

PROGRAMMATIC AGREEMENT**FOR SPECIFIED PROGRAMS****ADMINISTERED BY THE CITY OF MILWAUKEE**

WHEREAS, the City of Milwaukee (City), State of Wisconsin, proposes to administer its Community Development Block Grant (CDBG) program or HOME Program with funds from the Department of Housing and Urban Development under Title I of the Housing and Community Development Act of 1974; and

WHEREAS, for the purposes of this Agreement, the City's (CDBG) program (Program) encompasses the following activities:

Physical Improvements, Economic Development, Brown Fields, Public Improvements, and Housing; and

WHEREAS, the City has determined that the administration of its program may have an effect on properties included in or eligible for inclusion in the National Register of Historic Places and has consulted with the Wisconsin State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP) and The Department of Housing and Urban Development (HUD) pursuant to 36 CFR § 800.13 of the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f), [and Section 110(f) of the same Act (16 U.S.C. 470h-2(f))]; and

WHEREAS, ACHP and the SHPO and HUD participated in the consultation and have been invited to execute this Programmatic Agreement; and

WHEREAS, the definitions given in Appendix A are applicable throughout this Programmatic Agreement;

NOW, THEREFORE, the City of Milwaukee, ACHP and the SHPO and HUD agree that 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 under the direct supervision of the Milwaukee Department of City Development (hereinafter the Department):

A. Personnel

The Department shall ensure that all historic preservation work carried out pursuant to this Programmatic Agreement is performed by or under the direct supervision of a person or persons meeting at a minimum the Secretary of the Interior's Professional Qualification Standards (48 FR 44738-9) as applicable to the relevant preservation discipline.

The Department will assign staff meeting Professional Qualification Standards (48 FR 44738-9) to review all undertakings covered by this Agreement, ensure compliance with this Agreement, and to monitor project work. The Department will notify the Wisconsin State Historic Preservation Office (SHPO) of all professional personnel who shall be selected to perform the responsibilities pursuant to this Agreement. Notification will include documentation demonstrating the Department's staff qualifications per Professional Qualification Standards (48 FR44738)

B. Identification and Evaluation:

1. The Department will continue to update the Milwaukee Cultural Resource Survey in consultation with the SHPO and in accordance with the Secretary of the Interior's Standards and Guidelines for Identification and Evaluation. Within a year of the implementation of this Agreement a work plan for the update of this survey will be developed in consultation with SHPO.
2. If requested by SHPO, the Department shall identify historic properties pursuant to 36 CFR 800 which have not been formally evaluated to date and that may be affected under the Programs covered by this Programmatic Agreement. If there is a question as to whether or not a property meets the National Register criteria, the Department will seek a formal determination of eligibility pursuant to 36 CFR 800.
3. Actions not involving historic properties may proceed without further review by the Department's Historic Preservation staff.

C. Rehabilitation and Loan Programs:

1. The Department will ensure that the rehabilitation of historic properties as defined in this agreement shall conform to the recommended approaches as contained in the Secretary of the Interior's Standards and Guidelines for Rehabilitating Historic Buildings (Revised 1990) (hereafter referred to as the Standards).

2. In order to ensure conformance with the Standards, all rehabilitation projects and associated construction activities involving historic properties will be reviewed by

qualified Department staff prior to the initiation of construction activities. Documentation including before- and after-photographs, work write-ups, and the written review comments of the Department's Historic Preservation staff shall be retained as part of the permanent project records to evidence adherence to the Standards.

3. If the Department's Historic Preservation staff determines that the rehabilitation of a historic property does not conform to the Standards or will otherwise constitute an adverse effect, the Department shall comply with 36 CFR 800 before proceeding with such rehabilitation.

D. Demolition:

1. The City may proceed with the demolition of properties which the Department's Historic Preservation staff has determined are not historic, provided there will be no effect to other historic properties.
2. Where demolition of a historic property is required to avoid or eliminate a significant public hazard as defined in Section 66.05 Wisconsin Statutes and/or a local ordinance (SEE Attachment B) the City will comply with the regulations outlined in 36 CFR Part 800.
3. Demolition of historic properties will be reviewed on a case-by-case basis by the Department's Historic Preservation staff and by the SHPO. When such a review is necessary, the Department shall submit the following documentation as soon as the demolition is being contemplated to the SHPO for review:
 - a) A written description of the property;
 - b) The location of the property delineated on a Land Use Quarter Section (LUQS) map;
 - c) The reasons for demolition (including adequate documentation of any building code violations) and an explanation as to why rehabilitation or preservation are neither prudent nor feasible;
 - d) Photographic evidence and a written description of the deteriorated condition of the building or structure to be demolished;

- e) Photographs of each elevation and any significant architectural elements (interior and/or exterior) which might exist of the subject property.
 - f) The review comments and recommendations of the Department's Historic Preservation staff.
4. The SHPO will review the documentation as submitted and within thirty (30) working days after receipt of adequate documentation, will concur or object in writing to the proposed demolition, forwarding an informational copy of concurrence or objection to the Council. The Department will then formally request the Council comments in accordance with 36 CFR 800.

E. Relocation:

1. The relocation of historic properties will be reviewed by Department Historic preservation staff on a case-by-case basis. The Department will submit the following written documentation to the SHPO to initiate the consultation process:
 - a) The Department's written determination of effect, comments, and recommendations;
 - b) The present location of the property delineated on a Land Use Quarter Section (LUQS) map(s);
 - c) The location of the site proposed for relocation delineated on a Land Use Quarter Section (LUQS) map(s);
 - d) Written description of the proposed site to which the property will be moved;
 - e) The reasons for the relocation;
 - f) An analysis of the various alternatives considered and why they are considered neither prudent nor feasible; and
 - g) Photographs of the property in question that adequately illustrate the character and integrity of the subject property and its immediate setting.
2. The SHPO will review the documentation submitted and within thirty (30) calendar days of receipt of adequate documentation, shall concur or object in writing to the proposed relocation and forward an informational copy to the Council. Upon receipt of SHPO comments, the Department shall request Council comments in accordance with 36 CFR Part 800.

F. New Construction:

1. Proposals for new construction potentially affecting a historic property shall be developed in conformance with the recommended approaches for new construction as contained within the Standards. To ensure compliance with the Standards, plans for new construction will be developed in consultation with Department's Historic Preservation staff. Final plans, drawings, and specifications will be submitted to the SHPO for review and comment prior to initiating construction activities.

G. Capital Improvements:

1. Activities such as sewer repair/replacement, road improvements, curb and gutter replacement, and landscaping which are proposed for areas outside of National Register or National Register-eligible Historic Districts or are not adjacent to properties listed or eligible for inclusion in the National Register may proceed without Department staff review.
2. The above-mentioned capital improvements which involve historic properties but provide for replacement in-kind may proceed without review by the Department's Historic Preservation staff.
3. Documentation for projects involving historic properties that are not replacement in-kind shall be reviewed prior to project implementation by the Department's Historic Preservation staff to ensure conformance with the recommended approaches contained within the Standards.

H. Archeology:

1. Prior to any new ground-disturbing activities, the Department shall notify the SHPO and request an opinion of the potential existence of any significant archeological resources. If the potential for archeological resources exists, an archeological survey of the affected area will be carried out in consultation with the SHPO. Archeological testing, as appropriate, will be undertaken to determine if properties identified in the survey meet National Register criteria. If archeological resources are found that the Department in consultation with the SHPO determine meet National Register criteria, they will be avoided or preserved in place, whenever feasible. When it is not feasible to preserve a resource in place, the SHPO will be consulted and a treatment consistent with the Council's Handbook Treatment of Archeological Properties (and its subsequent revisions) and approved by the SHPO will be developed and implemented. The Department will ensure that all identification and testing efforts

will be conducted in accordance with the Secretary of the Interior's Standards and Guidelines for Identification (48 FR 44716) and appropriate internal guidance and regulation from SHPO.

I. Activities Exempt from Further Review:

1. Activities mentioned in Section 58.34 of the "Environmental Review Procedures for the Community Development Block Grant, Rental Rehabilitation, and Housing Development Grant Programs" (24 CFR Part 58) are exempt from review under this agreement with the Council's regulations (36 CFR Part 800).
2. The following activities involving historic properties will be considered to have no effect and will not require review by the Department's Historic Preservation staff or consultation with either SHPO or Council:
 - a) Acquisition of properties when they will be secured and protected from vandalism, arson, and the elements pending their disposal or reuse;
 - b) Line painting, maintenance, repair or resurfacing of streets, alleys, sidewalks, and curbs;
 - c) Maintenance, repair, or replacement of streetlights, traffic signals, and traffic signs;
 - d) The purchase of equipment;
 - e) The rebuilding of existing wheel chair ramps;
 - f) Installation of new furnaces and water heaters;
 - g) Repair or pouring of concrete basement floors;
 - h) Installation of screens into existing storm windows;
 - i) Upgrading, replacement, and repair of existing utility service lines and sewer systems as long as work is confined within existing and disturbed rights-of-way;
 - j) Upgrading, replacement, and repair of electrical and plumbing systems;
 - k) Painting in complementary or in-kind colors;

- l) Caulking, weatherstripping, and reglazing of broken or missing window panes;
 - m) Attic insulation;
 - n) Repair or in-kind replacement of roofing, gutters, and downspouts; and
 - o) In-kind repair or replacement of non-character-defining features.
3. The Department shall retain comprehensive project files for the aforementioned projects so that adequate documentation can be provided to the Council should a request be received from the public in accordance with 36 CFR Part 800.

J. Monitoring:

1. The Department shall retain documentation concerning all activities carried out pursuant to this Agreement.
2. The Department will provide the SHPO an annual report (as defined in Appendix A to this agreement) summarizing the activities carried out pursuant to this agreement.
3. The Department will provide all related documentation for projects assisted by federal programs as defined in this Agreement to the SHPO and HUD for periodic review and comment as to the adequacy of the documentation.
4. Nothing in this Agreement shall be construed as meaning that the City cannot request the advice, counsel, or assistance of the SHPO at any time.

K. Public Notification and Involvement:

Each year the Department shall notify the public of its current Community Development Block Grant, Rental Rehabilitation, Emergency Shelter, and Scattered Site Public Housing programs and make available for public inspection documentation related to these programs. This documentation shall include the following:

1. Types of activities undertaken with program funds during the prior year and activities projected for the current year;
2. Information on identified historic properties which might be affected and the location of said properties;

3. Funding level for the current program year; and
4. How interested persons can obtain additional information on programs and advise the City, HUD, the Wisconsin SHPO, and/or the Council of any concerns they might have relative to program effects on historic properties.

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

This Programmatic Agreement will continue in full force and effect until July 2003. At any time in the six-month period prior to this date, the City may request ACHP and the SHPO and HUD in writing to review the City's program and consider an extension or modification of this Programmatic Agreement. No extension or modification will be effective unless all parties to the Programmatic Agreement have agreed to it in writing.

Any party to this Programmatic Agreement may request that it be amended, whereupon the parties will consult in accordance with 36 CFR § 800.13 to consider such amendment.

Any party to this 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 §§ 800.4 through 800.6 with regard to individual undertakings covered by this Programmatic Agreement.

In the event the City does not carry out the terms of this Programmatic Agreement, the City will comply with 36 CFR §§ 800.4 through 800.6 with regard to individual undertakings covered by this Programmatic Agreement.

Execution and implementation of this Programmatic Agreement evidences that the City has afforded ACHP a reasonable opportunity to comment on the program and that the City has taken into account the effects of the program on historic properties.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____ Date: _____

[Name and title of signer]

CITY OF MILWAUKEE

By: _____ Date: _____

John O. Norquist, Mayor City of Milwaukee

WISCONSIN STATE HISTORIC PRESERVATION OFFICER

By: _____ Date: _____

Alicia Goehring, Deputy State Historic Preservation Officer Division of
Historic Preservation Wisconsin Historical Society

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

By: _____ Date: _____

Robert Berlan, Director of Community Planning and Development

*** Where other programs besides CDBG are included, these should be recited in the title, or a name should be assigned that incorporates all programs covered, and defined in the "Whereas" clauses. The terminology of the PA model must then be adjusted throughout. If programs that HUD cannot delegate to the city are included, HUD must be a signatory to the PA, and HUD's role in PA implementation should be identified within the body of the agreement.**