updated letter report including the new information gathered and the information requested in the ‘Summary Report’ section below..

### **Certification Site Field Work**

Conduct a reconnaissance of the Certification Site and the area immediately adjacent to it to identify any buildings or structures that are 40 years of age or older within or immediately adjacent to the Certification Site and provide a brief description and photograph of each building or structure. This reconnaissance does not require an assessment of the building or structure to determine its significance. The reconnaissance will also include an assessment of the Certification Site’s physical condition and on-site soil characteristics, and an assessment of whether there are or are likely to be any significant cultural resources on or adjacent to the Certification Site.

Shovel testing will be conducted within the Certification Site boundaries to examine the likely presence or absence of potentially significant archaeological resources and to identify areas that are not likely to contain significant archaeological resources. Additional examination should be conducted to determine the size and boundaries of the archaeological site and evaluate the significance of identified resources. No less than one shovel test per five acres of land shall be excavated as part of the field work. Shovel tests will be placed in both high and low probability areas based on current predicative models of archaeological site location, as well as on-site field conditions. Shovel testing and archaeological site delineation will follow the guidelines contained in the *South Carolina Standards and Guidelines for Archaeological Investigations* (2013).

All archaeological sites will be recorded with SCIAA. The DOC and SHPO will not accept CRIS reports without the appropriate archaeological state site numbers. If a previously identified archaeological site is revisited as part of the CRIS, then a revisit site form must be completed. Architectural state site numbers are not required for the CRIS; however, a photograph and brief description of each structure is required for the summary report.

### **Probability Recommendations for Significant Archaeological Sites**

Discuss the probability for the presence of significant archaeological sites across the Certification Site. The probability assessment will be based on the results of the background research, current predictive models of archaeological site location, and the results of fieldwork. High and low probability areas shall be indicated on a map of the Certification Site and a brief explanation of how these assessments were made shall be provided in the report.

There are several predictive models of archaeological site location currently used in South Carolina. Most of these models use variables such as distance to water, soil drainage, slope, distance to historic roads, and landform type as factors to be considered. Although the use of a specific predictive model is not required for conducting a CRIS, the parameters used for defining high and low probability areas shall be explicitly stated in the report. Other factors to consider when making recommendations for additional work could include the amount and degree of disturbance caused by erosion, plowing, timbering, and other ground disturbing activities. Areas that might contain deeply buried deposits (e.g., floodplains or other depositional environments) shall also be indicated in the report and on project maps, and recommendations for examining these areas, if warranted, shall be provided.

### **Summary Report**

Prepare a summary report for review by the DOC and SHPO. Provide one copy of the draft report to the DOC and one copy to the SHPO. Provide two bound copies of the final report to the DOC and one bound, one unbound, and one digital (PDF) copy of the final report to SHPO, addressing any comments provided by the SHPO or the DOC. At a minimum, the report will include the following information:

- Project title/Certification Site name
- Project location (include a 7.5-minute USGS topographic map and current aerial photograph indicating the Certification Site boundaries)
- Personnel and dates of fieldwork
- Results of the background research, including representative historic maps depicting any cultural resources within the Certification Site
  
- Field methods
  - Describe the areas/portions of the Certification Site examined, including acreage, on-site soil characteristics, vegetation, surface visibility, and the techniques used for identifying cultural resources in each area (e.g., vehicular survey, pedestrian survey, shovel testing, etc.).
  - Maps: Cartographic illustrations will depict previously recorded and newly identified cultural resources within the Certification Site and a 0.25-mile radius around the Certification Site. Areas that were shovel tested shall also be indicated. Maps shall include a north arrow (magnetic north, true north, or grid north), a map scale (e.g. 1:24,000), and a bar scale.
  - Photographs: Include representative photographs showing areas of disturbance, types of vegetation, and any newly identified cultural resources within or adjacent to the Certification Site. One photograph of each building or structure more than 40 years old that is within or immediately adjacent to the Certification Site is required.
  
- Summary of Results
  - Indicate the number of shovel tests excavated for the entire Certification Site and for each transect and/or area that was shovel tested in the description of field methods and on the maps.

- Provide a detailed description of all newly recorded cultural resources within or adjacent to the Certification Site. Descriptions shall include an assessment of the resource's significance, including how the resource meets or does not meet the criteria for listing in the National Register of Historic Places, or a description of additional investigations needed to make a determination of significance.
  - Provide a map depicting high and low probability areas for the location of significant archaeological resources.
  - Provide a brief explanation of how high and low probability areas were defined.
- Recommendations for Additional Work
    - Provide recommendations for additional cultural resource investigations at the Certification Site should these investigations be required under applicable federal, state, or local laws. The recommendations should be sufficient to serve as reasonable and good faith identification efforts under Section 106 of the NHPA and its implementing regulations (36 CFR 800).

## APPENDIX B

### Definitions

ArchSite: A web-based mapping application that contains data from the South Carolina Department of Archives and History (SCDAH) and the South Carolina Institute of Archeology and Anthropology (SCIAA) indicating the location of known structural and archaeological cultural resources in South Carolina. The URL for ArchSite is <http://archsite.cas.sc.edu/ArchSite>.

Certification Site: A site of at least 20 acres that can support a minimum of 50,000 square feet of building space on a single level and meets the standards of the South Carolina Department of Commerce Site Certification Program as set forth in the South Carolina Department of Commerce Site Certification Program Description and Instructions.

Cultural Resources: Buildings, structures, objects, sites, and districts associated with a culture's history. Resources can also include less tangible attributes, such as plants, landscapes, settlement patterns, transportation networks, and other associations important to the identity of cultural groups.

National Register of Historic Places: A nationwide list of cultural resources significant in local, state, or national history administered and maintained by the National Park Service. A resource may be a building, structure, object, site, or district. Resources must be significant in American history, architecture, archaeology, engineering and culture and must possess integrity of location, design, setting, materials, workmanship, feeling and association. Resources may meet the criteria for listing under one or more than one of the following:

**Criterion A:** Association with events that have made a significant contribution to the broad patterns of history

**Criterion B:** Association with the lives of significant persons in the past

**Criterion C:** Embody the distinctive characteristics of a type, period, or method of construction; represent the work of a master; possess high artistic values; or represent a significant and distinguishable entity whose components may lack individual distinction

**Criterion D:** Have yielded, or may be likely to yield, information important in prehistory or history

#### Exceptions to Criteria

Ordinarily cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years are considered ineligible for the National Register of Historic Places. However, such properties will qualify if they are integral parts of districts that meet the criteria, or if they can be categorized as:

**A.** a religious property that derives its primary significance from architectural or artistic distinction or historical importance; or

**B.** a building or structure that has been removed from its original location but is significant primarily for its architectural value or because it is the surviving structure most importantly associated with a historic person or event; or

**C.** a birthplace or grave of a historical figure of outstanding importance when there is no other site or building directly associated with the individual's productive life; or

**D.** a cemetery that derives its primary significance either from the graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events; or

- E.** a reconstructed building that is accurately executed, is located in a suitable environment, is presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same associations has survived; or
- F.** a property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance; or
- G.** a property achieving significance within the last fifty years if it is of exceptional importance

Section 106 of the National Historic Preservation Act: Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires Federal agencies to take into account the effects of their undertakings on historic properties, and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment. The historic preservation review process mandated by Section 106 is outlined in regulations issued by Advisory Council on Historic Preservation (ACHP). A summary of the implementing regulations for Section 106 compliance, "Protection of Historic Properties" (36 CFR Part 800), can be found at <http://www.achp.gov/106summary.html>.

Shovel Testing: A series of small test holes, dug by a shovel, in order to determine whether the soil contains any cultural resources that are not visible on the surface. The soil is typically screened through 1/4-inch or 6 mm wire mesh to recover the artifacts. Shovel tests may be excavated in judgmentally selected locations, or laid in a grid-like fashion or along transects to determine high and low probability areas.

Significance: Cultural resources are considered to be significant if they meet or appear to meet the criteria for listing in the National Register of Historic Places and retain integrity. Significant cultural resources may already be listed in the National Register of Historic Places or may have already been determined eligible for listing in the National Register of Historic Places.