

**SECOND AMENDMENT TO
THE PROGRAMMATIC AGREEMENT AMONG
THE IOWA ECONOMIC DEVELOPMENT AUTHORITY,
THE IOWA STATE HISTORIC PRESERVATION OFFICER, AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING RESPONSIBILITIES DELEGATED UNDER 24 CFR § 58**

WHEREAS, the Programmatic Agreement (“the Agreement”) was executed on August 23, 2016; and

WHEREAS, the Programmatic Agreement was amended on August 20, 2021; and

WHEREAS, all parties have agreed to replace the Agreement as Amended in its entirety to: update language in Stipulation VII to reflect updated Office of the State Archaeologist guidance; process changes to ground disturbing activities; include procedures to address IEDA Historic Preservation Specialist vacancies; and extend the Agreement’s duration; and

NOW THEREFORE, in accordance with Stipulation X of the Agreement, the Iowa Economic Development Authority, the Iowa Historic Preservation Officer, and the Advisory Council on Historic Preservation agree to amend the PA as follows:

I. Amend the Agreement in its entirety so it reads as follows:

WHEREAS, the U.S. Department of Housing and Urban Development (hereinafter, HUD) allocates funds to the Iowa Economic Development Authority (hereinafter, IEDA) through various programs including the annual Community Development Block Grant Program (hereinafter, CDBG), authorized by Title I of the Housing and Community Development Act of 1974, in accordance with Section 104(g) (42 U.S.C. 5304(g)) and the allocation of CDBG Disaster funds, should such funding be made available to the State of Iowa; and,

WHEREAS, Section 106 of the National Historic Preservation Act of 1966, as amended (U.S.C. § 300101 *et seq.*, hereinafter, NHPA), requires federal agencies to take into account the effect of their undertakings on historic properties and to afford the Advisory Council on Historic Preservation (hereinafter, ACHP) a reasonable opportunity to comment on such undertakings; and,

WHEREAS, pursuant to 24 CFR § 58.2(7), the Responsible Entity (hereafter, RE) is defined as the recipient or grantee of CDBG funds provided by HUD for the implementation of an eligible program activity; and,

WHEREAS, pursuant to 24 CFR § 58.5, the RE must assume responsibilities for environmental review, decision-making, and action that would apply to HUD under Section 106 of the NHPA and its implementing regulations at 36 CFR § 800; and,

WHEREAS, the IEDA has consulted with the Iowa State Historic Preservation Officer (hereinafter, SHPO) and the ACHP and has determined that certain CDBG actions have the potential to cause effects to historic properties while others do not; and,

WHEREAS, given the breadth and number of Iowa's non-entitlement community funding recipients and the need for timely and efficient delivery of governmental assistance, the IEDA, SHPO, and ACHP have agreed that the Section 106 process for undertakings where the RE must assume HUD environmental review responsibilities pursuant to 24 CFR § 58.4, and where IEDA administers the CDBG program, may be addressed programmatically in order to effectively and expeditiously meet regulatory obligations as an alternative to standard Section 106 procedures, as allowed by 36 CFR § 800.14; and,

WHEREAS, the RE, in the interest of streamlining, can enter into lead federal agency agreements pursuant to 36 CFR § 800.2(a)(2) and 24 CFR § 58.7 when any other federal agency shares a role in an undertaking and such agreements are applicable and mutually advantageous and of net benefit to the ultimate recipient of federal aid; and,

WHEREAS, the RE will use the process established by the National Environmental Policy Act (hereafter, NEPA) when practicable and feasible to address the requirements of both the Section 106 and NEPA process; and,

WHEREAS, the IEDA has contacted federally recognized tribes that may attach religious and cultural significance to historic properties that may be affected by HUD-funded undertakings, as identified in Appendix A of this Agreement, notifying them of the collective desire and intent of the signatories of this Agreement to address Section 106 compliance programmatically, to notify them of the types of undertakings pursued under 24 CFR § 58 programs and to solicit their views on which types of undertakings may have the potential to affect properties of interest to them and how they wish to be consulted upon undertakings that may potentially affect properties in which they have an expressed interest, and finally to review and comment upon the programmatic agreement in the capacity of an invited consulting party; and,

WHEREAS, it is the intent of this document to streamline Section 106 consultation with the SHPO, and not modify the RE's responsibilities to consult with other interested parties including federally recognized tribes on the type of project that they may have interest in; and,

WHEREAS, the IEDA, in consultation with the SHPO and ACHP, has identified other potential consulting parties, as identified in Appendix A of this Agreement, including but not limited to the Iowa Office of the State Archaeologist, Preservation Iowa and the Chicago Field Office of the National Trust for Historic Preservation, and has afforded them and the public a reasonable opportunity to comment by disseminating information about this Agreement; and,

WHEREAS, the IEDA will continue to consult with Native American tribes and other consulting parties on individual undertakings and involve the public by utilizing HUD procedures for soliciting public involvement found at 24 CFR §§ 58.43; 58.45-46; 58.59 and other applicable sections of the part, as appropriate; and,

WHEREAS, all references to time periods in this Agreement are in calendar days;

NOW THEREFORE, the IEDA, the SHPO, and the ACHP as signatories to this Programmatic Agreement Among the Iowa Economic Development Authority, the Iowa State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding Responsibilities Delegated under 24 CFR § 58 (Hereinafter "Programmatic Agreement" or "Agreement") agree that, upon execution of this Programmatic Agreement, undertakings where the RE has assumed HUD environmental responsibilities pursuant to 24

CFR § 58 shall be implemented in accordance with the following stipulations and conditions in a timely manner and with the adequate resources in order to take into account the effects of these undertakings on historic properties.

STIPULATIONS

To the extent of its legal authority, and in coordination with SHPO, the REs, and taking into account the comments of consulting parties, IEDA will require that the following stipulations be implemented:

I. IEDA RESPONSIBILITIES

- A. The IEDA shall designate, and/or contract, SOI-qualified staff in History, Archaeology, Architectural History, Architecture, or Historic Architecture, as applicable to the project, to carry out the terms of this Programmatic Agreement, including an IEDA Historic Preservation Specialist (hereafter, IEDA HPS), who is determined to meet, in consultation with the SHPO, the Secretary of the Interior's (SOI) Professional Qualification Standards in one or more of the aforementioned fields (<https://www.nps.gov/articles/sec-standards-prof-quals.htm>). IEDA shall ensure that all guidance provided to the REs from the IEDA HPS shall meet the SOI's Standards and Guidelines for identification, evaluation and effects assessments and will be consistent with 24 CFR Part 58. IEDA will notify SHPO concerning any changes affecting SOI-qualified staff and/or contractors at IEDA in fulfillment of the terms of this Agreement.
- B. In the absence of SOI-qualified designated or contracted staff in Archaeology to review ground disturbing activities and archaeological surveys/reports, IEDA will ensure that undertakings requiring ground disturbance activities not excluded in Appendix B of this Agreement are reviewed for potential effects to historic properties by SHPO, which will provide recommendations to the IEDA HPS within 30 days after the IEDA HPS requests review by SHPO. Contracted staff working for IEDA shall make recommendations to the IEDA HPS, and the IEDA HPS will maintain agency responsibilities under Section 106 of the NHPA and implementing regulations 36 CFR § 800.
- C. The IEDA HPS will consult with each RE to carry out the identification of historic properties and assessment of effects in accordance with 36 CFR Sections 800.3 through 800.5. The IEDA HPS will coordinate consultation with the RE and the SHPO in the event that an undertaking will have an adverse effect.
- D. The IEDA HPS shall ensure that all Section 106 documentation compiled by the RE is complete and accurate, meets or exceeds the standards outlined in 36 CFR § 800.11, and is consistent with the ACHP's *Meeting the "Reasonable and Good Faith" Identification Standard in Section 106 Review* (issued November 2011). The IEDA HPS may request additional information from the RE to ensure a complete submittal.
- E. The IEDA HPS shall review the Section 106 documents provided by the RE and issue comments on the project. The IEDA HPS will either concur with the finding presented by the RE on the "Request for IEDA HPS Review" form or will provide comments back to the RE with reasons why they were unable to concur with the proposed finding. An undertaking may not commence until the IEDA HPS and the RE concur with a finding consistent with the NHPA.
- F. The IEDA HPS, at their discretion, may consult with the SHPO on any eligibility evaluation or effects assessment prior to providing comments to the RE.

- G. The IEDA HPS shall provide copies of any identification and evaluation documents prepared by the RE, such as Iowa Site Inventory Forms (ISIFs) or Archaeological Investigation Reports, to the SHPO for inclusion in the statewide inventory at a minimum of once a year, along with a summary of projects processed under this programmatic Agreement per Federal reporting year which ends each September 30th providing reporting content to the SHPO no later than October 15th annually in accordance with Stipulation XII. A. of this Agreement.
- H. The IEDA HPS shall provide technical assistance to the RE when requested regarding all other historic preservation activities including but not limited to: Tribal Consultation, public notifications, lead agency Agreements and consultation with the National Park Service (hereinafter, NPS) regarding effects to National Historic Landmarks.
- I. IEDA will host regular training opportunities for REs at a minimum of once a year to ensure compliance with this Programmatic Agreement and a working knowledge of the requirements of Section 106 particularly as they pertain to the identification and evaluation of historic properties and affects assessment. IEDA will invite SHPO to participate in annual RE training. These training session(s) may be offered through webinars, onsite workshops, in coordination with statewide conferences or one-on-one as coordinated with REs.
- J. In the event that the IEDA HPS is unable to comply with the above stipulations due to the lack of appropriate SOI qualified staff, an extended absence, or time in between filling this position exceeding 3 months, IEDA shall instruct the REs to consult directly with the SHPO in accordance with standard Section 106 consultation under 36 CFR § 800.3 (c)(3).

II. RE RESPONSIBILITIES

- A. The RE shall ensure that all historic property investigations, evaluations, and data recovery efforts conducted pursuant to this Agreement shall be performed in accordance with the SOI's Standards and Guidelines for Identification and Evaluation and shall be performed in a manner that is consistent with the SOI's Standards and Guidelines for Archaeology and Historic Preservation (36 CFR §§ 60, 63 and 65) and the guidance provided in the state-level *Guidelines for Archaeological Investigations in Iowa*, additional guidance documents as provided by SHPO, recommendations and guidelines regarding architectural and historic survey per the SHPO, and all other federal or state standards as appropriate as indicated in 36 CFR § 800.4(b)(1). The RE shall use the HUD issued HP Fact Sheet #6 *When to do Archaeological Field Investigations*, Appendix D, as a guide and shall ensure that any required investigation and final archaeological reports resulting from data recovery are responsive to contemporary professional standards and to the Department of the Interior's *Format Standards for Final Reports of Data Recovery Programs* (42 FR 5377-5379).
- B. The RE shall ensure that all documentation submitted to IEDA meets or exceeds the standards outlined at 36 CFR § 800.11 and is consistent with the ACHP's *Meeting the "Reasonable and Good Faith" Identification Standard in Section 106 Review* (issued November 2011).

- C. Pursuant to Section 304 of the NHPA (54 U.S.C. § 307103) and Chapters 263B.10, 14, and 22.7(20) of the Iowa Code, the RE shall withhold from disclosure to the public information relating to the location or character of historic resources and archaeological sites when it has been determined that disclosure of such information may create a substantial risk for harm, theft, or destruction to such resources or to the area or place where such resources are located.
- D. The RE shall ensure that artifacts and records resulting from archaeological investigation made pursuant to this Agreement shall be curated at a facility in the State of Iowa that meets or exceeds the SOI's Standards (36 CFR § 79).
- E. The RE shall ensure that consultation for undertakings affecting historic buildings includes discussion of the feasibility and practicality of the use of interim controls in lieu of full lead paint abatement as allowed at 24 CFR § 35.1330, provided that standards for abatement and clearance are determined by the RE to be achievable while taking into account any comments of the IEDA HPS and SHPO, if applicable.
- F. The RE shall consult directly with SHPO and the National Park Service Midwest Regional Office in Omaha on all undertakings that may affect a National Historic Landmark in accordance with 36 CFR § 800.10 (Special requirements for protecting National Historic Landmarks) and copy the IEDA HPS on such consultation.
- G. The RE shall provide a letter of notification to IEDA when they intend to determine to enter into a lead federal agency agreement. The notification shall identify the undertaking, any federal agencies other than HUD, and the RE's lead or subordinate role under the Agreement. IEDA must be included as a signatory of any such lead agency agreement, and all agreements should stipulate that the agency taking lead will identify all participating funding sources in their Section 106 consultation, if consultation is required.
- H. The RE shall ensure that all documentation regarding Section 106 consultation is submitted to the IEDA HPS in a comprehensive packet as described in Stipulation VI of this Agreement.
- I. The RE shall ensure that any change in scope of work identified after project approval and IEDA HPS consultation will be submitted to the IEDA HPS who will work with the RE to determine if continued consultation in accordance with Stipulation VI of this Agreement is required.

III. SHPO RESPONSIBILITIES

- A. The SHPO shall be available to discuss with the IEDA HPS within a ten (10) day time frame from a request for consultation.
- B. The SHPO will provide consultation on projects involving earthmoving activities not excluded in Appendix B and/or Phase I archaeological surveys in the absence of IEDA-designated staff or consultant SOI qualified in archaeology within a 30-day review period in accordance with 36 CFR § 800.3 (c)(4). SHPO will consult with IEDA concerning reviews of proposed IEDA staff or contractors necessary for fulfillment of this Agreement. SHPO will include IEDA-designated staff on all consultations sent to REs.

- C. The SHPO will provide guidance on scopes of work when necessary to avoid adverse effects and in preparation of agreement documents developed to avoid, minimize or resolve adverse effects to historic properties such as Memoranda of Agreement.
- D. If the IEDA HPS is unable to perform the duties stipulated above, per Stipulation I.A. of this Agreement, the SHPO will resume standard Section 106 Review and consultation in accordance with 36 CFR § 800.3 (c)(3) until such time as the IEDA HPS can resume the duties outlined above in Stipulation I. A–I. IEDA will inform REs of appropriate procedures necessary for documentation required by IEDA. SHPO will include IEDA-designated staff on all consultations sent to REs.

IV. ACHP RESPONSIBILITIES

- A. The ACHP shall participate in cases requiring dispute resolution as required in Stipulation IX and in instances when the Criteria for ACHP Involvement in Reviewing Individual Section 106 Cases are met (36 CFR § 800, Appendix A).

V. EXCLUDED UNDERTAKINGS

- A. The RE shall determine individual undertakings excluded from Section 106 review (no potential to affect historic properties) based on the following sets of criteria—those activities listed as exempt at 24 CFR § 58.34, or those categorically excluded not subject to review under 24 CFR § 58.35(b), or those excluded from Section 106 review under this Programmatic Agreement as further described in Appendix B of this Agreement except in extraordinary circumstances (see 24 CFR § 58.2(a)(3)) in which a normally excluded activity may have a significant impact.
- B. Undertakings cannot be segmented into activities that are excluded and activities that are not excluded. If the entire undertaking does not qualify for exclusion under the predefined criteria as described in Appendix B, then the entire undertaking must follow procedures for standard project review. Similarly, undertakings cannot be segmented according to funding streams or by any other agency action that is subject to Section 106 review (i.e., permit, license, assistance, etc.). If multiple agencies are funding different but integral elements of an undertaking and those elements cannot demonstrate independent utility, then each component must be considered part of a larger undertaking and the agencies should assign a lead agency to address their collective compliance responsibilities. Failure to assign a lead federal agency will result in redundant effort and potential inefficiencies leading to project delays. If other agencies involved in the undertaking refuse to assign a lead under the Programmatic Agreement, then those agencies will be required to consult separately on the ENTIRE undertaking. The alternative procedures established in the Programmatic Agreement only apply when the CDBG RE is assigned the lead agency role.
- C. For an undertaking determined by the RE to be excluded from Review, the RE shall document this determination by completing the *Excluded from Review, Project Determination* form (Appendix B). The RE shall include the form and supporting documentation with the project file and notify IEDA by mailing a copy to their office or uploading it to their on-line grant documents, in accordance with the annual CDBG Management Guide. The IEDA HPS shall review all *Excluded from Review, Project Determination* forms to ensure compliance with this Agreement. The IEDA HPS may seek additional information from the RE or may recommend the review be

elevated to standard project review. Once the IEDA HPS has signed off on the determination that an undertaking is excluded from review, this concludes the RE's responsibilities for complying with Section 106 and this Programmatic Agreement for undertakings determined exempt from review.

- D. If for any reason the RE cannot determine to exclude all activities of an undertaking from review, the RE shall submit the entire undertaking to IEDA for review as described in Stipulations II and VI. The resulting request for comment should nevertheless focus on the portions of the project with the potential to affect historic properties.

VI. STANDARD PROJECT REVIEW

A. Public and Consulting Party Involvement

The RE shall invite parties to consult on specific undertakings subject to review and not excluded by Stipulation V. Consulting parties include the RE; IEDA; SHPO; federally recognized Native American Indian Tribes with an interest in the area of the undertaking; Historic Preservation Commissions of a local government; individuals and organizations who, due to the nature of their legal or economic relation to the undertaking, or their concern with the undertaking's effects on historic properties, demonstrate a legitimate interest; and the public, Appendix A (36 CFR § 800.2).

B. Identification and Evaluation of Historic Properties

1. Identify Historic Properties

- a. For each undertaking the RE shall determine and document an Area of Potential Effects (hereafter, APE) consistent with 36 CFR § 800.16(d). APE means “the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by an undertaking”.
- b. The RE shall examine sources of information on historic properties existing within the APE as a basic level of investigation. Sources of existing information **include but are not limited** to: the National Register of Historic Places (hereinafter, NRHP) maintained by the Keeper of the National Register at the National Park Service on behalf of the SOI; the State inventory of historic properties and results of previous evaluations in Iowa -the *Iowa Site Inventory* maintained by the SHPO; local historical societies; local historic preservation commissions; and *I-Sites Public* (available to the public) or *I-Sites Pro* (available through professional consultants and agencies) for Iowa archaeological site; and survey databases maintained by the Office of the State Archaeologist (hereinafter, OSA); as well as maps, recorded soil-sediment data, landform data, and property records where available for the APE.
- c. The RE shall seek input from consulting parties described in Stipulation VI.A.1 for information on land-use history of the APE and historic properties within the APE that may be affected.

- d. Based on the nature and scope of the undertaking and analysis of the potential for the APE to contain historic properties, the RE will determine if they are persuaded by authoritative sources of information that there is a “likely” (36 CFR § 800.4(b)(1)) presence of National Register-eligible or listed properties within the APE or a portion of it that the project may affect National Register resources. When warranted, the RE may undertake field survey work to further its efforts to identify and evaluate historic properties within the APE to meet reasonable and good faith identification standards (36 CFR § 800.4(b)).

2. Evaluate Historic Significance

The RE shall determine the historic significance of resources within the APE through the application of the NRHP criteria at 36 CFR § 60 in accordance with 36 CFR § 800.4(c).

3. Results of Identification and Evaluation

The RE shall submit documentation of the historic property identification efforts to IEDA for review and approval. Submittals should include a cover letter containing a detailed description of the undertaking, a *Request for Comment on a HUD Project* form (Form), a map of the location of the undertaking and all other applicable supporting documentation requested on the Form.

- C. Assessment of Effects and Resolution of Adverse Effects

1. If no historic properties are located within the APE or there are properties within the APE that will not be affected, the RE will submit to IEDA a finding of “no historic properties affected.” If the IEDA HPS concurs with the RE’s finding the RE may proceed with the undertaking.
2. If historic properties will be affected by the undertaking but the effects do not meet the criteria of adverse effect outlined at 36 CFR § 800.5(a)(1) or the RE chooses to modify the scope of work or the scale and nature of the undertaking to ensure consistency with the SOI’s Standards for the Treatment of Historic Properties, the RE shall submit to IEDA a finding of “no adverse effect.” If the IEDA HPS concurs with the RE’s finding the RE’s may proceed with the undertaking. If the IEDA HPS does not concur with the RE’s finding of “no adverse effect”, the IEDA HPS shall direct the RE to consult with the SHPO.
3. If the RE determines that the undertaking will result in “adverse effects” to one or more historic properties and the IEDA HPS concurs, the RE will consult with the SHPO and any other identified interested parties in accordance with 36 CFR § 800.6, including consulting on ways to avoid, minimize or mitigate adverse effects on historic properties. Resolution of Adverse Effects shall trigger a standard Section 106 process, including IEDA notification of the ACHP and the development and execution of a Memorandum of Agreement and will not be processed under the expedited procedure outlined in this Agreement.

VII. UNANTICIPATED DISCOVERIES

- A. Unanticipated discoveries, including but not limited to human remains, shall comply with applicable state notification standards, federal laws, 36 CFR § 800.13, and the ACHP’s Policy Statement Regarding Treatment of Burial Sites, Human Remains, or Funerary Objects (February 23, 2007). The RE shall ensure that a copy of the unanticipated discovery plan remains onsite for review. The

RE shall ensure that requirements of the unanticipated discovery are incorporated into all construction contracts and are in keeping with confidentiality restrictions.

B. *Treatment of Human Remains*

1. In Iowa, upon discovery of human remains during construction, including bone or other remains suspected to be human, work shall immediately cease in the area. If there is uncertainty as to whether remains are human, the RE shall contact the OSA Bioarcheology Program to make the determination (319-384-0732). The following steps are to be taken any time human remains are unearthed or other artifacts associated with mortuary features are found during the Undertaking construction in Iowa.
 - a. Appropriate steps shall be taken to secure the site. No additional ground disturbance shall occur within a 100-foot buffer zone around the remains. All elements exposed must be left in place. The RE shall notify officials with the IEDA, the OSA Bioarcheology Program (if not already notified), SHPO, and appropriate tribes within 24 hours via email, fax, or telephone. Law enforcement officials and the State Medical Examiner (SME) must also be notified in accordance with Section 523I.316 of the Iowa Code. The SME will coordinate with OSA to conduct osteological and archaeological documentation and establish the antiquity, ancestry, and cultural affiliation as possible of the human remains. If ancestry or culturally unidentifiable under NAGPRA (43 CFR Part 10.11) and therefore subject to reburial in consultation with the OSA Indian Advisory Council and the 26 tribes signing on to the SOI-approved *Process for Reburial of Culturally Unidentifiable Native American Human Remains and Associated Funerary Objects Originating from Iowa*.
 - b. If the human remains are determined or appear to be ancient (i.e., older than 150 years), the OSA Bioarcheology Program shall have jurisdiction to ensure that the appropriate procedures in accordance with Chapters 263B and 716.5 of Iowa Code are observed. The Iowa Department of Public Health has authority over human remains less than 150 years old per Iowa Code Chapters 113.34, 144.34, 523I.316, and 716.5.
 - c. If determined to be ancient and of Native American ancestry, representatives of the IEDA, OSA, SHPO and appropriate tribes and tribal nations will confer at the site, as is necessary, to examine the discovery, determine the likely Undertaking impacts if left in place, and determine the most appropriate avoidance, minimization, or mitigation measure(s) for dealing with the discovery.
 - d. If determined to be ancient and of European American ancestry, representatives of the IEDA, OSA, SHPO, and identifiable descendant community(ies) will confer and determine appropriate measures for avoidance, minimization, or mitigation.
 - e. If determined to be less than 150 years in age and of Native American ancestry but not of medico-legal significance, the SME will be requested to confer with the IEDA, OSA, SHPO and appropriate tribes concerning compliance with NAGPRA and other applicable state and federal laws.

2. At all times, human remains must be treated with the utmost dignity and respect, and in the manner consistent with the ACHP's Policy Statement on the Treatment of Human Remains, Burial Sites and Funerary Objects (February 23, 2007).

C. *Archaeological material (non-mortuary related)*. The RE shall observe the following procedures in the event that project activities encounter previously undetected non-mortuary- related archeological materials during project implementation or during project planning and testing, such as archaeological investigations.

1. All activities in the area of the resource shall cease immediately, appropriate steps shall be implemented to secure the site, and IEDA and the SHPO shall be notified of the discovery.
2. An SOI qualified archaeologist retained by the RE will inspect the work site and determine the extent of the affected archeological resource within 48 hours of its discovery. Construction work may then continue in the area outside the archeological resource as it is defined by the archaeologist in consultation with the SHPO.
3. Before work can resume in the area of any unanticipated discovery, the RE must determine the NRHP eligibility of the archeological resource in consultation with the SHPO.
4. Upon a determination of eligibility, the RE shall submit a plan for avoidance, protection, recovery of information, or destruction without data recovery to the SHPO for review and comment. The RE will notify all consulting parties of the unanticipated discovery and provide the proposed treatment plan for their consideration. The SHPO and consulting parties will have seven (7) days to provide comments on the proposed treatment plan upon receipt of the information. The RE may implement the proposed treatment plan if SHPO fails to respond within the allotted time frame under IEDA HPS guidance.
5. Work in the affected area shall resume upon either:
 - a. The development and implementation of an appropriate data recovery plan, other recommended mitigation procedures, and agreement among the RE and the SHPO that the site does not warrant mitigation of adverse effects to a historic property; or,
 - b. Agreement by SHPO and the RE that the newly located archeological materials are not eligible for inclusion on the NRHP.

D. *Post Review Discoveries upon Architectural Properties*. The REs shall ensure that the following procedures are observed in the event that post-review effects to buildings, objects, or districts are identified.

1. Work in the affected area shall cease and the RE shall notify IEDA, SHPO, and other consulting parties of the discovery.
2. Upon notification of a discovery, the RE, IEDA, SHPO and other consulting parties will consult to evaluate the discovery for National Register eligibility and/or the effects of the Undertaking on historic properties

3. The RE and IEDA will consult with SHPO and other consulting parties to develop a mutually agreeable action plan with reasonable timeframes to take into account the effects of the Undertaking, minimize effects, or resolve adverse effects if necessary.
4. Upon assessment of adverse effects, the RE shall submit a plan for treatment measures for post-review discoveries to IEDA, SHPO, and consulting parties for review and comment. SHPO and consulting parties will have fourteen (14) days to provide comments on the treatment measures upon its receipt. The RE may implement the proposed treatment measures if SHPO fails to respond within the allotted time frame under IEDA HPS guidance.
5. Work in the affected area shall resume upon:
 - a. Agreement by the RE, IEDA, the SHPO, and other consulting parties that the encountered properties are not eligible for listing in the NRHP; or,
 - b. Agreement by the RE, IEDA, the SHPO, and other consulting parties that the effects are not adverse; or,
 - c. The development and implementation of an appropriate mitigation plan, or agreement among the RE, IEDA, SHPO, and other consulting parties that the site does not warrant mitigation.

VIII. ANTICIPATORY ACTIONS

- A. The RE shall ensure that consultation pursuant to Stipulation VI or other applicable stipulations of this Agreement take place once a project becomes federalized and shall be concluded prior to the commencement of that federal activity or the release of HUD funds to the undertaking (i.e., signing a construction contract, purchasing real property, or other choice limiting activities). A federal identity is assumed once an RE submits an official application for HUD funds to IEDA.
- B. Except as provided herein, IEDA will not grant funding to any RE who, with intent to avoid the requirements of this Agreement, NHPA or NEPA, has intentionally significantly adversely affected a historic property to which the CDBG grant would relate, or having legal power to prevent it, allowed such significant adverse effect to occur. Under extraordinary circumstances, and after consulting with the ACHP, IEDA may determine that circumstances justify awarding such grant despite the adverse effects created or permitted by the RE and will ensure that the RE completes consultation for the project pursuant to Stipulation VI or other applicable stipulations of this Agreement as appropriate.

IX. DISPUTE RESOLUTION

- A. IEDA shall represent itself and the RE petitioning singly or as a group in all dispute resolution situations.
- B. Should any signatory to this Agreement or RE (represented by IEDA) object at any time to any actions proposed or the manner in which the terms of this Agreement are implemented, IEDA shall consult with the SHPO and any such party to resolve the objection.

C. If IEDA determines that such objection cannot be resolved, then the IEDA will:

1. Forward all documentation relevant to the dispute, including the IEDA's proposed resolution, to the ACHP. The ACHP shall provide the IEDA with its advice on the resolution of the objection within fifteen (15) days of receiving adequate documentation.
2. If the ACHP does not provide its advice regarding the dispute within the fifteen (15) day period, then the IEDA may make a final decision on the dispute and proceed accordingly.
3. Prior to reaching such a final decision, IEDA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories to the Agreement and provide them and the ACHP with a copy of such written response. IEDA's final decision on the dispute will be provided on a schedule compatible with all internal and external review, as may be determined necessary by IEDA.
4. The responsibilities of the PA signatories to carry out all other actions subject to the terms of this Agreement that are not the subject of the dispute remain unchanged.

X. AMENDMENT

A. IEDA shall represent itself and the RE petitioning singly or as a group in all requests for amendments to this Agreement.

B. Any of the signatories to this Programmatic Agreement, or the RE (represented by IEDA), may request with appropriate justification that IEDA should amend any or all of its articles subsequent to execution of this Programmatic Agreement, whereupon IEDA will notify the other signatories who will consult in accordance with 36 CFR § 800.13, to consider such amendment. Prior to reaching a final decision on the amendment, IEDA shall notify the ACHP of its intent to amend the Programmatic Agreement and invite the ACHP's review and comment. The amendment will be effective on the date the amendment signed by all of the signatories to this Programmatic Agreement is filed with the ACHP. IEDA shall provide copies of the amended Programmatic Agreement to the signatories.

C. Revisions to the appendices shall not require notification of and review by the ACHP. However, SHPO must agree to any such changes and IEDA shall provide the ACHP with file copies of finalized versions that reflect all revisions.

XI. TERMINATION AND DURATION

A. The IEDA shall represent itself and all REs when the latter petitions as a unanimous body to terminate this Agreement.

B. If any signatory to this Agreement or RE (represented by IEDA) determines that its terms will not or cannot be carried out, that party shall immediately notify all signatories. The IEDA will then consult with the other signatories to attempt to develop an amendment per Stipulation X or other form of resolution. If, within thirty (30) days after IEDA notifies all signatories, resolution through amendment or other means cannot be reached, any signatory may terminate the Agreement upon written notification to the other signatories.

- C. Once the Agreement is terminated or becomes null and void, or until a new Agreement is executed, work on undertakings subject to this Programmatic Agreement shall proceed to follow the standard Section 106 process (36 CFR § 800, Subpart B)
- D. This Agreement will become null and void five (5) years from the date of its execution by all signatories. IEDA will notify all parties in writing six (6) months prior to the expiration of this Agreement. Prior to Agreement expiration, the term of duration may be extended by filing an amendment with the ACHP in accordance with Stipulation X.

XII. MONITORING AND REPORTING

- A. By October 15 of each year, the IEDA shall submit an annual report to SHPO for review and comment on program activities that occurred through September 30 of the previous year, per the federal fiscal reporting period. The report will include a summary of all projects reviewed by the IEDA HPS; those projects with documentation collected under Stipulation I.F of this Agreement; all projects excluded from SHPO review, setting out which exclusion of this Agreement the projects qualified for; a summary of legal agreements executed during the reporting period; an update on agreed upon mitigation measures; and suggestions, if any, for additional actions that could be considered for inclusion as Specific Excluded Activities in Appendix B. Supporting documentation will be available to the SHPO upon written request. From time to time, the SHPO may review files for the entire range of activities subject to Section 106 review to verify that IEDA is properly implementing the terms of the Agreement

XIII. EXECUTION OF THE AGREEMENT

- A. This Agreement is considered executed after signatures by IEDA and SHPO have been provided to the ACHP and the ACHP signs the Agreement. Execution of this Agreement by the ACHP and the implementation of its terms evidences that the IEDA and the several recipient REs have taken into account program effects on historic properties and have afforded the SHPO and ACHP an opportunity to comment.

SECOND AMENDMENT TO THE PROGRAMMATIC AGREEMENT AMONG THE
IOWA ECONOMIC DEVELOPMENT AUTHORITY
THE IOWA STATE HISTORIC PRESERVATION OFFICER, AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING RESPONSIBILITIES DELEGATED UNDER 24 CFR § 58

SIGNATORY

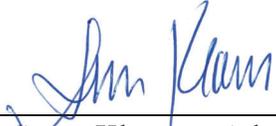
Iowa Economic Development Authority

By: 
Debi Durham (Aug 4, 2022 10:43 CDT) Date: 08/04/2022
Debi Durham, Executive Director

SECOND AMENDMENT TO THE PROGRAMMATIC AGREEMENT AMONG THE
IOWA ECONOMIC DEVELOPMENT AUTHORITY
THE IOWA STATE HISTORIC PRESERVATION OFFICER, AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING RESPONSIBILITIES DELEGATED UNDER 24 CFR § 58

SIGNATORY

State Historic Preservation Officer

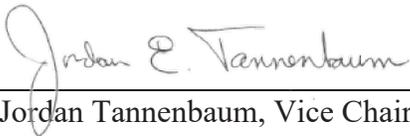
By:  Date: 08/04/2022

Susan Kloewer, Administrator, State Historical Society of Iowa

SECOND AMENDMENT TO THE PROGRAMMATIC AGREEMENT AMONG THE
IOWA ECONOMIC DEVELOPMENT AUTHORITY
THE IOWA STATE HISTORIC PRESERVATION OFFICER, AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING RESPONSIBILITIES DELEGATED UNDER 24 CFR § 58

SIGNATORY

Advisory Council on Historic Preservation

By:  Date: 8.17.2022
Jordan Tannenbaum, Vice Chair

SECOND AMENDMENT TO THE PROGRAMMATIC AGREEMENT AMONG THE
IOWA ECONOMIC DEVELOPMENT AUTHORITY
THE IOWA STATE HISTORIC PRESERVATION OFFICER, AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING RESPONSIBILITIES DELEGATED UNDER 24 CFR § 58

CONCURRING PARTY

Office of the State Archaeologist

By: _____ Date: _____
John Doershuk, State Archaeologist

SECOND AMENDMENT TO THE PROGRAMMATIC AGREEMENT AMONG THE
IOWA ECONOMIC DEVELOPMENT AUTHORITY
THE IOWA STATE HISTORIC PRESERVATION OFFICER, AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING RESPONSIBILITIES DELEGATED UNDER 24 CFR § 58

CONCURRING PARTY

National Trust for Historic Preservation

By: _____ Date: _____
Jennifer Sandy, Program Officer, Chicago Field Office

SECOND AMENDMENT TO THE PROGRAMMATIC AGREEMENT AMONG THE
IOWA ECONOMIC DEVELOPMENT AUTHORITY
THE IOWA STATE HISTORIC PRESERVATION OFFICER, AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING RESPONSIBILITIES DELEGATED UNDER 24 CFR § 58

CONCURRING PARTY

Preservation Iowa

By: _____ Date: _____
Executive Director

APPENDICES

- Appendix A. CONSULTING PARTIES
- Appendix B. PROGRAMMATICALLY EXCLUDED ACTIVITIES FOR SECTION 106 REVIEW UNDER THE PROGRAMMATIC AGREEMENT and EXCLUDED FROM REVIEW, PROJECT DETERMINATION FORM
- Appendix C. SECTION 106 REVIEW PROCESS FOR TYPICAL PROJECTS FLOWCHART
- Appendix D. HP FACT SHEET #6 *When to do Archaeological Field Investigation*
- Appendix E. AUTHORIZATION FOR ALTERNATE SIGNATORIES FOR SECTION 106 COMPLIANCE FORMS
- Appendix F. REQUEST FOR COMMENT ON A HUD PROJECT
- Appendix G. GLOSSARY

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¹ Source: HUD Tribal Directory Assessment Tool (TDAT). BE ADVISED: Some of the tribal contact information may be out-of-date. Please verify contact persons and mailing addresses prior to initiating consultation. TDAT, Tribal websites, state historic preservation officers, or HUD field environmental staff are all potential resources. <https://egis.hud.gov/tdat/>

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CONSULTING PARTIES: SIGNATORY, CONCURRING OR INVITED

(This is a list of parties included in the execution of this Agreement. Many of these parties may also be involved in consultation on individual undertakings, and additional parties may be identified specifically for an individual undertaking.)

Signatory Parties

Iowa Economic Development Agency, Community Development Division
Iowa State Historic Preservation Officer
Advisory Council on Historic Preservation

Concurring Parties

Office of the State Archaeologist
Preservation Iowa

Other Consulting Parties

Native American Tribes as indicated above
Iowa State Association of Counties
National Trust for Historic Preservation
Iowa League of Cities

American Planning Association, Iowa Chapter
Iowa Councils of Governments and Regional Planning Agencies
Iowa Association of Regional Councils

Private CDBG Grant Administration Service Providers:

Anderson Consulting, Inc
MSA
PlanScape Partners - Enerjyn
Pathfinders R C & D, Inc.
Simmering-Cory, Inc.

Certified Local Government Contact List, including only Non-Entitlement Communities:

https://iowaculture.gov/sites/default/files/history-preservation-clg-historicpreservationcommissions-2020_0.pdf

City and County Historic Preservation Commissions

Local organizations with an interest in the undertaking such as historical societies, museums, etc.

Plans for Public Involvement

The notice and invitation to comment on certain undertakings will include a PDF notice for the above groups to post, and IEDA will follow the state's HUD Citizen Participation Plan, including publishing a public notice, hosting a public hearing and making the agreement available on IEDA's website.

APPENDIX B

PROGRAMMATICALLY EXCLUDED ACTIVITIES

In addition to projects and activities that are either Exempt under HUD regulations (24 CFR Part 58.34) or Categorically Excluded NOT Subject to the laws listed at 24 CFR Part 58.5 (24 CFR Part 58.35(b)), the signatories agree that the following types of activities **do not** have the potential to cause adverse effects to historic properties, assuming such historic properties are present, and therefore, the RE has no further obligations under Section 106 once this has been appropriately documented on the *Excluded from Review, Project Determination* form, submitted via a Section 106 form in IowaGrants.gov, and approved by the IEDA HPS.

Note: Undertakings cannot be segmented into excluded activities and non-excluded activities. Either the entire project is excluded, or the entire project is not excluded.

Section 1. Administrative Costs and Non –Brick and Mortar Financial Assistance

The RE will document how the project meets these excluded activities on an *Excluded from SHPO Review Form* for submittal to the IEDA HPS.

- a. IEDA activities including equipment purchase, inventory financing, interest subsidy, operating expenses, and similar costs associated with construction or expansion of existing operations where physical improvements, if any, will be limited to those listed in Sections 2 and 3, below;
- b. Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction, including closing costs and down payments assistance, interest buydowns, interim mortgage assistance, and similar activities that result in the transfer of title where no change in use will occur and physical improvements, if any, will be limited to those listed in Sections 2 and 3, below;
- c. Building acquisition where physical improvements, if any, will be limited to those listed in Sections 2 and 3, below.

Section 2. Undertakings Involving Ground Disturbance

I. Non-Specific Excluded Activities

If the project will **NOT** involve buildings, districts, objects, structures, defined sites, or cultural landscapes that are 50 years or age or older and not listed in or previously determined eligible for the NRHP in the Area of Potential Effects and will not become 50 years of age by the completion of the Undertaking; there are no recorded archaeological sites within ¼ mile of the APE; **AND** either of the following conditions is met, it shall not be necessary for the SHPO to review the project, regardless of activity. The RE will document how the project meets the Qualifying Criteria on an *Excluded from SHPO Review Form* for submittal to the IEDA HPS.

Qualifying Criteria:

- a. Previously Surveyed - The Area of Potential Effects (APE) was intensively surveyed after 1999 to depths consistent with the RE's proposed undertaking, conducted for the purposes of a previous Section 106 review and determined by the federal agency not to contain archaeological sites that are NRHP-listed, eligible, or unevaluated, and this finding was accepted by the Iowa SHPO. This requires consultation with the Office of the State Archaeologist or *I-Sites Pro* online databases to determine as this information is not available in *I-Sites Public*. The IEDA HPS or, if not SOI Qualified in archaeology, contracted, or employed qualified archaeologist, will coordinate such consultation.

- b. Profoundly Disturbed - The APE has been profoundly disturbed. *Profound disturbance* as it relates to the APE occurs when a past activity or activities has/have physically altered the *three-dimensional* APE of an undertaking *in its entirety* to the point where there is no potential for an archaeologically significant property (including prehistoric, post Euro-American contact sites, historical archaeological sites in both rural and urban areas) to remain. “Profound Disturbance”, as defined here, shall be the definition used to determine “Previous ground disturbance” outlined in HP Fact Sheet #6 “Guidance on Archeological Investigations in HUD Projects”.

II. Specific Excluded Activities

When the following ground disturbing activities are proposed for any project locations not meeting the Qualifying Criteria, they will be considered excluded from further review by the SHPO or ACHP because the activities have limited potential to adversely affect historic properties (some exceptions noted in *italics* below). The RE will document how the project meets these specific excluded activities on an *Excluded from SHPO Review Form* for submittal to the IEDA HPS.

- a. Photoscopic pictures of water and/or sewer pipe.
- b. Re-lining of water and/or sewer pipe less than 50 years of age, and all work can be completed before the pipes become 50 years of age (i.e., polyvinyl, fiber cement, and other composite or plastic pipe; clay pipe less than 24 inches in diameter, post-WPA pre-cast concrete pipe and boxes).
- c. Point repairs of water and/or sewer pipe where the water and/or sewer pipe are less than 50 years of age, and all work can be completed before the pipes become 50 years of age.
- d. Hydrant replacements.
- e. Manhole cover replacements.
- f. New/replacement service lines and related appurtenances involving boring or slit trenches up to one (1) foot in width and up to 100 feet in length, if no known NRHP listed, eligible, or unevaluated properties, including sites and historic districts, are within the APE and no archaeological sites are within ¼ mile of the APE.
- g. Equipment replacement, purchase, removal, and/or installation that does not result in ground disturbance outside existing disturbed areas and depths.
- h. Disturbances confined to the current footprint of an existing facility compound, such as water and/or sewer treatment plants that are within the APE and, if the project involves ground disturbance, no recorded archaeological sites are within ¼ mile of the APE.
- i. Directional boring of utility lines without sending and receiving pits, if no known NRHP listed, eligible, or unevaluated properties, including sites and historic districts, are within the APE and if no recorded archaeological sites are within ¼ mile of the APE, and all activities are confined to roadways or depths exceeding potential for archaeological resources.
- j. Connecting pits relating to directional boring for utility lines no bigger than 10 feet by 10 feet, if no known NRHP listed, eligible, or unevaluated properties, including sites and historic districts, are within the APE, no recorded archaeological sites are within ¼ mile of the APE, and all activities are confined to roadways.
- k. In-place replacement of non-historic (less than 50 years old) water and/or sewer mains (i.e., polyvinyl, fiber cement and other generic composite or plastic pipe; clay pipe less than 24 inches in diameter, post-WPA pre-cast concrete pipe and boxes), if no known NRHP listed, eligible, or unevaluated properties, including sites and historic districts, are within the APE, no recorded archaeological sites are within ¼ mile of the APE, work can be completed before water and/or sewer mains become 50 years old, and all earthmoving activities are confined to existing utility trenches or demonstrably disturbed rights-of-way.
- l. In place replacement of wells, including well heads and casings, in existing well fields if no known NRHP listed, eligible, or unevaluated properties, including sites and historic districts, are within the APE and no recorded archaeological sites are within ¼ mile of the APE.

- m. Test boring/well sites to determine soil suitability, if no recorded archeological sites are within or immediately adjacent to the APE.
- n. Replacement of concrete or asphalt sidewalks if no known NRHP listed, eligible, or unevaluated properties, including sites and historic districts, are within the APE and the sidewalk(s) do not contribute to a potential historic district.
- o. Replacement of water towers on the same parcel when that parcel is less than one (1) acre in size, if water tower to be demolished is less than 50 years old and the new tower is not more than a 10% increase in capacity or an increase of more than 20 feet in height as compared to the existing water tower if no known NRHP listed, eligible, or unevaluated properties, including sites and historic districts, are within the APE, work can be completed before the water tower becomes 50 years of age, and no recorded archaeological sites are within ¼ mile of the APE. This exclusion can only apply if there is no new ground disturbance or the area is demonstrably “profoundly disturbed”.
- p. Utility upgrades without new ground disturbance if no known NRHP listed, eligible, or unevaluated properties, including sites and historic districts are within the APE.
- q. Parking lot rehabilitation of less than one (1) acre in size, without the installation of storm drains or other related below-ground appurtenances located on row-cropped agricultural land, provided that any ground disturbance activities will be confined to the plowzone, which generally extends 10 to 12 inches below the surface and if no known NRHP listed, eligible, or unevaluated properties, including sites and historic districts are within the APE and no recorded archaeological sites are within ¼ mile of the APE.
- r. Replacement of overhead conductor cable.
- s. Resurfacing and/or rehabilitation of existing concrete sidewalks and curbs and concrete or asphalt roads, drives, or entries where there will be no change in the existing horizontal and vertical alignment if no known NRHP listed, eligible or unevaluated properties, including sites and historic districts, are within the APE and all activities are contained to the roadway. *This does not apply to roads found eligible for listing on the NRHP.*
- t. Conversion of an existing gravel road to concrete or asphalt where there will be no change in the existing horizontal and vertical alignment if no known NRHP listed, eligible, or unevaluated properties, including sites and historic districts, are within the APE and no recorded archaeological sites are within ¼ mile of the APE and all activities are contained to the existing roadway. *This does not apply to roads found eligible for listing on the NRHP.*
- u. Demolition of non-historic (less than 50 years old) buildings when all activity is confined to the current footprint of the original construction, which includes a presumed builder’s trench extending three (3) feet beyond the existing foundation/footing, and, when ground surface conditions are stable enough to support the weight and movement of heavy equipment on bare ground or on temporary mats without sinking into the ground, rutting the ground surface, or resulting in any form of earthmoving at the demolition site, and work can be completed before the building(s) becomes 50 years of age, and there are no known NRHP listed, eligible or unevaluated properties, including sites and historic districts, within the APE and no recorded archaeological sites are within ¼ mile of the APE.

Section 3. Undertakings Involving Architectural/Historical Resources

I. Non-Specific Excluded Activities

If any of the following conditions are met, it shall not be necessary for SHPO to review the architectural portion of a project, regardless of activity. The RE will document how the project meets the Qualifying Criteria on an *Excluded from SHPO Review Form* for submittal to the IEDA HPS.

Qualifying Criteria:

- a. Less than 50 - The Project will involve a building of any type that is less than 50 years old and that is not listed in or previously determined eligible for the NRHP and does not convey the level of exceptional significance to be considered eligible for the NRHP under Criteria Consideration G (individually or as a contributing component to a historic district). All work conducted as part of the Undertaking must be completed before the building(s) becomes 50 years old.
- b. Previous Evaluation - The Area of Potential Effect (APE) has been surveyed by a professional historian or architectural historian within the last 5 years, determined not to contain historic properties, and the finding was accepted by the Iowa SHPO. *Please note this does not include properties simply added to the Iowa Site Inventory within 5 years.* Agreement by SHPO that the property is not eligible shall be required.

II. Specific Excluded Activities

When the following activities are proposed for any architectural properties not meeting the Qualifying Criteria, they will be considered excluded from further review by the SHPO because the activities have limited potential to adversely affect historic properties (some exceptions noted in *italics* below). The RE will document how the project meets these specific excluded activities on an *Excluded from SHPO Review Form* for submittal to the IEDA HPS.

1. Exterior Rehabilitation

- a. Caulking and weather stripping in a color complementary to the adjacent surfaces.
- b. Scraping, extremely low-pressure (less than 100 psi) washing, and/or repainting of exterior cladding. *This does not apply to destructive surface preparation treatments, such as water blasting, sand or other particle blasting, power sanding, or chemical cleaning.*
- c. Repair or in-kind replacement of windows (i.e., new windows will duplicate the material, dimensions, design, detailing, and operation of the extant or known historic windows; glazing will be clear, non-reflective, and without tint; window sashes will not be clad with aluminum or synthetic material), as follows (*this does not apply to the replacement of existing archaic, decorative, or architectural/structural glass*):
 - i. Repair, scrape, paint, and re-glaze existing windows.
 - ii. Repair or in-kind replacement of window sash, glass, and/or hardware, including jam tracks. Consideration should be given first to identifying ways to repair rather than replace damaged historic materials.
 - iii. Repair or in-kind replacement of damaged and non-operable transoms. Consideration should be given first to repair rather than replacement of damaged historic materials.
- d. Installation of storm windows and doors, provided that they conform to the shape and size of the historic windows and doors. The meeting rail of storm windows must coincide with that of the existing sash. Color should complement trim; mill finish aluminum is not acceptable.
- e. Repair or in-kind replacement (i.e., the new features will duplicate the extant material, dimensions, and detailing) of the following features (*consideration should be given first to identifying ways to repair rather than replace damaged historic materials*):
 - i. Porches — railings, post/columns, brackets, cornices, steps, flooring, ceilings, and other decorative treatments.
 - ii. Roofs.
 - iii. Siding.
 - iv. Exterior architectural details and features.
 - v. Doors, including cellar/bulkhead doors.
 - vi. Gutters and downspouts.
- f. Repair or reconstruction of concrete/masonry walls, parapets, chimneys, or cornices, provided any new masonry or mortar matches the color, strength, composition, rake, and joint width of existing walls, and no power tools are used on historic materials. (*Work on historic masonry must follow the*

guidance provided in Preservation "Brief #2: Repointing Mortar Joints in Historic Masonry Buildings," currently found online at <http://www.nps.gov/history/hps/tps/briefs/brief02.htm>.)

- g. Bracing and reinforcing of chimneys and fireplaces, provided the bracing and reinforcing are either concealed from exterior view or removable in the future.
- h. Construction or replacement of wheelchair ramps, provided the ramps are on secondary façades and will not directly impact the material fabric of the building.
- i. Installation of temporary wheelchair ramps on any façade.
- j. Substantial repair or in-kind replacement of signs or awnings. *This does not apply to historic sign—painted, neon, or otherwise.*

2. Interior Rehabilitation

- a. Non-destructive or concealed testing for damage assessment or identification of hazardous materials (e.g., lead paint, asbestos, etc.).
- b. Scraping and repainting of interior trim.
- c. Plumbing repair/replacement, including pipes and fixtures when no structural alteration is involved. *This does not apply to historic fixtures, which must be repaired for this allowance to apply.*
- d. HVAC system repair, replacement, and/or cleaning, including furnaces, pipes, ducts, radiators, or other HVAC units when no structural alteration or exposed new ductwork is involved. *This does not apply to historic fixtures, which must be repaired for this allowance to apply.*
- e. Repair or replacement of electrical wiring, including switches and receptacles. *This Allowance does not apply to installing exposed wiring such as surface mounted wiring, conduits, piping, or to the installation of new systems where they will affect significant interior features.*
- f. Repair or replacement of interior fire detection, fire suppression, or security alarm systems. *This Allowance does not apply to exposed systems such as surface mounted wiring, conduits, or piping where replacement will affect significant interior features.*
- g. Restroom improvements for handicapped accessibility, provided the work is contained within existing restroom and significant interior materials and features (e.g., historic trim or architectural details) are not altered.
- h. Repair or in-kind replacement of interior floors, walls, and ceilings. This applies to the repair of interior finishes, including plaster and wallboard, provided the repair is restricted to the damaged area and does not affect adjacent materials. *This does not apply to historic architectural finishes such as decorative plaster or plaster substrates for decorative materials such as wainscoting, murals, gold leaf, etc.*
- i. Installation of drywall over existing wall surface, provided no decorative plaster or other decorative features are covered and all historic trimwork is reinstalled.
- j. Installation of insulation in ceilings, attic spaces, and crawl spaces. *This does not apply to the installation of urea formaldehyde foam insulation or any other insulation containing water.*
- k. Installation of insulation in wall spaces, provided an appropriate interior vapor barrier or vapor barrier paint is used and historic exterior clapboards are removed and reinstalled carefully. *This does not apply to the installation of urea formaldehyde foam insulation or any other thermal wall insulation containing water.*
- l. Repair or pouring of concrete cellar floor in an existing cellar. This does not apply if excavation is required.
- m. Repair or replacement of cabinets and countertops. *Historic "built-in" cabinets must be repaired for this to apply.*

3. Site Improvements

- a. Repair or in-kind replacement of driveways, parking lots, and walkways, although consideration should be given first to repair rather than replacement of damaged historic materials whenever feasible if no known NRHP listed, eligible, or unevaluated properties, including sites and historic districts, are

within the APE and no recorded archaeological sites are within ¼ mile of the APE, and all activities are confined to the driveway, parking lot, or walkway.

- b. Repair or in-kind replacement of non-historic landscaping and utilities, such as paving, planters, trellises, irrigation, and lighting if no known NRHP listed, eligible, or unevaluated properties, including sites and historic districts, are within the APE and no recorded archaeological sites are within ¼ mile of the APE and repair/replacement is within the existing footprint of landscaping and utilities.
- c. Repair or in-kind replacement of fencing and other exterior retaining or freestanding walls, provided masonry and mortar matches the color, strength, composition, rake, and joint width of historic wall and no power tools are used on historic materials if no known NRHP listed, eligible, or unevaluated properties, including sites and historic districts, are within the APE and no recorded archaeological sites are within ¼ mile of the APE. (*Work on historic masonry must follow the guidance provided in Preservation “Brief #2: Repointing Mortar Joints in Historic Masonry Buildings,” currently found online at <https://www.nps.gov/tps/how-to-preserve/briefs/2-repoint-mortar-joints.htm>.*)

EXCLUDED FROM REVIEW, PROJECT DETERMINATION FORM

After referencing Appendix B of the Programmatic Agreement (PA) to verify that the project activity does not need further review, use this form to document compliance with the Section 106 of the NHPA.

As an example, here are the steps you would take:

- Start the Environmental Review.
- See if the project is exempt from further review by referencing Appendix B of the PA.
- If the project activity meets either the Qualifying Criteria or the Specific Excluded Activities, fill out this form and upload it to a Section 106 form in IowaGrants.gov.
- Use the “When to Consult with Tribes Under Section 106” included in the PA to determine if Tribal consultation is required. If so, mail letters to tribes (letters must be on official city letterhead and from the chief elected official); you must still do this even if your project activity meets an exemption under this PA. Include tribal consultation in the Section 106 form.
- Once the Section 106 form has been approved by the IEDA HPS, complete the rest of the Environmental Review.
- Publish Notice of Intent to Request Release of Funds (NOI-RROF).
- Submit the Request for Release of Funds to IEDA with the Environmental Review and include the Tribal consultation and a copy of the Section 106 approval from IowaGrants.gov in the Historic Preservation appendix.

NOTE: You must still solicit comment about the project from the Native American Tribes even if your project activity is exempt from further review.

Recipient Name:

Contract Number:

Recipient Address:

For information on this request, contact:

Contact Name:

Contact Phone Number:

Project Description (provide a brief description of the actual scope of work not just “housing rehab”):

Project Address (Street, City, Zip):

Project County:

Reason Project Activity is Excluded from Review (use Appendix B of the PA):

Section 1, 2 or 3:

Non-Specific Excluded Activity, Qualifying Criteria a. or b.:

OR

Specific Excluded Activity (include which specific activity):

Notes (include date of construction):

Pictures: (Take a before picture of the primary façade of any building directly impacted by project activities. Attach to form.)

Applicant Certification:

As the duly designated certifying official of the recipient, I also certify that: I am authorized to and do consent

to assume the status of responsible federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.

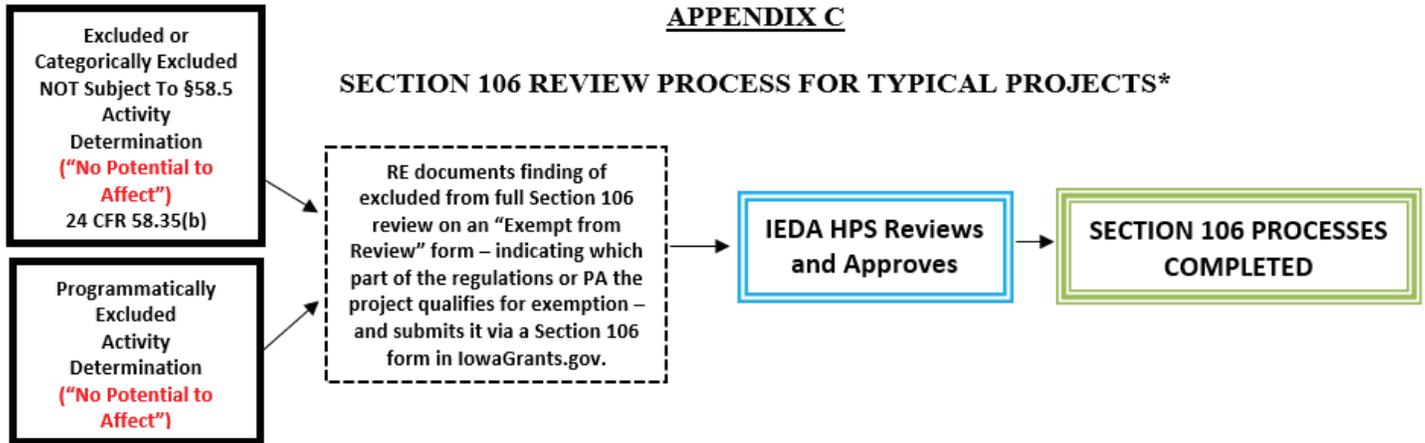
Signature of the Certifying Officer of Applicant

Date

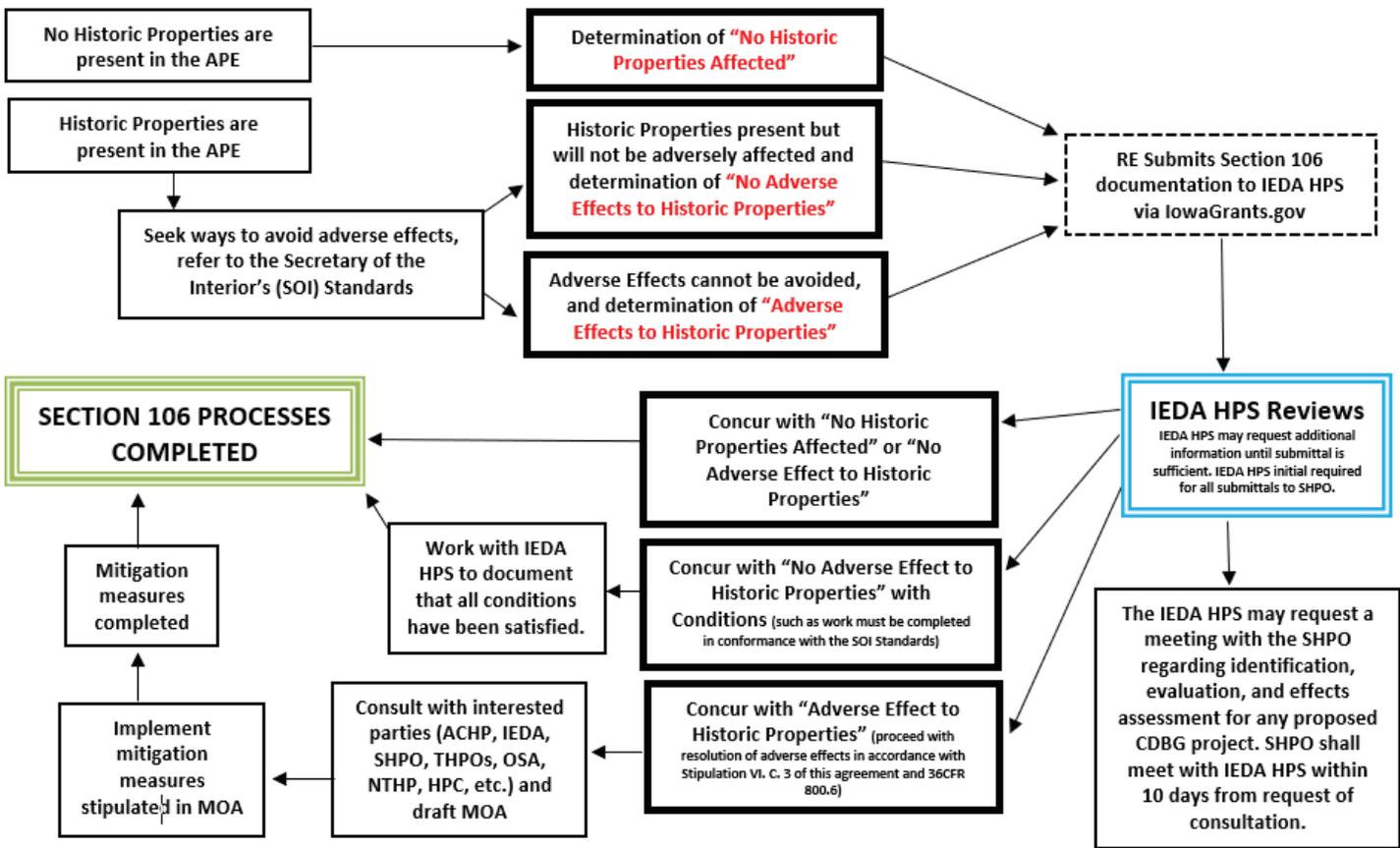
Print Name and Title of Certifying Officer of Applicant

APPENDIX C

SECTION 106 REVIEW PROCESS FOR TYPICAL PROJECTS*



If project is not Exempt, Categorically Excluded NOT Subject To §58.5, nor Programmatically Excluded: the RE determines and documents the project scope and APE, conducts standard identification and evaluation measures, determines a federal finding, and prepares a full Section 106 form in IowaGrants.gov (see process below).



*Technical Assistance from IEDA HPS may be sought at any point in the process. This flowchart does not address post review discoveries, monitoring findings, annual reporting, dispute resolution, and other unusual circumstances. Any other portions of Environmental Review are also not considered here.

Appendix D

HP Fact Sheet #6 Guidance on Archeological Investigations in HUD Projects

HUD offers the following guidance on when to do professional archeological investigations in HUD-assisted projects to meet environmental review requirements under Section 106 of the National Historic Preservation Act and 36 CFR Part 800. It is applicable to both Part 50 and Part 58 programs.

Archeological investigations seek to identify historic properties that may be affected by a project, and/or serve as mitigation prior to their loss if impacts cannot be avoided. Such investigations span a wide range of activities, including background research in existing documents, sample field testing to determine the presence of archeological sites, and full data recovery through excavation to retrieve information and artifacts that would otherwise be lost. Sometimes they occur sequentially, in phases, with the results of one phase determining whether more investigation in a subsequent phase is warranted. Archeological sites that may be encountered range from prehistoric settlements or activity areas, to places and landscapes of traditional religious and cultural significance, to archeological remnants of historic period resources like early settlement sites and industrial sites. Data recovery should be a last resort after avoidance measures have been considered.

36 CFR Part 800.4 requires a federal agency to make a “reasonable and good faith effort” to identify historic properties that may be affected by a federal undertaking. If a project includes types of activities that may affect historic properties of religious and cultural significance (see HUD’s [When to Consult With Tribes Checklist](#)), you need to consult with federally recognized Indian tribes (tribes) and Native Hawaiian Organizations (NHOs) and other knowledgeable parties to identify if there are such historic properties in the project’s Area of Potential Effect (APE). The on-line Tribal Directory Assessment Tool (TDAT) identifies where tribes and NHOs have current or ancestral interest.

HUD recognizes that tribes and NHOs have special expertise in assessing the eligibility of historic properties of religious and cultural significance to them for the National Register of Historic Places. National Register listing or eligibility is the threshold for consideration as a historic property under Section 106. Most archeological resources are not immediately visible or apparent. Background research, previous identification efforts and existing National Register documentation may indicate a high likelihood that archeological historic properties may be present in an APE, but a lack of existing information does not indicate a lack of historic properties. In the latter case, predictive models and/or consultation with knowledgeable parties like the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) are often used to identify the likelihood of archeological sites in an APE.

Sometimes applicants for HUD assistance undertake archeological investigations prior to application, as part of project planning. Other times, a consulting party may request an archeological investigation to identify historic properties during the consultation process. In this case, the HUD official or RE considers the advice and recommendations received and makes the decision about what further steps to take. The HUD official or RE acting as HUD should consider the factors below when deciding whether to undertake an archeological field investigation in a HUD-assisted project. If approved by HUD and the grantee, an archeological investigation can be an eligible project expense.

HUD officials, Responsible Entities (REs) and grantees should honor requests from tribes and NHOs to keep information on sensitive sites confidential.

Revised June 2012

Factors to Consider in Deciding to Undertake an Archeological Field Investigation

- **Information received** from SHPO, THPO, federally recognized Indian tribe(s), NHO(s), local universities, and other tribal organizations and parties with knowledge of potential historic properties in the APE. Do sources corroborate the likelihood of historic properties in the APE? Do recent archeological studies indicate either a presence or absence of sites in the APE or nearby?
- **Likely impact.** Will the potential sites be affected or disturbed in the project, such as by significant digging, or introduction of visual, atmospheric or audible elements that may affect landscapes of religious and cultural significance? If adverse effects are avoided, e.g. by designating an archeologically sensitive area as undisturbed green space, it is generally not necessary to fully identify and document resources with an archeological survey.
- **Previous ground disturbance.** The potential to have intact archeological sites decreases in areas with more extensive ground disturbance. Is the ground already disturbed through previous construction or use? If so, has it been disturbed to the expected depth of the potential sites? Does the site consist of later fill from previous construction? Have flood deposits buried the potential sites below the depth of expected ground disturbance in the project?
- **Likely significance of potential sites.** Do sources provide a basis for concluding that the APE is likely to contain significant sites that would be eligible for the National Register primarily under Criterion D: “That have yielded, or may be likely to yield, information important in prehistory or history?” Can consulting parties identify potential areas and levels of significance based on tribal oral tradition, written sources, or reference to research questions in SHPO State Historic Preservation Plans and similar documents? Will the site likely yield important new information that is not available through other means and that expands knowledge of prehistory or history?
- **Presence of human remains.** If human remains are anticipated in a location that may be impacted, sample field testing to confirm presence and boundaries is highly recommended, with the advice of consulting parties, especially tribes and NHOs.
- **Magnitude and nature of the undertaking and the degree of federal involvement.** The cost of an archeological investigation should relate logically to the value of HUD assistance in the project, while taking into account the expected significance of the site(s).
- **Policy Statement on Affordable Housing and Historic Preservation.** Does the Advisory Council on Historic Preservation’s [Policy Statement on Affordable Housing and Historic Preservation](#) apply? The guidance for Implementation Principle #8 in the Policy says “Archeological investigations should be avoided for affordable housing projects limited to rehabilitation and requiring minimal ground disturbance.” The Principle applies only to *rehabilitation* and not new construction.
- **Public interest.** Is the expenditure of funds on archeological investigation in a specific project in the public interest? In some cases it may be; in other cases, perhaps not. In reaching these decisions, the HUD official or RE should seek a balance with other important public values, such as the program mission, objectives, costs and public benefits.

Contact your local HUD Environmental Officer for further assistance.

Revised June 2012

Appendix E

AUTHORIZATION FOR ALTERNATE SIGNATORIES
FOR SECTION 106 COMPLIANCE FORMS

CDBG Grant Administrators or City Clerks may now sign the Section 106 Compliance Forms including the *Exempt from Review Project Determination Form* and the *Request for Comment on a HUD Project* form. In order to take advantage of this opportunity, the Agency Official/CEO must sign this form before a notary public. The CEO is the person who signed the CDBG contract. The grant administrator or City Clerk must also sign this form as a signatory.

Note: By signing this agreement, the Agency Official/CEO is still legally responsible for all findings and determinations made on their behalf by the signatory.

Once signed, submit this form with your Section 106 compliance documentation.

As stated in 36 CFR Part 800, the implementing regulation for Section 106 of the National Historic Preservation Act of 1966, the Agency Official with jurisdiction over an undertaking takes legal and financial responsibility for Section 106 compliance in accordance with Subpart B of 36 CFR Part 800. In the case of the state Community Development Block Grant (CDBG) Program, however, the Agency Official will be the selected non-entitlement cities, which as CDBG recipients are authorized to serve as the Agency Official under 24 CFR Part 58.

In the event that the Agency Official is unable to sign the *Request for Comment* form or the *Exempt from Review Project Determination Form*, however, the following alternates signatories listed below are authorized to act on the behalf of the Agency Official. In the event an alternate signatory is used, the Agency Official remains legally responsible for all required findings and determinations made through the Section 106 process. The signatures attested below are effective as of:

(Date)
Sincerely,

Agency Official (CEO) signature

[Name and Title of] Signatory # 1

Signature of Signatory #1

[Name and Title of] Signatory # 2

Signature of Signatory #2

[Name and Title of] Witness

Signature of Witness

Appendix F

REQUEST FOR COMMENT ON A HUD PROJECT*

- This is a new submittal
- This is more information relating to a previous submittal

Cover Letter: Please include a cover letter with a comprehensive description of the Area of Potential Effect (APE) and project activities. The APE should include the project area, all easements, borrow areas, equipment and material storage, and staging areas. If applicable, describe excavation and other earthmoving activities including 3-dimensional parameters (length, width, and depth).

I. GENERAL INFORMATION

- a. Project name and/or Property Owner: _____
- b. Property Street & Number: _____
- c. County: _____ City: _____ Zip: _____
- d. Lead Federal Agency: _____ CDBG Contract No: _____
- e. Federal Funding Program: CDBG If HUD; check one: 24 CFR Part 50 or 24 CFR Part 58
- f. Contact Person on Project: _____
Contact Address: _____ City: _____ State: _____ Zip: _____
e-mail: _____ Phone: _____

II. IDENTIFICATION OF HISTORIC PLACES

Please check box indicating whether you are requesting an archaeological and/or architectural review of your project and include each of the items requested.

- Archaeology
 - 7.5 min Quad U.S.G.S. (1-mile radius) with quad name and APE outlined (maps on-line at <http://ortho.gis.iastate.edu/>)
 - Site plan showing limits of proposed activities or general layout (engineering)
 - Aerial photo: zoom to project area (photos on-line at <http://ortho.gis.iastate.edu/>)
 - Description of width and depth of proposed excavation and current conditions of project area
 - OSA site file search, Phase IA, or Phase I (whichever is appropriate)
 - Number of acres in project: _____
 - Legal location: Section(s) _____ Township(s) _____ Range(s) _____
- Architecture
 - Date of original construction for the building: _____
 - Previous site information available (contact Iowa Site Inventory Coordinator)
 - Updated or new Iowa site Inventory Form (available online at www.iowahistory.org/preservation)
 - Clear photos of property and surrounding area
 - Location map (no bigger than 11x17) with APE clearly defined (Quad map or city plat map)
 - Copy of county or city assessor's card record or other appropriate property information
 - Detailed description of proposed action, including copy of project specifications, if applicable

III. APPLICANT CERTIFICATION (Check Either Adverse Effect or No Adverse Effect for Historic Property Affected category)

Determination of Effect (Check One)

- No historic properties will be affected** (i.e., none are present or there are historic properties present but the project will have no effect upon them)
- No Adverse Effect to a historic property** (i.e., a historic property is present and affected. However, the project either has no adverse effect on the historic property, or the applicant or other federally authorized representative will consult with the SHPO to modify the project or impose conditions to avoid adverse effects.)
- Adverse Effect to a historic property** (i.e., a historic property is present and adversely affected. The applicant, or other federally authorized representative, will consult with the SHPO and other consulting parties to resolve the adverse effect.)

Federally Authorized Signature: _____ Date:
Type name and title below

Submit one copy with each property for which comment is requested. Please print or type.
Return with full Section 106 Compliance Documents to the IEDA HPS at: 200 East Grand Ave., Des Moines, IA 50309

Appendix G: GLOSSARY

ACHP - Advisory Council on Historic Preservation
APE -Area of Potential Effects
CDBG - Community Development Block Grant
CEO - Chief Elected Official
CFR - Code of Federal Regulation
HPC -Historic Preservation Commission
HUD -Federal Department of Housing and Urban Development
IEDA – IEDA - Iowa Economic Development Authority
IEDA HPS - Iowa Economic Development Authority Historic Preservation Specialist
ISIF - Iowa Site Inventory Form
MOA – Memorandum of Agreement
NEPA -National Environmental Policy Act NHPA -National Historic Preservation Act
NPS -National Park Service
NRHP -National Register of Historic Places NTHP -National Trust for Historic Preservation
OSA - Office of the State Archaeologist
PA -Programmatic Agreement
RE -Responsible Entity
RROF -Request for Release of Funds
SHPO - State Historic Preservation Office(r)
SOI - Secretary of the Interior
THPO -Tribal Historic Preservation Officer
U.S.C. -United States Code