

PROGRAMMATIC AGREEMENT

between

THE VERMONT STATE HISTORIC PRESERVATION OFFICER

and

**THE VERMONT AGENCY OF COMMERCE AND COMMUNITY
DEVELOPMENT**

for the

ADMINISTRATION OF

**COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
UNDERTAKINGS**

2026-2031

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WHEREAS, the U. S. Department of Housing and Urban Development (HUD) has allocated State Community Development Block Grant (CDBG), and other related funds including CDBG – Disaster Recovery (CDBG-DR), Recovery Housing Program (RHP), funds (collectively CDBG Program or CDBG funds herein) to the Vermont Agency of Commerce and Community Development (Agency) in accordance with Title I of the Housing and Community Development Act of 1974, as amended; and

WHEREAS, pursuant to 24 CFR Part 58, HUD authorizes the Agency to assume HUD's environmental compliance responsibilities as the Responsible Entity, including obligations as the Agency Official under Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108) and its implementing regulations at 36 CFR Part 800 for the Vermont Community Development Program (VCDP) funded by the CDBG program; and

WHEREAS, the implementation of the undertakings funded through VCDP may have an effect upon properties included in, or eligible for inclusion in, the National Register of Historic Places (NRHP), and are therefore subject to review pursuant to 36 CFR Part 800; and

WHEREAS, the Agency intends to comply with the principles identified in the Advisory Council on Historic Preservation (Council)'s "Policy Statement on Housing and Historic Preservation" published in the Federal Register on February 15, 2024 (89 Fed. Reg. 11847), and any other applicable Council policy statements implemented by the Council; and

WHEREAS, in accordance with 36 CFR 800, the Agency acknowledges and accepts the advice and conditions outlined in the Council's "Recommended Approach for Consultation on the Recovery of Significant Information from Archaeological Sites" published in the *Federal Register* on June 17, 1999 (64 Fed. Reg. 32585); and

WHEREAS, the Agency and the Vermont State Historic Preservation Officer (VT SHPO) have determined that the Agency can effectively fulfill its Section 106 review responsibilities for CDBG multiple undertakings if a programmatic approach is used and by establishing a Programmatic Agreement (Agreement) pursuant to 36 CFR §800.14(b)(3), enabling Recipients of CDBG funds to assume Section 106 compliance

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responsibilities as the Responsible Entity, and to identify undertakings that can be excluded from the Section 106 review because they have limited potential to affect historic properties; and

WHEREAS, the recipients of VCDP and CDBG-DR funds are units of general local government (Recipients), or in the case of certain CDBG-DR allocations, may be non-profit or for-profit subrecipients, provided that only units of general local government may accept and assume federal environmental review responsibilities as the Responsible Entity and Agency Official for compliance with Section 106; and

WHEREAS, the Agency has consulted with the Delaware Tribe of Indians and the Stockbridge-Munsee Community, Wisconsin, inviting them to sign this Agreement as concurring parties, and the Agency will continue to conduct outreach and will actively seek and request the comments and participation of federally recognized Indian Tribes that attach religious and cultural significance to historic properties that may be affected by Undertakings funded under the terms of this Agreement, in accordance with 36 CFR § 800.2(c)(2)(ii); and

WHEREAS, the Agency acknowledges that Indian tribes possess special expertise in assessing the National Register eligibility of properties with tribal religious and cultural significance, pursuant to 36 CFR § 800.2(c)(2)(ii)(A); and

WHEREAS, the Agency intends to comply with the guidance outlined in the Council's [Handbook on Consultation with Indian Tribes in the Section 106 Review Process](#) (June 2021, and any subsequent updates; and

WHEREAS, the Vermont State Historic Preservation Officer (VT SHPO) utilizes professional staff within the Vermont Division for Historic Preservation (VDHP) to conduct Section 106 compliance reviews and technical evaluations on behalf of the VT SHPO, while retaining ultimate regulatory responsibility and signatory authority under 36 CFR part 800; and

WHEREAS, in accordance with 36 CFR 800 § 800.6(a)(1), the Agency has notified the Council of its intent to execute this Agreement pursuant to 36 CFR § 800.14(b)(3) with

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specified documentation, and the Council has chosen not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, the Agency conducted public outreach during the development of this Agreement by publicly posting informational notices on the internet and by transmitting a draft copy via electronic mail to a broad list of interested parties, and responded to all comments received; and

NOW, THEREFORE, the Agency and the VT SHPO agree that Vermont CDBG Program undertakings shall be implemented and administered in accordance with the following stipulations, pursuant to 36 CFR § 800.14(b)(3), in order to take into account the effects of undertakings on historic properties and to satisfy the Agency's Section 106 compliance responsibilities.

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The Agency will ensure that the following stipulations are carried out.

STIPULATIONS

I. QUALIFIED PROFESSIONALS

- A. **Qualified Professionals Required:** For undertakings requiring specialized technical evaluations, Recipients shall retain qualified professionals who meet *Secretary of the Interior's Professional Qualifications Standards* (36 CFR Part 61, Appendix A) in the fields of history, architectural history, or archaeology, as appropriate to the project scope.
- B. **Training and Certification:** All retained professionals must possess a documented understanding of how to interpret and apply the *Secretary of the Interior's Standards for the Treatment of Historic Properties* and the *National Register Criteria for Evaluation*. Furthermore, such professionals must have attended the VDHP Consultant Training (in person or via webinar) within the last three (3) years. Training curricula shall be coordinated and presented in collaboration with the CDBG Environmental Officer.
1. To be retained for work on CDBG funded projects, qualified professionals must be listed on the VCDP Approved Historic Preservation Consultant List. In order to be listed, qualified professionals must complete the following items in addition to the criteria above:
 - a. Individual or firm may not appear on the on the VT State Debarment List
 - b. Individual or firm must be registered with the VT Secretary of State to Perform work in VT
 - c. Individual or firm must have a valid Full Registration at Sam.gov for a UEI and be able to check that they have no exclusions.
- C. **Pre-Qualified Roster:** The Agency, in formal consultation with VT SHPO, shall maintain a list of pre-qualified preservation professionals for use in the CDBG Programs.

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D. **Assigned Responsibilities:** Scope of work assigned to qualified professional under this Agreement includes, but is not limited to:

1. identifying and evaluating historic and archaeological properties;
2. reviewing architectural plans, project scopes, and engineering specifications;
3. formulating technical recommendations for determinations of eligibility and effect;
4. preparing formal consultation letters and compliance documentation for VT SHPO concurrence; and
5. completing other specialized tasks required to ensure Section 106 compliance under this Agreement.

E. **Consultation with VDHP:** The qualified professional shall consult with VDHP early and often during project planning and implementation whenever a §106 Preliminary Review Form (PRF) indicates potential effects on historic properties. This consultation must continue throughout the entire project view process

F. **Qualifications Records:** The Agency shall maintain resumes of qualified professionals on file and provide them to the SHPO upon request.

G. **Removal from Pre-Qualified List:** The Agency, in consultation with the SHPO, may remove a professional from the pre-qualified list if they fail to adhere to the Secretary of the Interior's *Standards*, National Register criteria, or the terms of this Programmatic Agreement. Removal must follow these procedures:

1. **Written Notification:** If the professional's work is unsatisfactory or they cannot perform their duties, the Agency, in consultation with SHPO, will issue a written notice detailing specific concerns, corrective expectations, and a resolution timeline.
2. **Removal Action:** If the professional fails to rectify the issues with the specified timeline, the Agency, in consultation with SHPO, may remove them from the pre-qualified list.

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3. **Supplemental Guidance:** The CDBG Section 106 Project Review Manual provides additional eligibility criteria and list management procedures.

H. **Alternate Administrative Arrangements:** If the Agency determines that Recipients cannot contract with qualified professionals to conduct reviews under this Programmatic Agreement, the Agency shall consult with the SHPO to establish alternative administrative procedures. The Agency must notify the Council in writing of any alternate procedures approved by the SHPO.

II. EXEMPT PROPERTIES AND ACTIVITIES

A. **Exempt Properties and Activities:** A project is exempt from review under this Programmatic Agreement if it meets **all** the following criteria:

1. **No Ground Disturbance:** The project does not involve any ground disturbing activities.
2. **Outside Historic Zones:** the project is not located within or abutting a Historic District or Designated Downtown.
3. **No Registered Buildings:** The project does not involve any buildings listed in the National Register of Historic Places; **and**
4. **Age Threshold:** The project consists of the rehabilitation of buildings or structures less than 50 years old.

The Recipient or qualified professional shall make this compliance determination.

B. **Activities-Based Exemptions:** A project that fails to meet **all** criteria listed in Section II(A), above, is still exempt from this Programmatic Agreement if it is limited solely to the activities listed in APPENDIX A. The Recipient or a qualified professional shall make this determination.

C. **Documentation and Submissions:** For projects exempt under paragraph (A) or (B) above, the Recipient must submit the PRF documenting the exemption to VDHP and the Agency for federal reporting purposes. This submission fulfills the consultation requirement with Agency staff, and no further review is required.

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D. **Affordable Housing Scope Limitation:** Pursuant to the Council's "Policy Statement on Housing and Historic Preservation," review for affordable housing projects is limited to proposed exterior or exterior-visible changes. This limitation applies only if the project does **not** involve:

1. A building individually listed or eligible for listing in the National Register of Historic Places.
2. Specific interior elements that contribute to a historic district's character.

E. **Exempt Emergency Release for projects funded through the Scattered Sites Revolving Loan Fund Program:** Emergency releases are an avenue for scattered sites projects to expedite the environmental review process, bypassing the Tier II review requirements including documenting Section 106 compliance. According to [24 CFR 58.34\(a\)\(10\)](#), the emergency must qualify as "*assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration*". Only project activities that fit this definition can be completed under an emergency release, all other non-emergency activities on site are subject to the standard Tier II review process and must document Section 106 compliance.

III. ROLES OF RECIPIENTS, SHPO, AND AGENCY

A. **Responsibilities of the Qualified Professional:** The Recipient shall retain a qualified professional to follow compliance duties:

1. **Area of Potential Effect (APE):** Identify and evaluate the project's APE and any historic properties located within it.
2. **Tribal Consultation:** For projects involving ground disturbance, evaluate if the APE intersects with the ancestral homelands of the Stockbridge Munsee Community (Appendix G), the Delaware Tribe (Appendix H), or

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any other federally recognized tribe. If an intersection exists, the professional must initiate consultation with the tribal leadership.

3. **National Register Evaluations:** Recommend eligibility determinations for the National Register of Historic Places and evaluate project effects on historic properties.
 4. **Mitigation and Documentation:** Develop treatment or mitigation measures to avoid, minimize, or mitigate adverse effects. Submit all supporting documentation to the SHPO, and tribal leadership if applicable, for concurrence.
- B. **Project Completion Reporting:** The Recipient shall provide the Agency's Environmental Review Officer with documentation of project completion, explicitly noting whether all required conditions have been met.
- C. **SHPO Assistance:** The SHPO, acting through VDHP staff, shall assist the Recipient by providing available historical data and consulting with the Recipient and their qualified professional when requested or as mandated by this Programmatic Agreement.
- D. **Agency Technical Support:** The Agency shall assist the Recipient with Section 106 compliance by providing technical assistance and organizing target training sessions or webinars.
- E. **Record Maintenance:** The Agency shall maintain comprehensive project files and report on overall program activity as accordance with this Programmatic Agreement.
- F. **State Land Use (Act 250) Consultation:** If a project requires a State Land Use (Act 250) permit, the Recipient shall coordinate the Section 106 review with the Act 250 process. The qualified professional and VDHP must work collaboratively subject to the following roles:
1. **Consultant Role:** The qualified professional's report may serve as supporting documentation within the Act 250 review process.

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2. **VDHP Role:** VDHP retains sole responsibility for issuing final recommendations to the District Environmental Commission, which issues the permit with appropriate conditions.
- G. **Tax Credit Coordination:** The Recipient, SHPO, and the National Park Service must maintain similar administrative coordination for any projects utilizing Rehabilitation Investment Tax Credits.

IV. IDENTIFYING AND EVALUATING HISTORIC PROPERTIES

A. Preliminary Step in Identifying Historic Properties

To identify potential impacts on historic resources early in the project development phase, the identifying process must follow these directives:

1. **CHAMP Submittal Requirement:** All projects require a Preliminary Review Form (PRF) submitted through the Cultural and Historic Architectural and Archeological Management Program (CHAMP) at champ.vermont.gov. During the preliminary stage, the potential Recipient shall consult with VDHP to identify any historic properties within existing inventories that project activities may affect. This background review shall be conducted using the following sources:
 - a. Current National Register of Historic Places (NRHP) listings.
 - b. Vermont Architectural Resource Inventory (VARI) forms.
 - c. Vermont Archaeological Inventory (VAI) records.
 - d. Properties recommended by the qualified professional and determined eligible for the NRHP by VDHP.
 - e. Any other readily available data in the SHPO's files.
2. **Archaeological Predictive Modeling:** VDHP shall apply its environmental predictive model to evaluate whether the project area contains potential prehistoric archaeological sites.

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- a. **Information Sharing:** VDHP shall provide all relevant data identified during the background review to the potential Recipient upon completion.
 - b. **Scattered-Site Projects:** For scattered-site housing rehabilitation or scattered-site economic development projects where the specific locations are unknown during the preliminary stage, the Recipient or qualified professional shall conduct the required background review as soon as specific project locations are identified.
 - c. **Expedited Concurrent Review:** To expedite the Section 106 review, the Agency or Recipient may submit property eligibility recommendations to VDHP concurrently with proposed treatment plans. VDHP shall issue written comments to the Agency and Grantee within twenty-one (21) days of receiving complete and adequate documentation.
3. **Retention of Professional:** The Recipient must retain a qualified professional if the preliminary step indicates that historic architectural or archaeological properties may be affected.

B. Identifying and Evaluating Historic Buildings or Structures

For properties not listed in the NRHP and not exempt under Section II of this Agreement, identification and evaluation must proceed as follows:

1. **National Register Evaluations:** The qualified professional shall evaluate the properties and issue recommendations for National Register eligibility based on the NRHP Criteria for Evaluation.
2. **Concurrence Submissions:** The qualified professional and the Recipient shall submit a preliminary determination of eligibility to VDHP for preliminary concurrence. They must obtain final concurrence from VDHP prior to the commencement of any construction activities.
3. **Procedural Logic Paths:** The next steps in the consultation process depend on consensus:

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- a. **With Agreement:** If VDHP concurs with the qualified professional's eligibility determination and the Recipient agrees, the project shall proceed to **Section IV.C Identifying and Evaluating Archaeological Resources**
 - b. **Without Agreement:** If there is a disagreement regarding a determination of eligibility, the project shall proceed to **Section IV. F Presence of Historic Resource**
4. **Potential Historic Districts:** For properties located within potential historic districts, the qualified professional shall consult with VDHP to determine what additional information and documentation materials are required.
5. **Documentation Standards:** The qualified professional shall submit all evaluation documentation to VDHP. For eligible buildings or structures omitted from the Vermont Historic Sites and Structures Survey (now known as the Vermont Architectural Inventory [VARI]), the submittal must include a completed VARI form and digital photography. VDHP may authorize or specify an alternative documentation format.

C. Identifying and Evaluating Archaeological Resources

For non-exempt projects involving ground disturbance, the identification and evaluation of archaeological resources must proceed as follows:

1. **Professional Review and Ground Disturbance Criteria:** A qualified archaeological professional must review and approve any project involving ground-disturbing activities that is not exempt under Appendix A and is flagged on the PRF as having potential to affect archaeological historic properties.
 - a. **Included Activities:** Ground disturbance includes, but is not limited to:
 - i. new construction.
 - ii. construction of roads and parking lots.

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- iii. land clearance and tree cutting in preparation for construction.
 - iv. excavation for footings and foundations.
 - v. installation or replacement of utility lines (sewer, water, storm drains, electric, gas, leach lines, and septic tanks).
 - b. **Affordable Housing Exemption:** Pursuant to the Council's "Policy Statement on Housing and Historic Preservation," archaeological investigations are not required for affordable housing rehabilitation projects requiring minimal ground disturbance. Minimal ground disturbance is defined as an area no larger than 10 by 10 feet and no deeper than 6 inches.
 - c. **Early Consultation:** The Recipient shall retain a qualified archaeological professional as early as possible during project planning. The professional and the Recipient shall consult throughout this process with VDHP.
 - i. Consultation with any federally recognized Tribes that attach religious and cultural significance to historic properties within the project area must be conducted by the Agency to ensure government-to-government communication.
 - ii. The Recipient and/or qualified professional may coordinate reviews of undertakings with Tribes, in coordination with the Agency.
2. **Site Avoidance and Preservation:** To maximize cost-effectiveness, the Recipient and the qualified professional should prioritize avoiding archaeological sites through project design and construction specifications. Site preservation conditions must be negotiated between the Recipient and the qualified professional in accordance with the Council's "Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites" (Appendix C).
3. **Archaeological Resources Assessment (ARA):** If the PRF background review identifies potential archaeological sites within the project area,

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VDHP shall recommend that the Recipient retain a qualified archaeological professional to conduct an ARA.

- a. **Purpose:** The ARA identifies past ground disturbances, areas likely to contain sites, and potential planning issues.
 - b. **Procedural Path:** If VDHP determines sufficient information exists to bypass the ARA, or if archaeologically sensitive areas identified in an ARA cannot be avoided, the project must proceed to Phase I Identification Study.
4. **Phase I Identification Study:** If the ARA concludes that potential archaeological sites exist within the project area and may be affected by the project, the Recipient shall retain a qualified archaeological professional to conduct a Phase I Identification study.
 - a. **Tribal Coordination:** If the potential archaeological site is Native American and intersects with the ancestral homelands of the Stockbridge Munsee Community (Appendix G), the Delaware Tribe (Appendix H), or any other federally recognized tribe, the Agency shall contact the Tribe(s).
 - b. **Procedural Path:** If an archaeological site is identified and cannot be avoided, the project must proceed to a Phase II Evaluation Study.
5. **Phase II Evaluation Study:** The Recipient shall retain a qualified archaeological professional to conduct a Phase II study to determine if the site meets the National Register of Historic Places criteria. If the eligible site cannot be avoided and will be partially or wholly destroyed, the Recipient and the qualified archaeological consultant shall develop a mitigation plan in consultation with VDHP. (See Section VI.4 Tribal and Stakeholder Notification).
 - a. **Tribal Coordination:** If the potential archaeological site is Native American and intersects with the ancestral homelands of the Stockbridge Munsee Community (Appendix G), the Delaware

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Tribe (Appendix H) or any other federally recognized tribe, the Agency shall contact the Tribe(s).

6. **Documentation Standards:** All archaeological studies must comply with the “Guidelines for Conducting Archaeological Studies in Vermont” and the Secretary of the Interior’s *Standards and Guidelines for Archeology*. The Recipient shall submit digital copies of all reports and the associated Vermont Archaeological Inventory (VAI) forms to VDHP. VDHP may specify alternative documentation formats.

D. Public Notification of National Register Determinations

Prior to issuing recommendations regarding determination of NRHP eligibility for a non-listed property, the qualified professional shall **execute the following public notification and documentation steps:**

1. **Stakeholder Notification:** Notify the property owner(s), the chief elected local official, and the Certified Local Government (CLG) representative (where applicable) within the municipality town where the property is located.
2. **Comment Invitation:** Invite these stakeholders to submit comments to the qualified professional and VDHP concerning the historic, architectural or archaeological significance of the property.
3. **Proof of documentation:** Submit all formal correspondence exchanged with the property owner and local officials to VDHP as verifiable proof of notification.

E. Disagreement Regarding NRHP Eligibility

If an impasse occurs concerning whether a property meets the National Register of Historic Places criteria, the parties shall resolve the disagreement through the following escalations:

1. **Escalation to SHPO:** If the Agency or the Recipient disagrees with the qualified professional’s eligibility evaluation, they shall formally request that the SHPO issue a final determination of eligibility.

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2. **Escalation to the Keeper:** If the Agency or the Recipient disagree with the SHPO's subsequent findings, they shall obtain a formal, final determination of eligibility from the Keeper of the National Register. This process must be executed in strict accordance with 36 CFR §800.4(c) and 36 CFR Part 63. The requesting party shall immediately notify VDHP of the submittal and the Keeper's final decision.

F. Presence of Historic Resource

Once the identification and evaluation phase is complete, the qualified professional shall proceed based on the presence of historic resources:

1. **Historic Properties Present:** If a historic resource is identified within the project area, the project shall proceed to Section V for an assessment of project effects.
2. **No Historic Properties Present:** If no historic properties are identified, the qualified professional shall submit a formal finding of "no historic properties affected" to VDHP for concurrence. Upon approval, this documentation must be filed within both VDHP and Agency project files to close out the Section 106 review.

V. TREATMENT OF HISTORIC PROPERTIES

A. Building Rehabilitation

VDHP shall ensure that building rehabilitation plans and specifications for non-exempt CDBG activities are developed in accordance with the recommended approaches in the Secretary of the Interior's *Standards for Rehabilitation* and *Guidelines for Rehabilitation of Historic Buildings (Standards)* (Appendix D). The review process must proceed as follows:

1. **Initial Submittal and Review:** Prior to the initiation of any rehabilitation activities, the Recipient shall submit detailed work write-ups, plans, and specifications to the qualified professional. The qualified professional shall review these documents to verify adherence to the Standards and issue recommendations for VDHP approval.

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2. **Project Modifications:** If the qualified professional recommends modifications to ensure compliance with the Standards, the Recipient shall make necessary revisions and resubmit the updated work write-ups, plans, or specifications to the qualified professional for verification.
3. **Evaluation of Adverse Effects and Demolition:** If building demolition or other adverse effect is proposed, the qualified professional may ask the Recipient to provide the following feasibility and planning data:
 - a. **Condition Assessments:** Technical evaluation for various historic architectural elements.
 - b. **Alternative Treatments:** A summary of alternative design considerations, including itemized cost estimates for each.
 - c. **Life-Cycle Costs:** Long-term maintenance cost projections associated with each proposed alternative.
 - d. **Mitigation Measures:** Proposed actions to minimize, avoid, or mitigate the adverse effects.
 - e. **Market Data:** Any available marketing or adaptive use studies.
4. **Finding of Effect Recommendation:** After evaluating the complete project documentation, the qualified professional shall submit a recommended finding of effect – including any necessary protective conditions – to VDHP for formal SHPO concurrence.
5. **Standard Mitigation Trigger:** If the Recipient determines they cannot execute the modifications required to meet the Standards, resulting in an adverse effect on historic properties, the qualified professional and the Recipient shall consult with VDHP to develop a Standard Mitigation Measures Agreement pursuant to Section VI.
6. **Tax Credit Alternative Compliance Path:** For projects utilizing the Rehabilitation Investment Tax Credit (RITC), a Recipient may substitute a Part 2 Historic Preservation Certification Application (HPCA) approved and signed by the National Park Service (NPS) as evidence of compliance with the Standards.

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- a. **Scope Limitations:** If the project involves work excluded from the approved HPCA (such as adjacent new construction or ground-disturbing activities impacting archaeological resources), the remaining project components must be reviewed under standard agreement procedures.
- b. **Conditional Execution:** Project parties may execute a Memorandum of Agreement establishing that the pending Part 2 HPCA serves as the substitute Section 106 review process. (using the template in Appendix I).
- c. **Termination Provision:** If the Recipient decides not to utilize the RITC, this alternative path agreement terminates immediately, and the standard review process outlined in the Agreement must be implemented.

B. Scattered Sites Projects

For projects funded through the Scattered Sites Revolving Loan Fund Program and managed by the five regional homeownership centers, documentation must include a Section 106 Scattered Sites Documentation Report (SSDR).

1. **Covered Entities:** This requirement applies to projects managed by RuralEdge (formerly Gilman Housing Trust), Downstreet Housing & Community Development, Cornerstone Housing Partners (formerly NeighborWorks of Western Vermont), Champlain Housing Trust, and Windham & Windsor Housing Trust.
2. **SSDR Content Requirements:** The SSDR must contain the following components:
 - a. A detailed justification for the National Register eligibility determination.
 - b. Clear photographic documentation capturing all existing building conditions.
 - c. A detailed description of the scope of work and all proposed alterations.
 - d. A finding of effect supported by the qualified professional's written justification.

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3. Individual Evaluation: The qualified professional must document and evaluate each property individually. Separate reports are required for each individual site.

4. Emergency Exemption: Emergency releases are an avenue for scattered sites projects to expedite the environmental review process, bypassing the Tier II review requirements including documenting Section 106 compliance. According to [24 CFR 58.34\(a\)\(10\)](#), the emergency must qualify as “*assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration*”. Only project activities that fit this definition can be completed under an emergency release, all other non-emergency activities on site are subject to the standard Tier II review process and must document Section 106 compliance.

C. Designing New Construction

The Recipients shall ensure that the design of new construction, infill development, or additions to historic buildings is compatible with the historic qualities of the historic district or adjacent historic buildings. Compatibility must be maintained regarding size, scale, massing, design, features, and materials, and must align with the recommended approaches for new construction set forth in the Standards.

1. **Design Plan Review:** The Recipient shall develop preliminary design plans in consultation with the qualified professional. The Recipient must submit final plans and specifications to the qualified professional for review and formal approval prior to initiating any construction activities.
2. **Design Modifications:** If the qualified professional determines that the design fails to meet the Standards or results in an adverse effect on historic properties, the Recipient shall immediately notify VDHP. The Recipient shall consult with the qualified professional and VDHP to modify

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the design or to develop a Standard Mitigation Measures Agreement pursuant to Section VI.

3. **Inapplicability of Standard Mitigation:** If VDHP determines that standard mitigation measures do not apply to the adverse effect, the Agency shall execute the process outlined in Sections VI.F. Tribal and Stakeholder Notification and Section VI. Dispute Resolution and Council Consultation.

D. Protection of Archaeological Resources

Any project that involving ground- disturbing activities must comply with the archaeological protection and reporting protocols set forth in Section IV.C. Identifying and Evaluating Archaeological Resources, Section VI.D , Section DISCOVERY OF HISTORIC PROPERTIES OR ARCHAEOLOGICAL SITES DURING CONSTRUCTION and Section TREATMENT OF HUMAN REMAINS of this Agreement.

E. Planning Grants

The Recipient shall follow the provisions of this Programmatic Agreement for all planning grants, unless the activities being planned are strictly limited to the exempt activities listed in Appendix A. Integrating this review into the planning stage ensures the early identification and resolution of historic and archaeological resource issues.

F. Relocation of historic and contributing buildings

The Recipient and the qualified professional shall consult further with VDHP early in the planning process when historic properties are proposed for relocation.

G. District Integrity and Alternatives Analysis

If a historic property proposed for relocation is listed in or eligible for the National Register (individually or as a contributing resource to a historic district), the Recipient shall make every effort to relocate the property within its original setting or historic district. The Recipient shall submit an alternative analysis to the qualified professional documenting the necessity of the move, the selection criteria for the new site, and minimizing options considered. The qualified professional shall submit

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this documentation to VDHP for a 30-day review and comment period. If VDHP objects to the proposed site, all parties shall consult to evaluate alternate locations.

1. **Archaeological Assessment:** Prior to site disturbance, a qualified archaeological professional shall conduct an archaeological assessment of the new location. If the new site contains or has the potential to contain archaeological resources, the qualified archaeological professional shall implement the process set out in Section IV.C. Identifying and Evaluating Archaeological Resources of this Agreement.
2. **Relocation Plan and Standards:** Upon written approval of the new site by VDHP, the Recipient shall submit a detailed relocation plan to the qualified professional for review and approval. The Recipient shall ensure the move is executed by a licensed, experienced historic building mover in accordance with The Secretary of the Interior's Standards for the Treatment of Historic Properties and applicable National Park Service moving guidance, including Moving Historic Buildings by John Obed Curtis.
3. **Resolution of Adverse Effects:** If the Recipient and VDHP cannot agree on an alternate site, the proposed relocation shall be treated as an Adverse Effect. The qualified professional shall consult with VDHP to execute a Standard Mitigation Measures Agreement or Memorandum of Agreement to resolve the Adverse Effect in accordance with Section VI.

RESOLVING ADVERSE EFFECTS.

H. Demolition

The Recipient shall not proceed with the demolition of historic properties, contributing buildings, or significant portions thereof (including but not limited to ells, wings, attached sheds and barns, and porches) until the consultation and mitigation procedures set forth in this section are completed.

1. **Documentation Submittal:** The qualified professional shall submit a comprehensive demolition package to VDHP for review and comment. This package must include:

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- a. A detailed justification statement and analysis of alternatives to demolition;
 - b. A current structural engineering assessment conducted by a qualified historic preservation engineer;
 - c. Proposed future plans and design guidelines for the post-demolition site;
 - d. A proposed mitigation plan;
 - e. Documentation of public outreach and public comments received.
2. **Standard Mitigation:** If VDHP concurs that demolition is the only prudent and feasible alternative, and that standard mitigation is appropriate, the qualified professional shall develop and execute a Standard Mitigation Measures Agreement in accordance with Section VI. **RESOLVING ADVERSE EFFECTS.**
3. **Resolution of Complex Adverse Effects:** If VDHP determines that the standard mitigation measures are insufficient to resolve the Adverse Effect, the Agency shall consult further with VDHP and the Council, if participating, to resolve the adverse effect in accordance with Sections VI. F. Tribal and Stakeholder Notification and Section VI. G. Dispute Resolution and Council Consultation.
4. **Archaeological Assessment:** If ground disturbance, new construction, or a new use is proposed for this property, the qualified archaeological professional shall conduct an assessment to identify potential archaeological resources. If such potential exists, a qualified archaeological professional shall follow the process set out in Section IV(D)
5. Public Notification of National Register Determinations of this Agreement.

I. Disaster Response

An emergency or disaster or emergency is defined as an event declared by the President of the United States, the Governor of the State, a tribal government, or one that presents an immediate, documented threat to life or property. The

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expedited procedures in this section apply strictly to undertakings implemented thirty (30) days of a formal declaration or the onset of an immediate threat.

1. **Immediate Life Safety Exemption:** In accordance with 36 CFR § 800.12(d), immediate rescue and salvage operations necessary to preserve life or property are entirely exempt from the provision of Section 106 and this Agreement. This exemption applies regardless of whether a formal emergency has been declared. The Agency may take all necessary immediate actions to safeguard public health and safety without prior consultation.
2. **Expedited Review for Emergency Undertakings:** For undertakings responding to a declared emergency within 30-day window (and not exempt under paragraph 1 above), the Agency shall utilize an expedited review process. The Agency shall provide written notification to the SHPO and any applicable Tribes containing the following details:
 - a. A description of the proposed emergency undertaking and its location;
 - b. An assessment of potential effects on historic properties;
 - c. Proposed avoidance, minimization, or mitigation measures; and
 - d. A designated timeframe for comment.
3. **Review Timeline and Timeline Extensions**
 - a. **Comment Period:** The SHPO and consulting parties have seven (7) calendar days from receipt of the notification to review and provide comments on the proposed undertaking and mitigation measures
 - i. If the SHPO does not object within seven (7) days, the Agency may proceed.
 - b. **Extensions:** If the Agency determines that emergency conditions require the use of these expedited procedures beyond thirty (30) days, the Agency must notify the SHPO and the Council prior to the expiration of the original 30-day window to request an extension.

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VI. RESOLVING ADVERSE EFFECTS

A. National Historic Landmarks

If an undertaking may adversely affect a National Historic Landmark, the Agency shall immediately request the SHPO, the Council, and the Secretary of the Interior to participate in consultation to resolve any adverse effects, as outlined in 36 CFR § 800.10.

B. Adverse Effect Determination and Standard Mitigation

When a qualified professional determines that a proposed project will result in an adverse effect to a historic property, they shall consult with VDHP to evaluate the appropriateness of a Standard Mitigation Measures Agreement, as detailed in Appendix E.

If VDHP concurs that the Standard Mitigation Measures Agreement is appropriate to resolve the adverse effect, the qualified professional shall draft an agreement and submit it to VDHP with adequate documentation. VDHP shall review the submission and notify the Recipient and the Agency of its decision to execute the agreement within twenty-one (21) days of receipt. The SHPO may consult with the Secretary of ACCD to resolve any unresolved project conflicts.

C. Execution and Implementation

Upon a determination by the SHPO that a Standard Mitigation Measures Agreement is appropriate, the agreement shall be executed via signature by the Agency, the SHPO, and the Recipient. The Agency shall remain ultimately responsible for ensuring that the terms and stipulations of the executed agreement are fully implemented.

D. Archaeological Properties and Data Recovery

In the case of an adverse effect on a National Register-eligible archaeological site, the qualified archaeological professional shall develop an Archaeological Data Recovery Plan as part of the Standard Mitigation Measures Agreement. This plan must be completed following all applicable federal and state guidelines, including:

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1. The Advisory Council on Historic Preservation's "Treatment of Archaeological Properties."
2. The Advisory Council on Historic Preservation's "Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites" (1999).
3. The Vermont Division for Historic Preservation "Guidelines for Conducting Archaeological Studies in Vermont."

Data recovery projects shall incorporate a significant public education and interpretation component whenever appropriate. All recovered materials and associated records shall be curated and stored in accordance with federal standards under 36 CFR Part 79 and current VDHP curation standards.

E. Resolution via Memorandum of Agreement

If either the qualified professional or VDHP determines that the standard mitigation measures are inappropriate for a project, they shall consult with the Recipient and the Agency to identify alternative methods to avoid, minimize, or mitigate the adverse effects.

If consensus is reached on an alternative mitigation approach, the qualified professional shall prepare a Memorandum of Agreement (MOA) pursuant to 36 CFR § 800.6(b)(1). The MOA shall be executed via signature by the Agency, the Recipient, and SHPO. The Recipient shall be responsible for formally notifying both the Agency and SHPO in writing once all stipulations and conditions of the MOA have been fully satisfied.

F. Tribal and Stakeholder Notification

Upon successful completion of all stipulations within a Standard Mitigation Measures Agreement, the Recipient shall formally notify the Agency, the SHPO, and any consulting federally recognized tribes – including the Stockbridge Munsee Community and the Delaware Tribe, as applicable. This notification must be submitted via letter or email and must detail how each required mitigation measure(s) was achieved.

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G. Dispute Resolution and Council Consultation

If the Agency and SHPO fail to reach a consensus regarding project effects or mitigation, the parties shall immediately notify the Council and initiate the formal consultation process outlined in 36 CFR § 800.6(b)(2). The Agency shall be responsible for submitting the complete background documentation required under Section V(1)(c)Protection of Archaeological Resources of this Agreement to the Council.

H. Failure to Resolve Adverse Effects

If an agreement cannot be reached through the consultation process detailed in this Agreement, the consulting parties shall follow the formal process for terminating consultation set forth in 36 CFR § 800.7 (Failure to Resolve Adverse Effects).

VII. PUBLIC INVOLVEMENT

A. Public Outreach and Participation

The Recipient shall evaluate the level of public interest in the proposed project and its potential to affect historic properties. The Recipient shall inform the public about historic properties while fulfilling public participation requirements as set forth in the CDBG regulations and in complying with 24 CFR Part 58, which mandates public notice.

The Recipient shall seek and consider the views of the public in a manner that reflects:

1. The nature and complexity of the undertaking and its effects on historic properties.
2. The likely interest of the public in those historic properties.
3. Confidentiality concerns of private individuals and businesses.
4. The relationship of the federal involvement to the undertaking.

The Recipient shall contact local historic preservation commissions where they exist, as well as other groups or individuals interested in the affected historic resource or geographic areas. The Recipient shall formally notify both the Agency and SHPO

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regarding any notable public interest in project activities covered under this Agreement.

B. Invitation of Consulting Parties

The Recipient, the Agency, or the SHPO may invite individuals or organizations to participate as consulting parties in the Section 106 process, in accordance with the provisions outlined in 36 CFR § 800.3.

C. Public Objections

If a member of the public raises an objection regarding the treatment of a historic property at any time during the implementation of the measures stipulated in this Agreement, the Agency shall immediately notify the SHPO and take the objection into account.

Upon request by the objector, the Agency and the SHPO shall consult to resolve the dispute. The Recipient is not required to suspend or cease work while the objection is being actively reviewed.

D. Advisory Council Intervention

Consulting parties or members of the public may formally request that the Council enter the consultation process.

The Council will review 36 CFR Part 800 Appendix A (Criteria for Council Involvement in Reviewing Individual Section 106 Cases) to determine if participation in the consultation for that specific project is warranted.

VIII. DISCOVERY OF HISTORIC PROPERTIES OR ARCHAEOLOGICAL SITES DURING CONSTRUCTION

A. Unanticipated Discoveries and Effects

If previously unidentified archeological sites or unanticipated effects on historic properties are discovered during project construction, all construction activities in the

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immediate area of the discovery shall cease immediately. The qualified archaeology professional shall evaluate the discovery and determine appropriate actions the Recipient can take to resolve potential adverse effects.

The Recipient shall notify the Agency and the SHPO of the discovery and the proposed resolution measures within forty-eight (48) hours of the find. The SHPO shall review the notification and provide a formal respond within two (2) business days. The Agency shall evaluate the SHPO's recommendations and consult with the Recipient to implement the necessary corrective actions. Upon successful completion of these measures, the Agency shall submit a final documentation report to the SHPO.

B. Properties of Religious and Cultural Significance:

If previously unknown belowground historic properties of religious and cultural significance are discovered during construction, all excavation in the immediate vicinity of the resources must stop immediately. Construction may not resume in that area until formal tribal consultation has occurred.

The Recipient shall notify the SHPO and the Agency within forty-eight (48) hours of the discovery. The Agency shall immediately notify all consulting federally recognized tribe(s), the appropriate Tribal Historic Preservation Officers (THPO), and the Council.

To resolve potential adverse effects to the historic property of religious and cultural significance, the parties should coordinate a collaborative site visit including:

1. The Recipient
2. The Agency
3. The SHPO
4. Consulting tribe(s) and THPO (as appropriate)

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IX. TREATMENT OF HUMAN REMAINS

A. Discovery of Human Remains

If human remains are discovered during any phase of archaeological investigation or project construction, all work in the immediate area of the discovery shall cease immediately. The Recipient shall ensure the remains are treated with the utmost dignity, respectfully covered, and secured from further disturbance.

The discovery must be handled according to the following legal and procedural sequence:

1. **Immediately Law Enforcement Notification:** The Recipient shall immediately report the discovery to local law enforcement and the Office of the Chief Medical Examiner.
2. **State Compliance:** The Recipient shall comply with all applicable state laws and regulations governing unmarked burial sites, including 18 V.S.A. § 5212b(f).
3. **SHPO Coordination:** If the Office of the Chief Medical Examiner determines that the remains are not of recent forensic concern and are archaeological in nature, the Recipient shall immediately notify the SHPO.
4. **Tribal and Federal Guidance:** If the remains are determined to be Native American/Indian burials, the Recipient shall adhere to the “Advisory Council on Historic Preservation Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects.”
5. **Plan Development:** The Recipient’s qualified archaeological professional shall develop a comprehensive Treatment and Reburial Plan. This plan shall be drafted in formal consultation with the SHPO and appropriate federally recognized tribe(s), and Tribal Historic Preservation Officers, as applicable.
6. **Execution:** The Agency shall remain ultimately responsible for ensuring that the approved Treatment and Reburial Plan is fully executed.

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B. Preservation Preference

Avoidance and preservation in place shall always remain the preferred mitigation options for managing the discovery of human remains and unmarked historic burial sites.

X. COORDINATION WITH OTHER FEDERAL SECTION 106 REVIEWS

A. Substitution of Prior Section 106 Review

If a proposed project has been previously reviewed and approved under Section 106 of the National Historic Preservation Act by another federal agency or program – such as the HOME Investment Partnerships Program or USDA Rural Development – no further historic preservation review under this Agreement is required, provided that:

1. The project scope, design, and physical footprint remain identical to the undertaking previously reviewed.
2. The prior Section 106 review accounted for the full geographic Area of Potential Effects (APE) of the current project.

B. Recipient Certification Requirements

When submitting a prior Section 106 comment or clearance letter to satisfy HUD Environmental Review requirements under 24 CFR Part 58, the Recipient shall formally certify to the Agency staff that a project has not changed.

This certification must explicitly verify that the active project plans, specifications, and environmental conditions area completely unchanged from those referenced and approved in the original federal compliance documentation.

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XI. ADMINISTRATIVE COORDINATION

A. SHPO Review Timelines and Concurrence

The SHPO shall provide formal comments within twenty-one (21) days for receiving complete documentation for any review required under the terms of this Agreement.

1. If the SHPO fails to provide comment or respond within the twenty-one (21)-day period, the Recipient and the Agency may legally assume that SHPO concurs with the determination.

B. Implementation Procedures

The Agency, in formal consultation with the SHPO and the qualified professional, shall develop and maintain internal administrative procedures to ensure the consistent execution and implementation of the terms of this Agreement.

C. Individual Project File Documentation

The Agency or its designated qualified professional shall document all program activities affecting historic properties in individual project files. Each project file must remain organized and include the following, as applicable:

1. Written justification explaining why a specific exemption from review is applicable.
2. Formally documented National Register of Historic Places eligibility determinations for all non-exempt properties.
3. Copies of field inspection letters, archaeological scopes of work, and final study reports.
4. Written comments and correspondence regarding project effects.
5. An executed copy of the Standard Mitigation Measures Agreement.
6. Comprehensive description of work or dated project plans and architectural specifications.
7. Clear photographs documenting the project property prior to the start of rehabilitation.
8. The exact date the project was officially completed.

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D. Information Availability and Access:

All documentation and individual project files compiled under this Agreement shall be made available for administrative audit by SHPO or the Council following reasonable advance notice.

E. Project Completion Notification:

Upon successful completion of an undertaking, the Recipient or its qualified professional shall formally notify the Agency's Environmental Review Officer in writing. This notification must explicitly state all stipulations, conditions, and mitigation terms have been fully satisfied.

XII. MISCELLANEOUS PROVISIONS

A. Modifications

The qualified professional may make recommendations for modifications to previously approved specifications or Standard Mitigation Measures Agreements for SHPO concurrence, according to the procedures outlined in Section VI.

RESOLVING ADVERSE EFFECTS.

B. Dispute Resolution

Should SHPO object within a reasonable period to any specifications or actions covered by this Programmatic Agreement, the Agency shall consult further with SHPO to seek resolution. If the Agency determines that the objection cannot be resolved, the Agency shall forward all documentation relevant to the dispute to the Council. Within forty-five (45) calendar days after receipt of all pertinent documentation, the Council will provide the Agency with recommendations or comments in accordance with 36 CFR § 800.7(c). The Agency will consider the Council's recommendations or formal comments to reach a final decision regarding the dispute. Any Council comment provided to the Agency in response to such a request will be considered by the Agency with reference to the subject of the dispute. Any recommendation or comment provided by the Council will be interpreted to relate only to the subject of the dispute, and the responsibility of the Agency to carry out all actions under this agreement that are not the subject of the dispute will remain unchanged.

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C. Training Workshops/Webinars

VDHP shall conduct program specific training workshops/webinars for qualified professionals in collaboration with the Agency. Participation, in person or through webinars, at one of these trainings will be mandatory for qualified professionals working under this Programmatic Agreement for the first time. Interim workshops will be provided in person or through webinars as determined by the Agency and the SHPO.

A CDBG Section 106 Project Review Manual with performance evaluation criteria and samples of adequate documentation for determinations of eligibility and effect shall be prepared by the SHPO in consultation with the Agency. Upon written request from the Agency, VDHP will provide training to assist Agency staff and Recipients to understand the technical requirements of this Agreement.

D. Monitoring

The SHPO and the Council may monitor any activities carried out pursuant to this Agreement. The Agency will cooperate with the SHPO and Council should they request to monitor or to review project files for activities at specific project sites.

E. Reporting Requirements

The Agency shall provide the SHPO with an Annual Report at the end of the federal fiscal year summarizing all projects reviewed under this Programmatic Agreement, and shall schedule a meeting with the SHPO to discuss the Report by November 1st and report to be submitted to the SHPO for review by December 1st. This Annual Report shall include:

1. List of projects, categorized by name, town, exempt status, whether a historic property was involved, determination of effect, and whether an archaeologist or architectural historian (or both) was contracted to carry out reviews under the terms of this Agreement;
2. The number of properties added to the Vermont Architectural Resource Inventory (VARI) and the Vermont Archaeological Inventory (VAI);
3. A summary of mitigation measures undertaken, including the use of Standard Mitigation Measures Agreements;

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4. List of projects for which Memorandums of Agreement have been executed, and the status of those projects;
5. A summary of archaeological activities conducted under the program;
6. A summary of training(s) and webinar(s) held and proposed;
7. Documentation for inclusion/removal in the CDBG Section 106 Project Review Manual; and
8. Suggestions for edits to this Agreement, including to the Exempt Activities list and standard mitigation measures.

The signatories to the Programmatic Agreement shall review this information to determine what, if any, amendments are necessary. Any VARI and VAI forms, archaeological study reports, or other documentation not previously submitted to VDHP during the year should be enclosed with the Annual Report when it is submitted.

XIII. EFFECTIVE DATE AND DURATION

This Programmatic Agreement shall take effect on the date it is signed by the last signatory. The Programmatic Agreement will remain in effect for **5 years**, unless terminated pursuant to this Programmatic Agreement.

XIV. AMENDMENTS

- A. If any signatory determines that an amendment to the terms of this Agreement must be made, the signatories shall consult for no more than sixty (60) days to seek amendment of the Agreement.
- B. An amendment to this Agreement, exclusive of the appendices, shall be effective only when it has been signed by all the signatories.
- C. Amendments to the Appendix A (Exempt Activities) and Appendix E (Standard Mitigation Measures) shall be requested by any signatory in the following manner:

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1. The requesting signatory shall notify all the signatories of the intent to modify the Appendix or Appendices and shall provide a draft of the updated Appendix or Appendices to all signatory parties.
2. If no other signatory objects in writing within thirty (30) days of receipt of the proposed modification, the Agency shall date and sign the amended Appendix and provide a copy of the amended Appendix to the signatories. Such an amendment shall go into effect on the date the amendment is transmitted to the other signatories.

XV. TERMINATION

- A. **Termination Procedures:** Any signatory party to this Programmatic Agreement may terminate it by providing thirty (30) calendar days' advance written notice to all other signing parties.
- B. **Consultative Period:** During the thirty (30) calendar days prior to the effective date of termination, the parties shall make every reasonable and good-faith effort to consult. The purpose of this consultation is to seek agreement on potential amendments or alternative administrative actions that would directly avoid the termination of this Agreement.

XVI. FAILURE TO COMPLY WITH AGREEMENT

- A. **Administrative Default and Reversion to Standard Review:** In the event that the Agency fails to carry out the required terms and stipulations of this Programmatic Agreement, the administrative efficiencies granted under this instrument shall be suspended.

The Agency shall immediately comply with standard 36 CFR Part 800 review procedures for each individual project or undertaking for which the Agency has awarded funding to the Recipient.

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EXECUTION AND IMPLEMENTATION of this Programmatic Agreement evidences that the Agency has satisfied its Section 106 responsibilities for CDBG activities funded in whole or in part under the CDBG Program.

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**PROGRAMMATIC AGREEMENT
between
THE VERMONT STATE HISTORIC PRESERVATION OFFICER
and
THE VERMONT AGENCY OF COMMERCE AND COMMUNITY
DEVELOPMENT
for the
ADMINISTRATION OF
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
UNDERTAKINGS
2026-2031**

SIGNATORY

VERMONT AGENCY OF COMMERCE AND COMMUNITY DEVELOPMENT

Signed by:

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10/1/2026

Tayt Brooks

Date

Secretary, Agency of Commerce and Community Development

**COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM UNDERTAKINGS
PROGRAMMATIC AGREEMENT
2026-2031**

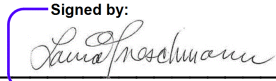
**PROGRAMMATIC AGREEMENT
between
THE VERMONT STATE HISTORIC PRESERVATION OFFICER
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ADMINISTRATION OF
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
UNDERTAKINGS
2026-2031**

SIGNATORY

VERMONT STATE HISTORIC PRESERVATION OFFICER

Signed by:

10/1/2026



Laura V. Trieschmann

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Date

Vermont State Historic Preservation Officer

**COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM UNDERTAKINGS
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APPENDIX A

HUD-FUNDED CDBG PROGRAMS EXEMPT ACTIVITIES

As noted in **Section II. EXEMPT PROPERTIES AND ACTIVITIES**: If activities are limited solely to those activities listed in Appendix A, then such activities are considered exempt from this Programmatic Agreement. This determination is made in consultation with the Recipient and ACCD through submittal of the Preliminary Review Form and approval by ACCD. No further review is required.

The following activities will **NOT** require review by the SHPO or Council:

1. **Non-Historic Buildings and Structures.** Rehabilitation of non-historic buildings and structures, (i.e. those less than 50 years old), except when alteration to the existing building or structure may have an impact on a surrounding historic district.
 - a. New construction is **not** an exempt activity.
2. **Refinancing.** With no associated work on historic buildings and structures or ground disturbance.
3. **Mechanical, Electrical, Plumbing (MEP) Systems.** Repair, replacement, and installation of MEP systems provided that such work does not involve ground disturbance, alter, or permanently change the appearance of the interior or the exterior of the building, affect character-defining features of the building, or require the installation of new ducts through the interior; electrical work; plumbing pipes and fixtures; heating system improvements; installation of fire and smoke detectors; ventilation systems; and bathroom improvements where work is contained within the existing bathroom.
 - a. Please refer to *Preservation Briefs 24: Heating, Ventilating, and Cooling Historic Buildings: Problems & Recommended Approaches*, and other technical briefs, as appropriate, for guidance.

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4. **Exterior painting.** Repainting of exterior surfaces if (and only if) destructive surface preparation treatments, including, but not limited to water blasting, sandblasting, destructive sanding, and chemical cleaning are not used.
 - a. Please refer to *Preservation Briefs 10: Exterior Paint Problems on Historic Woodwork*, and other technical briefs, as appropriate, for guidance.
5. **Exterior Repairs.** Repair or partial replacement of deteriorated porches, cornices, exterior siding, doors, balustrades, stairs, or other trim when the repair or replacement is done in-kind to closely match existing material and form. Repointing of masonry and/or brick surfaces, including chimney and chimney flashing repairs on buildings built 1945 or later, when done in accordance with the Secretary of the Interior's *Standards for Rehabilitation* remain exempt. Exterior repairs shall not involve ground disturbance.
 - a. Removal of distinctive materials or alterations of features, spaces, and spatial relationships that characterize a property must be avoided and are not exempt.
 - b. Please refer to *Preservation Briefs 47: Maintaining the Exterior of Small & Medium Size Historic Buildings*, and other technical briefs, as appropriate, for guidance.
6. **Windows.** Caulking; weatherstripping; reglazing and repainting of windows; repair, replacement or installation of storm windows (exterior, interior, metal or wood) provided they match the historic shape and size of the historic prime windows and that the meeting rail coincides with that of the prime window. Color should match trim, if possible.
 - a. Replacement of windows is not an exempt activity. If replacement windows are being proposed, the qualified professional must provide a statement to VDHP of the condition of existing windows, why the existing windows cannot be retained, safety considerations such as the presence of lead-based paint hazards; cost considerations of retaining existing windows vs. installing replacements including ongoing maintenance; and rationale for the design and selection of new windows, along with how the replacement windows will meet the Secretary of the Interior's *Standards for Rehabilitation*. Energy efficiency shall be considered as part of the evaluation of the proposed replacement windows.

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7. **Roof Repair.** Repair of historic roofing with in-kind material that closely matches the existing design and form.
 - a. Replacement of non-historic roofing with a different roofing material is not an exempt activity.
 - b. Please refer to *Preservation Briefs 4: Roofing for Historic Buildings*, and other technical briefs, as appropriate, for guidance.
8. **Gutters.** Repair, replacement, or installation of gutters and above-ground downspouts.
9. **Insulation.** Insulation in ceilings, attic, and basement spaces provided it is installed with appropriate vapor barriers, such as the following:
 - a. Air sealing of the building shell, including caulking, weather-stripping, and other air infiltration control measures on windows and doors, and installing thresholds in a manner that does not harm or obscure historic windows or trim.
 - b. Thermal insulation, such as non-toxic fiberglass and foil-wrapped, in walls, floors, ceilings, attics, and foundations of wood-framed structures in a manner that does not harm or damage historic fabric and a mechanical ventilation system is present to direct moisture out of the building.
 - c. Installation of insulation from the exterior of the structure, which requires removal/replacement of exterior materials and/or alterations to trim, is **not** an exempt activity unless completed in the following manner:
 - i. Dense-pack cellulose wall insulation in wood frame structures where no holes are drilled through exterior siding or where holes have no permanent visible alteration to the structure, and a mechanical ventilation system is present to direct moisture out of the building.
 - ii. The use of spray foam (closed cell or open cell) is **not** an exempt activity.
 - d. Please refer to *Preservation Briefs 3: Improving Energy Efficiency in Historic Buildings*, and other technical briefs, as appropriate, for guidance.

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10. **Interior Surfaces (floors, walls, ceilings)** Repainting, refinishing, repapering, replacing sheetrock with sheetrock, laying carpet or sheet flooring, or replacement/removal of suspended ceiling tile.
11. **Interior Trim.** Repairing and retaining interior historic trim and features including doors, baseboards, chair rails, wainscoting, paneling, cornice trim, fireplace mantels, stair balusters, newel posts, window and door casings and other decorative features, or replacement of flat stock trim.
12. **Lead Paint Abatement.** Interior lead paint abatement when it is limited to washing, scraping and repainting, wallpapering, and chemical stripping of lead-painted surfaces, installation of new window jambs or jamb liners, installation of metal panning in window wells, and replacement of flat stock trim. Exterior Lead Paint Abatement that includes scraping and repainting of exterior wood and masonry surfaces, so long as treatments follow established protocols and best practices as established by EPA Renovation, Repair & Painting Program (RRP Rule) and Vermont Essential Maintenance Practices–Lead Law Compliance.
 - a. Please refer to Preservation Briefs 37: *Appropriate Methods of Reducing Lead-Paint Hazards in Historic Housing*, and other technical briefs, as appropriate, for guidance.
13. **Asbestos Abatement.** Necessary removal of asbestos found in Mechanical, Electrical, and Plumbing Systems and ventilation pipe joints provided it does not involve the removal of contributing historic elements.
 - a. All other asbestos removal is **not** an exempt activity.
14. **Site Improvements:** Repair of existing features of roads, driveways, sidewalks, and curbs, if repairs are done with like material, and there are no changes in dimension or configuration of these features. Repair does not include partial or complete replacement of features, the use of alternate materials, expansion of features, or ground disturbance. Repair of fencing when work is done in-kind to closely match existing material and form; work must be done with no new ground disturbance.

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15. **Underground Utilities.** Emergency repair of water, gas, electric, storm and wastewater systems if it occurs within the original trench or footprint.
16. **Generators.** Temporary or permanent installation of generators that are placed inside existing buildings or that occupy an area under fifty (50) square feet behind the building they serve.
17. **Minor Ground Disturbance due to Maintenance Activity.** Soil disturbance to a depth of six (6) inches or less within an area of 100 square feet or less is permissible.
18. **Plantings.** Planting of grass, flowers, shrubs, or bushes in existing gardens or landscaped areas.

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APPENDIX B

**Final Advisory Council on Historic Preservation
*Policy Statement on Housing and Historic Preservation***

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of Final Policy Statement on Housing and Historic Preservation.

DATE: Adopted December 22, 2023

SUMMARY: In the planning and implementation of undertakings funded under this Agreement that involve the creation, rehabilitation, or preservation of housing, the Agency and the Recipient shall adhere to the principles outlined in the Advisory Council on Historic Preservation (Council) “Policy Statement on Housing and Historic Preservation,” as well as any subsequent updates or programmatic comments issued by the Council.

<https://www.achp.gov/sites/default/files/2023-12/ACHP-Housing-Policy-Statement-2023.pdf>

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APPENDIX C

**RECOMMENDED APPROACH FOR CONSULTATION ON RECOVERY OF
SIGNIFICANT INFORMATION FROM ARCHAEOLOGICAL SITES**

FR Doc No: 99-12055]

Federal Register / Vol. 64, No. 95 / Tuesday, May 18, 1999 /

Sections 800.5 and 800.6 of the Council's revised regulations, "Protection of Historic Properties" (36 CFR part 800) detail the process by which Federal agencies determine whether their undertakings will adversely affect historic properties, and if they will, how they are to consult to avoid, minimize, or mitigate the adverse effects in order to meet the requirements of Section 106 to "take into account" the effects of their undertakings on historic properties. One such category of historic properties is comprised of prehistoric or historic archaeological resources. The National Register of Historic Places defines an archaeological site as "the place or places where the remnants of a past culture survive in a physical context that allows for the interpretation of these remains" (National Register Bulletin 36, "Guidelines for Evaluating and Registering Historical Archaeological Sites and Districts," 1993, p. 2). Such properties may meet criteria for inclusion in the National Register of Historic Places for a variety of reasons, not the least of which may be because "they have yielded, or may be likely to yield, information important to prehistory or history" (National Register Criteria for Evaluation, 36 CFR 60.4).

In the context of taking into account the effects of a proposed Federal or federally assisted undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register, potential impacts to archaeological sites often need to be considered. Appropriate treatments for affected archaeological sites, or portions of archaeological sites, may include active preservation in place for future study or other use, recovery or partial recovery of archaeological data, public interpretive display, or any combination of these and other measures.

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Archaeological Sites and Their Treatment

The nature and scope of treatments for such properties should be determined in consultation with other parties, but in the Council's experience they generally need to be guided by certain basic principles:

The pursuit of knowledge about the past is in the public interest.

An archaeological site may have important values for living communities and cultural descendants in addition to its significance as a resource for learning about the past; its appropriate treatment depends on its research significance, weighed against these other public values.

Not all information about the past is equally important; therefore, not all archaeological sites are equally important for research purposes.

Methods for recovering information from archaeological sites, particularly large-scale excavation, are by their nature destructive. The site is destroyed as it is excavated. Therefore, management of archaeological sites should be conducted in a spirit of stewardship for future generations, with full recognition of their non-renewable nature and their potential multiple uses and public values.

Given the non-renewable nature of archaeological sites, it follows that if an archaeological site can be practically preserved in place for future study or other use, it usually should be (although there are exceptions). However, simple avoidance of a site is not the same as preservation.

Recovery of significant archaeological information through controlled excavation and other scientific recording methods, as well as destruction without data recovery, may both be appropriate treatments for certain archaeological sites.

Once a decision has been made to recover archaeological information through the naturally destructive methods of excavation, a research design and data recovery plan based on firm background data, sound planning, and accepted archaeological methods should be formulated and implemented. Data recovery and analysis should be

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accomplished in a thorough, efficient manner, using the most cost-effective techniques practicable. A responsible archaeological data recovery plan should provide for reporting and dissemination of results, as well as interpretation of what has been learned so that it is understandable and accessible to the public. Appropriate arrangements for curation of archaeological materials and records should be made. Adequate time and funds should be budgeted for fulfillment of the overall plan.

Archaeological data recovery plans and their research designs should be grounded in and related to the priorities established in regional, state, and local historic preservation plans, the needs of land and resource managers, academic research interests, and other legitimate public interests.

Human remains and funerary objects deserve respect and should be treated appropriately. The presence of human remains in an archaeological site usually gives the site an added importance as a burial site or cemetery, and the values associated with burial sites need to be fully considered in the consultation process.

Large-scale, long-term archaeological identification and management programs require careful consideration of management needs, appreciation for the range of archaeological values represented, periodic synthesis of research and other program results, and professional peer review and oversight.

Resolving Adverse Effects Through Recovery of Significant Information From Archaeological Sites

Under 36 CFR 800.5, archaeological sites may be “adversely affected” when they are threatened with unavoidable physical destruction or damage. Based on the principles articulated above, the Council recommends that the following issues be considered and addressed when archaeological sites are so affected, and recovery of significant information from them through excavation and other scientific means is the most appropriate preservation outcome.

If this guidance is followed, it is highly unlikely that the Council would decide to enter the consultation process under 36 CFR 800.6 or raise objections to the proposed resolution

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of adverse effects in a given case, unless it is informed of serious problems by a consulting party or a member of the public.

1. The archaeological site should be significant and of value chiefly for the information on prehistory or history they are likely to yield through archaeological, historical, and scientific methods of information recovery, including archaeological excavation.
2. The archaeological site should not contain or be likely to contain human remains, associated or unassociated funerary objects, sacred objects, or items of cultural patrimony as those terms are defined by the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001).
3. The archaeological site should not have long-term preservation value, such as traditional cultural and religious importance to an Indian tribe or a Native Hawaiian organization.
4. The archaeological site should not possess special significance to another ethnic group or community that historically ascribes cultural or symbolic value to the site and would object to the site's excavation and removal of its contents.
5. The archaeological site should not be valuable for potential permanent in-situ display or public interpretation, although temporary public display and interpretation during the course of any excavations may be highly appropriate.
6. The Federal Agency Official should have prepared a data recovery plan with a research design in consultation with the SHPO/THPO and other stakeholders that is consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties, the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation, and the Advisory Council on Historic Preservation's Treatment of Archaeological Properties: A Handbook. The plan should specify: (a) The results of previous research relevant to the project; (b) research problems or questions to be addressed with an explanation of their relevance and importance; (c) the field and laboratory analysis methods to be used with a justification of their cost-effectiveness and how they apply to this particular property and these research needs; (d) the methods to be used in artifact, data, and other records management; (e) explicit provisions for disseminating the research findings to professional peers in a timely manner; (f) arrangements for presenting what has been found and learned to the public, focusing particularly on the community or communities that may have interests in the results; (g) the curation of recovered materials and records resulting from the data recovery in accordance with 36 CFR part 79 (except in the case of unexpected

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discoveries that may need to be considered for repatriation pursuant to NAGPRA); and (h) procedures for evaluating and treating discoveries of unexpected remains or newly identified historic properties during the course of the project, including necessary consultation with other parties.

7. The Federal Agency Official should ensure that the data recovery plan is developed and will be implemented by or under the direct supervision of a person, or persons, meeting at a minimum the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-44739).

8. The Federal Agency Official should ensure that adequate time and money to carry out all aspects of the plan are provided, and should ensure that all parties consulted in the development of the plan are kept informed of the status of its implementation.

9. The Federal Agency Official should ensure that a final archaeological report resulting from the data recovery will be provided to the SHPO/THPO. The Federal Agency Official should ensure that the final report is responsive to professional standards, and to the Department of the Interior's Format Standards for Final Reports of Data Recovery Programs (42 FR 5377-79).

10. Large, unusual, or complex projects should provide for special oversight, including professional peer review.

11. The Federal Agency Official should determine that there are no unresolved issues concerning the recovery of significant information with any Indian tribe or Native Hawaiian organization that may attach religious and cultural significance to the affected property.

12. Federal Agency Officials should incorporate the terms and conditions of this recommended approach into a Memorandum of Agreement or Programmatic Agreement, file a copy with the Council per Sec. 800.6(b)(iv), and implement the agreed plan. The agency should retain a copy of the agreement and supporting documentation in the project files.

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APPENDIX D

SECRETARY OF THE INTERIOR'S *STANDARDS FOR REHABILITATION*

Rehabilitation projects must meet the following Standards, as interpreted by the National Park Service, to qualify as “certified rehabilitations” eligible for the 20% rehabilitation tax credit. The Standards are applied to projects in a reasonable manner, taking into consideration economic and technical feasibility.

The Standards apply to historic buildings of all periods, styles, types, materials, and sizes. They apply to both the exterior and the interior of historic buildings. The Standards also encompass related landscape features and the building's site and environment as well as attached, adjacent, or related new construction.

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

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7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

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APPENDIX E

STANDARD MITIGATION MEASURES AGREEMENTS

The Agency, Recipient, and SHPO may develop and execute an agreement that includes one or more of the following Standard Mitigation Measures, as modified by SHPO, when SHPO deems it appropriate. The Council will not be a party to these agreements.

The mitigation products shall be prepared by qualified professionals meeting the Professional Qualifications for Architectural History, History, Architecture, Historic Preservation, Folklore, Archaeology, or Historic Architecture, as appropriate.

All materials shall be digitally submitted to the Agency, SHPO, and participating Tribe(s) (if applicable).

1. Historic Resource Documentation (HRD)

Prior to the start of any alteration or demolition of above-ground resource(s), a Historic Resource Documentation (HRD) shall be prepared by professional consultants meeting the Professional Qualifications for Architectural History, History, Architecture, Historic Preservation, or Historic Architecture, as appropriate. The HRD shall meet VDHP's most current guidance, which can be found in such documents as the "*VDHP's Photographic Documentation Requirements for Historic Resources*." The HRD shall fully convey, in both text and photographs, the significant/character-defining features, context, and history of the historic resource.

2. Geo-Referencing of Maps, Photographs, and Plans.

Prior to project implementation, relevant historic maps, aerial photographs, surveyor maps, blueprints, archaeological site maps, and other relevant historic materials shall be identified for scanning and geo-referencing. The final deliverable shall include a digital geo-referenced copy of each scanned image and the metadata relating to both the original creation of the paper maps and the digitization process.

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3. Historic Above-Ground Property Inventory

Prior to project implementation, affected resources must be documented on Vermont Architectural Resource Inventory (VARI) forms. Efforts may be directed toward the resurvey of previously designated historic properties and/or districts that have undergone change or lack sufficient documentation, or the survey of new historic properties and/or districts that lack formal designation. The survey shall be conducted using VDHP's *VARI* standards and the appropriate form(s).

4. Historic Context Statements and Narratives

Prior to project implementation, the topic and framework of a historic context statement or narrative shall be identified. The statement or narrative may focus on an individual property, a historic district, a set of related properties, or update a relevant historic context/themes as identified in the statewide preservation plan.

5. Oral History Documentation

Prior to project implementation, oral history documentation needs, including a topic and list of interview candidates as appropriate, shall be identified. The oral histories shall be transcribed and include photographs and biographies of the candidates interviewed. Release forms must be signed by all candidates interviewed.

6. National Register or National Historic Landmark Nominations

Prior to project implementation, individual properties that would benefit from a completed National Register or National Historic Landmark nomination form(s) shall be identified. Coordination with SHPO and/or participating Indian tribe(s) must be undertaken through the drafting of the nomination form. SHPO and/or participating Indian tribe(s) shall provide adequate guidance during the preparation of the nomination form. The Vermont Advisory Council on Historic Preservation shall review the nomination and make a recommendation for SHPO to formally submit the final nomination to the Keeper for inclusion in the National Register.

7. Digital Documentation and Interpretation

Prior to project implementation, new and emerging digital and remote sensing technologies such as aerial and terrestrial LiDAR imagery, aerial drone photomosaics, photogrammetry and other derived products, terrestrial photogrammetry, ground

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penetrating radar, electric resistivity, magnetometer, and/or other applicable technologies to record the affected historic resource shall be identified. The digital documentation shall be interpreted for public access on a website, exhibit, lecture, presentation, and/or publication.

8. Sale/Relocation.

Prior to project implementation, a good faith and reasonable effort shall be made to identify a party or parties willing to take ownership and relocate the historic resource(s). A good faith and reasonable effort should include publicizing and advertising the property in newspapers, magazines, and/or websites of record for a specific period. The resource(s) must be relocated by a professional house mover following the recommendations in *Moving Historic Buildings* by John Obed Curtis (1975, reprinted 1991 by W. Patram for the International Association of Structural Movers) or another similar updated brochure. The marketing plan will be used in conjunction with a Historic Resource Documentation Package (HRDP) to be completed prior to relocation. If the good faith and reasonable effort does not result in the identification of a party or parties willing to relocate the resource(s), it may be demolished following the completion of the HRDP.

9. Public Interpretation.

Prior to project implementation, the appropriate level of educational interpretive plan shall be identified. The plan may include signs, displays, educational pamphlets, websites, webinars, videos, workshops, lectures, tours, roadside historic site markers, and other similar mechanisms to educate the public on historic properties within the local community, state, or region.

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APPENDIX F

WHEN TO CONSULT WITH TRIBES UNDER SECTION 106

Section 106 requires consultation with federally recognized Indian tribes when a project may affect a historic property of religious and cultural significance to the tribe. Historic properties of religious and cultural significance include: archeological sites, burial grounds, sacred landscapes or features, ceremonial areas, traditional cultural places, traditional cultural landscapes, plant and animal communities, and buildings and structures with significant tribal association. *The tribe shall be contacted by the Qualified Professional in coordination with ACCD.*

The types of activities that may affect historic properties of religious and cultural significance include: ground disturbance (digging), new construction in undeveloped natural areas, introduction of incongruent visual, audible, or atmospheric changes, work on a building with significant tribal association, and transfer, lease or sale of properties of the types listed above.

If a project includes any of the types of activities below, invite tribes to consult:

- **significant ground disturbance (digging)**
Examples: new sewer lines, utility lines (above and belowground), foundations, footings, grading, access roads
- **new construction in undeveloped natural areas**
Examples: industrial-scale energy facilities, transmission lines, pipelines, or new recreational facilities, in undeveloped natural areas like mountaintops, canyons, islands, forests, native grasslands, etc., and housing, commercial, and industrial facilities in such areas
- **incongruent visual changes**
Examples: construction of a focal point that is out of character with the surrounding natural area, impairment of the vista or viewshed from an observation point in the natural landscape, or impairment of the recognized historic scenic qualities of an area
- **incongruent audible changes**
Examples: increase in noise levels above an acceptable standard in areas known for their quiet, contemplative experience

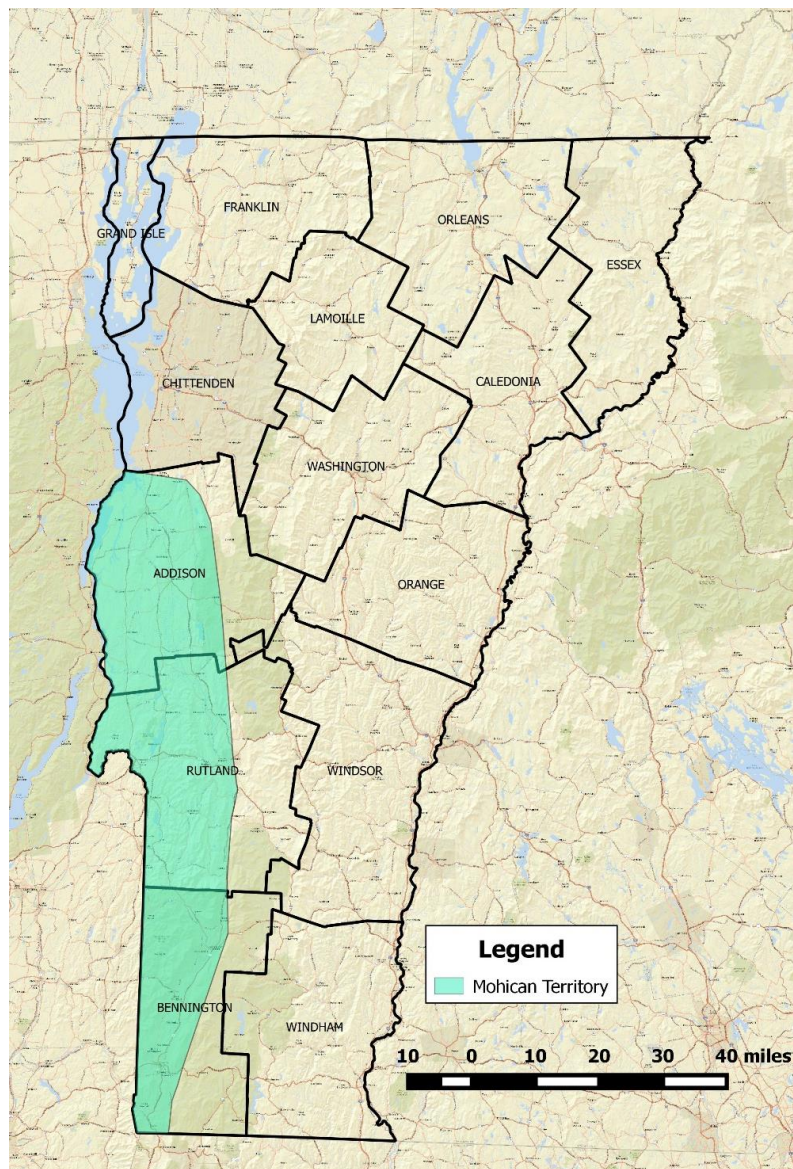
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- **incongruent atmospheric changes**
Examples: introduction of lights that create skyglow in an area with a dark night sky
- **work on a building with significant tribal association**
Examples: rehabilitation, demolition or removal of a surviving ancient tribal structure or village, or a building or structure that there is reason to believe was the location of a significant tribal event, home of an important person, or that served as a tribal school or community hall
- **transfer, lease or sale of a historic property of religious and cultural significance**
Example: transfer, lease or sale of properties that contain archeological sites, burial grounds, sacred landscapes or features, ceremonial areas, plant and animal communities, or buildings and structures with significant tribal association
- **None of the above apply**

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APPENDIX G

TERRITORY OF THE STOCKBRIDGE-MUNSEE COMMUNITY MAP



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APPENDIX H

TERRITORY OF THE DELAWARE TRIBE

**TERRITORY OF DELEWARE TRIBE INCLUDES ADDISION, BENNINGTON,
RUTLAND, CHITTENDEN, AND WASHINGTON COUNTIES.**

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APPENDIX I

**TEMPLATE FOR SECTION 106 MEMORADUM OF AGREEMENT FOR PROJECTS
SEEKING REHABILITIATION TAX CREDITS**

**MEMORANDUM OF AGREEMENT
AMONGST
THE VERMONT AGENCY OF COMMERCE AND COMMUNITY DEVELOPMENT,
THE VERMONT STATE HISTORIC PRESERVATION OFFICER, AND
[MUNICIPALITY/ENTITY]
REGARDING [PROJECT NAME]
IN [LOCATION], VERMONT**

WHEREAS, the Vermont Agency of Commerce and Community Development (ACCD) plans to grant funds to the [MUNICIPALITY/ENTITY] for the [PROJECT NAME] (Undertaking) pursuant to the Vermont Community Development Program (VCDP), which is funded by the Small Cities Community Development Block Grant Program through the United States Department of Housing and Urban Development, in accordance with Title I of the Housing and Community Development Act of 1972, as amended, and

WHEREAS, the Undertaking consists of a grant to the [MUNICIPALITY/ENTITY] (Grantee) in VCDP funds to be subgranted to the [DEVELOPER] (Developer) to assist in the [PROJECT NAME] at [ADDRESS], Vermont, creating a [PROJECT SCOPE, i.e.: total of seven (7) one-bedroom and twelve (12) micro units of affordable housing along with community gathering and activity spaces]; and

WHEREAS, the [STATEMENT OF SIGNIFICANCE FOR RESOURCE, INCLUDING WHEN LISTED IN OR ELIGIBLE FOR THE NATIONAL REGISTER OF HISTORIC PLACES]; and

WHEREAS, Vermont State Historic Preservation Officer (SHPO) has determined that the Undertaking may have an adverse effect on properties that are listed in the National Register of Historic Places; and

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WHEREAS, in 2016, ACCD, SHPO, and the Advisory Council on Historic Preservation (ACHP) entered into a Programmatic Agreement to more effectively fulfill the review responsibilities for CDBG activities under Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. sec. 306108); and

WHEREAS, Article V.1.f of the Programmatic Agreement provides that: "In lieu of the review process outlined above, for building rehabilitation projects that use the Rehabilitation Investment Tax Credit (RITC), a Recipient may substitute a Part 2 Historic Preservation Certification Application (HPCA), approved and signed by the National Park Service, as evidence of compliance with the Standards. If the project contains work that was not included in and approved in the HPCA, such as new construction or ground disturbance that might affect archaeological sites, the remainder of the project shall be reviewed as outlined in this Agreement." and

WHEREAS, Developer intends to use the RITC as a source of funds for the project; and

WHEREAS, ACCD has consulted with the Grantee regarding the effects of the Undertaking on historic properties and has invited them to sign this Memorandum of Agreement (MOA) as an invited signatory; and ACCD has consulted with the Developer regarding the effects of the Undertaking on historic properties and has invited them to sign this MOA as a concurring party; and

WHEREAS, in accordance with 36 CRR § 800.6(a)(1), ACCD has notified the Advisory Council on Historic Preservation (ACHP) of the adverse effect determination with specified documentation, and the ACHP has chosen [NOT] to participate in consultation pursuant to 36 CFR § 800.6(a)(1)(iii).

NOW, THEREFORE, ACCD, SHPO, Grantee, and Developer 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 historic properties.

STIPULATIONS

The parties shall ensure that the following measures are carried out:

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I. HISTORIC PRESERVATION CERTIFICATION APPLICATION

A. In lieu of the Section 106 review process set forth in the Programmatic Agreement, the Part 2 Historic Preservation Certification Application, approved and signed by the National Park Service, shall serve as evidence of compliance with the *Secretary of the Interior's Standards for Rehabilitation*. Conditional approval is acceptable.

B. Developer shall provide a copy of the National Park Service approval or conditional approval, and all amendments, to Grantee and ACCD.

II. ADDITIONAL WORK

A. If the project includes any work not included in and approved by the Part 2 Historic Preservation Certification Application, it shall be reviewed as required by the Programmatic Agreement. Any determination that the *Secretary of the Interior's Standards for Rehabilitation* cannot be met shall be treated as a post-review discovery under 36 CFR § 800.13(b). In such an event, the parties shall consult regarding minimization and mitigation.

III. QUALIFIED CONSULTANT

Developer has retained, and will continue to retain, the professional services of [CONSULTANT NAME] (Consultant), to act as a Qualified Professional as described in the Programmatic Agreement and to assist in developing appropriate treatment or mitigation measures to avoid, minimize, or mitigate any adverse effects on historic properties. The Consultant will continue to monitor the project through completion to assure compliance with the approved plan and will promptly notify all parties to this MOA of any concerns or deviations from the approved plan.

IV. MONITORING AND REPORTING

Each [insert time period] following the execution of this MOA until it expires or is terminated, Developer, through its Consultant, shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall

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include any scheduling changes proposed, any problems encountered, and any disputes and objections received in the course of carrying out this MOA.

V. DISPUTE RESOLUTION

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

A. Forward all documentation relevant to the dispute, including the ACCD's proposed resolution, to the ACHP. The ACHP shall provide ACCD 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, ACCD shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. ACCD will then proceed according to its final decision.

B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, ACCD may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, ACCD 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 ACHP with a copy of such written response.

C. ACCD'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.

VI. 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 ACHP.

**COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM UNDERTAKINGS
PROGRAMMATIC AGREEMENT
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VII. TERMINATION

This MOA shall terminate upon receipt by SHPO and the National Park Service Technical Preservation Services approval or conditional approval of the Part 2 Historic Preservation Certification Application.

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 parties to attempt to develop an amendment per Stipulation VIII, above. If within thirty (30) days (or another time period agreed to by all 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 parties 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 ACHP under 36 CFR § 800.7. ACCD shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by ACCD and SHPO and implementation of its terms evidence that ACCD has taken into account the effects of this Undertaking on historic properties and afforded the ACHP an opportunity to comment. The Agency shall provide a copy of the executed MOA, along with the documentation specified in Sec. 800.11(f), to the ACHP prior to approving the Undertaking in order to meet the requirements of section 106. 36 CFR § 800.6(b)(1)(iv).

**COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM UNDERTAKINGS
PROGRAMMATIC AGREEMENT
2026-2031**

**MEMORANDUM OF AGREEMENT
AMONGST
THE VERMONT AGENCY OF COMMERCE AND COMMUNITY DEVELOPMENT,
THE VERMONT STATE HISTORIC PRESERVATION OFFICER, AND
[MUNICIPALITY/ENTITY]
REGARDING [PROJECT NAME]
IN [LOCATION], VERMONT**

SIGNATORIES:

VERMONT AGENCY OF COMMERCE AND COMMUNITY DEVELOPMENT

_____ Date _____
[NAME OF SECRETARY], Secretary of Commerce and Community Development

VERMONT STATE HISTORIC PRESERVATION OFFICER

_____ Date _____
[NAME OF SHPO], State Historic Preservation Officer

INVITED SIGNATORY:

[MUNICIPALITY]/Entity

_____ Date _____
[INSERT NAME AND TITLE]

CONCURRING PARTY:

[NAME OF DEVELOPER]

_____ Date _____
[INSERT NAME AND TITLE]