



Preserving America's Heritage

November 15, 2019

Mr. Jacob Sipe
Executive Director
Indiana Housing and Community Development Authority
30 South Meridian Street, Suite 900
Indianapolis, IN 46204

Ref: *Amendment to Programmatic Agreement for HUD-Funded Programs in the State of Indiana*
ACHPConnect Log Number: #014701

Dear Mr. Sipe:

Enclosed is your copy of the fully executed amendment to the 2009 *Programmatic Agreement between the Indiana housing and Community Development Authority and the Indiana State Historic Preservation Officer Regarding the Administration of Certain HUD-Funded Activities* (PA). By carrying out the terms of the Agreement as amended, the Indiana Housing and Community Development Authority (IHCDA) will fulfill its responsibilities under Section 106 of the National Historic Preservation Act and its implementing regulations, "Protection of Historic Properties" (36 CFR Section 800). Please ensure that all consulting parties are provided a copy of the executed amendment. The original amendment will remain on file at our office.

If we may be of further assistance as the Agreement is implemented, please contact Ms. Sarah Stokely at (202) 517-0224 or by e-mail at sstokely@achp.gov and reference the ACHPConnect Log Number.

Sincerely,

Jaime Loichinger
Assistant Director
Federal Permitting, Licensing, and Assistance Section
Office of Federal Agency Programs

Enclosure

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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AMENDMENT TO

Programmatic Agreement among the Indiana Housing and Community Development Authority, the Indiana State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding the Administration of Certain HUD-Funded Activities

WHEREAS, the Programmatic Agreement (“the Agreement”) was executed on November 16, 2009;

WHEREAS, all parties have agreed to replace the Agreement in its entirety due to changes to the Agreement;

WHEREAS, IHCDA and the Indiana SHPO agree to the changes made to this amended Agreement which include: clarifications to the covered HUD Programs; clarifications to IHCDA’s funding recipients and REs; clarifications to the ACHP’s role in the Programmatic Agreement; the addition of a Disputes Resolution stipulation; the addition of a Change In Signatories stipulation; edits to grammar and style; and clarifications to citations

WHEREAS, the ACHP has determined that its participation in the Agreement is no longer needed, as the program subject to its terms no longer presents questions of policy, and the Agreement has been successfully implemented for 10 years; therefore, the ACHP will no longer be a signatory to the Agreement upon execution of this amendment;

NOW THEREFORE, in accordance with Stipulation XII of the Agreement, the Indiana Housing and Community Development Authority, the Indiana State Historic Preservation Officer, and the Advisory Council on Historic Preservation agree to amend the Agreement in its entirety as follows:

1. Amend the Agreement in its entirety so it reads as follows:

WHEREAS, the U.S. Department of Housing and Urban Development (“HUD”) through various offices, including the Offices of the Assistant Secretaries for Housing – Federal Housing Commissioner, Public and Indian Housing, Community Planning and Development, and Lead Hazard Control and Healthy Homes, provides grant and/or entitlement funding to the State of Indiana and to entitlement communities in Indiana; and

WHEREAS, the Indiana Housing and Community Development Authority (“IHCDA”), now, or may in the future, administer HUD grant and/or entitlement programs which include, but are not limited to, the following HUD-funded Programs (“the HUD Programs”):

- Community Development Block Grant Program
- Emergency Solutions Grant Program
- HOME Investment Partnerships Program
- Housing Opportunities for Persons with AIDS Program
- Housing Trust Fund Program
- Assistance under Section 8 of the United States Housing Act of 1937, Housing Choice Voucher Program
- Healthy Homes Supplemental Funding
- Lead Hazard Reduction Demonstration Grant Program
- Neighborhood Stabilization Programs authorized under Act(s) including, but not limited to the Housing and Economic Recovery Act of 2008 (HERA) and the American Recovery and Reinvestment Act of 2009 (ARRA)
- Continuum of Care Program

- Comprehensive Housing Counseling Program
- Special Projects Appropriated Under an Appropriations Act for HUD Supportive Housing Program

WHEREAS, HUD has unique statutory authority to delegate its environmental compliance responsibilities promulgated at 24 CFR Part 58 to State, tribal, and local governments (“Responsible Entities” or “REs”), including obligations under Section 106 of the National Historic Preservation Act of 1966, as amended [54 U.S.C. § 306108] (“Section 106”) and its implementing regulations 36 CFR Part 800; and

WHEREAS, IHCDA, in keeping with its agency mandate to administer the equitable distribution of its HUD funding to eligible developer and sub-recipients (which includes eligible entitlement and non-entitlement) REs and to maintain regulatory oversight of the REs once funds have been awarded, hereby represents all REs in the formulation and signatory execution of this Programmatic Agreement and in any future amendments thereto; and

WHEREAS, upon acceptance of HUD funding through IHCDA, all REs, pursuant to 24 CFR Part 58, 36 CFR Part 800, and other relevant legislation, bind themselves to the roles, responsibilities, and terms of this Programmatic Agreement; and

WHEREAS, IHCDA, on behalf of the REs, has determined that implementation of the HUD Programs may include but is not limited to activities such as tenant-based rental assistance, operating costs, administrative and management expenses, lead-based paint hazard reduction, rehabilitation of housing, façade improvements, pre-development costs, relocation of buildings and structures, demolition of buildings and structures, new construction, and site preparation that may have an effect on properties included in or eligible for inclusion in the National Register of Historic Places (“Historic Properties”); and

WHEREAS, IHCDA, on behalf of the REs, has determined that certain activities funded by the HUD Programs may have an effect on Historic Properties and has consulted with the Indiana State Historic Preservation Officer (“Indiana SHPO”) and the Advisory Council on Historic Preservation (“ACHP”) pursuant to 36 CFR Section 800.14(b)(3); and

WHEREAS, IHCDA and Indiana SHPO have agreed that consultation and compliance for undertakings enabled by the HUD Programs should be addressed programmatically and in accordance with procedures outlined in this Programmatic Agreement in order to effectively and expeditiously meet regulatory obligations; and

WHEREAS, IHCDA and Indiana SHPO encourage REs to enter into lead federal agency agreements pursuant to 36 CFR Section 800.2(a)(2) when more than one federal agency and/or RE is involved in an undertaking, and when such an agreement is mutually advantageous and of net benefit to the ultimate recipient of federal aid; and

WHEREAS, this Programmatic Agreement does not apply to undertakings on Indian Tribal lands or to undertakings that affect historic properties on Tribal lands as defined in 36 CFR 800.16; and

WHEREAS, IHCDA and Indiana SHPO agree that the REs will identify other interested parties and initiate consultation with them on a case-by-case basis, and the REs shall involve the public by disseminating information about those undertakings and their effects on historic properties in a proper and timely fashion and will seek public participation by utilizing HUD procedures for soliciting public involvement found at 24 CFR Part 58.43; 58.45-46; 58.59 and other applicable sections of that part;

NOW, THEREFORE, IHCDA and the Indiana SHPO agree that the HUD Programs covered by this Programmatic Agreement ("Agreement") shall be administered in accordance with the following stipulations to satisfy the Section 106 responsibilities of IHCDA.

STIPULATIONS

IHCDA shall ensure that the following measures are carried out:

I. ADMINISTRATION OF THE PROGRAMMATIC AGREEMENT

- A. IHCDA shall represent applicable REs in the administrative functions of this Agreement, particularly in its formulation and signatory execution, amendment, dispute resolution, termination, and period of review (see Stipulations VII through XII, below).
- B. IHCDA shall require all applicable REs by contract to follow the requirements set forth in this Agreement.
- C. IHCDA shall ensure that all historic preservation work carried out pursuant to this Agreement is performed by or under the direct supervision of a person or persons meeting at least the minimum qualifications for a professional in architecture, architectural history, or a related preservation field, as specified in the Secretary of the Interior's Professional Qualifications Standards (36 CFR Part 61).
- D. The professional shall be either an employee of IHCDA or an outside consultant retained by IHCDA to perform historic preservation work. IHCDA shall advise the Indiana SHPO in writing of all professional personnel selected to perform the historic preservation work and provide personnel qualifications. In the event the professional changes, IHCDA shall advise the Indiana SHPO in writing of the change and submit personnel qualifications of the professional personnel selected to perform the historic preservation work.
- E. If IHCDA does not have a qualified professional in place or does not utilize a qualified outside consultant, then IHCDA will comply with 36 CFR Sections 800.3 through 800.13 with regard to individual undertakings covered by this Agreement.
- F. IHCDA shall serve as the primary technical assistance contact for the REs in matters concerning the interpretation of this Agreement and the routine execution of its terms. IHCDA, at its discretion, may allow the REs to consult directly with the Indiana SHPO and the ACHP when issues of a complex nature arise.
- G. IHCDA, in consultation with the Indiana SHPO, shall plan, develop, and provide technical assistance on an ongoing basis to State Recipients and Preservation Professionals in order to ensure responsible adherence to the terms of this Agreement, including but not limited to an annual workshop or training targeted to both program administrators and Preservation Professionals as a prerequisite for program participation by State Recipients.
- H. In accordance with Stipulation VII, IHCDA shall monitor the RE's compliance with the terms of this Agreement. IHCDA shall ensure that the criteria for exclusion from Indiana SHPO review as outlined in Stipulation V, are being applied accurately and consistently.

- I. IHCDA and REs shall ensure that consultation in accordance with this Agreement has been completed prior to the approval of any grant action related to the HUD Programs.
- J. In accordance with Section 110 (k) of the National Historic Preservation Act, each Federal agency (including IHCDA and REs) shall ensure that they will not grant a loan, loan guarantee, permit, license, or other assistance to an applicant who, with intent to avoid the requirements of Section 106, has intentionally significantly adversely affected a historic property to which the grant would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the agency, after consultation with the ACHP determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant.

II. IDENTIFICATION

- A. [Intentionally Omitted].
- B. IHCDA and REs shall review the Indiana Historic Sites and Structures. For projects involving properties that are not identified in the Indiana Historic Sites and Structures Inventory but are 50 years old or older, IHCDA and the REs shall apply the National Register of Historic Places (National Register) Criteria for Evaluation (36 CFR Section 36.6) to determine those properties' eligibility for inclusion in the National Register, and follow the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44716-42). If there is any question as to whether a property may meet the criteria, IHCDA and the REs shall submit documentation to the Indiana SHPO for evaluation. If IHCDA or REs disagree with the opinion of the Indiana SHPO, IHCDA shall request a determination of eligibility from the Secretary of the Interior in accordance with applicable National Park Service regulations.
 - 1. To ensure application of the criteria for evaluation, properties that are not identified in the survey, but are 50 years old or older, shall be evaluated by the professional described in subsection D of Section I of this Agreement.
 - 2. IHCDA and the REs shall keep a written record of the reason why any property 50 years old or older does not appear to meet the criteria.

III. TREATMENTS

- A. Properties identified in the inventory as being individually rated Outstanding or Notable, rated contributing to an identified district or properties that are individually listed or contributing to a listed district, or properties determined to be eligible for inclusion in the National Register by IHCDA, REs, and the Indiana SHPO shall be rehabilitated in accordance with the recommended approaches in the Secretary of the Interior's Standards for the Treatment of Historic Properties; Guidelines for Rehabilitation of Historic Buildings (Standards and Guidelines for Rehabilitation; National Park Service, 1995; 36 CFR Section 67.7).
 - 1. To ensure conformance with the Standards and Guidelines for Rehabilitation, rehabilitation plans shall be reviewed by a professional, as described in subsection D of Section I of this Agreement, before construction begins.

2. IHCDA and REs shall document the property, including photographs, work write-ups/journal, professional review, etc. before, during activities, and upon completion of the rehabilitation to evidence adherence to the Standards and Guidelines for Rehabilitation. IHCDA and REs shall retain documentation in individual project files.
- B. IHCDA and REs shall ensure that documentation submitted to Indiana SHPO for review meets or exceeds the standards outlined at 36 CFR Part 800.11. IHCDA and REs shall withhold certain information from public disclosure in accordance with Section 304 of the Act (54 U.S.C. § 307103) and Indiana Code.
- C. IHCDA and REs shall comply with Section 110(f) of the Act (54 U.S.C. § 306107), and consult directly with the Indiana SHPO and National Park Service (NPS), on all undertakings that may directly and adversely affect a National Historic Landmark.
- D. When it is determined that a project cannot adhere to the Standards and Guidelines for Rehabilitation or when demolition or relocation of, or any other adverse effect as defined in 36 CFR Part 800.5(a) on a property that meets the National Register criteria is proposed, IHCDA or the REs shall apply the Criteria of Adverse Effect.
 1. If the Criteria of Adverse Effect are not met, IHCDA or the REs will document that the project will have no adverse effect on historic properties and retain documentation in individual project files.
 2. If the Criteria of Adverse Effect are met, IHCDA or REs will determine if project activities can be modified to avoid adverse effects. If adverse effects can be avoided through project modification, IHCDA or REs will document that the project will have no adverse effect on historic properties and retain documentation in individual project files.
 - a. If adverse effects cannot be avoided through project modification, IHCDA or REs will prepare documentation for individual submission to the Indiana SHPO that includes all project information and any mitigation proposals, requesting consultation to resolve adverse effects.
 - b. The Indiana SHPO will review and respond to the information submitted and may concur with the adverse effect determination, request additional information, or object to the finding or its basis. Upon receipt of concurrence from the Indiana SHPO, IHCDA or REs will also notify the ACHP as required by 36 CFR Section 800.6(a)(1).
 - c. IHCDA or REs will consult with the Indiana SHPO and any consulting parties to resolve adverse effects. Agreement among required signatories regarding the terms of mitigation proposed for the project will be memorialized in an MOA executed under 36 CFR Section 800.6.
- E. IHCDA and the REs shall ensure that documentation submitted to the Indiana SHPO for review meets or exceeds the standards outlined in 36 CFR Section 800.11. IHCDA and REs shall withhold certain information from public disclosure in accordance with Section 304 of the Act (54 U.S.C. § 307103) and applicable Indiana Code.

F. At any time during consultation, IHCDA, REs or the Indiana SHPO may request advice from the ACHP or ask for their involvement in consultation, in accordance with either 36 CFR Section 800.6(b)(2) or 36 CFR Section 800.7.

IV. ARCHAEOLOGY

A. Prior to any ground-disturbing activities as part of new construction, site improvements, or other undertakings, IHCDA and/or its consultant or REs shall notify Indiana SHPO and request an opinion of the potential existence of significant archaeological resources. This stipulation shall not be applied to the rehabilitation of residential properties, when no additions are proposed.

1. IHCDA and/or its consultant or REs will provide information describing the proposed project activities and information about the project area's history and current condition to the Indiana SHPO, including maps and photographs. Indiana SHPO staff will then make a recommendation about whether an archaeological survey should be conducted.
2. If the Indiana SHPO recommends that no survey is justified, then IHCDA and/or its consultant or REs will document the outcome of this consultation within the individual project file. Projects that would otherwise be exempt from review may then conclude review and all documentation will be retained in the individual project file.
3. For projects where the Indiana SHPO recommends that an archaeological survey is justified, an archaeological survey of the affected area shall be carried out in consultation with the Indiana SHPO. Archaeological testing, as appropriate, shall be undertaken in consultation with the Indiana SHPO to determine if properties identified in the survey meet National Register criteria. If archaeological resources are found to meet the criteria, whenever feasible, they shall be avoided or preserved in place. When this is not feasible, the Indiana SHPO shall be consulted, and a treatment plan consistent with the ACHP's handbook, Treatment of Archaeological Properties, and approved by the Indiana SHPO shall be developed and implemented. All identification and testing efforts shall be in accordance with the Standards and Guidelines for Identification and Evaluation and appropriate internal guidance and regulation from the Indiana SHPO as well as the appropriate state statutes and rules.

B. This stipulation shall not be interpreted to include projects where sidewalks or other minor paving or resurfacing shall occur in areas where previous sidewalks or paving already exists. It shall not be interpreted to include projects for the repair or replacement of existing water lines, sewer lines or septic systems within previously excavated trenches, or other exempt activities described in Stipulation V below.

V. EXEMPTED ACTIVITIES

The following proposed undertakings have limited potential to affect historic properties and may be approved by IHCDA without further consultation with the Indiana SHPO.

All undertakings not identified under either (A) or (B) of this Stipulation must be reviewed in accordance with 36 CFR. Part 800.

A. General Exemptions

1. Projects on residential or non-residential buildings, structures, or facilities less than 50 years old. Exempt projects may include rehabilitation, but not demolition or construction.
2. Acquisition of property which is limited to the legal transfer of title with no physical improvements or changes proposed.
3. Projects consisting of grants or loans to eligible families or entities to be applied solely to the purchase, refinancing, or leasing of residences or businesses.
4. Grants or loans to participants in any Economic Development program funded by CDBG which may be used for working capital, equipment, furniture, fixtures, and debt refinancing, or acquisition of non-historic building for reuse. Such activities shall require the Indiana SHPO review only if such activities should involve changes to structures which are either listed in or are considered eligible for inclusion in the National Register.
5. Purchase of equipment; including but not limited to maintenance tools, or supplies, school buses, lawn mowers, kitchen appliances, books, furniture that does not require permanent installation, etc.
6. Environmental and other studies
7. Information and financial services
8. Administrative and management activities
9. Inspections and testing of properties for hazards or defects
10. Purchase of insurance
11. Engineering and design costs
12. Technical assistance and training
13. Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration.
14. Any of the categorical exclusions listed in 24 CFR 58.35(a) provided that there are no circumstance which require compliance with any other Federal laws and authorities cited in 24 CFR 58.5.

B. Exempt Activities

The following list of exempt activities applies to all projects not otherwise made exempt under Subsection A of Section V "General Exemption." For purposes of this Agreement, the term "in-kind replacement" is defined as installation of a new element that duplicates the material, dimensions, configuration and detailing of the original element.

1. Site Work

In the event of unanticipated archaeological discoveries for any of the activities mentioned below, the Indiana SHPO shall be contacted within two (2) business days.

- a) Streets, driveways, alleys, and parking areas. Line painting, maintenance, repair or resurfacing of existing concrete or asphalt surfaces or in-kind repair/replacement of brick, rock, or stone materials on streets, driveways, alleys, and parking areas.

- b) Curbs, gutters, sidewalks, retaining walls. Repair of existing concrete or asphalt surfaces or in-kind repair/replacement of brick, rock, or stone materials for curbs, gutters, sidewalks, and retaining walls.
- c) Site improvements. Repair or in-kind repair/replacement of site improvements, including, but not limited to fences, landscaping, steps not attached to any building, street lights, traffic signals, and traffic signs.
- d) Utilities. Installation, repair or replacement of gas, sanitary and storm sewer, water, electrical, cable or other underground utilities within previously disturbed land and public right-of-ways located within city limits.
- e) Park and playground equipment. Installation, repair or replacement of park and playground equipment, excluding buildings.
- f) Temporary structures. Installation of temporary construction-related structures including scaffolding, barriers, screening, fences, protective walkways, signage, office trailers or restrooms.

2. Exterior Rehabilitation

In the event of unanticipated archaeological discoveries for any of the activities mentioned below, the Indiana SHPO shall be contacted within two (2) business days.

- a) Foundations. Below-grade repair of brick or stone foundations and repairs to all other types of foundations.
- b) Windows and doors. Repair of windows and doors, including caulking and weather stripping of existing window or door frames, and installation of new clear glass in existing sashes or doors, including retrofitting for double and triple glazing, and replacement of glazing putty.
- c) Storm windows and storm doors. Installation of exterior storm windows and doors, provided they conform to the shape and size of the historic windows and doors, and that the meeting rails of storm windows coincide with that of existing sash.
- d) Walls and siding. Repair of or in-kind replacement of wall or siding material, including brick, stone, or stucco materials and wood siding.
- e) Painted surfaces.
 - 1. Removal of exterior paint by non-destructive means, limited to hand scraping, low pressure water wash (less than 200 psi.), heat plates or heat guns, or paint-removal chemicals, provided that the removal method is consistent with the provisions of 24 CFR Part 35, "Lead-Based Poisoning Prevention in Certain Residential Structures," including Section 35.140, "Prohibited methods of paint removal" and the lead based paint abatement or "Management in Place" activities carried out in accordance with *Preservation Brief #37: Appropriate Methods for Reducing Lead-Paint Hazards in Historic Housing*.
 - 2. All lead paint abatement that does not involve removal or alteration of exterior features and/or windows.
 - 3. Application of exterior paint and caulking, other than on previously unpainted masonry.
- f) Porch elements. Repair or in-kind replacement of existing porch elements, such as columns, flooring, floor joists, ceilings, railing, balusters and balustrades, and lattice.
- g) Roofing. Repair or in-kind replacement of roof cladding and sheeting, flashing, gutters, soffits, and downspouts with no change in roof pitch or configuration.
- h) Awnings. Repair or in-kind replacement of awnings.

- i) Mechanical systems. Placement and installation of exterior HVAC mechanical units and vents not on the front and/or primary elevation, unless occurring in undisturbed areas.
- j) Wheelchair ramps. Replacement or repair of existing wheelchair ramps and installation of new wheelchair ramps not on the front and/or primary elevation, unless occurring in undisturbed areas.
- k) Basement bulkhead doors. Replacement or repair of basement bulkhead doors and installation of basement bulkhead doors not on the front elevation.
- l) Lighting. Repair or in-kind replacement of existing light fixtures and installation of additional decorative or security lights.
- m) Mothballing. Securing or mothballing a property by boarding over window and door openings, making temporary roof repairs, and/or ventilating the building.

3. Interior Rehabilitation

- a) Mechanical systems. Installation, replacement or repair of plumbing, HVAC systems and units, electrical wiring and fire protection systems, provide no structural alterations are involved. Included are restroom improvements for handicapped access, provided the work is contained within the existing restroom walls.
- b) Surfaces. Repair or in-kind replacement of interior surface treatment, such as floors, walls, ceilings, plaster and woodwork. If covering historic features, such as wood floors, then carpet or sheet goods (linoleum or vinyl) shall be installed in a reversible manner, either through tacking or with an underlayment so historic floors shall not be irreversibly damaged.
- c) Insulation. Installation of non-spray insulation in ceilings and attic spaces.
- d) Basement floor. Installation or repair of concrete basement floor in an existing basement.
- e) Lead paint and asbestos abatement. Abatement or control of lead-based paint, consistent with provisions of 24 CFR. Part 35 (“Lead-Based Poisoning Prevention in Certain Residential Structures” ”) and the lead based paint abatement or “Management in Place” activities carried out in accordance with *Preservation Brief #37: Appropriate Methods for Reducing Lead-Paint Hazards in Historic Housing*, and/or asbestos abatement that does not involve removal or alteration of interior features.

VI. PUBLIC NOTIFICATION AND INVOLVEMENT

- A. IHCDA and the REs shall invite the participation of consulting parties, and consider requests for consulting party status, as provided in 36 CFR Part 800.2. This applies to all undertakings with the exception of those that are exempt under HUD regulations (24 CFR Part 58.34) or are categorically excluded as being not subject to review of the laws listed at 24 CFR Part 58.5 in accordance with 24 CFR Part 58.35(b), and those exempt from Section 106 review as itemized at Part 2, of Section I, Exhibit C. Parties that have a consultative role in the Section 106 process include, but are not limited to the following: Federally recognized Indian tribes, representatives of local governments, county and municipal historic preservation commissions including those established under the Certified Local Governments program, the Public, and individuals and organizations who, due to the nature of their legal or economic relation to the undertaking, or their concern with the undertaking’s effect on historic properties, demonstrate a legitimate interest.
- B. Each year IHCDA and the REs shall notify the public of its current HUD programs and make available for public inspection documentation related to these programs. This documentation shall include:

1. Types of activities undertaken with program funds during the prior year and activities projected for the current year.
2. Information on identified historic properties that might be affected and the location of said properties.
3. Funding level for the current program year.
4. The way in which interested persons can obtain additional information on programs and advise IHCDA, REs, HUD, the Indiana SHPO, or the ACHP of any concerns they might have relative to program effects on historic properties.

C. IHCDA has sent the letter in Exhibit C to the tribes listed in Exhibit B. These letters have been individually addressed to the tribal leaders of the listed tribes.

D. Every other year after this Agreement goes into effect, prior to October 1, IHCDA shall send a letter similar to that in Exhibit D to the tribes identified in Exhibit B.

E. Unless a tribe has indicated to IHCDA that it wants to engage in government-to-government consultation with HUD, IHCDA may initiate consultation with Indiana tribes for individual undertakings carried out under the provisions of this Agreement. IHCDA shall ensure that Indian tribes are provided information regarding proposed undertakings early in project planning and are invited to participate in consultation in accordance with the requirements of Section 101(d)(6) of the NHPA and 36 CFR Part 800. Upon receipt of a written request from any Indiana tribe or officially designated representative of an Indian tribe to consult with IHCDA, IHCDA shall consult with that Indian tribe for the particular undertaking or program.

F. If a tribe indicates to IHCDA that it wishes to engage in government-to-government consultation with HUD for an undertaking:

1. IHCDA will forward that request to HUD;
2. HUD may utilize the processes and exemptions in this Agreement in conducting its Section 106 review of the relevant undertaking;
3. Ground disturbing activities on the relevant undertaking will not proceed until HUD has concluded its government-to-government consultation with the requesting tribe.

VII. MONITORING AND OVERSIGHT

A. The Indiana SHPO shall provide technical assistance, consultation, and advice as requested by IHCDA in order to assist in carrying out the terms of this Agreement.

B. Documentation of all work undertaken in the HUD programs shall be retained by IHCDA and REs and be made available to the Indiana SHPO, upon request.

VIII. DISCOVERIES AND UNFORSEEN EFFECTS

If, during the implementation of an undertaking, a previously unidentified property that may be eligible for inclusion in the National Register is encountered, or a known National Register historic property may be affected in an unanticipated manner, IHCDA will assume its responsibilities pursuant to 36 CFR Part 800. IHCDA shall notify any federally recognized Indian tribe in accordance with agreed-upon protocols

for notification in the event of such unanticipated discovery, and shall also notify the Indiana SHPO and the ACHP of the unanticipated discovery.

If any archaeological artifacts or human remains are uncovered during construction, demolition, or earthmoving activities, state law (Indiana Code 14-21-1-27 and 29) requires that the discovery must be reported to the Department of Natural Resources within two (2) business days. In that event, please call (317) 232-1646. Be advised that adherence to Indiana Code 14-21-1-27 and 29 does not obviate the need to adhere to applicable federal statutes and regulations.

IX. NOTIFICATION

Notification or other communication among parties to this Agreement should be made in care of addresses provided in Exhibit A.

X. DISPUTE RESOLUTION

Should any signatory or concurring party to this PA object at any time to any actions proposed or the manner in which the terms of this PA are implemented, IHCDA shall consult with such party to resolve the objection. If IHCDA determines that such objection cannot be resolved, IHCDA will:

A. Forward all documentation relevant to the dispute, including the IHCDA's proposed resolution, to the ACHP. The ACHP shall provide IHCDA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, IHCDA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. IHCDA will then proceed according to its final decision.

B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, IHCDA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, IHCDA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the PA, and provide them and the ACHP with a copy of such written response.

C. IHCDA's responsibility to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged.

D. Should any member of the public raise a timely and substantive objection pertaining to the manner in which the terms of this PA are carried out, at any time during its implementation, the IHCDA shall take the objection into account by consulting with the objector to resolve the objection. When the IHCDA responds to an objection, it shall notify the consulting parties of the object and the manner in which it was resolved.

XI. CHANGE IN SIGNATORIES

Upon execution of this amendment, the ACHP is no longer a signatory to this Agreement.

XII. AMENDMENT

Any of the signatories to this Agreement may request that this Agreement be amended subsequent to the Agreement's execution, whereupon the other signatories will consult to consider such amendment. The amendment will be effective on the date it is signed by all of the signatories. IHCDA shall ensure that

copies of the amended Agreement are provided to all of the signatories, and that a copy of the executed amendment is filed with the ACHP.

XIII. TERMINATION

If any signatory to this PA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation X, above. If within thirty (30) days, an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories. Should the PA be terminated, undertakings would comply with 36 CFR Part 800.

XIV. TERM OF THE AGREEMENT

Following signature by the Indiana SHPO, this Agreement will be in effect for ten years. Prior to that time, IHCDA may consult with the other signatory to reconsider the terms of the PA and amend it in accordance with Stipulation XII above.

EXECUTION AND IMPLEMENTATION of this Agreement evidences that IHCDA has satisfied its responsibilities under Section 106 for undertakings as described in this Agreement and funded by the HUD Programs.

SIGNATORIES:


Executive Director
Indiana Housing and Community Development Authority

11-14-19

Date


Deputy Indiana State Historic Preservation Officer

11-14-19

Date


Advisory Council on Historic Preservation

11/05/19

Date

EXHIBIT A

CONTACT INFORMATION FOR SIGNATORIES

Executive Director

Indiana Housing and Community Development Authority
30 South Meridian Street, Suite 900
Indianapolis, Indiana 46204
(317) 232-7777

Indiana State Historic Preservation Officer

402 West Washington Street, Room W274
Indianapolis, Indiana 46204-2739
(317) 232-1646

Director, Office of Federal Agency Programs

Advisory Council on Historic Preservation
401 F Street NW, Suite 308
Washington, DC 20001
Phone: (202) 517-0200

EXHIBIT B

NATIVE AMERICAN TRIBES with ANCESTRAL CONNECTIONS in INDIANA

1. Citizen Potawatomi Nation, Oklahoma
Mr. John Barrett
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2. Delaware Nation, Oklahoma
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3. Delaware Tribe of Indians
Susan Bachor

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Dr. Brice Obermeyer
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4. Eastern Shawnee Tribe
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5. Forest County Potawatomi Community of Wisconsin
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6. Hannahville Indian Community ACHP
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906-466-2933 (fax)
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7. Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas
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8. Little Traverse Bay Bands of Odawa Indians, Michigan
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9. Osage Nation
Geoffrey Standing Bear
Principal Chief
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10. Miami Tribe of Oklahoma
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11. Ottawa Tribe of Oklahoma
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12. Peoria Tribe of Indians of Oklahoma
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13. Pokagon Band of Potawatomi Indians
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14. Prairie Band Potawatomi Nation
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15. Quapaw Tribe of Indians
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16. Seneca-Cayuga Nation
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17. Shawnee Tribe
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18. Wyandotte Tribe of Oklahoma
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Other Contacts:
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EXHIBIT C

Letters Sent to Tribes on August 3, 2009.

EXHIBIT D:
Template Bi-Annual Letter

On [month, day, year], the Indiana State Historic Preservation Officer (SHPO), the Indiana Housing and Community Development Authority (IHCDA) and the Advisory Council on Historic Preservation (AChP) executed the Programmatic Agreement, Programmatic Agreement among the Indiana Housing and Community Development Authority, the Indiana State Historic Preservation Officer, and the Advisory Council on Historic Preservation regarding the Administration of Certain HUD-funded Activities (Agreement). Under the provisions of this Agreement, IHCDA assumed the function of initiating the Section 106 process for [insert the name of the undertakings under the scope of the Agreement]. Accordingly, under the Agreement, IHCDA has consulted with the SHPO and other consulting parties, including your tribe. If at any time an Indian tribe wishes to consult with IHCDA regarding an undertaking carried out under the Agreement, we are available and ready to do so.

The IHCDA takes its responsibility to consult with Indian tribes seriously and therefore wants to ensure that your tribe is comfortable continuing with this arrangement. If your tribe prefers to conduct government-to-government consultation directly with HUD, as opposed to consulting with IHCDA, please respond to this letter stating such a preference. Upon receipt of such a letter, IHCDA will notify HUD of your request to engage in government-to-government consultation with HUD for the undertaking(s) or type of undertaking(s) you describe in your letter.

Please use the following address for such letters:

U.S. Department of Housing and Urban Development
Attn: Secretary of HUD
451 7th Street, SW
Washington, DC 20410

Understand that until or unless we receive a response from your tribe indicating a preference for consulting with HUD on a government-to-government basis, we will assume that your tribe does not object to IHCDA's initiation of consultation with your tribe regarding [insert the name of the undertakings under the scope of the Agreement].

We appreciate your attention to this matter.

Sincerely,

[signed by IHCDA—Executive Director]