**PROGRAMMATIC AGREEMENT**

**among**

**VERMONT STATE HISTORIC PRESERVATION OFFICER,**

BURLINGTON COMMUNITY AND ECONOMIC DEVELOPMENT OFFICE

and

**THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**

**for the**

**ADMINISTRATION OF THE**

**BURLINGTON COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

# November 1, 2017

**BURLINGTON COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

**PROGRAMMATIC AGREEMENT**

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**VERMONT STATE HISTORIC PRESERVATION OFFICER,**

BURLINGTON COMMUNITY AND ECONOMIC DEVELOPMENT OFFICE

and

**THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**

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**ADMINISTRATION OF THE**

**BURLINGTON COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

WHEREAS, the U. S. Department of Housing and Urban Development (HUD) has allocated EntitlementCommunity Development Block Grant (CDBG) funds to the City of Burlington Community and Economic Development Office (CEDO) 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 has delegated the responsibility for compliance with the requirements of Section 106 of the National Historic Preservation Act to recipient State agencies and local Participating Jurisdictions receiving funds from the CDBG program; and

WHEREAS, the implementation of the CDBG may have an effect upon properties included in or eligible for inclusion in the National Register of Historic Places (NRHP) pursuant to 36 CFR Part 800, implementing 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. 306108); and

WHEREAS, CEDOintends to comply with the principles identified in the Advisory Council on Historic Preservation (Council)’s “Policy Statement on Affordable Housing and Historic Preservation” and other policy statements set forth in this Programmatic Agreement (PA) as published in the *Federal Register* on February 15, 2007 (72 Fed. Reg. 7387) (see Appendix B); and

WHEREAS, in accordance with 36 CFR 800, CEDOacknowledges 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 May 18, 1999; and

WHEREAS, CEDO, the Council, and the State Historic Preservation Officer (SHPO) have determined that CEDO can effectively fulfill its Section 106 review responsibilities for CDBG activities if a programmatic approach is used, pursuant to 36 CFR §800.14, to delegate Section 106 compliance responsibilities to CEDO and to identify activities that can be excluded from the Section 106 review because they have limited potential to adversely affect historic properties; and

WHEREAS, CEDO 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 funded under the terms of this Agreement; and

WHEREAS, CEDO acknowledges that Indian tribes possess special expertise in assessing the National Register eligibility of properties with tribal religious and cultural significance; and

WHEREAS, SHPO has delegated certain responsibilities for Section 106 project review to Vermont Division for Historic Preservation (VDHP) staff while retaining ultimate responsibility and signatory authority; and

NOW, THEREFORE, CEDO, the VERMONT STATE HISTORIC PRESERVATION OFFICER and the ADVISORY COUNCIL ON HISTORIC PRESERVATION do stipulate and agree that the City’s Community Development Block Grant (CDBG) Program shall be implemented and administered in accordance with the following stipulations in order to take into account the effects of undertakings on historic properties to satisfy the Agency’s Section 106 responsibilities.

**STIPULATIONS**

CEDO will ensure that the following stipulations are carried out.

**I. QUALIFIED PROFESSIONALS**

1. Some projects may require that CEDO retain qualified professionals in architectural history/historic preservation or archaeology. CEDOwill contract with, or will ensure that Recipients of CDBG funds contract with, qualified professionals who meet the *Secretary of the Interior's Professional Qualifications Standards*, found in 36 CFR 61 (48 FR 44738-9). The qualified professional will carry out reviews related to his/her profession that are required under the terms of this PA. The qualified professional shall have a clear understanding of how to interpret and apply the *Secretary of the Interior's Standards* and the National Register criteria, and have attended the annual VDHP Consultant Training. Responsibilities delegated to the qualified professional include:
2. identifying and evaluating historic properties;
3. reviewing plans and specifications;
4. making recommendations for determinations of eligibility and effect;
5. preparing comment letters and other documents for SHPO concurrence; and
6. other tasks related to Section 106 compliance under this PA.
7. CEDO shall contract with only those consultants identified by SHPO as “Vermont Community Development Approved Consultants.” This list is updated each October 1st.
8. With advance approval of SHPO, qualified CEDO employees may perform select tasks identified in this PA, without retaining a qualified professional.
   1. To qualify, the CEDO employee must attend VDHP annual consultant training **and** Section 106 training with the Advisory Council on Historic Preservation or the equivalent, every five years.
   2. CEDO shall notify SHPO of the contracted qualified historic preservation professional or approved CEDO employee annually.
9. The qualified professional or approved CEDO employee shall consult with the VDHP when there is a potential for historic properties to be affected as noted on the Section 106 Project Review Form (CEDO-PRF) and will continue throughout the course of consultation for project review.
10. Should CEDO be unable to contract with qualified historic preservation professionals to carry out the identification and evaluation review pursuant to this PA, CEDOshall consult with SHPO to determine alternate administrative arrangements to complete the reviews required pursuant to this PA. CEDOshall notify the Council in writing of any alternate procedures approved by SHPO.

**II. EXEMPT PROPERTIES AND ACTIVITIES**

1. The requirements for exempt properties and activities are as follows:
   1. Project does not involve ground disturbance;
   2. Project is not located in (or adjacent to) a Historic District or Designated Downtown;
   3. Project does not involve any buildings listed in or considered eligible for the National Register of Historic Places; and
   4. Project consists of rehabilitation of buildings or structures less than 50 years old.

If all the above criteria are satisfied, then such properties and activities are considered exempt from this PA. This determination is made by qualified professional/approved CEDO employee.

Historic properties are those that are listed in or eligible for listing in the National Register of Historic Places (NRHP), either individually or as part of a historic district. For purposes of this PA, a single historic property (a house, a bridge) or small grouping of resources (a farm complex) can be listed individually, using the primary resource as the identifier. A historic district is a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. All properties located within a historic district are classified as either contributing (historic) or non-contributing (non-historic).

1. A project that does not satisfy all of the criteria listed in Section II(1), above, will nonetheless be exempt from this PA **IF** it is limited solely to the exempt activities listed in Appendix A. A qualified professional/approved CEDO employee can make this determination.
2. For projects that are exempt under paragraph (1) or (2) above, a CEDO Project Review Form (CEDO-PRF) shall be completed to document the exempt determination. The CEDO-PRF shall be submitted to VDHP. No further review is required.
3. In accordance with the Council’s *Policy Statement on Affordable Housing and Historic Preservation* (see Appendix B), for affordable housing projects that do not involve a building that is listed or considered eligible for listing in the National Register as an individual property or those possessing character-defining interior elements that have been identified to contribute to the significance of the historic district, review under this PA shall be limited to proposed changes to the exterior of the building or proposed changes that will be visible from the exterior.

## III. ROLES OF SHPO AND CEDO

1. CEDO shall retain a qualified professional/approved CEDO employee to: 1) identify the project’s area of potential effect; 2) identify and evaluate historic properties within the project’s area of potential effect; 3) make recommendations of a property’s eligibility for listing in the National Register of Historic Places; 4) evaluate and make recommendations regarding a project’s effect on historic properties; 5) develop appropriate treatment or mitigation measures to avoid, minimize, or mitigate determined effects; and 6) submit appropriate documentation of these actions for concurrence by SHPO as set out in this PA.
2. SHPO, through VDHP staff, shall assist CEDO in this process by providing available information and consulting with CEDO and the qualified professional/approved CEDO employee when asked or when required under the terms of this PA.
3. CEDO shall maintain project files and report on program activity as required in this PA.
4. If the project requires a State Land Use (Act 250) permit, CEDO should consult with VDHP regarding identification and treatment of historic properties within that process and in coordination with Section 106 Review. Although a consultant’s report may be used for supporting documentation in the Act 250 process, it is VDHP’s responsibility to provide recommendations to the District Environmental Commission, the entity which issues a permit with appropriate conditions. Therefore, it is important for the qualified professional/approved CEDO employee and VDHP to work together in a coordinated effort.
5. Similar coordination is required with VDHP and the National Park Service for projects that will utilize Rehabilitation Investment Tax Credits.

**IV. IDENTIFYING AND EVALUATING HISTORIC PROPERTIES**

1. Preliminary step in identifying potential historic properties.
   1. All Projects will require a CEDO Project Review Form (CEDO-PRF). During the review stage of the Environmental Review process, CEDO shall consult with VDHP to identify information in existing inventories on historic properties that may be affected by projectactivities. This should include but not be limited to:
      1. current listings of the NRHP;
      2. Vermont Historic Sites and Structures Survey and State Register of Historic Places;
      3. Vermont Archaeological Inventory;
      4. properties recommended as meeting the National Register Criteria for Evaluation and determined to be potentially eligible for the NRHP by VDHP; and
      5. any other readily available information in SHPO’s Online Resource Center files.
   2. VDHP shall also apply the environmental predictive model to determine if the project area contains potential archaeological sites.
   3. VDHP shall provide any applicable information identified in the above background review to CEDO.
   4. In the case of scattered site housing rehabilitation or scattered site economic development projects, where the specific locations of projects are unknown at the preliminary review stage, CEDO, qualified professional/approved CEDO employee if needed, shall conduct the above background review once specific locations are known.
   5. CEDO may submit recommendations for eligibility for properties to VDHP concurrently with proposed treatment plans to expedite the Section 106 review. After a 15-day initial review, VDHP shall inform CEDO of any missing or additional documentation required for evaluation. VDHP shall provide written comments to CEDO within 30 days following receipt of adequate documentation.
   6. If it is determined that there is a potential for historic architectural and/or archaeological properties to be affected, a qualified professional **must** be retained or an approved CEDO employee assigned to review the project.
2. Identifying and evaluating historic buildings or structures.
   1. For properties not listed in the NRHP and not exempt under Section II of this Agreement, the qualified professional/approved CEDO employee shall evaluate the properties and make recommendations for National Register eligibility based on the NRHP Criteria for Evaluation.
   2. The qualified professional/approved CEDO employee shall submit a recommendation of eligibility to VDHP for concurrence. This must occur prior to any construction activities commencing.
   3. If VDHP concurs with the recommendation of eligibility, then proceed to Section IV(3). If there is not agreement regarding a recommendation of eligibility and VDHP does not concur, the procedure for resolution is set forth in Section IV(5).
   4. For evaluation of properties in potential historic districts, the qualified professional shall consult with VDHP for guidance on what additional information and materials the professional may need to provide.
   5. Documentation: The qualified professional/approved CEDO employee shall submit the evaluation documentation to VDHP. For eligible buildings or structures not included in the Vermont Historic Sites and Structures Survey, the documentation shall include a completed Survey form and digital photograph. VDHP may specify an alternative documentation format.
3. Identifying and evaluating archaeological resources.

a. Projects involving ground-disturbing activities that are not identified as exempt activities in Appendix A and were determined to have the potential to yield information about archaeological properties that may be affected, as noted on the CEDO-PRF, must be reviewed and approved by a qualified archaeological professional. Ground-disturbing activities include, but are not limited to:

1. new construction;
2. construction of roads and parking lots;
3. land clearance and tree cutting in preparation for construction;
4. excavation for footings and foundations; and
5. installation or replacement of sewer, water, storm drains, electrical, gas, leach lines, and septic tanks, unless included in Appendix A: exempt activities.

Notwithstanding the above, and in accord with the Council’s *Policy Statement on Affordable Housing and Historic Preservation*, archaeological investigations are not required for affordable housing projects limited to rehabilitation and requiring minimal ground disturbance, which is generally defined as covering an area no more than 10 by 10 feet and no deeper than 6 inches.

1. Identification and evaluation of archaeological resources must be carried out by CEDO through the use of a qualified archaeological professional as early as possible during project planning. The qualified professional and CEDO shall consult with VDHP throughout this process.

c. It is desirable and most cost effective at any stage of study outlined in 3d, e, and f (below) to avoid sites through appropriate conditions placed on the project design and construction specifications. Such conditions to preserve the site will be negotiated between CEDO and the qualified professional. The Advisory Council’s Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites (1999 or most recent version) shall be followed (Appendix C).

d. If VDHP’s background review during the CEDO-PRF process identifies potential archaeological sites within the project area, VDHP shall recommend that CEDO retain a qualified archaeological professional to conduct an Archaeological Resources Assessment (ARA). The purpose of an ARA is to identify areas that have been significantly disturbed in the past; specific areas that are likely to contain archaeological sites; and potential archaeological issues that must be considered during project planning. In some cases, VDHP may conclude that there is enough information to initiate a Phase I site identification study without completing an ARA. In this case, and if any archaeologically sensitive areas identified in an ARA cannot be avoided, then proceed to Phase I as outlined below.

e. Phase I Identification study. If the ARA concludes that potential archaeological sites exist within the project area and may be affected by the project, CEDO shall retain a qualified archaeological professional to conduct a Phase I Identification study. If an archaeological site is identified and cannot be avoided, then proceed to Phase II as outlined below.

f. Phase II Evaluation Study. CEDO shall retain a qualified archaeological professional to conduct a Phase II Evaluation study to determine whether the site meets the criteria for inclusion in the National Register of Historic Places. If the site cannot be avoided and will be destroyed in whole or in part by the project, then CEDO and the qualified archaeological consultant shall develop a mitigation plan in consultation with VDHP (See Section VI (4)).

g. Documentation. All archaeological studies must meet the meet the Guidelines for Conducting Archaeological Studies in Vermont (most recent version) and the *Secretary of the Interior’s Standards and Guidelines for Archeology*. CEDO shall provide copies of all reports and any associated Vermont Archaeological Inventory forms in digital formats to VDHP. VDHP may specify alternative documentation formats.

4. Public Notification of National Register Determinations.

a. Prior to making recommendations for NRHP eligibility for a non-listed property, the qualified professional/approved CEDO employee shall notify the Owner and Certified Local Government (CLG) representative, and invite them to provide comments to the qualified professional and VDHP concerning the historic, architectural and/or archaeological significance of the property.

b. Proof of documentation. The qualified professional/approved CEDO employee will submit correspondence with owner and local officials.

5. Disagreement about NRHP Eligibility.

a. If CEDO disagrees with VDHP’s findings, they shall obtain a formal determination of eligibility from the Keeper of the National Register in accordance with 36 CFR §800.4 (c) and 36 CFR 63 and notify VDHP accordingly.

1. Presence of Historic Resource.
2. If there is a historic resource present, proceed to Section V. If there are no historic properties present, then the qualified professional/approved CEDO employee shall submit this finding in a formal comment letter to VDHP for concurrence and inclusion in VDHP project files.
3. **TREATMENT OF HISTORIC PROPERTIES**

1. Building rehabilitation: VDHP shall ensure that building rehabilitation plans and specifications for non-exempt CDBGactivities 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 C) as follows:

a. Prior to the initiation of such activities, CEDO shall submit to the qualified professional/approved CEDO employee documentation, plans, and/or specifications that evidence adherence to the Standards. The qualified professional/approved CEDO employee shall review and make recommendations for VDHP approval of the plans and specifications.

b. Ifthe qualified professional/approved CEDO employee recommends modifications to the plans and/or specifications to ensure that the project meets the Standards, CEDO shall make appropriate modifications and submit revisions to the qualified professional/approved CEDO employee.

c. If building demolition or other adverse effect is proposed, the qualified professional/approved CEDO employee may ask CEDO to provide the following information for an evaluation of the feasibility of the undertaking:

1. condition assessments for various historic elements;
2. alternative treatments considered and cost estimates for each;
3. life-cycle maintenance costs related to each alternative;
4. proposed measures to mitigate or minimize adverse effects; and
5. available marketing studies.

d. After reviewing the project documentation, the qualified professional/approved CEDO employee shall submit a recommendation for finding of effect, with any relevant conditions, if appropriate, to VDHP for SHPO concurrence.

e. If CEDO determines that they cannot make the modifications recommended by the qualified professional/approved CEDO employee to meet the Standards and that the project will therefore have an adverse effect on historic properties, the qualified professional/approved CEDO employee and CEDO officials shall consult with VDHP to develop a Standard Mitigation Measures Agreement in accordance with Section VI*.*

f. In lieu of the review process outlined above, for building rehabilitation projects that use the Rehabilitation Investment Tax Credit (RITC), CEDO 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.

2. Scattered site projects: If CEDO is undertaking a program of scattered site housing rehabilitation or scattered site economic development, qualified professional/approved CEDO employee shall review each rehabilitation project, as outlined in this Agreement. A separate PA for the program shall not be necessary.

3. Designing new construction: CEDOshall ensure that the design of new construction, infill construction or additions to historic buildings is compatible with the character-defining features of the historic district and/or adjacent historic buildings in terms of size, scale, massing, design, color, features, and materials, and is responsive to the recommended approaches for new construction set forth in the *Standards*.

* 1. CEDO shall develop preliminary design plans in consultation with the qualified professional/approved CEDO employee. Final plans and specifications will be submitted to the qualified professional/approved CEDO employee for review and approval prior to the initiation of construction activities.
  2. If the qualified professional/approved CEDO employee determines that the design of the new construction does not meet the *Standards* or would otherwise result in an adverse effect to historic properties, CEDO shall notify VDHP and shall consult with the qualified professional/approved CEDO employee and VDHP to modify the design or to develop a Standard Mitigation Measures Agreement in accordance with Section VI.
  3. If VDHP determines that the Standard Mitigation Measures do not apply, CEDO shall follow the process outlined in Sections VI. 6 and VI. 7.

4. Protection of archaeological resources: Any project that involve ground disturbance must comply with Sections IV (3), VI (4), VIII*,* and IX*.*

1. Relocation of historic and contributing buildings: CEDO and the qualified professional/approved CEDO employee shall consult further with VDHP prior to the approval of plans when historic properties are proposed for relocation.

1. If a historic property proposed for relocation is a contributing structure within a historic district listed in or eligible for listing on the National Register, the Recipient shall make every effort to relocate the historic property within the same historic district. CEDO shall forward documentation to the qualified professional/approved CEDO employee explaining why relocation is required; the basis for selection of the new site; and a summary of the alternatives to relocation which were considered. The qualified professional/approved CEDO employee shall forward documentation to VDHP regarding the location of the proposed new site for VDHP’s review and comment. If VDHP objects to the proposed new site, all parties shall consult further with VDHP to evaluate alternate locations.
2. A qualified archaeological professional shall determine whether there are any potential archaeological sites at the new location. If such potential exists, a qualified archaeological professional shall follow the process set out in Section IV(c) of this agreement.
3. Upon approval of an alternative site by VDHP, CEDOshall ensure that all historic properties are moved in accordance with the recommended approaches in Moving Historic Buildings (John Obed Curtis) by a professional mover who has the capability to move historic properties properly. A relocation plan shall be submitted to the qualified professional/approved CEDO employee for review and approval.
4. If CEDOdetermines that they cannot identify an alternate site acceptable to VDHP, CEDO and the qualified professional/approved CEDO employeeshall consult with VDHP to develop a Standard Mitigation Measures Agreement or otherwise resolve the adverse effectin accordance with Section VI.

6. Demolition: CEDO shall not authorize the demolition of contributing buildings or portions of contributing buildings (i.e. ells, wings, attached sheds, barns, porches) within an historic district or properties listed or eligible for listing in the National Register if the demolition will result in an adverse effect as determined by the qualified professional/approved CEDO employee or VDHP until the procedures set forth in this section are completed.

* 1. A qualified professional/approved CEDO employeeshall forward documentation to VDHP for each historic property or portion of property proposed for demolition. Documentation should include a justification for demolition, a recent structural analysis, a summary of alternatives beyond demolition considered, future plans for the site, proposed mitigation plan, and the response to the public outreach.
  2. If VDHP determines that the proposed demolition is the most feasible alternative, the qualified professional/approved CEDO employee shall develop a Standard Mitigation Measures Agreement in accordance with Section VI.
  3. If VDHP determines that the Standard Mitigation Measures do not apply, CEDOshall follow the process outlined in Sections VI (6) and VI (7).
  4. If new construction or a new use is proposed for this property, the qualified archaeological professional shall determine whether there are any potential archaeological sites on the property. If such potential exists, a qualified archaeological professional shall follow the process set out in section IV (4) of this agreement*.*

7. Disaster Response: A disaster or emergency under Section 106 is one declared by the President of the United States, tribal government, or the governor of the state of other immediate threat to life or property. Procedures addressing emergency situations are outlined in the section. These procedures apply only to those undertakings that will be implemented in response to the disaster or emergency within 30 days after the disaster or emergency has been formally declared by the appropriate authority or, in the case of an immediate threat to life or property, within 30 days after such an event occurs.

1. Immediate rescues and salvage operations conducted to preserve life or property are exempt from the provisions of Section 106 (36 CFR § 800.12(d)). This exemption applies regardless of whether there has been a declared disaster or emergency. If CEDO determines that its undertaking meets the criteria for this exemption, CEDO may take necessary actions in a timely manner to address public health and safety.
2. Undertakings that will be implemented in response to a formally declared emergency within 30 days of the declaration shall be reviewed in accord with the project review process described elsewhere in this PA, including paragraphs V(1), V(3), V(4), V(6), and V(7) but with an expedited timeframe to at least allow notification and some opportunity for consultation to the extent that such notice and consultation can be conducted without endangering people’s lives or property. This includes consideration of appropriate mitigation measures in the event of an adverse effect. Written notification of the emergency action being considered shall be provided to SHPO, including information on the proposed action, the potential effects to historic properties, a description of the avoidance, minimization, or mitigation measures, if any, for the effects of the undertaking on historic properties and the timeframe available for comment.

**VI. RESOLVING ADVERSE EFFECTS**

1. If an undertaking may adversely affect a National Historic Landmark, CEDO shall request 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.

2. When the qualified professional/approved CEDO employee determines that a proposed project will result in an adverse effect to an historic property, the qualified professional/approved CEDO employee shall consult with VDHP on whether it is appropriate to execute a Standard Mitigation Measures Agreement as outlined in Appendix B. If VDHP determines that executing a Standard Mitigation Measures Agreement is appropriate to mitigate the proposed adverse effect, the qualified professional/approved CEDO employee shall prepare an Agreement and submit it to VDHP for review. VDHP shall advise CEDOof its decision to execute the Agreement within thirty (30) days following its receipt with adequate documentation. SHPO may consult with the Director of CEDO to resolve project conflicts.

3. When SHPO determines that it is appropriate to execute a Standard Mitigation Measures Agreement, the Agreement shall be signed by CEDO and SHPO. CEDOshall ensure that the terms of the Agreement are carried out.

4. In the case of an adverse effect to 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 that meets applicable federal and state guidelines, including the Council’s Treatment of Archaeological Properties and Recommended Approach for Consultation on Recovery of Significant Information From Archaeological Sites (1999 or most recent version), and the Guidelines for Conducting Archaeological Studies in Vermont. Data Recovery projects shall include a significant public education and interpretation component whenever appropriate. Materials recovered shall be curated and stored in accordance with 36 CFR 79 and VDHP curation standards.

5. If the qualified professional/approved CEDO employee or VDHP determine that the Standard Mitigation Measures are not appropriate for a project, they shall consult with CEDO to seek ways to minimize or mitigate the adverse effects. If consensus is reached, the qualified professional/approved CEDO employeeshall prepare a Memorandum of Agreement, as outlined in 36 CFR §800.6 (b)(1), and CEDO and SHPO shall sign it.

1. CEDO shall notify VDHP when all the stipulations in the Standard Mitigation Measures Agreement have been successfully completed in the form of a letter or email describing how the measures have been achieved.

7. If CEDO and VDHP cannot reach consensus, the parties shall notify the Council and initiate the consultation process set forth in 36 CFR §800.6(b)(2). In addition,CEDOshall submit to the Council the background documentation outlined in Section V (1)(c).

8. If agreement is not reached, the parties shall follow the process set forth in 36 CFR §800.7, Failure to Resolve Adverse Effects.

##### PUBLIC INVOLVEMENT

1. CEDOshall determine the public interest in the proposed projectand its potential to affect historic properties by informing the public about historic properties while meeting its public participation requirements as set forth in the regulations for CDBG and in complying with 24 CFR Part 58, which includes a requirement for a public notice*.* CEDO shall seek and consider the views of the public on their projects, in a manner that reflects the nature and complexity of the undertaking and its effects on historic properties, the likely interest of the public in the effects on historic properties, confidentiality concerns of private individuals and businesses, and the relationship of the federal involvement to the undertaking. Contact should be made with the Burlington Historic Preservation Commission and with other groups such as Preservation Burlington, Inc., and the Preservation Trust of Vermont, as well as those groups or individuals interested in the type(s) of historic resource or area affected by the undertaking. CEDO shall notify VDHP of the public interest in any project activities covered under the terms of this PA.
2. CEDO or VDHP may invite interested persons to participate as consulting parties in the Section 106 process in accordance with 36 CFR 800.3.
3. At any time during the implementation of the measures stipulated in this PA, should the public raise an objection pertaining to the treatment of an historic property, CEDOshall notify VDHP and take the objection into account. CEDO and VDHP, when requested by the objector, shall consult to resolve the objection. CEDO is not required to cease work while the objections are being reviewed.
4. Consulting parties and/or the public may request that the Council enter the consultation process. The Council will review 36 CFR 800 Appendix A, “Criteria for Council Involvement in Reviewing Individual Section 106 Cases” to determine if it is appropriate for the Council to enter consultation on a particular project.

**VIII. DISCOVERY OF HISTORIC PROPERTIES OR ARCHAEOLOGICAL SITES DURING CONSTRUCTION**

If previously unidentified archeological sites or unanticipated effects on historic properties are discovered during project construction, that portion of the project will stop immediately. The qualified archaeological professional or qualified CEDO employees shall determine actions that CEDO can take to resolve potential adverse effects, and CEDO shall notify SHPO of the discovery and the possible actions within 48 hours of the discovery. SHPO shall respond within two business days of the notification. CEDO shall take into account VDHP’ s recommendations to carry out appropriate actions. When the actions are completed, CEDO shall provide a report on the actions to VDHP.

Whenever previously unknown belowground historic properties of religious and cultural significance are discovered during construction, excavation in the areas of the resources must immediately stop until tribal consultation can occur. CEDO shall notify SHPO, which will notify the tribe(s), Tribal Historic Preservation Officer (THPO), and the Council within 48 hours of the discovery. A site visit with tribe(s), THPO (as appropriate), CEDO, and SHPO (as appropriate) is recommended to resolve any potential adverse effect(s) to the historic property of religious and cultural significance.

**IX. TREATMENT OF HUMAN REMAINS**

If human remains are discovered during any phase of archaeological study or during construction, the study or that portion of the project will stop immediately. CEDO shall immediately report the discovery to local police and the Office of the Chief Medical Examiner and follow applicable state laws and procedures, including 18 V.S.A. §5212b(f). The remains shall be respectfully covered over and secured. If the human remains are determined to be archaeological, CEDO shall immediately contact VDHP. If the human remains are determined to be Indian burials, CEDO should follow the guidance in the “Advisory Council on Historic Preservation Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects.” A treatment and reburial plan shall be developed by the qualified archaeological professional, in consultation with VDHP and appropriate tribe(s) and THPO, if applicable. CEDO shall ensure that the treatment and reburial plan is fully implemented. Avoidance and preservation in place is the preferred option for treating human remains.

### X. COORDINATION WITH OTHER FEDERAL SECTION 106 REVIEWS

If a project has been previously reviewed and approved under Section 106 in another federal program, such as HOME Investment Partnerships or Rural Development, no further review is required if the project is the **same** as the one reviewed under the other program(s). CEDO shall certify that a project has not changed (i.e. that the project plans have not changed as those referenced in the previous comment letter) when submitting a previous comment letter for compliance with Section 106 requirements under the HUD Environmental Review.

**XI. ADMINISTRATIVE COORDINATION**

1. VDHP shall provide comments within 30 days of receipt of the completed submittal packed for reviews required under the terms of this PA. In the event that VDHP fails to comment within the 30-day period, CEDOcan assume that VDHP concurs.
2. CEDOshall develop, in consultation with VDHP and qualified professional/approved CEDO employee, procedures for the implementation of the terms of this PA.
3. CEDOand/or the qualified professional/approved CEDO employee shall document in individual project files all program activities that involved historic properties and were subject to the terms of this PA. Each file shall include as appropriate:
4. documentation why the exemption from review is applicable;
5. for non-exempt properties, documentation on the National Register eligibility of the property;
6. copies of field inspection letters, archaeological scopes of work, and study reports;
7. written comments on project effects;
8. a copy of the Standard Mitigation Measures Agreement;
9. description of work or datedproject plans and specifications;
10. photographs of the project before rehabilitation; and
11. date the project was completed.

This information shall be available for review by VDHP or Council following reasonable notice.

**XII. MISCELLANEOUS PROVISIONS**

1. Modifications. The qualified professional/approved CEDO employee may make recommendations for modifications to previously approved specifications or Standard Mitigation Measures Agreements for VDHP concurrence, according to the procedures outlined in Section VI.
2. Dispute Resolution. Should VDHP object within a reasonable period to any specifications or actions covered by this PA, CEDOshall consult further with VDHP to seek resolution. If CEDOdetermines that the objection cannot be resolved, CEDO shall forward all documentation relevant to the dispute to the Council. Within 45 calendar days after receipt of all pertinent documentation, the Council will provide CEDOwith recommendations or comment in accordance with 36 CFR 800.7(c). CEDOwill consider the Council's recommendations or formal comments in reaching a final decision regarding the dispute. Any Council comment provided to CEDO in response to such a request will be considered by CEDOwith 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 CEDOto carry out all actions under this agreement that are not the subject of the dispute will remain unchanged.
3. Training Workshops. VDHP shall conduct program specific training workshops for qualified professionals/approved CEDO employee. Attendance at one of these annual workshops will be mandatory for qualified professionals/approved CEDO employee to be eligible to work under this PA.Upon written request from CEDO, VDHP will provide training to assist CEDO staff to understand the technical requirements of the PA. Training every five years for Section 106 with the Advisory Council on Historic Preservation or the National Preservation Institute is required for all approved CEDO employees working under this PA.
4. Monitoring. VDHP and the Council may monitor any activities carried out pursuant to this Agreement. CEDO will cooperate with VDHP and Council should they request to monitor or to review project files for activities at specific project sites.
5. Reporting Requirements. CEDOshall provide VDHP with an Annual Report at the end of the federal fiscal year summarizing all projects reviewed under this PA, and shall schedule a meeting with VDHP to discuss the Report by November 1st and report to be submitted to VDHP for review by December 1st.

This Annual Report shall include:

1. a list of projects, categorized by name, town, exempt status, whether or not a historic property was involved, determination of effect, and whether an archaeologist or architectural historian (or both) was contracted or approved CEDO employee was assigned to carry out reviews under the terms of this PA;
2. the number of properties added to the Vermont Historic Sites and Structures Survey (VHSSS) and the Vermont Archaeological Inventory (VAI);
3. a summary of mitigation measures undertaken, including the use of Standard Mitigation Measures Agreements;
4. a summary of archaeological activities conducted under the program;
5. a summary of staff and consultant training(s) held;
6. staff and consultant training(s) proposed for the following year;
7. CEDO’s viewsregarding the effectiveness of the PA; and
8. suggestions for additional actions that could be considered for inclusion in the Exempt Activities list.

The signatories to the PA shall review this information to determine what, if any, amendments are necessary. Any VHSSS and VAI forms, archaeological study reports, or other documentationnot previously submitted to VDHP during the year should be enclosed with the Annual Report when it is submitted to VDHP.

**XIII. EFFECTIVE DATE AND DURATION**

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

**XIV. AMENDMENTS**

Any party to this PA may request that it be amended or modified, whereupon CEDO, SHPO, and the Council will consult in accordance with 36 CFR 800.14 (b) to consider such revisions. Any resulting amendments or addenda shall be developed and executed among CEDO, SHPO, and Council in the same manner as the original PA.

**XV. TERMINATION**

Any party to this PA may terminate the Agreement by providing thirty (30) calendar days’ notice to the other parties, provided that the parties will make every reasonable effort to consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination.

**XVI. FAILURE TO COMPLY WITH AGREEMENT**

In the event that CEDO does not carry out the terms of this PA, CEDO will comply with 36 CFR 800 with regard to each individual project for which CEDO has awarded funding to a Recipient.

EXECUTION AND IMPLEMENTATION of this PA evidences that CEDOhas satisfied its Section 106 responsibilities for CDBG activities funded in whole or in part under the CDBG Program*.*

ADVISORY COUNCIL ON HISTORIC PRESERVATION

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By: Date

CITY OF BURLINGTON COMMUNITY AND ECONOMIC DEVELOPMENT OFFICE

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By: Noelle MacKay, Director Date

VERMONT STATE HISTORIC PRESERVATION OFFICER

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By: Laura V. Trieschmann Date

# APPENDIX A

**HUD-FUNDED CDBG PROGRAMS EXEMPT ACTIVITIES**

As noted in Section II: 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 CEDO and VDHP through submittal of the Preliminary Review Form to VDHP for concurrence and for VDHP and CEDO files. No further review is required.

The following activities will not require review by SHPO or Council:

* + - * **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 impact a surrounding historic district. **New construction is not an exempt activity.**
      * **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 buildings, and provided such work does not affect character-defining features of the buildings. The installation of new ducts or plumbing through the interior and electrical and controls on the rear of the structure or those not visible from the public right-of-way are exempt activities. Also exempt are:
  + electrical work to include Ground Fault Circuit Interrupter (GFCIs) and repairing electrical wiring to bring systems up to code;
  + plumbing pipes and fixtures;
  + heating system improvements;
  + installation of fire and smoke detectors;
  + installation of non-hard wired devices including photo-controls, occupancy sensors, carbon dioxide, thermostats, humidity, light meters and other building controls sensors, provided the work conforms with applicable state and local permitting requirements;
  + ventilation systems;
  + bathroom improvements where work is contained within the existing bathroom; and
  + installation of radon collection and gas diversion systems provided the vent pipe does not affect character-defining features of the building’s exterior.

Please refer to Preservation Briefs 24: *Heating, Ventilating, and Cooling Historic Buildings: Problems & Recommended Approaches*, and other technical briefs, as appropriate, for guidance.

* + - * **Exterior painting.**  Repainting of exterior surfaces if destructive surface preparation treatments, including, but not limited to waterblasting, sandblasting, destructive sanding and chemical cleaning are not used. Please refer to Preservation Briefs 10: *Exterior Paint Problems on Historic Woodwork,* and other technical briefs, as appropriate, for guidance.
      * **Exterior Repairs.** Repair, repaint, 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 and does not involve ground disturbance. Porch floors or decks may be replaced. Minimal replication of materials may be done in-kind. Installation of new exterior lighting fixtures to improve safety in poorly lit spaces is allowed. The removal of distinctive materials or alterations of features, spaces, and spatial relationships that characterize a property will be avoided. Please refer to Preservation Briefs 47: *Maintaining the Exterior of Small & Medium Size Historic Buildings,* and other technical briefs, as appropriate, for guidance.
      * **Windows.** Caulking; weatherstripping; reglazing and repainting of windows; installation of new window jambs or jamb liners; 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.

**Replacement windows is not an exempt activity.** If replacement windows are being proposed, the Consultant must provide a statement as to the condition of existing windows, why the existing windows cannot be retained, and/or cost considerations of retaining existing windows vs. installing replacements, and rationale for the design and selection of new windows, along with how these will meet the Secretary of the Interior’s *Standards for Rehabilitation*.

* + - * **Roof Repair.** Roof repair of historic roofing with material that closely matches the existing design and form. When repairing existing roofing, the use of corrugated fiberglass roofing is not an exempt activity.

**Replacement of non-historic roofing with a different material is not an exempt activity.**

Replacement of non-historic roofing with an in-kind replacement is exempt. See Preservation Briefs 4: *Roofing for Historic Buildings,* and other technical briefs, as appropriate, for guidance.

* + - * **Gutters.**  Repair, replacement or installation of gutters and above ground downspouts.
      * **Insulation.** Insulation in ceilings, attic, and basement spaces provided it is installed with appropriate vapor barriers, such as the following:
    1. 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.
    2. 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.
    3. 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.
    4. Loose-fill cellulose can be installed on attic floors.
    5. Removal of vermiculite from attics, wall cavities, and other internal spaces, provided such work does not affect character-defining features of the building.
       - **Interior Surfaces (floors, walls, ceilings).**  Repainting, refinishing, repapering, replacing sheetrock with sheetrock, replacing failing asbestos-containing plaster with traditional plaster system or veneer plaster on gypsum board, laying carpet or sheet flooring, or replacement of suspended ceiling tile.
       - **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.
       - **Site Improvements.** Repair of existing roads, driveways, sidewalks, parking lots and curbs, if repairs are done with like material, and there are no changes in dimension or configuration of these features. Repair of fencing when work is done in-kind to closely match existing material and form.
       - **Interior Floor Plan.** Removal or alteration of non-historic interior walls.
       - Interior Repairs for individually designated or eligible properties, and for projects that are not affordable housing: Installation of interior lighting fixtures to improve safety in poorly lit spaces, installation of locks on doors and windows to reduce the risk of entry by intruders. Use of carpet, sheet flooring, laminates and planking on floors or stair treads as appropriate. Installation of chimney liners provided the work does not affect character-defining features of the chimney.
       - **Underground Utilities.** Emergency repair of water, gas, electric, storm and waste water systems if it occurs within the original trench or footprint.
       - **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. Please refer to Preservation Briefs 37: *Appropriate Methods of Reducing Lead-Paint Hazards in Historic Housing,* and other technical briefs, as appropriate, for guidance.
       - **Asbestos Abatement.** Necessary removal of asbestos found in MEP and ventilation pipe joints provided it does not involve the removal of contributing historic elements.

**Removal of Asbestos is not an exempt activity.**

* + - * **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 an exempt activity.
      * **Plantings.** Planting of grass, flowers, shrubs, or bushes in existing gardens or landscaped areas.
      * **Test Holes and Wells**. Structural test borings, well drilling and monitoring activities that do not require a temporary or permanent new access road to a site.

# APPENDIX B

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

**AGENCY:** Advisory Council on Historic Preservation.

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

**SUMMARY:** The Advisory Council on Historic Preservation (ACHP) adopted a ‘‘Policy Statement on Affordable Housing and Historic Preservation,’’ on November 9, 2006.

**DATES:** The final policy went into effect upon adoption on November 9, 2006.

**SUPPLEMENTARY INFORMATION:** The Advisory Council on Historic Preservation (ACHP) is an independent Federal agency, created by the National Historic Preservation Act, that promotes the preservation, enhancement, and productive use of our Nation’s historic resources, and advises the President and Congress on national historic preservation policy. Section 106 of the National Historic Preservation Act (Section 106), 16 U.S.C. 470f, requires Federal agencies to consider the effects of their undertakings on historic properties and provide the ACHP a reasonable opportunity to comment with regard to such undertakings. ACHP has issued the regulations that set forth the process through which Federal agencies comply with these duties. Those regulations are codified under 36 CFR part 800.

**I. Background:** In 1995, the ACHP adopted its first ‘‘Policy Statement on Affordable Housing and Historic Preservation’’ (1995 Policy) to serve as a guide for federal agencies and State Historic Preservation Offices (SHPOs) when making decisions about affordable housing projects during review of federal undertakings under Section 106 of the National Historic Preservation Act, as amended, 16 U.S.C. 470f (Section 106), and its implementing regulations, ‘‘Protection of Historic Properties’’ (36 CFR Part 800). The ACHP adopted the policy to guide federal agencies and SHPOs at a time when conflicts between the dual goals of providing affordable housing and preserving historic properties was making the achievement either more difficult. After a decade, the provision of affordable housing has developed into an even more pressing national concern, prompting a reconsideration of the principles in the policy statement. In 2005, the ACHP Chairman convened an Affordable Housing Task Force to review this policy statement in light of changes to the Section 106 regulations in 2001 and 2004 and other ACHP initiatives. Members of the Task Force included the U.S. Department of Agriculture, U.S. Department of the Interior, the National Conference of State Historic Preservation Officers (NCSHPO), the National Trust for Historic Preservation, citizen member, Emily Summers, and expert member, John G. Williams, III, Chair. The U.S. Department of Housing and Urban Development (HUD) participated as an ACHP observer. The Task Force developed the Policy Statement with input from the public. An online survey of state and local government officials and affordable housing providers about their awareness of and use of the 1995 Policy was conducted in August-September 2005. Links to the survey were distributed to approximately 12,000 individuals representing State and Tribal Historic Preservation Officers, local historic preservation commission members, Certified Local Government staff, HUD staff and grantees, state community development agency staffs, and affordable housing providers.

Following development of a draft, the ACHP posted the proposed revised draft policy statement in the **Federal Register** on July 17, 2006 (71 FR 40522), and comments from the public were accepted through August 16, 2006. Information about the July 17, 2006, **Federal Register** notice was distributed by members of the Task Force to their respective constituencies through electronic LISTSERVs including communities receiving HOME program and Community Development Block Grant funds from HUD, members of the National Trust for Historic Preservation’s Forum, and members of the NCSHPO. Additionally, the ACHP provided information about the comment period directly to Tribal Historic Preservation Officers, the National Alliance of Tribal Historic Preservation Officers, and over a dozen organizations with an interest in local community development activities and the provision of affordable housing, as well as on the ACHP Web site. Comments on the new policy statement generally supported the revision effort. Specific comments frequently requested detailed guidance on applying the *Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (Secretary’s Standards) to affordable housing projects. While the Task Force recognized that specific comments on the application of the Secretary’s Standards were outside the scope of its mandate, additional language highlighting the distinction between review for the Historic Rehabilitation Tax Credit and Section 106 compliance was included in the policy statement. Commenters further requested the development of case studies that would illustrate the successful integration of historic preservation and affordable housing on a variety of topics including accessibility, use of modern building materials, and lead paint abatement requirements. It is anticipated that such case studies will become an important component of materials developed by the ACHP and Task Force in implementing the revised policy statement. Responsiveness to local conditions emerged as a recurring theme in the Task Force’s deliberations. Members recognized that affordable housing can include housing for a specific constituency, such as Native American housing programs. Federal assistance for affordable housing can also be directed to specific geographic areas with distinctive physical characteristics. Just as affordable housing programs serve unique local needs, so should historical preservation reviews, since ‘‘one-size fits- all’’ approaches are unlikely to produce a successful balance for these projects. Given our national diversity, the majority of Task Force members embraced and encouraged creativity in local solutions while federal agency members emphasized the value of consistency and predictability. The importance of developing and utilizing tailored guidance also shaped the Task Force’s deliberations and its preparation of a set of recommendations for how the policy statement can be put into practice. Direction from both the ACHP and federal agencies was seen as critical to achieving the goals of the Task Force, but members recognized that private and non-profit partners with experience piecing together the resources required for planning and funding affordable housing projects could provide examples of success stories and best practices.

The policy statement, which represents the conclusion of the research and public outreach efforts of the Affordable Housing Task Force and the deliberation of its members, was adopted by the ACHP on November 9, 2006. The final text of the policy statement is provided in Section II of this notice.

**II. Text of the Policy**

The following is the text of the final policy statement:

**Advisory Council on Historic Preservation (ACHP) Policy Statement on Affordable Housing and Historic Preservation**

Historic buildings provide affordable housing to many American families. Affordable housing rehabilitation can contribute to the ongoing vitality of historic neighborhoods as well as of the businesses and institutions that serve them. Rehabilitation can be an important historic preservation strategy. Federal agencies that help America meet its need for safe, decent, and affordable housing, most notably the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Agriculture’s (USDA’s) Rural Development agency, often work with or near historic properties. The ACHP considers affordable housing for the purposes of this policy to be Federally-subsidized, single- and multi-family housing for individuals and families that make less than 80% of the area median income. It includes, but is not limited to, Federal assistance for new construction, rehabilitation, mortgage insurance, and loan guarantees.

National policy encompasses both preserving historic resources and providing affordable housing. The National Historic Preservation Act (NHPA) of 1966, as amended, directs the Federal government to foster conditions under which modern society and prehistoric and historic resources can exist in productive harmony and ‘‘fulfill the social, economic, and other requirements of present and future generations.’’ Similarly, affordable housing legislation like the Cranston-Gonzalez Act of 1990, which aims to ‘‘expand the supply of decent, safe, sanitary, and affordable housing,’’ anticipates historic preservation as a tool for meeting its goals. Actively seeking ways to reconcile historic preservation goals with the special economic and social needs associated with affordable housing is critical in addressing one of the nation’s most pressing challenges. Providing affordable housing is a growing national need that continues to challenge housing providers and preservationists.

In issuing this policy statement, the ACHP, consistent with Section 202 of the NHPA, offers a flexible approach for affordable housing projects involving historic properties. Section 106 of the National Historic Preservation Act Section 106 requires Federal agencies to take into account the effects of their actions on historic properties and afford the ACHP a reasonable opportunity to comment. This policy provides a framework for meeting these requirements for affordable housing. Federal tax incentives provide opportunities for historic preservation and affordable housing to work together, including the Low-Income Housing Tax Credit and the Historic Rehabilitation Tax Credit. Projects taking advantage of the Historic Rehabilitation Tax Credit must be reviewed by the National Park Service (NPS) for adherence to the *Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (Secretary’s Standards) in a separate and distinct process. Review of these projects is more comprehensive than Section 106 review and necessitates early coordination with NPS and the State Historic Preservation Officer (SHPO) since work must adhere to the Secretary’s Standards to obtain the tax credit. Nonetheless, coordination with Section 106 consultation and these reviews frequently occurs. In an effort to better focus Section 106 reviews for affordable housing, the ACHP encourages Federal and State agencies, SHPOs, Tribal Historic Preservation Officers (THPOs), local governments, housing providers, and other consulting parties to use the following principles in Section 106 consultation.

**Implementation Principles**

I. Rehabilitating historic properties to provide affordable housing is a sound historic preservation strategy.

II. Federal agencies and State and local government entities assuming HUD’s environmental review requirements are responsible for ensuring compliance with Section 106.

III. Review of effects in historic districts should focus on exterior features.

IV. Consultation should consider the overall preservation goals of the community.

V. Plans and specifications should adhere to the Secretary’s Standards when possible and practical.

VI. Section 106 consultation should emphasize consensus building.

VII. The ACHP encourages streamlining the Section 106 process to respond to local conditions.

VIII. The need for archeological investigations should be avoided.

**I. Rehabilitating Historic Properties to Provide Affordable is a Sound Historic Preservation Strategy.**

Continued investment in historic buildings through rehabilitation and repair for affordable housing purposes and stabilization of historic districts through the construction of infill housing should be recognized as contributing to the broad historic preservation goals of neighborhood revitalization and retention.

**II. Federal Agencies and State and Local Government Entities Assuming HUD’s Environmental Review Requirements Are Responsible for Ensuring Compliance With Section 106.**

Federal agencies, notably USDA Rural Development and HUD, provide important funding for affordable housing. These Federal agencies, and funding recipients assuming HUD’s environmental review requirements, must comply with Section 106. SHPOs, THPOs, and local historic preservation commissions provide expert opinions and advice during consultation. Consultation should be concluded and outcomes recorded prior to the expenditure of funds.

**III. Review of Effects in Historic Districts Should Focus on Exterior Features.**

Section 106 review of effects focuses on the characteristics that qualify a property for listing in the National Register of Historic Places. The significance of historic districts is typically associated with exterior features. Accordingly, unless a building is listed or considered eligible for listing in the National Register as an individual property or specific interior elements contribute to maintaining a district’s character, review under Section 106 should focus on proposed changes to the exterior. In all cases, identifying the features that qualify a property for inclusion in the National Register defines the scope of Section 106 review.

**IV. Consultation Should Consider the Overall Preservation Goals of the Community.**

When assessing, and negotiating the resolution of, the effects of affordable housing projects on historic properties, consultation should focus not simply on individual buildings but on the historic preservation goals of the broader neighborhood or community. If the affected historic property is a historic district, the agency official should assess effects on the historic district as a whole. Proposals to demolish historic properties for new replacement housing should be based on background documentation that addresses the broader context of the historic district and evaluates the economic and structural feasibility of rehabilitation that advances affordable housing.

**V. Plans and Specifications Should Adhere to the Secretary’s Standards When Possible and Practical.**

Secretary’s Standards outline a consistent national approach to the treatment of historic properties that can be applied flexibly in a way that relates to local character and needs. Plans and specifications for rehabilitation, new construction, and abatement of hazardous conditions in affordable housing projects associated with historic properties should adhere to the recommended approaches in the Secretary’s Standards when possible and practical. Projects taking advantage of the Historic Rehabilitation Tax Credit must be reviewed by the National Park Service for adherence to the Secretary’s Standards in a separate and distinct process that benefits from early coordination. The ACHP recognizes that there are instances when the Secretary’s Standards cannot be followed and that Section 106 allows for the negotiation of other outcomes.

**VI. Section 106 Consultation Should Emphasize Consensus Building.**

Section 106 review strives to build consensus with affected communities in all phases of the process. Consultation with affected communities should be on a scale appropriate to that of the undertaking. Various stakeholders, including community members and neighborhood residents, should be included in the Section 106 review process as consulting parties so that the full range of issues can be addressed in developing a balance between historic preservation and affordable housing goals.

**VII. The ACHP Encourages Streamlining the Section 106 Process To Respond to Local Conditions.**

The ACHP encourages participants to seek innovative and practical ways to streamline the Section 106 process that respond to unique local conditions related to the delivery of affordable housing. Programmatic Agreements often delegate the Section 106 review role of SHPO to local governments, particularly where local preservation ordinances exist and/or where qualified preservation professionals are employed to improve the efficiency of historic preservation reviews. Such agreements may also target the Section 106 review process to local circumstances that warrant the creation of exempt categories for routine activities, the adoption of ‘‘treatment and design protocols’’ for rehabilitation and new infill construction, and the development of design guidelines tailored to a specific historic district and/or neighborhood.

**VIII. The Need for Archaeological Investigations Should Be Avoided.**

Archaeological investigations should be avoided for affordable housing projects limited to rehabilitation and requiring minimal ground disturbance.

**Authority:** 16 U.S.C. 470j Dated: February 12, 2007.

**Ralston Cox,** *Acting Executive Director.*

[FR Doc. 07–703 Filed 2–14–07; 8:45 am]

# 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.

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 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 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 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.

# 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.
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.

**APPENDIX E**

**STANDARD MITIGATION MEASURES AGREEMENTS**

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

1. **Photographic Documentation**. The Recipientshall ensure that the historic property is recorded prior to its demolition, alteration or relocation in accordance with Historic American Buildings Survey (HABS) standards or the Photographic Documentation Standards for Historic Structures adopted by the SHPO. The qualified professional shall identify an appropriate archive for the deposit and the Recipientshall be responsible for submitting such materials. The SHPO may waive the recordation requirement as it deems appropriate.
2. **Marketing and Sale**. The Granteeshall ensure that the marketing plan proposed by the Grantee, in consultation with the SHPO, is implemented for a mutually agreed upon period prior to the demolition or relocation of historic properties. The applicant shall review all purchase offers with the qualified professional, who may consult with the SHPO. If a successful purchaser is selected, the applicant may include preservation covenants in the transfer deed, upon recommendation of the qualified professional and concurrence by the SHPO. If no successful purchaser is identified, the applicant may either convey the property without covenants or proceed with the demolition or relocation after the historic properties have been recorded pursuant t to HABS standards or SHPO guidelines.
3. **Relocation**. In relocating the building, every effort shall be made to reestablish the historic orientation, immediate setting, and general environment in the new location, in accordance with 36 CFR 60. The qualified professional shall evaluate the continued eligibility of the moved building for the National Register of Historic Places, and provide a written evaluation to the SHPO. The SHPO may request that the qualified professional prepare a National Register nomination form for the property, or amend an existing nomination form.
4. **Future Work on Buildings**. Future work on the exterior and/or interior of the building shall meet the Secretary of the Interior’s Standards for Rehabilitation.
5. **Public Education.** The Recipient and a qualified professional shall consult with the SHPO to develop a public education program or project that enhances public understanding and appreciation of resources similar in location or type to the resources adversely affected by the project. The Recipient shall ensure that the program or project is carried out and shall report the results to the SHPO and the Agency.
6. **Popular Publications.** The Recipient and a qualified professional, through the use of consultants as appropriate, shall produce and distribute a popular version of a technical report and/or, a booklet, pamphlet, or brochure that illustrates the work on a property, its history, or its historic context.
7. **Interpretive Signage.** The Recipient and a qualified professional, through the use of research, design and fabrication consultants as appropriate, shall produce one or more signs to describe the work on a property, its history, or its historic context. They shall consult with local interested entities to plan the sign(s) and to address maintenance and long-term care of permanent sign(s).
8. **Exhibits.** The Recipient and a qualified professional, in conjunction with appropriate consultants, shall develop and install a professional quality exhibit that describes the work on a property, its history, or its historic context. Local installations or exhibits that travel to local schools are encouraged.
9. **Lectures/Tours.** The Recipient shall ensure that a qualified professional organize public lectures and tours of ongoing projects and excavations. Involvement of local school groups is encouraged.
10. **Development of Historic Contexts.** The Recipient shall ensure that a qualified professional research and prepare a written historic context statement for the class of resources affected by the project. The format of the context statement shall be determined in conjunction with the SHPO.
11. **Data Recovery of Archaeological Information.** The Recipient and the qualified professional shall develop an Archaeological Data Recovery Plan that meets the Council’s *Treatment of Archaeological Properties and Recommended Approach for Consultation on Recovery of Significant Information From Archaeological Sites (1999)*, and the *Guidelines for Conducting Archaeological Studies in Vermont.* Data Recovery projects shall include a significant public education and interpretation component whenever appropriate. Materials recovered shall be curated and stored in accordance with 36 CFR 79 and VDHP curation standards.

**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 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 view shed 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

* **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**

**APPENDIX G**

**CEDO Project Review Form**

Community Development Block Grant (CDBG), HOME Investment Partnerships Program (HOME), and Healthy Homes and Lead Hazard Control (LEAD) funding comes from the federal Department of Housing and Urban Development (HUD). Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires that federal agencies such as HUD consider the effect of their projects on any historic property, including historic buildings, districts, and archaeological sites. The Burlington Community & Economic Development Office (CEDO) is delegated the authority for compliance with Section 106 on behalf of HUD. To start the review process, please complete this form and submit it, with the information requested below, to the Vermont Division for Historic Preservation (VDHP) at: [ACCD.projectreview@vermont.gov](mailto:ACCD.projectreview@vermont.gov).

For questions on architectural resources, please contact Elizabeth Peebles at [elizabeth.peebles@vermont.gov](mailto:elizabeth.peebles@vermont.gov) or (802) 828-3049.

For questions related to archaeology and below-ground resources, please contact Yvonne Benney Basque at [yvonne.basque@vermont.gov](mailto:yvonne.basque@vermont.gov) or (802) 828-1381.

1. Contact information:
   1. CEDO Staff contact:
   2. Email address:
   3. Phone number:
2. Program (check all that apply):

Community Development Block Grant

HOME Investment Partnerships Program

Healthy Homes and Lead Hazard Control

1. Building / Site information:
   1. Building name/ property owner:
   2. Physical address:
   3. GIS Coordinates (when available):
   4. Date(s) of original construction and any major alterations of buildings involved:

N/A Dates:

1. Please provide a summary description of the project:

1. Project information:
   1. Project involves ground disturbance: Yes  No  N/A
   2. Building is more than fifty (50) years old: Yes  No  Unknown  N/A
   3. Building is listed in the National Register of Historic Places: Yes  No  Unknown
   4. Property is located in a Historic District: Yes  No  Unknown
   5. Property is in a Designated Downtown or Village Center: Yes  No  Unknown
   6. This project is a scattered sites / revolving loan fund: Yes  No  Unknown
   7. This project qualifies as Affordable Housing under ACHP Policy Statement

on Affordable Housing & Historic Preservation: Yes  No  Unknown

* 1. Project requires Act 250 or Section 248 review: Yes  No  Unknown

If you answered “Yes” to 5(a), (b), (c), or (d):

* 1. Does the Project consist solely of exempt activities listed in Appendix A: Yes  No
  2. If you answered yes to 5(g) please briefly describe if the project scope of work would be limited to exemptions in the ACHP Policy Statement on Affordable Housing & Historic Preservation:

1. If you answered “Yes” to any or all of 5(a), (b), (c), or (d) and/or “NO” to 5(g) please submit:
   1. CEDO staff consultation memorandum/ Consultant report
   2. Project Description/Scope of Work
   3. Project location map (can be annotated google map or similar)
   4. Site map (shows any proposed ground disturbance)
   5. Project plans/ Construction drawings (when available)
   6. Photographs of the building front façade, side view, and project area details

(when applicable)

* 1. Determination of Eligibility Form and Historic Sites and Structures Survey Form

(when applicable)

Recommended Eligible  Recommended Not Eligible

* 1. Archaeological Resource Assessment (when applicable)
  2. Phase 1 Report (when applicable)

***Please email this form and supporting materials to*** [ACCD.ProjectReview@vermont.gov](mailto:ACCD.ProjectReview@vermont.gov)

If you answered “No” to questions 5(a), (b), (c), and (d), your property and activities are exempt from Section 106 Review. VDHP will review this intake form and the supporting documents to confirm that no further action is required on your part as indicated below.

If you answered “Yes” to any of the questions in 5(a), (b), (c), and (d), you may need to hire a qualified historic preservation consultant and/or a qualified archaeological consultant or assign an approved CEDO employee to satisfy HUD/CEDO’s Section 106 responsibilities. Please find the requirements from VDHP below.

**TO BE COMPLETED BY VDHP: ­­­­**

Historic Properties Affected Date:

Potential for Archaeological Historic Properties to be affected – a Qualified Archaeological Consultant\* will be required (\**please see* CEDO pre-approved list of consultants; CEDO staff is not approved to conduct for archaeological reviews)

Archaeological Resource Assessment (ARA) required

Phase 1 archaeological investigation required

Comments:

Potential for Historic Architectural Properties to be affected – A Qualified Architectural Historian\* or approved CEDO employee will be required (\**please see* CEDO pre-approved list of consultants)

Determination of Eligibility required

Comments:

Concur with ARA Recommendations Date:

Comments:

Concur with Phase 1 Recommendations Date:

Comments:

Concur with Phase 2 Recommendations Date:

Comments:

Treatment Plan Completed Date:

Comments:

General Comments: Date:

***§106 Project Concurrence***

EXEMPT PROPERTIES OR ACTIVITIES Date:

Concurrence with Exempt Properties or Activities - NO further review required

Exempt Properties: (all boxes below must be checked to be an exempt property)

building is less than 50-years old

building is not listed in NRHP or within a historic district

project does not involve ground disturbance

Exempt Activities:

Comments:

NO HISTORIC PROPERTIES AFFECTED Date:

No Historic Resource Present in Area of Potential Effect

Work will have No Effect on Historic Resource

Comments:

NO ADVERSE EFFECT Date:

Comments:

ADVERSE EFFECT Date:

Project MOA or other agreement documents executed Date:

Comments:

**X:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

For: **Vermont Division for Historic Preservation**

Revised – 11/6/2017