

**PROGRAMMATIC AGREEMENT**  
**among**  
**THE PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER**  
**and**  
**THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
**and**  
**CERTAIN PENNSYLVANIA UNITS OF STATE AND GENERAL LOCAL GOVERNMENT**  
**ACTING AS RESPONSIBLE ENTITIES**  
**and**  
**THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
**for**  
**THE REVIEW OF HUD-ASSISTED PROJECTS AND PROGRAMS SUBJECT TO**  
**24 CFR PART 50 and PART 58**  
**in**  
**THE COMMONWEALTH OF PENNSYLVANIA**

**WHEREAS**, the U.S. Department of Housing and Urban Development (“HUD”) through various offices, including the Offices of the Assistant Secretaries for Housing—Federal Housing Commissioner (Housing), Public and Indian Housing (PIH), Community Planning and Development (CPD), and Office of Lead Hazard Control and Healthy Homes (OLHCHH) provides grant funding, mortgage insurance and other assistance (“HUD Programs”) to a range of entities within the Commonwealth of Pennsylvania; and

**WHEREAS**, HUD Programs are authorized by various statutes that require environmental compliance under one of two HUD environmental regulations, 24 CFR Part 50 or 24 CFR Part 58; and

**WHEREAS**, 24 CFR Part 50 requires HUD program officials to conduct environmental review of the activities it proposes to assist and ensure compliance with Section 106 of the National Historic Preservation Act of 1966 (hereinafter NHPA; 54 U.S.C. § 306108), and its implementing regulations 36 CFR Part 800; and

**WHEREAS**, HUD has the legal responsibility to defend the process and outcomes of Section 106 consultation for individual undertakings subject to 24 CFR Part 50 before a court of law; and

**WHEREAS**, HUD programs that are subject to Part 50 include, but are not limited to: mortgage insurance per Sections 203(b), 207, 211, 213, 220, 221(d)(3), 221(d)(4), 223(a)(7), 223(f), 231, 232, 241(a) and 242 of the National Housing Act of 1934, Section 202 of the Housing Act of 1959, Section 811 of the Cranston-Gonzalez National Affordable Housing Act of 1990; Project Based Rental Assistance Renewal and Transfer programs; Rental Assistance Demonstration Programs, HUD administered programs under the American Recovery and Investment Act of 2009 that require accelerated processing timelines; programs authorized by the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*) (other than title VIII) or section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a) when the tribe declines Part 58 assumption authority;

and projects subject to Part 58 where the Responsible Entity does not have the capacity, or where HUD takes over the environmental review as per 24 CFR 58.11; and

**WHEREAS,** 24 CFR Part 58 authorizes over 3,000 State, local and tribal governments to assume HUD's environmental compliance responsibilities as Responsible Entities, including obligations as Agency Official under Section 106 of the NHPA and its implementing regulations 36 CFR Part 800, and the Commonwealth and certain units of general local government in the Commonwealth of Pennsylvania have assumed those responsibilities for the projects and programs included in this Programmatic Agreement (Agreement) ; and

**WHEREAS,** Participating Responsible Entities have the legal responsibility to defend the process and outcomes of the Section 106 review of individual undertakings subject to 24 CFR Part 58 before a court of law; and

**WHEREAS,** HUD programs that are subject to Part 58 include, but are not limited to: the Community Development Block Grant (CDBG) Program, under Title I of the Housing and Community Development Act of 1974, as amended; Community Development Block Grant - Disaster Recovery (CDBG-DR) and Community Development Block Grant - Coronavirus (CDBG-CV) under various acts including the Disaster Relief Appropriations Act of 2013, Further Continuing and Security Assistance Appropriations Act, 2017 ,Consolidated Appropriations Act, 2017, Continuing Appropriations Act, 2018;Supplemental Appropriations for Disaster Relief Requirements Act, 2017 , Bipartisan Budget Act of 2018 , Additional Supplemental Appropriations for Disaster Relief Act, 2019; Coronavirus Aid, Relief, and Economic Security (CARES) Act; HOME Investment Partnerships (HOME) Program, under Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990 (HOME Investment Partnership Act); Emergency Solutions Shelter Grant (ESG) Program and Continuum of Care (CoC) Program, under Subtitles B and C, respectively, of Title IV of the Stewart B. McKinney-Vento Homeless Assistance Act; Housing Opportunities for Persons with AIDS (HOPWA) program, under the AIDS Housing Opportunity Act, as amended by the Housing and Community Development Act of 1992; and Projects financed with competitive awards of Supportive Housing Program (SHP) funds, under former Title IV, subtitle C, of the Stewart B. McKinney-Vento Act; Self-Help Homeownership Opportunity Program (SHOP) under Section 11 of the Housing Opportunity Program Extension Act of 1996; and the Neighborhood Stabilization Program (NSP) established under the Housing and Economic Recovery Act of 2008 (P.L. 110-289) (HERA) and continued under the American Recovery and Reinvestment Act of 2009 (P.L. 111-005) (Recovery Act) and the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203) (Dodd-Frank); public housing and the Project-based Voucher Program under title 1 of the United States Housing Act of 1937; the Indian Community Development Block Grant (ICDBG) under the Housing and Community Development Act of 1974, as amended ; the Indian Housing Block Grant (IHBG) Program under the Native American Housing and Self Determination Act of 1996 (NAHASDA) ; loan guarantees for Indian housing under Section 184 of the Housing and Community Development Act of 1992 ; the Risk Share Program under Section 542(c) of the Housing and Community Development Act of 1992; and other programs that may be authorized from time to time; and

**WHEREAS**, HUD program officials and Responsible Entities review activities that include, but are not limited to, acquisition, leasing, repair, rehabilitation, improvement, demolition, conversion, new construction, lead hazard reduction, accessibility improvements, land-banking, and disposition of residential and non-residential properties, streetscape and landscape improvements, and infrastructure repair, replacement and new construction, each of which is an undertaking (Undertaking) as defined pursuant to 36 C.F.R. 800.16(y); and

**WHEREAS**, the implementation of HUD Programs may have an effect upon properties listed in or eligible for listing in the National Register of Historic Places (National Register); and

**WHEREAS**, many HUD-assisted activities have minimal or no potential to adversely affect historic properties; and

**WHEREAS**, HUD, through its Office of Environment and Energy, may coordinate development of a statewide Agreement on behalf of itself and participating Responsible Entities that covers undertakings subject to 24 CFR Part 50 and 24 CFR Part 58.; and

**WHEREAS**, HUD and Responsible Entities in the Commonwealth of Pennsylvania have participated in development of the Agreement and, pursuant to 36 CFR 800.14(b)(2), have determined that development of a single PA for all HUD Programs in the Commonwealth of Pennsylvania would foster consistency and efficiency in review of undertakings unlikely to cause adverse effects and allow more time for consideration of projects with a potential for adverse effects; and

**WHEREAS**, HUD, the Responsible Entities, and SHPO agree that when the Agreement would supersede a previously executed PA that addressed only Part 58 or Part 50 programs, they will terminate the previous PA according to its termination stipulation to avoid confusion. This commitment does not apply to HUD Addendum agreements to the FEMA PA for Presidentially declared disasters.; and

**WHEREAS**, HUD recognizes that it has a unique legal relationship with Tribes and Nations set forth in the Constitution of the United States, treaties, statutes, and court decisions, and, therefore, consultation with a Tribe or Nation must recognize the government-to-government relationship between the federal government and Tribes and Nations;

**WHEREAS**, in the development of this PA, HUD contacted the following federally recognized Tribes and Nations with ancestral ties to Pennsylvania, which may attach religious or cultural significance to properties in Pennsylvania, provided them the opportunity to consult and to concur with this PA: Absentee-Shawnee Tribe of Indians of Oklahoma; Cayuga Nation; Delaware Nation, Oklahoma; Delaware Tribe of Indians; Eastern Shawnee Tribe of Oklahoma; Oneida Indian Nation; Oneida Nation; Onondaga Nation; Pamunkey Indian Tribe; St. Regis Mohawk Tribe; Seneca-Cayuga Nation; Seneca Nation of Indians; Shawnee Tribe; Stockbridge-Munsee Community, Wisconsin; Tonawanda Band of Seneca; Catawba Indian Nation; and, Tuscarora Nation; and none have elected to participate as concurring parties; and

**WHEREAS**, this Agreement is not applicable to undertakings located on or affecting historic properties on tribal lands; and

**WHEREAS**, HUD and Responsible Entities will continue to conduct outreach and will actively seek and request the comments and participation of Indian tribes that attach religious and cultural significance to historic properties that may be affected by Undertakings assisted under the terms of this Agreement; and

**WHEREAS**, HUD and the participating Responsible Entities acknowledge that Indian tribes possess special expertise in assessing the National Register eligibility of properties with religious and cultural significance to them; and

**WHEREAS**, HUD, on behalf of itself and participating Responsible Entities, has invited Preservation Pennsylvania, Pennsylvania Archaeological Council and Heritage PA to consult in the development of this Agreement, and none have accepted the invitation to consult; and

**WHEREAS**, HUD, on behalf of itself and participating Responsible Entities has invited the public to comment taking into account the nature and complexity of the undertaking and its effects on historic properties, and the likely interest of the public in the undertaking; and

**WHEREAS**, the Advisory Council on Historic Preservation (ACHP) issued in 1995 and revised in 2006 a "[Policy Statement on Affordable Housing and Historic Preservation](#)" that addresses implementation principles for Section 106 compliance, and those principles have been utilized in developing this Agreement; and

**WHEREAS**, in accordance with 36 C.F.R. Part 800.14(b)(2), HUD, on behalf of itself and participating Responsible Entities, has notified and invited the ACHP to participate in the development of this Agreement and the ACHP has accepted the invitation to participate; and

**WHEREAS**, Responsible Entities may opt to sign this Programmatic Agreement following its initial execution by implementing the adoption protocol in Appendix B; and

**NOW, THEREFORE**, HUD and the participating Responsible Entities, SHPO, and ACHP agree that HUD PIH, CPD, OHHLHC and Housing Programs in the Commonwealth of Pennsylvania shall be administered in accordance with the following stipulations in order to take into account the effects of these undertakings on historic properties and satisfy Section 106 responsibilities.

## **STIPULATIONS**

HUD and the participating Responsible Entities shall ensure the following:

### **I. ROLES AND RESPONSIBILITIES OF HUD AND RESPONSIBLE ENTITIES (REs)**

The HUD official and participating RE's Certifying Officer shall serve as Agency Official for the review of undertakings subject to their jurisdiction. Where "Agency Official" is used throughout the Agreement, it

refers to the HUD official or RE's Certifying Officer that has assumed the role of Agency Official for purposes of Section 106. A chart in Appendix C indicates whether 24 CFR Part 50 or 24 CFR Part 58 applies to the HUD programs listed in the chart.

#### **A. HUD**

1. HUD, through its Office of Environment and Energy in CPD, shall coordinate the initial execution of the Agreement and subsequent execution by additional REs, and coordinate amendments to the Agreement.
2. HUD program staff shall serve as Agency Official for conducting Section 106 review of individual undertakings subject to 24 CFR Part 50.
3. If HUD receives undertaking-specific complaints regarding a REs implementation of Stipulations II-IX of this agreement, HUD will follow agency policy described at 24 CFR 58.77(b) by referring all such inquiries and complaints to the RE and its Certifying Officer and consider such comments in HUD's established agency-wide and program-specific risk-assessment and monitoring procedures. As appropriate, HUD may provide technical assistance to help the RE fulfill its responsibilities under this Agreement.

#### **B. Responsible Entities (REs)**

1. The Certifying Officer of an RE that has assumed HUD's environmental review responsibilities as provided by 24 CFR 58.4 and signed this Agreement shall conduct the Section 106 review in accordance with this Agreement as the Agency Official.
2. REs that are not initial Signatories to the Agreement may sign and use the Agreement after its initial execution by following the adoption protocol found at Appendix B and executing a Signatory page.

#### **C. Designation of Lead Agency Official in HUD-assisted Projects**

If a project includes assistance subject to 24 CFR Part 58 and Part 50, the two (or more) Agency Officials may agree to have one Agency Official serve as the lead Agency Official and complete one Section 106 review on behalf of both entities. If the Lead Agency Official is a signatory to the Agreement, they may use the provisions of the Agreement for the review. The Agency Officials shall document the lead agency agreement in writing and share it with consulting parties.

#### **D. Adoption of Another Federal Agency's Review**

1. If a Federal agency has previously completed a Section 106 review and approved an Undertaking within the past five (5) years, the Agency Official will not conduct another Section 106 review for that same Undertaking, provided that the Agency Official:

- a. Adopts the findings and determinations of the previous Section 106 review;
  - b. Confirms that the scope, area of potential effects (APE), and effect, as defined by 36 C.F.R. Part 800.16(i), of its Undertaking are the same as the previously reviewed Undertaking;
  - c. Determines that the previous review was completed in compliance with Section 106, and any existing applicable program alternatives;
  - d. Documents its findings and determinations in the HUD Environmental Review Online System (HEROS) or other administrative record and confirms that all requirements of Section 106 for the Undertaking have been satisfied.
2. If the Agency Official, in consultation with the SHPO, determines that the previous Section 106 review for the proposed Undertaking was insufficient or involved interagency disagreements about the identification of historic properties, participation of consulting parties, eligibility for listing in the National Register, assessments of effect, application of the Secretary of the Interiors Standards for the Treatment of Historic Properties, an analysis of project alternatives, and/or resolution of adverse effects, the Agency Official shall conduct a new Section 106 review for the proposed Undertaking in accordance with the Stipulations of this Agreement.

#### **E. Delegation to HUD Applicants or Lenders to Initiate Section 106 Consultation**

1. HUD, through the Office of Environment and Energy (OEE), may authorize applicants to initiate consultation with SHPO pursuant to 36 CFR 800.2(a)(3).
2. OEE has issued a [Delegation Memo](#) that authorizes certain approved lenders applying for FHA financing to initiate consultation with SHPO. Lenders must follow the requirements of the memo and may use the provisions of this Programmatic Agreement, including exemptions in Stipulation II and Appendix A. If the memo expires, it may no longer be used, and lenders may no longer use the provisions of this Programmatic Agreement.
3. When required, HUD must conduct consultation with tribes; this cannot be delegated to lenders.

## **II. ACTIVITIES NOT REQUIRING REVIEW**

The following types of activities have little or no potential to adversely affect historic properties and are exempt from further review under Section 106. To document and conclude the review, the Agency Official shall note in HEROS or other administrative record the applicability of one or more of the exemptions.

- A. Activities that are Exempt and/or Categorically Excluded and not subject to related laws under [24 CFR 50.19\(b\)](#) when the HUD official is the Agency Official.
- B. Activities that are Exempt under [24 CFR 58.34](#) and/or Categorically Excluded and not subject to related laws under [24 CFR 58.35\(b\)](#) when the RE's Certifying Officer is the Agency Official.
- C. Refinancing without demolition, rehabilitation or new construction, and no physical activities beyond maintenance as defined in HUD Notice [CPD-16-02](#), "Guidance for Categorizing an Activity as Maintenance for Compliance with HUD Environmental Regulations, 24 CFR Parts 50 and 58".

- D. Leasing without demolition, rehabilitation or construction, and no physical activities beyond maintenance as defined in HUD Notice CPD-16-02, “Guidance for Categorizing an Activity as Maintenance for Compliance with HUD Environmental Regulations, 24 CFR Parts 50 and 58”.
- E. Undertakings without ground disturbance that involve single family (1-4 unit) properties that are less than 45 years old, unless the property is a historic property as defined in 36 CFR 800.16(l) and/or the Undertaking involves exterior alterations within a historic district.
- F. Undertakings that are limited to the rehabilitation of interior spaces within single family (1-4 unit) residential structures, where such work will not be clearly visible from the exterior of the structure.
- G. Undertakings consisting solely of activities listed in Appendix A: NO EFFECT ACTIVITIES LIST.

### **III. STANDARD SECTION 106 REVIEW OF PROJECTS NOT EXEMPTED IN STIPULATION II**

**For all projects with activities that do NOT meet the criteria in Stipulation II, the Agency Official shall conduct reviews in accordance with Subpart B of [36 CFR 800](#) and Stipulations IV through IX of this Agreement which provide additional guidance on meeting Subpart B in review of HUD-assisted projects. Stipulations III through V are included to provide HUD-specific guidance for use when complying with the Section 106 process, in addition to the regulations.**

### **IV. IDENTIFICATION AND EVALUATION OF HISTORIC PROPERTIES**

- A. The Agency Official shall define and document the APE and identify historic properties within the APE that may be directly or indirectly affected by the project in accordance with 36 Part 800.4. For purposes of this Agreement, when an Undertaking consists solely of the rehabilitation of the interior features of an individual building, the APE will be limited to the individual building and parcel.
- B. For each Undertaking, the Agency Official shall review the SHPO’s online inventory found in the Pennsylvania’s State Historic and Archaeological Resource Exchange (PA-SHARE) to determine if any previously identified historic properties, as defined in 36 Part 800.4, are located within the APE. The Agency Official shall also review properties identified in county and local historic resource survey and inventory records.
- C. For any properties in the APE that have not been listed in or previously determined eligible for listing in the National Register, the Agency Official shall evaluate the properties to determine if they are eligible for the National Register, and provide the SHPO, consulting tribes and other consulting parties the opportunity to review and comment on this evaluation and determination of eligibility

per 36 CFR 800.4(c). See Appendix D with SHPO procedures for evaluating a resource for eligibility for listing in the National Register and submitting to the SHPO for concurrence using PA-SHARE.

- D. The Agency Official shall use HUD Notice CPD-12-006 (“Process for Tribal Consultation in Projects that are Reviewed Under 24 CFR Part 58”) and the May 5, 2015 HUD policy memo (“Section 106 Tribal Consultation in Projects Reviewed Under 24 CFR Part 50”) that adopts the Notice for Part 50 reviews for guidance on when and how to consult with Indian tribes and NHOs about sites of religious and cultural significance to tribes, including archeological sites, that may be considered historic properties.

## **V. DOCUMENTATION**

- A. Documentation required for consultation per the provisions of this Agreement shall meet the requirements in 36 CFR Part 800.11 and should include at a minimum: written description of proposed project, including any areas of ground disturbance; photographs of the proposed project area, including any potentially affected historic properties (if any), and mapping of the limits of disturbance (if applicable) and APE.
- B. All documentation generated for review purposes under the terms of this Agreement shall be submitted to the SHPO using PA-SHARE and in accordance with current guidance found in Appendix D. No email submissions will be accepted.

## **VI. TIMEFRAMES**

- A. The SHPO, tribes and other consulting parties, as participating, shall have 30 days to review and respond to a request for comment or concurrence on a determination of eligibility and/or a finding of effect. If the SHPO does not respond within 30 days of receipt of a request for concurrence on a finding of effect, the Section 106 consultation shall be considered complete. If the SHPO later reenters the consultation, the Agency Official may continue the consultation without being required to reconsider previous findings or recommendations.
- B. If the SHPO requests additional missing information in order to meet documentation requirements under V. above, SHPO shall have thirty (30) days from receipt of the additional information to respond.

## **VII. CONSULTING PARTIES and PUBLIC INVOLVEMENT**

- A. The Agency Official shall identify and invite the participation of consulting parties as appropriate to the scale of the undertaking and the scope of Federal involvement. Projects with anticipated



adverse effects and/or controversial projects will likely warrant broader consultation. Parties that may have a consultative role in the Section 106 process include but are not limited to the following: Federally recognized Indian tribes; Tribal Historic Preservation Officers; representatives of local governments; and applicants for federal assistance. The Agency Official shall also identify and invite the participation of other consulting parties, as defined in 36 Part 800.2 (c)(5).

- B. The Agency Official shall identify and invite the participation of the public as appropriate to the scale of the undertaking and the scope of Federal involvement, as defined in 36 Part 800.2(d).
- C. The Agency Official shall follow HUD Notice CPD-12-006 “Process for Tribal Consultation in Projects That Are Reviewed Under 24 CFR Part 58” and the May 5, 2015 HUD policy memo that adopts the Notice for Part 50 reviews.
- D. If an undertaking may affect a National Historic Landmark, the Agency Official shall follow the requirements in Section 110f of the NHPA and 36 CFR Part 800.10.

#### **VIII. POST REVIEW DISCOVERIES**

If, during the implementation of an undertaking, a previously unidentified property that may meet the criteria for eligibility for inclusion in the National Register is encountered, or a known and previously identified historic property may be affected in an unanticipated manner, the Agency Official shall follow 36 C.F.R. Part 800.13(b).

- A. In the event of an unexpected discovery and/or unanticipated effect during project implementation or construction, that portion of the project shall stop immediately, and the project manager shall take appropriate steps to immediately secure the site and shall notify the Agency Official within 48 hours of discovery. The Agency Official shall immediately notify the SHPO/THPO, Tribes, and other relevant consulting parties including descendent communities by email and phone.
- B. If human remains are discovered, they shall be respectfully covered over and protected. In addition, the project manager shall immediately notify local and/or state law enforcement authorities including the coroner/medical examiner pursuant to local/state law.
- C. In the event of an unexpected discovery of a site, the Agency Official shall consult with the SHPO, THPO and tribes or other descendent community representatives to determine if the discovered site appears eligible for the National Register. If it does appear to meet the Criteria for eligibility for listing in the National Register, the Agency Official shall submit a treatment plan for the avoidance, protection, recovery of information, or destruction without data recovery to the SHPO for review and comment. The treatment plan shall be consistent with the ACHP’s handbook Treatment of Archaeological Properties and subsequent amendments and PA SHPO’s Guidelines for Archaeological Investigations in Pennsylvania. If human remains are discovered, the treatment plan

shall follow the guidance in the Advisory Council on Historic Preservation [Policy Statement on Burial Sites, Human Remains, and Funerary Objects](#), including appropriate consultation with descendent communities. Avoidance and preservation in place is the preferred option for treating human remains.

- D. The Agency Official shall notify relevant consulting parties of the unanticipated discovery and provide the proposed treatment plan for their comment. Construction work in the area of the discovery shall not continue until the plan has been accepted by SHPO/THPO and implemented. If objections to proposed treatment plans cannot be resolved, the ACHP shall be consulted as per Stipulation XI.

## **IX. DISASTERS AND EMERGENCY REVIEW PROCEDURES**

The Agency Official from time to time may review undertakings in response to disasters, including, but not limited to, floods, tornadoes, earthquakes, windstorms and fires, and public health emergencies.

### **A. Exemption from Review**

- 1. Immediate rescue and salvage operations conducted to save life or property are exempt from Section 106 review requirements per 36 C.F.R. Part 800.12(d).

### **B. Expedited Review**

- 1. During operations which respond to a disaster or emergency situation declared by the President, a tribal government, or the Governor of a State, or which respond to other immediate threats to life or property, the Agency Official may conduct expedited reviews of emergency undertakings that occur within 30 days of the disaster declaration or within 30 days of the completion of emergency event. The Agency Official will notify SHPO using PA-SHARE, and SHPO shall have 7 days to respond to a request for comment. If a disaster is declared by a Responsible Entity's chief executive officer or legislative body under 36 C.F.R. Part 800.12(c), the Agency Official may follow the same process, unless the ACHP or SHPO objects to the action within the 7 days.
- 2. Should the Agency Official determine that it is necessary to extend the expedited review period for emergency undertakings beyond 30 days, the Agency Official may request an extension in writing from ACHP and notify SHPO and participating Tribe(s).

### **C. Review Under Separate Programmatic Agreement for Disasters**

- 1. If during the term of this PA, the Commonwealth of Pennsylvania chooses to execute a separate Programmatic Agreement for CDBG-DR funds or wishes to execute a HUD Addendum to the

FEMA PA for the Commonwealth of Pennsylvania for disaster recovery activities, the Commonwealth may use the provisions of such an Agreement and successor Agreements to expedite review of undertakings that respond to Presidentially declared disasters.

## **X. MONITORING, REPORTING AND TRAINING**

- A. The Agency Official shall provide the signatory parties to this Agreement with an Annual Report in January of each year summarizing all projects that were reviewed under Stipulation II and Appendix A of this Agreement, and if requested by the signatory party, shall schedule a meeting with them to discuss the Report. Data for the Annual Report may be derived from HEROS and should be submitted to SHPO using PA-SHARE.
- B. The Annual Report shall include:
  - 1. a list of projects that used the exemptions in Stipulation II and Appendix A of the Agreement to conclude Section 106 without further consultation, categorized by name (or street address) and town;
  - 2. a summary of staff and consultant training held;
  - 3. staff and consultant training proposed for the following year;
  - 4. views of the Agency Official regarding the effectiveness of the Agreement;
  - 5. recommendations for any actions or revisions to be considered including updates to the appendices.
- C. Upon written request from one or more of the Signatories of the PA, the SHPO in collaboration with HUD may conduct training workshops or webinars to assist the Agency Official, Recipients, and consultants to understand the technical requirements of the Agreement and provide guidance on in-kind replacement or repair, the Secretary of the Interior's Standards for the Treatment of Historic Properties, and techniques to avoid or minimize adverse effects to historic properties.

## **XI. DISPUTE RESOLUTION**

At any time during the implementation of the measures stipulated in this Agreement, should an objection to any measure or manner of implementation be raised by a consulting party or member of the public, the Agency Official shall take the objection into account and consult with the objecting party and the SHPO to resolve the issue.

- A. The Agency Official shall represent itself in all matters of dispute resolution that pertain specifically to this Agreement.

- B. The responsibilities of the signatories to carry out all other actions subject to the terms of this Agreement that are not the subject of the dispute shall remain in effect.
- C. If the Agency Official determines that the objection cannot be resolved, they shall forward all documentation relevant to the dispute to the ACHP and request their recommendations or comments. The Agency Official shall take into account the ACHP's recommendations or formal comments in reaching a final decision regarding the dispute.
- D. If the ACHP does not provide its advice regarding the dispute within 30 days, the Agency Official may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Agency Official shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the Agreement and provide them and the ACHP with a copy of such written response.

## **XII. AMENDMENTS**

- A. Any signatory may submit a written request to HUD, through its Office of Environment and Energy in CPD, that this Agreement be amended. HUD will notify the other signatories and consult with them. With the exception of requests made under XII.B. below, amendments shall only be considered if requested in writing and must be approved in writing by all signatory parties that are participating in the Agreement at the time.
- B. Appendix A Exempt Activities may be amended without requiring amendment to the body of this Agreement at the request of an Agency Official who is a Signatory to the Agreement. HUD, on its own behalf or on behalf of another Signatory, shall notify the Signatories of the intent to modify Appendix A and shall provide a draft of the updated Appendix to all signatory parties. If no other Signatory objects in writing within 30 days of receipt of the proposed modification, HUD shall date and sign the amended Appendix and provide a copy of the amended Appendix to the other Signatories. Such an amended Appendix A shall go into effect on the date HUD transmits the amended appendix to the other Signatories. If a Signatory objects to the proposed amendment to Appendix A, the Agency Official shall continue consultation to reach consensus, and if not resolved, the amendment shall not be implemented.

## **XIII. TERMINATION**

- A. A signatory may terminate their participation in this Agreement by providing written notice describing the reason(s) for termination to the other parties. If the SHPO or ACHP terminates, the Agreement with all Agency Officials is terminated. If a Responsible Entity Agency Official terminates, the Agreement is terminated only for activities subject to that Agency Official's Section 106 review under 24 CFR Part 58 and remains in effect for other participating Agency Officials. If HUD,

represented by the Assistant Secretary for Community Planning and Development, terminates, the Agreement is terminated only for activities subject to HUD's Section 106 review under 24 CFR Part 50, and remains in effect for other participating Agency Officials' activities under 24 CFR Part 58.

- B. This Agreement shall remain in effect for at least 30 days from receipt of notice to terminate. The Office of Environment and Energy in CPD, the SHPO, the Agency Official, and the ACHP shall consult prior to actual termination to resolve the written reasons for termination and if possible, to amend the Agreement accordingly or seek other actions that would prevent termination.
- C. In the event that an Agency Official terminates their participation in this Agreement and prior to work continuing on any Undertaking, the Agency Official shall comply with 36 CFR Part 800 for all Undertakings that would have been subject to this Agreement.

#### **XIV. DURATION**

- A. This Agreement shall remain in force for ten years from the date that the ACHP signs the Agreement, unless it is terminated or superseded by another Agreement.
- B. This Agreement may be terminated by the execution of a subsequent Agreement pursuant to 36 CFR Part 800.14(b)(2) that explicitly terminates or supersedes this Agreement.
- C. Within six months prior to the expiration of this Agreement, the SHPO, ACHP, and Agency Officials who are signatory parties to the Agreement at that time shall consult to consider terms for a new Agreement, extension, and/or amendment of the terms of the existing Agreement or allow the Agreement to expire.
- D. The signatories may collectively agree to extend this Agreement to cover additional calendar years, or portions thereof, through an amendment in accordance with Stipulation XII.A, provided that the original Agreement has not expired.
- E. Should an Agency Official choose not to extend their participation in the Agreement, they shall terminate their participation per Stipulation XIII, and the Agreement shall remain valid for the other parties.

#### **XV. EXECUTION AND IMPLEMENTATION**

This Agreement may be executed in counterparts, with separate signature pages. After signature by SHPO, HUD, ACHP, and the initial participating Responsible Entities, the Agreement will become effective on the date it is signed by ACHP. Responsible Entities that sign later must follow the Protocol in Appendix B. The Agreement will become effective for them on the date on which the Responsible

Entity signs the Agreement and submits their signature page to HUD, through its Office of Environment and Energy, the SHPO and ACHP.

Execution of this Agreement and implementation of its terms evidence that HUD and participating Responsible Entities have taken into account the effects of the undertakings subject to this Agreement on historic properties and afforded the ACHP an opportunity to comment.

**PROGRAMMATIC AGREEMENT**  
**among**  
**THE PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER**  
**and**  
**THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
**and**  
**CERTAIN PENNSYLVANIA UNITS OF STATE AND GENERAL LOCAL GOVERNMENT**  
**ACTING AS RESPONSIBLE ENTITIES**  
**and**  
**THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
**for**  
**THE REVIEW OF HUD-ASSISTED PROJECTS AND PROGRAMS SUBJECT TO**  
**24 CFR PART 50 and PART 58**  
**in**  
**THE STATE OF PENNSYLVANIA**

Signatory Party:

U.S. Department of Housing and Urban Development

By: **MARION MCFADDEN** Digitally signed by MARION MCFADDEN  
Date: 2023.05.12 18:51:19 -04'00' Date: \_\_\_\_\_

Name: Marion M. McFadden

Title: Principal Deputy Assistant Secretary for Community Planning and Development

Contact for Office of Environment and Energy:

Name: Paul Lehmann

Regional Environmental Officer

Contact Information [Paul.J.Lehmann@hud.gov](mailto:Paul.J.Lehmann@hud.gov); 215.430.6636

**PROGRAMMATIC AGREEMENT**  
among  
**THE PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER**  
and  
**THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
and  
**CERTAIN PENNSYLVANIA UNITS OF STATE AND GENERAL LOCAL GOVERNMENT**  
**ACTING AS RESPONSIBLE ENTITIES**  
and  
**THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
for  
**THE REVIEW OF HUD-ASSISTED PROJECTS AND PROGRAMS SUBJECT TO**  
**24 CFR PART 50 and PART 58**  
in  
**THE STATE OF PENNSYLVANIA**

Signatory Party:  
Advisory Council on Historic Preservation

  
\_\_\_\_\_

By:  
Chairman

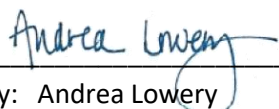
5.19.2023

\_\_\_\_\_  
Date



**PROGRAMMATIC AGREEMENT**  
among  
**THE PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER**  
and  
**THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
and  
**CERTAIN PENNSYLVANIA UNITS OF STATE AND GENERAL LOCAL GOVERNMENT**  
**ACTING AS RESPONSIBLE ENTITIES**  
and  
**THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
for  
**THE REVIEW OF HUD-ASSISTED PROJECTS AND PROGRAMS SUBJECT TO**  
**24 CFR PART 50 and PART 58**  
in  
**THE STATE OF PENNSYLVANIA**

Signatory Party:  
Pennsylvania State Historic Preservation Officer

  
\_\_\_\_\_  
By: Andrea Lowery  
Executive Director

3/21/2023  
\_\_\_\_\_  
Date

PROGRAMMATIC AGREEMENT  
among  
THE PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER  
and  
THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
and  
CERTAIN PENNSYLVANIA UNITS OF STATE AND GENERAL LOCAL GOVERNMENT  
ACTING AS RESPONSIBLE ENTITIES  
and  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
for  
THE REVIEW OF HUD-ASSISTED PROJECTS AND PROGRAMS SUBJECT TO  
24 CFR PART 50 and PART 58  
in  
THE STATE OF PENNSYLVANIA

Signatory Party:  
Luzerne County

By: Brian A. Swetz

4-4-23

Name: Brian Swetz


Date

Title: Acting County Manager, Luzerne County

**PROGRAMMATIC AGREEMENT**  
**among**  
**THE PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER**  
**and**  
**THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
**and**  
**CERTAIN PENNSYLVANIA UNITS OF STATE AND GENERAL LOCAL GOVERNMENT**  
**ACTING AS RESPONSIBLE ENTITIES**  
**and**  
**THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
**for**  
**THE REVIEW OF HUD-ASSISTED PROJECTS AND PROGRAMS SUBJECT TO**  
**24 CFR PART 50 and PART 58**  
**in**  
**THE STATE OF PENNSYLVANIA**

Signatory Party:  
Responsible Entity  
City of Pittsburgh

DocuSigned by:

  
AA1F670B64C14EA...

3/24/2023

By: Mayor Ed Gainey

Date

**PROGRAMMATIC AGREEMENT**  
**among**  
**THE PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER**  
**and**  
**THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
**and**  
**CERTAIN PENNSYLVANIA UNITS OF STATE AND GENERAL LOCAL GOVERNMENT**  
**ACTING AS RESPONSIBLE ENTITIES**  
**and**  
**THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
**for**  
**THE REVIEW OF HUD-ASSISTED PROJECTS AND PROGRAMS SUBJECT TO**  
**24 CFR PART 50 and PART 58**  
**in**  
**THE STATE OF PENNSYLVANIA**

Signatory Party:  
Responsible Entity  
*Dauphin County*



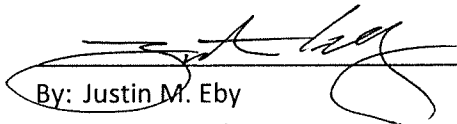
By: *Mike Pries, Chairman*  
*Dauphin County Commissioner*

3/20/23

Date

**PROGRAMMATIC AGREEMENT**  
among  
**THE PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER**  
and  
**THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
and  
**CERTAIN PENNSYLVANIA UNITS OF STATE AND GENERAL LOCAL GOVERNMENT**  
**ACTING AS RESPONSIBLE ENTITIES**  
and  
**THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
for  
**THE REVIEW OF HUD-ASSISTED PROJECTS AND PROGRAMS SUBJECT TO**  
**24 CFR PART 50 and PART 58**  
in  
**THE STATE OF PENNSYLVANIA**

Signatory Party:  
Responsible Entity  
Lancaster County, Pennsylvania

  
By: Justin M. Eby

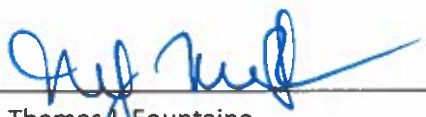
Executive Director

Redevelopment Authority of the County of Lancaster

3/16/2023  
Date

**PROGRAMMATIC AGREEMENT**  
**among**  
**THE PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER**  
**and**  
**THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
**and**  
**CERTAIN PENNSYLVANIA UNITS OF STATE AND GENERAL LOCAL GOVERNMENT**  
**ACTING AS RESPONSIBLE ENTITIES**  
**and**  
**THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
**for**  
**THE REVIEW OF HUD-ASSISTED PROJECTS AND PROGRAMS SUBJECT TO**  
**24 CFR PART 50 and PART 58**  
**in**  
**THE STATE OF PENNSYLVANIA**

Signatory Party:  
Responsible Entity  
State College Borough

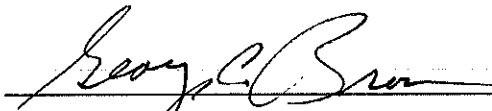
  
By: Thomas J. Fountaine  
State College Borough Manager

  
Date

Statewide

**PROGRAMMATIC AGREEMENT**  
**among**  
**THE PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER**  
**and**  
**THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
**and**  
**CERTAIN PENNSYLVANIA UNITS OF STATE AND GENERAL LOCAL GOVERNMENT**  
**ACTING AS RESPONSIBLE ENTITIES**  
**and**  
**THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
**for**  
**THE REVIEW OF HUD-ASSISTED PROJECTS AND PROGRAMS SUBJECT TO**  
**24 CFR PART 50 and PART 58**  
**in**  
**THE STATE OF PENNSYLVANIA**

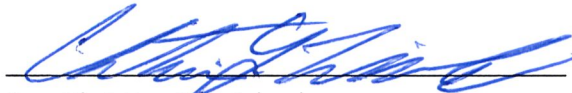
Signatory Party:  
Responsible Entity  
Wilkes-Barre City

  
By: George C. Brown  
Mayor

3-15-23  
Date

PROGRAMMATIC AGREEMENT  
among  
THE PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER  
and  
THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
and  
CERTAIN PENNSYLVANIA UNITS OF STATE AND GENERAL LOCAL GOVERNMENT  
ACTING AS RESPONSIBLE ENTITIES  
and  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
for  
THE REVIEW OF HUD-ASSISTED PROJECTS AND PROGRAMS SUBJECT TO  
24 CFR PART 50 and PART 58  
in  
THE COMMONWEALTH OF PENNSYLVANIA

Signatory Party:  
Responsible Entity  
County of Berks



By: Christian Y. Leinbach  
Chair, Board of County Commissioners

4/20/23  
Date

Attest:   
Carmen Torres, Chief Clerk



## APPENDIX A

### NO EFFECT ACTIVITIES

**PLEASE NOTE:** The procedures outlined below are only authorized for use with a current and fully executed Programmatic Agreement between the PA SHPO and the Responsible Entity. Otherwise, this document shall serve only as guidance for findings of No Effect submitted on a case-by-case basis to the SHPO for concurrence.

The following types of activities routinely funded by the federal U.S. Department of Housing and Urban Development (HUD) agency have been determined by the Pennsylvania State Historic Preservation Office (PA SHPO) to have minimal potential to adversely affect historic properties [under Section 106 of the National Historic Preservation Act, as amended](#).

To document and conclude the review, the Responsible Entity must list the No Effect activities in the **ANNUAL REPORT OF NO EFFECT ACTIVITIES**, which is submitted to the PA SHPO utilizing PA-SHARE, by January 31<sup>st</sup> of each calendar year. The annual report shall note the applicability of one or more of the exemptions below.

For purposes of this Agreement, the term “in-kind replacement” is defined as installation of a new element that replicates the material, dimensions, design, configuration and detailing of the original element.

For the purposes of this Agreement, the term “in-kind repair” means an action to restore the mechanical, structural, or aesthetic function of an element of a historic property using materials and methods compatible with the original nature and function of that element.

1. **Alterations to buildings or structures, with no ground disturbance, that do not meet the National Register criteria for eligibility due to their age.** Alterations to buildings and structures less than 45 years old are exempt except when the alteration to the existing building or structure may impact a surrounding National Register listed or eligible historic district and/or the applicant has been made aware of historic property concerns. ***Note: new construction is not an exempt activity.***
2. Demolition of or alteration to manufactured mobile homes even if property is 50 years of age or older.

The following activities are exempt only if the scope of work is limited to these specific activities:

#### **3. Exterior Rehabilitation.**

- a. Exterior repairs. Repair or minimal and in-kind replacement of porches, cornices, exterior siding, doors, balustrades, stairs or other trim.

b. Windows

- i. Historic Windows. Maintenance activities limited to caulking, weather-stripping, repainting, installation of new window jambs or jamb liners.
  - ii. Storm 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.
  - iii. Non-historic or previously replaced windows. Repair of non-historic windows, including addition of storm windows. Replacement of previously replaced windows with new replacement windows sized to fit the original window openings. **Note: Replacement of historic windows is not an exempt activity.**
- c. Exterior Painting. Exterior painting. Removal of exterior paint by non-destructive means, using the gentlest means possible, limited to hand scraping, low-pressure water less than 600 p.s.i, heat plates, hot air guns, or chemical paint removers provided that the removal method is consistent with the provisions of 24 CFR Part 35, "[Lead-Based Poisoning Prevention in Certain Residential Structures](#)," and National Park Service Preservation Briefs [#10: Exterior Paint Problems on Historic Woodwork](#), and [#37: Appropriate Methods for Reducing Lead-Paint Hazards in Historic Housing](#).
- d. Masonry Repairs. In-kind, or similar in composition and appearance, masonry repairs, such as repointing and in-kind chimney repairs.
- e. Roofing. Repair or in-kind replacement of non-historic roof material including cladding and sheeting, flashing, gutters, soffits, and downspouts. Installation of new roofing or reflective roof coatings on a flat-roofed building with a parapet, such that the roofing material is not visible from any public right-of-way. See National Park Service Preservation Brief [#4: Roofing for Historic Buildings](#) for further guidance. **Note: Changes in historic roof cladding material, pitch or configuration is not an exempt activity.**
- f. Awnings. Repair or in-kind replacement of awnings.
- g. Mechanical systems. Placement and installation of exterior HVAC mechanical units and vents not on the front elevation.
- h. Basement bulkhead doors. Replacement or repair of basement bulkhead doors and installation of basement bulkhead doors not on the front elevation.
- i. Accessibility Ramps. Graded ground paths that provide access to a building, repair of existing ramps, and installation of temporary ramps that do not irreversibly impact any architectural elements, including but not limited to, porches or railings.
- j. Foundations. Below-grade repair of brick or stone foundations that does not include applying weatherproofing or sealers, and repairs to all other types of foundations.
- k. Attic Vents and pipes. Repair or in-kind replacement of attic vents in original openings or installation of new attic vents painted to match gable. Also includes installation of attic vent pipes, when not visible from the main elevation.
- l. Seismic and structural repairs. Seismic and structural repairs of buildings and parking facilities, provided that there is no substantial earth moving, such as new footings, foundation-trenching or excavation.

- m. Chimney liners. Repair or in-kind replacement of chimney liners provided that the work does not affect the exterior of the chimney.
- n. Mothballing. Securing or mothballing a property when done in accordance with National Park Service Preservation Brief [#31: Mothballing Historic Buildings](#). **Note: Please contact the SHPO for technical assistance.**

#### 4. Interior Rehabilitation.

- a. Mechanical systems. Installation, replacement or repair of plumbing, HVAC systems and units, hot water heaters, furnaces, electrical wiring and fire protection systems, provided no structural alterations are involved.
- b. Surfaces. Repair or in-kind replacement of interior surface treatment, such as floors, walls, ceilings, plaster and woodwork. If covering historic features, such as wood floors, then carpet or sheet goods (linoleum or vinyl) shall be installed in a reversible manner, either through tacking or with an underlayment so original floors shall not be irreversibly damaged.
- c. Insulation. Installation of non-spray insulation in ceiling, attic, and basement spaces.
- d. Radiant Barriers. Installation of radiant barriers in unoccupied attic spaces.
- e. Asbestos abatement. Abatement, removal or control of asbestos that does not involve removal or alteration of interior or exterior features.
- f. Floors and stairs. Repair and in-kind replacement of floors and stairs, replacement of carpets, and installation or repair of concrete basement floor in an existing basement.
- g. Bath and kitchen fixtures. Repair or replacement of bathroom and kitchen equipment and fixtures.
- h. Accessibility. Interior modifications for accessibility, including the installation of wedges and removal of thresholds to facilitate access through door openings, with no changes to the existing walls or doorways. Included are bathroom fixture improvements for accessibility, provided the work is contained within the existing restroom walls.
- i. Lead Paint hazard mitigation. Interior lead hazard mitigation and 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 non-original trim, and replacement of non-significant flat stock trim ( e.g plain 1x8 baseboards with no molding), provided that the work is consistent with the provisions of 24 CFR Part 35, “[Lead-Based Poisoning Prevention in Certain Residential Structures](#),” and National Park Service Preservation Brief [#37: Appropriate Methods for Reducing Lead-Paint Hazards in Historic Housing](#).

5. **Site Work.** The following activities are exempt if the scope of work is limited to the description provided:

- a. Streets, driveways, alleys, and parking areas. Repair and restriping of existing concrete or asphalt surfaces and parking areas provided that no changes are made in width, surface, vertical alignment or drainage.
- b. Curbs, gutters, ramps, sidewalks, retaining walls. Repair of existing concrete or asphalt surfaces or in-kind replacement of brick, rock, or stone materials for curbs, gutters, sidewalks, and retaining walls. Replacement of existing ADA ramps. The addition of ADA curb cuts, as long as they do not impact contributing elements of a contributing property or district, such as a historic sidewalk (i.e. brick, slate, etc.), retaining wall, or exterior building wall.
- c. Site improvements. Repair or in-kind repair/replacement of site improvements, including, but not limited to fences, landscaping, and steps.
- d. Underground Utilities. Repair or replacement of existing water, sewer, natural gas, electric or telecommunication lines and treatment plant equipment and in-place repair of septic systems if it occurs in or adjacent to the existing trench and provided there is no substantial earth moving. Directional boring of new/replacement utility lines within previously disturbed soils.
- e. Above Ground Utilities. Repair or replacement of existing wires, anchors, crossarms, and other miscellaneous hardware on existing overhead lines; not including pole replacement or installation outside city limits. Water tower replacement is not exempt.
- f. Street lighting and traffic signals. Repair and replacement of non-historic streetlights, traffic signals, and traffic signs, outside of a listed or eligible historic district.
- g. Park and playground equipment. Installation, repair or replacement of park and playground equipment, non-historic landscaping, and fencing, excluding buildings, with minimal ground disturbance (less than four inches).
- h. Temporary structures. Installation of temporary construction-related structures including scaffolding, barriers, screening, fences, protective walkways, signage, office trailers or restrooms.
- i. Test holes and wells. Test borings and well drilling that do not require a new access road.
- j. Generators. Temporary installation of generators, and permanent installation of generators that are placed inside existing non-residential buildings or that occupy an area under 50 square feet behind the building they serve.
- k. Plantings. Planting of grass, shrubs, bushes and trees.
- l. Sewer Laterals. The installation of new sewer laterals less than 100' in length.

## **APPENDIX B**

### **Protocol for Responsible Entities to Adopt the HUD Statewide Part 50/58 Programmatic Agreement**

#### **Background**

HUD-assisted projects require a historic preservation compliance review, otherwise known as a Section 106 review, which requires federal agencies to consider the effects of their projects on historic properties. This review process can be completed as outlined in 36 CFR 800 for individual projects, or a Programmatic Agreement (Agreement) may be developed as an alternative to expedite the process for multiple projects. HUD developed a statewide Agreement that applies to HUD projects administered under both 24 CFR Part 58, when the unit of local government is the Responsible Entity (RE) mandated to ensure compliance with the National Environmental Policy Act and all related laws and authorities under Part 58, including Section 106; and Part 50, when HUD officials conduct the environmental review. The Agreement includes a list of project activities that are exempt from further review, provided the stipulations in the Agreement are met.

Individual Responsible Entities can opt to sign the Agreement and use its streamlining measures in their Section 106 reviews. Participation in the Agreement is voluntary. A Responsible Entity is always free to develop its own separate, individual Agreement or conduct reviews with the standard Section 106 process. To take advantage of the stipulations in the Agreement, a Responsible Entity must be a party to the Agreement, which can be achieved through implementing the protocols below.

The Agreement was drafted by HUD in consultation with the SHPO and with input from the ACHP. During the initial development of the Agreement, HUD through its Office of Environment and Energy, facilitated consultation with statewide historic preservation organizations and federally recognized Indian tribes. Responsible Entities who signed at the initial stage conducted outreach to the public and potentially interested parties in their jurisdiction about the Agreement, their intention to sign it as well as to solicit comments on the draft. Documentation of that outreach effort, and comments, were provided to HUD. The draft Agreement was revised based on comments received from HUD's outreach as well as that of the Responsible Entities. The Agreement is now executed and cannot be modified, except as outlined in Stipulation XII of the Agreement.

The following guidelines should be used when a Responsible Entity seeks to adopt the HUD Statewide Agreement to expedite Section 106 reviews conducted under Part 58.

#### **Initiation**

- A Responsible Entity should notify their Regional Environmental Officer or Field Environmental Officer of their interest in adopting the Agreement for their jurisdiction. HUD is available to

support and discuss the Agreement process with Responsible Entities and assist them throughout the adoption process, as necessary.

### **Public Outreach**

- Before they adopt the Agreement, a Responsible Entity must inform potentially interested parties in their jurisdiction about the Agreement and their interest in adopting it. Such parties may include, but are not limited to, local historic preservation commissions (whether or not the city participates in the SHPO's Certified Local Governments program) and local historic preservation organizations, as defined in 36 CFR Part 800.2 (c). This can be done by notice, letter, meeting, or other means. The general public must also be informed pursuant to 36 CFR Part 800.2(d). This can be done by notice on a local government website, in a local newspaper, or by other means. A Responsible Entity must consider any comments received in its decision on whether to sign the Agreement.
- The RE must provide HUD with documentation of their public outreach. If insufficient, HUD will provide TA to RE on additional outreach required. HUD will provide the documentation to the SHPO when submitting the executed signature page to them.

### **Adoption of Agreement**

- HUD will provide a signature page for each eligible Responsible Entity.
- The Responsible Entity may begin using the Agreement for reviews effective the date of signature by the Responsible Entity and submission to OEE.
- On behalf of the Responsible Entity, the HUD Regional Environmental Officer/Field Environmental Officer will notify SHPO, ACHP, tribes, and any participating consulting parties of new signatories to the Agreement.
- HUD will post the Responsible Entity signature pages on the Section 106 Agreements section of the HUD Historic Preservation page at <https://www.hudexchange.info/environmental-review/historic-preservation/section-106-agreements/>

### **Annual Report**

- Per stipulation X of the Agreement, the Responsible Entity must prepare an Annual Report as stated. HUD will provide data from HEROS on the Responsible Entity's projects during the year. The Responsible Entity must provide the report to the HUD Region 3 REO/FEO and to the SHPO utilizing PA-SHARE. Any of the parties may request a follow-up discussion of the report and its recommendations.
- Responsible Entities are encouraged to use HEROS when preparing their Part 58 reviews to facilitate the preparation of the annual report required as per the Agreement.

**For more information contact your HUD Regional Environmental Officer or Field Environmental Officer. A list is available here: <https://www.hudexchange.info/programs/environmental-review/hud-environmental-staff-contacts/#region-i-regional-and-field-environmental-officers>**

## **APPENDIX C**

### **CHART OF THE APPLICABILITY OF PART 50 AND PART 58 TO HUD PROGRAMS January 2021**

## APPLICABILITY OF PART 50 AND PART 58 TO HUD PROGRAMS

January 2021

### Office of Multifamily Housing

The Office of Multifamily Housing provides mortgage insurance programs for apartment buildings as well as capital advance funds to construct low income housing for elderly and disabled residents. Projects labeled apartments would typically be a Multifamily Housing program, except public housing.

Program	Description	Part 50	Part 58
Section 221(d)(4)	New Construction or substantial rehabilitation of multifamily rental housing.	X	
Section 223(a)(7)	Refinance of HUD-insured multifamily projects with no substantial rehabilitation. No further Section 106 review due to No Potential to Cause Effects determination. If action involves purchase, Section 106 review is required.	X	
Section 207/223(f)	Purchase or refinance of existing multifamily rental housing with some, but not substantial, rehabilitation. In 223(f) refinance, if work does not exceed Maintenance, no further Section 106 review due to No Potential to Cause Effects determination.	X	
Section 241(a)	Addition or Rehabilitation to an existing FHA-insured project. These loans typically involve a significant construction component.	X	
213 Cooperative	New Construction, substantial rehabilitation, or purchase of Cooperative Housing.	X	
542(c) Risk Share Program,	Credit enhancements for state and local housing finance agencies for new construction, substantial rehabilitation, refinancing, and housing for the elderly.		X
Section 202/811	Capital advance to construct new Housing for elderly and disabled persons.	X	
Project-based Section 8 Renewals	Capital repairs and Rehabilitation of existing projects.	X	
Section 8 Transfer of Project-based Subsidy	Transfers of rental assistance (including Section 8(bb)) to existing property with no repairs, existing properties with rehab, or new construction.	X	
Mark to Market	Reduces rents to market levels, can include rehabilitation.	X	
Rental Assistance Demonstration Program (RAD)	This Office of Housing Program converts public housing to private funding that is used to rehabilitate, remove, and/or construct improved public housing.	X*	X*

### Office of Healthcare Programs

\* See page 117 of HUD Notice H-2019-09 PIH-2019-23 (HA) (RAD Notice Rev.4)



Office of Healthcare Programs offers mortgage insurance programs for residential healthcare facilities and hospitals. Projects labelled “LEAN,” Office of Residential Healthcare Facilities, Office of Hospital Facilities, Nursing Home, Assisted Living, or Hospital are typically Office of Healthcare Programs projects.			
Program	Description	Part 50	Part 58
Section 232 or 242 /223(f)	Purchase or refinance—Often involves repairs, but not substantial rehabilitation.	X	
Section 232 or 242 /223(a)(7)	Refinance of HUD-insured projects with no substantial rehabilitation.	X	
Section 232 or 242 New Construction, Substantial Rehabilitation	Projects under these sections have a significant construction component.	X	
Section 232/241(a)	Addition or Rehabilitation to an existing FHA-insured project. These loans typically involve a significant construction component.	X	
<b>Office of Community Planning and Development</b>			
The Office of Community Planning and Development provides grants to assist states, communities, and non-profit organizations to foster community development, affordable housing, and economic development.			
Program	Description	Part 50	Part 58
Community Development Block Grants (CDBG)	Formula grants to states and localities to support neighborhood revitalization, economic development and improved community facilities and services for low and moderate income persons.		X
CDBG– Disaster Recovery (CDBG-DR)	Grants for activities that support recovery from Presidentially declared disasters.		X
CDBG – Mitigation (CDBG-MIT)	Grants for activities to mitigate future disaster risks in areas impacted by Presidentially declared disasters.		X
HOME	Grants to increase affordable housing opportunities for low- and very-low income households.		X
Housing Trust Fund	Grants for the construction, rehabilitation, and preservation of rental homes and for homeownership for extremely low- and very low-income families, including homeless families. Activities must meet Secretary of the Interior’s Standards for Rehabilitation. Parts 50 and 58 do not apply.		
Program	Description	Part 50	Part 58

HOPWA	Grants to provide housing assistance and related supportive services to meet the housing needs of low-income persons living with HIV/AIDS and their families.		X
Neighborhood Stabilization Program 1	Formula grants for the purpose of providing emergency assistance to stabilize communities with high rates of abandoned and foreclosed home. *		X
Neighborhood Stabilization Program 2	Competitive grants to states, local governments and non-profits for the purpose of providing emergency assistance to stabilize communities with high rates of abandoned and foreclosed home. *	X	X
Neighborhood Stabilization Program 3	Formula grants for the purpose of providing emergency assistance to stabilize communities with high rates of abandoned and foreclosed home. *		X
Pay for Success	Financing model that provides flexibility to local governments to implement evidence-based solutions to end homelessness.	X	
Continuum of Care (CoC)	CoC grants address shelter and social needs of people experiencing homelessness.		X
SHOP	Self-Help Homeownership Opportunity Program funds sites for volunteer-based home construction programs		X
Section 108 Loan Guarantee Program	Allows local governments to leverage portions of their CDBG funds into federally guaranteed loans for economic development, housing, public facility, and infrastructure.		X
Veterans Housing Rehabilitation and Modification Pilot Program (VHRMP)	Grants to nonprofit organizations to rehabilitate the primary residences of low-income veterans living with disabilities.	X	
Youth Homelessness Demonstration Program (YHDP)	Grant program designed to reduce the number of youth experiencing homelessness.		X
* Legacy program that reallocates repaid funds.			
<b>Office of Lead Hazard Control and Healthy Homes</b>			
The Office of Lead Hazard Control and Healthy Homes promotes preventive and corrective actions to address health and safety issues in the home environment.			
Program	Description	Part 50	Part 58
Lead-Based Paint Hazard Reduction and Healthy Homes Supplemental Program	Grants to state, county, tribal, and local governments to identify and control lead-based paint/dust/soil hazards in privately-owned rental or owner-occupied housing. Healthy Homes Supplemental grant funds identify and		X
Program	Description	Part 50	Part 58

	eliminate housing-based health and safety hazards in the same homes.		
Healthy Homes Production Program for Tribal Housing	Grants to federally recognized tribes for evaluation and reduction/elimination of housing-based health and safety hazards in private low-income rental or owner-occupied housing.		X
Older Adult Home Modification Program	Grants to make safety and functional home modification repairs of low-income elderly homeowners.	X	
Healthy Homes and Weatherization Cooperation Demonstration Program	Grants to identify effective strategies for coordination between Lead/Healthy Homes and DOE Weatherization programs that maximize program efficiencies and benefits to occupants.	X	
<b>Office of Public and Indian Housing: Office of Public Housing</b>			
The Office of Public Housing supports local public housing authorities that own and manage public housing properties.			
Program	Description	Part 50	Part 58
Public Housing Capital Funds	Funding for capital improvements to public housing, with activities that may include maintenance, rehabilitation, demolition, construction, and leasing.		X
Public Housing Operation Funds	Funding for the operation and management of public housing units, including maintenance and rehabilitation		X
Lead Based Paint Capital Funds (LBPCF)	Funding to identify and eliminate LBP hazards in public housing by carrying out risk assessments, abatement, and interim controls.		X
Moving to Work (MTW) Block Grant	Funding to increase affordable housing choices for low-income families, that may include acquisition, leasing, operations, rehabilitation, maintenance, demolition, and construction.		X
Choice Neighborhoods Initiative (CNI)	Planning and Implementation grants to transform distressed public housing into mixed-income neighborhoods, with activities that may include disposition, rehabilitation, maintenance, demolition, and construction.		X
HOPE VI	Funding to revitalize public housing projects in poor condition into mixed-income developments, largely based on New Urbanism, with activities that may include planning, design, acquisition, disposition, rehabilitation, maintenance, demolition, and construction.		X
HOPE VI Main Street Program	Funding to rejuvenate older, downtowns in smaller communities (50,000 or fewer) with activities that may include acquisition, rehabilitation, maintenance,	X	
Program	Description	Part 50	Part 58

	demolition, and construction. Must meet the Secretary of the Interior's Standards for Rehabilitation.		
Project Based Vouchers (PBV)	PBVs may be placed into existing housing or new construction, after a one-time environmental review covering the entire scope has been completed for the aggregated project, which may include acquisition, demolition, rehabilitation, maintenance, construction, leasing, and operations. The environmental review must be completed prior to the HAP or AHAP.		X
Tenant-based Section 8 rental assistance	Tenant-based vouchers allow tenants to choose their own housing in the private market. Exempt from environmental review including Section 106	NA	NA
Housing Choice Voucher (HCV) Homeownership Program	HCV Homeownership Program allows families assisted under the HCV program to use their voucher to buy a home and receive monthly assistance in meeting homeownership expenses; activities may include acquisition and related expenses that result in the transfer of title.		X
Energy Performance Contract (EPC) Program	Financing technique using energy/utility cost savings from reduced energy consumption to repay the cost of installing Energy Conservation Measures, with activities that may include rehabilitation maintenance, and construction.		X
Rental Assistance Demonstration Program (RAD)	This Office of Housing Program converts public housing to private funding that is used to rehabilitate, remove, and/or construct improved public housing.	X*	X*
Section 18 actions, including demolition and/or disposition	Section 18 authorizes a PHA to demolish and/or dispose of public housing with HUD approval if the units meet certain criteria. The review needs to encompass the maximum anticipated known project scope, and may include maintenance, rehabilitation, and construction.		X
Mixed-Finance Public Housing	Mixed finance developments include public housing units owned in whole or in part by an entity other than a PHA and are generally part of mixed-income developments; activities may include, acquisition, leasing, operations, rehabilitation, maintenance, demolition, and construction .		X
<b>Office of Public and Indian Housing: Office of Native American Programs (ONAP)</b>			
The Office of Native American Programs administers housing and community development programs that benefit American Indian and Alaska Native tribal governments, tribal members, the Department of Hawaiian Home Lands, Native Hawaiians, and other Native American organizations.			
Program	Description	Part	Part
* See page 117 of HUD Notice H-2019-09 PIH-2019-23 (HA) (RAD Notice Rev.4)			58

Indian Housing Block Grant (IHBG)	IHBG is a formula grant that provides a range of affordable housing activities on Indian reservations and Indian areas, including housing development, assistance * See page 117 of HUD Notice H-2019-09 PIH-2019-23 (HA) (RAD Notice program, housing services to eligible families and individuals, crime prevention and safety, and model activities that provide creative approaches to solving affordable housing problems.		X
Indian Community Development Block Grant (ICDBG)	ICDBG provides direct grants for use in developing viable Indian and Alaska Native Communities, including decent housing, a suitable living environment, and economic opportunities, primarily for low and moderate income persons.		X
Section 184 Loan Guarantee	The Section 184 Indian Home Loan Guarantee Program is a home mortgage product specifically designed for American Indian and Alaska Native families, Alaska villages, tribes, or tribally designated housing entities.		X
Title VI	Title VI is a financial tool that allows federally recognized tribes and Tribally Designated Housing Entities (TDHE) to finance affordable housing activities. Activities may include rehabilitating housing, building infrastructure, construction community facilities, and acquiring land to use for housing.		X
Native Hawaiian Housing Block Grants	Funding for eligible affordable housing activities for low-income Native Hawaiians eligible to reside on Hawaiian home lands.		X
Section 184A Loan Guarantees	Loan guarantees 100% of the unpaid principal and interest due on an eligible loan on Hawaiian home lands.		X

N.B. HUD programs include but are not limited to the programs listed in this Chart.

## APPENDIX D

### Resources for Consultation with the Pennsylvania State Historic Preservation Office (SHPO) under Section 106 of the National Historic Preservation Act for HUD-Assisted Undertakings

1. HUD's Historic Preservation webpage, including links to relevant Guidance  
<https://www.hudexchange.info/programs/environmental-review/historic-preservation/>
2. Section 106 Process Document  
<https://www.achp.gov/protecting-historic-properties/section-106-process/introduction-section-106>
3. Federal Regulations: 36 CFR 800  
<https://www.achp.gov/digital-library-section-106-landing/section-106-regulations>
4. Advisory Council on Historic Preservation  
<https://www.achp.gov/>
  - E106 to Notify the ACHP of an Adverse Effect  
<https://www.achp.gov/e106-email-form>
  - Guidance on Agreement Documents- Resolution of Adverse Effects  
<https://www.achp.gov/index.php/initiatives/guidance-agreement-documents>
5. Pennsylvania State Historic Preservation Office  
<https://www.phmc.pa.gov/Preservation/Pages/default.aspx>
  - PA SHPO Guidance for Consulting Under Section 106 for HUD and DCED Funded Projects  
<https://www.phmc.pa.gov/Preservation/About/Documents/HUD%20and%20DCED%20FAQS%20for%20PA-SHARE.pdf>
  - Environmental Review  
<https://www.phmc.pa.gov/Preservation/Environmental-Review/Pages/default.aspx>
  - PA-SHARE: Pennsylvania's GIS based Inventory of historic properties listed in and determined eligible for listing in the National Register of Historic Places  
<https://share.phmc.pa.gov/pashare/landing>
  - PA-SHARE: Help Materials and Tutorials

<https://www.phmc.pa.gov/PA-SHARE/Pages/Help-Materials.aspx>

6. Criteria for eligibility for Listing on the National Register of Historic Places

- National Register Bulletin 15

[https://www.nps.gov/subjects/nationalregister/upload/NRB-15\\_web508.pdf](https://www.nps.gov/subjects/nationalregister/upload/NRB-15_web508.pdf)

- Submitting Evaluation level historic resource documentation in PA-SHARE

<https://www.phmc.pa.gov/Preservation/About/Documents/Adding%20an%20Above%20Ground%20Resource%20to%20PA-SHARE.pdf>