

**PROGRAMMATIC AGREEMENT
BETWEEN
THE CITY OF CINCINNATI, OHIO
AND
THE OHIO HISTORIC PRESERVATION OFFICE**

**FOR THE CITY'S PROGRAMS FUNDED THROUGH
THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

WHEREAS, the City of Cincinnati, Ohio (hereinafter "City") receives funds for the Community Development Block Grant (CDBG), the Rental Rehab Program (RRP), Home Investment Partnership (HOME), Emergency Shelter Grant (ESG), Economic Development Revolving Loans, and Supportive Housing programs as administered by the U.S. Department of Housing and Urban Development (HUD), and

WHEREAS, the City has determined that these programs administered by the Department of Economic Development and the Department of Neighborhood Services through December 31, 2003 may have an effect on properties included in or eligible for inclusion in the National Register of Historic Places (hereinafter "National Register"), and has consulted with Ohio Historic Preservation Office (hereinafter "OHPO") pursuant to Section 106 and Section 110(f) of the National Historic Preservation Act (16 U.S.C. 470) and its implementing regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800); and

WHEREAS, the City's Director of City Planning will administer the terms of this Programmatic Agreement (hereinafter "PA") and will assign City personnel from the Department of City Planning (hereinafter "Staff") to undertake the review of all programs covered within this agreement; and,

WHEREAS, all capitalized terms shall have the meaning ascribed to them by 36 CFR Part 800 unless otherwise defined by this agreement.

NOW, THEREFORE, the City and the OHPO agree that these programs shall be administered in accordance with the stipulations stated in this PA to take into account the effect of individual Undertakings carried out under these programs on Historic Properties:

STIPULATIONS

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

I. Qualified Personnel

- A. The City shall ensure that its Department of City Planning shall employ as the Urban Conservator one who meets the Secretary of the Interior's Professional Qualifications Standards, found in Appendix A to 36 CFR Part 61 (hereafter "Urban Conservator").
- B. The City shall ensure that all historic preservation work carried out pursuant to this Agreement is conducted by or under the direct supervision of the Urban Conservator.
- C. The City will provide the OHPO with the qualifications and name of the Urban Conservator designated to carry out the terms of this PA.

- (a) Exterior scraping with non-destructive means and painting of wood siding, features and trim; exterior painting of brickwork, if existing surfaces are already painted.
 - (b) Repair or replacement in-kind of asphalt, fiberglass shingle, asbestos or metal roofs; replacement of structural roof components or decking; and replacement of a flat roof not visible from a public right of way.
 - (c) Repair or replacement in-kind of historic attic vents in original openings.
 - (d) Installation of screens and storm windows provided they:
 - (1) Completely fill the original window opening.
 - (2) Match the meeting rail or other major divisions.
 - (3) Outside storms must not protrude beyond the face of the building.
 - (4) Interior storms must not cause damage to the original interior trim.
 - (5) Interior storms must be designed to seal completely so as to protect the primary window from condensation damage.
 - (e) Installation of storm doors, if they are undecorated and are anodized or painted to complement existing trim.
 - (f) Repair of porches, cornices, exterior siding, doors, balustrades, stairs, or other trim as long as any new material matches existing features in composition, design, color, texture and other visual and physical qualities.
 - (g) Repair of masonry foundations, walls, or chimneys by repointing using matching mortar composition, color, joint width and profile; removal of deteriorated secondary chimneys.
 - (h) Repair or replacement of gutters and downspouts.
 - (i) Rebuilding of existing wheelchair ramps.
 - (j) Caulking, reglazing and weather-stripping
- (4) Interior Rehabilitation Activities
- (a) Repair, replacement, or installation of electrical, heating and ventilation (HVAC) and plumbing systems, where no structural or decorative feature alteration is involved.
 - (b) Installation of insulation in floors, attics and openings and installation in side walls from the interior.
 - (c) Repair of wood floors, installation of new floor coverings, except for vinyl covering or carpet over wood flooring in main living areas where the existing hardwood floors are in good condition.
 - (d) Repair of plaster walls and ceilings by patching plaster where possible, or repairing with drywall that has a smooth finish when plaster repairs are not feasible.

- (2) If the Urban Conservator determines that a survey is needed to identify and evaluate Historic Properties, other than archeological properties eligible for listing in the National Register, then the City will ensure that such a survey is implemented. Identification of archeological sites will be conducted in accordance Stipulation III. D. 3. of this PA.
 - (a) Survey work will be conducted in accordance with the Secretary of the Interior's Archeological and Historic Preservation: Standards and Guidelines (1983), OHPO guidelines and previous studies.
 - (b) All survey reports will be submitted to the OHPO for review and acceptance.
- (3) For proposed ground disturbing activities that are not exempt under Stipulation H., the City will notify the OHPO and will submit adequate project documentation (as outlined in the Determination of Historic Eligibility form) to the OHPO for review.
 - (a) Prior to approval of the Undertaking, the City shall request that, within thirty (30) days of receiving adequate documentation, the 01-IPO provide the City with a written decision regarding the need to conduct an archeological identification and evaluation survey within the project's APE.
 - (b) If, on the basis of a high probability for the presence of significant archeological properties within the APE, the OHPO requests that an archeological survey designed to identify and evaluate historic properties be conducted, the City will ensure that such an archeological survey is implemented within the project area by or under the direct supervision of a qualified professional archeologist who meets the Secretary of the Interior's Professional Qualifications Standards (36 CFR Part 61 Appendix A). The city shall submit the scope of work for the archeological survey to the OHPO for review and acceptance.
 - (c) If the OHPO does not request a survey, no further review of the ground-disturbing activities is required under this PA.
 - (d) On the basis of the results of the archeological survey, the Urban Conservator and the OHPO shall consult to determine whether archeological properties listed in or eligible for listing in the National Register will be affected by the proposed Undertaking. Any disagreement between the Urban Conservator and the OHPO regarding the eligibility of an archeological property shall be resolved in accordance with 36 CFR Section 800.4(c).
- (4) If the Urban Conservator determines that a historic property is located within the APE, the Urban Conservator will record the determination on the Determination of Historic Eligibility Form and treat the Historic Property in accordance with Stipulation IV.
- (5) If the Urban Conservator determines that the property is not listed in or eligible for inclusion in the National Register, the Urban Conservator will record that determination on the Determination of Historic Eligibility Form. The Staff will complete the Form, retain a copy of the Form as documentation for project files and

- (1) If the Urban Conservator determines that the modified work write-ups, plans or specifications meet the Standards, the Undertaking will be approved by the Urban Conservator who shall comply with Stipulation IV. A. (2).
- (2) If the Urban Conservator determines that the modified work write-ups, plans or specifications cannot meet the Standards, the City will provide all project documentation to the OHPO who will determine within thirty (30) calendar days whether it is appropriate to execute a Standard Mitigation Measures Agreement or a Memorandum of Agreement in accordance with Stipulation VII. Resolution of Adverse Effect.

B. New construction and additions

- (1) New construction within or immediately adjacent to historic districts or individual historic properties will be designed to adhere to the Standards. If the Urban Conservator determines that the plans meet the Standards and no eligible or listed archeological properties will be affected, the project will be approved and the Undertaking can proceed. In these instances, the City will comply with Stipulation IV.A.(2)(a-b).
- (2) If the Urban Conservator determines that the Standards cannot be met or that the plans cannot be modified to meet the Standards or that an eligible archeological site will be affected, then prior to taking any action, the City will provide all project documentation to the OHPO who will determine whether it is appropriate to execute a Standard Mitigation Measures Agreement or comply with the procedures set forth at 36 CFR Section 800.6.
- (3) Additions to historic buildings or contributing buildings within historic districts shall adhere to the Standards and be consistent with guidelines in the National Park Service's Preservation Brief 9 14, "New Exterior additions to Historic Buildings: Preservation Concerns". Plans for such additions shall be reviewed and approved by the Urban Conservator to ensure consistency with these guidelines using the procedures in IV. A (2).

C. Handicapped accessibility

Handicapped accessibility projects undertaken by the City to comply with the Americans With Disabilities Act and other local and federal requirements will follow these guidelines:

- (1) The Staff and Urban Conservator will explore all alternative methods to provide handicapped accessibility to historic buildings consistent with the Secretary of the Interior's Standards, National Park Service Preservation Brief No. 32 "Making Historic Properties Accessible", and the Department of the Interior's report Access to Historic Building for the Disabled: Suggestions for Planning and Implementation.
- (2) To the extent feasible handicapped accessibility features (i. e. ramps and elevators) will not be located on primary elevations of historic buildings and will not result in the removal of significant historic or architectural features or materials. Final plans and specifications for handicapped accessibility projects shall be reviewed and approved by the Urban Conservator if the projects meet these standards. If the

- (5) Future plans for the property if available.
- (6) Planned schedule for the demolition.

C. OHPO Review

The OHPO will review the documentation submitted and within thirty (30) days after receipt of adequate documentation will concur or object in writing to the proposed demolition.

- (1) If the OHPO agrees that there are no prudent or feasible alternatives to demolition of the Historic Property, the OHPO will determine if it is appropriate to execute a Standard Mitigation Measures Agreement or a Memorandum of Agreement in accordance with Stipulation VII., Resolution of Adverse Effect.
- (2) If the OHPO objects to the proposed demolition, the City will consult with the OHPO and any Interested Persons the City has identified to consider alternatives to the Proposed demolition. If the parties cannot reach resolution, the dispute shall be resolved in accordance with 36 CFR Sections 800.3 through 800.13.

D. Emergency Demolition

- (1) In the event the City determines that emergency demolition (pursuant to Sections 1323.05 and 1323.08 of the Cincinnati Codified Ordinances and Rule 4101:2-1-39 "Unsafe Building, Administrative Section, Ohio Basic Building Code") of an historic property or a contributing property within a historic district is required to comply with local regulations and avoid an imminent threat to the health and safety of residents, the City shall immediately deliver documentation to the OHPO with a request for its concurrence with the City's decision to conduct an emergency demolition and the proposed mitigation.
- (2) Within five (5) days of receipt of the documentation from the City, the OHPO shall notify the City of its decision in writing.
 - a. If the OHPO concurs with the City's decision, upon the receipt of such notification, the City shall implement the proposed mitigation measures, if any, and then proceed with the demolition.
 - b. If the OHPO objects to the City's decision to demolish or the proposed mitigation, and if the property cannot be adequately secured to ensure the safety of the community, the Staff will forward the OHPO's objection to the City Manager. The City Manager shall respond to the OHPO's objection, in writing, within Fourteen (14) days of receipt of the objection. Following which, the City may proceed with the demolition.

VI. Archaeology

- A. In the event the City plans any ground disturbance as part of a rehabilitation, new construction, site improvement or other undertaking, the City will consult with the OHPO to determine whether the Undertaking will adversely effect an archeological property eligible for or listed in the National Register.
- B. If the OHPO agrees that the adverse effect cannot be avoided, the City shall ensure that a data recovery plan is developed which is consistent with the Secretary of the Interior's

X. Annual Report/Monitoring

- A. The Staff will submit an annual report to the OHPO within 60 days from the end of the calendar year summarizing the activities carried out under the terms of this PA for the preceding year. The report will include the following information:
 - (1) A list of properties determined eligible for listing in the National Register of Historic Places.
 - (2) A list of the activities covered by this PA undertaken by the City.
 - (3) A brief project description of each activity undertaken.
 - (4) A complete listing of all undertakings covered by this PA in a spreadsheet format describing the activity, status of the structure or site (Register eligible or not), work write-up reviews, and ultimate disposition.
 - (5) Photographic documentation and sample projects demonstrating that the Secretary of the Interior's Standards have been met.
- B. Upon written request with reasonable advance notice, the City will make arrangements for the OHPO to review records and conduct on-site inspections of projects.

XI. Dispute Resolution

- A. If at any time during the implementation of this PA, the OHPO or an Interested Person objects to any action or any failure to act pursuant to this PA, they may file written objections with the City.
 - (1) The City shall notify the parties to this PA of the objection, and take the objection into account, consulting with the objector and, should the objector request, with any of the parties to this PA to resolve the objection.
 - (2) The City shall initiate such consultation to resolve any objections.
- B. If the City determines that the objection cannot be resolved, the City will forward all documentation relevant to the dispute to the OHPO and request that the OHPO comment. Within thirty (30) days after receipt of all pertinent documentation, the OHPO will either:
 - (1) Provide the City with recommendations, which the City will take into account in reaching a final decision regarding the dispute; or
 - (2) Notify the City that it will comment pursuant to 36 CFR Section 800.7(b) and Section 110 (1) of the National Historic Preservation Act, and proceed to comment.
- C. The City will take into account any OHPO comment provided in response to such a request, with reference to the subject of the dispute, and will issue a decision on the matter. The City's responsibility to carry out all actions under this PA that are not the subject of dispute will remain unchanged.
- D. The City will comply with 36 CFR 800.11 in the event that historic properties are discovered after the approval or implementation of an Undertaking.

XII. Default

governed by, the law of the state of Ohio, as applicable, without regard to principles of conflicts of laws.

EXECUTION and implementation of this PA evidences that the City has afforded the OHPO a reasonable opportunity to comment on the Community Development Block Grant (CDBG), the Rental Rehab Program (RRP), Home Investment Partnership (HOME), Emergency Shelter Grant (ESG), Economic Development Revolving Loans, and Supportive Housing programs as administered by the U.S. Department of Housing and Urban Development (HUD) and that the City has taken into account the effects of the Programs on historic properties.

Recommended by:

W. J. ... 1/10/01
Urban Conservator

[Signature] 1/11/01
Agency Official, City Manager (Date)

[Signature] 1/10/01
Director, City Planning Department (Date)

[Signature] 3/2/01
State Historic Preservation Office (Date)

Approved as to Form by:

[Signature] 1/11/01
Assistant City Solicitor (Date)

Environmental Review Application

Complete Front and Return to City Planning Dept., Suite 720, Centennial Plaza II (Ext. 4890)

****Incomplete Applications Will Not Be Accepted****

Date of Request: _____	Project Manager: _____
Funding Program Name: _____	Project Manager Phone #: _____
Funding Program Number: _____	Dept. or Agency: _____
Budget Year for This Project: _____	Project Name: _____
Commitment Form Complete?: <input type="checkbox"/> Yes <input type="checkbox"/> No	Project Number: _____
Council Approved This Project?: <input type="checkbox"/> Yes <input type="checkbox"/> No	Project Address: _____
Funding for This Project:\$ _____	CNAS Neighborhood: _____
Type of Funding Requested: <input type="checkbox"/> HOPWA	# of Bldgs.: _____ Units: _____
<input type="checkbox"/> CDBG <input type="checkbox"/> HOME <input type="checkbox"/> ESG	Target Date to Begin Construction: _____
<input type="checkbox"/> Other: _____	

Project Description: (Please attach scope of work as necessary) _____

Funding History – Is this a(n):

New Project/Program

Continuation Project/Program

New Phase of an Existing Project

Ongoing Operating Program / Project

Prior or Future Year Funding:

Year: _____ Funding:\$ _____

Year: _____ Funding:\$ _____

Year: _____ Funding:\$ _____

Does this project involve:

Demolition: Yes No

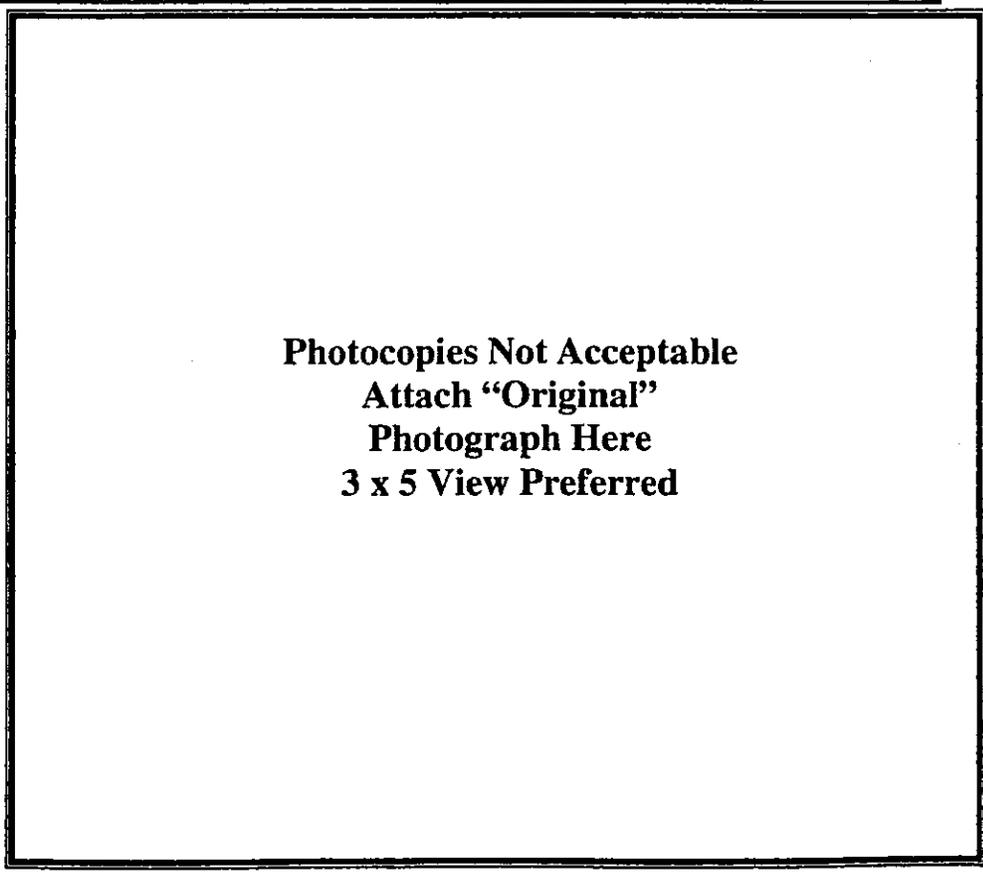
New Construction: Yes No

Additions: Yes No

Exterior Work: Yes No

Interior Work: Yes No

Conversion of Use: Yes No



STOP HERE – Reverse side for Environmental Review Staff

ATTACHMENT B

NOT USED

ATTACHMENT B

NOT USED