

S.C. Department of Health and
Environmental Control – Office
of Ocean and Coastal Resource
Management

Model Memorandum of Agreement

When The Model MOA Generally Is Applicable

- For projects being permitted by SCDHEC – OCRM under the South Carolina Coastal Zone Management Act of 1976;
- Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry, Jasper;
- To address negative impacts to GAPCs, defined as National Register listed, eligible, and potentially eligible properties when:
 - Impacts will require mitigation, or
 - If there are multiple properties with different treatments.

Additional Considerations 1

- SCDHEC – OCRM must have a permit application and have assigned a permit application number before SCDHEC - OCRM and SCSHPO will consider a MOA;
- SCDHEC – OCRM must have determined that an MOA is necessary:
 - In some situations, SCDHEC – OCRM may use permit conditions rather than a MOA to address negative impacts. SCDHEC – OCRM will decide.

Additional Considerations 2

- This model MOA is tailored to land disturbance permits that require an NPDES permit for stormwater discharges;
- Different wording regarding permit type or certification will be necessary for Critical Area permits or joint SCDHEC – OCRM/USACOE permits;
- SCDHEC - OCRM will supply the correct wording and number for these permit types.

Additional Considerations 3

- The model MOA has provisions for mitigation of impacts to archaeological sites and to above-ground resources that will be moved or demolished;
- For above-ground resources that will be rehabilitated, see Protocol handout for MOA requirements, contingencies, and wording.

Reviewing an MOA

- SCDHEC – OCRM decides an MOA is necessary.
- Submit draft MOA to SCDHEC – OCRM Project Manager.
 - Include all exhibits! No piecemeal review!
- Project Manager will forward to SHPO.
- SHPO will provide comment to Project Manager.
- Project Manager will coordinate comments, revisions, and circulation of final document for execution.

Restrictive Covenant

- Purpose is to tie MOA to the specific permit and to the tract of land for which permit is being sought.
- Recordation of the restrictive covenant at appropriate county office is mandatory.
- Intent is to protect GAPCs and covenant will remain in effect until any and all GAPCs have been released after evaluation, data recovery, or documentation.

Title – pg. 1

- “Name of Site”
 - project name on SCDHEC – OCRM permit.
- “Affected SC site designation codes”
 - archaeological site number
 - historic building survey number
 - name of NR listed individual property or historic district

Preamble – pp. 1-2

- Exhibit A – qualities that define each historic property/GAPC.
- Exhibit B – the GAPCs as surveyed by a licensed surveyor depicted on a plat of development. Other optional maps.

General Management of Development – pp. 2-3

- Especially see #4, which references the mandatory restrictive covenant and language in Exhibit C.

Mitigation – Archaeological

pp. 3-5

- Both SHPO and SCDHEC – OCRM receive copies of research designs, data recovery plans, and Management Summaries for review. Both agencies need to review and accept.
- Note number and format of final reports and the distribution policy.
- Curation is a requirement. Documentation that curation facility has received and accepted collection is mandatory. Documentation is copy of letter from curation facility to Owner or consultant.

Mitigation – Above Ground

pp. 5-6

- Applies only to resources that will be moved or demolished.
- Resources proposed for rehabilitation will require other mitigation.

Treatment of Specific GAPCs

pp. 7-8

- Describe what is expected for each historic property/GAPC.
- This is the place to elaborate on complicated treatments and time frames, if applicable.

Exhibit A – Description of GAPCs

pg. 11

- Succinct description of the qualities that make each GAPC potentially eligible for, eligible for, or listed in the NRHP.
- Find this in a property's NRHP nomination form or consultant's NRHP evaluation report and recommendation of eligibility for a property.

Exhibit B – Maps

pg. 12

- Mandatory – Depict on the plat of development the GAPCs as surveyed by a licensed land surveyor.
- Optional
 - Depict GAPCs on USGS 1:24,000 topo quad.
 - Individual site maps.

Exhibit C – Restrictive Covenant

pg. 13

- Model covenant.
- Restrictive covenant specific to the permit must be reviewed by SCDHEC – OCRM and SHPO before recording.

Restrictive Covenant

- Recitals
 - Exhibit A – Legal Description of Property
 - Tax Map Parcel Number
 - Exhibit B – Memorandum of Agreement and date executed.

Covenant Exhibit A

Description of Property

- Mandatory
 - Verbal legal description, with reference to plat.
- Optional
 - Plat referenced in and illustrating the verbal description.

Covenant Exhibit B

Memorandum of Agreement

- Attach Memorandum of Agreement

One Last Thing

- Declaration of Covenants and Restrictions must be recorded at appropriate county office as stated in MOA General Management of Development #4.
- Provide copy of recorded covenant to SCDHEC – OCRM, accompanied by opinion of attorney licensed to practice in South Carolina certifying that it has been properly recorded and indexed.