

**PROGRAMMATIC AGREEMENT
AMONGST THE
CITY OF MANCHESTER, NEW HAMPSHIRE,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
AND
THE NEW HAMPSHIRE STATE HISTORIC PRESERVATION
OFFICER**

WHEREAS, the City of Manchester (City) proposes to administer its Entitlement Program (Community Development Block Grant Program, HOME Investment Partnerships Program, Lead Hazard Control Program and the Emergency Shelter Grant Program), with funds from the United States Department of Housing and Urban Development under Title I of the Housing and Community Development Act of 1974 and the Housing Act of 1937, under Title II of the National Affordable Housing Act of 1990, under Title X of the Housing and Community Development Act of 1992 and under Subtitle B of Title IV of the McKinney-Vento Homeless Assistance Act, and

WHEREAS, for the purposes of this Agreement, the City's Entitlement Program makes funding available to assist City departments, individuals, for profit businesses and not for profit organizations implement projects and programs including, housing initiatives, public facilities, handicap accessibility improvements and public services in the City of Manchester, New Hampshire, and

WHEREAS, the City has determined that the administration of its Entitlement Program may have an effect upon properties that are listed or eligible for listing in the National Register of Historic Places and has consulted with the New Hampshire State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (Council) pursuant to 36 CFR 800.13 of the Council's regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f),

Now Therefore, the City and the New Hampshire SHPO and the Council agree that the programs shall be administered in accordance with the following stipulations to satisfy the City's Section 106 responsibilities for individual undertakings of the program.

Stipulations

The City will ensure that the following measures are carried out;

I. Identification of Properties

In accordance with 36 CFR 800.4, the City in consultation with the New Hampshire SHPO will identify historic properties.

- a. **Level of Identification Efforts –**
1. City will complete reconnaissance level forms (items #1-40) according to the New Hampshire Division of Historical Resources' (DHR) guide, "How to Complete the New Hampshire Individual Inventory Form" and submits this for DHR's review. DHR may request intensive level or full survey form (Items #40-48) only as needed to determine whether a property is eligible for listing in the national Register.
 2. DHR's site files and previous reviews are available for the City to review prior to making a reconnaissance level survey.
 3. City may choose to complete full inventory form in order to expedite review.
 4. City will submit inventory forms as soon as target properties are identified in order to expedite review and project schedules.
 5. If ground disturbing activities are proposed (other than lateral water and sewer line replacement), the City will consult with the New Hampshire SHPO prior to any such activity to determine if the activity has the potential to affect National Register or National Register – eligible archaeological properties. If such potential exists, the City will conduct an archaeological survey in accordance with 36 CFR 66, Appendices B and C.
 6. If archaeological resources are found which meet the National Register criteria, they will be avoided or preserved in place whenever feasible. If this is not feasible, the City will consult with the New Hampshire SHPO to develop and implement a treatment consistent with the Council's handbook, Treatment of Archaeological Properties, and approved by the New Hampshire SHPO.
- b. Due to their non-adverse impacts, the following activities are exempt from the New Hampshire SHPO's review and do not require further consultation with the New Hampshire SHPO:
1. Electrical work (upgrading or in-kind replacement).
 2. Roof covering (not framing, boards, etc.) In-kind materials replacement.
 3. Plumbing (upgrading or in-kind replacement).
 4. Installation of new heating systems.
 5. Painting in a complementary or in-kind color.
 6. Interior improvements required to bring buildings into compliance with the Americans with Disabilities Act (ADA).
 7. Lead Hazard Control Activities:

- Paint stabilization on interior and exterior surfaces by removing flaking paint and repainting affected areas.
 - ii. Removing and replacing interior trim and baseboard with in kind materials.
 - iii. Removing and replacing interior and exterior doors with matching components. Original front entrance doors to be labeled, plastic wrapped and stored on site.
 - iv. Removing and replacing existing window sash with new vinyl clad wood components to match the visual components of the historic sash (Multiple pane configurations to be replicated with true window muntins).
 - v. Removing and replacing existing carpeting, linoleum or tile with in-kind material.
8. Work on any building that is less than 50 years of age.

II. Treatment

Properties that are listed on the National Register or that are considered to be individually eligible for the National Register, or that are located within a district and considered to be eligible for the National Register, will be treated in the following manner:

- a. Properties that are to be rehabilitated will be rehabilitated in accordance with the recommended approaches in *The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Rehabilitating Historic Buildings* (as revised 1995 and 2001).
- b. Prior to undertaking any activities that are not exempt under stipulation I (b), the City will forward information on the rehabilitation projects (including work write-ups and photographs, as necessary) to the New Hampshire SHPO for review and concurrence to ensure that above noted standards are being met.
- c. If the above noted standards cannot be met, or if demolition is proposed, or if the proposed activity may have an indirect effect on such properties, prior to taking any action, the City will consult with the New Hampshire SHPO and initiate the procedures set forth at 36 CFR 800.6.

III. Public Involvement

Each year the City will notify the public of the City's current Entitlement programs and make available for public inspection documentation on the City's

Entitlement programs. Included in this documentation will be general information on the Entitlement programs; information on the type(s) of activities undertaken with Entitlement funds; information on identified historic properties which might be affected by these activities; the amount of Entitlement funds available in the current program year; and how interested persons can receive further information on the programs.

Administrative Conditions

A. Personnel Qualifications

For projects that have been determined to have an adverse effect to National Register properties, the City shall ensure that all historic preservation work carried out pursuant to this PA will be by or under the direct supervision of a person or persons meeting at a minimum the Secretary of the Interior's Professional Qualification Standards for Architectural Historian Professionals (48 FR 44738-9). The City shall ensure that all archaeological investigations carried out pursuant to this Agreement will be by or under the direct supervision of a person or persons meeting at a minimum the Secretary of the Interior's Professional Qualification Standards for Archaeologists (48 FR 44738-9).

B. Late Discovery

If any unanticipated discoveries of historic properties or archaeological sites are encountered during any of the work covered under this PA, the City shall suspend work in the area of the discovery and shall comply with 36 CFR § 800.6(c)(6). The City will notify the SHPO within twenty-four (24) hours of the discovery. The City and the SHPO will meet at the location within seventy-two (72) hours of the SHPO's initial notification to determine appropriate treatment of the discovery prior to the resumption of construction activities in the area of the discovery.

C. Amendments

Any party to this PA may propose that the MOA be amended, whereupon the parties shall consult with one another to consider such an amendment in accordance with 36 CFR § 800.6(c)(7).

D. Resolving Objections

1. Should any party to this PA object in writing to the City regarding any action carried out or proposed with respect to any work covered under this agreement or to the manner in which such work is being implemented under this PA, the City shall consult with the objecting party to resolve the objection. If after initiating such consultation, the City determines that the objection cannot be resolved through consultation, the City shall forward

all documentation relevant to the objection to the Advisory Council on Historic Preservation (Council) including the City's proposed response to the objection. Within thirty (30) days after receipt of all pertinent documentation, the Council shall exercise one of the following options:

- a) Advise the City that the Council concurs in the City's proposed response to the objection, whereupon the City shall respond to the objection accordingly; or
- b) Provide the City with recommendations, which the City shall take into account in reaching a final decision regarding its response to the objection; or
- c) Notify the City that the objection will be referred for comment pursuant to 36 CFR § 800.7, and proceed to refer the objection and comment. The resulting comment shall be taken into account by the City in accordance with 36 CFR § 800.7(c)(4) and Part 110(1) of the NHPA.

2. Should the Council not exercise one of the above options within thirty (30) days after receipt of all pertinent documentation, the City may assume the Council's concurrence in its proposed response to the objection.

3. The City shall take into account any Council recommendation or comment provided in accordance with this stipulation with reference only to the subject of the objection; the City's responsibility to carry out all actions under this PA that are not the subjects of the objection shall remain unchanged.

E. Resolution of Objections by the Public

Should an objection pertaining to historic preservation or implementation of the terms of this PA be raised by a member of the public in a timely and substantive manner, the City shall notify the parties to this PA and take the objection into account, consulting with the objector and, should the objector so request, with any of the parties to this PA to resolve the objection.

F. Review of Implementation

If the stipulations have not been implemented within two (2) years after execution of this PA, the parties to this agreement shall review the PA to determine whether revisions are needed. If revisions are needed; the parties to this PA shall consult in accordance with 36 CFR § 800 to make such revisions.

G. Sunset/Duration

If the terms of this PA have not been implemented by five (5) years from date of signed PA, this PA shall be considered null and void. In such event the City shall so notify the parties to this PA, and if it chooses to continue with the undertakings covered under this agreement, shall reinitiate review of such projects in accordance with 36 CFR § 800.

H. Termination

1. If the City determines that it cannot implement the terms of this PA, or the SHPO determines that the PA is not being properly implemented, the City or the SHPO may propose to the other parties to this PA be terminated.
2. The party proposing to terminate this PA shall so notify all parties to this PA, explaining the reasons for termination and affording them at least thirty (30) days to consult and seek alternatives to termination. The parties shall then consult.
3. Should consultation fail, the City or the SHPO may terminate the PA by so notifying all parties.
4. Should this PA be terminated, the City shall either:
 - a) Consult in accordance with 36 CFR § 800.6(a)(1) to develop a new PA; or
 - b) Request the comments of the Council pursuant to 36 CFR § 800.7(a)(1). The Council shall have forty-five (45) days to respond with comments.
5. The City and the Council may conclude the Section 106 process with an PA between them if the SHPO terminates consultation in accordance with 36 CFR § 800.7(a)(2)

Execution of this Programmatic Agreement and carrying out its terms evidences that the City has afforded the Council a reasonable opportunity to comment on these undertakings and has satisfied its Section 106 responsibilities for all individual undertakings of these programs.

THE CITY OF MANCHESTER, NEW HAMPSHIRE:

By: 

Date: 10.5.03

Robert A. Baines, Mayor of Manchester

NEW HAMPSHIRE STATE HISTORIC PRESERVATION OFFICER

By: 

Date: 11/20/03

NH State Historic Preservation Officer

ACCEPTED:

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:

Chairman