

**PROGRAMMATIC AGREEMENT
BETWEEN HOWARD COUNTY, MARYLAND AND THE MARYLAND STATE
HISTORIC PRESERVATION OFFICER FOR THE ADMINISTRATION OF
FEDERALLY FUNDED PROGRAMS**

THIS PROGRAMMATIC AGREEMENT (the "Agreement") made this ____ day of _____ 2004, by and among **Howard County, Maryland**, a body corporate and politic of the State of Maryland (the "County"), and the **Maryland State Historical Preservation Officer** ("MD SHPO") and the **Advisory Council on Historic Preservation** (the "Council").

WHEREAS, the County serves as the responsible entity for funds received by the County under Programs funded by the U.S. Department of Housing and Urban Development (HUD) and therefore assumes HUD's environmental review responsibility in accordance with its Environmental Review Procedures, 24 CFR Part 58; and

WHEREAS, the County administers approved programs of eligible activities with funds from HUD, which programs include, but are not limited to:

- The Community Development Block Grant (CDBG) Program, under Title I of the Housing and Community Development Act of 1974, as amended;
- HOME Investment Partnerships (HOME) Program, under Title II of the National Affordable Housing Act of 1990 (HOME Investment Partnership Act);
- Housing Opportunities for Persons with AIDS (HOPWA) program, under the AIDS Housing Opportunity Act, as amended by the Housing and Community Development Act of 1992; and
- Projects financed with competitive awards of Supportive Housing Program (SHP) funds, under Title IV, subtitle C, of the Steward B. McKinney-Vento Act; and

WHEREAS, the Howard County Department of Housing and Community Development (HCD), as authorized administering agency of federal Housing and Community Development programs perform activities on behalf of the County in accordance with the Environmental Review Procedures, 24 CFR Part 58, as defined within this Agreement.; and

WHEREAS, the MD SHPO agrees that fulfillment of the terms of this Agreement will satisfy the responsibilities of any Maryland state agency under the requirements of Article 83B, Section 5-617 and 5-618 of the Annotated Code of Maryland, in the event that the County receives any form of licensing, permitting, or financing from the State of Maryland for projects implemented under this Agreement; and

WHEREAS, the County has determined that certain types of rehabilitation projects typically have no adverse effect upon historic properties included in or eligible for inclusion in the National Register of Historic Places and has consulted with the MD SHPO pursuant to Section 800.14 of the regulations (36 CFR Part 800 Subpart C) implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

WHEREAS, the Council has declined to participate in this Programmatic Agreement (Agreement); and

WHEREAS, the County maintains staff within the Office of Planning and Zoning who meet professional qualifications for historic preservation in accordance with 36 CFR Part 61 and serve as Section 106 staff support to the County;

NOW, THEREFORE, the County, the Council and the MD SHPO agree that these programs shall be implemented in accordance with the following stipulations to satisfy the Section 106 responsibilities for all individual undertakings of the programs.

I. DEFINITIONS

For the purpose of this Agreement, each of the following terms shall have the meaning specified for such term, and in addition the meaning defined in 36 CFR 800.16:

- A. **"Agreement"** means this Programmatic Agreement.
- B. **"Days"** mean calendar days.
- C. **"DOE"** means Determination of Eligibility as defined in the *Trust's General Guidelines for Compliance-Generated Determinations of Eligibility*.
- D. **"Historic District"** means a district which has been formally determined eligible for listing in the National Register/Maryland Register by the Trust and/or has been formally listed in the National Register/Maryland Register.
- E. **"Historic Property"** means an individual property included in or eligible for inclusion in the National Register or a contributing property within an historic district included in or eligible for inclusion in the National Register. The historic property may be a single family residential property by itself, one or more properties in a series of residential dwelling structures, one or more structures involved in a multi-family project or non residential property.
- F. **"In-Kind"** means identical in size, shape, material, texture and composition.
- G. **"National Register"** means the National Register of Historic Places as maintained by the Secretary of the Interior.

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- H. "**Principal Elevation**" means the primarily the street facade.
- I. "**Project**" means any project receiving financing from these programs for acquisition, rehabilitation, or construction.
- J. "**Standards**" means the Secretary of the Interior's *Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*.
- K. "**Survey District**" means a potentially eligible district that has been surveyed by the Trust, but not formally evaluated for eligibility.
- L. "**Work Write-Up**" means a detailed description of architectural, structural, mechanical, electrical and other work items needed for the project.

II. PURPOSE AND APPLICABILITY

This Agreement sets forth the process by which the County will meet its responsibilities under Section 106 of the National Historic Preservation Act (NHPA) for programs funded by HUD.

III. GUIDELINES, STANDARDS AND REGULATIONS

Guidelines, standards and regulations relevant to this Agreement and its purposes include:

- 36 CFR Part 68: Secretary of the Interior's *Standards for the Treatment of Historic Properties* including Section 68.3 (b) *Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*;
- *General Guidelines for Compliance-Generated Determinations of Eligibility (DOEs)* (Maryland Historical Trust 2002);
- 36 CFR Part 800: Protection of Historic Properties (1999);
- *Standards and Guidelines for Architectural and Historical Investigations in Maryland* (Maryland Historical Trust 2000); and
- All applicable Preservation Briefs created by the National Park Service

IV. IDENTIFICATION OF HISTORIC PROPERTIES

The County will evaluate the significance of all properties that are at least fifty years of age in the manner described below. The MD SHPO does not require documentation or identification for properties less than fifty years old that are not within eligible or listed historic districts.

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- A. **Historic Sites Planner Determination.** The County Historic Sites Planner will make a determination concerning the eligibility of the property for listing in the National Register as an individual structure or as a contributing element within an eligible historic district. The County will forward the results of the determination to the MD SHPO for 30-day review and comment.
- B. **Eligibility Determinations (DOEs).**
1. The County will ensure that all DOEs meet the requirements set forth in the MD SHPO's *General Guidelines for Compliance-Generated Determinations of Eligibility (DOEs)*. Labeling of photographs, when applicable, will follow the standards described in *Standards and Guidelines for Architectural and Historical Investigations in Maryland*.
 2. The County Historic Sites Planner will complete all DOEs and submit the documentation to the MD SHPO for 30-day review and concurrence.
- C. **Determination of Ineligibility.** In cases where the County Historic Sites Planner and the MD SHPO agree on a determination of ineligibility no further review is required.
- D. **Determination of Eligibility.** For all properties that the County Historic Site Planner and the MD SHPO agree are eligible for inclusion in the National Register, the County will review work write-ups for the proposed work in accordance with Stipulation V of this Agreement.
- E. **Disagreement.** In those cases where there is a disagreement between the County Historic Sites Planner and the MD SHPO on the eligibility of properties, the County Historic Sites Planner will request the opinion of the Keeper of the National Register in accordance with 36 CFR Part 63 or applicable National Park Service regulations and guidelines.
- F. **MD SHPO Review Time Frames.** The MD SHPO will provide written comments on eligibility determinations within 30 days after receipt of an adequately documented request for review. If the MD SHPO determines that the documentation is incomplete, the MD SHPO will advise the Historic Sites Planner of any additional information required. [The time permitted for review will not include the time from the date of the MD SHPO's request for additional information to the date of receipt by the MD SHPO of the additional information submitted by the Historic Sites Planner.] Time permitted for review will begin upon receipt of additional information requested.

V. PROJECT REVIEW

The County will handle project review for properties that are listed in or eligible for the National Register of Historic Places, individually or as contributing resources to historic districts, in the following manner.

1. Project Types

- A. The majority of projects are unlikely to adversely affect historic properties if completed in accordance with the *Standards*. Therefore, the following project activities will be reviewed for Section 106 and Article 83B, Section 5-617 and 5-618 purposes within the County and documented in accordance with Stipulation V, 3, without further review by MD SHPO, provided:
- 1) The County Historic Sites Planner bases its review upon information adequate to assess projects' effects on historic properties;
 - 2) The County Historic Sites Planner bases its decisions on the guidelines, standards and regulations identified in Stipulation III;
 - 3) The County Historic Sites Planner finds that the undertaking will have no effect or no adverse effect upon them.
- B. Projects limited to the following activities, with limited potential to affect significant features of historic properties, are exempt from review and comment by the MD SHPO and will be reviewed internally by the County. All items exempted from MD SHPO review are conditioned upon their meeting the *Standards*.
- 1) **Exterior**. The consulting parties agree that the following activities will either have no effect or no adverse effect on historic properties and warrant no MD SHPO review.
 - (a) caulking, weatherstripping, reglazing;
 - (b) in-kind sidewalk replacement;
 - (c) gutters and downspout replacements;
 - (d) repainting masonry; and
 - (e) repainting of exterior surfaces;
 - (f) replacement of non-visible roof surfaces and placement of skylights on non-visible roof surfaces;

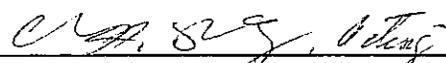
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- (g) repair or in-kind replacement of existing porch ceilings, steps, doors, railings and cornices on principal elevations;
 - (h) repair, replacement, or demolition of porch ceiling, steps, doors, railings, and cornices on secondary elevations;
 - (i) installation of storm windows;
 - (j) cleaning of masonry; and
 - (k) repairing or reconstructing exterior masonry.
- 2) **Interior.** The consulting parties agree that the following activities will have no effect or no adverse effect on historic properties and warrant no MD SHPO review.
- (a) plumbing system rehabilitation/replacement, to include pipes and fixtures in both bathrooms and kitchens;
 - (b) heating system rehabilitation/replacement, including furnace pipes, radiators or other heating unit;
 - (c) rehabilitation/replacement of electrical wiring;
 - (d) bathroom improvements for handicap access, provided that all work is concealed within the existing bathroom;
 - (e) interior surface (floors, walls, ceilings, woodwork) treatments, providing the work is restricted to repainting, refinishing, repapering or laying carpet or other flooring material; and
 - (f) insulation, provided it is restricted to ceilings and attic spaces.
- 3) **Other Activities.** The consulting parties agree that the following activities will have no effect or no adverse effect on historic properties and warrant no MD SHPO review.
- (a) acquisition or mortgage assistance when rehabilitation or construction is not anticipated as a result of, or in conjunction with, the proceeds of County assistance;
 - (b) repairs to project infrastructure and public facilities that do not disturb new ground;

Attachment B

The Programmatic Agreement between, Howard County, Maryland, and The Maryland State Historic Preservation Officer for the Administration of Federal and State Funded Housing Programs was reviewed by all signatories no greater than six months prior to August 1, 2009. It has been agreed that the Programmatic Agreement will be in effect until August 1, 2014. At any time in the six-month period prior to this date, the signatory parties shall consult to consider an extension or amendment of the Agreement. No extension or amendment will be effective unless all parties to the Agreement have agreed to it in writing by amending the Agreement.

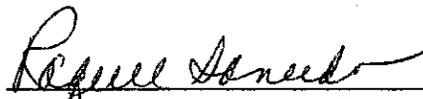
WITNESS:

HOWARD COUNTY, MARYLAND



Raquel Sanudo, Chief
Administrative Officer

setting



James N. Robey, County Executive

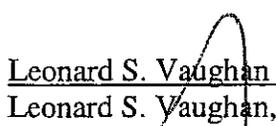
MARYLAND STATE HISTORIC PRESERVATION OFFICER

J. Rodney Little, Director
Maryland State Historic Preservation Officer

Date

CONCURRING PARTY

Department of Housing & Community Development

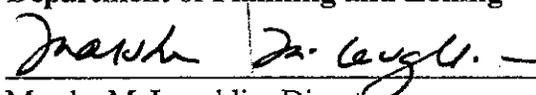


Leonard S. Vaughan, Director

6-30-04

Date

Department of Planning and Zoning



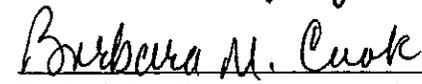
Marsha McLaughlin, Director

7/6/04

Date

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

this 14th day of July, 2004.

CAT 

Barbara M. Cook, County Solicitor

Execution and implementation of this Agreement evidences that the County has satisfied its Section 106 responsibilities for individual undertakings receiving HUD financing Howard County.

WITNESS:

HOWARD COUNTY, MARYLAND

Raquel Sanudo
Raquel Sanudo, Chief
Administrative Officer

James M. Robey
James M. Robey, County Executive
acting

MARYLAND STATE HISTORIC PRESERVATION OFFICER

J. Rodney Little, Director
Maryland State Historic Preservation Officer

Date

CONCURRING PARTY

Department of Housing & Community Development

Leonard S. Vaughan
Leonard S. Vaughan, Director

6-30-04
Date

Department of Planning & Zoning

Marsha McLaughlin
Marsha McLaughlin, Director

7/6/04
Date

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

this 14th day of July, 2004.

CM
Barbara M. Cook
Barbara M. Cook, County Solicitor

- (c) rehabilitation and demolition of properties less than 50 years old; and
 - (d) any items required by building, housing, fire, occupancy or other codes where the code dictates a single required treatment and does not provide for waiver under the section of the code relating to historic structures.
- C. If the *Standards* cannot be met, or the proposed treatment of the property is not rehabilitated, or the proposed work has the potential to affect archeological resources, or demolition is contemplated, or if the contemplated action could have an indirect effect on such properties, prior to taking any action, the County Historic Sites Planner will consult with the MD SHPO as per Stipulation V, 2.

2. Review Process

The County will afford the MD SHPO the opportunity to comment on the proposed work write-up for all Historic Properties unless the work on a Historic Property is exempted from review under the provision of Stipulation V, 1 of this Agreement.

- A. **Request for Review.** The County Historic Sites Planner will submit all the applicable project documentation listed below to the MD SHPO.
- 1) Photograph of the property
 - 2) Location map
 - 3) Work Write-Up
 - 4) Notation of previous eligibility determination
- B. **Review Time Frames.** The MD SHPO will provide written comments on a Project within 30 days after receipt of an adequately documented request for review. If the MD SHPO determines that the Project information is incomplete, the MD SHPO will advise the Historic Sites Planner of any additional information required. [The time permitted for review will not include the time from the date of the MD SHPO's request for additional information to the date of receipt by the MD SHPO of the additional information submitted by the Historic Sites Planner.]
- C. **MD SHPO Comments.** The MD SHPO comments will include recommendations for modifying project plans so as to be consistent with the *Standards*.
- D. **Incorporation of Comments.** Upon receipt of the comments from the MD SHPO, the County Historic Sites Planner will evaluate the comments. If the Historic Sites Planner determines that all the suggested changes cannot be made and that the undertaking will result in an adverse effort pursuant to 36 CFR 800.6, the Historic Sites Planner will adhere to Stipulation V, 2, E of this Agreement