

1 **PROGRAMMATIC AGREEMENT**  
2 **among**  
3 **THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
4 **and**  
5 **THE NEVADA STATE HISTORIC PRESERVATION OFFICER**  
6 **and**  
7 **CERTAIN NEVADA UNITS OF GENERAL LOCAL GOVERNMENT ACTING AS RESPONSIBLE**  
8 **ENTITIES**  
9 **and**  
10 **CERTAIN FEDERALLY RECOGNIZED TRIBAL GOVERNMENTS ACTING AS RESPONSIBLE**  
11 **ENTITIES**  
12 **and**  
13 **THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
14 **for**  
15 **THE REVIEW OF HUD-ASSISTED PROJECTS AND PROGRAMS SUBJECT TO**  
16 **24 CFR PART 50 and PART 58**  
17 **in**  
18 **THE STATE OF NEVADA**  
19

20 **WHEREAS**, the U.S. Department of Housing and Urban Development (“HUD”) through various  
21 offices, including the Offices of the Assistant Secretaries for Housing—Federal Housing  
22 Commissioner (Housing), Public and Indian Housing (PIH), Community Planning and  
23 Development (CPD), and Office of Healthy Homes (OHH) provides grant funding, mortgage  
24 insurance, and other assistance (“HUD Programs”) to a range of entities within the State of  
25 Nevada; and

26 **WHEREAS**, HUD Programs are authorized by various statutes that require environmental  
27 compliance under one of two HUD environmental regulations, 24 CFR Part 50 or 24 CFR Part 58;  
28 and

29 **WHEREAS**, 24 CFR Part 50 requires HUD program officials to conduct environmental review of  
30 its activities and ensure compliance with Section 106 of the National Historic Preservation Act  
31 of 1966 (hereinafter NHPA; 54 U.S.C. § 306108), and its implementing regulations 36 CFR Part  
32 800; and

33 **WHEREAS**, 24 CFR Part 58 authorizes state, local, and tribal governments to assume HUD’s  
34 environmental compliance responsibilities as Responsible Entities, including obligations as  
35 Agency Official under Section 106 of the NHPA and its implementing regulations 36 CFR Part

36 800, and the State of Nevada and and certain units of general local government in the State  
37 of Nevada have assumed those responsibilities for the undertakings and programs included in  
38 this Programmatic Agreement (Agreement); and

39 **WHEREAS**, HUD program officials and Responsible Entities review activities that include, but are  
40 not limited to, acquisition, leasing, repair, rehabilitation, improvement, demolition, conversion,  
41 new construction, lead hazard reduction, accessibility improvements, land-banking, and  
42 disposition of residential and non-residential properties, streetscape and landscape  
43 improvements, and infrastructure repair, replacement, and new construction, each of which is  
44 an Undertaking as defined pursuant to 36 CFR § 800.16(y), and

45  
46 **WHEREAS**, the implementation of HUD Programs may have an effect upon properties listed in  
47 or eligible for listing in the National Register of Historic Places (National Register); and

48 **WHEREAS**, many HUD-assisted Undertakings consist of routine, similar, and repetitive  
49 management activities that are appropriate for implementation through the use of an  
50 agreement document negotiated pursuant to 36 CFR § 800.14(b) and/or involve effects that are  
51 minimal or have no potential to adversely affect historic properties and can be exempted from  
52 the regular Section 106 review process; and

53 **WHEREAS**, HUD and Responsible Entities in the State of Nevada, in consultation with the  
54 Nevada State Historic Preservation Office (SHPO), have determined that development of a  
55 single Agreement for all HUD Programs in the State of Nevada would foster consistency and  
56 efficiency in review of Undertakings unlikely to cause adverse effects on historic properties; and

57 **WHEREAS**, HUD, on behalf of itself and participating Responsible Entities has invited the  
58 Colorado River Indian Tribes of the Colorado River Indian Reservation, Confederated Tribes of  
59 the Goshute Reservation, Confederated Tribes of the Warm Springs Reservation, Duckwater  
60 Shoshone Tribe, Ely Shoshone Tribe, Fort Independence Indian Community of Paiute Indians,  
61 Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Fort  
62 Mojave Indian Tribe, Hualapai Indian Tribe, Kaibab Band of Paiute Indians, Las Vegas Tribe of  
63 Paiute Indians, Lovelock Paiute Tribe, Moapa Band of Paiute Indians, Paiute Indian Tribe of Utah  
64 (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band  
65 of Paiutes, and Shivwits Band of Paiutes), Paiute-Shoshone Tribe of the Fallon Reservation and  
66 Colony, Pyramid Lake Paiute Tribe, Reno-Sparks Indian Colony, Shoshone Tribe of the Wind  
67 River Reservation, Shoshone-Bannock Tribes of the Fort Hall Reservation, Shoshone-Paiute  
68 Tribes of the Duck Valley Reservation, Summit Lake Paiute Tribe, Te-Moak Tribe of Western  
69 Shoshone Indians, Walker River Paiute Tribe, Washoe Tribe of Nevada & California (Carson  
70 Colony, Dresslerville Colony, Woodfords Community, Stewart Community, & Washoe Ranches),  
71 Winnemucca Indian Colony, Yerington Paiute Tribe of the Yerington Colony and Campbell

72 Ranch, and the Yomba Shoshone Tribe to consult in the development of this Agreement in  
73 recognition of the unique government-to-government relationship between the federal  
74 government and federally recognized Indian tribes, and all those tribes who participated in the  
75 consultation to develop this agreement are invited to be concurring parties; and

76 **WHEREAS**, this Agreement is not applicable to Undertakings that are located on or that would  
77 affect historic properties on tribal trust lands; and

78 **WHEREAS**, HUD and the participating Responsible Entities will continue to conduct outreach  
79 and will actively seek and request the comments and participation of Indian tribes that  
80 attach religious and cultural significance to historic properties that may be affected by  
81 Undertakings assisted under the terms of this Agreement; and

82 **WHEREAS**, HUD and the participating Responsible Entities acknowledge that Indian tribes  
83 possess special expertise in assessing the National Register eligibility of properties with tribal  
84 religious and cultural significance; and

85 **WHEREAS**, HUD, on behalf of itself and participating Responsible Entities, has invited Certified  
86 Local Governments (Boulder City, Carson City, Las Vegas, Reno, Storey County, Winnemucca),  
87 Nevada Preservation Foundation, Historic Reno Preservation Society, Preserve Nevada, and the  
88 Preservation Association of Clark County to comment and consult in the development of this  
89 Agreement, and [placeholder for response]; and

90 **WHEREAS**, HUD, on behalf of itself and participating Responsible Entities has invited the public  
91 to comment, taking into account the nature and complexity of the Undertaking and its effects  
92 on historic properties and the likely interest of the public in the Undertaking; and

93 **WHEREAS**, HUD, on behalf of itself and participating Responsible Entities, has notified the ACHP  
94 and invited the ACHP to participate in the development of this Programmatic Agreement in  
95 accordance with 36 CFR § 800.14(b)(2), and the ACHP has decided to participate and sign this  
96 Agreement; and

97 **NOW, THEREFORE**, HUD, the participating Responsible Entities, the SHPO, and the ACHP  
98 agree that HUD Housing, PIH, CPD, and OHH Programs in the State of Nevada shall be  
99 administered in accordance with the following stipulations in order to take into account the  
100 effects of these Undertakings on historic properties and satisfy Section 106 responsibilities.

101

102

103

**STIPULATIONS**

104 HUD and the participating Responsible Entities shall ensure the following:

105 **I. Roles and Responsibilities of HUD and Responsible Entities**

106 The HUD official and participating Responsible Entity's Certifying Officer shall serve as Agency  
107 Official for the review of Undertakings subject to their jurisdiction. Where "Agency Official" is  
108 used throughout the Agreement, it refers to the HUD official or Responsible Entity's Certifying  
109 Officer that has assumed the role of Agency Official for purposes of Section 106. A chart in  
110 Appendix C indicates whether 24 CFR Part 50 or 24 CFR Part 58 applies to the HUD programs  
111 listed in the chart.

112 **A. HUD**

- 113 1. HUD, through its Office of Environment and Energy (OEE) in CPD, shall coordinate  
114 the initial execution of the Agreement and subsequent execution by additional  
115 Responsible Entities, and coordinate amendments to the Agreement.
- 116 2. HUD, through OEE, shall conduct statewide consultation about the Agreement  
117 among Responsible Entities, the SHPO, federally recognized Indian tribes, interested  
118 statewide groups, and the public.
- 119 3. HUD program staff shall serve as Agency Official for conducting Section 106 review  
120 of individual Undertakings subject to 24 CFR Part 50.
- 121 4. HUD shall not have the legal responsibility to represent or defend the process and  
122 outcomes of the Section 106 review of individual Undertakings subject to 24 CFR  
123 Part 58 before a court of law. That responsibility is assumed by the Responsible  
124 Entity under 24 CFR Part 58.
- 125 5. If HUD receives Undertaking-specific complaints regarding a Responsible Entity's  
126 implementation of Stipulations II-IX of this Agreement, HUD will follow agency policy  
127 described at 24 CFR 58.77(b) by referring all such inquiries and complaints to the  
128 Responsible Entity and its Certifying Officer and consider such comments in HUD's  
129 established agency-wide and program-specific risk-assessment and monitoring  
130 procedures. As appropriate, HUD may provide technical assistance to help the  
131 Responsible Entity fulfill its responsibilities under this Agreement.

132 **B. Responsible Entities**

- 133 1. The Certifying Officer of a Responsible Entity that has assumed HUD's environmental  
134 review responsibilities as provided by 24 CFR 58.4 and signed this Agreement shall

135 conduct the Section 106 review in accordance with this Agreement as the Agency  
136 Official.

137 2. Responsible Entities that are not initial Signatories to the Agreement may sign and  
138 use the Agreement after its initial execution by following the adoption protocol  
139 found at Appendix B and executing a Signatory page.

140 3. Participating Responsible Entities shall not have the legal responsibility to represent  
141 or defend the process and outcomes of the Section 106 review of individual  
142 Undertakings subject to 24 CFR Part 50 before a court of law, including those that  
143 are located within their geographic jurisdiction. That responsibility is assumed by  
144 HUD under 24 CFR Part 50.

#### 145 **C. Designation of Lead Agency Official in HUD-assisted Projects**

146 1. If a project includes assistance subject to 24 CFR Part 58 and Part 50, the two (or  
147 more) Agency Officials may agree to have one Agency Official serve as the Lead  
148 Agency Official and complete one Section 106 review on behalf of all entities. If the  
149 Lead Agency Official is a Signatory to the Agreement, they may use the provisions of  
150 the Agreement for the review. The Agency Officials shall document the lead agency  
151 agreement in writing and share it with consulting parties.

#### 152 **D. Adoption of Another Federal Agency's Review**

153 1. If a federal agency or other entity acting under another federal program has  
154 previously completed a Section 106 review and approved the Undertaking within the  
155 past five (5) years, the Agency Official has no obligation to complete another Section  
156 106 review regarding that Undertaking, provided that the Agency Official:

- 157 a. Adopts the findings and determinations of the previous Section 106 review;
- 158 b. Confirms that the scope and effect, as defined by 36 CFR § 800.16(i), and the  
159 area of potential effects of its Undertaking are the same as the scope and effect  
160 and the area of potential effects of the previously reviewed Undertaking;
- 161 c. Determines that the previous review was completed in compliance with  
162 Section 106, and any existing applicable program alternatives;
- 163 d. Documents its findings and determinations in the HUD Environmental Review  
164 Online System (HEROS) or other administrative record and confirms that all  
165 requirements of Section 106 for the Undertaking have been satisfied.

166 2. If the Agency Official, in consultation with the SHPO, determines that the previous  
167 Section 106 review was insufficient or involved interagency disagreements about

168 eligibility, effect, and/or treatment measures, the Agency Official shall conduct a  
 169 new Section 106 review for the proposed Undertaking in accordance with the  
 170 Stipulations of this Agreement.

171 **E. Delegation to HUD Applicants or Lenders to Initiate Section 106 Consultation**

- 172 1. HUD, through OEE, may authorize applicants to initiate consultation with SHPO  
 173 pursuant to 36 CFR § 800.2(c)(4).
- 174 2. OEE has issued a [Delegation Memorandum](#) that authorizes certain approved lenders  
 175 applying for FHA financing to initiate consultation with SHPO. Approved lenders must  
 176 follow the requirements of the memo and may use the provisions of this Agreement,  
 177 including exemptions in Stipulation II and Appendix A. If the Delegation  
 178 Memorandum expires, it may no longer be used, and lenders may no longer use the  
 179 provisions of this Agreement.
- 180 3. When required, HUD must conduct consultation with tribes; this cannot be delegated  
 181 to lenders.

182 **II. UNDERTAKINGS EXEMPT FROM SECTION 106 REVIEW**

183 The following types of activities have limited or no potential to adversely affect historic  
 184 properties and are exempt from further Section 106 review pursuant to 36 CFR § 800.3(a)(1). To  
 185 document and conclude the review, the Agency Official shall note in HEROS or other  
 186 administrative record the applicability of one or more of the exemptions.

- 187 A. Activities that are Categorically Excluded and not subject to related laws under 24 CFR §  
 188 50.19(b) when the HUD official is the Agency Official.
- 189 B. Activities that do not alter physical conditions in a manner or to an extent that would  
 190 require review (i.e. funding studies, providing management funds, or approving policy  
 191 documents)
- 192 C. Activities that are Exempt under 24 CFR 58.34 or Categorically Excluded and not subject  
 193 to related laws under 24 CFR 58.35(b) when the Responsible Entity's Certifying Officer is  
 194 the Agency Official.
- 195 a. Tenant-based rental assistance;
- 196 b. Supportive services including, but not limited to, health care, housing services,  
 197 permanent housing placement, day care, nutritional services, short-term payments  
 198 for rent/mortgage/utility costs, and assistance in gaining access to local, State, and  
 199 Federal government benefits and services;

- 200 c. Operating costs including maintenance, security, operation, utilities, furnishings,  
201 equipment, supplies, staff training and recruitment and other incidental costs;
- 202 d. Economic development activities, including but not limited to, equipment purchase,  
203 inventory financing, interest subsidy, operating expenses and similar costs not  
204 associated with construction or expansion of existing operations;
- 205 e. Activities to assist homebuyers to purchase existing dwelling units or dwelling units  
206 under construction, including closing costs and down payment assistance, interest  
207 buydowns, and similar activities that result in the transfer of title;
- 208 f. Affordable housing pre-development costs including legal, consulting, developer and  
209 other costs related to obtaining site options, project financing, administrative costs  
210 and fees for loan commitments, zoning approvals, and other related activities which  
211 do not have a physical impact;
- 212 g. Approval of supplemental assistance (including insurance or guarantee) to a project  
213 previously approved under this part, if the approval is made by the same  
214 Responsible Entity that conducted the environmental review on the original project  
215 and re-evaluation of the environmental findings is not required under 24 CFR §  
216 58.47.
- 217 D. Refinancing without demolition, rehabilitation, or new construction, and no physical  
218 activities beyond maintenance as defined in HUD Notice [CPD-16-02](#) "Guidance for  
219 Categorizing an Activity as Maintenance for Compliance with HUD Environmental  
220 Regulations, 24 CFR Parts 50 and 58".
- 221 E. Leasing without demolition, rehabilitation, or new construction, and no physical  
222 activities beyond maintenance as defined in HUD Notice [CPD-16-02](#) "Guidance for  
223 Categorizing an Activity as Maintenance for Compliance with HUD Environmental  
224 Regulations, 24 CFR Parts 50 and 58".
- 225 E. Projects without ground disturbance that involve single-family (1-4 unit) residential  
226 structures, including mobile homes, that are less than 50 years old, unless the property  
227 is located within or adjacent to a historic district listed in the National Register, or is in  
228 an area that consists primarily of buildings that were constructed more than 50 years  
229 ago.
- 230 F. Undertakings that are limited to the rehabilitation of interior spaces within single family  
231 (1-4 unit) residential structures, where such work will not be clearly visible from the  
232 exterior of the structure, unless the individual building has previously been determined  
233 eligible for or listed in the National Register.
- 234 G. Undertakings consisting solely of activities listed in Appendix A.

235 **III. REVIEW OF UNDERTAKINGS NOT EXEMPTED IN STIPULATION II**

236 For all Undertakings with activities that do not meet the criteria in Stipulation II, the Agency  
237 Official shall conduct reviews of the entire aggregated Undertaking as defined in CFR Parts  
238 50.21 and 58.32, and in accordance with Subpart B of 36 CFR 800 and Stipulations IV through IX  
239 of this Agreement which provide additional guidance on meeting Subpart B in review of HUD-  
240 assisted Undertakings.

241

242 **IV. IDENTIFICATION OF HISTORIC PROPERTIES**

243 A. The Agency Official shall define and document the Area of Potential Effect (APE) and  
244 identify historic properties within the APE that may be directly or indirectly affected by  
245 the Undertaking. For purposes of this Agreement, when an Undertaking consists solely  
246 of the rehabilitation of the interior features of an individual building, the APE will be  
247 limited to the individual building and parcel.

248 B. For each Undertaking, the Agency Official shall make a reasonable and good faith effort  
249 to identify historic properties in accordance with 36 CFR § 800.4(b)(1) by reviewing  
250 existing information, including the records of the SHPO, to determine if any historic  
251 properties are located within the APE, including properties listed in the National  
252 Register individually or as contributing elements of an historic district, properties with a  
253 Determination of Eligibility (DOE) from the Secretary of the Interior, properties  
254 determined eligible for the National Register through a previous Section 106 review, and  
255 properties designated in SHPO and local survey and inventory records. The Agency  
256 Official may consult with the SHPO to determine the level of effort and methodology  
257 necessary to identify a variety of historic property types. Much of this information is  
258 available online through county assessor information and the SHPO's Nevada Cultural  
259 Resource Information System (NVCRIS) (<https://shpo.nv.gov/services/nvcris>).

260 C. For any properties that have not been listed or previously determined eligible for listing  
261 in the National Register, the Agency Official must evaluate any properties in the APE  
262 that are forty- five (45) years old or older to determine if they are eligible for the  
263 National Register, and offer the SHPO, consulting tribes, and other consulting parties the  
264 opportunity to review and comment on this evaluation and determination of eligibility  
265 per 36 CFR § 800.4(c)(2). Unevaluated properties within the APE that are at least forty-  
266 five years old may be treated by the Agency Official as eligible for the National Register  
267 for the purpose of determining effect of specific Undertaking.

268 D. The Agency Official shall use HUD Notice [CPD-12-006](#) ("Process for Tribal Consultation in  
269 Projects that are Reviewed Under 24 CFR Part 58") and the May 5, 2015, [HUD policy](#)



270 [memorandum](#) (“Section 106 Tribal Consultation in Projects Reviewed Under 24 CFR Part  
271 50”) that adopts the Notice for Part 50 reviews for guidance on when and how to  
272 consult with Indian tribes about sites of religious and cultural significance to tribes,  
273 including archeological sites, that may be considered historic properties.

274 **V. DOCUMENTATION**

- 275 A. Documentation required for SHPO consultation per the provisions of this Agreement  
276 shall meet the requirements in 36 CFR § 800.11 and include, but may not be limited to,  
277 written descriptions of the Undertaking and affected historic properties (if any), reports  
278 demonstrating that properties are eligible (or not) for listing in the National Register,  
279 findings of effect, alternatives analysis, maps showing specific Undertaking locations and  
280 APEs, and clear photographs.
- 281 B. All documentation generated for review purposes under the terms of this Agreement  
282 shall meet requirements specific to the State of Nevada.

283 **VI. TIMEFRAMES**

- 284 A. The SHPO, tribes, and other consulting parties shall have thirty (30) days from receipt to  
285 review and respond to an adequately documented request for comment and  
286 concurrence. If the SHPO does not respond within thirty (30) days of receipt of the  
287 request for concurrence, the consultation shall be considered complete. If the SHPO  
288 later reenters the consultation, the Agency Official may continue the consultation  
289 without being required to reconsider previous findings or determinations.
- 290 B. If the SHPO requests additional missing information in order to meet documentation  
291 requirements under Stipulation V.B., the SHPO shall have thirty (30) days from receipt of  
292 the additional information to respond.
- 293 C. When findings are submitted to the SHPO, the Agency Official shall also circulate  
294 findings to consulting parties for comment or objection within thirty (30) days.

295 **VII. CONSULTING PARTIES AND PUBLIC INVOLVEMENT**

- 296 A. The Agency Official shall identify and invite the participation of consulting parties as  
297 appropriate to the scale of the Undertaking and the scope of federal involvement.  
298 Undertakings with anticipated adverse effects and/or that may be controversial will  
299 likely warrant broader consultation. Parties that may have a consultative role in the  
300 Section 106 process include, but are not limited to, the following: federally recognized  
301 Indian tribes, representatives of local governments, and applicants for federal  
302 assistance. The Agency Official shall also identify and invite the participation of other

303 consulting parties, defined as those individuals and organizations with a demonstrated  
 304 interest due to the nature of their legal or economic relationship to the Undertaking or  
 305 their concern for the Undertaking's effects on historic properties. Other consulting  
 306 parties can include county and municipal historic preservation commissions, including  
 307 those established under the Certified Local Governments (CLG) program, local residents'  
 308 groups, neighborhood associations, and other similar organizations.

309 B. The Agency Official shall identify and invite the participation of the public as appropriate  
 310 to the scale of the Undertaking and the scope of federal involvement. Undertakings  
 311 with anticipated adverse effects and/or that may be controversial may warrant broader  
 312 public consultation.

313 C. The Agency Official shall follow HUD Notice [CPD-12-006](#) ("Process for Tribal  
 314 Consultation in Projects That Are Reviewed Under 24 CFR Part 58") and the May 5,  
 315 2015, [HUD policy memorandum](#) ("Section 106 Tribal Consultation in Projects Reviewed  
 316 Under 24 CFR Part 50") that adopts the Notice for Part 50 reviews.

317 D. If an Undertaking may adversely affect a National Historic Landmark, the Agency Official  
 318 shall follow the requirements in Section 110f of the NHPA and 36 CFR § 800.10.

### 319 VIII. POST-REVIEW DISCOVERIES

320 If, during the implementation of an Undertaking, a previously unidentified property that may be  
 321 eligible for inclusion in the National Register is encountered, or a known historic property may  
 322 be affected in an unanticipated manner, the Agency Official shall take the following steps.

323 A. In the event that previously unidentified archeological sites or human remains are  
 324 discovered during project construction, construction activities shall stop immediately  
 325 within at least 100 feet of the discovery, and the project manager shall take appropriate  
 326 steps to immediately secure the site and notify the Agency Official within 48 hours. The  
 327 Agency Official shall immediately notify the SHPO and, as appropriate, federally  
 328 recognized Indian tribes, and other relevant consulting parties.

329 B. If human remains are discovered, they shall be respectfully covered over and protected.  
 330 In addition, the project manager shall immediately notify local or state law enforcement  
 331 authorities including **medical examiner or coroner** in accordance with Nevada Revised  
 332 Statutes (NRS) Chapters 259, 383, and 451.

333 C. The Agency Official shall consult with the SHPO, and, as appropriate, federally  
 334 recognized Indian tribes and other consulting parties to determine if the discovered site  
 335 appears eligible for the National Register. If it does appear eligible, the Agency Official

336 shall submit a treatment plan for the avoidance, protection, recovery of information, or  
 337 destruction without data recovery to the SHPO for review and comment. The treatment  
 338 plan shall be consistent with the ACHP's handbook "Treatment of Archaeological  
 339 Properties" and subsequent amendments. If human remains are discovered, the  
 340 treatment plan shall follow the guidance in the Advisory Council on Historic Preservation  
 341 Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary  
 342 Objects (<https://www.achp.gov/treatment-burial-sites>), including appropriate  
 343 consultation with descendent communities. Avoidance and preservation in place are  
 344 the preferred options for treating human remains.

345 D. The Agency Official shall notify all consulting parties of the unanticipated discovery and  
 346 provide the proposed treatment plan for their comment. Construction work in the area  
 347 of the discovery shall not continue until the plan has been accepted by the SHPO and  
 348 appropriate tribes, and implemented. If objections to the proposed treatment plans  
 349 cannot be resolved, the ACHP shall be consulted as per Stipulation XI.

350 E. The procedure upon discovery of Indian burial sites in the State of Nevada on private or  
 351 public lands is governed by Nevada Revised Statutes (NRS) 383.171, and any  
 352 Undertaking that may affect an Indian burial site shall comply with provisions of NRS  
 353 383.171, the terms of this Agreement notwithstanding.

#### 354 **IX. DISASTERS AND EMERGENCY REVIEW PROCEDURES**

355 The Agency Official from time to time may review Undertakings in response to natural  
 356 disasters, including, but not limited to, floods, tornadoes, earthquakes, windstorms, fires, and  
 357 public health emergencies.

##### 358 A. Exemption from Review

359 1. Immediate rescue and salvage operations conducted to save life or property are  
 360 exempt from Section 106 review requirements per 36 CFR § 800.12(d).

##### 361 B. Expedited Review

362 1. In response to a disaster or emergency situation declared by the President, a tribal  
 363 government, or the Governor of the State of Nevada, the Agency Official may  
 364 conduct expedited reviews of emergency Undertakings that occur within 30 (thirty)  
 365 days of the disaster declaration or within 30 (thirty) days of the completion of  
 366 emergency event pursuant to 36 CFR § 800.12(b). SHPO shall respond to a request  
 367 for comment within 7 (seven) days. If a disaster is declared by an Responsible  
 368 Entity's chief executive officer or legislative body under 36 CFR § 800.12(c), the

- 369 Agency Official may follow the same process, unless the ACHP or SHPO objects to  
370 the action within the 7 (seven) days.
- 371 2. Should the Agency Official determine that it is necessary to extend the expedited  
372 review period for emergency Undertakings beyond the initial 30 (thirty) days, the  
373 Agency Official may request an extension prior to expiration of the review period in  
374 30-day increments, as needed, by notifying in writing the ACHP, and notify SHPO and  
375 participating Indian tribe(s).
- 376 C. Review Under Separate Programmatic Agreement
- 377 1. An Responsible Entity with an future executed and valid Programmatic Agreement  
378 for CDBG-DR funds or a HUD Addendum to the FEMA Programmatic Agreement for  
379 the State of Nevada for disaster recovery activities may use the provisions of that  
380 Agreement and successor Agreements to expedite review of Undertakings that  
381 respond to Presidentially declared disasters
- 382 **X. MONITORING, REPORTING, AND TRAINING**
- 383 A. The Agency Official shall provide the SHPO with an Annual Report no later than February  
384 28th of each year summarizing all projects in the completed Fiscal Year that were  
385 exempted from review under this Agreement and, if requested by the SHPO, shall  
386 schedule a meeting with them to discuss the Annual Report.
- 387 B. This Annual Report shall include, but not be limited to, the following:
- 388 1. A list of Undertakings that used the exemptions in Stipulation II and Appendix A of  
389 the Agreement to conclude Section 106 without further consultation with the SHPO,  
390 categorized by the project location and the specific exemptions used;
- 391 2. A summary of staff and consultant training held;
- 392 3. A description of staff and consultant training proposed for the following year;
- 393 4. The views of the Agency Official regarding the effectiveness of the Agreement; and
- 394 5. Suggestions for additional actions that could be considered for inclusion in the list of  
395 exemptions (Appendix A).
- 396 C. Upon written request from one or more of the Signatories of the Agreement, HUD may  
397 conduct training workshops or webinars to assist Agency Officials, HUD grant recipients,  
398 and consultants to understand the technical requirements of the Agreement.

399 **XI. DISPUTE RESOLUTION**

400 At any time during the implementation of the measures stipulated in this Agreement, should an  
401 objection to any measure or manner of implementation be raised by a consulting party or member of  
402 the public, the Agency Official shall take the objection into account and consult with the objecting  
403 party and the SHPO to resolve the issue.

404 A. The Agency Official shall represent itself in all matters of dispute resolution that pertain  
405 specifically to this Agreement.

406 B. The responsibilities of the Signatories to carry out all other actions subject to the terms  
407 of this Agreement that are not the subject of the dispute shall remain in effect.

408 C. If the Agency Official determines that the objection cannot be resolved, they shall  
409 forward all documentation relevant to the dispute to the ACHP and request its  
410 recommendations or comments. The Agency Official will take into account the ACHP's  
411 recommendations or formal comments in reaching a final decision regarding the  
412 dispute.

413 D. If the ACHP does not provide its advice regarding the dispute within thirty (30) days  
414 period, the Agency Official may make a final decision on the dispute and proceed  
415 accordingly. Prior to reaching such a final decision, the Agency Official shall prepare a  
416 written response that takes into account any timely comments regarding the dispute  
417 from the Signatories and Concurring Parties to the Agreement and provide them and  
418 the ACHP with a copy of such written response.

## 419 **XII. AMENDMENTS**

420 A. Any Signatory may submit a written request to HUD that this Agreement be amended.  
421 HUD will notify the other Signatories and consult with them in accordance with 36 CFR §  
422 800.14(b). With the exception of requests made under Stipulation XII.B. below,  
423 amendments shall only be considered if requested in writing and must be approved in  
424 writing by all Signatories.

425 B. Appendix A Exempt Activities may be amended without requiring amendment to the  
426 body of this Agreement at the request of an Agency Official who is a Signatory to the  
427 Agreement. HUD, on its own behalf or on behalf of another Signatory, shall notify the  
428 Signatories of the intent to modify Appendix A and shall provide a draft of the updated  
429 Appendix to all Signatories. If no Signatory objects in writing within 30 (thirty) days of  
430 receipt of the proposed modification, HUD shall date and sign the amended Appendix  
431 and provide a copy of the amended Appendix to the other Signatories. Such an  
432 amended Appendix A shall go into effect on the date HUD transmits the amended  
433 Appendix A to the other Signatories. If a Signatory objects to the proposed amendment

434 to Appendix A, HUD shall continue consultation to reach consensus, and if not resolved,  
435 the amendment shall not be implemented.

### 436 **XIII. TERMINATION**

- 437 A. A Signatory may terminate its participation in this Agreement by providing written  
438 notice describing the reason(s) for termination to the other parties. If the SHPO or  
439 ACHP terminates, the Agreement with all Agency Officials is terminated. If a  
440 Responsible Entity's Agency Official terminates, the Agreement is terminated only for  
441 activities subject to that Agency Official's Section 106 review under 24 CFR Part 58 and  
442 remains in effect for other participating Agency Officials. If HUD, represented by the  
443 Assistant Secretary for Community Planning and Development, terminates, the  
444 Agreement is terminated only for activities subject to HUD's Section 106 review under  
445 24 CFR Part 50 and remains in effect for other participating Agency Officials' activities  
446 under 24 CFR Part 58.
- 447 B. This Agreement shall remain in effect for 45 (forty-five) days from receipt of notice to  
448 terminate. The Signatory proposing termination, HUD through OEE, the SHPO, and the  
449 ACHP shall consult prior to termination to consider the written reasons for termination  
450 and if possible, to amend the Agreement accordingly or seek other actions that would  
451 prevent termination. If such action is not possible, the requesting signatory shall provide  
452 final notice of termination in writing to the other Signatories.
- 453 C. In the event that an Agency Official terminates their participation in this Agreement and  
454 prior to any work continuing on any Undertaking, the Agency Official shall comply with  
455 36 CFR Part 800 for all Undertakings that would have been subject to this Agreement. In  
456 the event that the SHPO or ACHP terminates the Agreement and prior to work  
457 continuing on any Undertaking, all Agency Officials shall comply with 36 CFR Part 800 for  
458 all Undertakings that would have been subject to this Agreement.

### 459 **XIV. DURATION**

- 460 A. This Agreement shall remain in force for ten (10) years from the date of execution,  
461 unless it is terminated or superseded by another Agreement.
- 462 B. This Agreement may be terminated by the execution of a subsequent Agreement  
463 pursuant to 36 CFR § 800.14(b) that explicitly terminates or supersedes this Agreement.
- 464 C. Within six (6) months prior to the expiration of this Agreement, the Signatories shall  
465 consult to consider terms for a new Agreement, extension, or amendment of the terms  
466 of the existing Agreement, or to allow the Agreement to expire.

467 D. The Signatories may collectively agree to extend this Agreement to cover additional  
468 calendar years, or portions thereof, through an amendment in accordance with  
469 Stipulation XII.A., provided that the original Agreement has not expired.

470 E. Should an Agency Official choose not to extend their participation in the Agreement,  
471 they shall terminate their participation per Stipulation XIII, and the Agreement shall  
472 remain valid for the other parties.

#### 473 **XV. EXECUTION AND IMPLEMENTATION**

474 This Agreement may be executed in counterparts, with separate signature pages. After  
475 signature by HUD, the SHPO, and the initial participating Responsible Entities, the Agreement  
476 will become effective on the date it is signed by ACHP. Responsible Entities that sign later must  
477 follow the protocol in Appendix B. For Responsible Entities that sign later, the Agreement will  
478 become effective for them on the date on which the Responsible Entity signs the Agreement  
479 and submits its signature page to HUD, through OEE, and the SHPO.

480 Execution of this Agreement and implementation of its terms evidence that HUD and  
481 participating Responsible Entities have taken into account the effects of the Undertakings  
482 subject to this Agreement on historic properties and afforded the ACHP an opportunity to  
483 comment.

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**PROGRAMMATIC AGREEMENT**  
 among  
**THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
 and  
**THE NEVADA STATE HISTORIC PRESERVATION OFFICER**  
 and  
**CERTAIN NEVADA UNITS OF GENERAL LOCAL GOVERNMENT ACTING AS RESPONSIBLE ENTITIES**  
 and  
**CERTAIN FEDERALLY RECOGNIZED TRIBAL GOVERNMENTS ACTING AS RESPONSIBLE ENTITIES**  
 and  
**THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
 for  
**THE REVIEW OF HUD-ASSISTED PROJECTS AND PROGRAMS SUBJECT TO 24 CFR PART 50 and PART 58**  
 in  
**THE STATE OF NEVADA**

Signatory:  
 US Department of Housing and Urban Development

\_\_\_\_\_  
 By: [Name] Date  
 [Title]



524 PROGRAMMATIC AGREEMENT  
525 among  
526 THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
527 and  
528 THE NEVADA STATE HISTORIC PRESERVATION OFFICER  
529 and  
530 CERTAIN NEVADA UNITS OF GENERAL LOCAL GOVERNMENT ACTING AS RESPONSIBLE  
531 ENTITIES  
532 and  
533 CERTAIN FEDERALLY RECOGNIZED TRIBAL GOVERNMENTS ACTING AS RESPONSIBLE  
534 ENTITIES  
535 and  
536 THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
537 for  
538 THE REVIEW OF HUD-ASSISTED PROJECTS AND PROGRAMS SUBJECT TO  
539 24 CFR PART 50 and PART 58  
540 in  
541 THE STATE OF NEVADA

544 Signatory:  
545 Nevada State Historic Preservation Officer

546 \_\_\_\_\_  
547  
548 By: [Name] \_\_\_\_\_ Date \_\_\_\_\_  
549 [Title]

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**PROGRAMMATIC AGREEMENT**  
among  
**THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
and  
**THE NEVADA STATE HISTORIC PRESERVATION OFFICER**  
and  
**CERTAIN NEVADA UNITS OF GENERAL LOCAL GOVERNMENT ACTING AS RESPONSIBLE**  
**ENTITIES**  
and  
**CERTAIN FEDERALLY RECOGNIZED TRIBAL GOVERNMENTS ACTING AS RESPONSIBLE**  
**ENTITIES**  
and  
**THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
for  
**THE REVIEW OF HUD-ASSISTED PROJECTS AND PROGRAMS SUBJECT TO**  
**24 CFR PART 50 and PART 58**  
in  
**THE STATE OF NEVADA**

Signatory:  
Advisory Council on Historic Preservation

\_\_\_\_\_  
By: [Name] Date \_\_\_\_\_  
[Title]

600 PROGRAMMATIC AGREEMENT  
 601 among  
 602 THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
 603 and  
 604 THE NEVADA STATE HISTORIC PRESERVATION OFFICER  
 605 and  
 606 CERTAIN NEVADA UNITS OF GENERAL LOCAL GOVERNMENT ACTING AS RESPONSIBLE  
 607 ENTITIES  
 608 and  
 609 CERTAIN FEDERALLY RECOGNIZED TRIBAL GOVERNMENTS ACTING AS RESPONSIBLE  
 610 ENTITIES  
 611 and  
 612 THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
 613 for  
 614 THE REVIEW OF HUD-ASSISTED PROJECTS AND PROGRAMS SUBJECT TO  
 615 24 CFR PART 50 and PART 58  
 616 in  
 617 THE STATE OF NEVADA

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 620 Invited Signatory:  
 621 [Other consulting party with role in implementation of the Agreement]

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 623 \_\_\_\_\_  
 624 By: [Name] Date  
 625 [Title]

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**PROGRAMMATIC AGREEMENT**  
among  
**THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
and  
**THE NEVADA STATE HISTORIC PRESERVATION OFFICER**  
and  
**CERTAIN NEVADA UNITS OF GENERAL LOCAL GOVERNMENT ACTING AS RESPONSIBLE ENTITIES**  
and  
**CERTAIN FEDERALLY RECOGNIZED TRIBAL GOVERNMENTS ACTING AS RESPONSIBLE ENTITIES**  
and  
**THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
for  
**THE REVIEW OF HUD-ASSISTED PROJECTS AND PROGRAMS SUBJECT TO 24 CFR PART 50 and PART 58**  
in  
**THE STATE OF NEVADA**

Signatory:  
Responsible Entity

\_\_\_\_\_  
By: Name of Certifying Officer  
Title

\_\_\_\_\_  
Date

## APPENDIX A

### Exempt Activities

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In accordance with Stipulation II.G. above, Undertakings that are comprised solely and entirely of the following activities require no further Section 106 review. Applicability of the exemption(s) must be documented in HEROS or other administrative record.

For purposes of this Agreement, the term "In-kind repair" is defined as an action to restore the mechanical, structural, or aesthetic function of an element of an historic resource using materials and methods compatible with the original nature and function of that element. The term "in-kind replacement" is defined as installation of a new element that duplicates the material, dimensions, design, configuration, and detailing of the original element. The term "previously disturbed soils" is defined as soil which has been disturbed in the last 50 years prior to the proposed ground disturbance and which is not in a known archaeological site.

#### 1. Site Work

- a. Streets, driveways, alleys, and parking areas. Repair and restriping of existing concrete or asphalt surfaces and parking areas provided that no changes are made in width, surface, vertical alignment, or drainage.
- b. Curbs, gutters, sidewalks, and retaining walls. Repair of existing concrete or asphalt surfaces or in-kind replacement of brick, rock, or stone materials for curbs, gutters, sidewalks, and retaining walls.
- c. Site improvements. Repair or in-kind replacement of site improvements in existing footprint including, but not limited to, fences, landscaping, and steps.
- d. Underground utilities. Repair or replacement of existing water, sewer, natural gas, electric, or telecommunication lines less than 50 years in age. In-place repair of septic systems if it occurs in or adjacent to the existing trench and provided there is no substantial earth moving and no intrusion into undisturbed soils. Directional boring of new/replacement utility lines within previously disturbed soils.
- e. Aboveground utilities. Repair or replacement of existing wires, anchors, crossarms, and other miscellaneous hardware on existing overhead lines but not including pole replacement or installation outside city limits. Water tower replacement is not exempt.
- f. Street lighting and traffic signals. Repair and replacement of non-historic streetlights, traffic signals, and traffic signs, outside of a National Register listed or eligible historic district.

- 710 g. Park and playground equipment. Installation, repair, or replacement of park and  
711 playground equipment less than 50 years in age, excluding buildings, with minimal  
712 ground disturbance.
- 713 h. Temporary structures. Installation of temporary construction-related structures  
714 including scaffolding, barriers, screening, fences, protective walkways, signage,  
715 office trailers, or restrooms.
- 716 i. Test holes and wells. Test borings, well drilling, and percolation tests that do not  
717 require a temporary or permanent new access road to the site and are 1) less than 1  
718 meter in horizontal size and less than 0.5 meter deep, or 2) located within previously  
719 disturbed soils as defined above.
- 720 j. Generators. Temporary installation of generators. Permanent installation of  
721 generators that are placed inside existing buildings or that occupy an area less than  
722 50 square feet behind the building they serve.
- 723 k. Plantings. Planting of grass, shrubs, bushes, and trees when in previously disturbed soils as  
724 defined above.
- 725 l. Ground Disturbance. Any proposed ground disturbance in soil 1) less than 1 m in horizontal  
726 size and less than .5 m deep, or 2) within previously disturbed soils as defined above.

## 727 2. Exterior Rehabilitation

- 728 a. Exterior repairs. Repair or partial in-kind replacement of porches, columns, cornices,  
729 siding, doors, balustrades, stairs, sills, or trim.
- 730 b. Security bars. Repair or partial in-kind replacement of security bars. Installation of new  
731 security bars over windows on rear elevations and the installation of metal grating at  
732 basement window wells.
- 733 c. Historic windows. Caulking, weatherstripping, reglazing, and repainting of windows;  
734 installation of new window jambs or jamb liners; repairing, replacing, or  
735 reintroducing sash weights, sash chain, and sash cord; repair, in-kind replacement,  
736 or reintroduction of hardware such as lifts and locks; repair, replacement, or  
737 installation of storm windows (exterior, interior, metal, or wood) provided they  
738 match the historic shape and size of the historic prime windows and that the  
739 meeting rail coincides with that of the prime window.
- 740 d. Non-historic windows. Repair of non-historic windows, addition of storm windows,  
741 and replacement with new windows sized to fit the original window openings.
- 742 e. Exterior painting. Exterior painting of previously painted surfaces. Removal of  
743 exterior paint by non-destructive means, limited to hand scraping, low-pressure  
744 water less than 600 pound per square inch, heat plates, hot air guns, or chemical  
745 paint removers provided that the removal method is consistent with the provisions  
746 of 24 CFR Part 35, "Lead-Based Poisoning Prevention in Certain Residential  
747 Structures," and National Park Service Preservation Briefs #10: *Exterior Paint*

- 748 *Problems on Historic Woodwork and #37: Appropriate Methods for Reducing Lead-*  
 749 *Paint Hazards in Historic Housing.*
- 750 f. Roofing. Repair or in-kind replacement of roof cladding and sheeting, flashing,  
 751 gutters, soffits, and downspouts with no change in roof pitch or configuration.  
 752 Installation of new roofing or reflective roof coatings on a flat-roofed building with a  
 753 parapet, such that the roofing material is not visible from any public right-of-way.
- 754 g. Masonry and walls. In-kind repair of concrete and masonry walls, columns, parapets,  
 755 chimneys, or cornices or limited in-kind replacement of damaged components  
 756 including comparable brick, and mortar that matches the color, strength, content,  
 757 rake, and joint width.
- 758 h. Awnings. Repair or in-kind replacement of awnings.
- 759 i. Mechanical and solar systems. Replacement or installation of exterior HVAC mechanical  
 760 units and vents not on the front elevation and rooftop units that cannot be seen in  
 761 conjunction with the front facade. Replacement or installation of rooftop solar panels and  
 762 associated equipment that cannot be seen in conjunction with the front façade.
- 763 j. Security features. Installation of exterior security features and early warning devices on  
 764 exiting light poles or other permanent utilities. New wiring must be sub-surface to the  
 765 greatest extent possible or, where exposed, enclosed in conduit that is painted to match the  
 766 existing surface.
- 767 k. Basement bulkhead doors. Replacement or repair of basement bulkhead doors and  
 768 installation of basement bulkhead doors not on the front elevation.
- 769 l. Mothballing. Securing or mothballing a property by boarding over window and door  
 770 openings, making temporary roof repairs, or ventilating the building in accordance  
 771 with National Park Service Preservation Brief #31: *Mothballing Historic Buildings.*
- 772 m. Accessibility ramps. Grading ground paths that provide access to a building, repair  
 773 of existing ramps, and installation of new non-permanent and removable ramps that  
 774 do not irreversibly impact porches or railings.
- 775 n. Foundations. Below-grade repair of brick or stone foundations that does not include  
 776 applying weatherproofing or sealers, and repairs to all other types of foundations.
- 777 o. Attic vents. Repair or in-kind replacement of historic attic vents in original openings  
 778 or installation of new attic vents painted to match gables.
- 779 p. Seismic and structural repairs. Seismic and structural repairs of buildings and  
 780 parking facilities, provided that there is no substantial earth moving such as new  
 781 footings, foundation-trenching, or excavation.
- 782 q. Chimney liners. Repair or in-kind replacement of chimney liners provided that the  
 783 work does not affect the exterior of the chimney.
- 784 r. Replacement of mobile homes. Replacement of deteriorated or damaged mobile  
 785 homes with new mobile homes on existing pads with existing utility hook-ups.

### 786 **3. Interior Rehabilitation**

- 787 a. Mechanical systems. Installation, replacement, or repair of plumbing, HVAC systems and  
788 units, hot water heaters, furnaces, electrical wiring, security systems, and fire protection  
789 systems, provided no structural alterations are involved. Included are bathroom  
790 improvements for handicapped access, provided the work is contained within the existing  
791 restroom walls.
- 792 b. Surfaces. Repair or in-kind replacement of interior surface treatment such  
793 as floors, walls, ceilings, plaster, and woodwork. If covering historic features, such  
794 as wood floors, then carpet or sheet goods (linoleum or vinyl) shall be installed in a  
795 reversible manner, either through tacking or with an underlayment so historic floors  
796 shall not be irreversibly damaged.
- 797 c. Insulation. Installation of non-spray insulation in ceiling, attic, and basement spaces.
- 798 d. Radiant barriers. Installation of radiant barriers in unoccupied attic spaces
- 799 e. Asbestos abatement. Abatement or control of asbestos that does not involve  
800 removal or alteration of interior features.
- 801 f. Floors and stairs. Repair and in-kind replacement of floors and stairs, replacement  
802 of carpets, and installation or repair of concrete basement floors in an existing  
803 basement.
- 804 g. Bath and kitchen fixtures. Repair or replacement of bathroom and kitchen  
805 equipment and fixtures.
- 806 h. Accessibility. Installation of grab bars and other such minor interior modifications to  
807 allow individuals with disabilities to have full and equal access to housing, such as  
808 alterations within an existing bathroom for physical accessibility and use  
809 (accessibility repairs), installation of wedges and removal of thresholds to facilitate  
810 access through door openings, and creation of interior ramps that are non-  
811 permanent and removable.
- 812 i. Lead paint hazard mitigation. Interior lead hazard mitigation and abatement using  
813 lead-safe work practice when it is limited to washing, scraping and repainting,  
814 wallpapering, and chemical stripping of lead-painted surfaces; installation of new  
815 window jambs or jamb liners; installation of metal panning in window wells; and  
816 replacement of non-significant flat stock trim, provided that the work is consistent  
817 with the provisions of 24 CFR Part 35.140, "Prohibited methods of paint removal,"  
818 and National Park Service Preservation Brief #37: *Appropriate Methods for Reducing*  
819 *Lead-Paint Hazards in Historic Housing.*
- 820 j. Communication, access and security systems. Installation of communication, access, and  
821 security system components such as cameras, closed-circuit television, card readers,  
822 enhanced locks, alarm systems, and public address systems, provided that installation of the  
823 system hardware does not damage or cause the removal of character defining architectural  
824 features and can be easily removed in the future. New wiring will be sub-surface to the  
825 greatest extent possible or where exposed will be enclosed in conduit that is painted to  
826 match the existing surface.



- 827 k. Mechanical conveyance systems. In-kind repair, replacement, or limited upgrading of  
828 elevators or other mechanical conveyance systems.
- 829 l. Seismic retrofits. Installation of the following retrofits or upgrades, provided that such  
830 upgrades are not visible on the exterior: attic bracing, cross bracing on pier-and-post  
831 foundations; fasteners; collar ties; gussets; tie-downs; strapping and anchoring of  
832 mechanical, electrical, and plumbing equipment; concealed anchoring of furniture;  
833 installation of plywood diaphragms beneath first floor joists, above top floor ceiling rafters,  
834 and on roofs; and automatic gas shutoff valves. In masonry structures, bolts will be required  
835 to be installed through the mortar and not the stone or brick, as applicable.  
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**APPENDIX B****Protocol for Responsible Entities to Adopt the HUD  
Statewide Part 50/58 Programmatic Agreement****840 Background**

841 HUD assisted projects require a historic preservation compliance review, otherwise known as a  
842 Section 106 review, which requires federal agencies to consider impacts their projects may  
843 have on historic properties. This review process can be completed as outlined in 36 CFR Part  
844 800 for individual projects, or a Programmatic Agreement (PA) may be developed as an  
845 alternative to expedite the process for multiple projects. HUD developed a statewide PA that  
846 applies to HUD projects administered under both 24 CFR Part 58, when the unit of local  
847 government is the Responsible Entity mandated to ensure compliance with the National  
848 Environmental Policy Act and all related laws and authorities under Part 58, including Section  
849 106, and Part 50, when HUD officials conduct the environmental review. The PA includes a list  
850 of project activities that are exempt from further review, provided the stipulations in the PA are  
851 met.

852 Individual REs can opt to sign the PA and use its streamlining measures in their Section 106  
853 reviews. Participation in the PA is voluntary. An Responsible Entity is always free to develop its  
854 own separate, individual PA or conduct reviews with the standard Section 106 process. To take  
855 advantage of the stipulations in the PA, an Responsible Entity must be a party to the PA which  
856 can be achieved through implementing the protocols below.

857 The PA was drafted by HUD in consultation with the SHPO and with input from the ACHP.  
858 During the initial development of the PA, HUD, through its Office of Environment and Energy,  
859 facilitated consultation with statewide historic preservation organizations and federally  
860 recognized Indian tribes. REs that signed at the initial stage conducted outreach to the public  
861 and potentially interested parties in their jurisdiction about the PA and their intention to sign it  
862 as well as to solicit comments on the draft. Documentation of that outreach effort and  
863 resulting comments were provided to HUD. The draft PA was revised based on comments  
864 received from HUD's outreach as well as that of the REs. The PA is now executed and cannot be  
865 modified, except as outlined in Stipulation XII. of the PA.

866 The following guidelines should be used when an Responsible Entity seeks to adopt the PA to  
867 expedite Section 106 reviews conducted under Part 58.

868

869

## 870 **Protocol to Adopt the HUD Statewide PA**

### 871 **Initiation**

- 872 • An Responsible Entity should notify the HUD Region IX Regional Environmental Officer  
873 or a Field Environmental Officer of their interest in adopting the PA for their jurisdiction.  
874 HUD is available to support and discuss the PA process with REs and assist them  
875 throughout the adoption process as necessary.

### 876 **Public Outreach**

- 877 • Before they adopt the PA, REs must inform potentially interested parties in their  
878 jurisdiction about the PA and their interest in adopting it. Such parties may include, but  
879 are not limited to, local historic preservation commissions (whether or not the city  
880 participates in the SHPO's Certified Local Governments program) and local historic  
881 preservation organizations. This can be done by notice, letter, meeting, or other means.  
882 The general public must also be informed. This can be done by notice on a local  
883 government website, in a local newspaper, or other means. REs must consider any  
884 comments received in their decision on whether to sign the PA.
- 885 • The Responsible Entity must provide HUD with documentation of their public outreach.  
886 If insufficient, HUD will provide technical assistance to the Responsible Entity on  
887 additional outreach required. HUD will provide the documentation to the SHPO when  
888 submitting the executed signature page.

### 889 **Adoption of PA**

- 890 • HUD will provide a signature page for each participating Responsible Entity.
- 891 • The Responsible Entity may begin using the PA for reviews effective the date of  
892 signature by the Responsible Entity and submission to HUD.
- 893 • On behalf of the Responsible Entities, HUD will notify the SHPO of new Signatories to  
894 the PA.
- 895 • HUD will post the Responsible Entity signature pages on the Section 106 Agreements  
896 section of the HUD Historic Preservation page at  
897 [https://www.hudexchange.info/environmental-review/historic-preservation/section-](https://www.hudexchange.info/environmental-review/historic-preservation/section-106-agreements/)  
898 [106-agreements/](https://www.hudexchange.info/environmental-review/historic-preservation/section-106-agreements/)

### 899 **Annual Report**

- 900 • Per Stipulation X. of the PA, the Responsible Entity must prepare an Annual Report with  
901 a narrative and statistical overview of the actions taken by the Responsible Entity in the  
902 previous year to implement the terms of the PA. HUD will provide data from HEROS on

903 the Responsible Entity's projects during the year. The Responsible Entity must provide  
904 the report to HUD and the SHPO. Any of the parties may request a follow-up discussion  
905 of the report and its recommendations.

- 906 • REs are encouraged to use HEROS when preparing their Part 58 reviews to facilitate the  
907 preparation of the annual report required by the PA.

908

909 **For more information contact your HUD Regional Environmental Officer or Field**  
910 **Environmental Officer. A list is available here:**

911 [https://www.hudexchange.info/programs/environmental-review/hud-environmental-staff-](https://www.hudexchange.info/programs/environmental-review/hud-environmental-staff-contacts/#region-ix-regional-and-field-environmental-officers)  
912 [contacts/#region-ix-regional-and-field-environmental-officers](https://www.hudexchange.info/programs/environmental-review/hud-environmental-staff-contacts/#region-ix-regional-and-field-environmental-officers)

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**APPENDIX C**

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**Applicability of Part 50 and Part 58 to HUD Programs**

918

**November 2023**

919 This Appendix may be amended in accordance with Stipulation XII, Amendments.

920 HUD programs that are subject to Part 50 include, but are not limited to: mortgage insurance  
921 per Sections 203(b), 207, 211, 220, 221(d)(3), 223(a), 223(f), 207 and 221(d)(4) of the National  
922 Housing Act of 1934; Section 202 of the Housing Act of 1959; Section 811 of the Cranston-  
923 Gonzalez National Affordable Housing Act of 1990; and HUD administered programs under the  
924 American Recovery and Investment Act of 2009 that require accelerated processing timelines.

925 HUD programs that are subject to Part 58 include, but are not limited to: the Community  
926 Development Block Grant (CDBG) Program, under Title I of the Housing and Community  
927 Development Act of 1974, as amended; Community Development Block Grant - Disaster  
928 Recovery (CDBG-DR) and Community Development Block Grant - Coronavirus (CDBG-CV)  
929 under various acts including the Disaster Relief Appropriations Act of 2013, Further  
930 Continuing and Security Assistance Appropriations Act, 2017 , Consolidated Appropriations  
931 Act, 2017, Continuing Appropriations Act, 2018; Supplemental Appropriations for Disaster  
932 Relief Requirements Act, 2017 , Bipartisan Budget Act of 2018 , Additional Supplemental  
933 Appropriations for Disaster Relief Act, 2019; Coronavirus Aid, Relief, and Economic Security  
934 (CARES) Act; HOME Investment Partnerships (HOME) Program, under Title II of the Cranston-  
935 Gonzalez National Affordable Housing Act of 1990 (HOME Investment Partnership Act);  
936 Emergency Solutions Shelter Grant (ESG) Program and Continuum of Care (CoC) Program,  
937 under Subtitles B and C, respectively, of Title IV of the Stewart B. McKinney-Vento Homeless  
938 Assistance Act; Housing Opportunities for Persons with AIDS (HOPWA) program, under the  
939 AIDS Housing Opportunity Act, as amended by the Housing and Community Development Act  
940 of 1992; and projects financed with competitive awards of Supportive Housing Program (SHP)  
941 funds, under former Title IV, subtitle C, of the Stewart B. McKinney-Vento Act; Self-Help  
942 Homeownership Opportunity Program (SHOP) under Section 11 of the Housing Opportunity  
943 Program Extension Act of 1996; and the Neighborhood Stabilization Program (NSP)  
944 established under the Housing and Economic Recovery Act of 2008 (P.L. 110-289) (HERA) and  
945 continued under the American Recovery and Reinvestment Act of 2009 (P.L. 111-005)  
946 (Recovery Act) and the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L.  
947 111-203) (Dodd-Frank); public housing and the Project-based Voucher Program under Title 1  
948 of the United States Housing Act of 1937; the Indian Community Development Block Grant  
949 (ICDBG) under the Housing and Community Development Act of 1974, as amended; the

950 Indian Housing Block Grant (IHBG) Program under the Native American Housing and Self  
951 Determination Act of 1996 (NAHASDA); loan guarantees for Indian housing under Section 184  
952 of the Housing and Community Development Act of 1992; the Risk Share Program under  
953 Section 542(c) of the Housing and Community Development Act of 1992; and other programs  
954 that may be authorized from time to time.

955 The table on following pages includes a brief description of current HUD Programs and indicates  
956 whether they are subject to Part 50 or Part 58.

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<p align="center"><b>APPLICABILITY OF PART 50 AND PART 58 TO HUD PROGRAMS</b></p> <p align="center"><b>November 2023</b></p>			
<p align="center"><b>Office of Multifamily Housing</b></p>			
<p>The Office of Multifamily Housing provides mortgage insurance programs for apartment buildings as well as capital advance funds to construct low-income housing for elderly and disabled residents. Projects labeled apartments would typically be a Multifamily Housing program, except public housing.</p>			
Program	Description	Part 50	Part 58
Section 221(d)(4)	New Construction or substantial rehabilitation of multifamily rental housing.	X	
Section 223(a)(7)	Refinance of HUD-insured multifamily projects with no substantial rehabilitation. No further Section 106 review due to No Potential to Cause Effects determination. If action involves purchase, Section 106 review is required.	X	
Section 207/223(f)	Purchase or refinance of existing multifamily rental housing with some, but not substantial, rehabilitation. In 223(f) refinance, if work does not exceed Maintenance, no further Section 106 review due to No Potential to Cause Effects determination.	X	
Section 241(a)	Addition or rehabilitation to an existing FHA-insured project. These loans typically involve a significant construction component.	X	
213 Cooperative	New construction, substantial rehabilitation, or purchase of Cooperative Housing.	X	
542(c) Risk Share Program	Credit enhancements for state and local housing finance agencies for new construction, substantial rehabilitation, refinancing, and housing for the elderly.		X
Section 202/811	Capital advance to construct new Housing for elderly and disabled persons.		
Project-based Section 8 Renewals	Capital repairs and rehabilitation of existing projects.	X	
Section 8 Transfer of Project-Based Subsidy	Transfers of rental assistance (including Section 8(bb)) to existing property with no repairs, existing properties with rehab, or new construction.	X	
Mark to Market	Reduces rents to market levels, can include rehabilitation.		
Rental Assistance Demonstration Program (RAD)	This Office of Housing Program converts public housing to private funding that is used to rehabilitate, remove, and/or construct improved public housing.	X*	X*
* See page 117 of HUD Notice H-2019-09 PIH-2019-23 (HA) (RAD Notice Rev.4)			

<b>Office of Healthcare Programs</b>			
Office of Healthcare Programs offers mortgage insurance programs for residential healthcare facilities and hospitals. Projects labelled “LEAN,” Office of Residential Healthcare Facilities, Office of Hospital Facilities, Nursing Home, Assisted Living, or Hospital are typically Office of Healthcare Programs projects.			
Program	Description	Part 50	Part 58
Section 232 or 242/223(f)	Purchase or refinance—often involves repairs, but not substantial rehabilitation.	X	
Section 232 or 242/223(a)(7)	Refinance of HUD-insured projects with no substantial rehabilitation.	X	
Section 232 or 242 New Construction, Substantial Rehabilitation	Projects under these sections have a significant construction component.	X	
Section 232/241(a)	Addition or Rehabilitation to an existing FHA-insured project. These loans typically involve a significant construction component.	X	
<b>Office of Community Planning and Development</b>			
The Office of Community Planning and Development provides grants to assist states, communities, and non-profit organizations to foster community development, affordable housing, and economic development.			
Program	Description	Part 50	Part 58
Community Development Block Grants (CDBG)	Formula grants to states and localities to support neighborhood revitalization, economic development, and improved community facilities and services for low- and moderate-income persons.		X
CDBG– Disaster Recovery (CDBG-DR)	Grants for activities that support recovery from Presidentially declared disasters.		X
CDBG – Mitigation (CDBG-MIT)	Grants for activities to mitigate future disaster risks in areas impacted by Presidentially declared disasters.		X
Community Project Funding (CPF)	CPF grants are selected through a congressionally-directed application process and provide investment in a wide variety of projects such as housing, homelessness prevention, workforce training, public facilities, parks, resilience planning and other critical infrastructure and services.		X
HOME	Grants to increase affordable housing opportunities for low- and very low-income households.		X
Housing Trust Fund	Grants for the construction, rehabilitation, and preservation of rental homes and for homeownership for extremely low- and very low-income families, including homeless families. Activities must meet Secretary of the Interior’s Standards for Rehabilitation. Parts 50 and 58 do not apply.	N/A	N/A



Emergency Solutions Grant	Assistance to people experiencing homelessness to quickly regain permanent housing.		X
HOPWA	Grants to provide housing assistance and related supportive services to meet the housing needs of low-income persons living with HIV/AIDS and their families.		X
Neighborhood Stabilization Program 1	Formula grants for the purpose of providing emergency assistance to stabilize communities with high rates of abandoned and foreclosed home. †		X
Neighborhood Stabilization Program 2	Competitive grants to states, local governments, and non-profits for the purpose of providing emergency assistance to stabilize communities with high rates of abandoned and foreclosed home. †	X	X
Neighborhood Stabilization Program 3	Formula grants for the purpose of providing emergency assistance to stabilize communities with high rates of abandoned and foreclosed home. †		X
Pay for Success	Financing model that provides flexibility to local governments to implement evidence-based solutions to end homelessness.	X	
Continuum of Care (CoC)	Grants that address shelter and social needs of people experiencing homelessness.		X
SHOP	Self-Help Homeownership Opportunity Program funds sites for volunteer-based home construction programs		X
Section 108 Loan Guarantee Program	Allows local governments to leverage portions of their CDBG funds into federally guaranteed loans for economic development, housing, public facility, and infrastructure.		X
Veterans Housing Rehabilitation and Modification Pilot Program (VHRMP)	Grants to nonprofit organizations to rehabilitate the primary residences of low-income veterans living with disabilities.	X	
Youth Homelessness Demonstration Program (YHDP)	Grant program designed to reduce the number of youth experiencing homelessness.		X
† Legacy program that reallocates repaid funds.			
<b>Office of Lead Hazard Control and Healthy Homes</b>			
The Office of Lead Hazard Control and Healthy Homes promotes preventive and corrective actions to address health and safety issues in the home environment.			
Program	Description	Part 50	Part 58
Lead-Based Paint Hazard Reduction and Healthy Homes Supplemental Program	Grants to state, county, tribal, and local governments to identify and control lead-based paint/dust/soil hazards in privately-owned rental or owner-occupied housing. Healthy Homes Supplemental grant funds identify and eliminate housing-based health and safety hazards in the same homes.		X

Healthy Homes Production Program for Tribal Housing	Grants to federally recognized tribes for evaluation and reduction/elimination of housing-based health and safety hazards in private low-income rental or owner-occupied housing.		X
Older Adult Home Modification Program	Grants to make safety and functional home modification repairs of low-income elderly homeowners.	X	X
Healthy Homes and Weatherization Cooperation Demonstration Program	Grants to identify effective strategies for coordination between Lead/Healthy Homes and DOE Weatherization programs that maximize program efficiencies and benefits to occupants.	X	X
<b>Office of Public and Indian Housing: Office of Public Housing</b>			
The Office of Public Housing supports local public housing authorities that own and manage public housing properties.			
Program	Description	Part 50	Part 58
Public Housing Capital Funds	Funding for capital improvements to public housing, with activities that may include maintenance, rehabilitation, demolition, construction, and leasing.		X
Public Housing Operation Funds	Funding for the operation and management of public housing units, including maintenance and rehabilitation		X
Lead Based Paint Capital Funds (LBPCF)	Funding to identify and eliminate LBP hazards in public housing by carrying out risk assessments, abatement, and interim controls.		X
Moving to Work (MTW) Block Grant	Funding to increase affordable housing choices for low-income families, that may include acquisition, leasing, operations, rehabilitation, maintenance, demolition, and construction.		X
Choice Neighborhoods Initiative (CNI)	Planning and Implementation grants to transform distressed public housing into mixed-income neighborhoods, with activities that may include disposition, rehabilitation, maintenance, demolition, and construction.		X
HOPE VI	Funding to revitalize public housing projects in poor condition into mixed-income developments, largely based on New Urbanism, with activities that may include planning, design, acquisition, disposition, rehabilitation, maintenance, demolition, and construction.		X
HOPE VI Main Street Program	Funding to rejuvenate older, downtowns in smaller communities (50,000 or fewer) with activities that may include acquisition, rehabilitation, maintenance, demolition, and construction. Must meet the Secretary of the Interior's Standards for Rehabilitation.	X	

Project Based Vouchers (PBV)	PBVs may be placed into existing housing or new construction, after a one-time environmental review covering the entire scope has been completed for the aggregated project, which may include acquisition, demolition, rehabilitation, maintenance, construction, leasing, and operations. The environmental review must be completed prior to the HAP or AHAP.		X
Tenant-based Section 8 rental assistance	Tenant-based vouchers allow tenants to choose their own housing in the private market. Exempt from environmental review including Section 106	NA	NA
Housing Choice Voucher (HCV) Homeownership Program	HCV Homeownership Program allows families assisted under the HCV program to use their voucher to buy a home and receive monthly assistance in meeting homeownership expenses; activities may include acquisition and related expenses that result in the transfer of title.		X
Energy Performance Contract (EPC) Program	Financing technique using energy/utility cost savings from reduced energy consumption to repay the cost of installing Energy Conservation Measures, with activities that may include rehabilitation maintenance, and construction.		X
Rental Assistance Demonstration Program (RAD)	This Office of Housing Program converts public housing to private funding that is used to rehabilitate, remove, and/or construct improved public housing.	X*	X*
Section 18 actions, including demolition and/or disposition	Section 18 authorizes a PHA to demolish and/or dispose of public housing with HUD approval if the units meet certain criteria. The review needs to encompass the maximum anticipated known project scope, and may include maintenance, rehabilitation, and construction.		X
Mixed-Finance Public Housing	Mixed finance developments include public housing units owned in whole or in part by an entity other than a PHA and are generally part of mixed-income developments; activities may include, acquisition, leasing, operations, rehabilitation, maintenance, demolition, and construction.		X
* See page 117 of HUD Notice H-2019-09 PIH-2019-23 (HA) (RAD Notice Rev.4)			

<b>Office of Public and Indian Housing: Office of Native American Programs (ONAP)</b>			
The Office of Native American Programs administers housing and community development programs that benefit American Indian and Alaska Native tribal governments, tribal members, the Department of Hawaiian Home Lands, Native Hawaiians, and other Native American organizations.*			
Program	Description	Part 50	Part 58
Indian Housing Block Grant (IHBG)	IHBG is a formula grant that provides a range of affordable housing activities on Indian reservations and Indian areas, including housing development, assistance to housing developed under the Indian Housing Program, housing services to eligible families and individuals, crime prevention and safety, and model activities that provide creative approaches to solving affordable housing problems.		X
Indian Community Development Block Grant (ICDBG)	ICDBG provides direct grants for use in developing viable Indian and Alaska Native Communities, including decent housing, a suitable living environment, and economic opportunities, primarily for low and moderate income persons.		X
Indian Home Loan Guarantee Program (Section 184)	Home mortgage product specifically designed for American Indian and Alaska Native families, Alaska villages, tribes, or tribally designated housing entities.		X
Title VI Loan Guarantee Program	Title VI is a financial tool that allows federally recognized tribes and Tribally Designated Housing Entities (TDHE) to finance affordable housing activities. Activities may include rehabilitating housing, building infrastructure, construction community facilities, and acquiring land to use for housing.		X
Tribal HUD-Veterans Affairs Supportive Housing (VASH)	VASH provides rental assistance and supportive services to Native American veterans who are homeless or at risk of homelessness living on or near a reservation or other Indian areas.	X	X
* This Section 106 Programmatic Agreement is not applicable to undertakings that are located on or that would affect historic properties on tribal trust lands.			

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