

**Advisory
Council On
Historic
Preservation**

COPY

The Old Post Office Building
1100 Pennsylvania Avenue, NW, #809
Washington, DC 20004

**PROGRAMMATIC AGREEMENT
AMONG
THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
TEXAS STATE HISTORIC PRESERVATION OFFICER,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
FOR THE
REDEVELOPMENT OF ALLEN PARKWAY VILLAGE,
HOUSTON, TEXAS**

WHEREAS, the Department of Housing and Urban Development (HUD) has determined that the implementation of the Allen Parkway Village (APV) Urban Revitalization Demonstration (URD)-HOPE VI Project, approved by HUD on January 6, 1995, will have an adverse effect on APV, historically known as the San Felipe Courts Historic District, Freedmen's Town Historic District, and on other historic properties listed on or eligible for listing on the National Register of Historic Places, and has consulted with the Texas State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (Council) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470); and,

WHEREAS, the APV URD-HOPE VI Project includes rehabilitation, demolition, new construction activities on the site of APV, and off-site and scattered site replacement housing; and,

WHEREAS, HUD has appropriated funds from the URD-HOPE VI, Public Housing Initiatives and the Public Housing Development Programs to assist with the implementation of the APV Redevelopment Project;

WHEREAS, HUD, in consultation with the Texas SHPO, has established the area of potential effects, as defined in 36 CFR Section 800.2(c), to be the 37-acre APV site, the entire Freedmen's Town Historic District, and the parcels to the west of APV to the center line on Gillette Street and to the south of APV along west Dallas Street between Heiner Street and Gillette Street (Attachment A); and.

WHEREAS, the Housing Authority of the City of Houston, Texas, (HACH), the owner and manager of APV, participated in the Section 106 consultation and has been invited to concur in this Programmatic Agreement; and,

WHEREAS, the City of Houston (City) participated in the Section 106 consultation process; and,

WHEREAS, the Resident Council of APV (RCAPV) participated in Section 106 consultation until November 28, 1995, when it formally withdrew from the Section 106 consultation process; and

WHEREAS, HUD held a Section 106 consultation meeting, which was open to the public, on August 10, 1995, with all parties that requested interested party status pursuant to Section 800.5(e); and

WHEREAS, HUD and HACH agree that the implementation of the APV URD-HOPE VI Project will be guided by the conditions of the **Implementation Grant Agreement** executed between HUD and HACH dated January 6, 1995, including subsequent amendments thereto; and,

WHEREAS, pursuant to the **Implementation Grant Agreement**, HACH and the City will consult with each other regarding the feasibility of locating replacement housing within the Fourth Ward/Freedmen's Town community;

NOW THEREFORE, HUD, the Texas SHPO, and the Council agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

HUD, in consultation with HACH, shall ensure that the following measures are carried out.

I. DEVELOPMENT OF THE MASTER PLAN FOR APV

A. HACH shall develop a Master Plan for the redevelopment of APV which outlines the overall approach to redevelopment of APV, the implementation strategy, and the proposed schedule. The Master Plan shall, be responsive to the recommended approaches in the *Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (Standards)*, adhere to the **URD-HOPE VI Implementation Grant Agreement**, which incorporates the APV Community Campus Concept Plan, including subsequent amendments thereto, and address the historic preservation issues outlined in Stipulations I.A.1. through 7.

1. Preservation and rehabilitation of existing buildings and landscape features

a. The exteriors of the Administration Building, the portion of the Community Building bordering Valentine Street, designated residential buildings located in Sections B, C, E, and F of APV, as depicted in Attachment B, along with the open spaces adjacent to the designated residential buildings and in Section D shall be retained and rehabilitated to ensure that a representative portion of the San Felipe Courts Historic District is integrated into the redevelopment plan for APV.

b. Upon execution of this agreement and pending the initiation of rehabilitation activities, appropriate actions shall be taken to secure and stabilize the buildings to be retained (i.e. board up, secure, and minimize water infiltration) in accordance with the National Park Service's *Preservation Brief 31: Mothballing Historic Buildings*.

c. Selective demolition of buildings designated in Attachment B, as determined and approved through the Master Planning process and following compliance with Stipulation III.C, can occur for reasons that include, but are not limited to, accommodating vehicular circulation, parking, and creation of an entry way, and promoting health and safety.

d. Construction activities associated with rehabilitation shall commence within one-year following execution of this Programmatic Agreement unless unforeseen delays such as litigation or budgetary constraints preclude such actions.

2. Long-term maintenance of rehabilitated buildings

a. The exterior of buildings rehabilitated as part of the APV URD-HOPE VI Project shall be maintained and preserved in accordance with the *Standards*, unless otherwise agreed to by the Texas SHPO.

b. Procedures for the exterior maintenance and preservation of buildings to be retained at APV shall be based upon the *Standards* and developed in consultation with the Texas SHPO. Approved procedures shall be included in any contract executed between HACH and a management company for APV.

3. Development of design guidelines for new construction

a. The design guidelines for new construction at APV shall be prepared through the Master Planning process and reflect an understanding of the historic and architectural significance of San Felipe Courts Historic District and Freedmen's

Town Historic District, taking into account the scale, massing, color, materials, siting of buildings, setbacks, architectural features, and landscape design of the historic property.

b. The design of new construction within the APV site shall be compatible with the historic and architectural qualities of the San Felipe Courts Historic District, responsive to the recommended approaches in the *Standards*, and comply with applicable City of Houston ordinances and building codes.

c. The design of new construction within the APV site shall take into account the issues raised during the Master Planning process related to HUD regulations, programmatic needs, budgetary constraints, real estate market conditions, social concerns, and management issues associated with the development of affordable housing projects.

d. Schematic designs for housing units that incorporate the design guidelines for new construction shall be developed to illustrate a range of acceptable design solutions for prospective developers that may be selected by HACH to construct new housing at APV.

4. Development of the landscaping plan

a. A comprehensive landscaping plan shall be developed as part of the redevelopment of APV to ensure that the maximum number of existing mature trees are retained in portions of the site designated for new construction.

b. In consultation with the Texas SHPO and through the Master Planning process, HACH shall review the existing landscaping plan and identify the location of mature trees in order to determine which trees and landscape features should be incorporated into the redevelopment plan for APV.

5. Site improvements

a. Streets, fences, walls, lighting, furniture, etc. shall be designed to unify the rehabilitation and new construction activities within APV.

6. Linkages between APV and Freedmen's Town

a. HACH shall consult with the City and Landowners, to the extent they are willing to participate, through the Master Planning process to determine the appropriateness of creating vehicular and pedestrian linkages between APV and Freedmen's Town in the vicinity of West Dallas Avenue.

b. All approved linkages shall be designed through the Master Planning process to include appropriate landscaping and a "focal point" that unifies the redevelopment of APV with the revitalization in Freedmen's Town.

7. Scattered Site Replacement Housing in Freedmen's Town

a. Should HACH and the City determine that scattered site replacement housing will be located within the Freedmen's Town Historic District, HACH shall develop design guidelines, based upon the *Standards*, for such scattered site replacement housing, including rehabilitation, new construction, and site improvements, through the Master Planning process. The design guidelines shall be compatible with the architectural and historical character of the Freedmen's Town Historic District, unless otherwise approved by the Texas SHPO through the Master Planning process.

b. Retention and rehabilitation of existing contributing buildings within the Freedmen's Town Historic District shall be considered by the City through its existing Housing Programs.

B. HACH shall facilitate public participation in the Master Planning process consistent with the **Implementation Grant Agreement**, including subsequent amendments thereto. HACH shall notify the Texas SHPO and Council in writing of procedures it will implement to involve the public no later than thirty (30) days following execution of this Programmatic Agreement. The Texas SHPO and the Council will provide comments to HACH regarding such procedures, as they relate to historic preservation, within fifteen (15) days following receipt of notification.

C. HACH shall ensure that the draft Master Plan is completed by June 1996 and submitted to the Texas SHPO, Council, and interested parties identified during the consultation process for review and comment. The Texas SHPO and the Council shall submit their comments to HACH within twenty-one (21) days following receipt of the draft Master Plan. As appropriate and feasible, HACH shall incorporate the comments of the Texas SHPO and the Council in the final Master Plan prior to its adoption and implementation. A copy of the final Master Plan shall be submitted to the Texas SHPO and Council.

D. Should HACH determine that it cannot incorporate the comments of the Texas SHPO and the Council into the final Master Plan, HACH shall notify HUD accordingly, and HUD shall initiate the dispute resolution process set forth in Stipulation X.

II. IMPLEMENTATION OF THE MASTER PLAN FOR APV

A. Upon completion of the final Master Plan for APV in accordance with Stipulation I., HACH shall implement all elements of the plan in accordance with the phased project implementation schedule determined through the Master Planning process.

B. In the event that HACH cannot implement any provisions of the Master Plan or determines it necessary to modify such provisions, HACH shall notify the Texas SHPO, Council, and HUD and provide them an opportunity to review the proposed change to determine whether it shall require an amendment to the Programmatic Agreement. The Texas SHPO and Council shall provide written comments to HUD and HACH within twenty-one (21) days following receipt of documentation. Based upon the above, if one or more of the consulting parties determines that an amendment is required to address the proposed changes, the signatories to this Programmatic Agreement shall consult in accordance with 36 CFR Section 800.5(e).

C. HACH shall forward preliminary plans and specifications for the rehabilitation of the buildings to be retained in sections B, C, E, and F of APV, the Administration Building, the Community Building, and proposed new construction at APV to the Texas SHPO for review and comment, unless the Texas SHPO designates the City Historic Preservation Officer to act on its behalf. The Texas SHPO shall provide written comments within twenty-one (21) days following receipt of documentation. Should the Texas SHPO determine that the plans and specifications for rehabilitation and new construction do not adhere to the *Standards* or the design guidelines set forth in the approved Master Plan for APV, HACH shall consult with the Texas SHPO and modify the plans, as appropriate, to incorporate recommended modifications to conform to the *Standards* or approved design guidelines.

D. HACH shall forward final plans and specifications to the Texas SHPO for review to verify adherence and compliance with Stipulation II.C. The Texas SHPO shall provide written comments to HACH within twenty-one (21) days after receipt of final plans and specifications. Should the Texas SHPO object to the final plans and specifications, HACH shall notify HUD accordingly, and HUD shall initiate the dispute resolution process set forth in Stipulation X.

III. DEMOLITION

A. Upon approval of the Demolition Application by HUD, and following compliance with Stipulations III.C. and D., HACH may demolish Sections A, G, and H, and designated portions of B, C and F of APV, as depicted in Attachment C, with the exception of the landscape features referenced in Stipulation I.A.4.

B. HACH shall initiate the selective demolition associated with the rehabilitation of sections E, and F and portions of B and C, as set forth in the approved Master Plan for APV, following the development of a stabilization plan which ensures the protection of the historic buildings and significant landscape features. The stabilization plan shall be forwarded to the Texas SHPO for review and approval prior to the initiation of demolition activities.

C. Prior to the demolition of the buildings listed in Stipulation III.A., HACH shall contact the National Park Service (NPS), Historic American Buildings Survey (HABS), to determine what level and kind of recordation is required for the property. Unless otherwise agreed to by NPS, HACH shall ensure that all documentation is completed and accepted by HABS prior to the

initiation of demolition activities. Copies of the documentation, to include original photographs, will also be provided to the Texas SHPO and appropriate local archives designated by the Texas SHPO.

D. Prior to the demolition of above ground buildings and appurtenances within the APV site, HACH shall develop a demolition/archeological monitoring plan which outlines measures that will be taken during demolition to allow the implementation of Stipulation VI.A.3. HACH shall forward this plan to the Texas SHPO for review and approval. The Texas SHPO shall provide written comments to HACH within twenty-one (21) days or less following receipt of the plan.

E. HACH shall develop a stabilization plan to ensure the protection of buildings to be retained in sections E and F and portions of B and C of APV, and of landscape features referenced in Stipulation I.A.4. during the demolition of buildings in Attachment C.

IV. RE-EVALUATION OF SAN FELIPE COURTS HISTORIC DISTRICT

Following the completion of partial demolition, rehabilitation and new construction at APV, HUD shall afford the Texas SHPO an opportunity to re-evaluate the property to make a recommendation to the Secretary of the Interior as to its continued inclusion in the National Register. In the event that the Keeper of the National Register determines that the significance or boundaries of APV have significantly changed, HACH shall still be required to implement the APV URD-HOPE VI Project in accordance with the approved Master Plan.

V. INTERPRETIVE EXHIBIT

A. To the extent they are willing to participate, HACH shall consult with the Texas SHPO, local historical organizations, and the current and former residents of APV regarding the development of an interpretive exhibit, i.e. building museum, video, informational kiosk, etc., on the National and local significance of APV in the development, planning, and management of public housing.

1. The interpretive exhibit shall be located in the Community Center or another building to be rehabilitated within APV.

2. The interpretive exhibit will include copies of the HABS documentation, historical documents on APV, oral histories from residents, historians, HUD, State and local officials, etc., photographs commemorating historical events in the community, and a summary of the final archeological report prepared in accordance with Stipulation VI.D.

3. A primer (summary report) based upon the interpretive exhibit shall be developed to provide an historical overview of the importance of APV in the Fourth Ward, City and the nation.

4. The scope-of-work for the proposed interpretive exhibit and primer shall be submitted to the Texas SHPO for review and comment.

B. HACH shall notify local historical, preservation, and professional organizations, civic associations, and educational institutions of the existence of the APV interpretive exhibit and primer when completed. Upon request, HACH shall provide copies of the primer to these organizations for distribution to their constituents.

VI. ARCHEOLOGY RESEARCH DESIGN

A. Development of the Research Design

1. HACH shall develop and implement a research design for monitoring, identification, evaluation, and treatment of archeological resources within the APV URD-HOPE VI Project area that is consistent with **Archeology and Historic Preservation: Secretary of Interior's Standards and Guidelines** and the Antiquities Code of Texas. The research design shall be based upon the preliminary findings regarding archeological sensitivity at APV outlined in the land use studies prepared by J.K. Wagner & Company in February 1994 and June 1995, and the recommendations regarding archeology in the letter of June 27, 1995, to HACH from the Texas SHPO.

2. HACH shall require the Historic Documentation Contractor to prepare a scope of work which details how the research design will address monitoring, identification, evaluation, and treatment of archeological resources at APV. HACH shall forward a copy of the scope of work for the research design to the Texas SHPO for review and comment prior to authorizing the contractor to proceed. The Texas SHPO shall submit written comments to HACH regarding the scope of work within twenty-one (21) days, unless otherwise agreed.

3. The research design shall be completed on or before April 30, 1996, and submitted to the Texas SHPO for review and approval. The Texas SHPO shall provide written comments within twenty-one (21) days. Pending approval of the research design, HACH shall not initiate demolition activities without the written approval of the Texas SHPO regarding the appropriate methodology for coordinating demolition and site preparation activities with archeological investigations in accordance with Stipulations III.C and VII.

a. Upon approval of the research design by the Texas SHPO, HACH shall coordinate demolition, site preparation, and construction activities in a manner that allows reasonable exposure of the areas to be tested at the earliest possible date.

b. HACH shall provide the Texas SHPO with a project schedule that includes dates work will be initiated, types of activities proposed, and the anticipated time-frame for completing such activities in order to ensure that phased archeological investigations and project activities are properly coordinated. This schedule will also allow the Texas SHPO to better anticipate the review requirements for archeology.

4. HACH shall submit a report to the Texas SHPO detailing the results of all field testing and outlining recommendations for further testing and treatment, as appropriate. HACH shall evaluate sites identified through the survey to determine whether they are eligible for listing in the National Register of Historic Places.

a. If HACH and the Texas SHPO agree that the site does not meet the National Register criteria, no further action is required.

b. If HACH and the Texas SHPO agree that the site does meet the National Register criteria, the site shall be treated in accordance with approved treatment plans, to include avoidance, in-place preservation, and data recovery.

B. Human Remains

1. HACH shall immediately (within 24 hours following discovery) notify HUD, the Council, and the Texas SHPO if human remains and grave-associated artifacts are discovered during archeological investigations at APV.

2. If human remains are discovered, HACH shall develop and implement a plan, in consultation with the Texas SHPO, which includes the process of identifying affiliated Native Americans or other groups and documenting efforts to notify them of the proposed treatment of human remains. Activities that might disturb or damage the remains shall not be conducted until all parties have determined whether further excavation is necessary and/or desirable. The plan shall adhere to the guidance outlined in the NPS Publication, National Register Bulletin No. 41, **Guidelines for Evaluating and Registering Cemeteries and Burial Places** (1992) and Texas SHPO guidance regarding the treatment of human remains.

C. Curation

HACH shall develop and implement, in consultation with the Texas SHPO and in accordance with 36 CFR Part 79, a plan for the analysis of and curation of material and records resulting from data recovery at APV by an institution acceptable to the Texas SHPO in accordance with 36 CFR Part 79. All materials resulting from data recovery shall be maintained by such institution until their analysis is complete.

D. Reports

1. HACH, in consultation with HUD, shall ensure that all final archeological reports resulting from actions pursuant to Stipulation VI. will be provided to the Texas SHPO, the Council, and interested parties and submitted to the National Technical Information Service (NTIS).
2. HACH, in consultation with the Texas SHPO, shall ensure that all such reports are responsive to contemporary professional standards, to the Department of Interior's Format Standards for Final Reports of Data Recovery Program (42 FR 5377-79) and the Texas SHPO guidance. A draft final report shall be submitted to the Texas SHPO for review and approval. The Texas SHPO shall provide written comments within twenty-one (21) days.
3. HACH shall ensure that contract archaeologists prepare public information materials based upon the final report that include a 10-12 page pamphlet and/or display on archeology at APV for all identified archeological sites that are determined eligible for listing in the National Register. This document shall be submitted to the Texas SHPO for review and approval and made a part of the interpretive exhibit referenced in Stipulation V.

VII. INFRASTRUCTURE AND SITE PREPARATION

Upon execution of this Programmatic Agreement, HACH may initiate site preparation activities within APV, including remediation of hazardous materials and infrastructure development, provided that such activities do not compromise the ability of HUD or HACH to comply with the provisions set forth in this Agreement. HACH shall obtain the comments of the Texas SHPO prior to the initiation of infrastructure and site preparation activities. The Texas SHPO shall provide written comments within twenty-one (21) days or less following receipt of documentation.

VIII. OFF-SITE AND SCATTERED SITE REPLACEMENT HOUSING

- A. HACH shall develop off-site and scattered site replacement housing to replace the units demolished at APV in phases over a six-year period, unless otherwise agreed to by HUD.
- B. HACH may construct new off-site and scattered site replacement housing within the Freedmen's Town Historic District in accordance with the approved Master Plan for APV.
- C. HACH, in consultation with the City Historic Preservation Officer, shall provide the Texas SHPO with the location and opinion regarding National Register eligibility of all sites, located outside of Freedmen's Town Historic District, which are purchased for rehabilitation and new off-site and scattered site replacement housing.

1. If HACH determines that the area of potential effects of the project site for new construction includes properties listed on or eligible for listing on the National Register of Historic Places, HACH shall consult with the Texas SHPO to develop the preliminary plans and specifications.

2. The design of new replacement public housing shall be responsive to the recommended approaches in the *Standards*, as it relates to new construction, and be sympathetic to the historical and architectural character of adjacent historic properties. HACH shall submit preliminary plans and specifications to the Texas SHPO for review and comment, unless schematic designs for prototype infill housing are approved by the Texas SHPO. The Texas SHPO shall provide written comments within twenty-one (21) days or less following receipt of documentation.

D. HACH, in consultation with the City Historic Preservation Officer, shall provide the Texas SHPO with the location and opinion regarding National Register eligibility of all off-site and scattered site replacement housing proposed for existing properties upon acquiring control of each property.

1) If a property is located within a historic district listed on or eligible for listing on the National Register, all rehabilitation activities shall adhere to the recommended approaches in the *Standards*, including lead based paint abatement.

E. Preliminary plans shall be submitted to the Texas SHPO for review and comment for off-site and scattered site replacement housing that involves or is adjacent to historic properties. Final plans and specifications which incorporate, as appropriate and feasible, the comments of the Texas SHPO regarding preliminary plans, shall be submitted to the Texas SHPO for review and approval prior to the initiation of construction. The Texas SHPO shall provide written comments to HACH within twenty-one (21) days after receipt of final plans and specifications. Should the Texas SHPO object to the final plans and specifications, HACH shall notify HUD accordingly, and HUD shall initiate the dispute resolution process set forth in Stipulation X.

IX. PROFESSIONAL QUALIFICATIONS

HACH shall ensure that all activities regarding historic buildings carried out pursuant to this Programmatic Agreement are carried out by or under the direct supervision of a person or persons meeting at a minimum *The Secretary of the Interior's Professional Qualifications Standards for Historic Architecture* (48 FR 44739) and that all activities regarding archeology carried out pursuant to this Agreement are carried out under the direct supervision of a person or persons meeting at a minimum *The Secretary of the Interior's Professional Qualifications Standards for Archeology* (48 FR 44739).

IX. AMENDMENTS

A. HACH shall forward to the Texas SHPO and Council any proposed or completed amendments to the APV URD-HOPE VI **Implementation Grant Agreement** which materially affect the terms of the Programmatic Agreement.

B. Should HUD and/or HACH determine that they cannot fulfill the terms of the Agreement, or if activities are proposed which were not previously included in the APV URD-HOPE VI

Project, HUD shall notify the Council and the Texas SHPO and request an amendment to the Programmatic Agreement as set forth in 36 CFR Section 800.5(e)(5) of the Council's regulations.

C. Any of the signatories to this Programmatic Agreement may also request that the Agreement be amended, whereupon the parties will consult to consider the proposed amendment(s).

Execution and implementation of this Programmatic Agreement evidences that the U.S. Department of Housing and Urban Development has afforded the Council a reasonable opportunity to comment on the APV URD - HOPE VI Project and its effects on historic properties, and that U.S. Department of Housing and Urban Development has taken into account the effects of the undertakings on historic properties.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Robert D. Bush
By: Executive Director

DATE: 12/14/95

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

By: Secretary

DATE: _____

TEXAS STATE HISTORIC PRESERVATION OFFICE

By: State Historic Preservation Officer

DATE: _____

**CONCUR:
HOUSING AUTHORITY OF THE CITY OF HOUSTON**

By: Executive Director

DATE: _____