

**PROGRAMMATIC AGREEMENT
FOR THE
TOWN OF MIDDLEBOROUGH, MASSACHUSETTS'
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

WHEREAS, the Town of Middleborough, Massachusetts (Town) proposes to administer its Community Development Block Grant (CDBG) Program funds from the Department of Housing and Urban Development under Title I of the Housing and Community Development Act of 1974, as amended; and

WHEREAS, the Town has determined that the administration of this CDBG Program may have an effect upon properties listed in or eligible for listing in the National Register of Historic Places and has consulted with the Massachusetts State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP) pursuant to 36 CFR Part 800.14 of the ACHP's regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. Section 470f); and

WHEREAS, the TOWN, SHPO, and ACHP desire to ensure that historic resources within the TOWN of Middleborough are not adversely affected and that TOWN undertakings are efficiently evaluated pursuant to Section 106.

NOW, THEREFORE, TOWN, SHPO, and ACHP agree that the Program shall be administered in accordance with the following stipulations in order to take into account the effect of the undertakings on historic resources to satisfy the Town's Section 106 responsibilities for all individual undertakings of this Program.

STIPULATIONS

The Town of Middleborough will ensure that the following measures are carried out:

I. UNDERTAKINGS NOT REQUIRING REVIEW BY SHPO, ACHP

A. Undertakings not requiring review are enumerated in Attachment A.

II. IDENTIFICATION OF HISTORIC PROPERTIES

A. The Town, with the assistance of the Middleborough Historical Commission (MIDHC), will consult the Town's inventory of historic properties to determine whether any proposed project will have an effect on an inventoried property. For each such project which will affect an inventoried property, the Town will consult with the SHPO to determine whether the property is eligible for the National Register of Historic Places.

B. If the Town and the SHPO agree that a property is eligible for the National Register, the property will be considered eligible for the purposes of this Programmatic Agreement.

- C. If the Town feels that an inventoried property should not be considered eligible for the National Register, it will request a determination of eligibility from the SHPO. If the SHPO and the Town do not agree as to whether a property meets the National Register criteria, the Town will request a formal determination of eligibility from the Secretary of the Interior in accordance with 36 CFR 63 prior to the initiation of any work on the property.

III. TREATMENT

Properties that are listed on the National Register or are considered eligible for the National Register, either individually or as part of a district, will be treated in the following manner:

- A. Properties that are to be rehabilitated will be rehabilitated in accordance with the recommended approaches in "The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" (Standards).
- B. Prior to undertaking any activities that are not exempt under Stipulation I, the Town will forward information on the rehabilitation projects (including work write-ups, photographs, plans and elevations, as available, and comments from the consulting parties identified under Stipulation V) to the SHPO for review and concurrence to ensure that the Standards are being met.
- C. If the Standards cannot be met, or if the proposed activity is not rehabilitation, if demolition is proposed, or if the proposed activity may have an indirect effect on such properties, prior to taking any action, the Town will consult with the SHPO and initiate the procedures set forth at 36 CFR 800.5.

IV. DISPUTE RESOLUTION

If the TOWN and SHPO are unable to resolve any disagreement arising under the provisions of the Agreement, TOWN shall, unless the dispute relates to the National Register eligibility of any property, forward full documentation regarding the project, the basis for the dispute, and request the comments of ACHP in accordance with §800.6.

V. PUBLIC INVOLVEMENT

The Town will work with the SHPO to identify those in the community who may be interested in becoming a consulting party, including Native Americans who associate a site with religious or cultural significance, the immediate community/neighborhood, and local preservation organizations/historical commission. Each year the Town will notify the public of the Town's current Program, and make available for public inspection documentation on this Program. Included in this documentation will be general information on the Program; information on the type(s) of activities undertaken with CDBG funds; information on identified historic properties which might be affected by these activities; the amount of CDBG funds available in the current program year; and how interested persons can receive further information and comment on the Program.

VI. EMERGENCY ACTIVITIES

In the event of an emergency that is an immediate threat to life or property, the Town shall notify the SHPO and those consulting parties identified in Stipulation V of the undertaking and afford them an opportunity to comment within seven days. If the Town determines that the circumstances of the emergency do not allow seven days for comment, the Town shall notify the SHPO and the consulting parties and invite comments in the time available.

VII. AMENDMENTS

Any party to this Agreement may request that it be amended, whereupon the parties will consult in accordance with §800.14 to consider such amendment. No amendment to this Agreement will go into effect without written concurrence of all consulting parties.

VIII. TERMINATION

Any party to this Agreement may terminate it by providing thirty (30) days notice to the other parties, provided that the parties will consult during the period prior to the termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, TOWN will comply with §800.4 through §800.6 with respect to individual undertakings covered by this Agreement.

IX. FAILURE TO COMPLY WITH TERMS OF AGREEMENT

In the event TOWN cannot carry out the terms of this Agreement, it shall not take or sanction any action or make any irreversible commitment that would result in an adverse effect to historic properties or would foreclose SHPO's or ACHP's consideration of modifications or alternatives to the undertaking, and TOWN will comply with §800.4 through §800.6 with regard to each individual undertaking covered by this Agreement.

X. DURATION OF THE AGREEMENT

This Agreement will continue in full force and effect for 10 years following the date of the last signature. At any time in the sixth-month period prior to such date, the Town 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 AND IMPLEMENTATION of this Programmatic Agreement evidences that TOWN has afforded ACHP a reasonable opportunity to comment on undertakings arising from the federal program described above and that TOWN has taken into account the effects of all undertakings on historic resources.

TOWN OF MIDDLEBOROUGH

By: 

Date: 10/17/05

Wayne C. Perkins, Chairman
Board of Selectmen

MASSACHUSETTS STATE HISTORIC PRESERVATION OFFICER

By: Brona Simon
Deputy State Historic Preservation Officer

Date: 10/31/05

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____
John M. Fowler, Executive Director

Date: _____

ATTACHMENT A

TO

TOWN OF MIDDLEBOROUGH'S

PROGRAMMATIC AGREEMENT FOR REHABILITATION AND NEW CONSTRUCTION

Project Activities Not Requiring Review:

1. Electrical work, limited to upgrading or in-kind replacement;
2. Plumbing work, limited to upgrading or in-kind replacement, with the exception of historic fixtures that shall be repaired when possible;
3. Installation of mechanical equipment that does not affect the exterior of the building or require installation of new duct work throughout the interior;
4. Repainting of existing exterior painted surfaces if destructive surface preparation treatments are not used, including, but not limited to, waterblasting, sandblasting, and chemical removal;
5. Repair or partial replacement of porches, cornices, exterior siding, doors, balustrades, stairs, or other trim when the repair or replacement is done in-kind to exactly match existing material and form;
6. Replacement of deteriorated windows when the replacement is done in-kind to exactly match the existing material and form;
7. Replacement of window panes in-kind or with double or triple glazing so long as glazing is clear and not colored and replacement does not alter existing window material and form;
8. Caulking and weatherstripping with compatibly colored materials;
9. Roof repair or replacement with materials that exactly match the existing material and form;
10. Installation of insulation, with the exception of urea formaldehyde foam insulation or any other thermal insulation with a water content into wall cavities, provided that decorative interior plaster or woodwork or exterior siding is not altered by this work item;
11. Installation of fire or smoke detectors;
12. Installation of security devices, including dead bolts, door locks, window latches, and door peepholes, and the installation of electronic security systems;

13. Repair or replacement of driveways and walkways when work is done in-kind to exactly match existing material and form;
14. Repair or replacement of fencing when work is done in-kind to exactly match existing material and form;
15. Floor refinishing;
16. Repair or replacement of floors when work is done in-kind to exactly match existing material and form;
17. Installation of grab bars and minor interior modifications for handicap accessibility;
18. Repair or replacement of signs or awnings when work is done in-kind to exactly match existing material and form;
19. Repair or replacement of interior stairs when work is done in-kind to exactly match existing material and form; and
20. Installation of portable ramps and wedges.