

Programmatic Agreement
For
Housing and Urban Development-Funded Programs
Administered by the City of Chattanooga

WHEREAS, the Municipal Government of Chattanooga, Tennessee (City) now administers or may administer in the future certain programs funded by the U.S. Department of Housing and Urban Development (HUD), including, among others, the Community Development Block Grant Program (CDBG), HOME Investment Partnership Program (HOME) and the Emergency Shelter Grant Program (ESG), which have the potential to affect properties listed in or eligible for listing in the National Register of Historic Places and, therefore, require compliance with Section 106 of the National Historic Preservation Act (16 USC 470f) and its implementing regulation (36 CFR Part 800); and

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

WHEREAS, Southeast Tennessee Development District (District) participated in consultation and has been invited to concur in this Memorandum of Agreement, and

WHEREAS, activities which may affect historic properties include but are not limited to acquisition, relocation, rehabilitation, demolition, new construction, infrastructure improvements and other eligible activities; and

WHEREAS, in response to the principles set forth in the Advisory Council on Historic Preservation's Policy Statement on Affordable Housing and Historic Preservation (Policy Statement), the City, the SHPO and the ACHP have determined that the City can more effectively carry out its Section 106 review responsibilities for HUD program activities if a Programmatic Agreement is used to streamline the administrative process, identify activities that can be exempted from Section 106 review because they are likely to have No Effect on historic properties, and permit greater flexibility when addressing historic properties, which have special physical or financial feasibility problems; and

WHEREAS, the District has incorporated a historic preservation program into its scope of services, a portion of which consists of employing a preservation planner (Planner), a portion of whose responsibilities involve: monitoring and coordinating any cultural resources survey efforts undertaken by agencies of local government,

and advising agencies of local government as to proper review procedures and potential project review procedures established under Section 106 of the National Historic Preservation Act (as amended); and

WHEREAS, the District has certified that it will make available the services of said Planner to the City to supervise Section 106 review of HUD funded programs;

NOW, THEREFORE, the City, the Tennessee 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 HUD Programs.

Stipulations

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

1. Identification and Evaluation of Historic Properties

The Planner has surveyed at the reconnaissance level all districts, sites, buildings, structures and objects (properties) that may meet the criteria for listing in the National Register of Historic Places (36 CFR Part 60.6), that are located in the boundaries of all areas slated for HUD funded activities. The survey was conducted in accordance with "Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines" and the "Identification of Properties, General" (36 CFR Part 801, Appendix 1), and made use of any previous cultural resources survey material available. The survey was completed in the areas affected by HUD projects. The results of the survey, including the opinion of the District regarding National Register eligibility of the properties surveyed, was forwarded to the SHPO for review. In the event that the City and the SHPO cannot agree on the eligibility of a property, the City will request a determination of eligibility from the Secretary of the Interior in accordance with 36 CFR 63.2.

2. Interim Identification.

Properties not previously identified that may be affected by HUD-funded projects will be evaluated by the Planner for National Register eligibility, in consultation with the SHPO; and the results of that evaluation will be forwarded to the SHPO for concurrence. If the SHPO's opinion is not rendered within thirty (30) days of the submission of adequate documentation, it will be assumed that the SHPO is in agreement with the City's determination of eligibility. In the event that the City and the SHPO cannot agree on the eligibility of a property, the City will request a determination of eligibility from the Secretary of the Interior in accordance with 36 CFR 63.2. Documentation on all determinations will be retained by the City and will be available to the SHPO.

3. Treatment.

Properties that the Planner, the City and the SHPO agree are eligible for the National Register in accordance with 36 CFR Part 800; determined to be eligible for the National Register; nominated to the National Register; or listed in the National Register; will be treated in the following manner:

- a) Properties that are to be rehabilitated will be rehabilitated in accordance with "The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" (Standards).
- b) The City of Chattanooga (City) which administers the HUD programs, will supervise all rehabilitation projects. All documentation, including work write-ups and photographs taken prior to the start of rehabilitation, will be prepared by the subrecipient or entity responsible for the management of the program or project in accordance with the Standards. Submission of the proposal for rehabilitation will be sent to the CITY for initial screening and for purposes of establishing a record of the pending proposal. The CITY will then forward the proposal to the Planner, who will receive the proposal and submit comments with the completed proposal to the CITY for review. For each accepted proposal, the CITY will then issue a letter of approval, which will include any conditions to be met pursuant to the comments of the Planner. No work will begin on the project until the letter of approval has been issued by the CITY. All work will conform to the proposal as approved, and to the conditions stated in the letter of approval.
- c) The Planner will provide project documentation to the Tennessee SHPO for review and concurrence. The documentation will include a listing of properties for which work write-ups have been reviewed, an indication of which properties have been reviewed, and documentation demonstrating that the Secretary's Standards have been adhered to.
- d) If major ground disturbance activities are planned as part of rehabilitation, new construction, or site improvement project, the City, in consultation with the SHPO and designated Tribal Historic Preservation Officers (THPO), if applicable, shall determine whether the project site contains archeological resources or that a high probability of archeological resources may be present. If archeological resources are found that meet the National Register Criteria, they shall be avoided or preserved in place. If preservation is not feasible, the City will consult with the SHPO and THPO to develop a treatment plan consistent with the Council's Handbook, **Treatment of Archeological Properties**. The plan will be implemented by the City following approval of the SHPO and THPO.
- e) If the Standards cannot be met, or the proposed treatment is not rehabilitation, or demolition is contemplated, prior to taking any action, the City will provide adequate background documentation to demonstrate to the

SHPO and/or ACHP that rehabilitation is not economically or structurally feasible.

- f) The documentation for each rehabilitation project will be retained by the City as part of the permanent project files, and will be reviewed by the SHPO on an agreed upon periodic basis.

4. Training.

The Tennessee SHPO will evaluate the Planner's training and experience, and certify the Planner's qualifications for supervision of rehabilitation and for application of the Standards. The SHPO will provide training in the application of the Standards for the CITY personnel, and other personnel as requested by the City, on a schedule to be arranged between the parties.

5. Activities Exempt From Further Review.

If the City determines that program activities will involve properties less than fifty (50) years old, no further review is required, including evaluation of the property for National Register eligibility. In addition, the following rehabilitation activities do not require further consultation with the SHPO.

A. Rehabilitation

a. Exterior

- i. Repair or in-kind replacement (installation of a new element that duplicated the material, dimensions, configuration and detailing of the original element) of exterior features, such as doors, windows, porches and architectural details
- ii. Painting masonry walls, wood siding, or wood components and trim.
- iii. Masonry repair using materials, mortar composition, color, joint profile, and width which match the historic materials.
- iv. Caulking, weather-stripping, reglazing, and/or scraping.
- v. Rebuilding of wheelchair ramps.
- vi. Installation of exterior decorative or security lights, provided no permanent alteration of original elements or features contributing to the structure's historical significance occurs.
- vii. Replacement of existing roofing materials with alternative roofing materials on roof surfaces not visible from a public street.
- viii. Emergency or required securing of property by boarding over window and door openings.

b. Interior

- i. Repair or in-kind replacement (installation of a new element that duplicated the material, dimensions, configuration and

- detailing of the original element) of interior features, such as moldings and mantels.
- ii. Repair, replacement, or installation of heating plumbing, air conditioning, electrical, fire protection or similar systems, provided no permanent alteration of original elements or features contributing to the structure's historical significance occurs.
 - iii. Interior window or door security bars or gates, provided no permanent alteration of original elements or features contributing to the structure's historical significance occurs.
 - iv. Weatherization activities, including weather-stripping, roof insulation, and insulation of basements and interior walls.
 - v. Interior surface treatments, including repainting, refinishing, repapering or installing carpet or linoleum, provided no original feature significant to the historic character of the structure is altered or lost.
 - vi. Replacement of interior deteriorated plaster with drywall, provided plaster does not have original decorative details.
 - vii. Replacement of original lighting fixtures for safety or efficiency.
 - viii. Replacement of severely damaged interior doors with replacement doors similar in design.

B. Site and Public Improvements

The following improvements, provided there is no earth disturbance within or changes to previously undisturbed areas:

- a. Reconstruction or resurfacing of roads, and replacement or installation of curbs and/or sidewalks.
- b. In-kind repair or replacement of site improvements, including, but not limited to fences, retaining walls, and landscaping.
- c. Installation of ramps not adjoining buildings and other improvements for accessibility for persons with disabilities.
- d. Replacement/installation of gas, sanitary and storm sewer, water, electrical, cable, or other underground facilities.
- e. Replacement/installation of park and playground equipment, landscaping, and facilities, excluding buildings.
- f. Replacement/installation of traffic signals, street name and regulatory signage, street lights, and street trees.
- g. Installation of temporary construction-related barriers, such as screening or temporary fences.

C. Demolition of Non-historic or Noncontributing Buildings

- a. Buildings within or adjacent to listed or eligible historic districts that are identified as non-historic or noncontributing in accordance with Stipulation 1 may be demolished without review by the SHPO following the issuance of a Letter of Approval by the City. The City

- will retain documentation of all such demolitions in its project files, including exterior photographs of any structure to be demolished.
- b. Demolition shall be performed in a manner that will have minimal impact on adjoining buildings. Where walls of a building to be demolished adjoin a historic building, the wall of the historic building will be cleaned of debris and, if necessary, faced with a material compatible with its principal façade.

6. Public Involvement.

Each year the City will notify the public of the City's current Programs, and make available for public inspection documentation on the City's programs. Included in this documentation will be general information on the Programs; information on the types of activities undertaken with HUD funds; the amount of HUD funds available in the current program year; and how interested persons can receive further information on the programs. Information on identified historic properties which might be affected by the activities can be obtained by contacting the Tennessee State Historic Commission.

The city will encourage public comment regarding the impact of undertakings on historic properties. The City will regularly notify the public of rehabilitations, new constructions, and reconstructions impacting historic properties through the City website or media publication.

In those cases where a timely and substantive public objection related to historic preservation is received by the City, City staff will review the objection to determine the basis of the objection and consult with the objecting party, as appropriate, in order to resolve the issue.

Where the City staff is unable to resolve the objection to the satisfaction of the objecting party, the City will consult with the SHPO and, if necessary, the Council.

7. Coordination

The City staff will advise project sponsors, agencies, recipients, sub recipients, and other City departments and staff of the requirements of this Programmatic Agreement and the need to complete Section 106 reviews prior to the initiation of project activities.

Other Federal agencies providing financial assistance for Program activities covered under the terms of this Agreement may, with the concurrence of the City and SHPO, satisfy their Section 106 responsibilities by accepting and complying with the terms of this Agreement. In such situations, the City and the Federal agency shall notify the SHPO and Council in writing of their agreement. If the SHPO does not respond within 30 days of receipt of such notification of intent, the City and other Federal agency will assume SHPO concurrence. Copies of all

notification letters shall be maintained in files established by the City for each undertaking.

8. Monitoring

The Council and the SHPO may monitor activities carried out pursuant to this Agreement, and the Council will review such activities if so requested. The City will cooperate with the Council and the SHPO in carrying out their monitoring and review responsibilities.

9. Amendment and Termination

- a.) Any party to the Programmatic Agreement may request that it be amended, whereupon the parties will consult in accordance with 36 CFR 800.13 to consider such an amendment.
- b.) Any party to the Programmatic Agreement may terminate it by providing thirty (30) days notice to the other parties, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the City will comply with 36 CFR 800 with regard to individual undertakings covered by this Agreement.

10. Term of Agreement

This Programmatic Agreement will continue in force and effect until 5 years after the date of the last signature. At that time, it will be reviewed by the SHPO and the Council to consider an extension, modification, or termination of this Agreement. No extension or modification will be effective unless all parties to this Agreement have agreed to it in writing.

Execution and implementation of this Programmatic Agreement and carrying out its terms evidences that the City has afforded the Council a reasonable opportunity to comment on this undertaking and that the City has taken into account the effects of the programs on historic properties.

ADVISORY COUNCIL ON HISTORIC PRESERVATION:

BY: John M. Fowler
EXECUTIVE DIRECTOR

DATE: 12/9/05

TENNESSEE HISTORIC PRESERVATION OFFICE:

BY: Herbert L. Hays DSHPO
STATE HISTORIC PRESERVATION OFFICER

DATE: 10/10/05

CITY OF CHATTANOOGA
BY: [Signature]
MAYOR
DATE: 9/16/03

CONCUR:
SOUTHEAST TENNESSEE DEVELOPMENT DISTRICT

BY: [Signature]
EXECUTIVE DIRECTOR

DATE: 11/10/05