

**PROGRAMMATIC AGREEMENT
BETWEEN THE
RHODE ISLAND STATE HISTORIC PRESERVATION OFFICE/
RHODE ISLAND HISTORICAL & HERITAGE COMMISSION
AND
RHODE ISLAND HOUSING AND MORTGAGE FINANCE CORPORATION
FOR THE ADMINISTRATION OF THE
LEAD SAFE HOMES PROGRAM**

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) Office of Lead Hazard Control and Healthy Homes has allocated funds to Rhode Island Housing and Mortgage Finance Corporation (RIHousing) to provide forgivable loans/grants to qualifying homeowners to address lead paint problems and other unsafe conditions through the Lead Safe Homes Program (Program); and

WHEREAS, activities under the Program include, but are not limited to, the installation of new windows and doors, interior and exterior painting, and soil remediation; and

WHEREAS, pursuant to 24 CFR Part 58, HUD has delegated to RIHousing the responsibility for compliance with the requirements pursuant to 36 CFR Part 800, implementing Section 106 of the National Historic Preservation Act, as amended (54 U.S.C. 306108) (Section 106); and

WHEREAS, RIHousing is acting as the federal “Agency Official” pursuant to 36 CFR § 800.2(a), assuming the responsibilities of HUD; and

WHEREAS, RIHousing conducts environmental review of funded properties in accordance with relevant regulations including Section 106; and

WHEREAS, pursuant to Section 106, RIHousing is required to notify the Rhode Island State Historic Preservation Office/Rhode Island Historical & Heritage Commission (RIHPHC) early in the planning process; and

WHEREAS, RIHousing has determined that administration of the Program may affect properties included in or eligible for inclusion in the National Register of Historic Places (National Register); and

WHEREAS, the Advisory Council on Historic Preservation (ACHP) has been invited to participate in consultation and concur with this Programmatic Agreement (Agreement) in accordance with 36 CFR § 800.14; and

WHEREAS, RIHousing, in consultation with the RIHPHC and the ACHP, has determined that RIHousing can effectively fulfill its Section 106 review responsibilities for the Lead Safe Homes Program if a programmatic approach is used, pursuant to 36 CFR § 800.14, to delegate Section 106 compliance responsibilities and to identify activities which can be excluded from the Section 106 review because they have limited potential to adversely affect historic properties; and

WHEREAS, this Agreement is proposed to specify categories of projects that will be exempt from RIHPHC review, to establish a process for obtaining RIHPHC approval for non-exempt projects in a programmatic manner, and to assist RIHousing cost-effectively to avoid, minimize, or mitigate any adverse effects on non-exempt historic properties.

NOW, THEREFORE, RIHousing, RIHPHC, and ACHP agree that the Program will be implemented in accordance with the following stipulations in order to take into account the effect of all individual undertakings on historic properties to satisfy RIHousing Section 106 Responsibilities.

STIPULATIONS

RIHousing will ensure that the following measures are carried out.

I. QUALIFIED PROFESSIONALS

1. Some projects may require that RIHousing employ or engage qualified professionals in architectural history/historic preservation. RIHousing will ensure that qualified professionals meet the Secretary of the Interior Professional Qualifications Standards, found in 36 CFR 61 (48 FR 44738-9), and are able to interpret and apply the Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Buildings" (Standards) (Appendix C) and the National Register criteria.
2. Responsibilities delegated to the qualified professional include:
 - a. identifying and evaluating historic properties;
 - b. reviewing plans and specifications;
 - c. making recommendations for determinations of eligibility and effect;
 - d. preparing comment letters and other documents for RIHPHC concurrence; and
 - e. other tasks related to Section 106 compliance under this Agreement.

II. EXEMPT PROPERTIES AND ACTIVITIES

1. If a project satisfies all of the following criteria:
 - a. Not located in or adjacent to a historic district;
 - b. Does not involve any buildings listed in the National Register; and
 - c. Consists of rehabilitation of buildings or structures less than 50 years old.

Then such properties and activities are considered exempt from this Agreement. This determination will be made by the qualified professional as described above.

2. A project that does not satisfy all of the criteria listed in paragraph 1 above, will nonetheless be exempt from this Agreement if it is limited solely to the exempt activities listed in Appendix A. The qualified professional, as described above, can make this determination.
3. For projects that are exempt under paragraph 1 or 2 above, the qualified professional will prepare a memorandum documenting the determination for RIHousing to submit to RIHPHC for recordation purposes only; no further RIHPHC review is required.
4. In accordance with the ACHP "Policy Statement on Affordable Housing and Historic Preservation," for affordable housing projects that do not involve a building that is listed or considered eligible for listing in the National Register as an individual property, review under this Agreement will be limited to proposed changes to the exterior of the building or proposed interior changes that will be visible from the exterior.
5. Proposed changes to the exterior of the building or proposed interior changes that will be visible from the exterior is the direct area of potential effects (APE) as defined in 36 CFR §

800.16(d). The immediate surrounding area is the indirect APE.

III. IDENTIFYING AND EVALUATING HISTORIC PROPERTIES

1. Preliminary step in identifying potential historic properties that do not meet the exempt properties and activities enumerated in Section II.
 - a. During the preliminary review stage of the environmental review process, the qualified professional will review information in the existing inventories listed below for historic properties that may be affected by project activities. The qualified professional will conduct a background desktop review by checking:
 - i. current National Register listings;
 - ii. current Rhode Island State Register listings; and
 - iii. any other information in RIHPHC files that is readily available and accessible on RIHPHC's public website or from RIHPHC.
2. For properties not listed in the National or State Registers and not meeting the exemptions under Section II, the qualified professional will:
 - a. prepare an inventory form in a format agreed upon by RIHPHC and RIHousing (see Appendix B for inventory form template) and
 - b. prepare a National Register eligibility assessment.

If there is a historic property present, including properties listed in the National Register or recommended eligible for listing by the qualified professional, proceed to Section IV.

IV. ASSESSMENT OF EFFECTS AND TREATMENT OF HISTORIC PROPERTIES

1. For properties listed in the National Register or recommended eligible for listing by the qualified professional, RIHousing will ensure that building rehabilitation plans and specifications for non-exempt activities are developed in accordance with the recommended approaches in the Secretary of the Interior's Standards (Appendix C), as follows:
 - a. Prior to the initiation of such activities, the qualified professional will review work write-ups or plans and specifications to determine adherence to the Standards. The qualified professional will review and make recommendations for RIHousing approval of the plans and specifications.
 - b. If the qualified professional recommends modifications to the work write-ups or plans and specifications to ensure that the project meets the Standards, RIHousing will ensure appropriate modifications are made and submit revised work write-ups or plans and specifications to the qualified professional.
2. The qualified professional will submit a memorandum to RIHousing summarizing the results of the survey (as outlined in Section III(2)(a)) and assessment of effects. The memorandum will include copies of the inventory form and National Register eligibility assessment.
3. RIHousing will incorporate appropriate replacements or remediation options that would not have an adverse effect recommendation into the scope of work.
4. RIHousing will submit the inventory form, National Register eligibility assessment, scope of work, and assessment of effects to RIHPHC for review and concurrence.
5. RIHPHC will provide a notification of concurrence or non-concurrence with written comments to RIHousing within thirty (30) days following receipt of documentation. If RIHPHC provides a non-concurrence, RIHPHC, RIHousing, and the qualified professional will consult within thirty (30) days to resolve any issues.

VI. DISPUTE RESOLUTION

1. Should any signatory to this Agreement object within a reasonable timeframe to any actions proposed or the manner in which the terms of this Agreement are implemented, RIHousing will consult with such party to resolve the objection. If RIHousing determines that such objection cannot be resolved, RIHousing will:
 - a. Forward all documentation relevant to the dispute, including the proposed resolution, to the ACHP. The ACHP will provide RIHousing with recommendations or comment within thirty (30) days of receiving adequate documentation. Any ACHP comment provided to RIHousing in response to such a request will be taken into account by RIHousing in reaching a final decision regarding the dispute. Any recommendation or comment provided by the ACHP will be interpreted to relate only to the subject of the dispute, and the responsibility of the parties to carry out all actions under this Agreement that are not the subject of the dispute will remain unchanged.

VII. AMENDMENTS

This Agreement may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by the signatories is filed with the ACHP.

VIII. TERMINATION

Any party to this Agreement may terminate it by providing thirty (30) days' notice to the other parties provided that the parties will consult during the period prior to the termination to seek agreement on amendments or other actions that would avoid termination; provided further that any individual undertakings already submitted to RIHPHC for review at the time any such notice is given by RIHPHC will be reviewed in their entirety in accordance with this Agreement even if such review continues beyond such termination. In the event of termination, RIHousing will comply with 36 CFR §§ 800.4 through 800.6 with respect to individual undertakings covered by this Agreement with the exception of those individual undertakings already submitted to RIHPHC prior to such notice.

IX. DURATION OF THE AGREEMENT

This Agreement will continue in full force and effect following the date of the last signature. The Agreement will remain in effect for five (5) years, unless terminated pursuant to this Agreement.

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FOR THE ADMINISTRATION OF THE
LEAD SAFE HOMES PROGRAM**

EXECUTION AND IMPLEMENTATION of this Programmatic Agreement evidences that RIHousing has satisfied its Section 106 responsibilities for the Lead Safe Homes Program.

SIGNATORIES:

RHODE ISLAND HOUSING AND MORTGAGE FINANCE CORPORATION

By: _____ Date:

Name:

Title:

RHODE ISLAND STATE HISTORIC PRESERVATION OFFICE

By: _____ Date:

Name: Jeffrey Emidy

Title: State Historic Preservation Officer

CONCUR:

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____ Date:

Name:

Title:

APPENDIX A:
EXEMPT ACTIVITIES

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APPENDIX A – EXEMPT ACTIVITIES

Exterior Painting

- Scraping and repainting of exterior wood and masonry foundations if destructive surface preparation treatments are not used, including, but not limited to, water blasting, sandblasting, destructive sanding, and chemical removal.

Exterior Repairs

- Repair or partial replacement of deteriorated porches, cornices, exterior siding, doors, balustrades, stairs, or other trim when the repair or replacement is done in-kind to closely match existing material and form.

Windows

- Caulking and weatherstripping
- Reglazing and repainting of windows
- Repair, replacement or installation of storm windows (exterior, interior, metal or wood) provided they match the historic shape and size of the historic prime windows and that the meeting rail coincides with that of the prime window. Color should match trim, if possible.
- Installation of new window jambs or jamb liners
- Installation of metal panning in window wells

Interiors

- All interior work not visible from a public way as long as the property is not individually listed in the National Register of Historic Places, a National Historic Landmark, or has not been determined to be individually eligible for listing in the National Register of Historic Places.
- Washing, scraping, and repainting
- Wallpapering
- Chemical stripping of lead-painted surfaces
- Replacement of flat stock trim

APPENDIX B:
PROPERTY INVENTORY FORM SPECIFIC TO RIHOUSING PROJECTS

Rhode Island Housing – Lead Abatement Program

Form prepared to assist in determining Rhode Island Housing’s Section 106 responsibilities prior to undertaking lead abatement work

GENERAL INFORMATION

Building Address _____

Town/City _____ Village _____ County _____

Owner(s) _____

Owner Address if different from building address:

PROPERTY INFORMATION

Present Use/Historic Use _____

Building Style/Form _____ No. Stories _____

Approx. Date of Construction _____

Structural System Wood Frame Masonry Structural Iron or Steel

Wall Materials Clapboard Asbestos Siding Brick Wood Shingle Asphalt Siding Stucco
 Board & Batten Aluminum Siding Vinyl

Foundation Materials Not Visible Fieldstone Brick Concrete Block Poured Concrete Parged

Roof Shape End-Gable Side-Gable Cross-Gable Gambrel Hip Flat Mansard Shed

Roof Material Wood Shingle Slate Shingle Asphalt Shingle Metal Tile Rolled Asphalt
 Built up

Window Materials Wood Aluminum Vinyl Window Lights

Condition Excellent Good Fair Poor

Historic Architectural Integrity Excellent Good Fair Altered Beyond Recognition

Alterations _____

Associated outbuildings Garage Shed Carriage House Barn

Surrounding Environment Commercial Urban Residential Suburban Residential

Alterations to surrounding environment Non-historic infill Replacement Materials Demolition

Inventoried in RIHPHC Survey Publication? Yes No

If so, which publication? _____

National Register Eligibility Opinion (Criterion C only; see reverse for explanation)

Potentially Individually Eligible Potentially Eligible in a District Not Eligible

Form Prepared By: _____ Date: _____

NATIONAL REGISTER EVALUATION (*Explain why or why not the subject property is eligible for listing in the National Register of Historic Places. If the building is eligible, explain if it is individually eligible or only within a district.*)

PHOTOGRAPHS AND SUPPORTING FIGURES (*Insert at least one photograph of the building and one streetscape or overview photo of the surrounding neighborhood, as well as any supporting maps or other figures that support the determination of National Register Eligibility.*)

BIBLIOGRAPHY (*List any sources consulted to determine age/eligibility of subject property*)

APPENDIX C:
SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

The Secretary of the Interior's Standards for Rehabilitation

The Standards for Rehabilitation provide direction in making appropriate choices in planning the repairs, alterations, and additions that may be part of a rehabilitation project. The accompanying Guidelines apply the Standards and describe specific treatments that do and do not meet the Standards. The intent of the Standards is to assist the long-term preservation of a property's significance through the preservation of historic materials and features. The Standards pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior and the interior of historic buildings. The Standards also encompass related landscape features and the building's site and environment, as well as attached, adjacent, or related new construction. The following Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.