

**PROGRAMATIC AGREEMENT
BETWEEN THE VIRGINIA
STATE HISTORIC PRESERVATION OFFICE,
THE CITY OF HARRISONBURG, AND THE
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
FOR THE ADMINISTRATION OF CDBG-FUNDED ACTIVITIES BY THE CITY
OF HARRISONBURG, VIRGINIA**

WHEREAS, the City of Harrisonburg is administering directly, or is responsible for Sub-recipient approval certification of the U.S. Department of Housing and Urban Development (HUD) funded programs through the Consolidated Strategy and Plan and the Community Development Block Grant Program in the City of Harrisonburg; and

WHEREAS, as the administering agency for the above programs, in accordance with 24 CFR 58.1, the City of Harrisonburg is responsible for certifying compliance with the National Environmental Policy Act (NEPA) of 1969, and with 36 CFR 800 of the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f)(NHPA); and

WHEREAS, as the certifying agency for compliance with NHPA, the City of Harrisonburg requires that all undertakings, including new construction, demolition, rehabilitation, acquisition, and ground disturbing activities, be reviewed by the Virginia Department of Historic Resources, the State Historic Preservation Office (SHPO) of Virginia, in order to take into account effects on historic properties; and

WHEREAS, many of the properties that may be treated under these programs were built after 1955; and

WHEREAS, the City has notified the Advisory Council on Historic Preservation (ACHP) of its intent to enter into this Agreement in order to streamline the review process and has invited them to participate in the Agreement and they have accepted; and

WHEREAS, the definitions given in Appendix 1 are applicable throughout this Memorandum of Agreement;

NOW, THEREFORE, the City of Harrisonburg and the SHPO agree to the following stipulations.

STIPULATIONS

I. CONSULTATION

1. The City of Harrisonburg will continue to consult with the SHPO to review all undertakings, in accordance with established procedures, with the following exception.

2. Consultation with the SHPO will not be required for individual projects which only affect buildings constructed after 1955 and which are not located in designated or eligible historic areas, as identified in Appendix 2. Designated or eligible historic areas are identified as the Downtown Historic District and the Old Town Historic District.

II. RECORDKEEPING

1. The City will maintain documentation for all undertakings, including those that it determines do not require SHPO review per Stipulation 2, and will make that documentation available to the SHPO upon request. At a minimum that documentation will include project description, street address and map, approximate date of construction, and photograph.

III. PUBLIC PARTICIPATION AND CONSULTATION

- A. When applicable, the City will solicit public comment regarding the effects of the Undertaking on historic properties, in compliance with NEPA and with 24 CFR PART 58. This includes the publishing of Notices of finding of no significant impact (FONSI), Notices of intent to request release of funds (NOI/RROF), and other notices as required by law. Public comment periods will vary, in accordance with NEPA and 24 CFR PART 58, depending on project and type of publication/notification.
- B. In conjunction with its National Environmental Policy Act compliance, the City will advertise and conduct two public meetings/comment sessions annually, which will serve the dual purpose of a) fulfilling citizen participation requirements for the development of the City's Consolidated Plan/Annual Action Plan and b) providing an opportunity for additional public comment regarding Section 106 review activity covered by this Agreement.

IV. DISPUTE RESOLUTION

- A. Should any party to this Agreement object in writing to the City regarding any activity carried out or proposed with respect to the Undertaking or implementation of this Agreement, the City will consult with the objecting party to resolve the objection. If after initiating such consultation the City determines that the objection cannot be resolved through consultation, the City will forward all documentation relevant to the objection to the ACHP, including the City's proposed response to the objection. Within thirty (30) days after receipt of all pertinent documentation, the ACHP will exercise one of the following options:
 1. Advise the City that the ACHP concurs with the City's proposed response to the objection, whereupon the City will respond to the objection accordingly;

2. Provide the City with recommendations, which the City will take into account in reaching a final decision regarding its response to the objection; or
 3. Notify the City that the objection will be referred for comment pursuant to 36 CFR Part 800.7(a)(4), and proceed to refer the objection and comment. The City will take the resulting comment into account in accordance with 36 CFR Part 800.7(c)(4) and Section 110(l) of NHPA.
- B. Should the ACHP not exercise one of the above options within thirty (30) days after receipt of all pertinent documentation, the City may assume the ACHP's concurrence in its proposed response to the objection.
- C. The City will take into account any ACHP recommendation or comment provided in accordance with this stipulation with reference only to the subject of the objection; the City's responsibility to carry out all other measures covered under this Agreement that are not the subjects of the objection will remain unchanged.
- D. At any time during implementation of the activities covered in this Agreement, should an objection pertaining to this Agreement or the effect of any activity on historic properties be raised by a member of the public, the City will notify the parties to this Agreement and take the objection into account, consulting with the objector and, should the objector so request, with any of the parties to this Agreement to resolve the objection.

V. AMENDMENT

- A. Any party to this Agreement may request that it be amended by providing a written request for such amendment to the other signatories whereupon all parties will consult in accordance with 36 CFR 800.13 to consider such an amendment
- B. Any resulting amendments shall be developed in writing as an attachment to this document and shall be executed immediately upon consensus.

VI. TERMINATION

- A. If the City determines that it cannot implement the terms of this Agreement, or if the SHPO or ACHP determines that the Agreement is not being properly implemented, the City, the SHPO or the ACHP may propose to the other parties that it be terminated.
- B. Termination shall include the submission of any outstanding documentation on any work done up to and including the date of termination.

- C. A party proposing to terminate this Agreement shall so notify all parties to the Agreement, explaining the reasons for termination and affording them at least thirty (30) days to consult and seek alternatives to termination.
- D. Should such consultation fail and the Agreement be terminated, the City shall comply with 36 CFR Parts 800.3 through 800.6 with regard to the activities covered by this Agreement.

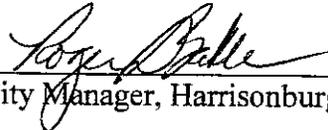
VII. DURATION OF THE AGREEMENT

This Agreement will continue in full force and effect until five years after the date of the last signature. At any time in the sixth-month period prior to such date, the City may request the SHPO and the ACHP to consider an extension or modification of this Agreement. No extension or modification will be effective unless all parties to the Agreement have agreed with it in writing.

Execution of this Programmatic Agreement and implementation of the provisions herein shall be evidence that the City of Harrisonburg has satisfied its Section 106 responsibilities for all individual undertakings subject to the review of this Agreement.

SIGNATORIES:

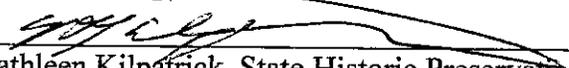
CITY OF HARRISONBURG



City Manager, Harrisonburg, VA

9/17/05
Date

VIRGINIA STATE HISTORIC PRESERVATION OFFICER



Kathleen Kilpatrick, State Historic Preservation Officer

9/19/05
Date

ADVISORY COUNCIL ON HISTORIC PRESERVATION



John M. Fowler, Executive Director

10/11/05
Date

APPENDIX 1

DEFINITIONS

Historic Property – means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places. The term “eligible for inclusion in the National Register of Historic Places” includes both properties formally determined as such by the Keeper of the National Register and all other properties that meet the National Register listing criteria.

National Register – means the National Register of Historic Places maintained by the Secretary of the Interior.

National Register Criteria – means the criteria established by the Secretary of the Interior for use in evaluating the eligibility of properties for the National Register (36 CFR Part 60):

Criteria A: Properties that are associated with events that have made significant contribution to the broad patterns of our history.

Criteria B: Properties that are associated with the lives of persons significant in our past.

Criteria C: Properties that embody the distinctive characteristics of a type, period, or method of construction or that represent a significant and distinguishable entity whose components may lack individual distinction.

Criteria D: Properties that have yielded, or may be likely to yield, information important in prehistory or history.