

City of Detroit Part 58 Environmental Review Training

Housing and Revitalization Department
March 28, 2025



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Opportunity Rising



Introductions: HRD Environmental Review Team

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Today's Special Guest Presenters

Carrie Geyer and Martha Thompson

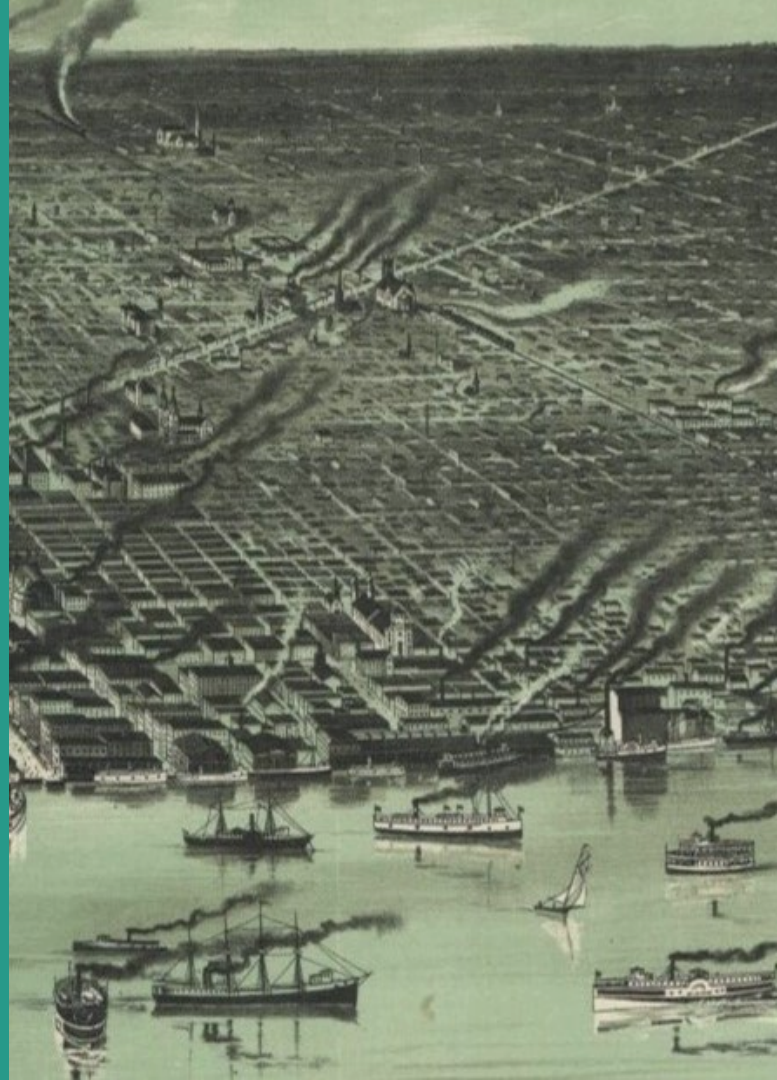
Michigan Department of Environment, Great Lakes, and Energy

Daniel Lince and Michael Vollick

Michigan State Housing and Development Authority

Housekeeping

- No food or beverage in auditorium, tables in atrium for this use
- Please step out to the atrium if you need to take a phone call
- Bathrooms are located by the elevators
- Coat rack is available
- Copies of the slides will be provided on the HRD website after the training
- Please raise hand to ask questions during presentations



Part 58 Environmental Review Training

Environmental Compliance Overview

Penny Dwoinen, Environmental Review Officer
March 28, 2025



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Partners in the Environmental Review Process

- City of Detroit - HRD Team Members
 - Leadership – Mayor’s Office
 - Project Managers and Program Staff
 - HRD Environmental Review Team
- Developers
 - Consultants/Attorneys
 - Environmental Consultants/Cultural Resource Managers
- Funders/Regulators
 - Other Federal Funders – HUD/MSHDA/ARPA
 - Michigan Department of Environment, Great Lakes, and Energy (EGLE)
 - State Historic Preservation Office (SHPO)

Changes to NEPA and Federal Funding

- As of today, there are no changes to HUD's guidance on how to comply with NEPA. Follow 24 CFR Part 58.
- New guidance is expected from HUD within 10 months. The City of Detroit will provide new guidance (as necessary) once HUD has released updated rules or guidance.
- Don't expect major changes, as NEPA still stands as written.

HUD Environmental Compliance Requirements

24 CFR Part 58

Who is required to comply?

- All Federal Agencies (NEPA)
 - All HUD Entitlement Communities (HUD)
 - All Projects in the City of Detroit with a HUD allocation
-
- CDBG
 - CDBG-DR
 - Choice Neighborhoods
 - ESG
 - HOME
 - HOME ARP
 - HOPWA
 - NSP
- DHC Capital Expenditures
 - DHC Development
 - DHC PBVs
- MSHDA HOME
 - MSHDA PBVs
 - HUD Direct Grants
 - CoCs
 - 221(d)(4) loans
 - 202
 - Community Project Funds

What laws do we comply with?

- National Environmental Policy Act (NEPA)
 - Understand environmental consequences BEFORE federal funding commitments are made
 - Ensure environmental information is made available to public officials and citizens BEFORE decisions are made and BEFORE actions are taken
 - Consider reasonable alternatives
 - Avoid or minimize any possible adverse effects of their actions upon the quality of the human environment.
 - Integrate NEPA requirements with other planning and environmental reviews
 - Take actions that protect, restore, and enhance the environment.

What laws do we comply with?

- HUD Environmental Requirements for Responsible Entities (24 CFR Part 58)
 - Responsible Entities (REs) assume HUD's NEPA responsibilities
(City of Detroit - vs - MSHDA, others)
 - Serve as the Federal Agency on behalf of HUD
 - RE assumes responsibility for:
 - Environmental **Review**
 - Environmental **Decision-Making**
 - Environmental **Action** that would apply to HUD under NEPA and related laws
 - Responsibility to ensure mitigation is incorporated into project plans and implemented after the Authority to Use Grant Funds

What laws do we comply with?

- 24 CFR Part § 58.57 Lead Agency Designation
 - If there are several agencies ready to assume the lead role, the responsible entity must make its decision based on the criteria in 40 CFR 1501.5(c). If the responsible entity and a Federal agency are unable to reach agreement, then the responsible entity must notify HUD (or the State, where applicable). HUD (or the State) will assist in obtaining a determination based on the procedure set forth in 40 CFR 1501.5(e).
 - **HUD – vs – City of Detroit – vs – MSHDA, others**
 - **This requires project coordination ASAP after federal awards to a project, especially if a Developer intends to apply for HUD loans in the future.**

What laws do we comply with?

- Clean Air Act
- Coastal Zone Management Act
- Contamination and Toxic Substances*
 - **This is where environmental due diligence (Phase I ESA through an approved Response Activity Plan) are required.**
- Endangered Species Act
- Explosive & Flammable Hazards*
- Farmlands Protection Policy Act
- Floodplain Management (E.O. 11988)
- National Historic Preservation Act
- Noise Control Act
- Safe Drinking Water Act (Sole Source Aquifers)
- Wetlands Protection (E.O. 11990)
- Wild & Scenic Rivers Act
- **Environmental Justice (E.O. 12898)****

* HUD regulation

** E.O. 12898 has been rescinded but environmental justice is still included in HEROS

When do we comply?

- Any contemplated use of the HUD Federal Allocation
 - Not just when we award money
 - Also includes projects once we know of the intent to use/apply for federal money
- Anytime a federalized project has a change in scope of work or additional money added
- Any project that gets reprogrammed money



Why do we comply?

- HUD's Mission: Create strong, sustainable, inclusive communities and quality affordable homes for all
- To make sure the environment is not harmed by a development
- To make sure the residents of the development are not harmed by the environment
- To maintain good standing with HUD
 - Don't break the laws!
 - Findings
 - Violations
 - Payback of the HUD Allocation

How do we comply? The Environmental Review **Process**

- Project Begins with City of Detroit
 - Application to NOFA for Federal Funding
 - Application to the DHC for PBVs
 - Pre-Application work (HRD teams)
- HUD Federal Funding Award
- Environmental Kickoff Meeting
- Environmental Review Process begins
- HUD Environmental Approval
- Construction/NEPA Compliance Commitments

How do we comply? The Environmental Review **Process**

Define Project (Developer in the NOFA application)

Determine “Level of Review” (ER TEAM)

Conduct the Environmental Review (Developer’s Consultant)

Finalize Review (RROF → AUGF) (ER TEAM)

Commit / Expend HUD funds (HRD Project Manager)



Step 1

Develop a Meaningful Project Description

Why is the project description important?



- Basis for determining the level of environmental review required
- Basis for informing the public about the action and federal expenditure
- Basis for monitoring compliance
 - If funds are used for something not included in the project description, it could be in violation of §58.22

Defining the project

- Who, what, when, where, why of the project
- **Project Aggregation** (§58.32)
 - *Evaluate as a single project* all individual activities that are related either on a geographical or functional basis, or are logical parts of a composite or contemplated actions
 - Must include **both** HUD and non-HUD funds



Multi-year Project Aggregation §58.32(d)

- Estimate the range of aggregated activities
- Must consider all components of the multi-year project regardless of funding sources
- Evaluate cumulative environmental effects
- Estimate the cost of total project in the environmental review and the RROF
- Must re-evaluate under §58.47 with a change in scope, magnitude, or conditions

Complete Project Scope Includes

- **Location:** describe so the public can locate (i.e. street address, cross streets)
- **Purpose and Need:** describe what is being done and why it is necessary, trends likely in the absence of the project
- **Type of environmental review:** individual (geographically-aggregated) versus tiered (functionally aggregated)
- **Tiering, if applied:** describe the environmental requirements to be addressed in the Tier 1 review and environmental requirements to be addressed in the Tier 2 review
- **Project Beneficiaries:** ex: affordable housing project, mixed use housing project, etc.
- **Description:** provide complete details about the project and what will be done
 - Type of project (i.e. new construction of single family home, roof replacement of community center, etc.)
 - Capture the maximum anticipated scope of the proposal, even if it isn't solidified yet
 - Physical description of existing and/or proposed new buildings
 - Timeframe for implementation
 - Size of the project (area coverage, number of units, population served, etc.)
- **All funding sources**
- **All development partners**
- **Timelines**

Developer/Organization Request for Federal Funding

- Detroit Housing Commission Project Based Voucher Application
- City of Detroit Federal Funding Request (CDBG, HOPWA, ESG, etc.)
- City of Detroit NOFA Application (HOME or mixed funding)
 - Applications submitted, vetted, scored
 - Environmental documentation is reviewed
 - Review of existing conditions based on Phase I ESA
 - Identify Project Description
 - Determine next requirements for environmental review



Choice Limiting Actions

Prior to environmental approval / clearance, the RE may not:

- Commit HUD funds
- Commit non-HUD funds where the activity would
 - Have an adverse environmental impact or
 - Limit the choice of reasonable alternatives
- Extends to third parties including:
 - Recipients, *and*
 - Participants in the development process
 - Public or private nonprofit
 - For-profit entities
 - **Contractors**

Do not take action before environmental clearance!!

§ 58.22 Limitations on activities pending clearance

(a) Neither a [recipient](#) nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance under a program listed in [§ 58.1\(b\)](#) on an activity or project until HUD or the state has approved the [recipient's](#) RROF and the related certification from the [responsible entity](#). In addition, until the RROF and the related certification have been approved, neither a [recipient](#) nor any participant in the development process may commit non-HUD funds on or undertake an activity or project under a program listed in [§ 58.1\(b\)](#) if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives.

(b) If a project or activity is exempt under [§ 58.34](#), or is categorically excluded (except in extraordinary circumstances) under [§ 58.35\(b\)](#), no RROF is required and the [recipient](#) may undertake the activity immediately after the [responsible entity](#) has documented its determination as required in [§ 58.34\(b\)](#) and [§ 58.35\(d\)](#), but the [recipient](#) must comply with applicable requirements under [§ 58.6](#).

(c) If a [recipient](#) is considering an application from a prospective subrecipient or beneficiary and is aware that the prospective subrecipient or beneficiary is about to take an action within the jurisdiction of the [recipient](#) that is prohibited by [paragraph \(a\)](#) of this section, then the [recipient](#) will take appropriate action to ensure that the objectives and procedures of NEPA are achieved.

(d) An option agreement on a proposed site or property is allowable prior to the completion of the environmental review if the option agreement is subject to a determination by the [recipient](#) on the desirability of the property for the project as a result of the completion of the environmental review in accordance with this part and the cost of the option is a nominal portion of the purchase price. There is no constraint on the purchase of an option by third parties that have not been selected for HUD funding, have no responsibility for the environmental review and have no say in the approval or disapproval of the project.

§58.22: Limitation of Action

- Choice-Limiting Action
 - Examples: real property acquisition, leasing, bidding, disposition, demolition, rehabilitation, repair, renovation, construction, conversion and site improvements
- Affirmative Responsibility
 - If RE is considering an application and is aware a party is about to take action prohibited by §58.22(a), RE must take “appropriate action” to ensure NEPA is followed
 - Difference of Application for funds – vs- Intent for funds
 - RE must make determination
 - Must be defensible and documented

The City of Detroit has determined that the NOFA application date is the intent for use of HUD funding. No Choice Limiting Action can be taken after your application is submitted.

Choice Limiting Actions

Is a Choice Limiting Action

- Real property acquisition
- Leasing
- Bidding
- Disposition
- Demolition
- Rehabilitation
- Repair
- Renovation
- Construction
- Conversion
- Site Improvements

Is NOT a Choice Limiting Action

- Bidding with NEPA rewind language
- Development Agreement with NEPA rewind language
- Option Contract with NEPA rewind language

Consequences of Violating §58.22

Regulatory Violation

- Results from a commitment of Non-HUD funds
Contract, agreement, expenditure of funds
- Can result in loss of all HUD assistance for the project and repayment

Statutory Violation

- Results from a commitment of HUD funds
Contract, agreement, expenditure of funds
- “Taints” the project: HUD funds from the same appropriation can never be used at site where violation occurred. Possible repayment.

Process - Communication

- DHC Voucher Award
- City of Detroit Federal Funding Award (CDBG, Choice, CDBG-DR, etc.)
- City of Detroit NOFA Conditional Award (HOME or mixed funding)
 - Award Letter comes from HRD to Developer - Congratulations!!!
 - Attached to the Award Letter is the Environmental Review Memo
 - Outlines known environmental conditions at the Site
 - Outlines overall environmental, historical, and archaeological requirements to be completed
 - Establishes the requirement for a post-award Environmental Kickoff Meeting



Step 2

Determine the Level of Environmental Review

Determining the Level of Review

HUD Environmental Requirements for Responsible Entities (24 CFR Part 58)

- Responsible Entities (REs) assume HUD's NEPA responsibilities
- RE assumes responsibility for:
 - Environmental **Review**
 - Environmental **Decision-making, including determining the level of review**
 - Environmental **Action** that would apply to HUD under NEPA and related laws

Levels of Review

Exempt

Categorically Excluded NOT Subject to §58.5 (CENST)

Categorically Excluded Subject to §58.5 (CEST)

Environmental Assessment (EA)

Environmental Impact Statement (EIS)

Exempt Activities (§58.34)

1. Environmental and other studies / engineering or design costs
2. Development of plans and strategies
3. Information and financial services
4. Administrative and management activities
5. Public services (employment, crime prevention, childcare, health, drug abuse, education, counseling, energy conservation, welfare, recreational needs – **no physical action**)
6. Inspections and testing for hazards or defects
7. Purchase of insurance and tools
8. Technical assistance and training
9. Payments of principal and interest on loans or obligations guaranteed by HUD
10. Temporary assistance for disaster or imminent threats***

Categorically Excluded NOT Subject to §58.5 (§58.35[b])

1. Tenant-based rental assistance
2. Supportive services (health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent, mortgage or utilities, assistance in gaining access to government benefits)
3. Operating costs including maintenance*, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs
4. Economic development activities not associated with construction or expansion of existing operations

Categorically Excluded NOT Subject to §58.5 (§58.35[b])

5. Activities to assist homeownership of existing dwelling units or units under construction (closing costs and down payment assistance to homebuyers, interest buy downs or other actions resulting in transfer of title)
6. Affordable housing pre-development costs (legal consulting, developer and other site-option costs, project financing, admin costs for loan commitments, zoning approvals and other activities which don't have a physical impact)
7. Supplemental assistance to previously approved project provided approval is by the same RE and re-evaluation is not required per §58.47

Categorically Excluded SUBJECT to §58.5 (§58.35[a])

1. Acquisition, repair, improvement, reconstruction or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are:
 - Already in place
 - Retained for the same use
 - Without change in size or capacity by more than 20%

For example: Replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets (NOT maintenance)
2. Removal of architectural barriers that restrict mobility of, and accessibility to, the elderly and handicapped

Categorically Excluded SUBJECT to §58.5 (§58.35[a])

3. Rehabilitation

- i. Single family housing rehabilitation
 - Unit density not increased beyond 4 units
 - Project doesn't involve changes in land use from residential to non-residential
 - The footprint of the building is not increased in a floodplain or wetland
- ii. Multifamily rehabilitation
 - Unit density change is not more than 20%
 - Project doesn't involve change in land use from residential to non-residential
 - Cost of rehabilitation is less than 75% of the estimated cost of replacement after rehab
- iii. Non-residential structures
 - Facilities and improvements were in place and will not be changed in size or capacity by more than 20%
 - Project doesn't involve changes in land use from non-residential to residential, commercial to industrial, or one industrial use to another

Categorically Excluded SUBJECT to §58.5 (§58.35[a])

4. Individual action (disposition, new construction, demolition, acquisition) on a 1 to 4 unit dwelling; or individual action on 5 or more units scattered on sites more than 2000 ft. apart and no more than 4 units per site
5. Acquisition (including leasing) or disposition of, or equity loans on, an existing structure or acquisition (including leasing) of vacant land provided that the structure or land acquired or disposed of will be retained for the same use
6. Combinations of the above activities

Environmental Assessment (§58.36)

- Any project not Exempt, Categorically Excluded, and does not meet EIS thresholds
 - New construction or substantial rehabilitation of clustered (5+) homes
 - Conversion from one type of land use to another
- The purpose is to evaluate the project as a whole
 - Determine existing conditions and trends
 - Identify all impacts (direct, indirect, cumulative)
 - Examine and recommend feasible ways to eliminate or minimize adverse environmental impacts
 - Examine alternatives to project itself

Environmental Assessment (§58.36)

Two Major Reviews of the Site

- How does the project affect the environment?
 - Work in the floodplain
 - Work in wetlands
 - Endangered species
- How does the environment affect the project (and future residents)?
 - Contamination
 - Noise Assessments
 - Environmental Justice

Environmental Assessment (§58.36)

- Required when the project is determined to have a potentially significant impact on the human environment (can't declare a FONSI). For example:
 - Resulting in the construction of hospitals or nursing homes with 2500+ beds
 - Remove, demolish, convert / sub-rehab 2500+ existing housing units
 - Construction of 2500+ new housing units – or provide the site for said units
 - Provide enough additional water and sewer capacity to support 2500+ additional housing units

Process – Environmental Kickoff Meeting

- Meeting to set the expectations of the environmental and historic reviews
- Includes HRD, Developer, and Developer chosen environmental and historic consultants, and any other funders with environmental requirements
- Confirms the Project Description and the Level of Review required
 - Scope of work from the environmental and historic consultants will be confirmed
 - Outline potential issues at the Site
 - Contamination coordination with EGLE (DDCC –vs– NFA)
 - Floodplain
 - Section 106 and Archaeology coordination with SHPO
 - Project timing and budget issues

Federal Review Coordination

- The aggregated project description needs to include all funding including all federal allocations to the project
- The federal review coordination needs to be completed early in the environmental review process, especially to coordinate the Section 106 and Tribal Consultation
- If this coordination does not happen early enough, there could be a duplication of effort for the Developer



Step 3

Conduct the Environmental Review



An Early Start is Important!

- Ensures planning and decisions reflect environmental values
- Avoids project delays
- Heads off potential conflicts
- Procedural reasons:
 - Recipient may not commit HUD funds on an activity prior to RROF approval
 - Recipient may not commit non-HUD funds prior to RROF approval if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives
 - For projects not requiring an RROF, environmental review must be completed prior to start of activity or project

Typical Timelines for Review

Exempt

•7-15 days

Categorically Excluded NOT Subject To §58.5

•7-15 days

Categorically Excluded SUBJECT To §58.5

•3-6 months (depending on consultations required)

Environmental Assessment

•6-18 months (depending on consultations required)

Environmental Impact Statement

•2-3 years



Choice Limiting Actions

Prior to environmental approval / clearance, the RE may not:

- Commit HUD funds
- Commit non-HUD funds where the activity would
 - Have an adverse environmental impact or
 - Limit the choice of reasonable alternatives
- Extends to third parties including:
 - Recipients, *and*
 - Participants in the development process
 - Public or private nonprofit
 - For-profit entities
 - **Contractors**

***Do not take action before
environmental clearance!!***

Overview of NEPA-Related Laws and Authorities

- REs must certify that it has complied with - and will continue to comply with - the laws and authorities of §58.5 and §58.6
- Must consider the criteria, standards, policies, and regulations of these laws and authorities
- Must provide written documentation of compliance or no circumstance requiring compliance with each law or authority

§58.5 Requirements

- Clean Air Act
- Coastal Zone Management Act
- Contamination and Toxic Substances*
 - **This is where environmental due diligence (Phase I ESA through an approved Response Activity Plan) are required.**
- Endangered Species Act
- Explosive & Flammable Hazards*
- Farmlands Protection Policy Act
- Floodplain Management (E.O. 11988)
- National Historic Preservation Act
- Noise Control Act
- Safe Drinking Water Act (Sole Source Aquifers)
- Wetlands Protection (E.O. 11990)
- Wild & Scenic Rivers Act
- **Environmental Justice (E.O. 12898)****

* HUD regulation

** E.O. 12898 has been rescinded but environmental justice is still included in HEROS

§58.6 Requirements

- §58.6 Compliance checklist is required for **all HUD-assisted projects**
- §58.6 alone does NOT trigger certification and release of funds procedure
 - Includes:
 - §58.6 (a) and (b) – Flood insurance
 - §58.6 (c) – Coastal Barrier Resources Act
 - §58.6 (d) – Buyer notification requirements for Runway Clear Zones and Clear Zones of 24 C.F.R. Part 51.303(a)(3)

Step 3. Conduct the Environmental Review

Environmental Review Hurdles

Environmental Review Hurdles: Floodplain

- No new construction in the Special Flood Hazard Zone
- 100-year and 500-year floodplain issues
- Rehabilitation and other projects in the floodplain will require further consultation and assessment from a floodplain specialist (8-Step Process)
- Flood Insurance may be required
- Work with ER TEAM early in the development process if you are in or near a floodplain

Environmental Review Hurdles: Section 106 Review

- Timing
- Confusion over funding sources/lack of information (City vs. DHC vs. private funds)
- Federal funding coordination
- Incomplete information
- Lack of well-defined project description
- Archaeology
- Project segmentation
- Foreclosure

Part 58 Environmental Review Training

Section 106 & Archaeology

Samuel Burns, Archaeological Compliance Specialist
March 28, 2025



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What is Section 106?

What is Section 106

- National Historic Preservation Act of 1966
- Section 106 of the Act outlines Federal Agencies' obligation to consider the effects of their undertakings on historical, cultural, and archaeological resources
- NHPA Established:
 - Advisory Council on Historic Preservation (ACHP)
 - State Historic Preservation Officers (SHPOs)
 - Tribal Historic Preservation Officers (THPOs)
 - National Register of Historic Places (NRHP)
 - Historic Preservation Fund
- Section 106 implementing regulations are laid out in [36 C.F.R. Part 800](#)

What is Section 106

- Section 106 requires federal agencies to consider the effects of their undertakings on “**Historic Properties**”
- Federal agencies are directed to withhold assistance to applicants who intentionally, significantly, and adversely affect historic properties
- Section 106 is an ongoing consultation process, not a one-time event, and is not one-size-fits-all
 - Section 106 requires consultation with SHPO, Tribes, and the public

**Historic Properties:
Properties eligible for
or listed in
the NRHP**

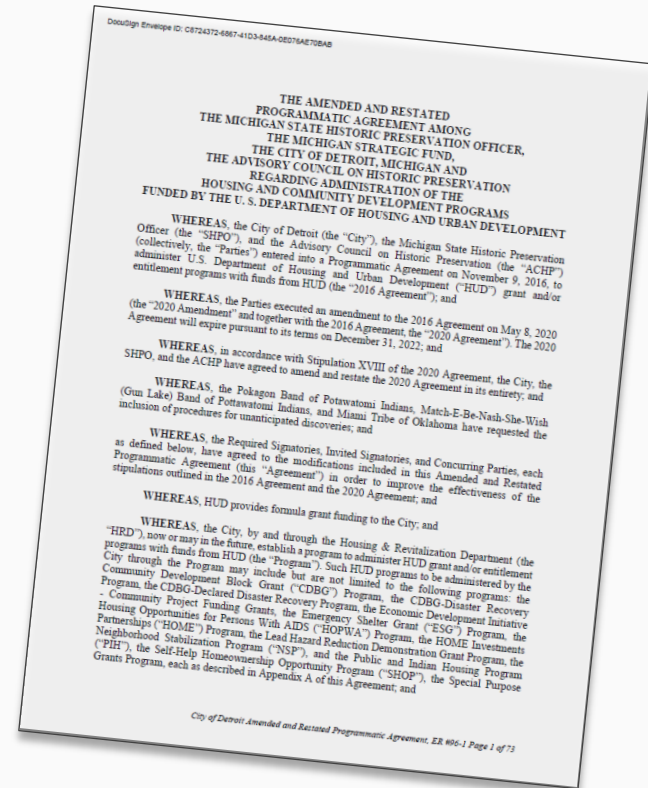
Section 106 is a mandated *process*.
There are no mandated *outcomes*.

What is Section 106

- Section 106 requires a federal agency (HRD) and applicant (developer) to:
 - Identify historic properties, including archaeological sites
 - Assess potential for impacts to historic sites
 - Determine the effect that project will have on historic properties
 - Avoid, minimize, or mitigate any potential adverse effect
- HRD has a streamlined, locally customized process

Detroit's Programmatic Agreement (PA)

- PA delegates some of the Section 106 review responsibilities normally reserved for the SHPO to HRD's Historic Compliance Team
 - The agreement defines the Section 106 compliance process for HUD-funded projects to ensure regulatory compliance is met
 - It covers all projects where the City is the Responsible Entity (RE)
- Provides agreed upon terms and conditions to resolve potential adverse effects for complex undertakings
- It shortens review timelines, especially for our single-family home repair programs (5-14 days internally vs 30 days each time SHPO is consulted)
- [Detroit's Programmatic Agreement](#)



The background is a solid teal color with a faint, light-colored map overlay showing a grid of streets and some irregular shapes representing buildings or parks.

Archaeological Reviews

Archaeological Reviews : Why do we do them?

- Detroit is a highly sensitive archaeological location
- High density of above AND below ground resources
- Documented archaeological sites from:
 - Precontact Period
 - Preurbanized Period (Fort Wayne, Macomb/Cass Farm)
 - Urban Period (Roosevelt Park, Brewster-Douglass Projects)



Archaeological Reviews: Why do we do them?

- Detroit's history intersects multiple themes with national, regional, state, and local significance
 - Industrialization
 - Immigration, Migration, and Assimilation
 - Civil Rights Movement
 - Music
 - Sports



Archaeological Reviews: When are they required?

- Archaeological review is required when a project involves ground disturbance AND
 - Is in an ASZ OR
 - Involves an APE larger than 0.5 acres
- Study Plan review is required prior to fieldwork when a project:
 - Is in an ASZ OR
 - Involves an APE larger than 2.0 acres

ASZ: Archaeological Sensitivity Zone
APE: Area of Potential Effect



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Archaeological Reviews: When are they required?

- The locations of the Archaeological Sensitivity Zones are confidential, so the trigger review will be performed by HRD
- If archaeological review is required, it will be noted in your Conditional Award Memo or Environmental Review Memo and will be covered in the Environmental Kickoff Meeting



Archaeological Reviews: When are they required?

- Archaeological reviews require SHPO and Tribal consultation
 - 45-day review + consultation timeline
- Archaeological reviews must be conducted by a qualified archaeologist (36 C.F.R. Part 61)
- Archaeological fieldwork is limited to situations where a determination of effects cannot otherwise be reached
 - Moderate or high potential for previously unidentified sites in the APE
 - Unevaluated archaeological sites in the APE



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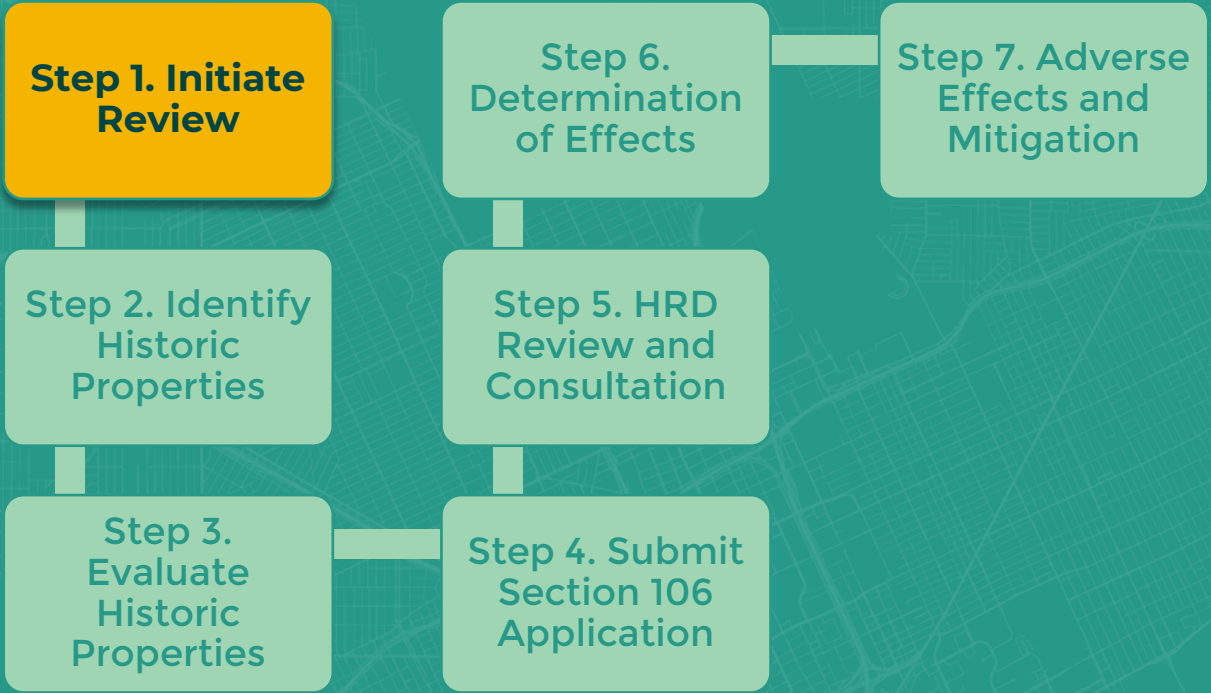
Section 106 Process

How to do Section 106 reviews under our Programmatic Agreement

Section 106 Process: Roles and Responsibilities

Developer	<ul style="list-style-type: none">• Defines project scopes• Hires consultants• Communicates changes in project plans or funding
Consultants	<ul style="list-style-type: none">• Must meet Professional Qualifications Standards (36 C.F.R. Part 61)• Often part of a subconsultant chain (environmental, historic, archaeological)• Complete Section 106 Application and supporting documentation• Conduct background research and fieldwork• Make recommendations for determinations of eligibility and effect
HRD Historic Compliance Team	<ul style="list-style-type: none">• Reviews Section 106 applications• Communicates with consultants to resolve issues• Coordinates SHPO / Tribal consultation (archaeology projects)• Issues Section 106 determination letters
SHPO / Tribes	<ul style="list-style-type: none">• Hold specialized knowledge and expertise concerning archaeological sites and sites of cultural significance to Tribes• Review archaeological consultant reports and HRD's determinations for concurrence (only when archaeological consultation is triggered)• Can request additional research, fieldwork, monitoring, etc.





Step 1. Initiate Review

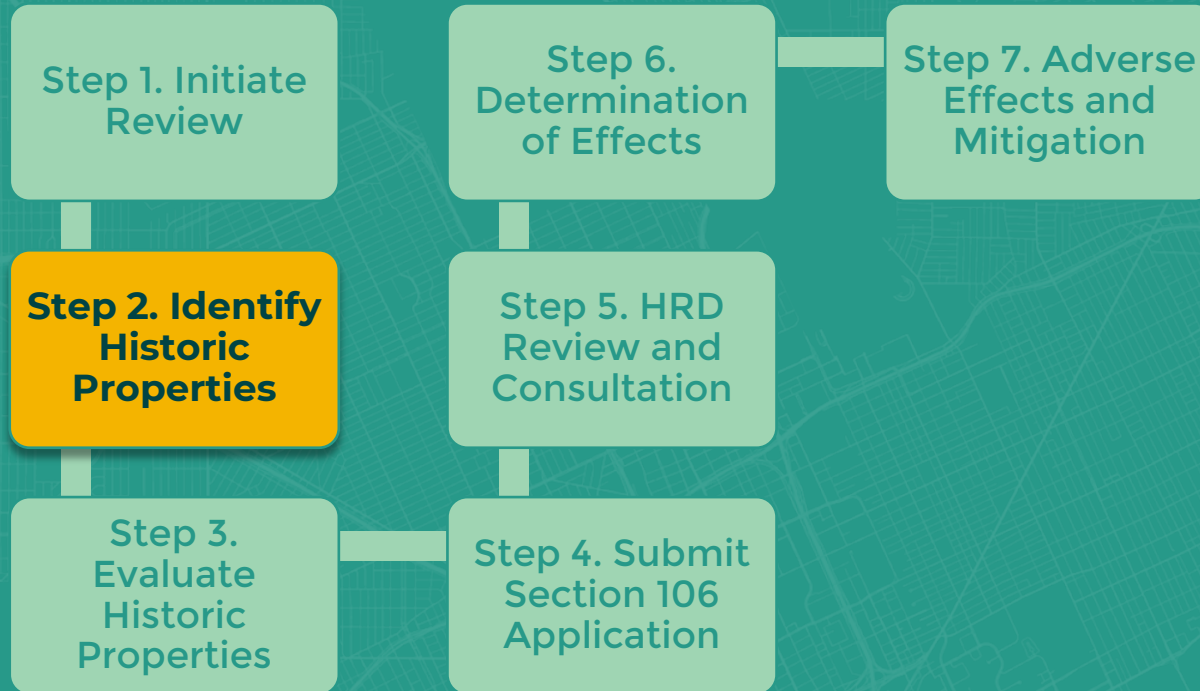
- Define the Area of Potential Effects (APE) for the undertaking
- The scale of the APE should match the size and scope of the undertaking



Step 1. Initiate Review

- Area of Direct Effect (any ground disturbance or physical alterations)
 - *This is a three-dimensional area that includes depth!*
- Area of Indirect Effect (visual, audio, atmospheric; including traffic patterns and other effects on quality of living)





Archaeological and Above-Ground Site and Survey Data Portal Welcome, BurnsS0815!

INTRODUCTION ADVANCED SEARCH BROWSE DATA QUALITY

Welcome to Michigan SHPO's Cultural Resource Information System (CRIS) Portal for Archaeologists

The SHPO maintains the most comprehensive files of previously reported or identified historic properties (buildings, districts, objects, archaeological sites, shipwrecks, and structures) in Michigan. The Cultural Resource Information System (CRIS) is the public portal to those records. The site records are an indexing tool, not a comprehensive record of information and any related surveys should be consulted for more information.



[Click here to create a shareable URL to share this page with others](#)

Step 2. Identify Historic Properties

- This includes any prehistoric or historic sites, districts, buildings, structures, objects, or landscapes listed in, or eligible for, the National Register of Historic Places
- Any determinations made through Section 106 should be supported by sufficient documentation to enable any reviewing parties to understand its basis.
- Please include copies of any pertinent resources used to identify historic properties, especially if they are hard to locate.

Archaeological and Above-Ground Site and Survey Data Portal Welcome, BurnsS0815!

- INTRODUCTION
- ADVANCED SEARCH
- BROWSE
- DATA QUALITY

Welcome to Michigan SHPO's Cultural Resource Information System (CRIS) Portal for Archaeologists

The SHPO maintains the most comprehensive files of previously reported or identified historic properties (buildings, districts, objects, archaeological sites, shipwrecks, and structures) in Michigan. The Cultural Resource Information System (CRIS) is the public portal to those records. The site records are an indexing tool, not a comprehensive record of information and any related surveys should be consulted for more information.



[Click here to create a shareable URL to share this page with others](#)

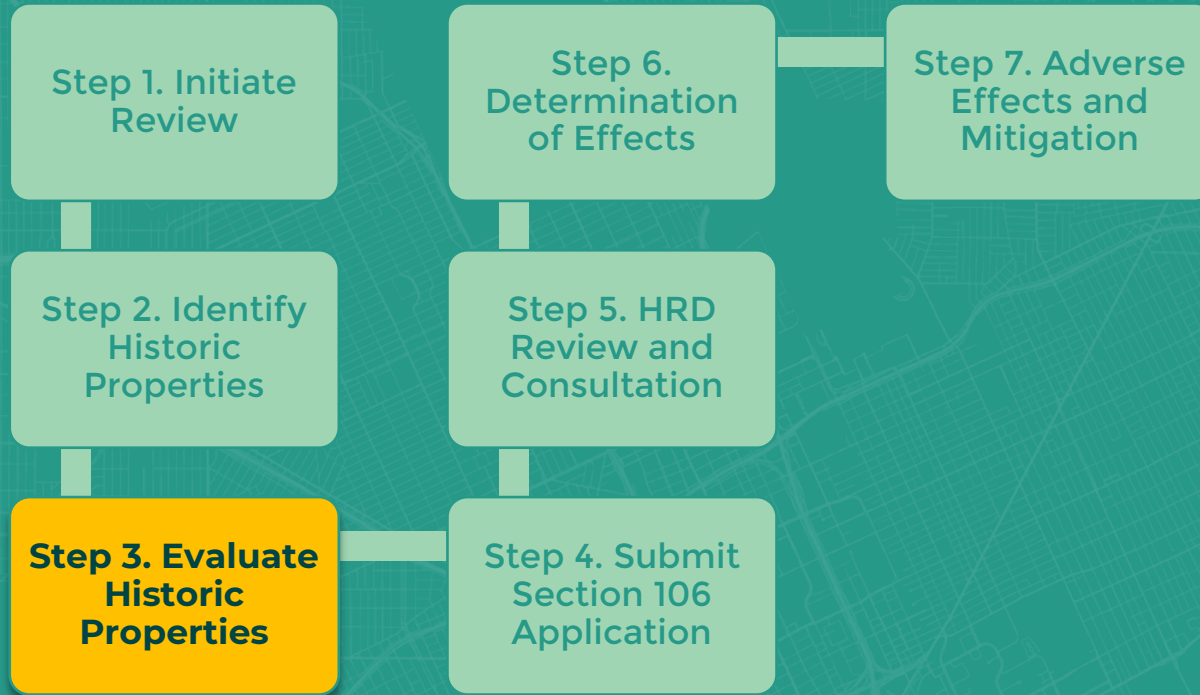
CONTACT
STATE HISTORIC PRESERVATION OFFICE
MEDC PROJECT MAP
NEWSLETTER SIGN UP
TERMS & CONDITIONS



ADDRESS
©2024 Michigan Economic Development Corporation
300 N. Washington Sq., Lansing, MI 48913
888.522.0103

Step 2. Identify Historic Properties

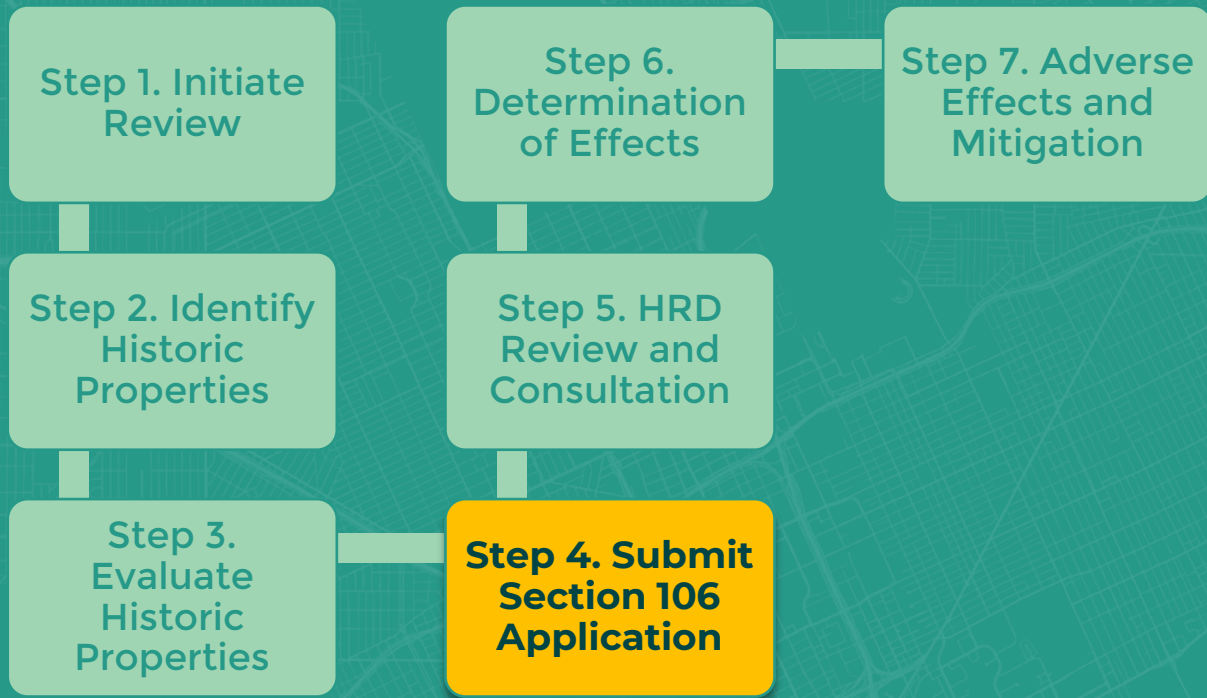
- If archaeology is triggered, identification efforts must include a State Archaeological Site File (SASF) search, which can only be conducted by a qualified professional archaeologist (36 C.F.R. Part 61).
- Archaeological identification efforts must consider the potential for the project to affect deeply buried resources
 - Assess the full depth of the APE
 - Consider both natural (fluvial, colluvial, and aeolian processes) and cultural (urban fill) burial mechanisms



Step 3. Evaluate Historic Properties

- All identified properties should be evaluated for their eligibility for listing in the NRHP
- Recommendations should be based on historic integrity and NRHP eligibility criteria

Criteria A	Is associated with events that have made a significant contribution to the broad patterns of our history
Criteria B	Is associated with the lives of persons significant in our past
Criteria C	Embodies distinctive characteristics of a type, period, or method of construction, or that represents the work of a master, or that possesses high artistic values, or that represents a significant and distinguishable entity whose components may lack individual distinction
Criteria D	Has yielded, or may be likely to yield, information important in prehistory or history





Housing and Revitalization
Department

Coleman A. Young Municipal Center
2 Woodward Avenue, Suite 908
Detroit, Michigan 48226

Phone: 313.224.6380
Fax: 313.224.5529
www.detroitmi.gov

Archaeology Short Form

HRD Application for Section 106 Review

This form is designed to be submitted with the City of Detroit Housing & Revitalization Department (HRD) Section 106 Review Application in lieu of a desktop letter report or formal report. Submit one form for each project for which archaeological consultation is triggered. Consult the [Instructions for the Application for HRD Section 106 Consultation Form](#) when completing this application. Submit completed applications via [Smartsheet](#).

This form must be completed by an individual who meets the Secretary of the Interior's *Professional Qualifications Standards for Archaeology* (62 F.R. 33708) and who has a valid Federal Qualifications Form on file with the Michigan State Historic Preservation Office. Questions can be e-mailed to HRD's Archaeological Compliance Specialist, Samuel Burns: samuel.burns@detroitmi.gov.

I. Project Details

General Information

Project Name: [Project Name](#)

Project Address: [Project Address](#)

Write a general description of the planned project below, including whether the project involves demolition or new construction.

Project Description

[Click or tap here to enter text.](#)

Contact Information

Applicant: Name of applicant's agency or firm

Contact Name: Name of applicant's contact person

Address: Street address City: City State: State Zip: Zip

Email: Email Phone: Phone

Environmental Consulting Firm (if applicable): Name of environmental consulting firm

Contact Name: Name of firm's contact person

Address: Street address City: City State: State Zip: Zip

Email: Email Phone: Phone

Section 106 Historic Consulting Firm (if applicable): Name of historic consulting firm

Contact Name: Name of firm's contact person

Step 4. Submit Section 106 Application

New for 2025!

- Updated application form
- New archaeology short form for optional use in lieu of letter reports



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Archaeology Short Form

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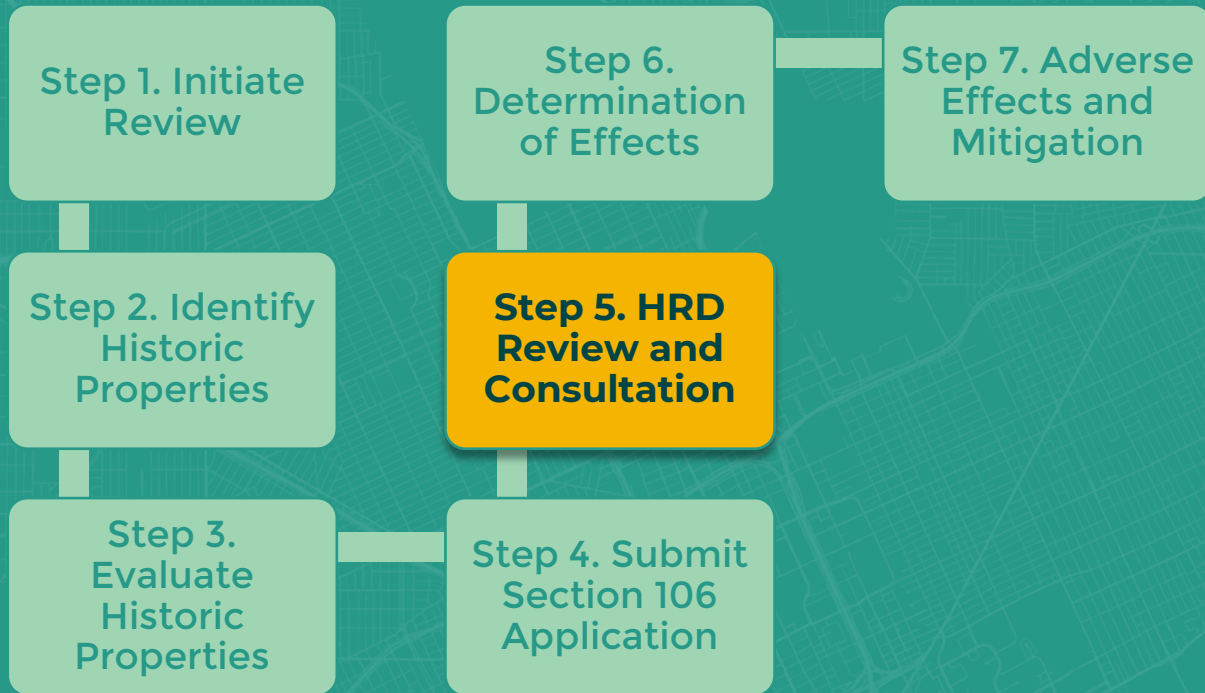
Email: Email Phone: Phone

Section 106 Historic Consulting Firm (if applicable): Name of historic consulting firm

Contact Name: Name of firm's contact person

Step 4. Submit Section 106 Application

- A finalized project description is necessary for applications, and should encompass all related project activities (new construction, rehab, demolition, parking lots, landscaping, etc.)
- A 36 C.F.R. Part 61 qualified professional should complete the Section 106 application
- If SHPO / Tribal consultation is triggered, a qualified archaeologist should complete the archaeology short form or prepare a letter report



Step 5. HRD Review and Consultation

- HRD will review submitted applications
 - We will reach out to the consultant if the application or supporting documentation are incomplete
- After submission of a complete application and supporting documentation , please allow a minimum of:
 - 14 days for review only
 - 45 days for review and consultation (if SHPO / Tribal consultation is triggered)
- HRD will coordinate consultation with the Historic District Advisory Board and any required SHPO / Tribal consultation
- We will also coordinate with other federal funders

F. BUHL

HENRY A. NEWLAND,

JOSEPH DEAN.

F. BUHL & CO.,

MANUFACTURERS AND

WHOLESALE DEALERS

— IN —

HATS, CAPS, FURS,

AND

STRAW GOODS,

Buck Mittens, Gloves & Buffalo Robes,

148 JEFFERSON AVENUE,

DETROIT,

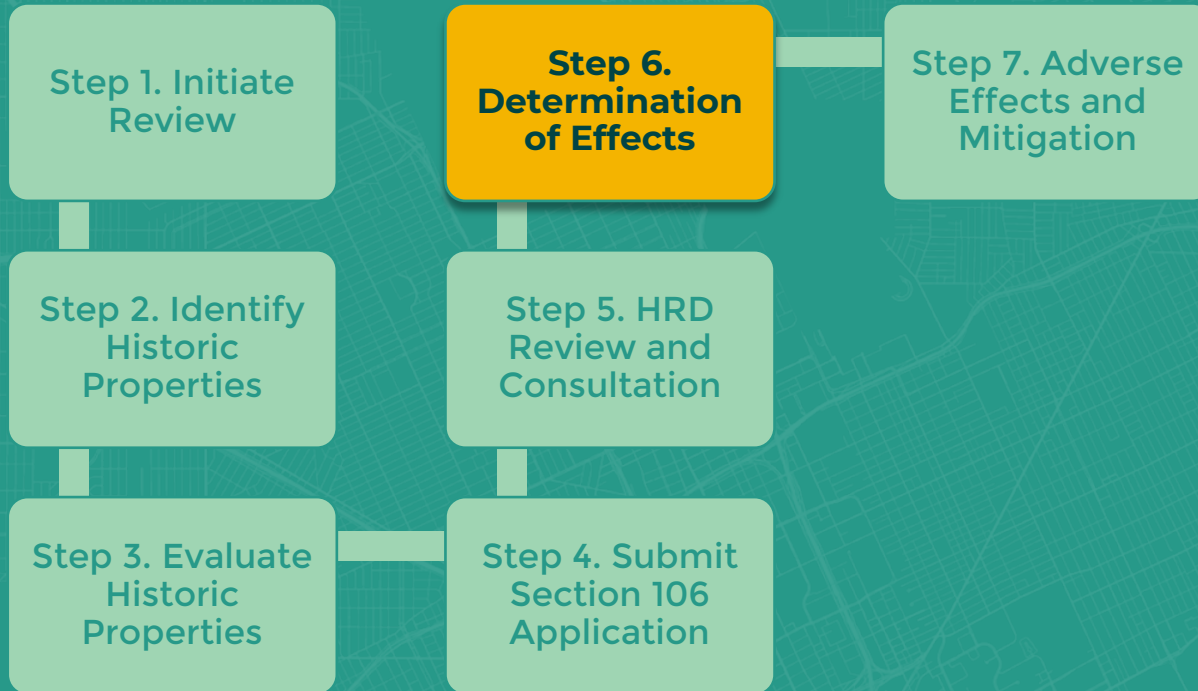
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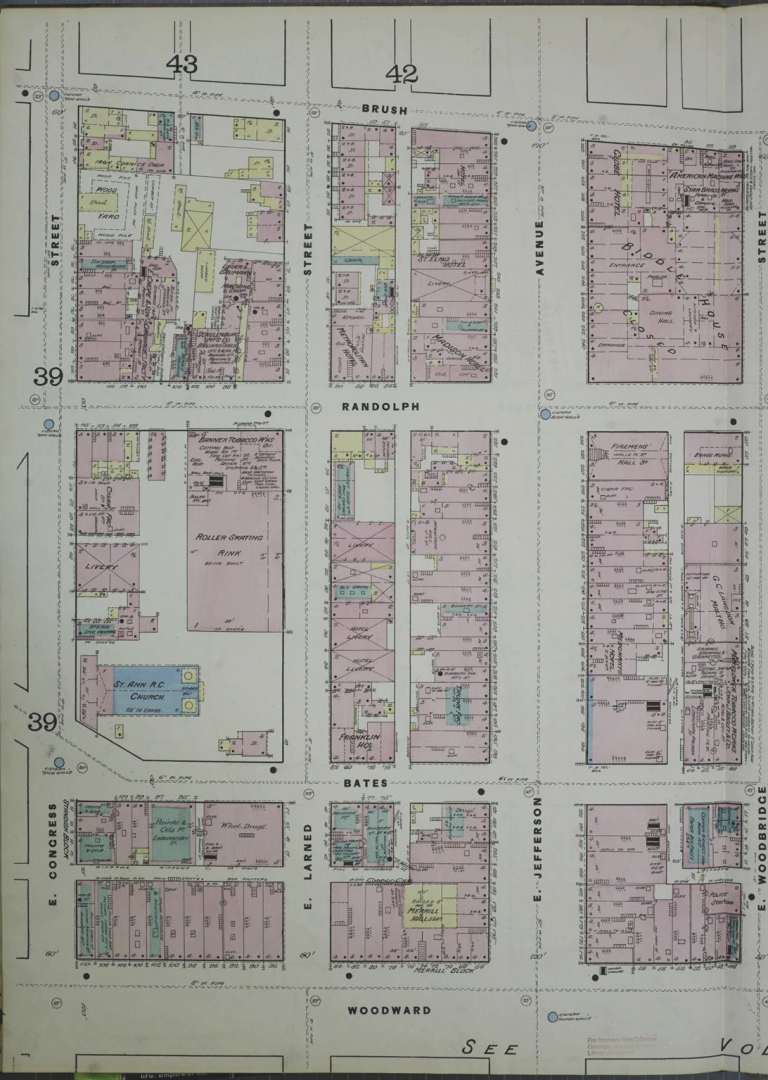
-

MICHIGAN.

Multi-funded Projects require extra coordination!!

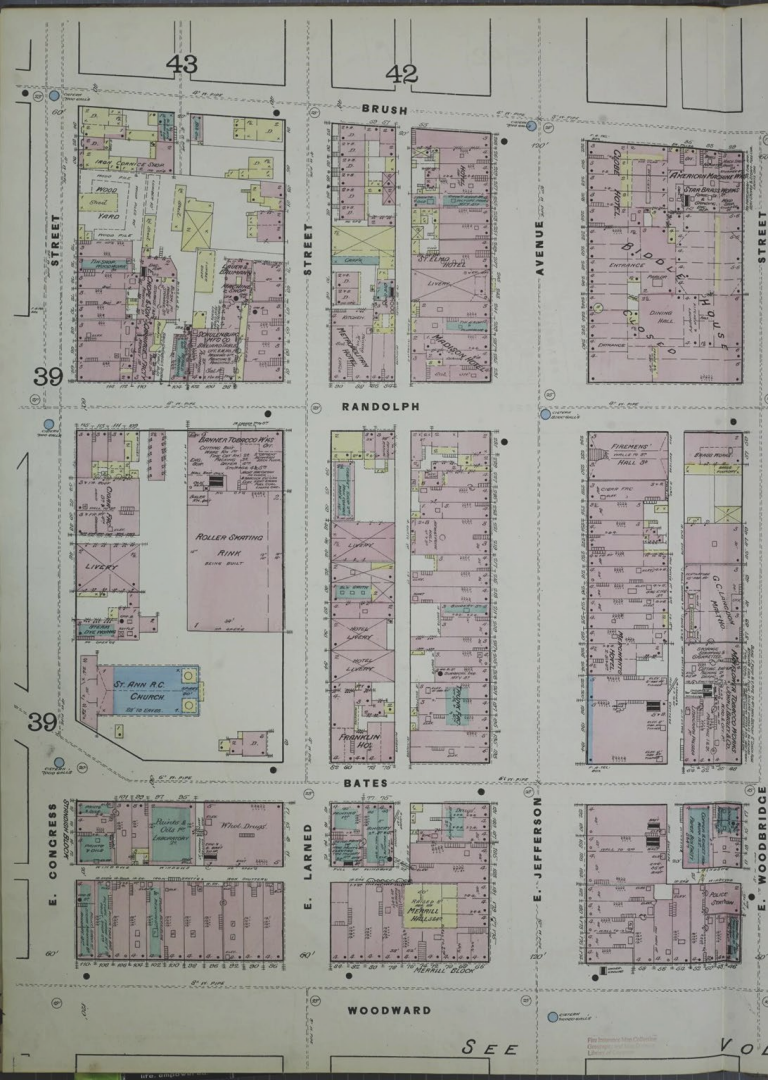
It is important to engage with us as early as possible so we can conduct Section 106 and Tribal consultation without duplication of effort





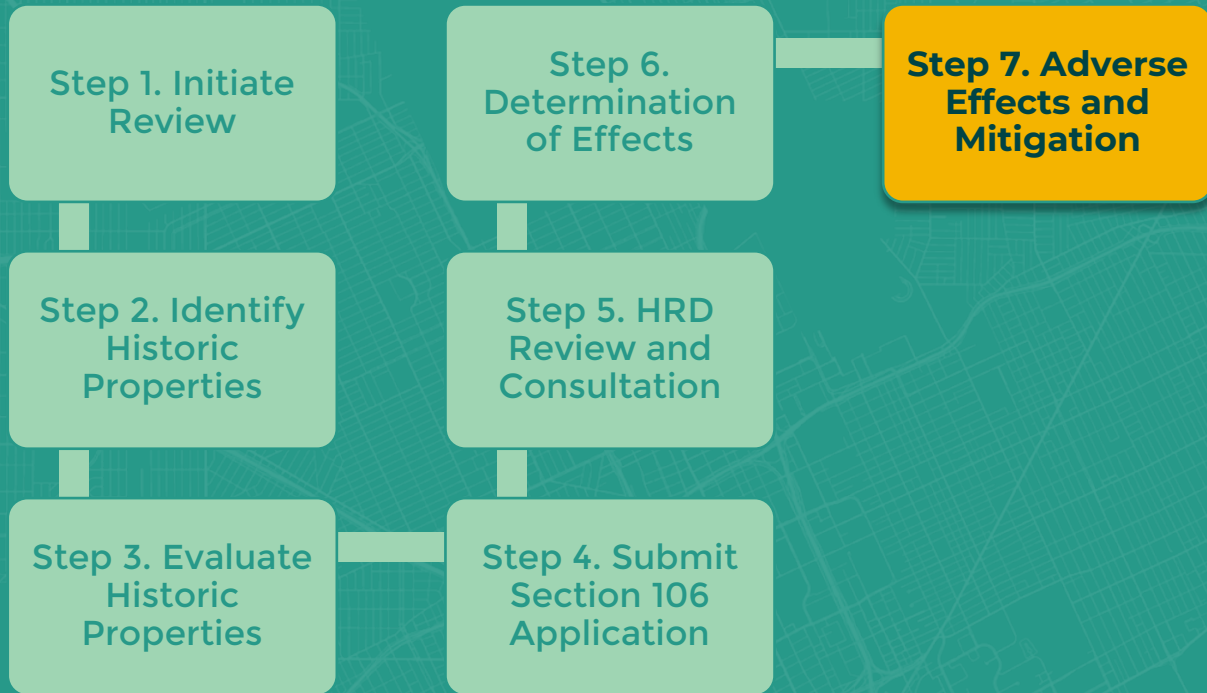
Step 6. Determination of Effect

- The final determination of effect will be issued by HRD once all consultation is completed and should be included in the ERR
- Determinations of Effect
 - More Information Needed
 - NHPA: No Historic Properties Affected
 - NAE: No Adverse Effect on Historic Properties
 - CNAE: Conditional No Adverse Effect
 - AE: Adverse Effect



Step 6. Determination of Effect

- **More Information Needed**
 - Issued when the initial application indicates that further research or fieldwork is required
 - Also issued for early applications submitted before project plans are finalized
- **No Historic Properties Affected or No Adverse Effect**
 - Section 106 is complete
- **Conditional No Adverse Effect**
 - No Adverse Effect depends on submittal of additional documentation such as: approval of final scope of work, results of phase II/III archaeology study, tax credit certifications, etc.
 - Any of these outstanding activities become a NEPA Continuing Compliance Commitment and are tracked through development
- **Adverse Effect**
 - DON'T PANIC (see next slides)



Step 7: Adverse Effects and Mitigation

- Adverse Effects on historic resources make an undertaking ineligible for federal funds, unless mitigation can be agreed upon
 - An adverse effect is an effect that may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register (e.g. it could diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association)
 - Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance, or be cumulative



Step 7: Adverse Effects and Mitigation

- Mitigation should give back to the community and enhance knowledge or protection of historic properties
 - Archaeological data recovery excavations
 - Architectural salvage
 - Oral history documentation
 - Public interpretation
 - Recordation package
 - “Creative mitigation”



Step 7: Adverse Effects and Mitigation

- Mitigation should accommodate the needs of all parties, especially those who ascribe value to the property
- Mitigation is developed through consultation and the creation typically results in creation of a Memorandum of Agreement (MOA) or Programmatic Agreement (PA) that is filed with the ACHP



**Contact us early if
you might have an
adverse effect!!!!**

Archaeological Fieldwork



Study Plans

- Study Plans should clearly outline:
 - The purpose of the investigation (identification of Historic Properties or evaluation of Historic Properties)
 - The information sought by the investigation
 - Results of any research or fieldwork conducted to date
 - The environmental, cultural, historical, and archaeological context of the APE
 - Proposed field methods
- Study Plans should be flexible and can combine identification and evaluation efforts
- Study Plans for identification should consider the potential for deeply buried surfaces in the APE and should include deep testing if appropriate
- Study Plans for evaluation should be guided by NRHP eligibility criteria
 - Archaeological sites are usually evaluated under Criteria D
 - A site's information potential should be assessed in the context of research questions

Fieldwork Reports

- Consultants submit directly to HRD
- Should include a bibliography and professional quality maps, figures, photographs, and drawings, as appropriate
- Should include SHPO site forms for all newly identified sites
- Must follow SHPO guidelines:
 - [Data Confidentiality Standards for Archaeology](#)
 - [Guide 2: Reporting Standards Brief Fact Sheet](#)
 - [Guide 3: Mapping & Geospatial Standards Brief Fact Sheet](#)



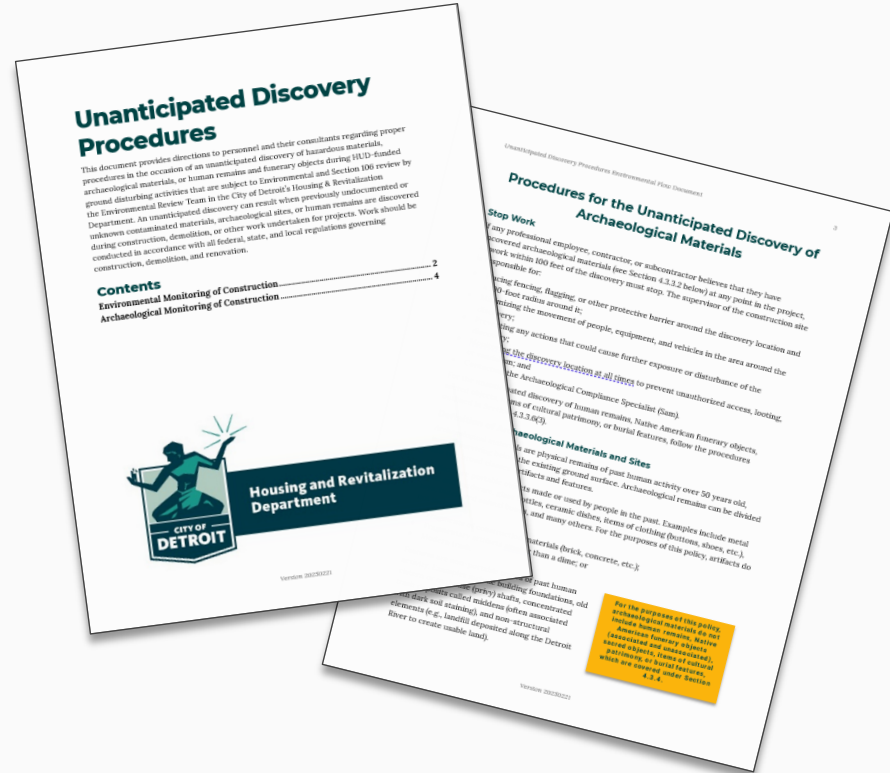
Appendix E: Artifact Catalog

ID	STATE	COUNTY	TOWNSHIP	LOCALITY	ARTIFACT TYPE	QUANTITY	DATE
SHPO101	MI	Wayne	North Corktown	City of Detroit	Flint	1	2010
SHPO102	MI	Wayne	North Corktown	City of Detroit	Flint	1	2010
SHPO103	MI	Wayne	North Corktown	City of Detroit	Flint	1	2010
SHPO104	MI	Wayne	North Corktown	City of Detroit	Flint	1	2010
SHPO105	MI	Wayne	North Corktown	City of Detroit	Flint	1	2010
SHPO106	MI	Wayne	North Corktown	City of Detroit	Flint	1	2010
SHPO107	MI	Wayne	North Corktown	City of Detroit	Flint	1	2010
SHPO108	MI	Wayne	North Corktown	City of Detroit	Flint	1	2010
SHPO109	MI	Wayne	North Corktown	City of Detroit	Flint	1	2010
SHPO110	MI	Wayne	North Corktown	City of Detroit	Flint	1	2010
SHPO111	MI	Wayne	North Corktown	City of Detroit	Flint	1	2010
SHPO112	MI	Wayne	North Corktown	City of Detroit	Flint	1	2010
SHPO113	MI	Wayne	North Corktown	City of Detroit	Flint	1	2010
SHPO114	MI	Wayne	North Corktown	City of Detroit	Flint	1	2010
SHPO115	MI	Wayne	North Corktown	City of Detroit	Flint	1	2010
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SHPO138	MI	Wayne	North Corktown	City of Detroit	Flint	1	2010
SHPO139	MI	Wayne	North Corktown	City of Detroit	Flint	1	2010
SHPO140	MI	Wayne	North Corktown	City of Detroit	Flint	1	2010
SHPO141	MI	Wayne	North Corktown	City of Detroit	Flint	1	2010
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SHPO149	MI	Wayne	North Corktown	City of Detroit	Flint	1	2010
SHPO150	MI	Wayne	North Corktown	City of Detroit	Flint	1	2010



Unanticipated Discoveries

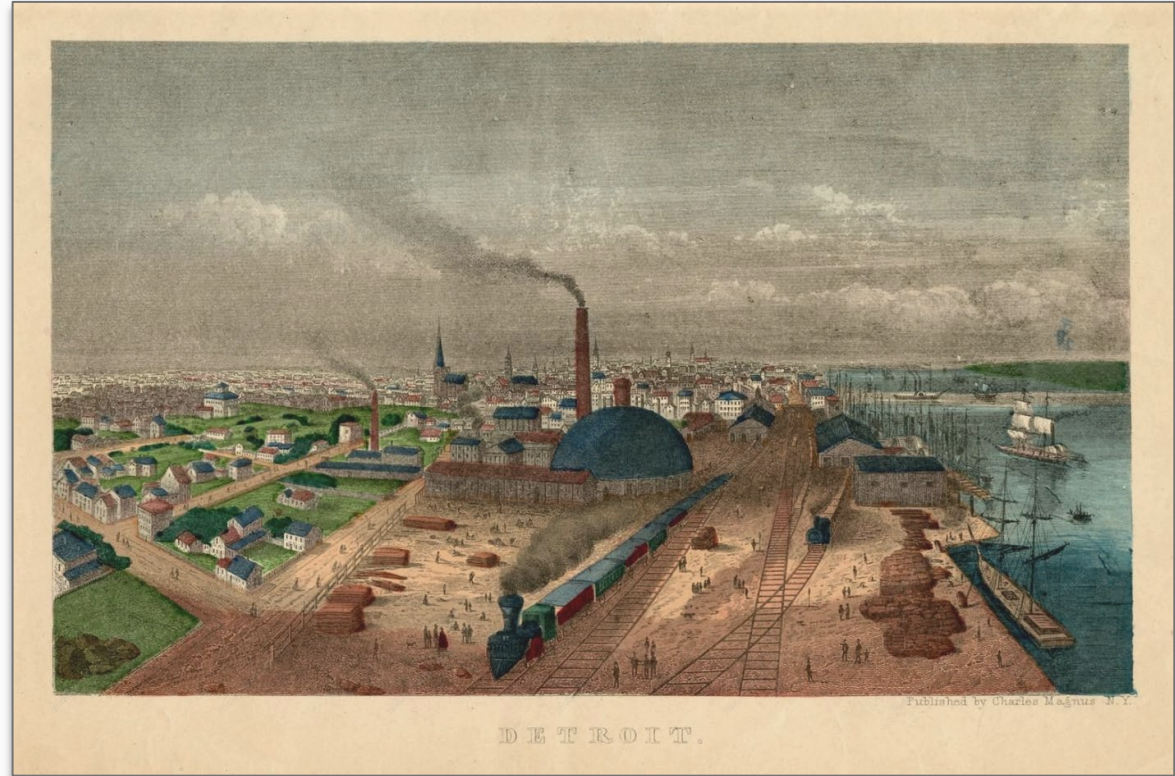
- All construction projects must follow the City of Detroit Unanticipated Discoveries Plan
 - Hazardous Materials
 - Archaeological and Historical Sites
 - Human Remains and Funerary Objects
- Outlines step-by-step process to follow, including contact information
- HRD will provide template UDP



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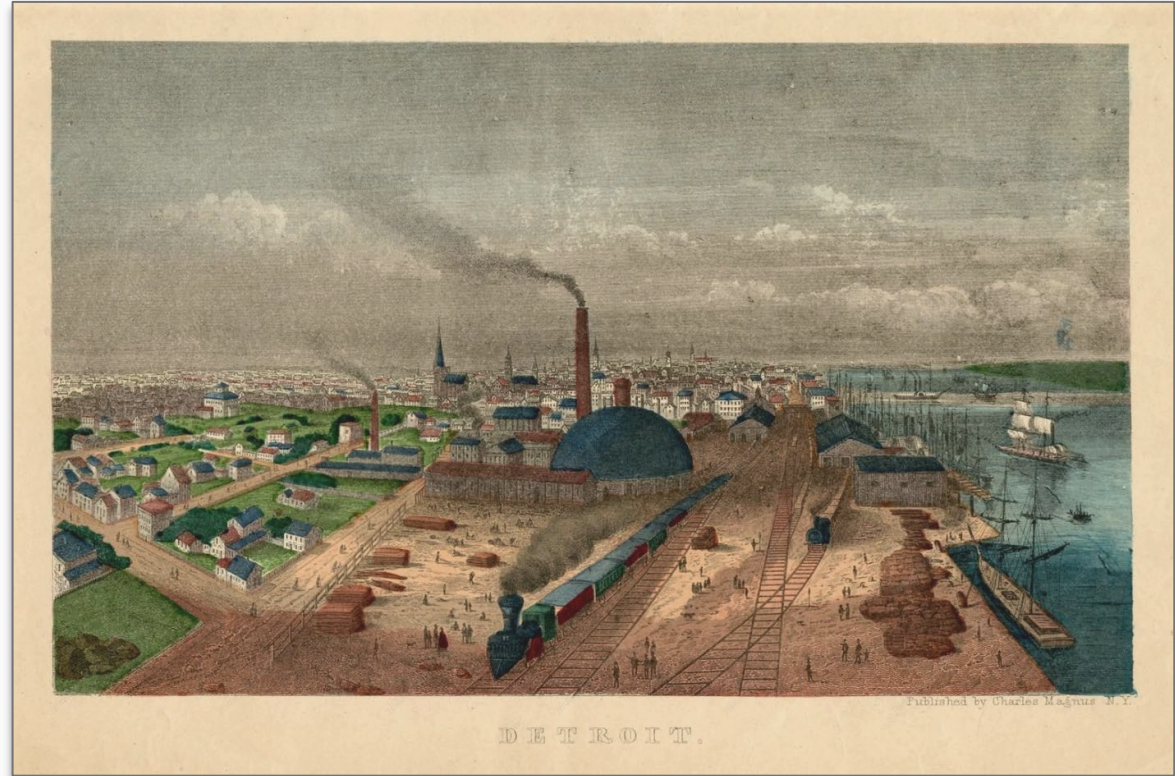
Archaeological Reviews: Avoiding Delays

- Desktop assessments require much more research than comparable projects in rural areas!!
- Deeds, newspapers, Sanborn Maps, census data, city directories, etc.
- Images must be included with reports/applications



Archaeological Reviews: Avoiding Delays

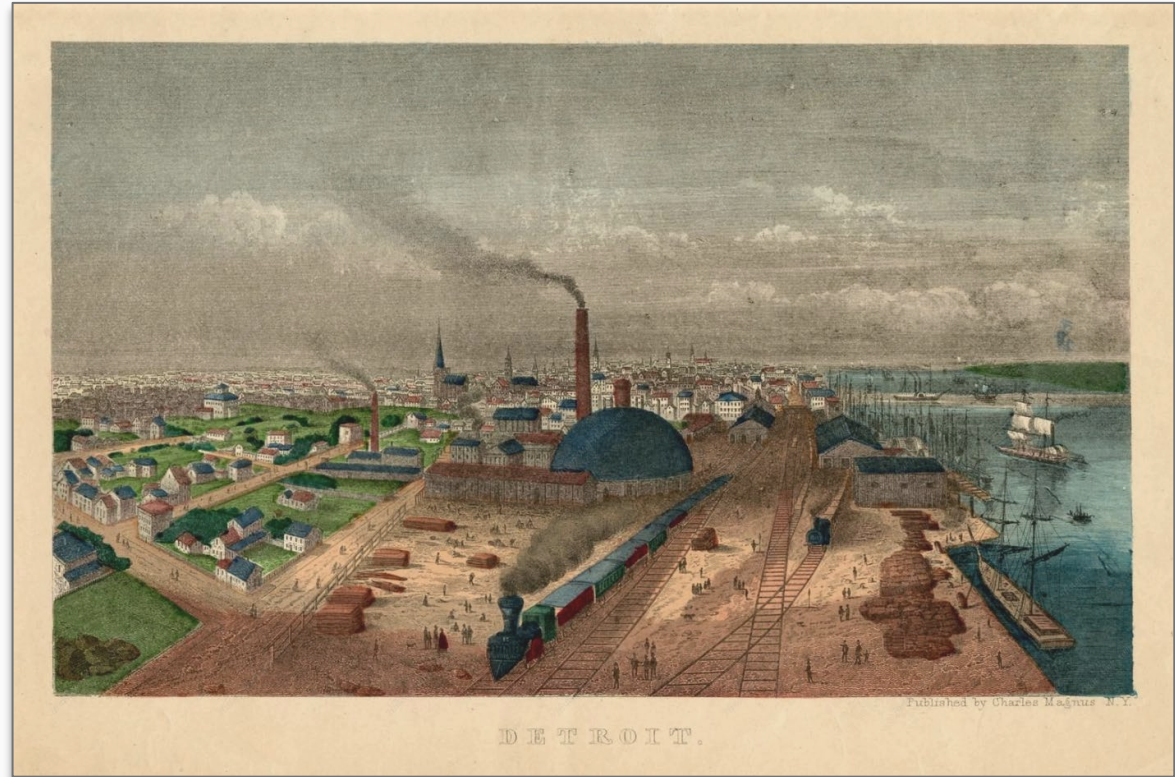
- Must account for complex urban environment
 - Human-Transported Material (“fill”)
 - Preurbanization features are obscured, not necessarily gone
- Do not assume that past disturbance or the presence of fill indicates no archaeological sensitivity



**Archaeological
Sites are
Disturbances on
the Natural
Landscape!!**

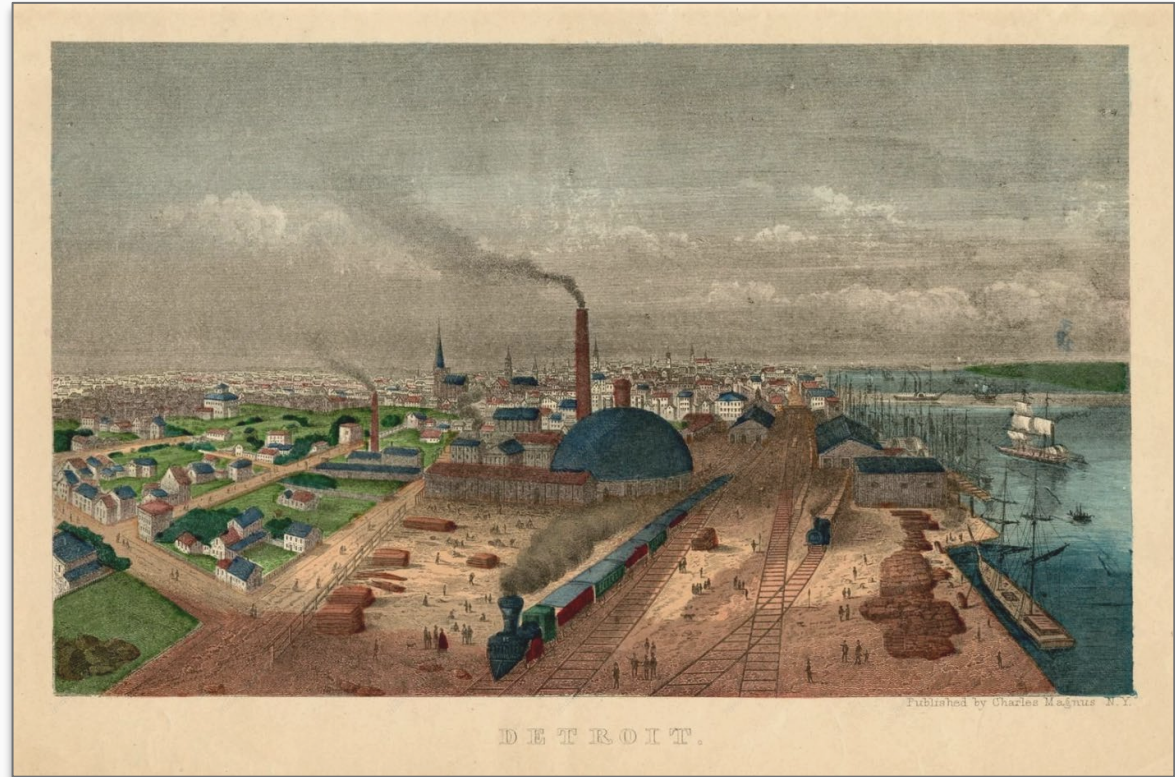
Archaeological Reviews: Avoiding Delays

- If fieldwork is recommended, methodologies must be suitable for the specific urban environment of the project area
- E.g., do not recommend shovel testing (maximum practical depth of 50 cm) in an area where a meter of twentieth century fill is expected at the surface



Archaeological Reviews: Avoiding Delays

- Early coordination is key
- Make sure your methodologies are appropriate before beginning fieldwork
- Reach out in advance of fieldwork!!



Archaeological Fieldwork in Detroit

- Depending on the level of investigation (identification, evaluation, or mitigation) and specific site conditions, methods may include:
 - Remote sensing
 - Geophysical survey
 - Shovel testing and pedestrian survey
 - Hand trenching
 - Hand augering or GeoProbe coring
 - Backhoe trenching
 - Full manual excavation (like you see on National Geographic...)



Archaeological Fieldwork in Detroit



- Methods must be specifically justified in the Study Plan
 - Consider specific local conditions (e.g., land use history, depth of fill, time since urbanization, etc.)
 - Consider the relative costs of each method in relation to the size/scale of the project
 - Choose the least invasive and most cost/time effective method that is likely to recover the required information
- Most projects will require a combination of multiple methods

Thank you!



(313) 439-7463



samuel.burns@detroitmi.gov



[Environmental Team Website](#)



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Opportunity Rising





Break

Back at

Step 3. Conduct the Environmental Review

Environmental Review Hurdles

Continued...

Environmental Review Hurdles: Contamination

- Most multi-family projects will encounter contamination
- Developer Team will conduct ER and work with ER TEAM to work through the approval process
 - Identify contamination levels and types
 - Response Activity Plan approval from EGLE
 - Follow up of Response Activities through construction
 - Documentation of Due Care Compliance approval or No Further Action Documentation from EGLE at closeout

Environmental Review Hurdles: Contamination and Toxics – Response Activity Plan Approval

Carrie Geyer and Martha Thompson will give further details on EGLE Review of Response Activity Plans



Lunch Break

Training Resumes 1:30

Requests for Additional Information

- ER Team may need additional information to complete the review
 - Confusion over funding source/lack of information (City vs. DHC vs. MSHDA vs. private funds)
 - Incomplete Information
 - Lack of well-defined project description
 - Project segmentation
 - This is not to complicate your project, it is needed to create a complete ERR



Ins
November

PROCESS

- This step can take substantial time and require many consultations/emails/memos between the EA Team the environmental consultant and State Agencies (EGLE and SHPO). Usually, the Developer and HRD PMs are copied on emails, but not active participants until the Environmental Review is complete.
- ER Team will also ask for a budget for any Mitigation Measures outlined in the Mitigation Plan included in the final ERR.
- Once the Environmental Review is complete, the ER Team will begin to finalize the process.

ERR Submittal and HEROS Entry

- When the report is complete, the consultant will:
 - Download a copy of the ERR for their records
 - Assign the review to Kim Siegel in HEROS
 - E-mail Kim to confirm that the report has been assigned to her in HEROS and provide Kim with a copy of the HEROS ER and attachments separately (you can use Dropbox or a similar program)
- The Historic team (Tiffany and Sam) will review the Historic Preservation section; Kim will review the remainder of the EA
 - Most likely, revisions or additional documentation will be required. It could take several weeks to get through this process depending on how thorough the initial EA is

ERR Submittal and HEROS Entry

- Effective July 1, 2024: all new environmental reviews have a one-year deadline to receive the Authority to Use Grant Funds
- HEROS was updated to automatically display the date the environmental review was started in the system
- The City of Detroit considers this the start of the clock
- **Make sure you have obtained all Federal, State, and Local clearances prior to starting the ER in HEROS!**



Step 4

Finalize the Environmental Review

ER Team Finalizes the ER

- ER Team reviews Environmental Review Record
 - ER Team reviews all documentation
 - ECS provides documentation to Certifying Officer for review and signature
 - Exempt, CENST, CEST-exempt are complete with CO signature and can begin spending
 - CEST and EA get published, RROF – AUGF process begins



Choice Limiting Actions

Prior to environmental approval / clearance, the RE may not:

- Commit HUD funds
- Commit non-HUD funds where the activity would
 - Have an adverse environmental impact or
 - Limit the choice of reasonable alternatives
- Extends to third parties including:
 - Recipients, and
 - Participants in the development process
 - Public or private nonprofit
 - For-profit entities
 - **Contractors**

***Do not take action before
environmental clearance!!***



ER Team Finalizes the ER



- Publication takes up to a week to prepare and put on the HRD (and other funder) website
- Publication requires up to a 15-day public comment period
- After 15-day public comment period, EA Team prepares the RROF and submits to HUD through the HEROS System
- RROF requires a 15-day HUD comment period
- Authority to Use Grant Funds comes when HUD creates it.

Should be soon after the 15-day HUD Comment period expires. But this is NOT usually the case. Be patient!!!

Process – NEPA Compliance Commitment Memo

- ER Team will provide a NEPA Compliance Commitment memo after receipt of AUGF
 - Created prior to closing the HUD funding and should be included in closing documents
 - May include:
 - Mitigation Plan and future environmental requirements
 - Response Activity Plan with state approval and budget for activities
 - Section 106 requirements
 - Final state approvals for other outstanding compliance items



Step 5

Spend and Commit Funds

Step 6

Scope Changes After AUGF

Adding Funds or Changing Scope? Updating ERR (§58.47)

- **Re-evaluation** of a project is required when new activities are added, unexpected conditions arise, or substantial changes are made to the nature, magnitude or extent of the project.
 - If original environmental finding is **still valid**:
 - Update the ERR with new project description / funding amount and CENST documentation (§58.35[b][7])
 - New RROF with changes to HUD, no publication or waiting period for AUGF (this is a Chicago office policy)
 - If original environmental finding is **no longer valid** or project significantly changed:
 - RE must prepare new review and proceed with approval process (RROF + publication/posting + AUGF)

Step 7

Environmental Requirements Through Construction

Implementing Actions (§58.77c)

- RE/Recipient must assure environmental review decisions are carried out during project development and implementation
- Establish binding commitments and enforce them
 - i.e. development agreements and contracts
- Correspondence with applicant/sponsor
- Track and monitor implementation and update the ERR

NEPA Compliance Commitment Memo

- NCC contains the Mitigation Plan
 - Presented by HRD Environmental at the Pre-construction meeting
 - Lays out basic environmental milestone activities for the project
 - Lays out basic timeline for environmental activities to occur
 - Before or after demolition
 - Before or after project close-out
 - Contains contact information for the Environmental Construction Specialist

NEPA Compliance Commitment Memo

- Examples of NCC Memo activities
 - Asbestos surveys/abatement activities prior to demolition/renovation
 - Soil removal prior to construction
 - Barrier placement after soil removal & prior to fill material placement
 - Fill material analytics
 - Vapor extraction unit installation
 - Hardscape/softscape installation
 - Section 106 monitoring report or photos

Construction Site Visits

- Timing is based on the NCC Memo to document milestone activities
- Introduction to Site Supervisor
- Documentation collection during construction can include:
 - Hazardous Materials Survey
 - Asbestos abatement activities
 - Lead abatement/clearance activities
 - Soil removal & non-native fill confirmation analytical reports
 - Barrier placement/extraction system installation reports

Project Closeout/Continuing Obligations

- Prior to project closeout, HRD Environmental team provides list of documents required to HRD project management.
- Developers and consultants should submit required documentation to the ER Team as soon as available
- Continuing Obligations
 - Often the activities required in the NCC Memo are not complete at the end of construction. Those requirements are considered continuing obligations.
 - These obligations are part of the project and environmental review is not complete until all documentation is received and approved.
 - Continuing Obligations can last for years after a project's construction phase is complete

Process – Final Memos

- ER Team will issue a Final memo for the Project
 - **Final Closeout Memo** is issued for projects if activities in the NCC Memo are complete
 - **Continuing Obligations Memo** is issued for projects if activities in the NCC Memo are NOT complete at the time of project closeout
 - Created after construction is complete and issued to the Asset Management Team for annual follow-up
 - Includes environmental documentation created throughout the construction process
 - Outlines the continuing environmental obligations
 - Documentation of Due Care Compliance/No Further Action
 - Operations and Maintenance Plans
 - Lead, Asbestos
 - Vapor Mitigation Systems
 - Exposure Barriers

In Conclusion...

Correct application of 24 CFR Part 58 is essential for avoiding sanctions, litigation, and unexpected mitigation or remediation costs

- Follow all required steps in the environmental review and decision-making process
- Carefully document compliance with NEPA and its related authorities
- Exercise due diligence in investigations
- Use reasonable approaches that are neither arbitrary nor capricious
- Carefully maintain the Environmental Review Record

In Conclusion...

We are one team for Environmental Compliance!

- HUD
- HRD Management
- HRD Project Managers
- Developers
- Developer's Environmental Consultant
- ER Team

The HRD ER Team is charged with ensuring environmental compliance with the HUD Rules. We will always try to provide options to make your deal work within the environmental review requirements.



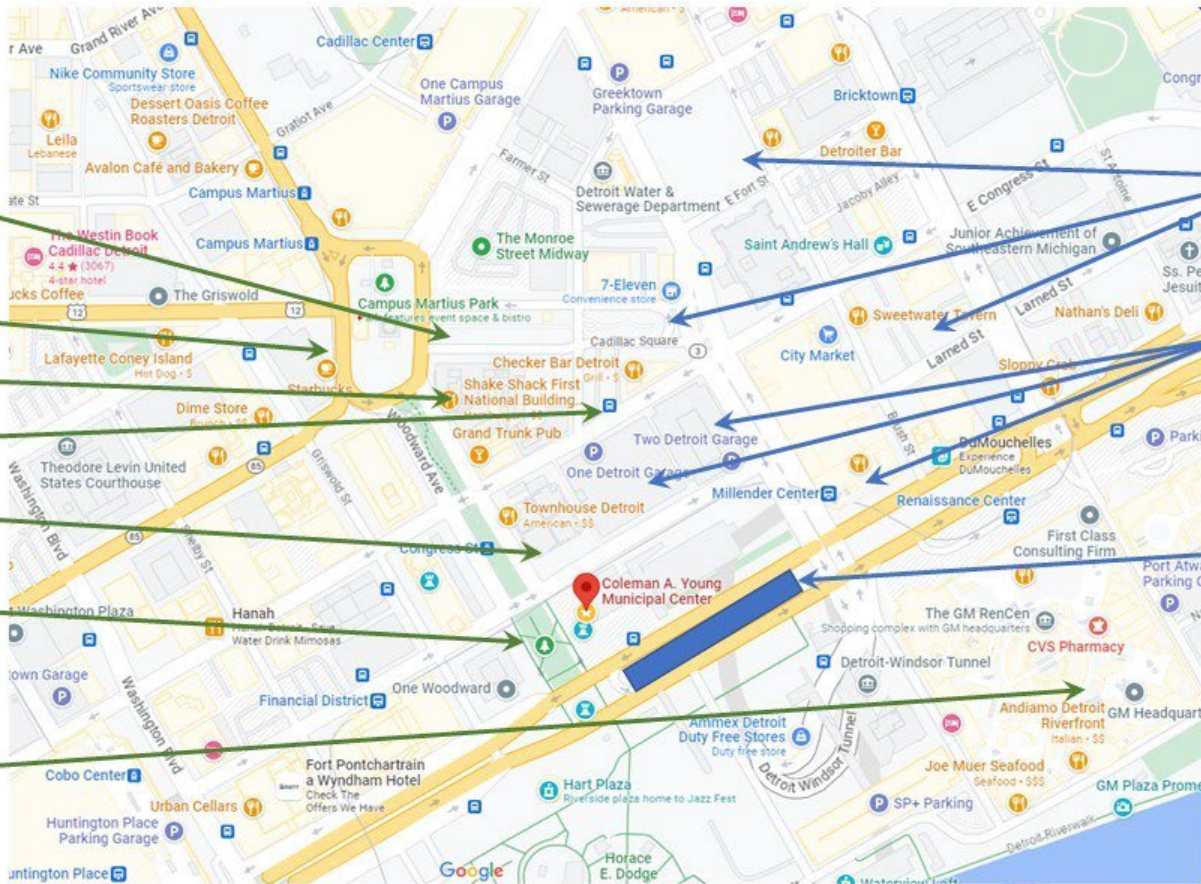
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Questions?



LUNCH OPTIONS

- Food Trucks Campus Martius
- Pot Belly
- Shake Shack
- Lunchtime Global
- Plum Market in Ally Bank Building
- Food Trucks in Spirit Plaza
- Panera (in Ren Cen)



PARKING

- Walkable Surface Street Parking
- Nearby Public Parking Decks
- Ford Auditorium Underground Garage: 30 E Jefferson Ave. Detroit, MI 48226
- Street Parking is also available: Download the ParkDetroit App

Please enter the building on the Jefferson Ave. or Larned Street doors and be prepared to go through security. Proceed to the elevators and head to the 13th floor for the Erma Henderson Auditorium



Lunch Break

Training Resumes 1:30

Today's Presenters

City of Detroit Housing & Revitalization Department

- Penny Dwoinen
- Kim Siegel
- Melissa Owsiany
- Tiffany Ciavattone
- Samuel Burns

Michigan Department of Environment, Great Lakes, and Energy

- Carrie Geyer
- Martha Thompson

Michigan State Housing Development Authority

- Daniel Lince
- Michael Vollick

Thank you!

A copy of the slide presentations will be available on the HRD website. A link will be sent to registrants when available to access.

Please direct any follow up questions to Kim Siegel at Kim.Siegel@detroitmi.gov



TAKE PART
Opportunity Rising

