

INTRODUCED: May 13, 2024

AN ORDINANCE No. 2024-133

To authorize the Chief Administrative Officer, for and on behalf of the City of Richmond, to execute a Programmatic Agreement, and a Second Amendment thereto, between the City of Richmond and the Virginia State Historic Preservation Office for the purpose of ensuring compliance with Section 106 of the National Historic Preservation Act in the performance of programs funded by the U.S. Department of Housing and Urban Development.

Patron – Mayor Stoney

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: MAY 28 2024 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That the Chief Administrative Officer, for and on behalf of the City of Richmond, be and is hereby authorized to execute a Programmatic Agreement, and a Second Amendment thereto, between the City of Richmond and the Virginia State Historic Preservation Office for the purpose of ensuring compliance with Section 106 of the National Historic Preservation Act in the performance of programs funded by the U.S. Department of Housing and Urban Development.

§ 2. This ordinance shall be in force and effect upon adoption.

A TRUE COPY:
TESTE:
Carlin D. Reed
City Clerk

AYES: 8 NOES: 0 ABSTAIN: _____

ADOPTED: MAY 28 2024 REJECTED: _____ STRICKEN: _____



City of Richmond

900 East Broad Street
2nd Floor of City Hall
Richmond, VA 23219
www.rva.gov

Master

File Number: Admin-2024-0385

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Agenda Date: 05/13/2024

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Patron(s):

Enactment Date:

Attachments: Ordinance Admin-2024-0385 - AATF.pdf, Ordinance Admin-2024-0385 Second Amendment.pdf, Admin-2024-0385 RichmondProgrammaticAgreement2019rev11092021.pdf

Enactment Number:

Contact:

Introduction Date:

Drafter: jonathan.brown@richmondgov.com

Effective Date:

Related Files:

Approval History

Version	Seq #	Action Date	Approver	Action	Due Date
1	1	4/26/2024	Jonathan Brown	Approve	4/30/2024
1	2	4/26/2024	Kris Daniel-Thiem - FYI	Notified - FYI	
1	3	4/26/2024	Kevin Vonck	Approve	5/3/2024
1	4	4/26/2024	Alecia Blackwell - FYI	Notified - FYI	
1	5	4/26/2024	Sharon Ebert	Approve	4/30/2024
1	6	4/26/2024	Caitlin Sedano - FYI	Notified - FYI	
1	7	4/26/2024	Jeff Gray	Approve	4/30/2024
1	8	4/30/2024	Lincoln Saunders	Approve	4/30/2024
1	9	5/7/2024	Mayor Stoney	Approve	5/2/2024

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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Text of Legislative File Admin-2024-0385

City of Richmond

Intracity Correspondence

O&R Transmittal

DATE: April 26, 2024

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor

THROUGH: J.E. Lincoln Saunders, Chief Administrative Officer

FROM: Kevin J. Vonck, Ph.D., Director, Planning and Development Review

RE: Authorization for the Chief Administrative Officer to execute a Programmatic Agreement, and an amendment thereto, between the City of Richmond and the Virginia Department of Historic Resources (DHR), the State Historic Preservation Office, for the purpose of ensuring City compliance with Section 106 of the National Historic Preservation Act in the performance of programs funded by the US Department of Housing and Urban Development.

ORD. OR RES. No.

PURPOSE: To authorize the Chief Administrative Officer to sign a “Programmatic Agreement Between the City of Richmond and the Virginia Department of Historic Resources (DHR), the State Historic Preservation Office, Regarding the Administration of the City of Richmond’s Community Revitalization Programs Funded by the US Department of Housing and Urban Development (HUD),” and a First Amendment thereto, for the purpose of ensuring City compliance with Section 106 of the National Historic Preservation Act in the performance of programs funded by the U.S. Department of Housing and Urban Development.

BACKGROUND: The City of Richmond is the administering agency for local programs receiving federal assistance from the US Department of Housing and Urban Development (HUD), including, but

not limited to the following: Community Development Block Grant (CDBG), HOME Investment Partnership (HOME), Emergency Solutions Grant (ESG), Housing Opportunities for Persons with AIDS (HOPWA), Choice Neighborhoods, HOPE VI Program, Project Based Vouchers (PBV), Section 108 Loan Guarantee Program, Community Project Funding Grants, the Self-Help Homeownership Opportunity Program (SHOP), and Lead-based Paint Abatement Program Activities. The City is thus responsible for certifying the compliance of those programs with the National Environmental Policy Act (NEPA) of 1969 and the federal regulations at 36 CFR Part 800, et seq. that implement Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended. Since 1993, the City of Richmond has carried out its Section 106 responsibilities under the guidance of a Programmatic Agreement with the Virginia Department of Historic Resources (State Historic Preservation Office). The Programmatic Agreement stipulates the City's process for ensuring compliance with 36 CFR Part 800 and streamlines the Section 106 review process and allows the city to make decisions and review certain projects without consultation with DHR. Approximately 130 HUD-funded projects, on average, are annually reviewed for compliance with Section 106 and nearly 90% of those projects can be reviewed by city staff without consultation which reduces the review time by 30 to 60 days.

In the past these agreements have been executed by the City Manager or Chief Administrative Officer without Council authorization, but federal caselaw of the last 5 years suggests Council approval is necessary.

COMMUNITY ENGAGEMENT: The Programmatic Agreement was developed as part of the City's obligation to comply with federal law. The State and Federally recognized tribes with cultural interest in the City of Richmond, the Archaeological Society of Virginia, RVA Archaeology, Historic Richmond Foundation, APVA Preservation Virginia, and the Valentine Richmond History Center were specifically consulted during the development of the PA. Comment was also solicited from members of the general public.

STRATEGIC INITIATIVES AND OTHER GOVERNMENTAL: The Programmatic Agreement has a direct impact on the administration of City's affordable housing initiatives.

FISCAL IMPACT: None

DESIRED EFFECTIVE DATE: June 1, 2024

REQUESTED INTRODUCTION DATE: May 13, 2024

CITY COUNCIL PUBLIC HEARING DATE: May 28, 2024

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: Land Use, Housing, and Transportation

AFFECTED AGENCIES: Planning and Development Review, Housing and Community Development, and Richmond Redevelopment and Housing Authority

RELATIONSHIP TO EXISTING ORD. OR RES.: N/A

ATTACHMENTS: Programmatic Agreement (2019-2024), Second Amendment to Extend Programmatic Agreement, and Ordinance to Amend

STAFF: Kimberly M. Chen, Senior Manager - authentiCITY Studio 804.646.6364

**SECOND AMENDMENT TO
PROGRAMMATIC AGREEMENT
BETWEEN
THE CITY OF RICHMOND AND
THE VIRGINIA DEPARTMENT OF HISTORIC RESOURCES (DHR),
THE STATE HISTORIC PRESERVATION OFFICE,
REGARDING
THE ADMINISTRATION OF
THE CITY OF RICHMOND'S COMMUNITY REVITALIZATION PROGRAMS
FUNDED BY THE
US DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)**

WHEREAS, on June 24, 2019, a Programmatic Agreement (Agreement) was executed by the City of Richmond in the Commonwealth of Virginia (City) and the Virginia State Historic Preservation Office (SHPO), for the City to administer its programs receiving federal assistance from the US Department of Housing and Urban Development (HUD) under Title I of the Housing and Community Development Act of 1974, as amended, including but not limited to the Community Development Block Grant (CDBG); HOME investment Partnership (HOME); Emergency Shelter Grant (ESG); and Housing Opportunities for Persons with Aids (HOPWA); and

WHEREAS, per Stipulation XI of the Agreement, the term of the Agreement shall be five (5) years, unless extended by amendment at any time in the six (6)-month period prior to the date of expiration of the five (5)-year term; and

WHEREAS, June 24, 2024 is the date upon which the Agreement would expire; and

WHEREAS, the signatories are unanimous that this Agreement should be continued and that Stipulation XI be amended to reflect this.

NOW, THEREFORE, the City and the SHPO agree that the Agreement is amended as follows:

I. EXTENSION OF THE AGREEMENT

The following sentence is hereby added to the first paragraph of Stipulation XI of the Agreement:

By amendment to this Stipulation in accordance with the terms of this Stipulation, this Agreement shall continue in full force and effect for an additional five (5) years, to expire June 30, 2025, unless earlier terminated (i) in accordance with Stipulation X above or (ii) by the City and the SHPO for the purpose of replacing this Agreement with a new Programmatic Agreement.

II. RATIFICATION; EFFECTIVE DATE

Except as expressly modified by this Amendment, the terms and conditions of the Agreement shall remain unchanged and in full force and effect. The Agreement, as

modified by this Second Amendment, is hereby ratified and affirmed in all respects. If anything contained in this Second Amendment conflicts with any terms of the Agreement, then the terms of this Second Amendment shall prevail. This Second Amendment shall become effective and binding upon execution by both the City and the SHPO.

**SIGNATURE PAGE
SECOND AMENDMENT TO
PROGRAMMATIC AGREEMENT
BETWEEN
THE CITY OF RICHMOND AND
THE VIRGINIA DEPARTMENT OF HISTORIC RESOURCES (DHR),
THE STATE HISTORIC PRESERVATION OFFICE,
REGARDING
THE ADMINISTRATION OF
THE CITY OF RICHMOND'S COMMUNITY REVITALIZATION PROGRAMS
FUNDED BY THE
US DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)**

SIGNATORIES:

CITY OF RICHMOND, VIRGINIA

By: _____
J. E. Lincoln Saunders, Chief Administrative Officer
City of Richmond, Virginia

Date: _____

VIRGINIA STATE HISTORIC PRESERVATION OFFICE

By: _____
Julie V. Langan, Director
Virginia Department of Historic Resources and
Virginia State Historic Preservation Officer

Date: _____

Approved as to form:



Senior Assistant City Attorney

**PROGRAMMATIC AGREEMENT
BETWEEN
THE CITY OF RICHMOND AND
THE VIRGINIA DEPARTMENT OF HISTORIC RESOURCES (DHR),
THE STATE HISTORIC PRESERVATION OFFICE
REGARDING
THE ADMINISTRATION OF
THE CITY OF RICHMOND'S COMMUNITY REVITALIZATION PROGRAMS
FUNDED BY THE
US DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)**

WHEREAS, The City of Richmond (City) in the Commonwealth of Virginia proposes to administer programs receiving federal assistance from the US Department of Housing and Urban Development (HUD), including, but not limited to: Community Development Block Grant (CDBG), HOME Investment Partnership (HOME), Emergency Solutions Grant (ESG), Housing Opportunities for Persons with AIDS (HOPWA), Neighborhood Stabilization Program (NSP), Project Based Vouchers (PBV), Section 108 Loan Guarantee Program, and Lead-based Paint Abatement Program Activities; and

WHEREAS, the City executes relationships with community development corporations and nonprofit organizations (sub-grantees) as well as Richmond Redevelopment and Housing Authority (RRHA) and other development-related entities to implement its Program Activities; and

WHEREAS, the Administering Agency for the above HUD Program Activities, in accordance with 24 CFR Part 58.1, is the City which is thus 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) of 1966, as amended; and

WHEREAS, the City and the Virginia Department of Historic Resources (DHR), which serves as the State Historic Preservation Office (SHPO), and the Advisory Council on Historic Preservation (ACHP) have determined that the City can more effectively carry out its Section 106 responsibilities for HUD Program Activities if a Programmatic Agreement (Agreement) is used to streamline the administrative process where agreed upon criteria and procedures are followed; and

WHEREAS, the undertakings to be reviewed under the Stipulations of this Agreement generally consist of the acquisition and disposition of real property, the full or partial demolition of buildings or structures, the reduction or abatement of lead paint hazards, the construction of new buildings, the substantial rehabilitation of existing buildings, or the repair of hazardous and/or deficient conditions in occupied dwellings; and

WHEREAS, the City has defined the scope of review and compliance as the City's jurisdiction, which encompasses the corporate limits of the City of Richmond as illustrated in Appendix 1, and in certain instances may include an undertaking extending over multiple jurisdictions in which the City is a participant; and

WHEREAS, projects using funds from the above HUD programs have the potential to affect properties listed in or eligible for listing in the National Register of Historic Places (NRHP) and, therefore, require compliance with Section 106 of the National Historic Preservation Act (54 USC 300101) and its implementing regulation (36 CFR Part 800); and

WHEREAS, the principles set forth in the ACHP’s *Policy Statement on Affordable Housing and Historic Preservation*, which is attached as Appendix 2 and incorporated herein, will be taken into consideration by all parties when carrying out the Stipulations of this Agreement; and

WHEREAS, the City has consulted with the ACHP and the SHPO pursuant to 36 CFR Part 800.14 of the regulations governing the implementation of Section 106 of the National Historic Preservation Act (54 USC 300101), and after the initial consultation the ACHP declined to participate further in the development of the Agreement; and

WHEREAS, pursuant to 36 CFR Part 800.3(f)(2) the City invited the State and Federally-recognized tribes that retain cultural interest in the City of Richmond including the Catawba Indian Nation, Cheroenhaka (Nottoway) Indian Tribe, the Chickahominy Indian Tribe, the Chickahominy Indians Eastern Division, the Delaware Nation – Oklahoma, the Mattaponi Indian Reservation, the Monacan Indian Nation, the Nansemond Tribe, the Nottoway Indian Tribe of Virginia, the Pamunkey Indian Tribe, the Patowomeck Tribe, the Rappahannock Tribe, and the Upper Mattaponi to participate in consultation, in letters dated August 3, 2018; and

WHEREAS, only the Catawba Indian Nation, the Delaware Nation – Oklahoma, and Rappahannock Tribe responded and offered comments; and

WHEREAS, the remaining tribes did not respond to the invitation, but the City is assuming that all State and Federally-recognized tribes are consulting parties and is treating them as such in accordance with the Standard Operating Procedures (SOP)/Section VIII-Consultation contained in Appendix 3; and

WHEREAS, pursuant to 36 CFR 800.3(f), in an email dated January 10, 2019, the City invited the Archaeological Society of Virginia (ASV), RVA Archaeology, Historic Richmond Foundation, APVA Preservation Virginia, and the Valentine Richmond History Center to participate in consultation, and to sign the Agreement as concurring parties; and no responses were received; and

WHEREAS, pursuant to 36 CFR 800.2(d) the City shall seek and consider the views of the public in a manner that reflects the nature and complexity of individual undertakings and their potential to affect historic properties, the likely interest of the public in the effects on historic properties, confidentiality concerns of private individuals and businesses, and the relationship of the Federal involvement to the undertaking; and

WHEREAS, the definitions given in Appendix 4 are applicable throughout this Agreement.

NOW, THEREFORE, the City and the SHPO agree that the review of all HUD-funded undertakings as a part of this Agreement shall be implemented in accordance with the following Stipulations:

STIPULATIONS

The City shall ensure that the following Stipulations are carried out:

I. ADMINISTRATION OF THE PROGRAMMATIC AGREEMENT

- A. Regulations and Procedures.** The City shall administer Section 106 review in accordance with the Stipulations of this Agreement and the most recent version of the ACHP Regulations (36 CFR Part 800). No part of this agreement shall conflict with 36 CFR Part 800. To elaborate on these two documents and to clarify the procedural details

of the Section 106 process, the City has developed Standard Operating Procedures (SOP) in consultation with the SHPO (Appendix 3). The SOPs and other Appendices to this document may be revised at any time without requiring the Amendment process outlined in this Agreement. Changes must be made by the City in consultation with the SHPO and agreed to by both parties. Date(s) of revision(s) shall be noted in each Appended item.

B. Professional Qualifications. The City shall assure that all activities related to the identification of historic properties, effects assessment, and mitigation carried out pursuant to this Agreement shall be done by, or under the direct supervision of, City historic preservation staff who meet the qualifications set forth in the latest version of the *Secretary of the Interior's Professional Qualifications Standards* (48 FR 44738-44739). The City shall advise and consult with the SHPO if there is any change in the historic preservation staff administering this Agreement.

C. Guiding Documents and Standards. The review of undertakings that have the potential to affect historic properties will be guided by the following:

1. Standards and related documents. In the review of undertakings that will affect historic properties, the City and SHPO shall follow the recommended approaches in the latest version of the *Secretary of the Interior's Standards for Rehabilitation (Secretary's Standards)*, adopted by National Park Service (NPS). The City and SHPO shall also consider the most current editions of the NPS Technical Preservation Services - *Preservation Briefs* - as well as additional applicable guidance documents issued by the ACHP, NPS, or SHPO.

2. Archaeology. The archaeological professionals preparing any studies shall give full consideration to the most recent versions of:

- a. The *Secretary of the Interior's Standards and Guidelines for Archaeological Documentation* (48 FR 44734-37); and
- b. The DHR's *Guidelines for Conducting Historic Resources Survey in Virginia* (September 2017); and
- c. The ACHP publications: *Consulting About Archaeology under Section 106* (1990), *Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites* (1999), and *Section 106 Archaeology Guidance* (June 2007).

3. Design Guidelines. The *Old & Historic District Handbook and Design Review Guidelines* (October 2017), currently in use by the City of Richmond's Commission of Architectural Review, may be used in the review of undertakings under the Stipulations of this Agreement, or additional guidelines may be developed as needed which shall be subject to review under the Stipulations of this Agreement in consultation with the SHPO and consulting parties. When applicable, the principles set forth in the *Council's Policy Statement on Affordable Housing* (Appendix 2) shall be taken into consideration by all parties and balanced with the recommendations of these guidelines. All other HUD-funded projects shall comply with standard review protocols, as outlined in the SOPs, and adhere to the *Secretary's Standards*.

4. **Standardized Designs for New Construction.** In planning new construction on multiple sites in a given neighborhood that will affect historic properties, the City may consult with the SHPO and consulting parties regarding a plan for the use of one or more standardized designs.
5. **Lead Paint Guidance.** When a rehabilitation undertaking involves the abatement or reduction of lead paint hazards, the rehabilitation shall be guided by the most recent versions of the *Secretary's Standards*, the *HUD Guidelines for Lead Paint Abatement*, and *Preservation Brief No. 37*, 24 CFR Part 35, *Lead-Based Poisoning Prevention in Certain Residential Structures*, including § 35.140, "Prohibited methods of paint removal", and Chapter 18 of HUD's *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing*, *Lead Hazard Control and Historic Preservation*. The City and Project Homes in consultation with the SHPO has developed a *Protocol for the Treatment of Historic Properties* (Appendix 5) related to the City of Richmond Lead-Based Paint Hazard Control Program. This Protocol document is incorporated into the SOP and shall guide undertakings related to lead hazard abatement.

- D. **Coordination of Review.** Sub-grantees and project applicants will submit complete applications to the City. As per the SOP, the City will submit a complete application to the SHPO. The SHPO and other consulting parties shall review undertaking documentation submitted by the City to them pursuant to this Agreement within thirty (30) days after confirmed receipt of complete documentation. If no response is received within thirty (30) days, the City may assume the non-responding party has no comments and concurs with the finding of the City. The City shall take into consideration all comments received within the thirty (30)-day review period, implement, and proceed to the next step in the process.
- E. **Public Review and Comment.** The City of Richmond shall make a reasonable and good faith effort to seek and consider the views of the public in a manner that reflects the nature and complexity of the undertaking and its effects on historic properties. The City shall post a list of all complete and active projects on Planning and Preservation website on a monthly basis. Upon request any member of the public can review the complete record of any undertaking. The City will accept written comments from the public on both individual undertakings and the administration of the Agreement. The City shall consider and address all requests from a member of the public to review or reconsider determinations of eligibility for an undertaking in consultation with the SHPO. The City shall take written comments from the public on an undertaking into account in completing the Section 106 review. As a part of consultation, the City shall forward copies of public comments to the SHPO and consulting parties. Public comments pertaining to adverse effects shall be governed by Stipulation VI (B). The City shall respond in writing to written comments received on the administration of this Agreement, providing copies to the SHPO and consulting parties.

II. PRESERVATION PLANNING

- A. **Resource Inventory.** The City shall work to maintain an inventory of archeological and architectural resources in the City of Richmond for which evaluation is needed or that are

listed on, eligible for, potentially eligible for, or ineligible for listing on the NRHP, including districts, buildings, structures, sites, and objects. Two (2) electronic data tools shall be used to manage the inventory: VCRIS and Richmond Geographic Information System (GIS). The inventory process shall be specified in the SOP (Appendix 3).

- B. Code Enforcement.** The City shall strengthen its efforts to protect properties from demolition. The City of Richmond shall work actively with Code Enforcement and Building Officials to develop a list of properties identified in the Resource Inventory with active code enforcement violations and shall bi-annually report these findings to the SHPO.
- C. Comprehensive Planning.** The City shall work with the SHPO in order to develop proactive legislation requirements in the Historic Preservation Element of the City's Comprehensive Plan to address demolitions of resources identified in the Resource Inventory.
- D. Yearly Section 106 Training by SHPO.** City staff shall coordinate with the SHPO to provide Section 106 training for employees in Code Enforcement, Housing and Community Development, grant sub-recipients, and other agencies directly involved with the regulation and oversight of historic resources on a yearly basis.
- E. Community Planning.** The City has targeted redevelopment areas for the receipt of HUD funds as part of a Consolidated Plan. As part of this Agreement, the City shall provide a map of Targeted Redevelopment Areas to the SHPO on a yearly basis.

III. INITIATING THE 106 PROCESS

- A. Define the undertaking as per 36 CFR 800.16(y).** The City shall determine if HUD-funded project(s) constitute(s) an undertaking subject to Section 106 review. The City shall clearly identify the scope of work for each project and potential to affect historic properties.
- B. Undertaking Record.** The City shall compile an individual record for each undertaking reviewed under the Stipulations of this Agreement, including exempt work items and undertakings that do not affect historic properties, per the SOP (Appendix 3). All written and email correspondence shall form part of the undertaking record.

IV. IDENTIFICATION AND EVALUATION OF HISTORIC PROPERTIES

- A. Archaeology:** Any undertaking involving ground disturbance within archaeological sites previously identified by the SHPO; a cemetery, Civil War related feature, a site shown as High or Moderate Priority on the Archaeology Sensitivity Map (Appendix 6) and/or an undertaking resulting in one (1) acre or more of cumulative ground disturbance shall be considered an undertaking subject to Section 106 and submitted to the SHPO/THPO and consulting parties.
 - 1. Additional identification.** Should the City determine, in consultation with the SHPO/THPO that further consultation is needed or that further identification is

needed; the SHPO/THPO may recommend a process to identify and evaluate archaeological resources.

2. **Additional Consultation.** The SHPO/THPO shall be consulted by the City if there is a horizontal or vertical increase to the initially defined limits of disturbance.

B. Area of Potential Effect (APE) Delineation. Per the SOP, and in consultation with the SHPO/THPO, the City shall determine an APE for each undertaking. The City shall consider affects to historic and archaeological resources. For an undertaking greater than one (1) acre of cumulative ground disturbance, the APE shall consist of the parcel(s) where the affected property (ies) is/are located or that are immediately adjacent to the affected property (ies).

C. No Historic Properties Affected. A finding of no historic properties affected can be made after preparation of a complete undertaking record, as per the SOP, if the undertaking falls into one of the following categories:

1. Properties not requiring SHPO concurrence:

- a. The affected property is documented in VCRIS (as either an individual property or as part of a district) and has been determined by the SHPO to be ineligible for listing on the NRHP within the past 7 years; or
- b. The affected property is listed as non-contributing in the inventory of a district listed on the NRHP; or
- c. If the affected property has a building, structure, or object that has not been previously documented in VCRIS that is less than fifty (50) years of age, provided the City determines the property does not meet the NRHP Criteria Consideration G, for properties that have achieved exceptional significance within the past fifty (50) years; or
- d. The affected property is not located in a NRHP-Eligible or Potentially NRHP-Eligible Historic District as illustrated on the map of Architecturally Sensitive Areas (Appendix 7) and the City determines that the property does not meet the NRHP criteria for individual listing on the NRHP; or
- e. The affected property is located within a NRHP-Eligible or Potentially NRHP-Eligible Historic District as illustrated on the map of Architectural Sensitivity Map (Appendix 7) and the City determines that the property does not contribute to the significance of the eligible district or has lost significant integrity; or
- f. The property is a manufactured (mobile) home.

For these properties, the City may complete a finding of “no historic properties affected” without consultation with the SHPO and complete the Section 106 review of the undertaking.

2. Properties requiring SHPO concurrence:

- a. **Properties fifty (50) years or older.** If the City determines and documents that a property (ies) with a building(s), structure(s), or object(s) affected by the undertaking is/are not eligible under the NRHP

Criteria for Evaluation; the City shall submit documentation to the SHPO with a finding of “no historic properties affected.” Upon the concurrence by the SHPO of “no historic properties affected,” the undertaking may proceed.

- b. Properties determined eligible by SHPO or documented in VCRIS as eligible.** If a property (building, object, or structure) or a number of properties affected by an undertaking are noted as NRHP-Eligible or potentially NRHP-Eligible in VCRIS, the City shall submit documentation to the SHPO along with a finding of “no historic properties affected”. Upon the concurrence of the SHPO of “no historic properties affected,” the undertaking may proceed.

D. Historic Properties Affected.

- 1. Preliminary Finding Made.** The City may make a preliminary finding of “historic properties affected” if:
 - a.** The undertaking is within/or immediately adjacent to a district or individual property (ies) listed on the NRHP, or that has been determined NRHP-eligible by City staff or the SHPO and documented in VCRIS, or is illustrated on the Architectural Sensitivity Map (Appendix 7) as Potentially Eligible; and/or
 - b.** An undertaking whose APE will impact, either directly or indirectly, a district or individual property (ies) listed on the NRHP, or that has been determined NRHP-eligible by City staff or the SHPO, and documented in VCRIS.
- 2. Excluded work items.** Excluded work items are those that have no effect, or limited potential to affect, historic properties. For any undertaking that is restricted to the excluded work items listed in Appendix 8, the City may make a finding of “no adverse effect.” For such an undertaking, the City must produce an undertaking record, and may complete Section 106 review without consultation with the SHPO.
 - a. Applicable Standards.** Maintenance shall be guided by the guiding documents and standards, specifically the *Secretary Standards for the Preservation of Historic Properties*.
 - b. Division of undertaking.** If an undertaking scope of work consists of both excluded and non-excluded items, the City may divide Section 106 review and present the non-excluded items for SHPO review.
- 3. Undertakings Submitted for Consultation.** Any undertaking for which the City makes a preliminary finding of “historic properties affected” shall be submitted to the SHPO for consultation, per the SOP.

V. TREATMENT OF HISTORIC PROPERTIES

A. General Provisions.

1. **Review of documentation.** Undertakings with a finding of historic properties affected shall be submitted to the SHPO and consulting parties for review. The SHPO and other consulting parties shall review undertaking documentation by the City pursuant to this Agreement within (30) days after confirmed receipt of a complete application for review, as outlined in the SOP. If no response is received within thirty (30) days, the City may assume the non-responding party has no comments and concurs with the finding of the City.
2. **Treatments.** Treatments not listed in the Excluded Work Items (Appendix 8) shall be considered non-excluded. Work cannot commence on non-excluded work items until consultation is completed and a final determination has been issued by the SHPO. Failure to comply may result in stop work orders being issued and additional measures, including the forfeiture of HUD-funding.
3. **Archaeology: Treatment plans.** Should the City, as a result of survey efforts and in consultation with the SHPO/THPO, determine that an NRHP-Eligible archaeological resource will be affected; a plan for its avoidance, protection, or recovery of archaeological data shall be submitted to the SHPO/THPO for consultation. The City shall consider all comments received in preparing the final treatment plan and shall then implement the plan.
4. **Conclusion of Consultation.** Following the submission by the City of a complete application per the SOP (Appendix 3), including information regarding how the undertaking will affect historic properties, the SHPO may as part of consultation concur with the finding and conditions of the City or impose additional conditions to assure compatibility, compliance with the *Secretary's Standards*, or to mitigate an adverse finding. For a conditional no adverse effect determination, the City shall ensure compliance with the conditions imposed by the SHPO.

B. Acquisition and/or Disposition as Undertakings. The acquisition of a property with HUD funding, shall be considered an undertaking subject to Section 106 review. The disposition of a property purchased or improved with HUD funding shall be considered an undertaking subject to Section 106 review. Subsequent HUD-assisted rehabilitation, new construction, demolition, or other treatments shall be treated as undertakings to be reviewed in accordance with Stipulations IV, or V. If such treatments are known at the time of acquisition or disposition, they should be aggregated into the same Section 106 review as the acquisition or disposition. Conveyance with a protective covenant may be considered in dispositions where appropriate to protect a highly significant historic property.

C. Demolitions of Unsafe Structures using HUD funding. Should the City of Richmond Code official determine a building or structure to be unsafe in accordance with Section 106 of the 2015 Virginia Maintenance Code, the Code Official shall notify the City of Richmond Division of Planning and Preservation of its intent to demolish utilizing HUD funding. The undertaking will be reviewed in accordance with Stipulations IV or V. Demolitions affecting historic properties will be reviewed in accordance with Stipulation V with a seven (7) day comment period with the following conditions:

1. **No Adverse Effect Determinations.** A determination of “no adverse effect” can be made where the City is removing a building or structure that has suffered fire or collapse through an act of God or other circumstance beyond the city’s control of more than 50% of its square footage.
2. **Adverse Effect Determinations.** If the demolition will result in an adverse effect to historic properties, or the SHPO objects to a “no adverse effect” determination, the City will follow the steps outlined in Stipulation VI.

D. Emergency Demolitions using HUD funding. During operations which respond to an emergency or disaster declared by the appropriate local, state, or federal authority where HUD funds will be utilized for the total or partial demolition of an unsafe building or structure in the interest of public health and safety the City may act in accordance with Stipulations IV or V (C).

E. Redevelopment Projects

1. The City shall consult with the SHPO during the preparation of redevelopment or urban renewal plans for neighborhood, historic district, or target areas using HUD funds. The City shall afford the SHPO an opportunity to comment on the document during the late planning stages. The SHPO shall evaluate the potential effect that the goals, objectives and implementation strategy of the plan will have on Historic Properties. The SHPO’s comments shall be integrated into the plan or referenced in the document before it is submitted for required local administrative reviews.
2. The City, in consultation with the SHPO, shall determine whether the redevelopment or urban renewal plan should be implemented under the terms of this Agreement or whether a project-specific MOA should be developed in accordance with 36 C.F.R. § 800.6. The City shall notify the ACHP of the SHPO’s determination and, if appropriate, provide the ACHP with background documentation to initiate the consultation process.

VI. ADVERSE EFFECT

A. Consultation. If an undertaking will adversely affect historic properties, the City shall consult with the SHPO and other consulting parties to consider possible ways to avoid or minimize the adverse effect. If an adverse effect cannot be avoided, the City shall continue consultation to identify appropriate mitigation that is based on the degree of the adverse effect and the level of significance of the historic properties affected. The mitigation measures shall receive the concurrence of the SHPO/THPO before treatment activities begin.

B. Public Comment. When any finding of adverse effect is made for any undertaking, the City shall solicit written comments from the public regarding the adverse effect of the undertaking on historic properties. The City shall notify the public regarding the adverse effect using the City website and direct notification by email in accordance with the SOP (Appendix 3) to this Agreement. As a part of the public comment process the City shall provide the opportunity for the interested members of the public to express their views on the proposed mitigation measures. The City shall provide copies of all comments received to the SHPO.

C. Archaeological Mitigation. Mitigation plans relating to archaeology shall be covered by treatment plans developed in accordance with Stipulation V(A)(3) and the general guidance documents related to the discipline aforementioned in this Agreement.

D. Mitigation for Demolition. Mitigation is resolved through consultation with the SHPO, ACHP, and other consulting parties and is commensurate to the scale of the undertaking.

1. Standard Mitigation. For the proposed demolition of a historic property, site or object, standard mitigation shall be a survey of the affected property at the intensive level, as specified further in the SOP.

a. In the case of mitigation for redevelopment, mitigation shall include Section 106 review of the proposed new construction (replacement structure), per the SOP.

b. The incorporation of salvaged materials and/or design features from the demolished building or structure in the replacement new construction may be considered as mitigation.

2. Additional Mitigation Measures. Additional mitigation measures for a demolition may be identified as part of consultation.

VII. POST REVIEW DISCOVERIES

The City shall include Stipulation VII (A to C) in all construction contracts implemented in association with an identified undertaking.

A. Notification of the City. If previously unidentified historic properties or unanticipated effects to historic properties are discovered during construction, the construction contractor shall immediately halt all activity within a one hundred (100)-foot radius of the discovery, notify the City of the discovery, and implement interim measures to protect the discovery from looting and vandalism.

B. Response by the City. Immediately upon receipt of the notification required in Stipulation VII (A), the City shall:

1. Inspect the construction site to determine the extent of the discovery and ensure that construction has halted;

2. Clearly mark the area of discovery;

3. Implement additional measures, as appropriate, to protect the discovery from looting and vandalism; and

4. Have a professional archaeologist inspect the construction site to determine the extent of the discovery and provide recommendations regarding its NRHP eligibility and treatment.

C. Consultation. Within forty-eight (48) hours of receipt of the notification by the contractor, the City shall provide the ACHP, the SHPO, and other consulting parties a

summary of the response by the City to date, and recommendation of the NRHP eligibility of the discovery, and the measures it proposes to take to avoid or resolve adverse effects. In making its official evaluation, the City, in consultation with the SHPO, may assume the discovery to be NRHP eligible for the purposes of Section 106 pursuant to 36 CFR 800.13(c). The SHPO and other consulting parties shall respond within forty-eight (48) hours of receipt. The City, which shall take into account the consulting parties' recommendations on eligibility and treatment of the discovery, shall ensure that it carries out appropriate actions, and provides the ACHP, the SHPO, and other consulting parties with a report on these actions when they have been implemented. Construction may proceed in the area of discovery, when the City has determined that implementation of the actions undertaken to address the discovery pursuant to Stipulation VII are complete.

VIII. HUMAN REMAINS

- A. Treatment requirements.** The City shall treat all human remains and associated funerary objects encountered during the course of construction of an undertaking reviewed under this Agreement in the manner consistent with the latest version of ACHP "*Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects.*" All reasonable efforts will be made to avoid disturbing gravesites, including those containing Native American human remains and associated artifacts. To the extent possible, the City shall assure that the general public is excluded from viewing any gravesites and associated artifacts. All consulting parties agree to release no photographs of any gravesites and/or funerary objects to the press or to the general public.
- B. Removal.** If the City agrees that avoidance of the human remains is not prudent and feasible, the City shall apply for a permit from DHR for the archaeological removal of the human remains in accordance with the provisions of the *Virginia Antiquities Act*, Section 10.1-2305 of the *Code of Virginia*, and with the final regulations adopted by the Virginia Board of Historic Resources and published in the Virginia Register of July 15, 1991.
- C. Native American Remains.** If the human remains encountered appear to be of Native American origin, whether prehistoric or historic, the City shall immediately notify the State and Federally-recognized tribes. The treatment of Native American human remains and associated funerary objects will be determined in consultation with the State and Federally-recognized tribes and any other appropriate tribal leaders identified as a part of consultation. In considering issuance of a permit involving removal of Native American human remains, the DHR shall notify and consult with the State and Federally-recognized tribes and any other identified tribal leaders, in conformance with all applicable state and federal regulations.

IX. DISPUTE RESOLUTION

- A. Objections.** Should any party to this Agreement or a member of the public object in writing to the City regarding any action carried out or proposed with respect to an undertaking proposed and/or reviewed under the Stipulations of this Agreement or the City's implementation of this Agreement, the City shall consult with the objecting party to resolve the objection. As a part of such consultation, the City shall notify the parties to this Agreement and should the objector so request the City shall undertake consultation

with any of the parties. Through consultation the City will attempt to resolve the objection.

B. Comment by the ACHP. If after initiating such consultation the City determines that the objection cannot be resolved through consultation, the City shall forward all documentation relevant to the objection to the ACHP, including the proposed response of the City to the objection. Within thirty (30) days after receipt of all pertinent documentation, the ACHP shall exercise one (1) of the following options:

1. Advise the City that the ACHP concurs with the proposed City response to the objection, whereupon the City shall respond to the objection accordingly; or
2. Provide the City with recommendations, which the City shall take into account when 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 for comment. The City shall take the resulting comment into account in accordance with 36 CFR Part 800.7(c) (4) and Section 110(l) of NHPA.

C. Concurrence by the ACHP. Should the ACHP not exercise one (1) of these options within thirty (30) days after receipt of all pertinent documentation, the City may assume concurrence of the ACHP in its proposed response to the objection. The City shall take into account any ACHP recommendations or comments provided in accordance with this Stipulation with reference only to the subject of the objection. The responsibility and ability of the City to carry out all actions under this Agreement that is not the subject of the objection shall remain unchanged.

X. AMENDMENT AND TERMINATION

A. Amendment. Any signatory to this Agreement may request that it be amended, whereupon the signatories shall consult in accordance with 36 CFR Part 800.13 to consider such an amendment. All signatories to this Agreement must agree to the proposed amendment in accordance with 36 CFR Part 800.6(c) (7). The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

B. Termination. Any signatory to this Agreement may propose termination of the Agreement if either the City determines that it cannot implement the Stipulations of this Agreement, or if the SHPO or ACHP determines that the Agreement is not being properly implemented. Any signatory may propose termination of this Agreement and shall so notify all parties to the Agreement. In the proposal for termination, the signatory shall explain the reasons for termination. The other signatories shall have at least thirty (30) days to consult and seek alternatives to termination. The signatories to this Agreement shall then consult. 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 review of individual undertakings covered by this Agreement. The termination process shall include the submission by the City to the SHPO of any outstanding undertaking records, inventories, reports, and other documentation pertaining to work done up to and including the date of termination.

XI. DURATION OF THE AGREEMENT

This Agreement shall continue in full force and effect until five (5) years after the date of the last signature. At any time in the six (6)-month period prior to such date, the City may request the ACHP and the SHPO to consider an extension or modification of this Agreement. No extension or modification shall be effective unless the signatories to the Agreement have signed an amendment that modifies this Stipulation and states the length of the extension. The extension will be effective on the date a copy signed by all signatories is filed with the ACHP.

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

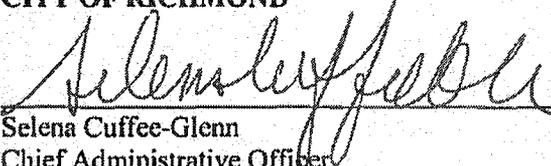
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- Appendix 2 Final Advisory Council on Historic Preservation Policy Statement on Affordable Housing and Historic Preservation**
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- Appendix 4 Definitions**
- Appendix 5 City of Richmond Lead Based Paint Hazard Control Program Protocol for Treatment of Historic Properties**
- Appendix 6 Archaeology Sensitivity Map**
- Appendix 7 Architecturally Sensitive Areas Map**
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SIGNATURE PAGE
PROGRAMMATIC AGREEMENT
BETWEEN
THE CITY OF RICHMOND AND
THE VIRGINIA DEPARTMENT OF HISTORIC RESOURCES (DHR),
THE STATE HISTORIC PRESERVATION OFFICE
REGARDING
THE ADMINISTRATION OF
THE CITY OF RICHMOND'S COMMUNITY REVITALIZATION PROGRAMS
FUNDED BY THE
US DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

SIGNATORIES:

CITY OF RICHMOND


Selena Cuffee-Glenn
Chief Administrative Officer

Date 6/21/19

SIGNATURE PAGE
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SIGNATORIES:

VIRGINIA STATE HISTORIC PRESERVATION OFFICER



Julie V. Langan, Director
Department of Historic Resources

Date 6/29/19

Notices

Federal Register

Vol. 72, No. 31

Thursday, February 15, 2007

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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

AGENCY: Advisory Council on Historic Preservation.

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

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

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

FOR FURTHER INFORMATION CONTACT: Blythe Semmer, 202-606-8505. Electronic mail: affordablehousing@achp.gov

SUPPLEMENTARY INFORMATION: The Advisory Council on Historic Preservation (ACHP) is an independent Federal agency, created by the National Historic Preservation Act, that promotes the preservation, enhancement, and productive use of our Nation's historic resources, and advises the President and Congress on national historic preservation policy.

Section 106 of the National Historic Preservation Act (Section 106), 16 U.S.C. 470f, requires Federal agencies to consider the effects of their undertakings on historic properties and provide the ACHP a reasonable opportunity to comment with regard to such undertakings. ACHP has issued the regulations that set forth the process through which Federal agencies comply with these duties. Those regulations are codified under 36 CFR part 800.

I. Background

In 1995, the ACHP adopted its first "Policy Statement on Affordable

Housing and Historic Preservation" (1995 Policy) to serve as a guide for federal agencies and State Historic Preservation Offices (SHPOs) when making decisions about affordable housing projects during review of federal undertakings under Section 106 of the National Historic Preservation Act, as amended, 16 U.S.C. 470f (Section 106), and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800). The ACHP adopted the policy to guide federal agencies and SHPOs at a time when conflicts between the dual goals of providing affordable housing and preserving historic properties was making the achievement either more difficult. After a decade, the provision of affordable housing has developed into an even more pressing national concern, prompting a reconsideration of the principles in the policy statement.

In 2005, the ACHP Chairman convened an Affordable Housing Task Force to review this policy statement in light of changes to the Section 106 regulations in 2001 and 2004 and other ACHP initiatives. Members of the Task Force included the U.S. Department of Agriculture, U.S. Department of the Interior, the National Conference of State Historic Preservation Officers (NCSHPO), the National Trust for Historic Preservation, citizen member, Emily Summers, and expert member, John G. Williams, III, Chair. The U.S. Department of Housing and Urban Development (HUD) participated as an ACHP observer.

The Task Force developed the Policy Statement with input from the public. An online survey of state and local government officials and affordable housing providers about their awareness of and use of the 1995 Policy was conducted in August-September 2005. Links to the survey were distributed to approximately 12,000 individuals representing State and Tribal Historic Preservation Officers, local historic preservation commission members, Certified Local Government staff, HUD staff and grantees, state community development agency staffs, and affordable housing providers.

Following development of a draft, the ACHP posted the proposed revised draft policy statement in the **Federal Register** on July 17, 2006 (71 FR 40522), and comments from the public were accepted through August 16, 2006.

Information about the July 17, 2006, **Federal Register** notice was distributed by members of the Task Force to their respective constituencies through electronic LISTSERVs including communities receiving HOME program and Community Development Block Grant funds from HUD, members of the National Trust for Historic Preservation's Forum, and members of the NCSHPO. Additionally, the ACHP provided information about the comment period directly to Tribal Historic Preservation Officers, the National Alliance of Tribal Historic Preservation Officers, and over a dozen organizations with an interest in local community development activities and the provision of affordable housing, as well as on the ACHP Web site.

Comments on the new policy statement generally supported the revision effort. Specific comments frequently requested detailed guidance on applying the *Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (Secretary's Standards) to affordable housing projects. While the Task Force recognized that specific comments on the application of the Secretary's Standards were outside the scope of its mandate, additional language highlighting the distinction between review for the Historic Rehabilitation Tax Credit and Section 106 compliance was included in the policy statement. Commenters further requested the development of case studies that would illustrate the successful integration of historic preservation and affordable housing on a variety of topics including accessibility, use of modern building materials, and lead paint abatement requirements. It is anticipated that such case studies will become an important component of materials developed by the ACHP and Task Force in implementing the revised policy statement.

Responsiveness to local conditions emerged as a recurring theme in the Task Force's deliberations. Members recognized that affordable housing can include housing for a specific constituency, such as Native American housing programs. Federal assistance for affordable housing can also be directed to specific geographic areas with distinctive physical characteristics. Just as affordable housing programs serve

unique local needs, so should historical preservation reviews, since “one-size-fits-all” approaches are unlikely to produce a successful balance for these projects. Given our national diversity, the majority of Task Force members embraced and encouraged creativity in local solutions while federal agency members emphasized the value of consistency and predictability.

The importance of developing and utilizing tailored guidance also shaped the Task Force’s deliberations and its preparation of a set of recommendations for how the policy statement can be put into practice. Direction from both the ACHP and federal agencies was seen as critical to achieving the goals of the Task Force, but members recognized that private and non-profit partners with experience piecing together the resources required for planning and funding affordable housing projects could provide examples of success stories and best practices.

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

II. Text of the Policy

The following is the text of the final policy statement:

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

Historic buildings provide affordable housing to many American families. Affordable housing rehabilitation can contribute to the ongoing vitality of historic neighborhoods as well as of the businesses and institutions that serve them. Rehabilitation can be an important historic preservation strategy. Federal agencies that help America meet its need for safe, decent, and affordable housing, most notably the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Agriculture’s (USDA’s) Rural Development agency, often work with or near historic properties.

The ACHP considers affordable housing for the purposes of this policy to be Federally-subsidized, single- and multi-family housing for individuals and families that make less than 80% of the area median income. It includes, but is not limited to, Federal assistance for new construction, rehabilitation, mortgage insurance, and loan guarantees.

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

Providing affordable housing is a growing national need that continues to challenge housing providers and preservationists.

In issuing this policy statement, the ACHP, consistent with Section 202 of the NHPA, offers a flexible approach for affordable housing projects involving historic properties. Section 106 of the National Historic Preservation Act Section 106 requires Federal agencies to take into account the effects of their actions on historic properties and afford the ACHP a reasonable opportunity to comment. This policy provides a framework for meeting these requirements for affordable housing.

Federal tax incentives provide opportunities for historic preservation and affordable housing to work together, including the Low-Income Housing Tax Credit and the Historic Rehabilitation Tax Credit. Projects taking advantage of the Historic Rehabilitation Tax Credit must be reviewed by the National Park Service (NPS) for adherence to the *Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (Secretary’s Standards) in a separate and distinct process. Review of these projects is more comprehensive than Section 106 review and necessitates early coordination with NPS and the State Historic Preservation Officer (SHPO) since work must adhere to the Secretary’s Standards to obtain the tax credit. Nonetheless, coordination with Section 106 consultation and these reviews frequently occurs.

In an effort to better focus Section 106 reviews for affordable housing, the ACHP encourages Federal and State agencies, SHPOs, Tribal Historic Preservation Officers (THPOs), local

governments, housing providers, and other consulting parties to use the following principles in Section 106 consultation.

Implementation Principles

- I. Rehabilitating historic properties to provide affordable housing is a sound historic preservation strategy.
- II. Federal agencies and State and local government entities assuming HUD’s environmental review requirements are responsible for ensuring compliance with Section 106.
- III. Review of effects in historic districts should focus on exterior features.
- IV. Consultation should consider the overall preservation goals of the community.
- V. Plans and specifications should adhere to the Secretary’s Standards when possible and practical.
- VI. Section 106 consultation should emphasize consensus building.
- VII. The ACHP encourages streamlining the Section 106 process to respond to local conditions.
- VIII. The need for archeological investigations should be avoided.

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

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

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

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

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

Section 106 review of effects focuses on the characteristics that qualify a property for listing in the National Register of Historic Places. The significance of historic districts is typically associated with exterior features. Accordingly, unless a building

is listed or considered eligible for listing in the National Register as an individual property or specific interior elements contribute to maintaining a district's character, review under Section 106 should focus on proposed changes to the exterior. In all cases, identifying the features that qualify a property for inclusion in the National Register defines the scope of Section 106 review.

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

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

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

Secretary's Standards outline a consistent national approach to the treatment of historic properties that can be applied flexibly in a way that relates to local character and needs. Plans and specifications for rehabilitation, new construction, and abatement of hazardous conditions in affordable housing projects associated with historic properties should adhere to the recommended approaches in the Secretary's Standards when possible and practical.

Projects taking advantage of the Historic Rehabilitation Tax Credit must be reviewed by the National Park Service for adherence to the Secretary's Standards in a separate and distinct process that benefits from early coordination. The ACHP recognizes that there are instances when the Secretary's Standards cannot be followed and that Section 106 allows for the negotiation of other outcomes.

VI. Section 106 Consultation Should Emphasize Consensus Building.

Section 106 review strives to build consensus with affected communities in all phases of the process. Consultation with affected communities should be on a scale appropriate to that of the undertaking. Various stakeholders,

including community members and neighborhood residents, should be included in the Section 106 review process as consulting parties so that the full range of issues can be addressed in developing a balance between historic preservation and affordable housing goals.

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

The ACHP encourages participants to seek innovative and practical ways to streamline the Section 106 process that respond to unique local conditions related to the delivery of affordable housing. Programmatic Agreements often delegate the Section 106 review role of 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.

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

BILLING CODE 4310-K6-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Notice of the National Agricultural Research, Extension, Education, and Economics Advisory Board Meeting

AGENCY: Research, Education, and Economics, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the United States Department of Agriculture announces a meeting of the National Agricultural Research, Extension, Education, and Economics Advisory

Board. This meeting is open to the general public.

DATES: The National Agricultural Research, Extension, Education, and Economics Advisory Board will meet March 7-9, 2007.

The public may file written comments before or up to two weeks after the meeting with the contact person.

ADDRESSES: The meeting will take place at the Mandarin Oriental Hotel, 1330 Maryland Avenue, SW., Washington, DC 20024. Written comments from the public may be sent to the Contact Person identified in this notice at: The National Agricultural Research, Extension, Education, and Economics Advisory Board; Research, Education, and Economics Advisory Board Office, Room 344-A, Jamie L. Whitten Building, United States Department of Agriculture, STOP 2255, 1400 Independence Avenue, SW., Washington, DC 20250-2255.

FOR FURTHER INFORMATION CONTACT:

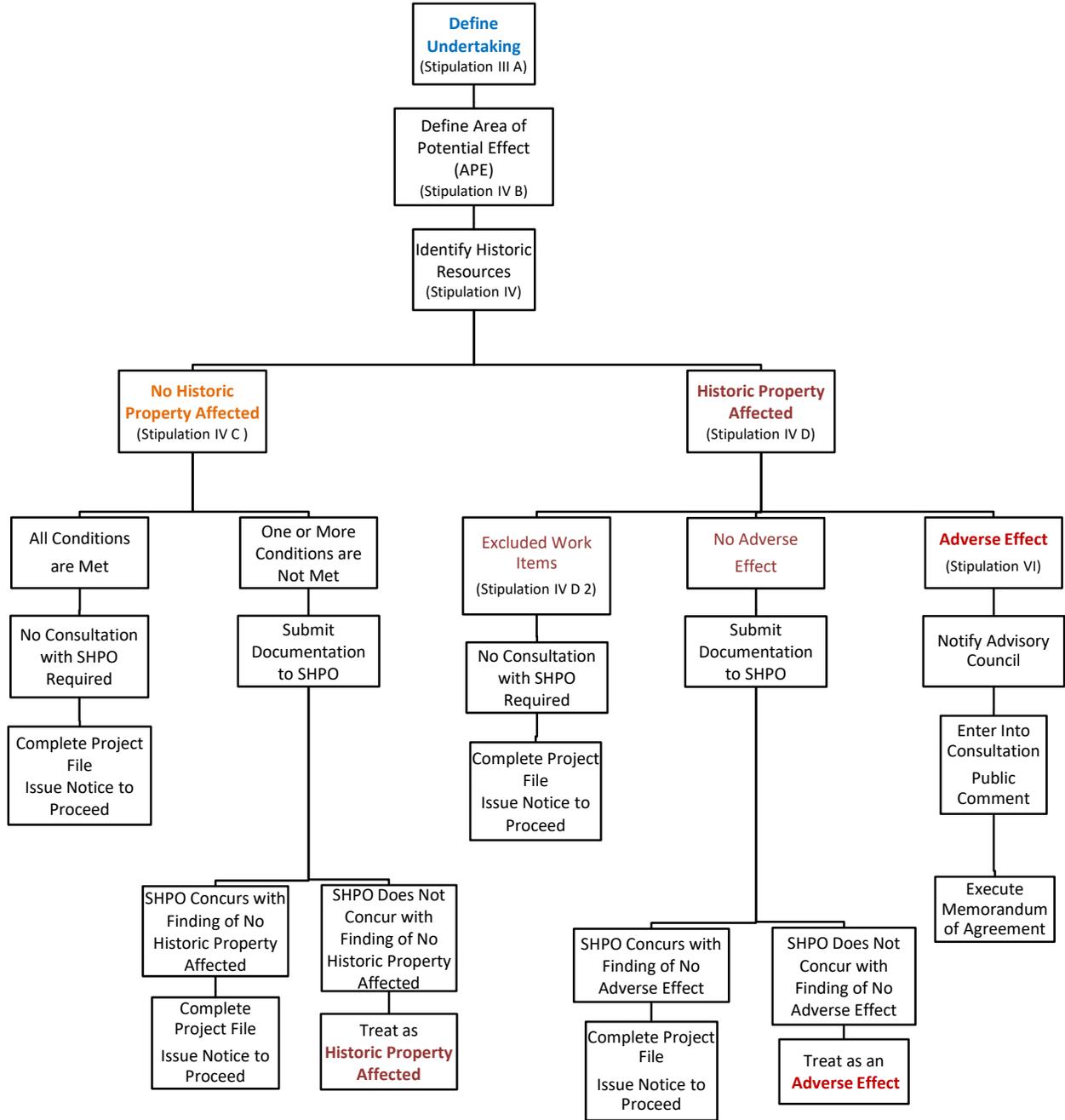
Joseph A. Dunn, Executive Director, National Agricultural Research, Extension, Education, and Economics Advisory Board; telephone: (202) 720-3684; fax: (202) 720-6199; or e-mail: JADunn@csrees.usda.gov.

SUPPLEMENTARY INFORMATION: On Thursday, March 8, 2007, from 8 a.m.-5:30 p.m. the full Advisory Board Meeting will meet beginning with introductory remarks provided by the Chair of the Advisory Board, and the Under Secretary for Research, Education, and Economics (REE), USDA. This meeting will have two focus sessions, one on "Farm Bill" topics and the other on the subject of "Food Safety and Human Health". An evening session beginning at 6:30 p.m., and adjourning at 8:30 p.m. with a guest speaker who will present remarks on food safety. On Friday, February 9, 2006, the meeting will reconvene at 9 a.m. to hear recap highlights from the previous day's focus sessions followed by overall Board discussions. You will hear remarks from within and outside the USDA pertaining to the agency prospective on the individual topics. An opportunity for public comment will be offered after the meeting wrap-up. The Advisory Board Meeting will adjourn by 12 (noon).

Written comments by attendees or other interested stakeholders will be welcomed for the public record before and up to two weeks following the Board meeting (by close of business Friday, March 21, 2007). All statements will become a part of the official record of the National Agricultural Research, Extension, Education, and Economics Advisory Board and will be kept on file

**APPENDIX 3
STANDARD OPERATING PROCEDURES**

I. SECTION 106 PROJECT REVIEW PROCESS



II. DETERMINING IF THE PROJECT IS A FEDERAL UNDERTAKING

An undertaking for the purposes of this Programmatic Agreement refers to a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of the Federal Department of Housing and Urban Development (HUD). This includes projects carried out by or on behalf of HUD; those carried out with HUD financial assistance; or those requiring a HUD permit, license, or approval.

III. DEFINING YOUR AREA OF POTENTIAL EFFECTS

The Area of Potential Effects (APE) is defined in the regulations implementing the Section 106 review process as "The geographic area or areas within which an undertaking may directly or indirectly cause changes 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 the undertaking." [36 CFR Part 800.16(d)].

The APE will vary with the type of project. To determine the APE you must know the nature and full extent of your project. You need to consider not only the physical effects of your project, such as grading or demolition, but the full range of effects that might occur, including visual and audial effects. In addition to direct effects, you will also need to consider indirect effects, including those that may occur at a later time, be further removed in distance or be cumulative. The APE does not need to be a contiguous area. It can include multiple alternative project areas or multiple areas where possible effects can reasonably be anticipated.

IV. RESOURCE INVENTORY

The City will work to maintain an inventory of archeological and architectural resources in the City of Richmond for which evaluation is needed or that are listed on, eligible for, potentially eligible for, or ineligible for the NRHP, including districts, buildings, structures, sites, and objects. The City has developed sensitivity maps for both architectural and archaeological resources within the City's jurisdiction. These maps will serve as a preliminary identification of listed, eligible, and ineligible resources and as a basis for future inventories. Two (2) electronic data tools to be used to manage the inventory are as follows:

A. The SHPO's Virginia Cultural Resource Information System (VCRIS)

VCRIS is a database housing the inventory records of previously identified archeological and architectural resources throughout Virginia. The data from VCRIS shall be used by the City are as follows:

1. The City will use VCRIS to submit data on districts and individual properties to the SHPO identified as a part of the City inventory. In the preparation of individual survey records for VCRIS, the City will comply with the documentation requirements of the SHPO and submit all necessary supporting documentation.

Using the SHPO's standard data distribution procedures, the SHPO will export the geospatial data for previously identified archeological and architectural resources defined within the City as ESRI shapefiles. The boundary provided by the City will be used to extract the features. Files extracted will be transmitted to the City in January, April, July, and October. The City will incorporate this information into its Resource Inventory. The archeological resource information provided in these updates will only be used by staff administering the Section 106 process for Section 106 purposes. Archaeological resource

locations are exempt from the Freedom of Information Act (FOIA) as part of the Code of Virginia, §2.2-3705.7 (10), as outlined in the DHR Geospatial Data Agreement.

B. Richmond Geographic Information System (GIS)

The City will use GIS, a data mapping tool, to locate and map historic properties as follows:

1. The City will on an on-going basis identify eligible historic districts and individual properties and will document the location of these properties in GIS. All such City-identified architectural resources will be treated as potentially eligible prior to submission in VCRIS and review of eligibility by the SHPO.
2. In compiling individual property and district inventory records in VCRIS for consideration by the SHPO, the City shall use GIS to document the boundaries of the inventoried resources in reference to the United States Geological Survey 1:24,000-scale topographic map series.

V. ELEMENTS OF A COMPLETE PROJECT REVIEW FILE

The City shall compile an individual, electronic, project file for each undertaking reviewed under the stipulations of this Agreement, including exempt work items and undertakings that do not affect historic properties. The project review file shall be cataloged by the address of affected property. Unless otherwise noted in various stipulations of this Agreement, such a record shall include the following:

- A. Area of Potential Effect Documentation.** For each undertaking the City will prepare a base map to document the APE for both direct and indirect effects. Each map, generated in VCRIS, will clearly indicate the location of real estate parcels, right-of-ways, and building footprints of both the affected property and immediately adjacent properties. The APE base map will also show the relationship of the undertaking to all archeological or architectural resources adjacent to and in the APE.
- B. Archival Research.** For each undertaking the City will consult the DHR VCRIS database and prepare a map showing all properties contained in VCRIS that are within or adjacent to the APE. Where applicable the file will contain copies of the survey files for previously documented properties found VCRIS.
- C. Photographs.** On site visits, the City shall prepare digital photographs of the proposed undertaking adequate to document the scope of the undertaking and to support the finding of effect made by the City. Each photograph shall be labeled to indicate address of the affected property, the vantage point from which the photograph was taken, and the date of the photograph.
- D. Correspondence.** Correspondence documenting the review of the undertaking, maintained as part of the City's internal file, includes:
 1. All formal correspondence sent and received by the City that pertains to the undertaking; and
 2. Electronic messages that supplement or clarify the formal correspondence; and

3. A written notice prepared at the completion of the Section 106 review of an undertaking that states the undertaking may be implemented and includes the following information: the finding of effect, the reason for the finding, and any conditions or mitigation measures that pertain to the finding.

E. Scope of Work/Specifications/Architectural Plans. A scope of the work that details how the materials, spaces, and features of the building will be retained, altered, or replaced. The scope of work may come in the form of specifications, a detailed written description, and architectural plans where required.

VI. DOCUMENTATION STANDARDS FOR MITIGATION

At a minimum, the intensive level documentation shall include its entry in the Virginia Cultural Resource Information System (VCRIS); detailed exterior and interior architectural descriptions; exterior (all elevations and significant architectural details) and interior (each room and significant architectural details) photographs; background research into the history of the property including but not limited to deeds, City directories, US census data, Sanborn maps, and historic photographs; and floor plans (not to scale). In the case of demolition of an unsafe structure, documentation will be completed to greatest extent possible without risking the safety of the qualified professional.

VII. PUBLIC PARTICIPATION

The City must provide the public with information about an undertaking and its effects on historic properties and seek public comment and input. The City of Richmond will make a reasonable and good faith effort to seek and consider the views of the public in a manner that reflects the nature and complexity of the undertaking and its effects on historic properties. To meet these goals the City shall:

- A. Post a list of all complete and active projects on its website on a monthly basis. The posted information will include the address of the undertaking, action dates, activity description, finding, DHR project number, VCRIS number, neighborhood, estimated year built, acreage, and name of sub-recipient agency. Copies of related documentation will be provided upon written request.
- B. For all undertakings submitted to the SHPO, under the terms of the Programmatic Agreement, an email will be sent to all civic associations surrounding or adjacent to the proposed undertaking with a copy of the documentation submitted to the SHPO. They civic associations will be given 15 days to respond with comments. These projects are typically related to determinations of eligibility and findings of no adverse effect.
- C. The following steps will be taken for undertakings with a potential to adversely affect historic properties:
 1. A Notice of Adverse Effect will be sent by first class mail to:
 - a. all property owners within 150 feet of the proposed undertaking;
 - b. all civic associations surrounding or adjacent to the proposed undertaking; and

- c. Historic Richmond Foundation, and/or other organizations with a particular interest in historic preservation, history or cultural affiliation specific to the undertaking.
2. The Notice of Adverse Effect will include a map, a description of the proposed undertaking, efforts made to identify historic resources, and a description of potential effects.
 3. Recipients will be given thirty (30) calendar days to submit their comments in writing to the City of Richmond.

A member of the public or an organization, especially if they have a legal or economic interest in the undertaking or affected properties, or an interest in the effects of the undertaking may request consulting party status in writing. The written request should clearly state the applicant's interest in the project. An organization should identify an individual to represent their interests. The City will consider all written requests for participation as a consulting party and, in consultation with the SHPO, determine which requests should be granted. Such determinations will be based on the scale of the undertaking and the applicant's interest in the project.

Consulting party status entitles participants to receive information about projects, and to consult with other parties throughout the Section 106 process. This includes identifying historic properties that may be affected, providing input regarding the effects the project may have, and on occasion, assisting in the development of appropriate mitigation measures to resolve any adverse effects. Consulting parties are not decision makers – they provide information that should be considered where feasible and prudent.

VIII. CONSULTATION

Required consulting parties include the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officers (THPO), and the Advisory Council on Historic Preservation (ACHP). Other individuals and organizations with a demonstrated interest in the undertaking may be involved as invited consulting parties as described above.

A. SHPO as described in PA

- B. THPO** will be consulted when a project may affect a historic property of religious and cultural significance to the tribe. Historic properties of religious and cultural significance include: archaeological sites, burial grounds, sacred landscapes or features, ceremonial areas, traditional cultural places, traditional cultural landscapes, plant and animal communities, and buildings and structures with significant tribal association. The types of activities that may affect historic properties of religious and cultural significance include:

1. ground disturbance (digging);
2. new construction in undeveloped natural areas;
3. introduction of incongruent visual, audible, or atmospheric changes;
4. work on a building with significant tribal association; and
5. transfer, lease or sale of a property of religious and cultural significance, as described above.

- C. ACHP** will be notified for all undertakings determined to have an adverse effect and will be asked to participate when dispute resolution is required.

APPENDIX 4 DEFINITIONS

The following definitions shall be used in the implementation and interpretation of this Agreement:

(ACHP) ADVISORY COUNCIL ON HISTORIC PRESERVATION - An agency of the Federal government that maintains the regulations (36 CFR Part 800) for implementation of Section 106 review and has oversight of the Section 106 review process.

AFFECTED PROPERTY - A parcel of land that is directly affected by an undertaking, being the location of an undertaking. An affected property contains the building, structure, object, site, and/or district affected by the undertaking. The address assigned by the City is the geographic reference used to catalog an affected property.

ARCHITECTURAL RESOURCE – A district, building, structure, object, site, or related resource(s), primarily of a historic and architectural nature, that is listed on, eligible for, potentially eligible for, or ineligible for the NRHP, or that has not been evaluated.

ARCHAEOLOGICAL RESOURCE – A district, object, site, structure, or related resources that contains archaeological information and materials of a prehistoric or historic nature, that has not been evaluated for eligibility or that is listed on, eligible for, potentially eligible for, or ineligible for the NRHP.

AGREEMENT - This document, the most recent adopted version of the Richmond Programmatic Agreement.

(APE) AREA OF POTENTIAL EFFECT - The geographic area affected by an undertaking as specified in Stipulation II (C).

CERTIFIED LOCAL GOVERNMENT – A local government whose historic preservation program has been certified pursuant to Section 101(c) (1) of the National Historic Preservation Act.

(CITY) CITY OF RICHMOND – The government of the City of Richmond, Commonwealth of Virginia; specifically the staff assigned to administer the Agreement.

CONCURRENCE – A response from the SHPO or consulting party provided as a result of consultation, in which the SHPO or consulting party agrees with the City’s recommended finding of effect and concurs with or adds to conditions and or mitigation measures proposed the City.

CONCURRING PARTY – Any of the concerned group of stakeholders who participated in the development of this Agreement, who were afforded an opportunity to sign the Agreement, and who participate in consultations on specific undertakings as stipulated in the Agreement.

CONSULTATION – The process by which the City works with the SHPO and consulting parties to assess effects on historic properties, consider alternatives for the treatment of historic properties, and mitigate or avoid findings of adverse effect.

(VCRIS) DATA SHARING SYSTEM – An electronic database that is maintained by the SHPO. VCRIS is used by the City to locate previously-identified archaeological and architectural resources, used to record newly-identified resources, and used in conjunction with GIS to map historic properties in an undertaking’s APE.

EFFECT – A finding made by the City and SHPO as to how an undertaking will affect historic properties that falls into one of the following categories:

No Historic Properties Affected. There are no historic properties that will be directly or indirectly affected by the undertaking.

No Adverse Effect. The undertaking affects the historic properties in the APE in such a way that the historic character is left intact.

Adverse Effect. The undertaking results in degradation and/or loss of those characteristics of a property that make it eligible for the NRHP. Demolition of a historic property will always constitute an adverse effect.

FEASIBLE – The degree to which a historic property, or any features of that property, affected by an undertaking, can be successfully preserved. Whether or not something is feasible is essential in the consideration of an adverse effect and application of the *Secretary's Standards*. One or more of the following criteria shall be used in determining whether or not something is feasible:

The physical condition of and design constraints related to a building, building features, or structure; and/or

The scope and budget of the undertaking; and/or

The significance and integrity of a building, building features, or structure; and/or

The location and setting of the affected property; and/or

Economic constraints including rehabilitation costs, market value for resale of a completed undertaking, and other pertinent data.

(GIS) GEOGRAPHIC INFORMATION SYSTEM – The electronic mapping system maintained by the City, which maps DSS and other pertinent data, documents an APE, and creates a record of the relationship of an undertaking to historic properties and ineligible properties in the APE.

HISTORIC PROPERTY – Any property containing archeological and/or architectural resources that falls into one of the following categories:

It is a contributing property in a district eligible for listing in the NRHP; or

It is a contributing property in a district listed in the NRHP; or

It is individually eligible for listing on the NRHP; or

It is individually listed on the NRHP.

(HUD) THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT – The federal agency that provides funding for the undertakings covered by this Agreement.

IMMEDIATLY ADJACENT – Within 150 feet of an undertaking as documented on a GIS APE map.

IN-KIND REPLACEMENT – The installation of a new building feature or material to replace historic (i.e. over 50 years old) features or materials that are either missing or too deteriorated to repair. An in-kind

replacement exactly matches the original in all respects, including design, material, dimensions, configuration, and detailing.

INVENTORY – The on-going inventory of historic properties maintained and prepared by the City and the SHPO using both GIS and VCRIS that documents historic and non-historic properties throughout the City.

MANUFACTURED (MOBILE) HOME -- means any structure subject to federal regulation and which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on a site; is built on a permanent chassis; is designed to be used for dwelling purposes by one family, with or without a permanent foundation, when connected to the required utilities; and which includes the plumbing, heating, air-conditioning, and electrical systems to be utilized in the structure.

NEIGHBORHOOD – One of the various sections of Richmond, Virginia as delineated and named by the City of Richmond in the neighborhoods layer in GIS.

NON-HISTORIC PROPERTY - Any property that has been determined by the SHPO to be ineligible for listing on the NRHP, individually or as a part of an ineligible district or that has been designated a non-contributing property in a district listed on or eligible for listing on the NRHP.

OBJECTION - A disagreement by the SHPO, a consulting party, or a member of the public with the City's review of an individual undertaking or its administration of this Agreement.

MITIGATION - An action to minimize, ameliorate, or compensate for the degradation and/or loss of those characteristics of a property that make it eligible for the NRHP as a result of an adverse effect on historic properties.

(NRHP) NATIONAL REGISTER OF HISTORIC PLACES - The Federal government's official listing of historic resources maintained by the Keeper of the National Register.

NRHP CRITERIA FOR EVALUATION - The most recent version of the criteria established by the Secretary of the Interior for use in evaluating the eligibility of properties for the NRHP (36 CFR Part 60). These criteria are used by the City, SHPO, and Keeper of the National Register to evaluate properties for the NRHP.

PART 58 - The Federal Regulations, 24 CFR, Part 58.1, 58.2 and 58.4, by which HUD delegates environmental and Section 106 responsibilities to the City of Richmond.

PRESERVATION BRIEFS - A series of leaflets about working on historic properties compiled by the National Park Service, which provide technical information that may be used in the implementation of this Agreement. Preservation Briefs can be found on the internet and downloaded from the Technical Preservation Services Division of the National Park Service website.

SECRETARY - The Secretary of the United States Department of the Interior.

(SECRETARY'S CHECKLIST) THE SECRETARY OF THE INTERIOR'S CHECKLIST FOR REHABILITATION AND NEW CONSTRUCTION – The most recent paper or electronic version of a checklist developed by the SHPO to document rehabilitation and new construction undertakings having an effect on historic properties.

SECRETARY'S STANDARDS - The most recent version of the *Secretary of the Interior's Standards for the Treatment of Historic Properties*, maintained by the National Park Service.

(SECTION 106 FORM) THE SECTION 106 PROJECT REVIEW FORM- The most recent paper or electronic version of a form developed by the SHPO to provide a summation of individual undertakings.

(SHPO) STATE HISTORIC PRESERVATION OFFICER- The official appointed or designated pursuant to Section 101 (b) (1) of the National Historic Preservation Act to administer the State Historic Preservation program, or such 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.

STIPULATION - A specific portion of this Agreement. A Stipulation is identified by a Roman numeral and subdivided by a sequence of capital letters, Arabic numerals, and lower case letters.

STREETSCAPE - The architectural character of a block face or group of block faces in an APE that might be affected by an undertaking. The components of a streetscape include scale, massing, form, materials, and other architectural characteristics that visually unite a block face.

SUBRECIPIENT OR SUBGRANTEE - Any non-profit community development corporation or organization, for-profit developer, or public agency that receives Title I funds in any of three ways: through a contract with the City of Richmond, through a contract directly from HUD, or through a combination of City and HUD-administered contracts.

SURVEY - The process by which historic properties are documented according to the requirements of the SHPO, either for recordation of an individual property or to compile data for the City's inventory of archaeological or architectural resources.

UNDERTAKING - An activity or activities for the development of an affected property; that receives total or partial funding from HUD, or for which there is a reasonable expectation of HUD funding being used in the future. There may be multiple stages of undertakings for the development of a single affected property. Undertakings that can be reviewed under the stipulations of this Agreement include:

Acquisition. The purchase of an affected property all or in part with federal funds for future undertakings.

Demolition. The removal of all or a portion an existing building.

Disposition. The sale or transfer of a property purchased and/or improved with federal funds, for future development.

New Construction. The construction of a new building that is a new building on a vacant lot, the replacement or reconstruction of an existing building, or a substantial addition to an existing building.

Rehabilitation. Rehabilitation is the most widely used *Secretary's Standard*. It is defined as "the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values."

APPENDIX 5
City of Richmond Lead Based Paint Hazard Control Program
Protocol for Treatment of Historic Properties

Historic Criteria: Historic designation for the purposes of Richmond’s Lead Based Paint Hazard Control Program will be determined by the location and age of the homes. All buildings built in 1950 or after and will be treated as non-historic. The City’s GIS will be checked to determine the approximate date of construction (Extensions tab) and to determine if a home is located in the National Register or City Old and Historic district (Planning tab). Homes that are either listed in the National Register, located in a City Old and Historic district and were constructed before 1950, or homes built before 1950 outside of City Old and Historic districts but determined by the City of Richmond Planning and Preservation Division to have historic value, will all be treated as historic and use the corresponding “historic” work specifications listed below for exterior lead hazard reduction work. Any building components that have clearly been replaced or updated on an otherwise historic home may use specifications differing from those listed below including potential replacement as deemed necessary.

NOTE: Non-original building components will rarely pose an active lead hazard, so replaced elements on historic homes should largely remain outside the purview of this program.

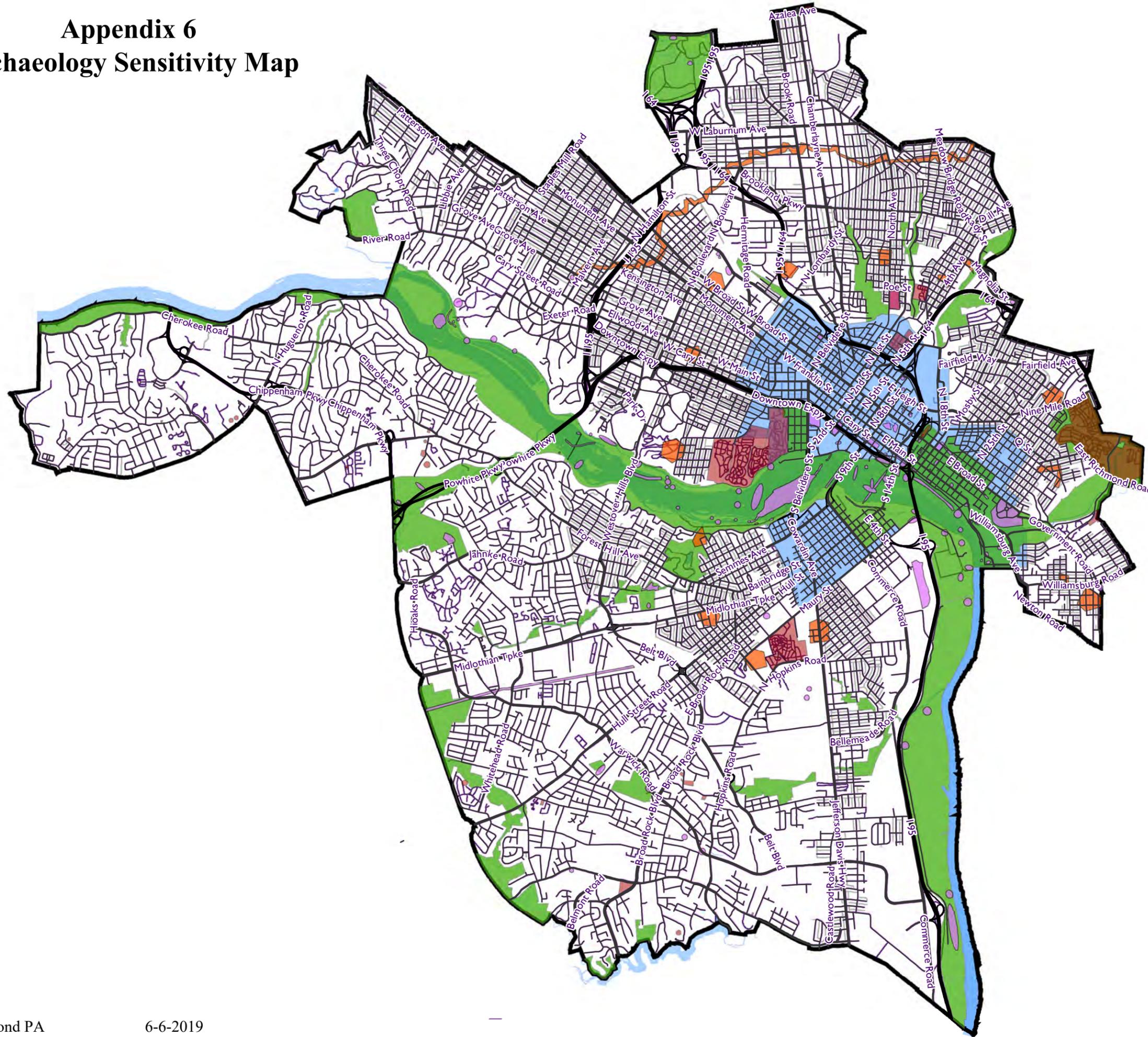
Exterior Work Specifications for the Program:

- A. **Historic Windows:** After establishing required floor/ground containment with polyethylene sheeting, repair window(s) as follows: Remove interior window stops and discard. Remove lower sash and carry to a fully contained lead work room or area. Strip paint from all surface areas of lower sash that come into contact with the window jamb, stops and sill through the normal operation of window and from window slides (jamb) with an approved chemical stripper (no methylene chloride) or approved heat gun (maximum 1100°F) or other method allowed under HUD Regulation 24 CFR Part 35 Sec. 35.1330. Wet scrape loose paint from upper sash and remaining areas of lower sash. Remove all loose glazing from window and re-glaze as needed. HEPA vacuum any paint chips, dust and debris from window and sashes before reinstalling. Prime all sides of upper and lower sashes and remaining parts of window inside and out. Seal upper sash to jamb with latex caulk. Reinstall lower sash with new sash cords and window stops shaping sash to reduce friction with jambs if sash still does not move freely in slides. Paint entire window inside and out with two coats latex paint. Install new sash lock. Paint window to match existing.
 - 1. **Photo documentation:** Exterior before and after picture of entire window once all work has been completed. Include identifying numbers for each window.

- B. **Non-historic Windows:** After establishing required floor/ground containment with polyethylene sheeting, remove window stops and sashes and replace with double hung, low-e, aluminum or PVC clad-wood insulated glass windows, Legacy, Ply-gem, Silverline or pre-approved equal, complete with screen(s). Muntin pattern to match existing. Windows must be custom sized to match existing opening. Glass must be tempered if required by code (bathroom windows). If original trim is intact, wet scrape, HEPA vacuum, and prime and paint entire existing frame and trim with two coats latex paint. If trim and casing is deteriorated, replace to match existing.
 - 1. **Photo documentation:** Exterior picture before and after of whole window once all work has been completed. Include identifying numbers for each window.

- C. **Historic Doors:** After establishing required floor/ground containment with polyethylene sheeting, remove door and carry to a fully contained lead work room or area. Plane door edges and adjust the hasp and strike plate to minimize door/jamb friction and contact. Mist deteriorated paint with water to the point of saturation. Replace stop molding. Clean and de-gloss door with lead specific detergent wash, rinse, dry and HEPA vacuum any paint chips, dust and debris. Spot prime and top coat with premium acrylic latex. Re-install door on hinges. Owner given choice of color within Richmond CAR approved color palette.
1. **Photo documentation:** Picture of door before and after.
- D. **Historic Door and Window Trim:** Wet scrape and HEPA vacuum window and door trim and sills. De-gloss with lead specific detergent and rinse. Prime and top coat trim with two coats latex paint to match existing and premium acrylic floor paint for door sill to match existing. If trim is deteriorated and needs to be replaced, the new trim should match the existing profile.
1. **Photo documentation:** Picture before and after of any trim not already included in door and window photos once refinished.
- E. **Historic Porch/Deck Floors:** After establishing any required ground containment with polyethylene sheeting, mist defective paint with water to the point of saturation. Wet scrape all loose paint with curved and flat draw scrapers. Wash with lead specific detergent, rinse, allow to dry and HEPA vacuum all surfaces for paint chips, dust and debris. Spot prime and caulk with a 25 year siliconized acrylic and top coat with porch and floor latex paint. Owner given choice of color within Richmond CAR approved color palette.
1. **Photo documentation:** Picture of deck before and after it is repainted.
- F. **Original Siding on Historic Home:** After establishing required ground containment with polyethylene sheeting, mist defective paint areas with water to the point of saturation. Wet scrape all loose paint, caulking and glazing with curved and flat draw scrapers. HEPA vacuum all paint chips, dust and debris. Prime, caulk with 25 year siliconized acrylic and top coat with premium acrylic latex, color to match existing.
1. **Photo documentation:** Picture of each elevation of home included in scope before and after being repainted.

Appendix 6 Archaeology Sensitivity Map



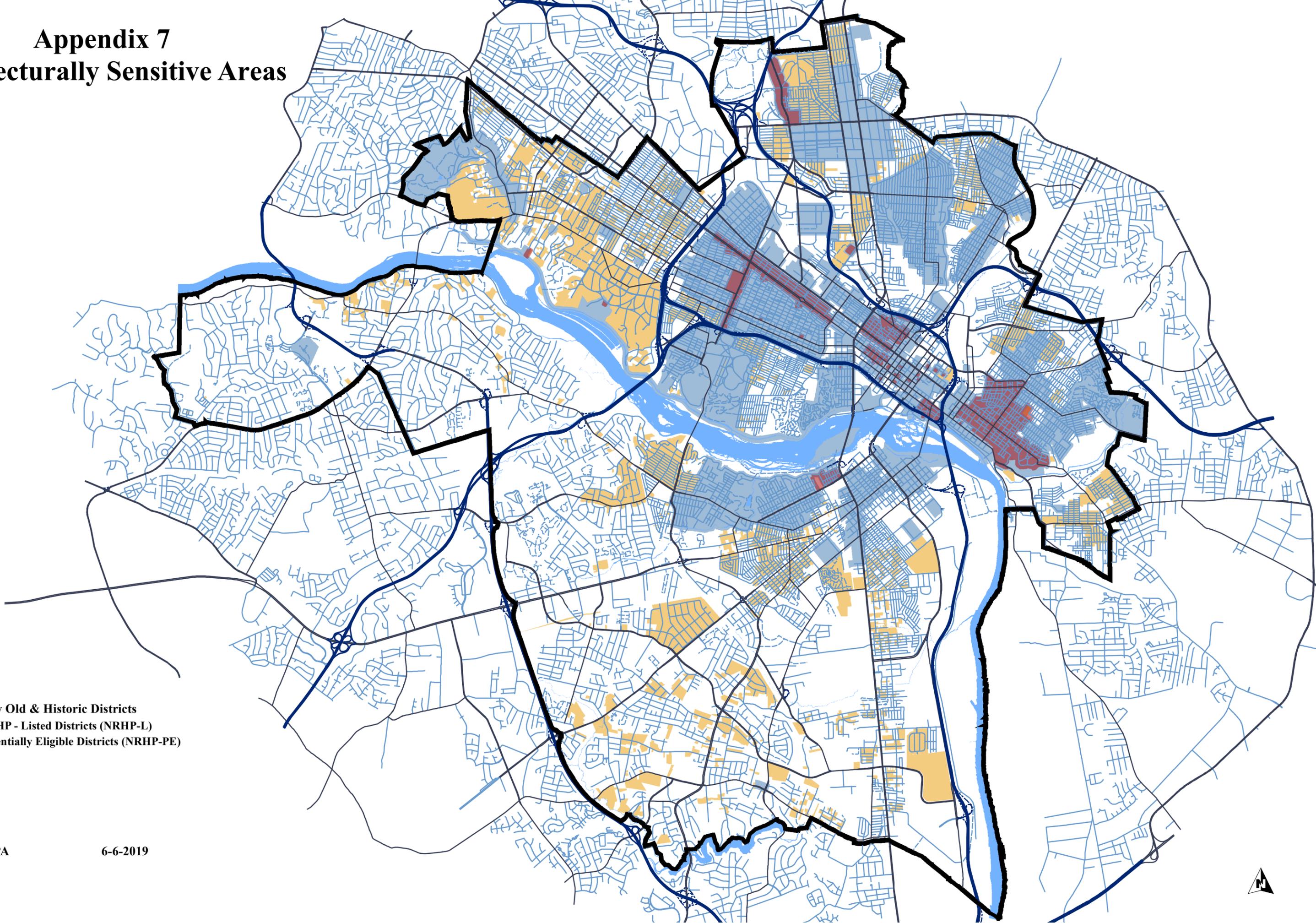
- Legend**
- Cemetery
 - Civil War Related Features
 - Previously Surveyed
 - High Priority
 - Moderate Priority



Appendix 7

Architecturally Sensitive Areas

-  City Old & Historic Districts
-  NRHP - Listed Districts (NRHP-L)
-  Potentially Eligible Districts (NRHP-PE)



APPENDIX 8
UNDERTAKING WORK ITEMS EXCLUDED FROM SHPO REVIEW

Introduction. The following work items have limited potential to affect historic properties. Section 106 Review of these work items may be completed in accordance with Stipulation IV (D) (2) of this Agreement.

I. General Exclusions

A. Real Estate. Mortgages, leases, or loan guarantees of real property, that are not linked to rehabilitation, new construction, demolitions or other treatments that could be considered undertakings.

B. Architecture and Engineering. The preparation of architectural, engineering, site plans, or other planning documents related to an undertaking.

C. Motor Vehicles. The rental or purchase of vehicles or other motorized equipment.

D. Grants and Loans for Economic Development. Economic Development loans or grants, that are not linked to rehabilitation, new construction, demolitions or other treatments that could be considered undertakings, used for working capital, equipment, furniture, fixtures, debt refinancing or other purposes.

II. Specific Excluded Undertaking Activities

A. Site and Utility Work in Low or Medium Probability Areas as shown on Appendix 6

1. Utility Replacement or Installation within existing corridors. The installation of utilities, such as sewer, storm, electrical, gas, steam, compressed air, leach lines, or septic tanks in road rights-of-way, existing utility corridors, or other areas previously disturbed by these activities.

2. Streets, Driveways, Alleys, and Parking Areas. The maintenance, repair, relining, or replacement in-kind of existing curbing, sidewalks, or paving surfaces that does not result in a change in width, historical surface material, vertical alignment, or drainage.

3. Site Improvements. The maintenance, repair, or in-kind replacement of existing structural landscape features including: steps, driveways, walls, retaining walls, pavements, fences, walkways, and statuary. The in-kind extension of residential sidewalks on private property.

4. Traffic Signage and Signals. The maintenance, repair, or in-kind replacement of street lights, traffic signals, and traffic signs, that does not involve the installation of new street lights, traffic signals, or traffic signs.

5. Park and Playground Equipment. The repair or comparable replacement of existing park and playground equipment providing that repair or comparable replacement does not include the demolition, construction, or installation of new (additional) playground structures or buildings.

6. Construction-related improvements. The installation of temporary construction-related improvements, including: scaffolding, barriers, screening, fences, protective walkways, signage, office trailers, restrooms, temporary walks, drives and access roads,

construction easements, equipment storage areas, staging areas, or below ground utilities that are to be left in place for two years or less.

7. Changes to Vegetation. The pruning of overgrown trees and shrubs, the removal of dead trees, the removal of vines, trees, or shrubs that are covering or damaging buildings, or the installation of new plant materials.

B. Exterior Rehabilitation

1. Foundations. The repair of brick, cement, or stone foundations below grade, as well all other types of in-kind repairs to other foundation materials. For the underpinning of piers and foundations on the street façade(s) of a building, the underpinning material must be placed at least two (2) inches behind the outer face of the piers or walls that are exposed to view.

2. Windows and Doors. The repair of windows or doors, including caulking and weather stripping of existing window or door frames. The installation of new clear glass in existing sashes or doors, including retrofitting for double and triple glazing or the replacement of glazing putty. The installation of exterior storm windows or storm 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 the existing sash, and that installation will not permanently damage historic elements. The installation of door/window locks, or electronic security devices, on windows and doors, provided that surviving historic lock mechanisms are retained. The replacement of non-historic doors and windows with doors and windows of similar materials and design and that do not alter the size and location of replaced doors and windows. The limited installation of new aluminum or PVC-clad wood window sash with true or simulated divided lights that match the size, location, and light configuration of the sash being replaced.

3. Walls and Siding. The in-kind repair of exterior masonry walls, or the in-kind replacement of deteriorated siding, stucco, or trim. Vinyl or aluminum siding or deteriorated lap wood siding may be replaced with smooth unbeaded fiber cement siding. Deteriorated novelty wood siding must be repaired or replaced in-kind.

4. Paint. The removal of exterior paint by non-destructive means that is limited to hand scraping, low pressure water wash (less than 200 p.s.i.), or paint-removal chemicals. The application of paint to previously painted surfaces. Painting that would cover unpainted surfaces or historic decorative paint schemes, such as graining, stenciling, marbling, etc., shall not be considered exempt work items. All exterior paint treatment shall conform to the guidance for lead paint removal in Stipulation I (C)(5).

5. Porches. The repair or in-kind replacement of existing porch features, such as columns, flooring, floor joists, ceilings, railing, balusters, balustrades, or lattice. Simple painted wood or aluminum handrails may be added at steps or landings where none exist. Composite tongue and groove decking material may be installed.

6. Roofing. The repair or in-kind replacement of roof features, including cladding, sheathing, flashing, gutters, soffits, and downspouts, as long as this work does not result in a change in roof pitch or configuration. Where the historic metal cladding is beyond repair and is not visible from the front elevation and from other prominent, visible points (for example, the exposed side elevation on a corner lot) it may be replaced with an insulated TPO or other membrane roofing system. The repair or re-framing of structural roof features as required to improve the drainage and durability of the roof, as long as the appearance of

the roof lines from visible points 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.

7. Wheelchair Ramps. The repair of existing wheelchair ramps, unless the ramps are to be replaced with new materials or substantially modified. The installation of new wheelchair ramps that meet the following criteria: 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; and 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 effects on the property, through design considerations, use of materials, and painting of wooden ramps, whenever possible.

8. Repointing. The 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 the most recent edition of Preservation Brief No. 2 *Repointing Mortar Joints in Historic Brick Buildings*.

9. Signs and Awnings. The repair, re-lettering, or in-kind replacement of wall signs, hanging signs, cloth awnings, or metal awnings.

10. Mechanical Systems. The installing of exterior HVAC mechanical units and vents that are not located on street facades of a building, and that will not permanently damage historic fabric.

11. Basement bulkhead doors. The replacement or in-kind repair of basement bulkhead doors. The installation of new basement bulkhead doors not located on the street facades of a building.

12. Lighting. The repair or in-kind replacement of existing exterior light fixtures.

13. Securing a Building or Structure. Securing, stabilizing, or mothballing a building or structure by boarding over window and door openings, making temporary roof, masonry, or siding repairs, bracing walls or other building features, or ventilating the building. The removal and storage of materials and features (porches, trim, windows, doors, etc.) in order to secure or mothball a building for future rehabilitation, as long as the materials and features are properly documented in situ by the City and stored on site for future rehabilitation. For historic buildings, mothballing procedures should follow Preservation Brief No. 31 *Mothballing Historic Buildings*.

C. Interior Rehabilitation

1. Mechanical systems. The 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. Restroom improvements for handicapped access are included, provided the work is contained within the existing restroom walls. For historic properties, work must be done according to the latest versions of the National Park Service *Preservation Briefs*, and there shall be no intrusion into the primary spaces of the building.

2. Interior Surfaces. The repair or in-kind replacement of interior surface treatments, including: floors, walls, ceilings, plaster or woodwork, that will not result in changes to historic features.

- 3. Carpeting and Flooring.** The installation of carpeting or flooring (linoleum or vinyl), in such a way that historic flooring will not be damaged or removed.
- 4. Paint.** The removal of interior paint by non-destructive means that is limited to hand scraping, or paint-removal chemicals or the application of paint to previously painted surfaces. Interior painting that would cover unpainted surfaces or historic decorative paint schemes (graining, stenciling, marbling, etc.) shall not be considered exempt work items. All interior paint treatment shall conform to the guidance for lead paint removal in Stipulation I (C) (5).
- 5. Kitchens.** Repair or replacement of kitchen cabinets, counters, or appliances -- provided the work is contained in the existing kitchen and significant historic fabric will not be damaged or removed.
- 6. Bathrooms.** Replacement of bathroom facilities and fixtures -- provided the work is contained within the existing bathroom and will not involve damage to or removal of significant historic fabric.
- 7. Insulation.** The installation of non-spray insulation in walls, ceilings, and attic spaces.
- 8. Basement.** The installation or repair of concrete basement floors in an existing basement, provided no historic materials are damaged or concealed.
- 9. Radon Abatement.** Treatment to prevent the entry of radon gas into the building through the basement floor, which does not damage or conceal any historic material.
- 10. Asbestos Abatement.** Treatment to abate asbestos, as long as it does not involve removal or alteration of significant historic features.