

**Agreement between the
South Carolina Department of Commerce CDBG Program
and the
South Carolina State Historic Preservation Office (SHPO)**

WHEREAS, in order to allow for the timely processing of projects, it is mutually agreed that the following undertakings funded by U.S. Department of Housing and Urban Development (HUD) through the South Carolina Department of Commerce (SCDOC) administered Community Development Block Grant (CDBG) Program will be granted a general exemption not requiring review by the SHPO pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations at 36 CFR 800;

WHEREAS, it is further understood that the practical application of said exemptions is such that the potential for adverse effects to historic properties (i.e., buildings, structures, objects, sites, or districts) listed in or eligible for listing in the National Register of Historic Places is highly limited;

WHEREAS, if, at any point, the SCDOC or any CDBG grantees/"HUD Responsible Entity" discovers or has reason to believe that the potential for an adverse effect to historic properties does exist, they are directed to consult with the SHPO pursuant to the Section 106 regulations;

WHEREAS, for the purposes of this Agreement, the term "ground disturbance" is defined as any construction activity that affects the soil within a project area, including excavating, digging, trenching, drilling, augering, backfilling, clearing, or grading;

WHEREAS, a late/unanticipated discoveries provision shall apply to all undertakings that include ground disturbance: If archaeological materials are encountered during construction, the procedures codified at 36 CFR 800.13(b) will apply. Archaeological materials consist of any items, fifty years old or older, which were made or used by man. These items include, but are not limited to, stone projectile points (arrowheads), ceramic sherds, bricks, worked wood, bone and stone, metal and glass objects, and human skeletal materials. The CDBG grantees/"HUD Responsible Entity" should temporarily halt any activities and contact the SHPO immediately;

WHEREAS, for the purposes of this Agreement, the term “in-kind replacement and repair” is defined as installation of a new element that duplicates the material, design, dimensions, profile, and detailing of the original element;

WHEREAS, all actions not exempted by this agreement must undergo Section 106 consultation with the SHPO and other required consulting parties. Consultation with the SHPO is not a substitution for consultation with Tribal Historic Preservation Offices, other Native American tribes, local governments, or the public;

Therefore, it is agreed that the following actions be granted a “general exemption” from the Section 106 process:

1. Demolition, rehabilitation, maintenance, repair, or additions to residential or non-residential buildings or structures less than 50 years of age which are not listed in, or eligible for, listing in the National Register, located within or adjacent to a National Register listed or eligible historic district, or located adjacent to properties individually listed in or eligible for listing in the National Register, as recorded on SHPO’s ArchSite (GIS);
2. Rehabilitation, maintenance, or repair of residential or non-residential buildings or structures greater than 50 years of age which are not listed in, or eligible for, listing in the National Register, located within or adjacent to a National Register listed or eligible historic district, or located adjacent to properties individually listed in or eligible for listing in the National Register, as recorded on SHPO’s ArchSite (GIS), *when all replacement and repair activities are completed “in-kind”*;
 - o Examples:
 - roofing (including cladding and sheeting, flashing, gutters, soffits, cupolas, parapets, skylights, and downspouts),
 - siding,
 - windows, screens, shutters,
 - doors,
 - awnings,
 - porches (including columns, flooring, floor joists, ceilings, railings, balusters and balustrades, and lattice),
 - foundations, basement bulkhead doors, concrete cellar/basement floors,
 - accessibility/wheelchair ramps,
 - and interior surfaces (including floors, walls, ceilings, plaster, and woodwork);

3. Removal of existing, non-historic features (i.e., not part of the original construction) such as skylights, screens, shutters, awnings, accessibility/wheelchair ramps, and dropped ceilings.
4. Demolition, maintenance, repair, or additions to residential or non-residential buildings or structures greater than 50 years of age which have been determined to be ineligible for listing in the National Register within the last 15 (fifteen) years, or located in target areas and/or neighborhoods (i.e. districts) which have been determined to be ineligible for listing in the National Register within the last 15 (fifteen) years, as recorded on SHPO's ArchSite (GIS).
5. Installation, replacement, repair, or routine maintenance or retrofits of mechanical/HVAC systems and equipment, plumbing systems and fixtures, electrical wiring and systems, appliances, lighting fixtures and/or security systems and/or lighting, and fire protection systems and detection components, *provided no structural alterations are made;*
6. Restroom improvements, including for handicapped access, provided the work is contained within the existing restroom;
7. Installation of non-spray insulation in attic or under-floor spaces; Installation of radiant barriers in unoccupied attic spaces;
8. Storm doors and storm windows may be allowed without review as needed to enhance thermal performance, provided that storm windows match the shape and size of historic windows and that the meeting rail coincides with that of the historic window. Color should match trim.
9. Repair or in-kind replacement of existing driveways, parking areas, curbs, walkways, sidewalks, steps, walls, fences, and retaining walls;
10. Under no condition should synthetic siding or synthetic clad products be allowed as replacement on properties greater than 50 years of age without prior review and concurrence of the SHPO;
11. Replacement, repair, or demolition of concrete block or manufactured homes;
12. Clean-up and removal of debris in existing brownfields;
13. Construction within an existing industrial or office park within areas where there has been previous ground disturbance and where no known historic properties listed in or eligible for listing in the National Register are present, as recorded on SHPO's ArchSite (GIS);
14. New construction less than one acre in extent, as long as the parcel is not located within or adjacent to a National Register listed or eligible historic district, or located adjacent to properties individually listed in or eligible for listing in the National Register, as recorded on SHPO's ArchSite (GIS);
15. Purchase of buildings or structures less than 50 years of age;

16. Purchase or acquisition of real property when there is no reasonably foreseeable plan to rehabilitate or demolish buildings or structures, or construct new buildings or structures;
17. Installation or replacement of park or playground equipment, with minimal ground disturbance;
18. Utility construction (repair or replacement, minor upgrading, small-scale realignment, or new installation) completely in existing road rights-of-way, public easements, or utility corridors where there has been previous ground disturbance and where no known historic properties listed in or eligible for listing in the National Register are present, as recorded on SHPO's ArchSite (GIS);
19. Replacement or upgrade of operating equipment for existing public utilities, including wastewater treatment plants or related facilities where the existing disturbed footprint/area is not increased;
20. Routine road maintenance and resurfacing where work is confined to the existing right-of-way and previously maintained surfaces, ditches, culverts, and cut and fill slopes where there are no known historic properties, or historic properties would not be affected because there is clear documentation that the proposed work is clearly within a disturbed context;
21. Repair or replacement of in-service septic tanks as long as they are in the same originally disturbed footprint/area and no expanded ground disturbance is required;
22. Capital funding loans/grants; loans/grants to purchase equipment (including office equipment, public safety equipment, motor vehicles, and other similar equipment); loans/grants for administrative purposes;
23. Undertakings where SHPO has already concurred on a finding of "no historic properties affected" or "no adverse effect" on historic properties within the previous five (5) years and where the scope and magnitude of the undertaking are not changing, provided that you document your HUD Environmental Review Record with a copy of the prior SHPO concurrence letter.

Identification and Evaluation of Historic Properties:

The SCDOC, any CDBG grantees/"HUD Responsible Entity" or SHPO may determine that additional information is needed to adequately assess the presence of historic properties located within an undertaking(s) Area of Potential Effects. The CDBG grantees/"HUD Responsible Entity" will conduct historic property identification surveys that are responsive to the nature of large-scale or cumulative undertakings with the potential to affect historic properties in target areas and/or neighborhoods (i.e. districts) in which CDBG funds are planned for use over a prolonged period of time.

The *South Carolina Statewide Survey of Historic Properties Survey Manual* should be consulted for guidance. A Representative Survey approach may be employed. The SHPO will review and comment on the submitted survey

documentation, providing its opinion on the National Register eligibility of identified properties. The SCDOC, any CDBG grantees/"HUD Responsible Entity" and the SHPO will use the overall evaluation of these target areas and/or neighborhoods as comments for the review, or for the exemption from review, of any future individual undertakings in the area.

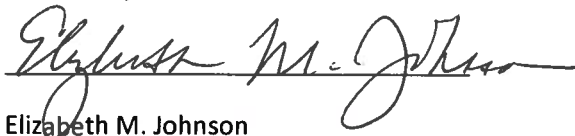
This Agreement replaces any and all previous agreements between the SCDOC CDBG Program and the SHPO. This Agreement will remain in effect unless amended or terminated in the future. The SCDOC CDBG Program and the SHPO will review this agreement on a biannual basis to discuss the possible modification, termination, or extension of this Agreement and/or any actions necessary to improve the compliance process and communications between the SCDOC CDBG Program, CDBG grantees/"HUD Responsible Entity" and the SHPO.

Agreed and Executed by both parties:



Lisa Kalsbeck
Assistant Director, Federal Programs
SC Department of Commerce

1/13/20
Date



Elizabeth M. Johnson
Deputy State Historic Preservation Officer
State Historic Preservation Office
SC Department of Archives and History

1/15/2020
Date