

**PROGRAMMATIC AGREEMENT  
AMONG THE CITY OF URBANA,  
THE ILLINOIS STATE HISTORIC PRESERVATION OFFICER, AND  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
FOR THE ADMINISTRATION OF SECTION 106 OF THE NATIONAL HISTORIC  
PRESERVATION ACT FOR CERTAIN PROGRAMS FUNDED BY  
THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
OCTOBER 1, 2021 TO SEPTEMBER 30, 2026**

**THIS PROGRAMMATIC AGREEMENT** (“Agreement”) is entered into as of October 1, 2021 between the City of Urbana (“City”), the Illinois State Historic Preservation Officer (SHPO), and the Advisory Council on Historic Preservation (ACHP); and

**WHEREAS**, the City is a direct recipient of funds from the U.S. Department of Housing and Urban Development (HUD) and a sub recipient of HUD funds via the Illinois Housing Development Authority and/or the Illinois Department of Commerce and Economic Opportunity; and

**WHEREAS**, collectively, these programs as enumerated in Appendix A are administered by the City’s Community Development Services Department, Grants Management Division, and provide financial support for a wide variety of activities, including: rehabilitation, new construction, demolition, infrastructure improvements, and other eligible activities; and

**WHEREAS**, projects that receive such funds constitute Undertakings subject to the National Historic Preservation Act of 1966, as amended, 54 U.S.C. § 306108, and its implementing regulations (36 CFR Part 800) (Act); and

**WHEREAS**, as used herein, the term “Illinois State Historic Preservation Officer” (SHPO) means the Illinois governmental official appointed or designated pursuant to section 101(b)(1) of the Act to administer the State Historic Preservation Program or a representative designated to act for the SHPO (see 36 CFR § 800(v)); and

**WHEREAS**, the responsibilities of the SHPO under Section 106 and 36 C.F.R. Part 800 are to advise, assist, review, and consult with federal agencies as they carry out their historic preservation responsibilities, and to respond to federal agencies’ requests within a specified period of time; and

**WHEREAS**, the Illinois State Historic Preservation Office currently resides within the Illinois Department of Natural Resources (IDNR), and the Director of IDNR is the duly designated SHPO; and

**WHEREAS**, the City has consulted with SHPO pursuant to Section 106 of the Act; and

**WHEREAS**, the City has consulted with the SHPO pursuant to the Lead-Based Paint Poisoning Prevention Act, as amended (42 U.S.C. § 4821) and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. § 4851) and their implementing regulations, “General Lead-Based Paint Requirements and Definitions for All Programs” (24 CFR Part 35); and

**WHEREAS**, the City and the SHPO have determined that the City can more effectively fulfill its Section 106 review responsibilities for the specified HUD-funded activities if a programmatic approach is used to delegate Section 106 and other compliance responsibilities to the City, pursuant to 36 CFR Part 800.14(b) of the Act; and

**WHEREAS**, the City is a Certified Local Government with a Historic Preservation Commission (Commission) and Qualified Personnel who will carry out duties enumerated below; and

**WHEREAS**, in accordance with 36 CFR Part 800.14(b), the City notified the Advisory Council on Historic Preservation (ACHP) of this Agreement, and on August 27, 2021, the ACHP chose not to participate in the consultation;

**NOW, THEREFORE**, the City, the SHPO, and the ACHP agree that the programs shall be implemented in accordance with the following stipulations in this Agreement in order to take into account the effect of Undertakings on historic and potentially historic properties.

## **STIPULATIONS**

### **I. Qualified Personnel**

- A. The City shall ensure that it maintains a staff, whether employed or contracted, hereafter referred to as Qualified Personnel, that meets the following enumerated qualifications. Qualified Personnel's curriculum vitae and, if applicable, proof of successful completion of "The Section 106 Essentials" course shall be submitted to the SHPO for review.
1. Qualifications outlined in 36 CFR Part 61, the Secretary of the Interior's Professional Qualification Standards, for History or Architectural History (see: [www.nps.gov/history/local-law/arch\\_stnds\\_9.htm](http://www.nps.gov/history/local-law/arch_stnds_9.htm)); and
  2. One of the following:
    - a. Successful completion of "The Section 106 Essentials" course given by the Advisory Council on Historic Preservation (ACHP) (see: [www.achp.gov/training/classroom](http://www.achp.gov/training/classroom)). To be considered as Qualified Personnel, contractors must have successfully completed the course at the time of hiring, and City employees must successfully complete the course within 12 months of hiring or within 12 months of the acceptance of this Agreement and provide proof of that completion to the SHPO; or,
    - b. One year of direct experience with the implementation of the Section 106 process.
  3. Successful completion of at least one ACHP webinar (see: <https://www.achp.gov/training/webinars>) per year on a Section 106 topic. Proof of completion must be submitted to the SHPO with the Certified Local Government Annual Report pursuant to Stipulation X.F.
- B. The City shall ensure that all historic preservation work carried out pursuant to this Agreement is carried out by or under the direct supervision of Qualified Personnel.

- C. The City shall notify the SHPO of Qualified Personnel changes or vacancies. During periods of Qualified Personnel vacancy, the City must forward all Undertakings to the SHPO for review under the Act.
- D. If the City does not have Qualified Personnel in place for a period longer than 6 months, then this Agreement will become null and void, and the City will comply with 36 CFR §§ 800.4 through 800.6 with regard to Undertakings covered by this Agreement.

## **II. Activities that constitute an Undertaking and are governed by this Agreement**

A project, activity, or program that is partially or wholly funded, licensed, or permitted by the federal programs listed in Appendix A constitutes an Undertaking and is, therefore, subject in its entirety to this Agreement.

## **III. Determining a Historic Property and an Area of Potential Effects (APE)**

- A. When an Undertaking is proposed for a resource, the resource must undergo a determination as set forth in Stipulation III.C, regardless of previous evaluations.
- B. Determining the Area of Potential Effects (APE)

For each Undertaking, Qualified Personnel shall determine an Area of Potential Effects, as defined in 36 CFR § 800.16 and described in 36 CFR § 800.4.

- C. Determination of a “Historic Property”
  - 1. Qualified Personnel shall review existing information on historic resources within the Area of Potential Effects to determine the presence of historic resources or properties. For resources not individually listed on the National Register of Historic Places (NRHP), Qualified Personnel shall apply the NRHP criteria. Materials consulted will include:
    - a. The current listing of the NRHP
    - b. The current listing of the City Register of Historic Places.
    - c. The current City’s Rural Historic Structures Survey.
    - d. Historic structures surveys for the City
    - e. The current landmark list and surveys within the City
    - f. The Illinois Historic Sites survey (1972)
    - g. Designations of significant buildings or buildings of merit cataloged as part of the land use and building condition surveys for official neighborhood plans in the City and/or other comprehensive building surveys

2. Additional surveys shall be conducted in a manner responsive to the nature of the Undertaking if Qualified Personnel determine additional information is required to adequately assess the presence of historic properties. As appropriate, the focus of identification surveys shall not be property-by-property but may focus on select resources in proportion to, and depending on the location of, the Undertaking.
  3. In the case that Qualified Personnel has questions concerning NRHP eligibility of a certain property or resource, he or she may forward documentation to the Commission for evaluation and recommendation.
  4. In the case that the Commission has questions concerning the NRHP eligibility of a certain property or resource, the Commission may forward documentation to the SHPO for evaluation and recommendation. If the Commission chooses not to accept the recommendation of the SHPO, Qualified Personnel may forward adequate documentation, including the recommendation of the SHPO, to the Keeper of the NRHP for the formal determination of NRHP eligibility, in accordance with 36 CFR § 800.4(c). Qualified Personnel shall notify the SHPO of the Commission's decision.
  5. Qualified Personnel may submit NRHP eligibility determinations for properties to the Commission and SHPO concurrently in order to expedite the Section 106 review.
  6. Properties not listed in the NRHP and reviewed by Qualified Personnel for eligibility in the NRHP will be documented as such by Qualified Personnel, and a copy of the determination will be included in the individual project files and submitted to the SHPO.
- D. A property shall be considered a "Historic Property" when one or more of the following applies:
1. A property is individually listed in the NRHP
  2. A property is located within the boundaries of an existing NRHP-listed historic district and has been determined by Qualified Personnel to be contributing to that district
  3. A property has been determined by Qualified Personnel to be eligible for individual listing in the NRHP
  4. A property that Qualified Personnel has determined to be contributing to an area that Qualified Personnel has determined eligible for listing in the NRHP as a historic district
- E. If Qualified Personnel determines that there are no Historic Properties present in an Undertaking's APE, the Undertaking can proceed.
- F. Undertakings for which Qualified Personnel determined that no Historic Properties were involved must be re-reviewed under this Agreement if the Undertaking does not proceed within two (2) years of the date of the determination.

#### **IV. Exempt Activities**

For Undertakings that involve Historic Properties or are within APEs that contain Historic Properties, review of the following activities is not required because there is limited potential for the activity to result in an adverse effect.

- A. 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, plumbing and water lines, drains, sewers, fixtures, water heaters, heating vents, floor furnaces, wall heaters, central heat systems, and gas lines.
- B. Painting of any exterior component which has previously been painted.
- C. Repair, removal, or replacement in kind of existing utilities, such as sewer, water, electrical, gas, and leach lines; storm drains; septic tanks; and wells. Repair, removal, or replacement in kind of existing, non-historic infrastructure, such as foundations, sidewalks, curbs, driveways. Activities involving historic infrastructure, such as, but not limited to, stone and brick sidewalks, curbs, and roads, and historic street furniture, such as, but not limited to street lighting, benches, and water fountains, are NOT exempt from review.

#### **V. Reviewing Undertakings that Affect “Historic Properties”**

- A. Undertakings that Involve Interior and/or Exterior Rehabilitation of Historic Properties
  - 1. Prior to the initiation of the Undertaking, Qualified Personnel shall review work write-ups, plans and/or specifications for all activities not listed as exempt under Stipulation IV to determine whether they meet *The Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (Standards).
  - 2. Should Qualified Personnel recommend modifications to the plans and specifications to ensure that the project meets the Standards, program recipients shall make the appropriate modifications and submit revised work reports or plans to Qualified Personnel. Should program recipients determine that they cannot make the modifications recommended by Qualified Personnel in order to meet the Standards, the Undertaking will constitute an Adverse Effect, and the City will consult with the SHPO and initiate the consultation process set forth in 36 CFR Part 800.5(c).
  - 3. If Qualified Personnel determine that an Undertaking will have no Adverse Effect on a Historic Property, the Undertaking may proceed. Review and documentation shall be placed in individual project files by Qualified Personnel.
- B. Undertakings that Involve the Demolition and Relocation of Historic Properties

For Undertakings that involve the demolition or relocation of a Historic Property, prior to the initiation of the Undertaking, if Qualified Personnel determines that demolition or

relocation cannot be avoided, the Undertaking will constitute an Adverse Effect, and the City will consult with the SHPO and initiate the consultation process set forth in 36 CFR § 800.5 (c).

C. Undertakings that Involve New Construction

For Undertakings that involve new construction within existing or potential NRHP historic districts or within APEs that contain Historic Properties, the ground-disturbing portions of the Undertakings are not covered by this Agreement and must be submitted prior to initiation to the SHPO for review pursuant to Section 106 of the NHPA. If the SHPO determines that the ground-disturbing activities constitute an Adverse Effect, the SHPO will initiate the consultation process set forth in 36 CFR § 800.5(c).

Qualified Personnel will review the portion of the Undertaking concerning the design of the new construction prior to initiation to ensure that it meets the Standards. If Qualified Personnel determines that the design of the new construction cannot be made to meet the Standards, the Undertaking will constitute an Adverse Effect, and the City shall consult with the SHPO and initiate the consultation process set forth in 36 CFR § 800.5(c).

D. Undertakings that Involve Handicapped Accessibility Compliance

For Undertakings on Historic Properties that seek to comply with the American Disabilities Act and other local and federal requirements, the City will explore all alternative methods to provide handicapped accessibility consistent with the Standards. Undertakings inconsistent with the Standards will constitute an Adverse Effect, and the City shall consult with the SHPO and initiate the consultation process set forth in 36 CFR § 800.5(c).

E. Undertakings that Involve Site Improvements and Public Improvements

For Undertakings that involve site and public improvements within existing and potential NHRP historic districts and that are not exempt under Stipulation IV, including, but not limited to, sidewalk and streetscape improvements, repaving of streets with materials different than existing, installation of landscaping, street lighting and street furniture and other infrastructure improvements, will be reviewed by Qualified Personnel prior to initiation to ensure that the Undertaking meets the Standards. If the Undertaking cannot be made to meet the Standards, it will constitute an Adverse Effect, and the City shall consult with the SHPO and initiate the consultation process set forth in 36 CFR § 800.5(c).

F. Emergency Undertakings

1. When an Undertaking on a Historic Property involves emergency demolition, Qualified Personnel will conduct an immediate review. The City shall forward documentation to Qualified Personnel to review immediately upon notification that an emergency exists. Documentation shall include:

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

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 City or local building inspectors or fire department officials. If Qualified Personnel determines that an Undertaking involves an emergency situation, the Undertaking shall be considered an Emergency Undertaking.

- 2. In the event of an Emergency Undertaking, the City shall consult with the SHPO to the greatest extent possible given the particular circumstances.
- 3. If the Emergency Undertaking cannot be made to meet the Standards, it will constitute an Adverse Effect, and the City shall consult with the SHPO and initiate the consultation process set forth in 36 CFR § 800.5 (c).

G. If an Undertaking's scope of work has been determined by Qualified Personnel to have no Adverse Effect upon Historic Properties and that scope of work is later modified, Qualified Personnel must review the modified scope of work as set forth in Stipulation V.

## **VI. Resolution of Adverse Effects**

When an Undertaking constitutes an Adverse Effect, the City shall initiate the consultation process set forth in 36 CFR § 800.5 (c) and shall submit to the SHPO the Undertaking, including an analysis of alternatives, recent structural reports or assessments of conditions, cost estimates for rehabilitation, programmatic and economic considerations, and marketing studies, as applicable.

## **VII. Undertakings that Involve Ground-Disturbing Activities**

For Undertakings that involve ground-disturbing activities not exempted in IV.C, including but not limited to excavation for new footings and new foundations and installation of new utilities, such as sewer, water, electrical, gas, and leach lines; wells; storm drains; and septic tanks, prior to the initiation of the Undertaking, the City shall submit the Undertaking to the SHPO for review pursuant to Section 106 of the NHPA.

## **VIII. Tribal Consultation**

The City will make a reasonable and good faith effort to identify federally recognized Native-American tribes that may attach religious and cultural significance to properties potentially

affected by Undertakings covered by this Agreement and will follow federal guidance on consulting with tribes to identify and evaluate historic properties and assess and resolve effects.

## **IX. Public Involvement**

- A. Annually, the City will notify the public of the programs covered under this Agreement and make available for public inspection documentation of those programs. Included in this documentation will be general information on the types of activities undertaken, information on identified Historic Properties in the community that might be affected by these activities, the amount of program funds available in the current program year, and how interested persons can receive further information on the programs.
- B. At any time during the implementation of this Agreement, should the public raise an objection pertaining to an Undertaking on a Historic Property, the City shall notify the Commission and take the objection into consideration. Program recipients, the City, the Commission, the SHPO, or the ACHP, when requested by the objector, shall consult to resolve the objection. Program recipients are not required to cease work on the Undertaking while objections are being reviewed, but the City reserves the right to halt work in light of arguments from the public the City deems valid.

## **X. Administration, Monitoring, and Reporting**

- A. The SHPO shall provide comments within 30 days for reviews or comments requested by the City or the Commission, with the exception of Emergency Undertakings. In the event that the SHPO fails to comment within the 30-day time period, the City can assume that the SHPO concurs.
- B. The SHPO shall conduct periodic training workshops for Qualified Personnel to review the requirements of this Agreement. The SHPO shall also provide guidance related to implementation of the terms of the Agreement.
- C. Documentation shall be available for review by the SHPO following reasonable notice.
- D. The SHPO shall conduct periodic monitoring visits of the City's project sites and files to ensure compliance this Agreement.
- E. Nothing in this Agreement shall be construed as meaning that the City cannot request the advice or assistance of the SHPO at any time.
- F. As a component of the Certified Local Government Annual Report, the City shall summarize activities carried out under the terms of this Agreement. The report will be submitted no later than June 1 of each year this Agreement is in effect. The Annual Report shall include:
  - 1. List of property addresses submitted for review

2. Program in which the Undertaking took place
3. Assertion of NRHP eligibility for evaluated properties
4. The finding of effect for Undertakings involving Historic Properties

#### **XI. Effective Date and Extension**

- A. This Agreement shall be in effect from October 1, 2021, to September 30, 2026, unless terminated earlier due to failure to comply with the terms of the Agreement.
- B. The signatories may collectively agree to extend this Agreement to cover additional calendar years or portions thereof, through an amendment per Stipulation XII, provided that the original Agreement has not expired.

#### **XII. Amendments**

- A. Any party to this Agreement may request it be amended or modified, whereupon the City and the SHPO will consult in accordance with 36 CFR § 800.13 to consider such amendments or modifications.
- B. Any resulting amendments or modifications shall be developed and executed between the City and the SHPO in the same manner as the original Agreement.

#### **XIII. Termination**

Any party to the 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 Agreement and carrying out its provisions evidences that the City has satisfied its responsibilities under Section 106 of the NHPA for all individual Undertakings of the programs.

#### **XV. Counterparts; Facsimile or PDF Signatures**

This Agreement may be executed in counterparts, each of which shall be considered an original and together shall be one and the same Agreement. A facsimile or pdf copy of this Agreement and any signatures thereon will be considered for all purposes as an original.

[Signature pages to follow]

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OCTOBER 1, 2021 TO SEPTEMBER 30, 2026**

ILLINOIS STATE HISTORIC PRESERVATION OFFICER (SHPO)

By:  Date: 9-1-21  
Colleen Callahan, Director and Illinois State Historic Preservation Officer  
Illinois Department of Natural Resources

APPROVED FOR EXECUTION

Date: 8/30/2021

Legal Counsel: Ron Fuhr

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CITY OF URBANA (City)

By: *Diane Wolfe Marlin* Date: 20 September 2021  
Diane Wolf Marlin, Mayor  
City of Urbana

ATTEST:

By: *Phyllis D. Clark* Date: 9/21/2021  
Phyllis D. Clark, Clerk  
City of Urbana

## Appendix A

### **U.S. Department of Housing and Urban Development Programs Administered by the City of Urbana**

1. Community Development Block Grant (CDBG) program under Title I of the Housing and Community Development Act of 1974
2. Home Investment Partnership Program (HOME) program under the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended
3. Supportive Housing Program grant under the Stewart B. McKinney Homeless Assistance Act of 1990, as amended
4. Emergency Solutions Grants Program under the McKinney-Vento Homeless Assistance Act, as amended by the HEARTH Act of 2009
5. any other HUD-assisted programs that are delegated to the City