

**PROGRAMMATIC AGREEMENT  
BETWEEN THE VIRGINIA  
STATE HISTORIC PRESERVATION OFFICE AND  
THE CITY OF FREDERICKSBURG  
FOR THE ADMINISTRATION OF CDBG-FUNDED ACTIVITIES BY THE CITY OF  
FREDERICKSBURG, VIRGINIA**

WHEREAS, the City of Fredericksburg (City) is administering directly, or is responsible for Sub-recipient approval certification of, the U.S. Department of Housing and Urban Development (HUD) funded programs through its Consolidated Plan and the Community Development Block Grant Program in the City of Fredericksburg; and

WHEREAS, the administering agency for the above programs, in accordance with 24 CFR Part 58.1, is the City which thus is responsible for certifying compliance with the National Environmental Policy Act (NEPA) of 1969, and with 36 CFR Part 800 of the regulations implementing Section 106 of the National Historic Preservation Act (NHPA); and

WHEREAS, as the certifying agency for compliance with NHPA, the City requires that all undertakings, including new construction, demolition, rehabilitation, acquisition, and ground disturbing activities, be reviewed by the Virginia Department of Historic Resources, the State Historic Preservation Office (SHPO) of Virginia, in order to take into account effects on historic properties; and

WHEREAS, the City has determined in consultation with the SHPO that the Area of Potential Effects (APE) contains at least one district eligible for listing on the National Register of Historic Places and that administration of said Program may have an effect on historic properties; and

WHEREAS, the City has consulted with the SHPO and both parties agree that the City can more efficiently carry out its Section 106 review responsibilities if a Programmatic Agreement (Agreement) is used to streamline the administrative process and identify activities which can be exempted from Section 106 review because they are likely to have minimal impact on historic properties; and

WHEREAS, the City has notified the Advisory Council on Historic Preservation (ACHP) of its intent to enter into a Programmatic Agreement and has invited the ACHP to participate in consultation and the ACHP has declined; and

WHEREAS, the principles set forth in the ACHP's Policy Statement on Affordable Housing and Historic Preservation (Policy Statement, Appendix 1) are incorporated herein and will be taken into consideration by all parties when carrying out the stipulations of this Programmatic Agreement; and

WHEREAS, the definitions given in Appendix 2 are applicable throughout this Agreement.

NOW, THEREFORE, the City and the SHPO agree that the Program shall be administered in accordance with the following stipulations to satisfy the City's Section 106 responsibilities for all individual undertakings funded with CDBG money through the City.

## STIPULATIONS

### I. REHABILITATION

- A. The City will consult with the SHPO about each individual rehabilitation project funded with CDBG funds with the following exceptions:
1. Rehabilitation of properties constructed less than 50 years ago. In such cases, the work may proceed without the SHPO's review.
  2. Rehabilitation work consisting only of activities listed in Appendix 3. If the rehabilitation of a property consists only of those activities listed in Appendix 3, then the City and the SHPO agree that the project has minimal potential to impact historic properties and no review by the SHPO is necessary.

### II. ARCHAEOLOGICAL RESOURCES

- A. The City may proceed without archeological consultation for projects involving ground-disturbing activities provided that one or more of the following conditions apply:
1. Any ground disturbance less than one acre in extent. The area of potential effect as defined for the purposes of this Agreement shall include all land-disturbing actions associated with the proposed construction, as for example, the footprint of construction, access roads, including temporary access roads, temporary construction easements, equipment storage areas, staging areas, below ground utilities, etc.;
  2. Any demolition, rehabilitation or renovation of buildings less than 100 years old;
  3. Any excavation for the repair or replacement of building footings, foundations or retaining walls of buildings less than 100 years old; and
  4. The installation of utilities, such as sewer, storm, electrical, gas, steam, compressed air, leach lines, and septic tanks in road rights-of-way, existing utility corridors, or other areas previously disturbed by these activities.
- B. Any projects involving ground-disturbing activities not otherwise exempted under Stipulation II(A), above, will be submitted to the SPHO for review and comment through the completion of a Project Review Application Form.
- C. Should the City determine, in consultation with the SPHO, that further archeological identification is needed, the City shall prepare and implement a program to identify and evaluate archeological resources.
- D. Should the City, as a result of its survey efforts, determine that an eligible archeological site will be affected, a plan for its avoidance, protection, or recovery of data will be submitted to the SHPO and other consulting parties, if any, for review and approval. The City will consider all comments received in preparing the final treatment plan and will then implement the plan.

- E. All archeological studies, resulting from this Agreement including data recovery plan(s), shall be consistent with *The Secretary of the Interior's Standards and Guidelines for Archeological Documentation* (48 FR 44734-37), and the SHPO's *Guidelines for Conducting Cultural Resource Survey in Virginia: Additional Guidance for the Implementation of the Federal Standards Entitled Archaeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines* (48 FR 44742, September 29, 1983) (1999, rev. 2003), and shall take into account the ACHP's publications, *Consulting About Archeology Under Section 106* (1990) and *Recommended Approach for Consultation on Recovery of Significant Information from Archeological Sites* (1999).

### III. RECORDKEEPING

- A. The City will maintain written records of consultation on all activities carried out under this Agreement. For activities not requiring consultation with the SHPO, the City will note in the appropriate project file a description of the activity and the justification for exclusion from SHPO review. Upon written request from SHPO, the City will provide the SHPO an opportunity to inspect the documentation for projects carried out under this Agreement.
- B. On or before August 15<sup>th</sup> of each year the City shall prepare and provide an annual report to the SHPO addressing the following topics:
1. List of projects completed during the previous program year without SHPO review;
  2. Any problems or unexpected issues encountered during the year; and
  3. Any changes that the agency believes should be made in implementation of this agreement.
- C. For all activities requiring SHPO review, the City will fully complete, per the instructions, a Project Review Application Form and submit the form and all required attendant material to the SHPO for review and comment. Should the City not receive written comments from the SHPO within thirty (30) days after the SHPO's receipt of all pertinent documentation, the City may assume the SHPO's concurrence to move forward with the proposed activity. No activities to be carried out under this Agreement are to commence until after the thirty (30) day review period in which the SHPO has an opportunity to comment, as necessary, and those comments are considered by the City.

### IV. PUBLIC PARTICIPATION AND CONSULTATION

- A. In accordance with HUD requirements under federal regulation 24 CFR 91.105, the City of Fredericksburg adopted a Citizen Participation Plan (CPP) that sets forth the City's policies and procedures for citizen participation under the five-year Consolidated Plan and subsequent Action Plans. The CPP applies to all City departments involved in the Consolidated Plan development, selection and administrative processes.

The City will encourage citizen participation in any future amendments to the Consolidated Plan, the Consolidated Annual Performance and Evaluation Report (CAPER), the CPP and any amendments to it. The City will notify neighborhood residents and invite input by appropriate communication means each year prior to the development of the next year's Annual Action Plan to review and comment on program performance and direction including the effects of the program activities on historic properties.

## V. DISPUTE RESOLUTION

- A. Should any party to this Agreement object in writing to the City regarding any activity carried out or proposed with respect to the Undertaking or implementation of this Agreement, the City will consult with the objecting party to attempt to resolve the objection. If after initiating such consultation the City determines that the objection cannot be resolved through consultation, the City will forward all documentation relevant to the objection to the ACHP, including the City's proposed response to the objection. Within thirty (30) days after receipt of all pertinent documentation, the ACHP will exercise one of the following options:
1. Advise the City that the ACHP concurs with the City's proposed response to the objection, whereupon the City will respond to the objection accordingly;
  2. Provide the City with recommendations, which the City will take into account in reaching a final decision regarding its response to the objection; or
  3. Notify the City that the objection will be referred for comment pursuant to 36 CFR Part 800.7(a)(4), and proceed to refer the objection and comment. The City will take the resulting comment into account in accordance with 36 CFR Part 800.7(c)(4) and Section 110(l) of NHPA.
- B. Should the ACHP not exercise one of the above options within thirty (30) days after receipt of all pertinent documentation, the City may assume the ACHP's concurrence in its proposed response to the objection.
- C. The City will take into account any ACHP recommendation or comment provided in accordance with this stipulation with reference only to the subject of the objection; the City's responsibility to carry out all other measures covered under this Agreement that are not the subjects of the objection will remain unchanged.
- D. At any time during implementation of the activities covered in this Agreement, should an objection pertaining to this Agreement or the effect of any activity on historic properties be raised by a member of the public, the City will notify the parties to this Agreement and take the objection into account, consulting with the objector and, should the objector so request, with any of the parties to this Agreement to attempt to resolve the objection.

## VI. POST REVIEW DISCOVERIES

The City shall ensure that construction documents contain the following provisions for the treatment of unexpected discoveries:

- A. In the event that a previously unidentified archeological resource is discovered during ground disturbing activities, the City shall immediately notify the SHPO. All construction work involving subsurface disturbance will be halted in the area of the resource and in the surrounding area where further subsurface remains can reasonably be expected to occur. The City and the SHPO, or an archeologist meeting *The Secretary of the Interior's Professional Qualifications Standards* (48 FR 44 738-9), immediately will inspect the work site and determine the area and the nature of the affected archeological property. Construction work may then continue in the project area outside the site area. Within two (2) working days of the original notification of discovery, the City in consultation with the SHPO will determine the National Register eligibility of the resource.
- B. Potentially eligible historic properties will be evaluated using the National Register criteria in accordance with 36 CFR Part 800.4(c). If the City determines that the resource meets the National Register Criteria for Evaluation (36 CFR Part 60.6), the City shall ensure compliance with Part 800.13(b)(3) of the ACHP's Regulations. The SHPO shall provide comments on any treatment plan submitted within two (2) business days of receipt. If the SHPO fails to comment, the City may assume concurrence and implement the plan. Work in the affected area shall not proceed until either the development and implementation of an appropriate treatment plan; or the determination is made that the located resource is not eligible for inclusion on the National Register.

## VII. AMENDMENT

- A. Any party to this Agreement may request that it be amended by providing a written request for such amendment to the other signatories whereupon all parties will consult in accordance with 36 CFR 800.13 to consider such an amendment.
- B. Any resulting amendments shall be developed in writing as an attachment to this document and shall be executed immediately upon consensus.

## VIII. TERMINATION

- A. If the City determines that it cannot implement the terms of this Agreement, or if the SHPO or ACHP determines that the Agreement is not being properly implemented, the City, the SHPO or the ACHP may propose to the other parties that it be terminated.
- B. Termination shall include the submission of any outstanding documentation on any work done up to and including the date of termination.

- C. A party proposing to terminate this Agreement shall so notify all parties to the Agreement, explaining the reasons for termination and affording them at least thirty (30) days to consult and seek alternatives to termination.
- D. Should such consultation fail and the Agreement be terminated, the City shall comply with 36 CFR Parts 800.3 through 800.6 with regard to the activities covered by this Agreement.

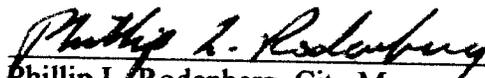
**IX. DURATION OF THE AGREEMENT**

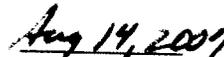
This Agreement will continue in full force and effect until five years after the date of the last signature. At any time in the sixth-month period prior to such date, the City may request the SHPO and the ACHP to consider an extension or modification of this Agreement. No extension or modification will be effective unless all parties to the Agreement have agreed with it in writing.

Execution of this Programmatic Agreement and implementation of the provisions herein shall be evidence that the City of Fredericksburg has satisfied its Section 106 responsibilities for all individual undertakings subject to the review of this Agreement.

**SIGNATORIES:**

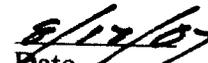
**CITY OF FREDERICKSBURG**

  
Phillip L. Rodenberg, City Manager

  
Date

**VIRGINIA STATE HISTORIC PRESERVATION OFFICER**

  
Kathleen Kilpatrick, State Historic Preservation Officer

  
Date

## APPENDIX 1

### **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 Housing 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 the 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.**

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**BILLING CODE 4310-K6-M**

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## APPENDIX 2

### DEFINITIONS

**AREA OF POTENTIAL EFFECTS** – The geographic area or areas within which an undertaking may cause changes in the character or use of historic properties, if any such properties exist there. This always includes the actual site of the undertaking, and may also include other areas where the undertaking will cause changes in land use, traffic patterns, or other aspects that could affect historic properties.

**HISTORIC PROPERTY** – Any property that falls in one or more of the following categories:

- It is a contributing property in a *historic area eligible for listing* in the National Register of Historic Places.
- It is a contributing property in a *historic district listed* in the National Register of Historic Places.
- It is *individually eligible* for listing or is *individually listed* in the National Register of Historic Places.

**NON-HISTORIC PROPERTY** – Any property that falls into one or more of the following categories:

- Is a *non-contributing property* located in an historic area that is either eligible for listing in the National Register of Historic Places, or is listed in the National Register of Historic Places.
- Is not located within an historic district either eligible for listing or listed on the National Register of Historic Places and is not *individually listed on or eligible for listing* on the National Register of Historic Places.

**NATIONAL REGISTER** – The National Register of Historic Places maintained by the Secretary of the Interior.

**NATIONAL REGISTER CRITERIA FOR EVALUATION** – The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association. The criteria established by the Secretary of the Interior for use in evaluating the eligibility of properties for the National Register (36CFR Part 60). These criteria are used by the City, SHPO, and Keeper of the National Register to evaluate properties (other than areas of the National Park System and National Historic Landmarks) for the National Register. These criteria are worded in a manner to provide for a wide diversity of resources. The following are the actual National Register Criteria for Evaluation.

**Criterion A:** Properties that are associated with events that have made a significant contribution to the broad patterns of our history;

**Criterion B:** Properties that are associated with the lives of persons significant in our past;

**Criterion C:** Properties that embody the distinctive characteristics of a type, period, or method of construction, that represent the work of a master, or that possess high artistic value, or that represent a significant and distinguishable entity whose components may lack individual distinction;

**Criterion D:** Properties that have yielded, or may be likely to yield, information important in prehistory or history.

**Criteria consideration:** Ordinarily cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years shall not be considered eligible for the National Register. However, such properties shall qualify if they are integral parts of districts that do meet the criteria or if they fall within the following categories:

- (a) a religious property deriving primary significance from architectural or artistic distinction or historical importance; or
- (b) a building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event; or
- (c) a birthplace or grave of a historical figure of outstanding importance if there is no other appropriate site or building directly associated with his productive life; or
- (d) a cemetery that derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events; or
- (e) a reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or
- (f) a property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance; or
- (g) a property achieving significance within the past 50 years if it is of exceptional importance.

**STATE HISTORIC PRESERVATION OFFICER** – The official appointed or designated pursuant to Section 101 (b)(1) of the Act to administer the State Historic Preservation program or a representative designated to act for the State Historic Preservation Officer. For purposes of this Agreement, the State Historic Preservation Officer shall refer to the Director and staff of the Virginia Department of Historic Resources.

**UNDERTAKING** – A project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license or approval.

## APPENDIX 3

### ACTIVITIES EXCLUDED FROM SHPO REVIEW

The following activities have limited potential to affect historic properties and therefore review by the SHPO is not required. All work on historic properties must meet the *Secretary of the Interior's Standards for the Treatment of Historic Properties* and be consistent with the Preservation Briefs.

#### Glossary

**In-kind replacement:** The term in-kind replacement is defined as installation of a new element to replace an historic element (i.e. over 50 years old) that is either missing or too deteriorated to repair that exactly matches the original element in all respects, including design, material, dimensions, configuration and detailing. Repair of an original element should always be the preferred alternative. In-kind replacement should be considered only if repair is not an option.

**Preservation Briefs:** To meet the Standards, work carried out on historic properties must be done according to the Preservation Briefs, a series of leaflets compiled by the National Park Service, which provide technical information about working on historic properties. They can be found on the Internet at <http://www.cr.nps.gov/hps/tps/briefs/presbhom.htm>, where they may be downloaded.

**Standards:** *The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Historic Landscapes.* According to the Section 106 regulations, work carried out on historic properties must meet *The Secretary of the Interior's Standards for the Treatment of Historic Properties* to avoid an adverse effect (see the Section 106 regulations, 36 CFR Part 800, section 800.5(a)(2)(ii) – the regulations can be found on the web site of the Advisory Council on Historic Preservation, at [www.achp.gov](http://www.achp.gov)). Please refer to information on meeting the Standards at <http://www2.cr.nps.gov/tps/standguide/index.htm>.

#### EXEMPT ACTIVITIES

##### 1. Site Work

- a) Streets, driveways, alleys, and parking areas. Repairs, line painting, resurfacing, and maintenance of existing streets, alleys, sidewalks, and curbs, providing that a change in width, historical surface material, vertical alignment, or drainage will not result. Repair of existing concrete or asphalt surfaces for curbs, gutters, and retaining walls is also exempt.
- b) Site improvements. Maintenance and repair of existing landscape features, including planting, fences, walkways, and statuary (Note: installation or replacement of these features is considered to be new construction and is subject to review). Maintenance, repair, and in-kind replacement of street lights, traffic signals, and traffic signs. Repairs to, or in-kind replacement of walks, driveways, and steps, provided it does not involve the removal of historic materials;
- c) Park and playground equipment. Repair or comparable replacement of existing park and playground equipment, excluding buildings.

- d) Temporary structures. Installation of temporary construction-related structures (not to be in place for more than two years) including scaffolding, barriers, screening, fences, protective walkways, signage, office trailers or restrooms.
- e) Vegetation. The pruning of overgrown trees and shrubs and the removal of dead trees.

## 2. Exterior Rehabilitation

- a) Foundations. Below-grade repair of brick or stone foundations and repairs to all other types of foundations. Underpinning of the front façade shall be accomplished by setting the underpinning material at least two (2) inches behind the outer face of the piers.
- b) Windows and doors. Repair of windows and doors, including caulking and weather stripping of existing window or door frames, and installation of new clear glass in existing sashes or doors, including retrofitting for double and triple glazing, and replacement of glazing putty. Installation of exterior storm windows and doors, provided they conform to the shape and size of the historic windows and doors, and that the meeting rails of storm windows coincide with that of existing sash, and that their installation will not permanently damage historic elements. Installation of door or window locks or electronic security apparatus. If historic door locks are present, they can be disabled but should not be removed.
- c) Walls and Siding. Repair of wall or siding material or in-kind replacement of deteriorated siding or trim.
- d) Paint.
  - Removal of exterior paint by non-destructive means, limited to hand scraping, low pressure water wash (less than 200 p.s.i.), or paint-removal chemicals, provided that the removal method is consistent with the provisions of 24 C.F.R. Part 35, "Lead-Based Poisoning Prevention in Certain Residential Structures," including § 35.140, "Prohibited methods of paint removal."
  - All lead paint abatement done in accordance with Chapter 18 of HUD's *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing*, "Lead Hazard Control and Historic Preservation" and carried out in accordance with *Preservation Brief #37: Appropriate Methods for Reducing Lead Paint Hazards in Historic Housing*.
  - Application of exterior paint to previously painted surfaces when no historic decorative paint schemes, such as graining, stenciling, marbling, etc., are to be covered.
- e) Porches. Repair or in-kind replacement of existing porch elements, such as columns, flooring, floor joists, ceilings, railing, balusters and balustrades, and lattice.
- f) Roofing. Repair or in-kind replacement of roof cladding and sheeting, flashing, gutters, soffits, and downspouts with no change in roof pitch or configuration. Repair or re-framing of structural roof elements as required to improve the drainage and durability of the roof as long as the appearance of the roof lines visible from the front elevation and from other prominent, visible points (for example, the exposed side façade on a corner lot) is not affected. New installation of gutters and down spouts, as long as this does not damage historic materials or require removal of historic features.

- g) **Wheelchair ramps.** Repair of existing wheelchair ramps, unless the ramps are to be replaced or substantially modified. Installation of new wheelchair ramps, when the following considerations apply:
- The ramp will not be a permanent addition to the property;
  - No historic fabric will be permanently damaged in the installation or use of the ramp;
  - Every reasonable effort will be made to construct and finish the ramp in a manner that will result in a minimal amount of visual and physical impact on the property, through design considerations, use of materials, and painting wooden ramps whenever possible.
- h) **Repointing.** Repair or repointing of chimneys or other masonry features with the design, size, shape, materials, and repointing to match the original in color, texture, and tooling, and, for historic properties, following the recommended approaches in Preservation Brief No. 2 *Repointing Mortar Joints in Historic Brick Buildings*.
- i) **Signs and Awnings.** Repair or in-kind replacement of existing signs or awnings.
- j) **Mechanical systems.** Placement and installation of exterior HVAC mechanical units and vents not on the front elevation that will not permanently damage historic fabric.
- k) **Basement bulkhead doors.** Replacement or repair of basement bulkhead doors and installation of basement bulkhead doors not on the front elevation.
- l) **Lighting.** Repair or in-kind replacement of existing exterior light fixtures.
- m) **Mothballing.** Securing or mothballing a property by boarding over window and door openings, making temporary roof repairs, and/or ventilating the building. For historic buildings, mothballing procedures should follow Preservation Brief No. 31, "Mothballing Historic Buildings."

### 3. Interior Rehabilitation

- a) **Mechanical systems.** Installation, replacement or repair of plumbing, HVAC systems and units, electrical wiring and fire protection systems, provided no structural alterations or damage to historic material are involved. Included are restroom improvements for handicapped access, provided the work is contained within the existing restroom walls. For historic properties, work must be done according to the preservation briefs and there should be no intrusion into the primary spaces of the building.
- b) **Interior surfaces.** Repair or in-kind replacement of interior surface treatment, such as floors, walls, ceilings, plaster and woodwork. If covering historic features, such as wood floors, then carpet or sheet goods (linoleum or vinyl) shall be installed in a reversible manner, either through tacking or with an underlayment so historic floors shall not be irreversibly damaged.
- c) **Paint.** Application of interior paint provided no historic decorative treatments are covered. Lead paint abatement done in accordance with Chapter 18 of HUD's *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing*, "Lead Hazard Control and Historic Preservation" and carried out in accordance with *Preservation Brief #37: Appropriate Methods for Reducing Lead Paint Hazards in Historic Housing*.

- d) **Kitchens**. Repair or replacement of kitchen cabinets, counters, and appliances – provided the work is contained in the existing kitchen and significant historic fabric will not be damaged or removed.
- e) **Bathrooms**. Replacement of bathroom facilities and fixtures – provided the work is contained within the existing bathroom and will not involve damage to significant historic fabric.
- f) **Insulation**. Installation of non-spray insulation in ceilings and attic spaces.
- g) **Basement**. Installation or repair of concrete basement floor in an existing basement provided no historic materials are damaged or concealed.
- h) **Radon abatement**. Provided the treatment to prevent the entry of radon gas into the building is through the basement floor and does not damage or conceal any historic material.
- i) **Asbestos removal**. Provided it does not involve removal or alteration of significant historic elements.