

**PROGRAMMATIC AGREEMENT
AMONG THE CITY OF COLUMBIA, MISSOURI
THE MISSOURI STATE HISTORIC PRESERVATION OFFICER,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
FOR U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
PROGRAMS ADMINISTERED BY THE CITY OF COLUMBIA, MISSOURI**

WHEREAS, the City of Columbia, State of Missouri (hereinafter “City”), administers grant programs from the U.S. Department of Housing and Urban Development (hereinafter “HUD”), which include, but are not limited to, the Community Development Block Grant (CDBG) program, the HOME Investment Partnerships Act Program (HOME), the Neighborhood Stabilization Program (NSP), and any other HUD program for which the City assumes HUD’s environmental review responsibility pursuant to 24 C.F.R. Part 58; and,

WHEREAS, the City or other recipient or participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance with the above-named HUD- programs for undertakings that may include, but are not limited to, repair, rehabilitation, construction, demolition, acquisition and disposition activities related to residential, commercial, industrial and public properties, structures or facilities; and,

WHEREAS, the City of Columbia may also utilize this agreement for city department related activities that may include, but are not limited to, repair, rehabilitation, construction, demolition, acquisition and disposition activities related to residential, commercial, industrial and public properties, structures or facilities; and,

WHEREAS, the City has determined that the administration of the above-named HUD-funded programs may have an effect on properties included in or eligible for inclusion in the National Register of Historic Places and has consulted with the Missouri State Historic Preservation Officer (hereinafter “SHPO”) and the Advisory Council on Historic Preservation (hereinafter “ACHP”) pursuant to 36 CFR § 800.14 of the regulations implementing Section 106 of the National Historic Preservation Act of 1966 (16 USC Sec. 470f), and Section 110(f) of the same Act (16 USC Sec. 470h-2(f)); and,

WHEREAS, the principles set forth in the ACHP's Policy Statement on Affordable Housing and Historic Preservation, which is attached as Appendix A and incorporated herein, will be taken into consideration by all parties when carrying out the stipulations of this Programmatic Agreement; and

NOW, THEREFORE, the City, the SHPO, and ACHP agree that the City’s HUD-funded programs shall be administered in accordance with the stipulations provided below to satisfy the City’s Section 106 responsibilities for all individual undertakings.

STIPULATIONS

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

I. Activities Exempt from Further Review.

All undertakings that are not identified under Stipulation I, “Activities Exempt from Further Review,” must be reviewed in accordance with 36 C.F.R. Part 800.3 through 800.7.

A. General Exemptions

The following undertakings have no or limited potential to affect historic properties and do not require further review or consultation with the SHPO or ACHP. Further compliance with the ACHP’s regulation (36 C.F.R. 800) is not required.

1. Undertakings, including rehabilitation, but not including demolition or new construction, which involve buildings, structures or facilities less than forty-five (45) years old at the time of the proposed undertaking, provided that:
 - a. The property has not been listed in the National Register of Historic Places (NR) or the Columbia Local Register of Historic Places (LR) at the time of the proposed undertaking; and,
 - b. The property has not been determined to be eligible for listing in the NR or LR as identified in the records of Columbia, Missouri, Boone County, Missouri, or the Missouri State Historic Preservation Office at the time of the proposed undertaking.
2. Refinancing, without demolition, repair, rehabilitation, or construction.
3. Leasing, without demolition, repair, rehabilitation, or construction.
4. Undertakings on Properties Less than 45 Years Old. All properties less than forty five (45) years of age that do not meet the criterion established in National Register Bulletin 22, Guidelines for Evaluating and Nominating Properties that Have Achieved Significance Within the Past Fifty Years, do not require further review or consultation.
5. Undertakings on Properties Recently Reviewed. If the property has been reviewed by the SHPO within the last five (5) years from the date the City makes application to HUD for assistance and provided the property is documented through written consultation with the SHPO to be ineligible for inclusion in the National Register, the Undertaking may proceed without further review or consultation.
6. Acquisition of Vacant Property. Acquisition or land-banking of vacant real property (i.e., property without buildings or structures) for which there is no reasonably foreseeable plan for redevelopment, reuse, or new construction and without any reasonably foreseeable plan for ground disturbing activity, does not require further review or

consultation. Properties acquired under this exemption require review pursuant to 36 CFR Parts 800.3 through 800.6, as appropriate, upon identification of a plan for redevelopment, reuse, new construction or ground disturbance.

7. Interior Rehabilitation. In accordance with the ACHP Policy Statement on Affordable Housing and Historic Preservation (see Appendix B), Section 106 review of rehabilitation work for residential properties in historic districts should be limited only to the exterior of buildings unless the property is individually listed or eligible for listing in the National Register or if it is a contributing building within a historic district where specific interior elements of the building contribute to maintaining a district's character. Therefore, when a residential property is located in a historic district, interior rehabilitation work is exempt from further review or consultation, unless the property is individually eligible or listed on the National Register or the property retains interior features that contribute to maintaining the character of the district.
8. Activities Listed in HUD Regulation at Parts 58.34 and 58.35(b). HUD's environmental regulation, 24 C.F.R. Part 58, lists activities that are exempt at §58.34 and categorically excluded at §58.35(b), which do not consist of construction, demolition, repair, rehabilitation, acquisition or disposition. The activities listed in these sections of the HUD regulation do not require further review or consultation.

B. Exempt Activities

The following undertakings have no or limited potential to affect historic properties and do not require further review or consultation with the SHPO or ACHP, provided the undertakings comply with The Secretary of the Interior's Standards for the Treatment of Historic Properties and are reviewed by the City's Preservation Manager. For purposes of this agreement, the terms "in-kind repair" or "in-kind replacement" are defined as installation of a new element that duplicates the material, dimensions, configuration and detailing of the original element.

Exempt activities apply to projects not otherwise made exempt under Section I.A., "General Exemptions."

1. Site Work.

- a. Removal and installation of non-historic retaining walls, driveways, curbs and gutters, and parking areas; and for in-kind repair, using like materials, techniques and design of historic retaining walls, driveways, curbs and gutters, and parking areas.
- b. Installation or repair of concrete or asphalt sidewalks and alleys.
- c. Installation or repair of brick or stone sidewalks and alleys with like materials.
- d. Maintenance, repair, or in-kind replacement of masonry steps not attached to any building.

- e. Installation of landscaping when no grading is required and when excavation of holes for individual plantings is no more than thirty (30) inches deep.
- f. Installation or repair of utilities such as water, gas, sewer, and electrical lines.
- g. Installation of temporary, reversible barriers such as fencing and construction pedestrian tunnels.
- h. In-kind replacement/repair of:
 - 1) masonry retaining walls, steps, driveways, curbs, and gutters within the existing footprint; and,
 - 2) city streetlights, signs, traffic lights, transportation shelters, or street furniture
 - 3) Installation of curb cuts designed to remove barriers to accessibility in cases where additional major excavations are not needed to accommodate the slope of the ramp.

2. Exterior Rehabilitation.

- a. Purchase and acquisition of real property.
- b. Architectural and engineering fees.
- c. Securing and “mothballing” of structures, using methods defined in the National Park Service’s Preservation Brief 31, Mothballing Historic Structures.
- d. Installation of scaffolding.
- e. Temporary stabilization that causes no permanent damage to the building or site, including installation of temporary bracing, shoring, and tarps.
- f. Exterior maintenance and in-kind repairs that do not affect the external appearance and building fabric, including, but not limited to, the following:
 - 1) Re-pointing of mortar joints with mortar similar in composition, joint profile, color, and texture. The mortar used in the tuck-pointing shall be no harder than the existing mortar and bricks.
 - 2) In-kind repair and replacement of foundations, floor joists, and ceiling joists.
 - 3) Removal of exterior paint by non-destructive means, limited to hand scraping, low-pressure water wash of less than 400 psi, heat plates or hot air guns, chemical paint removal.
 - 4) Application of exterior paint, other than on previously unpainted masonry.

- 5) All lead paint abatement that does not involve removal or alteration of exterior features, windows, doors, trim, etc.
 - 6) Repair or partial in-kind replacement of wood siding and trim.
 - 7) Repair or in-kind replacement of existing porch elements such as columns, flooring, floor joists, ceilings, railing, balusters and balustrades, and lattice.
 - 8) Maintenance, repair, and in-kind replacement of roof cladding and sheeting, gutters, soffits, and downspouts with no change in roof pitch or configuration.
 - 9) Window repair, including caulking and weather stripping of existing window frames, installation of new or historic clear glass in existing sashes, and replacement of glazing.
 - 10) Maintenance, repair, or in-kind replacement of handicapped accessible improvements such as wheelchair ramps, but not including exterior elevators.
- g. Installation of storm windows provided the windows are anodized or painted to match the trim and with stiles and rails that align with the existing windows.
 - h. Placement and installation of exterior heating, ventilating or air conditioning (HVAC) mechanical units and vents, provided any exterior HVAC mechanical units at the front of the building are screened from public view.
 - i. Installation, replacement, or repair of basement bulkhead doors.

3. Interior rehabilitation.

- a. All plumbing work, including installation of water heaters. In no case shall ceilings be dropped to accommodate such work
- b. All electrical work not involving demolition of walls, ceilings and/or floors, unless previously altered from lath and plaster to drywall.
- c. All HVAC systems and their components. In no case shall ceilings be dropped or accommodate such work.
- d. Installation of insulation in attics and crawl spaces. In no case shall ceilings be dropped to accommodate such work.
- e. Installation of blown insulation in exterior walls when access to wall cavities can be obtained without altering the exterior or interior wall appearance.
- f. Repair and in-kind replacement of plaster walls and ceilings.

- g. Installation of drywall where original plaster wall surfaces are missing and where the installation of drywall will not appreciably change the trim profile.
- h. Repair and re-finishing of interior floors.
- i. All painting and carpeting, provided that carpet installation damages no underlying wood or masonry floor surfaces.
- j. All kitchen and bathroom remodeling provided the location of walls, windows, or doors are not altered, except for those features that are not original to the building.
- k. All Americans with Disabilities Act (ADA) accessibility improvements provided that no historic materials such as trim work, tin ceilings, windows, doors, etc. are altered.
- l. All lead paint abatement that exclusively involves washing, scraping, hand sanding, and painting surfaces and does not require removal or alteration of exterior/interior features.
- m. All asbestos abatement that does not involve removal or alteration of interior features.

4. Demolition

Demolition of contributing properties in National Register historic districts, individually listed National Register properties, or properties determined eligible for the National Register is always an adverse effect and will only be permitted under the terms of this Agreement as stipulated below.

- a. Site control and protection through installation of temporary fencing and barriers.
- b. Removal and disposal of collapsed building debris and rubble not attached to any structure.
- c. Removal of dead trees and brush.
- d. Clean-up and removal of trash, refuse, and abandoned vehicles.
- e. Grading and seeding of sites where demolition has already taken place.
- f. Demolition of structures or building additions less than forty-five (45) years old, following review of City building permit records, other than those eligible for listing in the National Register of Historic Places as defined by National Register Bulletin 22, Guidelines for Evaluating and Nominating Properties that Have Achieved Significance Within the Past Fifty Years.
- g. Demolition of structures determined by the Missouri SHPO within the past four years to be ineligible for listing in the National Register of Historic Places, either individually or

as part of a district, unless changes in condition or status of the property necessitates review.

- h. Demolition of non-contributing accessory structures with a building footprint of less than 300 square feet, including, but not limited to, garages, sheds, and carports.
- i. Removal of metal awnings.

5. Emergency Demolition

- a. In the event of an emergency necessitated by an imminent threat to public health and safety as determined by local officials or as a result of a natural disaster or other emergency declared by local, state, or other federal officials, the City immediately notify the SHPO by telephone and e-mail and provide a project information packet to the 106 staff at the SHPO describing the emergency undertaking. The documentation may be submitted electronically. This report will always be accompanied by a statement by a local building official, local or state fire marshal or state emergency management personnel and, where practicable, accompanied by a structural engineer's report.
- b. The SHPO will respond to the review packet within seven (7) working days of receipt and notify the City in writing of its concurrence and any recommended mitigation measures (e.g., recordation, additional photographic documentation, architectural salvage, etc.). The SHPO's failure to comment within the subject timeframe will be considered by the City as concurrence with the demolition and without recommendations.
- c. Emergency undertakings not complying with the provisions of this Agreement shall comply with the procedures outlined in 36 CFR Part 800.12(b).

6. Acquisition of Buildings or Structures

Acquisition of a building or structure is exempt from further review or consultation provided that, within thirty (30) days of acquisition, the building or structure is mothballed in accordance with the guidelines of Preservation Brief #31: Mothballing Historic Buildings (U.S. Department of the Interior, National Park Service). If the building or structure is not mothballed within thirty (30) days of acquisition, the acquisition action must be reviewed pursuant to 36 CFR Parts 800.3-800.6.

7. Disposition of Property

Disposition of real property, either vacant or with a building or structure, that has been determined eligible for listing in the National Register of Historic Places, does not require further review or consultation provided the SHPO has approved restrictions or conditions in the transfer documents to ensure the property will be redeveloped and/or maintained in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties (1995).

II. Unanticipated Discoveries

The City shall include the following provisions in construction documents for all Undertakings:

- A. In the event that human remains or a previously unidentified archeological resource is discovered during ground disturbing activities, the City shall immediately notify the SHPO. Within forty-eight (48) hours of the discovery, the City must also notify Indian tribes that might attach religious and cultural significances to the affected property. All construction work involving subsurface disturbance will be immediately halted in the area of the resource and in the surrounding area where further subsurface remains can reasonably be expected to occur pursuant to Chapter 194.400-410, RSMO.
- B. The City and the SHPO, or an archeologist as defined above in Section I.B., will immediately inspect the work site and determine the area and nature of the affected discovery or archeological resource. Appropriate steps must be taken to secure the resource. Construction may then occur in the project area outside the affected resource upon notification by the SHPO.
- C. Human Remains. In the event human remains are encountered, all reasonable efforts will be made to avoid disturbing the remains and any artifacts pursuant to Chapter 194.400-410, RSMO. To the extent possible, the public will be excluded from viewing the remains or artifacts and no photographs will be released to the public or news media.
- D. The City, in consultation with the SHPO, will determine the National Register eligibility of the archeological site. If the SHPO concurs that the resource is eligible for the National Register, the City shall consult with the SHPO to resolve adverse effects pursuant to 36 CFR Part 800.6.

III. Technical Assistance. Nothing in this agreement shall be construed as meaning that the City cannot request advice, counsel, or assistance of the SHPO at any time.

IV. Monitoring. The ACHP or the SHPO may monitor activities carried out pursuant to this Agreement. The City will cooperate with ACHP and the SHPO in carrying out their monitoring and review responsibilities. The City shall make available project information under this Agreement, as necessary.

V. Public Participation. Each year, the City will notify the public of the City's activities through the current CDBG, HOME, and ESG programs, and make available for public inspection documentation on the City's activities through these programs. Included in this documentation will be information on the programs; type(s) of activities undertaken; historic properties which might be impacted by these activities; program funding, and specific project plans and drawings.

VI. Dispute Resolution. At any time during implementation of the measures stipulated in this agreement, should an objection to any measure or manner of implementation be raised by a

member of the public, the City shall take the objection into account and consult with the objecting party, the SHPO, and/or the ACHP to resolve the objection.

VII. Effective Dates. This Programmatic Agreement will continue in full force and effect up to five years from the date of execution. At any time during the six-months prior to this date, the City may request in writing that the ACHP and SHPO 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 such extension in writing.

VIII. Amendments. Any party to this Programmatic Agreement may request that it be amended, whereupon the parties will consult in accordance with 36CFR §800.14 to consider such amendment. Twelve months after the execution of this agreement, the consulting and concurring parties shall review the process and procedures of this agreement; and if agreed to, make recommendations for amendments to this agreement in writing to the consulting parties.

IX. Termination. Any party to this Programmatic Agreement may terminate it by providing thirty (30) day 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 36CFR §800.3 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.

CONSULTING PARTIES:

City of Columbia, State of Missouri

By: _____ Date: _____
Mike Matthes, City Manager

Missouri State Historic Preservation Officer

By: _____ Date: _____
Mark Miles, Deputy State Historic Preservation Officer

Advisory Council on Historic Preservation

By: _____ Date: _____
John M. Fowler, Executive Director

CONCURRING PARTY:

City of Columbia, Historic Preservation Commission

By: _____ Date: _____
Chairperson

APPENDIX A

ACHP'S POLICY STATEMENT ON AFFORDABLE HOUSING and HISTORIC PRESERAVATION (Adopted June 26, 1995)

The National Historic Preservation Act of 1966 (NHPA) mandates preservation of the historical and cultural foundations of the Nation as a living part of community life and development in order to provide the American people with a sense of orientation.

It further states that increased knowledge about historic resources, establishment of a better means to identify and administer them, and encouragement of their preservation will not only improve planning and execution of Federal and federally assisted projects and but also assist economic growth and development.

Toward that end, NHPA directs the Federal Government to foster conditions under which modern society and prehistoric and historic resources can exist in productive harmony and "fulfill the social, economic, and other requirements of present and future generations."

Federal agencies that assist in the construction and rehabilitation of housing, most notably the Department of Housing and Urban Development (HUD) and the Department of Agriculture, are tasked with meeting Americans basic needs for safe, decent and affordable housing. Historic properties have played a vital role in fulfilling this objective; this must continue.

It is, however, important that Federal and State agencies, local governments, housing providers, and the preservation community in general actively seek ways to reconcile national historic preservation goals with the special economic and social needs associated with affordable housing, given that this is now one of the Nation's most pressing challenges.

In issuing this policy statement, ACHP seeks to promote a new, flexible approach toward affordable housing and historic preservation, which is embodied in the following Implementation Principles. State Historic Preservation Officers (SHPOs), Federal and State agencies, and local governments involved in the administration of the Section 106 review process for affordable housing projects funded or assisted by Federal agencies are encouraged to use these principles as a framework for Section 106 consultation and local historic preservation planning.

ACHP also encourages HUD, in consultation with the national preservation community, including the National Conference of State Historic Preservation Officers, the National Park Service, and the National Trust for Historic Preservation, to develop comprehensive historic

preservation training programs for HUD staff, State, county, and local officials, and housing providers who implement affordable housing projects. Such training should advance the Implementation Principles and the initiatives outlined in the Secretary of HUD's May 5, 1995, Historic Preservation Directive, focusing on:

1. Improving coordination of Section 106 reviews;
2. Evaluating the National Register eligibility of historic properties;
3. Applying the Secretary's Standards;
4. Providing technical assistance for routine maintenance and repairs to historic buildings;
5. Developing financial packages for affordable housing projects; and,
6. Integrating historic preservation into Consolidated Plan Documents and local comprehensive plans.

Implementation Principles

- I.** Section 106 reviews for affordable housing projects should place principal emphasis on broad-based consensus reflecting the interests, desires, and values of affected communities, neighborhoods, and residents. Consensus-building should be facilitated through training, education, and consultation focused on historic preservation values, collaborative planning, and dispute resolution.
- II.** Identification of historic properties and evaluation of their eligibility for the National Register for Historic Places should include discussions with the local community and neighborhood residents to ensure that their views concerning architectural and historic significance and traditional and cultural values receive full consideration by the Federal agency, State, county, or local government, and the SHPO.
- III.** When assessing the effects of affordable housing projects on historic properties, consultation should focus not just on individual buildings which may contribute to a historic district but on the overall historic preservation potentials of the broader community, neighborhood, or "target area." This practice will ensure proper consideration is given to the cumulative impacts of projects within a designated area. Historic preservation issues should be related to social and economic development, housing, safety, and programmatic issues integral to community viability.
- IV.** Plans and specifications for rehabilitation, new construction, and abatement of hazardous conditions associated with affordable housing projects should adhere to the recommended approaches in The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, when feasible. When economic or design constraints preclude application of the Standards, consulting parties may develop alternative design guidelines tailored to the district or neighborhood to preserve historic

materials and spaces to the maximum extent feasible. Alternative guidelines shall be incorporated into executed Memoranda of Agreement or Programmatic Agreements.

- V.** Proposals for non-emergency demolitions of historic properties should include adequate background documentation to demonstrate to the SHPO and/or ACHP that rehabilitation is not economically or structurally feasible, or that retention of such properties would jeopardize the implementation of an affordable housing project.
- VI.** The Section 106 review process for affordable housing rehabilitation projects and abatement of hazardous conditions should emphasize treatment of exteriors and be limited to significant interior features and spaces that contribute to the property's eligibility for the National Register, unless otherwise agreed to by all consulting parties.
- VII.** Where appropriate, Section 106 reviews for affordable housing projects should be conducted in conjunction with the Historic Rehabilitation Tax Credits and other State and local administrative reviews to ensure consistency of reviews and to minimize delays. When Section 106 reviews for affordable housing projects precede other related reviews, applicants who are seeking Historic Tax Credits are encouraged to seek the advice of the SHPO and to obtain early review by the National Park Service to assure final eligibility for the Historic Rehabilitation Tax Credit.
- VIII.** Archeological investigations should not be required for affordable housing projects which are limited to rehabilitation and require minimal ground disturbance activities.
- IX.** State, county, and local governments are encouraged to develop Programmatic Agreements that promote creative solutions to implement affordable housing projects and to streamline Section 106 reviews through the exemption of categories of routine activities; the adoption of "treatment and design protocols" for rehabilitation and infill new construction; and the delegation of Section 106 reviews to qualified preservation professionals employed by the local community.
- X.** Certified local governments and/or communities that employ qualified preservation professionals, as set forth in The Secretary of the Interior's Professional Qualification Standards should be allowed to conduct Section 106 reviews on behalf of ACHP and/or the SHPO for affordable housing projects when the local government and/or community has executed a Programmatic Agreement with ACHP and the SHPO.

APPENDIX B

PUBLIC PARTICIPATION PROCESS

The following is an outline for the public participation process for projects covered under this programmatic agreement. This process will serve as fulfillment of the requirement for public participation unless a party to this agreement determines that a project requires an alternative public participation process.

A. Application Submittal for 106 Review

1. Environmental review is conducted by CDBG and HOME staff.
2. CDBG and HOME staff determines if a Section 106 Review is required or determines it is an exempt activity under Section I of the Programmatic Agreement. If exempt, the project is added to exempt agenda and documentation is included in the project file.
3. If the project requires a Section 106 Review, CDBG and HOME staff submits 106 Review documents to SHPO and determine project feasibility based on SHPO report and response.

A. Public Meeting

A public meeting is held when City staff makes a determination that the undertaking has an adverse effect on a historic building, site, district, or archaeologically significant site. The following procedure then follows:

1. Staff presents an overview of the non-exempt undertaking to the Historic Preservation Commission; identification and evaluation resources affected by the undertaking; a determination of the effect of the undertaking on historic resources; and recommendations on alternatives or mitigation measures.
2. The meeting shall be open to public comment and discussion after each presentation.
3. The Historic Preservation Commission may choose one of the following actions:
 - a. Concur with staff findings and recommendations.

- b. Disagree with staff findings and recommendations and request further consultation and information.
- c. Choose not to participate in further consultation.
- d. Take no action.

B. Post Public Meeting

- 1. City staff submits non-exempt activities to State Historic Preservation Office for 106 Review along with public comments and any plans for additional consultation.

C. Findings of the State Historic Preservation Office

- 1. SHPO agrees with determination of no historic properties effected or no historic properties adversely effected and agrees public participation requirements are fulfilled. Process is completed and letter from the SHPO is filed with HERC.
- 2. SHPO disagrees with determination no historic properties effected or no historic properties adversely effected. SHPO requests further information and if appropriate, additional public participation. Staff either submits additional information to SHPO or follows procedure for adversely effected properties.
- 3. SHPO concurs that the project will have an adverse effect on a historic property and staff prepares a plan for further consultation and drafts a Memorandum of Agreement to mitigate adverse effects based on consultation.