

PROGRAMMATIC AGREEMENT
CITY OF EAST PROVIDENCE, RHODE ISLAND
HUD ENTITLEMENT COMMUNITY BLOCK GRANT PROGRAM

WHEREAS, the City of East Providence proposes to administer the Federal Fiscal Year 2001 Community Development Block Grant Program funded by the Department of Housing and Urban Development, and

WHEREAS, the City of East Providence (City) has determined that the program may have an effect upon properties included in or eligible for inclusion in the National Register of Historic Places and has consulted with the Advisory Council on Historic Preservation (Council) and the Rhode Island State Historic Preservation Officer (RISHPO) pursuant to Section 800.3 of Protection of Historic Properties (36 CFR Part 800), the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470s); and,

WHEREAS, pursuant to 24 CFR Part 58, HUD has delegated compliance responsibility for the requirements of Section 106 of the National Historic Preservation Act and the National Environmental Policy Act (NEPA) to the City for the CDBG Program,

NOW, THEREFORE, the City, the Council and the RISHPO agree the Program shall be administered in accordance with the following stipulations to satisfy the City's Section 106 responsibilities for all individual undertakings of the Program.

Stipulations

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

1. Identifying Consulting Parties

A. In accordance with Section 800.2, the City will take appropriate steps to identify and contact consulting parties who should be involved in the Section 106 review, including Tribal Historic Preservation Officers (THPOs) or tribes that may attach religious or cultural significance to historic properties that may be affected by program activities.

B. The City shall inform the RISHPO in writing of all consulting parties participating in consultation to verify that the RISHPO has not received other requests for consulting party status.

2. Covered Program Activities

A. The City in consultation with the RISHPO shall apply the definition of undertaking set forth in 36 CFR Part 800 to program activities to determine whether such activities funded under the CDBG Program will be subject to the terms of this PA;

3. Identification and Evaluation of Historic Properties

A. The City will consult the current list of all properties, including historic districts and archaeological sites, that are included or eligible for inclusion in the National Register of Historic Places maintained by the Rhode Island Historical Preservation and Heritage Commission, a copy of which will be provided to the City. If such a list is incomplete or if the City or other consulting parties raise a question about eligibility, or if the property is 50 years or older, the City will request assessments of historical significance from the RISHPO on a case-by-case basis.

B. If there is a dispute between the City and the RISHPO or any other consulting party regarding the National Register eligibility of a property, or the City, the Secretary of the Interior or the Council so requests, the City will obtain a formal determination of eligibility from the Keeper of the National Register. All properties included or eligible for inclusion in the National Register of Historic Places shall be treated in accordance with this agreement.

C. As the City contains currently unidentified archaeological sites which may be present in project areas, the City will consult with the RISHPO on individual projects that involve significant ground disturbance to determine whether archaeological investigations may be needed. If the RISHPO requests archaeological investigations, the City will submit the results of the investigations to the RISHPO so that the presence or absence of National Register eligible sites is determined prior to the RISHPO's evaluation of proposed treatment plans.

D. The City will maintain individual project files that include documentation that summarizes all findings regarding the National Register eligibility or ineligibility of properties involved in program activities.

4 . Rehabilitation

Properties that are included or eligible for inclusion in the National Register shall be treated in the following manner:

A. Historic properties that are to be rehabilitated in projects covered under this agreement shall be treated in accordance with the Secretary of the Interior's "Standards for Rehabilitation" which will be applied in consultation with the RISHPO. The City shall submit final plans and specifications for rehabilitation projects to the RISHPO for review and approval before any work begins to ensure that the proposed treatment adheres to the Standards and will not adversely affect historic properties. The RISHPO will respond in writing within thirty days. Failure of the RISHPO to respond in thirty days will be considered approval of the City's plans.

B. In those instances where:

the rehabilitation standards cannot be met; the proposed treatment is not rehabilitation; demolition is the recommended treatment; RISHPO-approved plans have been modified; or the proposed action may have an indirect effect on historic properties;

prior to taking any action, the City will consult with the RISHPO and other consulting parties, and initiate the procedures set forth at 36 CFR Part 800.5, including notification of the Council of an adverse effect.

B. The City will maintain individual project files for a minimum of three years, which include before and after photographs of the historic property, comments from the SHPO, comments received from other consulting parties, and any other pertinent information. Upon notification from the RISHPO, the City shall make project files available for review and arrange for site visits should the RISHPO request.

5. Activities Exempt from Further Review

Rehabilitation limited to the following activities does not require further consultation with the RISHPO.

Electrical work (upgrading or in-kind replacement);
Plumbing work (upgrading or in-kind replacement);
Installation of a new furnace;
Painting in a complimentary color;
Caulking;
Repair of roofing material when the repair is done in-kind to match existing materials and form.

6. Public Participation

A. The City will provide public notice of those program activities that have been identified as having the potential to affect historic properties, once the CDBG funds have been received, and also when individual properties are selected for rehabilitation or other program-funded actions. This notification shall be conducted in coordination with other local administrative reviews.

B. Should there be a public objection made to the implementation of this PA or to historic preservation issues related to specific program activities covered under the terms of this PA, the City will consult with the RISHPO and provide the public with a written response within 30 days following the receipt of the comment. If the City is unable to resolve the objection, the City and RISHPO will determine whether further review of the objection is warranted, and whether to invite the Council to be involved in the consultation.

7. Amendment

Any of the signatories of this PA may terminate the PA after providing 30 days notice to the other signatories. During the 30-day period the signatories will consult to determine whether the termination can be avoided. If termination cannot be avoided, the City shall notify the Council and shall comply with 36 CFR Section 800 Subpart B with regard to individual undertakings of the CDBG Program.

8. Renewal

This Agreement will continue in force through FY06 program year, with annual review of the City's CDBG Program activities by the RISHPO. If the RISHPO determines that the agreement should be renewed, the RISHPO shall notify the the City in writing within 30 days following request for comments. The City shall submit a copy of the RISHPO's renewal letter to the Council for its files.

9. Termination

If the RISHPO determines that the Agreement shall not be renewed, the City shall notify the Council and initiate the consultation process set forth in 36 CFR Section Subpart B. Pending completion of the consultation process, the City's projects shall be submitted to the RISHPO on a case-by-case basis in accordance with 36 CFR 800.3 et seq.

Execution of this Agreement and the carrying out of its terms is evidence that the City has satisfied its Section 106 responsibilities for individual undertakings of the program.

CITY OF EAST PROVIDENCE, RHODE ISLAND

By:  _____

Date: 06.03.01

RHODE ISLAND STATE HISTORIC PRESERVATION OFFICER

By:  _____

Edward F. Sanderson, Deputy SHPO

Date: 8/8/2001

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____

Date: _____