Second Amendment to
NATIONWIDE PROGRAMMATIC AGREEMENT
For the
COLLOCATION OF WIRELESS ANTENNAS
Executed by
The FEDERAL COMMUNICATIONS COMMISSION, The NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS and The ADVISORY COUNCIL ON HISTORIC PRESERVATION

WHEREAS, the Federal Communications Commission (FCC), the Advisory Council on Historic Preservation (ACHP), and the National Conference of State Historic Preservation Officers (NCSHPO) executed this Nationwide Collocation Programmatic Agreement ("Collocation Agreement") on March 16, 2001 in accordance with 36 CFR Section 800.14(b) to address the Section 106 review process as it applies to the collocation of antennas; and

WHEREAS, the FCC, the ACHP, and NCSHPO executed the first amendment to said Nationwide Collocation Agreement on August 3, 2016 (Collocation Agreement) to take into account new technologies involving use of small antennas that may often be collocated on utility poles, buildings, and other existing structures and to increase the likelihood that such collocations will have minimal and not adverse effects on historic properties, and that rapid deployment of such infrastructure may help meet the surging demand for wireless services, expand broadband access, support innovation and wireless opportunity, and enhance public safety—all to the benefit of consumers and the communities in which they live; and

WHEREAS, the FCC, the ACHP, and NCSHPO acknowledge an inconsistency between the FCC Nationwide Programmatic Agreement for Wireless Facilities (Wireless Facilities Agreement) executed in 2005 and the Collocation Agreement on how to treat ground disturbance associated with modifications to an existing tower site; and

WHEREAS, the Wireless Facilities Agreement allows limited excavation beyond tower site boundaries for tower replacements that are excluded from Section 106 review, while the Collocation Agreement requires Section 106 review for collocation involving any excavation outside an existing tower site; and

WHEREAS, the FCC, the ACHP, and NCSHPO agree that streamlining the Section 106 review of collocation proposals reduces the need for the construction of new towers, thereby reducing potential effects on historic properties that would otherwise result from the construction of those unnecessary new towers; and

WHEREAS, the FCC, the ACHP, and NCSHPO developed this second amendment to the Collocation Agreement to allow project proponents the same review efficiency in regard to limited excavation beyond the tower site boundaries for collocation, thereby encouraging project proponents to conduct more collocation activities instead of constructing new towers, to attempt to minimize adverse effects to historic properties; and

WHEREAS, the FCC, the ACHP, and NCSHPO therefore have agreed to revise the definition of a "substantial increase in size" in the Collocation Agreement to be consistent with its use in the Wireless Facilities Agreement; and

WHEREAS, all the other provisions in the Collocation Agreement remain unchanged; and

NOW, THEREFORE in accordance with the Amendment Stipulation (Stipulation XI) in the Collocation Agreement, the FCC, ACHP, and NCSHPO agree to amend the Collocation Agreement to read as follows:

First Amendment to
NATIONWIDE PROGRAMMATIC AGREEMENT
For the
COLLOCATION OF WIRELESS ANTENNAS
Executed by
The FEDERAL COMMUNICATIONS COMMISSION,
The NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS
and
The ADVISORY COUNCIL ON HISTORIC PRESERVATION

WHEREAS, the Federal Communications Commission (FCC), the Advisory Council on Historic Preservation (the Council) and the National Conference of State Historic Preservation Officers (NCSHPO) executed this Nationwide Collocation Programmatic Agreement on March 16, 2001 in accordance with 36 CFR Section 800.14(b) to address the Section 106 review process as it applies to the collocation of antennas; and,

WHEREAS, the FCC encourages collocation of antennas where technically and economically feasible, in order to reduce the need for new tower construction; and in its Wireless Infrastructure Report and Order, WT Docket No. 13-238, et al, released October 21, 2014, adopted initial measures to update and tailor the manner in which it evaluates the impact of proposed deployments on the environment and historic properties and committed to expeditiously conclude a program alternative to implement additional improvements in the Section 106 review process for small deployments that, because of their characteristics, are likely to have minimal and not adverse effects on historic properties; and,

WHEREAS, the Middle Class Tax Relief and Job Creation Act of 2012 (Title VI — Public Safety Communications and Electromagnetic Spectrum Auctions, Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156 (2012)) was adopted with the goal of advancing wireless broadband services, and the amended provisions in this Agreement further that goal; and,

WHEREAS, advances in wireless technologies since 2001 have produced systems that use smaller antennas and compact radio equipment, including those used in Distributed Antenna Systems (DAS) and small cell systems, which are a fraction of the size of traditional cell tower deployments and can be installed on utility poles, buildings, and other existing structures as collocations; and,

WHEREAS, the parties to this Collocation Agreement have taken into account new technologies involving use of small antennas that may often be collocated on utility poles, buildings, and other existing structures and increase the likelihood that such collocations will have minimal and not adverse effects on historic properties, and rapid deployment of such infrastructure may help meet the surging demand for wireless services, expand broadband access, support innovation and wireless opportunity, and enhance public safety—all to the benefit of consumers and the communities in which they live; and,

WHEREAS, the FCC, the Council, and NCSHPO have agreed that these new measures should be incorporated into this Collocation Agreement to better manage the Section 106 consultation process and streamline reviews for collocation of antennas; and,

WHEREAS, the FCC, the Council, and NCSHPO have crafted these new measures with the goal of promoting technological neutrality, with the goal of obviating the need for further amendments in the future as technologies evolve; and,

WHEREAS, notwithstanding the intent to draft provisions in a manner that obviates the need for future amendments, in light of the public benefits associated with rapid deployment of the facilities required to provide broadband wireless services, the FCC, the Council, and NCSHPO have agreed that changes in technology and other factors relating to the placement and operation of wireless antennas and associated equipment may necessitate further amendments to this Collocation Agreement in the future; and,

WHEREAS, the FCC, the Council, and NCSHPO have agreed that with respect to the amendments involving the use of small antennas, such amendments affect only the FCC's review process under Section 106 of the NHPA, and will not limit State and local governments' authority to enforce their own historic preservation requirements consistent with Section 332(c)(7) of the Communications Act and Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012; and,

WHEREAS, the FCC, the Council, and NCSHPO acknowledge that federally recognized Indian tribes (Indian tribes), Native Hawaiian Organizations (NHOs), SHPO/THPOs, local governments, and members of the public make important contributions to the Section 106 review process, in accordance with Section 800.2(c) & (d) of the Council's rules, and note that the procedures for appropriate public notification and participation in connection with the Section 106 process are set forth the Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process (NPA); and,

WHEREAS, the parties hereto agree that the amended procedures described in this amendment to the Collocation Agreement are, with regard to collocations as defined herein, a proper substitute for the FCC's compliance with the Council's rules, in accordance and consistent with Section 106 of the National Historic Preservation Act and its implementing regulations found at 36 CFR Part 800; and,

WHEREAS, the FCC sought comment from Indian tribes and Native Hawaiian Organizations regarding the terms of this amendment to the Collocation Agreement by letters dated April 17, 2015, July 28, 2015, and May 12, 2016, as well as during face-to-face meetings and conference calls, including during the Section 106 Summit in conjunction with the 2015 annual conference of the National Association of Tribal Historic Preservation Officers (NATHPO); and,

WHEREAS, the terms of this amendment to the Collocation Agreement do not apply on "tribal lands" as defined under Section 800.16(x) of the Council's regulations, 36 CFR § 800.16(x) ("Tribal lands means all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities."); and,

WHEREAS, the terms of this amendment to the Collocation Agreement do not preclude Indian tribes or NHOs from consulting directly with the FCC or its licensees, tower companies and applicants for antenna licenses when collocation activities off tribal lands may affect historic properties of religious and cultural significance to Indian tribes or NHOs; and,

WHEREAS, the execution and implementation of this amendment to the Collocation Agreement will not preclude members of the public from filing complaints with the FCC or the Council regarding adverse effects on historic properties from any existing tower or any activity covered under the terms of this Collocation Agreement;

NOW THEREFORE, in accordance with Stipulation XI (as renumbered by this amendment), the FCC, the Council, and NCSHPO agree to amend the Collocation Agreement to read as follows:

NATIONWIDE PROGRAMMATIC AGREEMENT
For the
COLLOCATION OF WIRELESS ANTENNAS
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and
The ADVISORY COUNCIL ON HISTORIC PRESERVATION

WHEREAS, the Federal Communications Commission (FCC) establishes rules and procedures for the licensing of wireless communications facilities in the United States and its Possessions and Territories; and,

WHEREAS, the FCC has largely deregulated the review of applications for the construction of individual wireless communications facilities and, under this framework, applicants are required to prepare an Environmental Assessment (EA) in cases where the applicant determines that the proposed facility falls within one of certain environmental categories described in the FCC's rules (47 C.F.R. § 1.1307), including situations which may affect historical sites listed or eligible for listing in the National Register of Historic Places ("National Register"); and,

WHEREAS, Section 106 of the National Historic Preservation Act (54 U.S.C. §§ 300101 et seq.) ("the Act") requires federal agencies to take into account the effects of their undertakings on historic properties and to afford the Advisory Council on Historic Preservation (Council) a reasonable opportunity to comment; and,

WHEREAS, Section 800.14(b) of the Council's regulations, "Protection of Historic Properties" (36 CFR § 800.14(b)), allows for programmatic agreements to streamline and tailor the Section 106 review process to particular federal programs; and,

WHEREAS, in August 2000, the Council established a Telecommunications Working Group to provide a forum for the FCC, Industry representatives, State Historic Preservation Officers (SHPOs) and Tribal Historic Preservation Officers (THPOs), and the Council to discuss improved coordination of Section 106 compliance regarding wireless communications projects affecting historic properties; and,

WHEREAS, the FCC, the Council and the Working Group have developed this Collocation Programmatic Agreement in accordance with 36 CFR Section 800.14(b) to address the Section 106 review process as it applies to the collocation of antennas (collocation being defined in Stipulation I.B below); and,

WHEREAS, the FCC encourages collocation of antennas where technically and economically feasible, in order to reduce the need for new tower construction; and,

WHEREAS, the parties hereto agree that the effects on historic properties of collocations of antennas on towers, buildings and structures are likely to be minimal and not adverse, and that in the cases where an adverse effect might occur, the procedures provided and referred to herein are proper and sufficient, consistent with Section 106, to assure that the FCC will take such effects into account; and,

WHEREAS, the execution of this Nationwide Collocation Programmatic Agreement will streamline the Section 106 review of collocation proposals and thereby reduce the need for the construction of new towers, thereby reducing potential effects on historic properties that would otherwise result from the construction of those unnecessary new towers; and,

WHEREAS, the FCC and the Council have agreed that these measures should be incorporated into a Nationwide Programmatic Agreement to better manage the Section 106 consultation process and streamline reviews for collocation of antennas; and,

WHEREAS, since collocations reduce both the need for new tower construction and the potential for adverse effects on historic properties, the parties hereto agree that the terms of this Agreement should be interpreted and implemented wherever possible in ways that encourage collocation; and,

WHEREAS, the parties hereto agree that the procedures described in this Agreement are, with regard to collocations as defined herein, a proper substitute for the FCC's compliance with the Council's rules, in accordance and consistent with Section 106 of the National Historic Preservation Act and its implementing regulations found at 36 CFR Part 800; and,

WHEREAS, the FCC has consulted with the National Conference of State Historic Preservation Officers (NCSHPO) and requested the President of NCSHPO to sign this Nationwide Collocation Programmatic Agreement in accordance with 36 CFR Section 800.14(b)(2)(iii); and,

WHEREAS, the FCC sought comment from Indian tribes and Native Hawaiian Organizations (NHOs) regarding the terms of this Nationwide Programmatic Agreement by letters of January 11, 2001 and February 8, 2001; and,

WHEREAS, the terms of this Programmatic Agreement do not apply on "tribal lands" as defined under Section 800.16(x) of the Council's regulations, 36 CFR § 800.16(x) ("Tribal lands means all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities."); and,

WHEREAS, the terms of this Programmatic Agreement do not preclude Indian tribes or Native Hawaiian Organizations from consulting directly with the FCC or its licensees, tower companies and applicants for antenna licenses when collocation activities off tribal lands may affect historic properties of religious and cultural significance to Indian tribes or Native Hawaiian organizations; and,

WHEREAS, the execution and implementation of this Nationwide Collocation Programmatic Agreement will not preclude Indian tribes or NHOs, SHPO/THPOs, local governments, or members of the public from filing complaints with the FCC or the Council regarding adverse effects on historic properties from any existing tower or any activity covered under the terms of this Programmatic Agreement.

NOW THEREFORE, the FCC, the Council, and NCSHPO agree that the FCC will meet its Section 106 compliance responsibilities for the collocation of antennas as follows.

STIPULATIONS

The FCC, in coordination with licensees, tower companies, applicants for antenna licenses, and others deemed appropriate by the FCC, will ensure that the following measures are carried out.

I. DEFINITIONS

For purposes of this Nationwide Programmatic Agreement, the following definitions apply.

A. "Antenna" means an apparatus designed for the purpose of emitting radio frequency ("RF") radiation, to be operated or operating from a fixed location pursuant to FCC authorization, for the transmission of writing, signs, signals, data, images, pictures, and sounds of all kinds, including the transmitting device and any on-site equipment, switches, wiring, cabling, power sources, shelters or cabinets associated with that antenna and added to a Tower, structure, or building as part of the original installation of the antenna. For purposes of this Agreement, the term Antenna does not include unintentional radiators, mobile stations, or devices authorized under Part 15 of the FCC's rules.

B. "Collocation" means the mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes, whether or not there is an existing antenna on the structure.

C. "NPA" is the Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process (47 C.F.R. Part 1, App. C).

D. "Tower" is any structure built for the sole or primary purpose of supporting FCC-licensed antennas and their associated facilities.

E. "Substantial increase in the size of the tower" means:

1. The mounting of the proposed antenna on the tower would increase the existing height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or

2. The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or

3. The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or

4. The mounting of the proposed antenna would expand the boundaries of the current tower site by more than 30 feet in any direction or involve excavation outside these expanded boundaries. The current tower site is defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

II. APPLICABILITY

A. This Nationwide Collocation Programmatic Agreement applies only to the collocation of antennas as defined in Stipulations I.A and I.B, above.

B. This Nationwide Collocation Programmatic Agreement does not cover any Section 106 responsibilities that federal agencies other than the FCC may have with regard to the collocation of antennas.

III. COLLOCATION OF ANTENNAS ON TOWERS CONSTRUCTED ON OR BEFORE MARCH 16, 2001

A. An antenna may be mounted on an existing tower constructed on or before March 16, 2001 without such collocation being reviewed through the Section 106 process set forth in the NPA, unless:

1. The mounting of the antenna will result in a substantial increase in the size of the tower as defined in Stipulation I.E, above; or,

2. The tower has been determined by the FCC to have an adverse effect on one or more historic properties, where such effect has not been avoided or mitigated through a conditional no adverse effect determination, a Memorandum of Agreement, a programmatic agreement, or a finding of compliance with Section 106 and the NPA; or,

3. The tower is the subject of a pending environmental review or related proceeding before the FCC involving compliance with Section 106 of the National Historic Preservation Act; or,

4. The collocation licensee or the owner of the tower has received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, an Indian Tribe, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties. Any such complaint must be in writing and supported by substantial evidence describing how the effect from the collocation is adverse to the attributes that qualify any affected historic property for eligibility or potential eligibility for the National Register.

IV. COLLOCATION OF ANTENNAS ON TOWERS CONSTRUCTED AFTER MARCH 16, 2001

A. An antenna may be mounted on an existing tower constructed after March 16, 2001 without such collocation being reviewed through the Section 106 process set forth in the NPA, unless:

1. The Section 106 review process for the existing tower set forth in 36 CFR Part 800 (including any applicable program alternative approved by the Council pursuant to

36 C.F.R. § 800.14) and any associated environmental reviews required by the FCC have not been completed; or,

2. The mounting of the new antenna will result in a substantial increase in the size of the tower as defined in Stipulation I.E, above; or,

3. The tower as built or proposed has been determined by the FCC to have an adverse effect on one or more historic properties, where such effect has not been avoided or mitigated through a conditional no adverse effect determination, a Memorandum of Agreement, a Programmatic Agreement, or otherwise in compliance with Section 106 and the NPA; or,

4. The collocation licensee or the owner of the tower has received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, an Indian Tribe, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties. Any such complaint must be in writing and supported by substantial evidence describing how the effect from the collocation is adverse to the attributes that qualify any affected historic property for eligibility or potential eligibility for the National Register.

V. COLLOCATION OF ANTENNAS ON BUILDINGS AND NON-TOWER STRUCTURES

A. An antenna may be mounted on a building or non-tower structure without such collocation being reviewed through the Section 106 process set forth in the NPA, unless:

1. The building or structure is over 45 years old, and the collocation does not meet the criteria established in Stipulation VI herein for collocations of small antennas;[1] or,

2. The building or structure is inside the boundary of a historic district, or if the antenna is visible from the ground level of a historic district, the building or structure is within 250 feet of the boundary of the historic district, and the collocation does not meet the criteria established in Stipulation VII herein for collocations of small or minimally visible antennas; or,

3. The building or non-tower structure is a designated National Historic Landmark, or listed in or eligible for listing in the National Register of Historic Places based upon the review of the FCC, licensee, tower company or applicant for an antenna license, and the collocation does not meet the criteria established in Stipulation VII herein for collocations of small or minimally visible antennas; or,

4. The collocation licensee or the owner of the building or non-tower structure has received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, an Indian Tribe, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties. Any such complaint must be in writing and supported by substantial evidence describing how the effect from the collocation is

[1] For purposes of this Agreement, suitable methods for determining the age of a building or structure include, but are not limited to: (1) obtaining the opinion of a consultant who meets the Secretary of Interior's Professional Qualifications Standards for Historian or for Architectural Historian (36 CFR Part 61); or (2) consulting public records.

adverse to the attributes that qualify any affected historic property for eligibility or potential eligibility for the National Register.

B. An antenna (including associated equipment included in the definition of Antenna in Stipulation I.A.) may be mounted in the interior of a building, regardless of the building's age or location in a historic district and regardless of the antenna's size, without such collocation being reviewed through the Section 106 process set forth in the NPA, unless:

1. The building is a designated National Historic Landmark, or listed in or eligible for listing in the National Register of Historic Places; or,

2. The collocation licensee or the owner of the building has received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, an Indian Tribe, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties. Any such complaint must be in writing and supported by substantial evidence describing how the effect from the collocation is adverse to the attributes that qualify any affected historic property for eligibility or potential eligibility for the National Register.

C. Subsequent to the collocation of an antenna, should the SHPO/THPO or Council determine that the collocation of the antenna or its associated equipment installed under the terms of Stipulation V has resulted in an adverse effect on historic properties, the SHPO/THPO or Council may notify the FCC accordingly. The FCC shall comply with the requirements of Section 106 and the NPA for this particular collocation.

VI. ADDITIONAL EXCLUSION FOR COLLOCATION OF SMALL WIRELESS ANTENNAS AND ASSOCIATED EQUIPMENT ON BUILDINGS AND NON-TOWER STRUCTURES THAT ARE OUTSIDE OF HISTORIC DISTRICTS AND ARE NOT HISTORIC PROPERTIES

A. A small wireless antenna (including associated equipment included in the definition of Antenna in Stipulation I.A.) may be mounted on an existing building or non-tower structure or in the interior of a building regardless of the building's or structure's age without such collocation being reviewed through the Section 106 process set forth in the NPA unless:

1. The building or structure is inside the boundary of a historic district, or if the antenna is visible from the ground level of a historic district, the building or structure is within 250 feet of the boundary of the historic district, and the collocation does not meet the criteria established in Stipulation VII herein for collocations of small or minimally visible antennas; or,

2. The building or non-tower structure is a designated National Historic Landmark; or,

3. The building or non-tower structure is listed in or eligible for listing in the National Register of Historic Places, and the collocation does not meet the criteria established in Stipulation VII herein for collocations of small or minimally visible antennas; or,

4. The collocation licensee or the owner of the building or non-tower structure has received written or electronic notification that the FCC is in receipt of a complaint from a

member of the public, an Indian Tribe, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties. Any such complaint must be in writing and supported by substantial evidence describing how the effect from the collocation is adverse to the attributes that qualify any affected historic property for eligibility or potential eligibility for the National Register; or,

5. The antennas and associated equipment exceed the volume limits specified below:

a. Each individual antenna, excluding the associated equipment (as defined in the definition of Antenna in Stipulation I.A.), that is part of the collocation must fit within an enclosure (or if the antenna is exposed, within an imaginary enclosure, i.e., one that would be the correct size to contain the equipment) that is individually no more than three cubic feet in volume, and all antennas on the structure, including any pre-existing antennas on the structure, must in aggregate fit within enclosures (or if the antennas are exposed, within imaginary enclosures, i.e., ones that would be the correct size to contain the equipment) that total no more than six cubic feet in volume; and,

b. All other wireless equipment associated with the structure, including pre-existing enclosures and including equipment on the ground associated with antennas on the structure, but excluding cable runs for the connection of power and other services, may not cumulatively exceed:

i. 28 cubic feet for collocations on all non-pole structures (including but not limited to buildings and water tanks) that can support fewer than 3 providers; or,

ii. 21 cubic feet for collocations on all pole structures (including but not limited to light poles, traffic signal poles, and utility poles) that can support fewer than 3 providers; or,

iii. 35 cubic feet for non-pole collocations that can support at least 3 providers; or,

iv. 28 cubic feet for pole collocations that can support at least 3 providers; or,

6. The depth and width of any proposed ground disturbance associated with the collocation exceeds the depth and width of any previous ground disturbance (including footings and other anchoring mechanisms). Up to four lightning grounding rods of no more than three-quarters of an inch in diameter may be installed per project regardless of the extent of previous ground disturbance.

B. The volume of any deployed equipment that is not visible from public spaces at the ground level from 250 feet or less may be omitted from the calculation of volumetric limits cited in this Section.

C. Subsequent to the collocation of an antenna, should the SHPO/THPO or Council determine that the collocation of the antenna or its associated equipment installed under the terms of Stipulation VI has resulted in an adverse effect on historic properties, the SHPO/THPO or Council may notify the FCC accordingly. The FCC shall comply with the requirements of Section 106 and the NPA for this particular collocation.

VII. ADDITIONAL EXCLUSIONS FOR COLLOCATION OF SMALL OR MINIMALLY VISIBLE WIRELESS ANTENNAS AND ASSOCIATED EQUIPMENT IN HISTORIC DISTRICTS OR ON HISTORIC PROPERTIES

A. A small antenna (including associated equipment included in the definition of Antenna in Stipulation I.A.) may be mounted on a building or non-tower structure or in the interior of a building that is (1) a historic property (including a property listed in or eligible for listing in the National Register of Historic Places) or (2) inside or within 250 feet of the boundary of a historic district without being reviewed through the Section 106 process set forth in the NPA, provided that:

1. The property on which the equipment will be deployed is not a designated National Historic Landmark.

2. The antenna or antenna enclosure (including any existing antenna), excluding associated equipment, is the only equipment that is visible from the ground level, or from public spaces within the building (if the antenna is mounted in the interior of a building), and provided that the following conditions are met:

   a. No other antennas on the building or non-tower structure are visible from the ground level, or from public spaces within the building (for an antenna mounted in the interior of a building);

   b. The antenna that is part of the collocation fits within an enclosure (or if the antenna is exposed, within an imaginary enclosure i.e., one that would be the correct size to contain the equipment) that is no more than three cubic feet in volume; and,

   c. The antenna is installed using stealth techniques that match or complement the structure on which or within which it is deployed;

3. The antenna's associated equipment is not visible from:

   a. The ground level anywhere in a historic district (if the antenna is located inside or within 250 feet of the boundary of a historic district); or,

   b. Immediately adjacent streets or public spaces at ground level (if the antenna is on a historic property that is not in a historic district); or,

   c. Public spaces within the building (if the antenna is mounted in the interior of a building).

4. The facilities (including antenna(s) and associated equipment identified in the definition of Antenna in Stipulation I.A.) are installed in a way that does not damage historic materials and permits removal of such facilities without damaging historic materials;

5. The depth and width of any proposed ground disturbance associated with the collocation does not exceed the depth and width of any previous ground disturbance (including footings and other anchoring mechanisms). Up to four lightning grounding rods of no more than three-quarters of an inch in diameter may be installed per project, regardless of the extent of previous ground disturbance; and

6. The collocation licensee or the owner of the building or non-tower structure has not received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, an Indian Tribe, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties. Any such complaint must be in writing and supported by substantial evidence describing how the effect from the collocation is adverse to the attributes that qualify any affected historic property for eligibility or potential eligibility for the National Register.

B. A small antenna (including associated equipment included in the definition of Antenna in Stipulation I.A.) may be mounted on a utility pole or electric transmission tower (but not including light poles, lamp posts, and other structures whose primary purpose is to provide public lighting) that is in active use by a utility company (as defined in Section 224 of the Communications Act) or by a cooperatively-owned, municipal, or other governmental agency and is either: (1) a historic property (including a property listed in or eligible for listing in the National Register of Historic Places); (2) located on a historic property (including a property listed in or eligible for listing in the National Register of Historic Places); or (3) located inside or within 250 feet of the boundary of a historic district, without being reviewed through the Section 106 process set forth in the NPA, provided that:

1. The utility pole or electric transmission tower on which the equipment will be deployed is not located on a designated National Historic Landmark;

2. The antenna, excluding the associated equipment, fits within an enclosure (or if the antenna is exposed, within an imaginary enclosure, i.e., one that would be the correct size to contain the equipment) that is no more than three cubic feet in volume, with a cumulative limit of 6 cubic feet if there is more than one antenna/antenna enclosure on the structure;

3. The wireless equipment associated with the antenna and any pre-existing antennas and associated equipment on the structure, but excluding cable runs for the connection of power and other services, are cumulatively no more than 21 cubic feet in volume;

4. The depth and width of any proposed ground disturbance associated with the collocation does not exceed the depth and width of any previous ground disturbance (including footings and other anchoring mechanisms). Up to four lightning grounding rods of no more than three-quarters of an inch in diameter may be installed per project, regardless of the extent of previous ground disturbance; and

5. The collocation licensee or the owner of the utility pole or electric transmission tower has not received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, an Indian Tribe, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties. Any such complaint must be in writing and supported by substantial evidence describing how the effect from the collocation is adverse to the attributes that qualify any affected historic property for eligibility or potential eligibility for the National Register.

C. Proposals to mount a small antenna on a traffic control structure (*i.e.,* traffic light) or on a light pole, lamp post or other structure whose primary purpose is to provide public lighting, where the structure is located inside or within 250 feet of the boundary of a historic district, are generally subject to review through the Section 106 process set forth in the NPA. These proposed collocations will be excluded from such review on a case-by-case basis, if (1) the collocation licensee or the owner of the structure has not received written or electronic notification that the FCC is in receipt of a complaint from a member of the public, an Indian Tribe, a SHPO or the Council, that the collocation has an adverse effect on one or more historic properties; and (2) the structure is not historic (not a designated National Historic Landmark or a property listed in or eligible for listing in the National Register of Historic Places) or considered a contributing or compatible element within the historic district, under the following procedures:

1. The applicant must request in writing that the SHPO concur with the applicant's determination that the structure is not a contributing or compatible element within the historic district.

2. The applicant's written request must specify the traffic control structure, light pole, or lamp post on which the applicant proposes to collocate and explain why the structure is not a contributing element based on the age and type of structure, as well as other relevant factors.

3. The SHPO has thirty days from its receipt of such written notice to inform the applicant whether it disagrees with the applicant's determination that the structure is not a contributing or compatible element within the historic district.

4. If within the thirty-day period, the SHPO informs the applicant that the structure is a contributing element or compatible element within the historic district or that the applicant has not provided sufficient information for a determination, the applicant may not deploy its facilities on that structure without completing the Section 106 review process.

5. If, within the thirty day period, the SHPO either informs the applicant that the structure is not a contributing or compatible element within the historic district, or the SHPO fails to respond to the applicant within the thirty-day period, the applicant has no further Section 106 review obligations, provided that the collocation meets the following requirements:

a. The antenna, excluding the associated equipment, fits within an enclosure (or if the antenna is exposed, within an imaginary enclosure, i.e., one that would be the

correct size to contain the equipment) that is no more than three cubic feet in volume, with a cumulative limit of 6 cubic feet if there is more than one antenna/antenna enclosure on the structure;

b. The wireless equipment associated with the antenna and any pre-existing antennas and associated equipment on the structure, but excluding cable runs for the connection of power and other services, are cumulatively no more than 21 cubic feet in volume; and,

c. The depth and width of any proposed ground disturbance associated with the collocation does not exceed the depth and width of any previous ground disturbance (including footings and other anchoring mechanisms). Up to four lightning grounding rods of no more than three-quarters of an inch in diameter may be installed per project, regardless of the extent of previous ground disturbance.

D. A small antenna mounted inside a building or non-tower structure and subject to the provisions of this Stipulation VII is to be installed in a way that does not damage historic materials and permits removal of such facilities without damaging historic materials.

E. Subsequent to the collocation of an antenna, should the SHPO/THPO or Council determine that the collocation of the antenna or its associated equipment installed under the terms of Stipulation VII has resulted in an adverse effect on historic properties, the SHPO/THPO or Council may notify the FCC accordingly. The FCC shall comply with the requirements of Section 106 and the NPA for this particular collocation.

VIII. REPLACEMENTS OF SMALL WIRELESS ANTENNAS AND ASSOCIATED EQUIPMENT

A. An existing small antenna that is mounted on a building or non-tower structure or in the interior of a building that is (1) a historic property (including a designated National Historic Landmark or a property listed in or eligible for listing in the National Register of Historic Places); (2) inside or within 250 feet of the boundary of a historic district; or (3) located on or inside a building or non-tower structure that is over 45 years of age, regardless of visibility, may be replaced without being reviewed through the Section 106 process set forth in the NPA, provided that:

1. The antenna deployment being replaced has undergone Section 106 review, unless either (a) such review was not required at the time that the antenna being replaced was installed, or (b) for deployments on towers, review is not required pursuant to Stipulation III above.

2. The facility is a replacement for an existing facility, and it does not exceed the greater of:

a. The size of the existing antenna/antenna enclosure and associated equipment that is being replaced; or,

b. The following limits for the antenna and its associated equipment:

i. The antenna, excluding the associated equipment, fits within an enclosure (or if the antenna is exposed, within an imaginary enclosure, i.e., one that would be the correct size to contain the equipment) that is no more than three cubic feet in volume, with a cumulative limit of 6 cubic feet if there is more than one antenna/antenna enclosure on the structure; and,

ii. The wireless equipment associated with the antenna and any pre-existing antennas and associated equipment on the structure, but excluding cable runs for the connection of power and other services, are cumulatively no more than 21 cubic feet in volume; and,

3. The replacement of the facilities (including antenna(s) and associated equipment as defined in Stipulation I.A.) does not damage historic materials and permits removal of such facilities without damaging historic materials; and,

4. The depth and width of any proposed ground disturbance associated with the collocation does not exceed the depth and width of any previous ground disturbance (including footings and other anchoring mechanisms). Up to four lightning grounding rods of no more than three-quarters of an inch in diameter may be installed per project, regardless of the extent of previous ground disturbance.

B. A small antenna mounted inside a building or non-tower structure and subject to the provisions of this Stipulation VIII is to be installed in a way that does not damage historic materials and permits removal of such facilities without damaging historic materials.

IX. RESERVATION OF RIGHTS

Neither execution of this Agreement, nor implementation of or compliance with any term herein shall operate in any way as a waiver by any party hereto, or by any person or entity complying herewith or affected hereby, of a right to assert in any court of law any claim, argument or defense regarding the validity or interpretation of any provision of the National Historic Preservation Act (54 U.S.C. §§ 300101 *et seq.*) or its implementing regulations contained in 36 CFR Part 800.

X. MONITORING

A. FCC licensees shall retain records of the placement of all licensed antennas, including collocations subject to this Nationwide Programmatic Agreement, consistent with FCC rules and procedures.

B. The Council will forward to the FCC and the relevant SHPO any written objections it receives from members of the public regarding a collocation activity or general compliance with the provisions of this Nationwide Programmatic Agreement within thirty (30) days following receipt of the written objection. The FCC will forward a copy of the written objection to the appropriate licensee or tower owner.

C. Any member of the public may notify the FCC of concerns it has regarding the application of this Programmatic Agreement within a State or with regard to the review of individual undertakings covered or excluded under the terms of this Agreement. Comments

shall be directed to the FCC's Federal Preservation Officer. The FCC will consider public comments and, following consultation with the SHPO, potentially affected Tribes, or the Council, as appropriate, take appropriate actions. The FCC shall notify the objector of the outcome of its actions.

XI. AMENDMENTS

If any signatory to this Nationwide Collocation Programmatic Agreement believes that this Agreement should be amended, that signatory may at any time propose amendments, whereupon the signatories will consult to consider the amendments. This agreement may be amended only upon the written concurrence of the signatories.

XII. TERMINATION

A. If the FCC determines, or if NCSHPO determines on behalf of its members, that it or they cannot implement the terms of this Nationwide Collocation Programmatic Agreement, or if the FCC, NCSHPO or the Council determines that the Programmatic Agreement is not being properly implemented or that the spirit of Section 106 is not being met by the parties to this Programmatic Agreement, the FCC, NCSHPO or the Council may propose to the other signatories that the Programmatic Agreement be terminated.

B. The party proposing to terminate the Programmatic Agreement shall notify the other signatories in writing, explaining the reasons for the proposed termination and the particulars of the asserted improper implementation. Such party also shall afford the other signatories a reasonable period of time of no less than thirty (30) days to consult and remedy the problems resulting in improper implementation. Upon receipt of such notice, the parties shall consult with each other and notify and consult with other entities that either are involved in such implementation or would be substantially affected by termination of this Agreement, and seek alternatives to termination. Should the consultation fail to produce within the original remedy period or any extension a reasonable alternative to termination, a resolution of the stated problems, or convincing evidence of substantial implementation of this Agreement in accordance with its terms, this Programmatic Agreement shall be terminated thirty days after notice of termination is served on all parties and published in the Federal Register.

C. In the event that the Programmatic Agreement is terminated, the FCC shall advise its licensees and tower owner and management companies of the termination and of the need to comply with any applicable Section 106 requirements on a case-by-case basis for collocation activities.

XIII. ANNUAL MEETING OF THE SIGNATORIES

The signatories to this Nationwide Collocation Programmatic Agreement will meet annually on or about the anniversary of the effective date of the NPA to discuss the effectiveness of this Agreement and the NPA, including any issues related to improper implementation, and to discuss any potential amendments that would improve the effectiveness of this Agreement.

XIV. DURATION OF THE PROGRAMMATIC AGREEMENT

This Programmatic Agreement for collocation shall remain in force unless the Programmatic Agreement is terminated or superseded by a comprehensive Programmatic Agreement for wireless communications antennas.

Execution of this Nationwide Programmatic Agreement by the FCC, NCSHPO and the Council, and implementation of its terms, constitutes evidence that the FCC has afforded the Council an opportunity to comment on the collocation as described herein of antennas covered under the FCC's rules, and that the FCC has taken into account the effects of these collocations on historic properties in accordance with Section 106 of the National Historic Preservation Act and its implementing regulations, 36 CFR Part 800.

FEDERAL COMMUNICATIONS COMMISSION

Donald K. Stockdale, Jr. **Date:** 05/22/2020

NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS

Mark Wolfe **Date:** 5/22/2020

ADVISORY COUNCIL ON HISTORIC PRESERVATION

_____ **Date:** 7.10.20