PROGRAMMATIC AGREEMENT
AMONG THECOUNTY OF KANE, AND
THE ILLINOIS STATE HISTORIC PRESERVATION OFFICER
FOR CERTAIN PROGRAMS FUNDED BY
THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
ADMINISTERED BY THECOUNTY OF KANE

WHEREAS, The County of Kane, Illinois (County) has determined that the implementation of its Community Development Block Grant (CDBG), HOME Investment Partnerships (HOME), IKE CDBG Disaster Recovery, Neighborhood Stabilization (NSP), Lead Based Paint Hazard Control (LBPHC) programs and Healthy Homes Initiative (HHI) for Federal Fiscal Years 2010-2016 may have an effect on properties included or eligible for inclusion in the National Register of Historic Places; and

WHEREAS, these programs are administered by the County's Office of Community Reinvestment (OCR) and encompass a variety of activities including: rehabilitation, new construction, demolition, and infrastructure improvements and other eligible activities; and

WHEREAS, The County has consulted with the Illinois State Historic Preservation Officer (SHPO) pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470f) and its implementing regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800); and

WHEREAS, The County and the SHPO have determined that the County can more effectively fulfill its Section 106 review responsibilities for CDBG,IKE, HOME, NSP, LBPHC and HHI programs activities if a programmatic approach is used to delegate Section 106 compliance responsibilities to the County; and

WHEREAS, The County is a Certified Local Government with a historic preservation commission and qualified professional staff who will carry out duties enumerated below;

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

STIPULATIONS

I. Qualified Personnel

A. The County shall ensure that it maintains a staff that meets the qualifications outlined in 36 CFR Part 61, the Secretary of the Interior's Professional Qualification Standard, hereafter referred to as Certified Staff.

B. The County shall ensure that all historic preservation work carried out pursuant to this Agreement is carried out by or under the direct supervision of Certified Staff.

C. The County shall notify the SHPO whether it has employed or contracted with qualified professionals to carry out reviews under the terms of the Programmatic Agreement or whether it will require assistance from SHPO. The vitae of qualified professionals and/or contractors shall be provided to the SHPO for review as a component of the Certified Local Government Annual Report.

contractors shall be provided to the SHPO for review as a component of the Certified Local Government Annual Report.

D. The County will notify the SHPO of staff changes or vacancies. If the County does not have Certified Staff in place or if the SHPO does not certify a county staff person, or consultant, then this Agreement will become null and void and the County will comply with 36 CFR part 800.4 through 800.6 with regard to individual undertakings covered by this Agreement.

II. Exempt Activities

When the following activities are proposed for properties listed in the National Register or eligible for listing in the National Register, further review is not required because there is limited potential to affect historic resources.

A. Involvement of properties less than 50 years old not listed in or eligible for the National Register.

B. Repair or replacement of electrical, plumbing, heating and ventilation systems or their components, when no structural alteration is involved. This includes repair or replacement of electrical panels, breakers, circuits, switches, receptacles, and fixtures, plumbing and water lines, drains, sewers, fixtures, water heaters, heating vents, floor furnaces, wall heaters, central heat systems and gas lines.

C. Painting of any exterior component which has previously been painted.

D. Repair or replacement of existing infrastructure in kind.

III. Identification and Evaluation of Historic Properties

A. Identification of Historic Properties

1. The County will continue to survey its historic properties and forward information on locally significant properties to the SHPO. This information will be conveyed via the Certified Local Government Annual Report.

2. In conducting a local identification of historic properties the County shall review and consult:

   a. The current listing of the National Register of Historic Places.
   b. The current listing of the Kane County Register of Historic Places.
   c. The Kane County Rural Structures Survey (1987).
      The current landmarks list and surveys for the municipalities participating in the Kane County CDBG, HOME, IKE, NSP, LBPHC and HHI programs.
   d. The Illinois Historic Sites survey (1972).

3. When the County determines that additional information is required to adequately assess the presence of historic properties, additional surveys shall be conducted that are responsive to the nature of the undertaking. As appropriate,

the focus of the identification surveys shall be on target areas rather than property-by-property.

B. Evaluation of National Register Eligibility

1. Documentation for properties 50 years or older involved in a HUD funded undertaking that are not individually listed in the National Register of Historic Places will be evaluated by Certified Staff. Certified Staff shall apply the National Register criteria and determine if the structures qualify for National Register eligibility.

2. If Certified Staff has questions concerning the eligibility of a certain property, he or she will forward documentation to the Kane County Historic Preservation Commission (Commission) for evaluation and recommendation.

3. If the Commission has questions concerning the eligibility of a certain property, they will forward documentation to the SHPO for evaluation and recommendation. If the Commission chooses not to accept the recommendation of the SHPO, in this instance, they will forward adequate documentation, including the views of the SHPO, to the Keeper of the National Register of Historic Places for a formal determination of eligibility in accordance with 36 CFR Part 800.4 (c). The SHPO shall be notified accordingly.

4. Certified Staff may submit eligibility determinations for properties to the Commission and SHPO concurrently in order to expedite the Section 106 review.

5. Properties determined to be not listed in the National Register or not eligible for the National Register will be documented as such by Certified Staff and a copy of the determination will be included in the individual project files.

IV. Treatment of Historic Properties

A. Properties listed in the National Register, eligible for listing in the National Register, and which have been determined to meet the National Register criteria in accordance with Stipulation III shall be treated in accordance with this section.

B. Rehabilitation

1. The County shall ensure that work write-ups of plans and specifications for all rehabilitation activities not listed as exempt under Stipulation II are developed in accordance with the recommended approaches in *The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (Standards).

2. Prior to the initiation of rehabilitation activities, program the County shall submit work write-ups or plans, photographs and specifications which evidence adherence to the Standards to Certified Staff for review and approval. These plans must be complete enough in order to facilitate understanding of the proposed project.

3. Should Certified Staff recommend modifications to the work write-ups or plans and specifications to ensure that the project meets the Standards; program The County shall make the appropriate modifications and submit revised work write-ups or plans to Certified Staff. If Certified Staff, in consultation with the Commission, determine that the project meets the criteria of adverse effect, The County will consult with the SHPO to develop a Standard Mitigation Agreement in accordance with Stipulation V. If the SHPO determines that the Standard Mitigation Measures do not apply, The County shall notify the Council and initiate the consultation process set forth in 36 CFR Part 800.5(c).

4. If a project will have no effect or no adverse effect on historic resources, it may proceed after review and documentation in individual project files by Certified Staff.

C. Demolition and Relocation of Historic Properties

1. The County shall not proceed with the demolition or relocation of contributing buildings within an historic district or properties listed in or eligible for listing in the National Register until the procedures set forth in this section are completed.

2. Demolition or relocation of properties that are included in or eligible for inclusion in the National Register, listed as contributing buildings within a historic district or included in the surveys listed in Section III.A.2, parts a through e, will be reviewed by the Commission on a case by case basis. The County and Certified Staff will submit the following documentation to the Commission for review:

   a. Location (including map) and description of the property proposed for demolition or relocation, including views of the public.
   b. Reasons for demolition, including documentation of building code violations, structural reports citing building deficiencies and estimated costs for rehabilitation; or reasons for relocation.
   c. A cost comparison of rehabilitation versus property acquisition and demolition and summary of alternatives considered.
   d. Photographs of the property depicting its current condition.
   e. Future plans for the site.
   f. Proposed site for relocation.

3. If the Certified Staff, in consultation with the Commission, determine that demolition or relocation cannot be avoided, the County will consult with the HPO to develop a Standard Mitigation Agreement in accordance with Stipulation V. (If the SHPO specifies that the Standard Mitigation Measures do not apply, The County shall notify the Council and initiate the consultation process set forth in 36 CFR Part 800.5 (c).

D. New Construction

The County shall ensure that the design of new construction, infill construction, or additions to historic buildings is compatible with the historic qualities of the historic district or adjacent historic buildings in terms of size, scale, massing, design, features,

and materials, and is responsive to the recommended approaches for new construction set forth in the Standards and/or in the Kane County Historic Preservation Ordinance.

1. Program the County shall develop preliminary design plans in consultation with the County. Final plans and specifications will be submitted to Certified Staff for review and approval prior to the initiation of construction activities.

2. If Certified Staff, in consultation with the Commission, determine that the design of the new construction does not meet the Standards or would otherwise result in an adverse effect to historic properties, The County shall consult with the SHPO to develop a Standard Mitigation Measures Agreement in accordance with Stipulation V.

3. If the SHPO determines that the Standard Mitigation Measures do not apply, the County shall notify the Council and initiate the consultation process set forth in 36 CFR Part 800.5(c).

E. Handicapped Accessibility

Handicapped Accessibility projects undertaken by the County to comply with the American Disabilities Act and other local and federal requirements will follow these guidelines:

1. The County will explore all alternative methods to provide handicapped accessibility to historic buildings consistent with the Standards, National Park Service Brief Number 32 "Making Historic Properties Accessible," and the Department of the Interior's report *Access to Historic Buildings for the Disabled: Suggestions for Planning and Implementations.*

F. Site Improvements and Public Improvements

1. Site and public improvements within historic districts including sidewalk improvements, repaving of streets, installation of landscaping, street lighting and street furniture and other infrastructure improvements will adhere to the Standards. These improvements will be designed to ensure that character-defining elements of historic properties are preserved through repair or replacement in kind. Any new materials or features introduced in a historic district will be responsive to the character of that district.

2. Final plans and specifications for site and public improvements shall be reviewed and approved by Certified Staff. If the Standards cannot be met or if the project could have an adverse effect on historic properties, then prior to taking any action the County will consult with the Commission.

G. Emergency Undertakings

1. When emergency demolition is required for historic properties associated with HUD funded activities, Certified Staff will conduct an immediate review, if conditions allow. The existence of an emergency situation shall be based upon the need to eliminate an imminent threat of the health and safety of residents as

identified by local building inspectors, fire department officials or other local officials.

2. The County shall forward documentation to Certified Staff to review immediately upon notification that an emergency exists. Documentation should include:

   a. Nature of the emergency
   b. Historic property involved
   c. Current condition of the building, including photographs
   d. Time frame allowed by local officials to respond to, or correct, the emergency situation.

3. The County shall consult with the SHPO to the greatest extent possible given particular circumstances.

4. The County shall ensure that any mitigation measures recommended by the Certified Staff or SHPO are implemented, if feasible.

V. Resolution of Adverse Effects

A. If the County, in consultation with the Commission, determines that a project meets the Criteria of Adverse Effect, the County shall consult with the SHPO to determine whether the historic properties should be treated in accordance with the Standard Mitigation Measures outlined in Appendix A or reviewed, in accordance with 36CFR 800.6.

   1. The County shall submit to the SHPO, background documentation to include an analysis of alternatives, recent structural reports or assessments of conditions, cost estimates for rehabilitation, programmatic and economic considerations, and marketing studies.

   2. If the SHPO determines that a proposed demolition is an acceptable loss or no prudent and feasible alternatives exist to implementing the undertaking without adverse effects, The County and the SHPO, shall execute a Standard Mitigation Measures Agreement as outlined in Appendix A. No further review required by the Council.

B. Standard Mitigation Measures Agreements shall not be executed when one of the following circumstances exist.

   1. The SHPO determines that the Standard Mitigation Measures do not apply to an undertaking.

   2. The SHPO fails to respond within 30 days.

   3. The undertaking will adversely affect a National Historic Landmark.

   4. Historic or prehistoric human remains are present within the area of potential effect.

VI. Treatment of Archeological Sites

The County shall notify the SHPO when ground-disturbing activities, to include excavation for footings and foundations; installation of utilities such as sewer, water, storm drains, electrical, gas, leach lines, and septic tanks, are proposed as part of an undertaking.

1. The County shall request the SHPO's opinion regarding the potential effect of such activities on archeological properties prior to initiation of project activities. If the SHPO can determine that there is a high probability for the presence of significant archeological sites of cultural remains within the project area, the County or program the County shall contract a qualified archeologist to conduct archeological surveys. The County shall forward the scope of work for the archeological survey to the SHPO for review and approval.

2. If the County and the SHPO determine that there is the potential for archeological properties listed in or eligible for listing in the National Register, the County shall seek ways to avoid the archeological properties. If the properties cannot be avoided, the County and the SHPO shall develop a data recovery plan that is consistent with the Secretary of the Interior's Standards and Guidelines for Archeological Documentation (48 CFR 44734-37) and take into account the Council's publication, "Treatment of Archeological Properties", its subsequent revisions and appropriate State guidelines. The County shall ensure that a qualified archeologist will implement the approved plan.

VII. Discovery

The County shall notify the SHPO immediately if unidentified historic properties are discovered during the implementation of project activities previously approved under the terms of this Programmatic Agreement or unexpected affects to known historic properties occur.

1. The County shall forward appropriate documentation to the SHPO, to include the location of the property, photographs, and any relevant descriptive information, so that the SHPO can evaluate the properties in accordance with Stipulation III.B.

2. If the County, in consultation with the SHPO, determine that the historic properties are eligible for listing on the National Register and that the historic properties cannot be avoided during implementation project activities, the County shall consult with the SHPO to develop an appropriate treatment plan or Standard Mitigation Measures agreement in accordance with Stipulations IV. or VI.

3. The SHPO will forward comments to the County within five (5) business days after receipt of adequate documentation or within a time frame mutually acceptable to the SHPO and the County.

VIII. Tribal Consultation

The County will make a reasonable and good faith effort to identify federally recognized native-American that may attach religious and cultural significance to properties potentially affected by undertakings covered by this Programmatic Agreement and will follow HUD guidance on consulting with tribes to identify and evaluate historic properties, and assess and resolve effects.

IX. Public Involvement

A. Each year the County will notify the public of the County's CDBG, HOME, IKE, NSP, LBPHC and HHI Programs and make available for public inspection documentation on the County's CDBG, HOME, IKE, NSP, LBPHC and HHI programs. Included in this documentation will be general information on the amount of CDBG, HOME, IKE, NSP, LBPHC and HHI program funds available in the current program year, the types of activities undertaken with CDBG, HOME, IKE, NSP, LBPHC and HHI program funds, and how interested persons can receive further information on the programs.

B. At any time during the implementation of the measures stipulated in this Programmatic Agreement, should the public raise an objection pertaining to the treatment of an historic property the County shall notify the Commission and take the objection into consideration. Program recipients, the County, the Commission, or the SHPO, when requested by the objector, shall consult to resolve the objection. Program the County are not required to cease work while objections are being reviewed, but the County reserves the right to halt work in light of valid arguments from the public.

X. Administration, Monitoring and Reporting

A. The SHPO shall provide comments within 30 days for reviews or comments requested by the County or the Commission, with the exception of emergency undertakings. In the event that the SHPO fails to comment, within the30 day time period, the County can assume that the SHPO concurs.

B. The SHPO shall conduct periodic training workshops for Certified Staff to review the requirements of this Programmatic Agreement. The SHPO shall also provide guidance related to implementation of the terms of the Programmatic Agreement.

C. The County shall ensure the SHPO of documentation for local undertakings, which involve historic properties and were subject to the terms of the Programmatic Agreement in individual project or environmental files. Each project shall include at a minimum:

1. Documentation why one of the exemptions from review is applicable.
2. Comments from Certified Staff, the Commission or the SHPO regarding the National Register eligibility of the property.
3. Proposed treatment of historic properties.
4. before and after photographs.
5. Work write-ups.
6. Date the project was completed.

D. Documentation shall be available for review by the SHPO following reasonable notice.

E. The SHPO shall conduct periodic monitoring visits of the County's project sites to ensure compliance with actions, plans, documents and agreements approved by the County or the SHPO pursuant to this Programmatic Agreement.

F. Nothing in this agreement shall be construed as meaning that the County cannot request the advice or assistance of the SHPO at any time.

G. As a component of the Certified Local Government Annual Report, the County shall summarize activities carried out under the terms of this Programmatic Agreement. The report will be submitted no later than June 1 of each year. The Annual Report shall include:

1. List of property addresses submitted for review.
2. Program in which the undertaking took place.
3. Evaluation of National Register eligibility, and if eligible, the finding of effect.

XI. Effective Date

This Programmatic Agreement shall take effect on the date it is signed by all the parties, including the County and the SHPO. The Programmatic Agreement will remain in effect until December 1, 2016, unless terminated due to failure to comply with the terms of the agreement.

XII. Amendments

A. Any party to this Programmatic Agreement may request it be amended or modified, whereupon the County and the SHPO will consult in accordance with 36 CFR Part 800.14.

B. Any resulting amendments or addenda shall be developed and executed among the County and the SHPO in the same manner as the original Programmatic Agreement.

XIII. Termination

Any party to the Programmatic Agreement may terminate the Agreement by providing 30-calendar days notice to the other party, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination.

XIV. Compliance with Agreement

Execution and implementation of this Programmatic Agreement and carrying out its provisions evidences that the County has satisfied its Section 106 responsibilities for all individual undertakings of the programs.

By: _____ Date: _____

ILLINOIS STATE HISTORIC PRESERVATION OFFICER

By: _____ Date: 12/07/2011

CHAIRMAN, COUNTY OF KANE

By: Anne E. Haaker Date: Jan. 4, 2012

Deputy ILLINOIS STATE HISTORIC PRESERVATION OFFICER

By: _____ Date: _____

CHAIRMAN, COUNTY OF KANE

APPENDIX A

Standard Mitigation Measures for Adverse Effects

Program recipients, the County and the SHPO may develop and execute an agreement that includes one or more of the following Standard Mitigation Measures, as modified by the SHPO, for undertakings not listed in Stipulation V when the SHPO deems it appropriate. The Council will not be a party to these agreements; however, the County must submit a copy to the Council for their records within 30 days after the Agreement is executed.

A. Program the County shall ensure that the historic property is recorded prior to its demolition, alteration or relocation in accordance with the Illinois Historic American Buildings Survey/Historic American Engineering Record (IL HABS/HAER) standards or a recordation plan developed by the SHPO. At a minimum this plan will establish recordation methods and standards. The SHPO shall identify appropriate archives for the deposit or recordation materials and program the County shall be responsible for submitting such materials.

B. The County, in consultation with the SHPO, shall identify appropriate parties to receive salvaged architectural features. Program recipients shall ensure that significant architectural features are salvaged prior to the initiation of demolition activities and properly stored and curate. When feasible, salvaged architectural features shall be reused in other preservation projects, if appropriate.

C. Program recipients shall ensure that the treatment of historic properties or the design of the new buildings which cannot feasibly meet the Standards or the Kane County Historic Preservation Ordinance design guidelines is carried out in accordance with the construction documents or work write-ups reviewed and approved by Certified Staff and the Commission.

D. Program recipients shall ensure that the marketing plan proposed by the County and the SHPO is implemented for a mutually agreed upon period prior to the demolition or relocation of the historic properties. Program recipients shall review all purchase offers in consultation with the County and the SHPO. If a successful purchaser is selected, program recipients shall include preservation covenants approved by the SHPO in the transfer deed. If no successful purchaser is identified program recipients may either convey the property without covenants or proceed with the demolition or relocation after the historic properties have been recorded pursuant to IL HABS/HAER standards.

E. If a historic property proposed for relocation s a contributing element within a historic district listed on or eligible for listing on the National Register, the County shall make every effort to relocate the historic property within the same historic district.
The county shall forward documentation to the SHPO explaining why relocation is required; the basis for selection of the new site; the existence of archeological properties on the new site; and, summarizing alternatives to relocation which were considered. If the SHPO agrees that relocation of an historic property is appropriate, the county shall forward documentation regarding the location of the proposed new site to the SHPO for

review and comment. If the SHPO objects to the proposed new site, the County shall consult further with the SHPO to evaluate alternate locations.

F. Upon approval of an alternate site by the SHPO, the County shall ensure that all historic properties are moved in accordance with the recommended approaches in Moving Historic Buildings (John Obed Curtis) by a professional mover who has the capability to move historic properties properly. A relocation plan shall be submitted to the qualified professional or SHPO for review and approval.

APPENDIX B
Exempt List

The following project activities do not require review by the SHPO pursuant to Stipulation II B.

1. Demolition and rehabilitation on a non-historic property, except when a proposed addition to an existing property may impact a surrounding historic district.
2. Repair, replacement and installation of the following systems provided t hat such work does not affect the exterior or require the installation of new ducts through the interior:
a) electrical work;
b) plumbing pipes and fixtures;
c) heating system improvements;
d) installation of fire detectors;
e) ventilation systems; and
f) bathroom improvements where work is contained within the existing bathroom.
3. Repainting of exterior surfaces provided that destructive surface preparation treatments, including, but not limited to water blasting, sandblasting, and chemical cleaning are not used.
4. Repair or partial replacement of porches, cornices, exterior siding, doors, balustrades, stairs, or other trim when the repair or replacement is done in-kind to closely match existing material and form.
5. Caulking, weather-stripping, re-glazing, and repainting of windows.
6. Repair, replacement or installation of storm windows (exterior, interior, metal, or wood) provided they match the shape and size of historic windows and that the meeting rail coincides with that of the historic window. Color should match trim.
7. Installation of new window jambs or jamb liners.
8. Repair or replacement of awnings when work is done in-kind to closely match existing materials and form.
9. Roof repair or replacement of historic roofing with material which closely matches the existing material and form. Cement asbestos shingles may be replaced with asphalt based shingles.
10. Repair, replacement, or installation of gutters and downspouts.
11. Installation of insulation in ceilings, attic, and basement spaces provided is installed with Appropriate vapor barriers, and within wall cavities provided that decorative interior plaster, woodwork, or exterior siding is not altered or damaged.
12. Replacement of suspended ceiling tile.
13. Replacement of non-significant flat stock trim.
14. Repair or replacement of existing roads, driveways, sidewalks, and curbs provided that work is done in-kind to closely match existing materials and form, and there are only minimal changes in dimension or configuration of these features.
15. Treatment of interior surfaces (floors, walls, ceilings, woodwork) when work is limited to repainting, refinishing, re-papering, replacing sheet rock with sheetrock, replacing failing asbestos plaster with plaster sheetrock, or laying carpet or sheet flooring.
16. Interior lead paint abatement when it is limited to washing, scraping and repainting, wallpapering, and chemical stripping of lead-painted surfaces. Exterior lead paint

abatement that includes scraping and repainting of exterior wood and masonry surfaces.
17. Repair or replacement of fencing when work is done in-kind to closely match existing material and form.
18. Repair or replacement of water, gas, storm, and sewer lines if it occurs within the dimensions of the original trench.
19. Acquisition of properties which is limited the legal transfer of ownership with no physical improvements proposed.