

PROGRAMMATIC AGREEMENT (PA)
AMONG
THE CITY OF LOS ANGELES,
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER,
AND THE ADVISORY COUNCIL ON HISTORIC
REGARDING HISTORIC PROPERTIES AFFECTED BY USE OF
COMMUNITY DEVELOPMENT BLOCK GRANTS; RENTAL REHABILITATION
BLOCK GRANTS; MCKINNEY ACT HOMELESS PROGRAMS INCLUDING THE
EMERGENCY SHELTER GRANTS PROGRAM, TRANSITIONAL HOUSING,
PERMANENT HOUSING FOR THE HOMELESS HANDICAPPED, AND
SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS;
HOME INVESTMENT PARTNERSHIP FUNDS, AND THE SHELTER
PLUS CARE PROGRAM

WHEREAS, the City of Los Angeles (City) proposes to administer and fund programs in the City of Los Angeles with revenues from the Community Development Block Grant Program (CDBG) of the U.S. Department of Housing and Urban Development (HUD) under Title I of the Housing and Community Development Act of 1974; the Rental Rehabilitation Block Grant Program of HUD under Section 17 of the U.S. Housing Act of 1937; the McKinney Homeless Programs, including the Emergency Shelter Grants Program, Transitional Housing, Permanent Housing for the Homeless Handicapped, and Supplemental Assistance for Facilities to Assist the Homeless; the HOME Investment Partnership Program; the Shelter Plus Care Program and any other program delegated by HUD to the City of Los Angeles pursuant to 24 CFR Part 58 (Programs); and

WHEREAS, the City has determined that implementation of these Programs may have an effect upon properties included in or eligible for inclusion in the National Register of Historic Places (Historic Properties) and has consulted with the Advisory Council on Historic Preservation (Council) and the California State Historic Preservation Officer (SHPO) pursuant to Section 800.13 of the regulations, 36 CFR Part 800, implementing Section 106 of the National Historic Preservation Act, (16 U.S.C. 470f); and

WHEREAS, Historic Resources Group (HRG) participated in the consultation as the City's Historic Preservation Consultant (HPC) and has been invited to concur in this PA;

NOW, THEREFORE, the City, the 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 all individual undertakings of the Programs.

STIPULATIONS

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

I. APPLICABILITY OF THE PA

A. The City shall comply with the stipulations set forth in this PA for all undertakings that (1) are assisted in whole or in part by revenues from the HUD Programs listed above and that (2) can result in changes in the character or use of any Historic Properties that are located in an undertaking's Area of Potential Effect (APE), as defined in Stipulation IV., below.

B. The review process established by this PA shall be completed before the City's final approval of any application for assistance under these Programs, before a property is altered by either the City or a property owner, and before either the City or a property owner initiates construction or make an irrevocable commitment to construction that may affect a property fifty (50) years old or older.

C. Any undertaking not qualifying for review under the terms of this PA shall be reviewed in accordance with 36 CFR Part 800.

II. COORDINATION WITH OTHER FEDERAL AGENCIES

If the City determines that an undertaking subject to this PA will also receive funding or assistance from any federal agency the City shall determine if it is feasible to coordinate the review required by this PA with the Section 106 review conducted by the federal agency, notify the SHPO and the Council, and share documentation as appropriate to facilitate this review. If the City determines that such coordination is not feasible, it shall provide the SHPO and the Council with an explanation and may proceed to conclude the consultation process.

III. UNDERTAKINGS NOT REQUIRING REVIEW BY SHPO OR COUNCIL

The following undertakings do not require review by SHPO or Council and no signatory is required by this PA to determine the National Register of Historic Places (NRHP) eligibility of properties affected by these undertakings:

A. Undertakings only affecting properties that are less than fifty (50) years old.

B. Undertakings limited exclusively to interior portions of single family residential properties where the proposed work will not be visible from the property's exterior.

C. Undertakings limited exclusively to the activities listed in Appendix A of this PA. Undertakings not so limited shall be reviewed pursuant to this PA. Undertakings exempt from review pursuant to Appendix A shall be designed to conform to the greatest feasible extent with the California State Historic Building Code [State of CA, Title 24, Building Standards, Part 8] (SHBC).

D. The City shall document actions taken pursuant to this Stipulation in the manner prescribed by Stipulation XVIII.A.

IV. HISTORIC PRESERVATION CONSULTANT (HPC); HPC RESPONSIBILITIES; CITY RESPONSIBILITIES; CITY STAFFING

A. HPC

The City shall retain the services of an HPC who at a minimum meets the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-39) in History, Architectural History and Historical Architecture and who is approved in writing by the SHPO. In this regard, the City has retained the services of HRG, Christy Johnson McAvoy, Principal. Unless it is terminated for other reasons cited in its Stipulations, this PA shall remain in effect so long as the City retains HRG or another qualified HPC approved in writing by the SHPO. The City shall promptly notify the other signatories to this PA if it intends to replace HRG with another qualified HPC.

B. HPC and City Responsibilities

With the exceptions cited below, the City may assign its responsibilities under the terms of this PA to the HPC. All references to the City in Stipulations not covered by this provision shall apply equally to the HPC.

1. **Exceptions:** The City shall NOT assign the following responsibilities to the HPC. However, the HPC may assist the City in carrying these responsibilities out:

(a) Overall and ultimate responsibility for ensuring that the terms of this PA are carried out.

(b) Making the determinations specified in Stipulation II.

(c) Submitting National Register of Historic Places (NRHP) eligibility disagreements to the Keeper pursuant to Stipulation VI.D.b.

(d) Approving applications for assistance and authorizing an undertaking to proceed in accordance with the terms of this PA.

(e) Executing Standard Mitigation Measure Agreements (SMMAs) pursuant to Stipulation VIII.

- (f) Initiating the consultation process set forth in 36 CFR Section 800.5(e).
- (g) Making determinations and taking actions in accordance with Stipulation IX.B.,C., "Emergency Undertakings".
- (h) Suspending construction pursuant to Stipulation XII.A.
- (i) Taking objections into account and suspending work on an undertaking pursuant to Stipulation XIII.C.
- (j) Resolving disputes pursuant to Stipulation XV.
- (k) Addressing anticipatory demolition pursuant to Stipulation XVI.
- (l) Facilitating monitoring by SHPO and Council pursuant to Stipulation XVII.
- (m) Retaining documentation required by Stipulation XVIII. in its project files and submitting Programmatic Agreement Compliance Reports (PACRs) to the SHPO and HUD as specified.
- (n) Initiating the PA amendment process pursuant to Stipulation XIX.
- (o) Terminating this PA pursuant to Stipulation XX.
- (p) Complying with the requirements of Stipulation XXI.

C. The City shall allocate staff as necessary to ensure that its responsibilities under this PA are carried out. Such staff shall monitor undertakings included in Appendix A of this PA and shall certify that the manner in which they were implemented was consistent with the content of Appendix A. Such staff shall also certify that all other work subject to this PA was carried out in compliance with its terms and shall include such certification in the documentation required pursuant to Stipulation XVIII., "Documentation and Reporting of Activities", below.

V. AREA OF POTENTIAL EFFECTS

- A. The Area of Potential Effects for undertakings covered by this PA shall be limited to the legal lot lines of a property when the undertaking consists exclusively of rehabilitating a property's interior or exterior features. In all other cases, the APE shall be established by the City.
- B. If a member of the public objects to the manner in which the APE for an undertaking has been delineated, the City shall take the objection into account pursuant to Stipulation XIII.C.

VI. IDENTIFICATION AND EVALUATION OF HISTORIC PROPERTIES

A. The City shall review existing information on properties within an undertaking's APE to determine if such properties may be Historic Properties. At a minimum, the City shall review:

- (1) the current listing of the NRHP.
- (2) lists of historic properties maintained by the City and SHPO.

B. If a property is listed in or has already been determined eligible for listing in the NRHP, the City shall proceed in accordance with Stipulation VII. unless the undertaking is exempted by Stipulation III.

C. If any agency, in consultation with the SHPO, has determined a property to be ineligible for listing in the NRHP within a period of five (5) years prior to the City's approval of an undertaking covered by this PA and if no other provision of this PA requires the City to take further steps with respect to the undertaking, the City shall document the actions taken in the manner prescribed by Stipulation XVIII.A. and may authorize the undertaking to proceed without further review.

D. Unless exempted pursuant to Stipulation II. or to Sections B. and C. of this Stipulation, the City shall evaluate all properties that may be affected by an undertaking using the National Register Criteria set forth in 36 CFR Section 60.4. All evaluations shall be documented by the City on a State of California Historic Resources Inventory Form - DPR 523.

1. If the City determines that a property is eligible for inclusion in the NRHP, the determination shall be documented and submitted by the City to the SHPO for review.

a. If the SHPO concurs in the determination, the property shall be considered an Historic Property under this PA.

b. If the SHPO does not concur in the determination, the City and the SHPO shall immediately consult for a period of time not to exceed ten (10) calendar days to resolve the disagreement. If the disagreement cannot be resolved within this time frame, the City shall obtain a determination of NRHP eligibility from the Keeper of the National Register in accordance with 36 CFR Section 800.4(c)(4). The Keeper's determination shall be final and binding on the parties to this PA.

c. If the SHPO does not respond to the City's determination within fifteen (15) calendar days following receipt, the City may assume that the SHPO does not object to the determination and shall proceed in accordance with any other applicable requirements of this PA.

2. If the City determines that a property is not eligible for inclusion in the NRHP, the City may proceed in accordance with any other applicable requirements of this PA. The City is not required to submit such determinations individually to the SHPO for review but shall submit them semi-annually as part of the documentation required pursuant to Stipulation XVIII. of this PA. Such properties shall not be considered Historic Properties under this PA for a period of five (5) years following the date of the determination and need not be re-evaluated during this time frame unless any signatory to this PA notifies the other signatories in writing that changing perceptions of significance justify a re-evaluation.

VII. TREATMENT OF HISTORIC PROPERTIES

A. Section B (Rehabilitation - Option 1) of this Stipulation shall be followed when an undertaking does NOT involve investment tax credits pursuant to Section 47 of the Internal Revenue Code of 1986, as amended (IRC), when Part 2 certification under the IRC is denied, or when an undertaking is not changed in accordance with any conditions attached to Part 2 certification under the IRC. Otherwise, Section C (Rehabilitation - Option 2 - IRC) of this Stipulation shall be followed.

B. Rehabilitation - Option 1

The City shall ensure that scopes of work, plans and specifications for undertakings that may affect Historic Properties and that are not exempt from review under this PA, conform to the recommended approaches in the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, 1994 (Standards) and to the greatest feasible extent, to the SHBC.

1. The City shall review appropriate project documents to determine conformance of the undertaking with the Standards and the SHBC.

(a) If the City determines that the undertaking conforms to the Standards and the SHBC and if no other provision of this PA requires the City to take further steps with respect to the undertaking, the City shall document the actions taken in the manner prescribed by Stipulation XVIII.A. and may authorize the undertaking to proceed without further review.

(b) If the City determines that the undertaking does not conform to the Standards and the SHBC, the City shall recommend changes to ensure that the undertaking conforms to the Standards and the SHBC. If the recommended changes are adopted, the City shall determine that the undertaking conforms to the Standards and the SHBC. If no other provision of this PA requires the City to take

further steps with respect to the undertaking, the City shall document the actions taken in the manner prescribed by Stipulation XVIII.A. and may authorize the undertaking to proceed without further review.

(c) If the undertaking is not changed to conform to the Standards and the SHBC, the City and the SHPO shall consult for a period of time not to exceed thirty (30) calendar days to develop an SMMA in accordance with Stipulation VIII. unless the SHPO determines that development of an SMMA is not appropriate. If an SMMA is developed and executed by the City and the SHPO, and if no other provision of this PA requires the City to take further steps with respect to the undertaking, the City shall document the actions taken in the manner prescribed by Stipulation XVIII.A. and may authorize the undertaking to proceed without further review.

(d) When the undertaking does not meet the Standards and the SHBC and the SHPO determines that development of an SMMA is not appropriate, the City shall immediately notify the Council and initiate the consultation process set forth in 36 CFR Section 800.5(e).

C. Rehabilitation - Option 2 - IRC

1. If the owner of a property subject to the terms of this PA applies for investment tax credits pursuant to the IRC, the City shall ensure that the following measures are implemented before authorizing the undertaking to proceed:

a. If the property owner applies to the National Park Service (NPS) for Part 1 Certification and is denied certification, no further review of the undertaking is required effective the date of NPS denial, unless the undertaking may affect other Historic Properties. If no other Historic Properties may be affected, the City may determine in writing that there are no Historic Properties within the undertaking's APE. If no other provision of this PA requires the City to take further steps with respect to the undertaking, the City shall document the actions taken in the manner prescribed by Stipulation XVIII.A. and may authorize the undertaking to proceed without further review.

b. If the property owner submits a Part 2 Historic Preservation Certification Application to NPS, the review required by the certification process shall supersede the Option 1 review specified above. If the undertaking receives Part 2 certification from NPS without conditions, it shall be deemed to conform to the Standards and will require no further review under this PA. If the undertaking is certified with conditions, the City shall ensure that the undertaking is changed in accordance with these conditions. If the undertaking is changed accordingly, no further review under this PA will be required. The City shall document successful completion of the Part 2 certification process in the manner prescribed by Stipulation XVIII.A, and may authorize the undertaking to proceed.

c. If Part 2 certification is denied or if the undertaking is not changed in accordance with conditions attached to the certification, review of the undertaking shall proceed in accordance with Section B.1.c. or B.1.d. of this Stipulation.

D. Relocation of Historic Properties - Individual Properties and Historic District Contributors

1. If relocation of an Historic Property is an undertaking or part of an undertaking subject to this PA and the Property contributes to an historic district, every reasonable effort shall be made by the City to relocate the Property within the same historic district. Before approving any relocation, the City shall forward to the SHPO documentation that explains the need for relocation, describes the relocation site, indicates why the proposed relocation site was selected, states whether the relocation site contains archeological properties, and summarizes the alternatives to relocation that were considered. If the SHPO does not respond to the City's submittal within fifteen (15) calendar days following receipt and if no other provision of this PA requires the City to take further steps with respect to the undertaking, the City shall document the actions taken in the manner prescribed by Stipulation XVIII.A. and may authorize the undertaking to proceed without further review.

a. If the SHPO agrees to the relocation as proposed and if no other provision of this PA requires the City to take further steps with respect to the undertaking, the City shall document the actions taken in the manner prescribed by Stipulation XVIII.A. and may authorize the undertaking to proceed without further review.

b. If the SHPO does not agree to the relocation as proposed, the City and the SHPO shall consult for a period of time not to exceed thirty (30) calendar days to identify a mutually acceptable relocation site. If the City and SHPO identify a mutually acceptable relocation site and if no other provision of this PA requires the City to take further steps with respect to the undertaking, the City shall document the actions taken in the manner prescribed by Stipulation XVIII.A. and may authorize the undertaking to proceed without further review.

c. Any relocation of Historic Properties pursuant to this PA shall be carried out in accordance with the recommended approaches in Moving Historic Buildings (John Obed Curtis) by a professional mover who has the capability to move historic properties properly.

d. If no mutually acceptable relocation site is identified, the City and the SHPO shall consult to develop an SMMA in accordance with Stipulation VIII. unless the SHPO determines that an SMMA is not appropriate. If an SMMA is developed and no other provision of this PA requires the City to take further steps with respect to the undertaking, the City shall document the actions taken in the manner prescribed by Stipulation XVIII.A. and may authorize the undertaking to proceed without further review.

e. When no mutually acceptable relocation site is identified or the SHPO determines that an SMMA is not appropriate, the City shall immediately notify the Council and initiate the consultation process set forth in 36 CFR Section 800.5(e).

E. Demolition

1. If demolition of an Historic Property is an undertaking or part of an undertaking subject to this PA, the City shall forward documentation to the SHPO that explains the need for demolition, includes a structural analysis of the Property, summarizes alternatives considered, discusses future plans for the site, sets forth a mitigation plan and includes the views of the public. If the SHPO does not respond to the City's submittal within fifteen (15) calendar days following receipt, the City shall initiate the consultation process set forth in 36 CFR Section 800.5(e).

2. If the SHPO agrees to the proposed demolition and determines that development and execution of an SMMA in accordance with Stipulation VIII. is appropriate, the City and the SHPO shall proceed with development and execution of an SMMA. If no other provision of this PA requires the City to take further steps with respect to the undertaking, the City shall document the actions taken in the manner prescribed by Stipulation XVIII.A. and may authorize the undertaking to proceed without further review.

3. When the SHPO does not agree to the proposed demolition or determines that development of an SMMA is not appropriate, the City shall immediately notify the Council and initiate the consultation process set forth in 36 CFR Section 800.5(e).

F. New Construction and Relocation of Non-Historic Properties

1. The City shall ensure that the design of any new construction, infill construction or of additions to Historic Properties is compatible with the historic qualities of the Historic Property, of any historic district or of adjacent historic buildings in terms of size, scale, massing, color, features, and materials and that the design is responsive to the recommended approaches for new construction set forth in the Standards. In addition, the City shall ensure that any proposal to move a non-historic property next to an Historic Property or into an historic district as well as any subsequent work on the exterior of the non-historic property, is responsive to the recommendations set forth in the "District/Neighborhood" section of the Standards.

a. The City shall review appropriate project documents to determine conformance of the undertaking to the design requirements set forth in the Section F. 1. of this Stipulation.

(b) If the City determines that the undertaking conforms and if no other provision of the PA requires the City to take further steps with respect to the undertaking, the City shall document the actions taken in the manner prescribed by Stipulation XVIII.A. and may authorize the undertaking to proceed without further review.

(c) If the City determines that the undertaking does not conform or would otherwise result in an adverse effect to Historic Properties, the City shall recommend changes to ensure that the undertaking conforms or that adverse effects can be avoided. If the recommended changes are adopted, the City shall determine that the undertaking conforms to the design requirements set forth in Section F.1. of this Stipulation and will otherwise not adversely affect Historic Properties. If no other provision of this PA requires the City to take further steps with respect to the undertaking, the City shall document the actions taken in the manner prescribed by Stipulation XVIII.A. and may authorize the undertaking to proceed without further review.

(d) If the recommended changes are not adopted, the City and the SHPO shall consult for a period of time not to exceed thirty (30) calendar days to develop an SMMA in accordance with Stipulation VIII. unless the SHPO determines that development of an SMMA is not appropriate. If an SMMA is developed and executed and no other provision of this PA requires the City to take further steps with respect to the undertaking, the City shall document the actions taken in the manner prescribed by Stipulation XVIII.A. and may authorize the undertaking to proceed without further review.

(e) When an undertaking does not conform to the design requirements set forth in Section F.1. of this Stipulation, will otherwise adversely affect Historic Properties, or the SHPO determines that development of an SMMA is not appropriate, the City shall immediately notify the Council and initiate the consultation process set forth in 36 CFR Section 800.5(e).

VIII. RESOLUTION OF ADVERSE EFFECTS

A. When required by the terms of this PA, the City and the SHPO shall consult for a period of time not to exceed thirty (30) calendar days to determine if Historic Properties affected by an undertaking should be treated in accordance with the Standard Mitigation Measures set forth in Appendix B of this PA or if the consultation process set forth in 36 CFR Section 800.5(e) should be initiated.

1. As part of this consultation, the City shall provide the SHPO with documentation that may include but may not necessarily be limited to an alternatives analysis, recent structural analyses or other assessments of an Historic Property's condition, cost

estimates for rehabilitation, information about any economic, social or program-related considerations that should be taken into account, marketing studies and a draft SMMA prepared in accordance with Appendix B of this PA.

2. If the City and the SHPO determine that the effects of the undertaking may be resolved by executing and implementing an SMMA, the City and the SHPO shall execute and the City shall implement an SMMA developed in compliance with Appendix B of this PA. The City shall promptly furnish the SHPO with a copy of the fully executed SMMA. If no other provision of this PA requires the City to take further steps with respect to the undertaking, the City shall document the actions taken in the manner prescribed by Stipulation XVIII.A. and may authorize the undertaking to proceed without further review.

3. If the City and the SHPO cannot agree on the terms of an SMMA or if the SHPO does not respond to the City's request for consultation within the time frame applicable to this consultation, the City shall notify the Council and initiate the consultation process set forth in 36 CFR Section 800.5(e).

B. The City and the SHPO shall not execute an SMMA under any of the following circumstances:

1. When the SHPO determines that an SMMA is not appropriate for the undertaking;
2. When the SHPO fails to respond within the time frame applicable to this consultation;
3. When the undertaking will adversely affect a National Historic Landmark;
4. When the public objects to an undertaking, to the manner of its implementation or to the manner in which the effects of the undertaking on Historic Properties will be taken into account;
5. When human remains are present within the undertaking's APE.

IX. EMERGENCY UNDERTAKINGS

A. This Stipulation shall apply only to situations (emergency conditions) in which a duly authorized local official has determined in accordance with applicable law, that an imminent threat to the public health and safety exists and that such threat must be removed forthwith.

B. When the City determines that emergency conditions require immediate demolition of an Historic Property in connection with an activity subject to this PA, the City may in writing concurrently