

PROGRAMMATIC AGREEMENT AMONG USDA RURAL DEVELOPMENT, RURAL HOUSING SERVICE (RHS), THE ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP), AND THE NORTH DAKOTA STATE HISTORIC PRESERVATION OFFICER (SHPO) REGARDING FEDERAL RURAL HOUSING FINANCING AND REHABILITATION PROGRAMS.

WHEREAS RHS is the federal agency which administers several single family housing programs including the 502 Direct, 502 Guaranteed, and the 504 Loan and Grant programs; and

WHEREAS, 502 Direct, 502 Guaranteed, and 504 Loan and Grant housing rehabilitation undertakings conducted through these programs have little potential to affect historic properties (as defined in 36 CFR 800.5);

NOW, THEREFORE, RHS, SHPO, and the ACHP agree that the programs shall be administered in accordance with the following stipulations to satisfy the section 106 responsibilities for housing rehabilitation undertakings conducted under the 502 Direct, 502 Guaranteed, and 504 Loan and Grant programs.

STIPULATION

RHS shall ensure that the following measures are carried out:

I. APPLICABILITY OF AGREEMENT – RHS shall ensure compliance with the stipulations of this Agreement for all the housing rehabilitation undertakings assisted entirely or in part by the 502 Direct, 502 Guaranteed, and the 504 Loan and Grant programs. The review established by this Agreement shall be completed prior to the approval of any application for assistance under the 502 Direct, 502 Guaranteed and 504 Loan and Grant programs.

II: EXCLUSIONS: 502 Direct and Guaranteed Loans *are* exempt from 106 consultation should no rehabilitation be included with the sale, transfers and assumptions of the home.

III. DETERMINING IN PROPERTY AGE – RHS shall review existing information on each property proposed for rehabilitation, and shall make a good faith effort to determine the age of each property being considered for rehabilitation. The age of the earliest standing portion of any property shall be used to determine age. RHS shall then proceed according to the following:

A. Properties *less than 50 years old at the time of application* shall be exempt from SHPO review and comment provided that the project is limited to rehabilitation, and does not include new construction. RHS shall retain within the project file the information used to determine the property's age and a photograph of the property taken before the rehabilitation occurred.

B. For all properties 50 years of age or older at the time of application (or where the age is unknown), RHS shall comply with the requirements of Stipulation IV below.

IV. ASSESS EFFECTS- When the property is determined to be 50 years old or older at the time of application, or if the age is unknown, RHS shall compare the project description against the excluded activities listed in Appendix A. RHS shall then proceed according to the following:

A. If the rehabilitation project consists solely of activities listed as being excluded in Appendix A, the project shall not require any SHPO review and comment.

B. Should the rehabilitation project involve activities that are not listed in Appendix A, RHS shall consult with SHPO per a standard section 106 consultation pursuant to 36 CFR 800, and shall submit a completed checklist (see Appendix B) for each property involved.

V. MONITORING- SHPO, ACHP, or RHS may monitor any activities carried out pursuant to this Agreement. The RHS State office, on an annual basis, will monitor at least one area or local office for compliance with the Agreement. RHS shall inform SHPO of the nature and extent of any failures by area or local offices to comply with the terms of this Agreement. SHPO will then recommend what course of action is most appropriate.

VI. FAILURE TO COMPLY WITH THE TERMS OF AGREEMENT – In the event that RHS cannot comply with the terms of this Agreement, RHS shall comply with the requirements of 36 CFR Part 800.

VII. DISPUTE RESOLUTION- Should any party to this Agreement disagree on the application or interpretation of the Agreement, those parties shall consult with each other to resolve the objection. If the Agreement can not be reached, the parties shall take the matter to ACHP for resolution. The ACHP decision will not violate any of RHS's statutory mandates or regulations. RHS shall comply with the standard section 106 review process outlined in 36 CFR Part 800 until such time as the disagreement has been resolved.

VIII. AMENDMENTS- Any party to this Agreement may request in writing that it be amended, whereupon the parties will consult in accordance with 36 CFR 800.14 to consider such amendment.

IX. TERMINATION- Any party to this Agreement may terminate it by providing thirty days written 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 void termination. In the event of termination, RHS will comply with the requirements of 36 CFR Part 800. This Agreement will also expire 10 years after it is signed by all parties.

EXECUTION AND IMPLEMENTATION of this Programmatic Agreement evidences that RHS has afforded ACHP a reasonable opportunity to comment on the 502 Direct, 502 Guaranteed and 504 Loans and Grant programs in North Dakota, and that RHS has taken into account the effects of these programs on historic properties.

USDA RURAL DEVELOPMENT, RURAL HOUSING SERVICE

By: /S/ Charles F. Mertens Date: 10-18-00
Charles F. Mertens, State Director

USDA RURAL DEVELOPMENT, PROGRAM SUPPORT STAFF

By: /S/ Richard A. Davis Date: 12-04-00
Richard A. Davis, Director

NORTH DAKOTA STAFF HISTORIC PRESERVATION OFFICER

By: /S/ Samuel J. Wegner Date: 11-13-00
Samuel J. Wegner, SHPO

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: /S/ John Fowler Date: 2-12-01
John Fowler, Executive Director