

**Memorandum
Community and Economic Development**

To: Randall Tweet, Interim City Manager
Subject: CED Programmatic Agreement
Date: May 18, 2017



The CED department desires to enter into a Programmatic Agreement (PA) with the Illinois State Historic Preservation Agency (IHPA) and the Advisory Council on Historic Preservation (ACHP). The PA has been vetted and signed by Rachel Leibowitz, Deputy State Historic Preservation Officer (SHPO) and the regulatory staff at IHPA.

By agreeing to the terms of the PA certain CED staff will have the ability to complete the Section 106 review for all Housing and Urban Development projects. The ability to complete the Section 106 review in house will allow us to expedite the environmental review process instead of waiting thirty days for the SHPO to respond.

In order to execute the agreement the Mayor is required to sign the Programmatic Agreement so that it can be sent to ACHP for approval and signature.

Three Copies have been submitted for signature.

RECOMMENDATION:

CED staff recommend that Council approve the Programmatic Agreement and that the Mayor executes the agreement

Submitted by: Colleen Small-Vollman, Budget and Grant Manager
Chandler M. Poole, CED Director

Approved by: Randall Tweet, Interim City Manager



**Illinois Historic
Preservation Agency**

1 Old State Capitol Plaza, Springfield, IL 62701-1512

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Rock Island County
Rock Island
Programmatic Agreement for HUD Programs
City Wide
IHPA Log #001042417

May 1, 2017

Chandler Poole
City of Rock Island, Illinois
Community Development Division
1528 Third Ave.
Rock Island, IL 61201-8678

Dear Mr. Poole:

We are in receipt of the draft Programmatic Agreement among the Illinois Historic Preservation Agency, the Advisory Council on Historic Preservation, and the City of Rock Island that allows the City of Rock Island to conduct Section 106 reviews for specified programs of the United States Department of Housing and Urban Development. We have determined that the draft Programmatic Agreement meets expectations and is acceptable to this office. Please send copies for our signature.

If you have questions please contact Cultural Resources Manager, David J. Halpin, at 217/785-4998 or at david.halpin@illinois.gov.

Sincerely,

Rachel Leibowitz, Ph.D.
Deputy State Historic
Preservation Officer

Programmatic Agreement among
The City of Rock Island, Illinois, and
The Illinois State Historic Preservation Agency, and
The Advisory Council on Historic Preservation
for certain programs of the United States Department of Housing and Urban Development
Administered by the City of Rock Island, Illinois

Whereas, the City of Rock Island, Illinois (City) has determined that the implementation of its Community Development Block Grant (CDBG) program, other US Department of Housing and Urban Development (HUD) programs for Federal Fiscal Years 2017- 2027 (Appendix A) may have an effect on properties that are or maybe included or determined eligible for inclusion on the National Register of Historic Places (24 CFR Part 58); and

Whereas, these programs are administered by the City's Community and Economic Development Department (CED) and encompasses a variety of activities including; rehabilitation, demolition, economic development, infrastructure improvements, historic preservation, and other eligible activities; and

Whereas, the City has consulted with the Illinois State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (Council) 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 800); and

Whereas, the City, the SHPO, and the Council have determined that the City can more effectively fulfill its Section 106 review responsibilities for CDBG and HUD program activities if a programmatic approach is used to delegate Section 106 compliance responsibilities to the City; and

Whereas, the City has qualified professional staff who will carry out duties enumerated below and the City is a Certified Local Government with a sitting Historic Preservation Commission.

Now, Therefore the City, the SHPO, and the Council agree that the 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 City shall ensure that it maintains staff to meet the qualifications outlined in 36 CFR Part 61, the Secretary of the Interior's Professional Qualification Standards, hereafter referred to as Certified Staff.
 - B. The City shall ensure that all historic preservation work carried out pursuant to the Agreement is carried out by or under the direct supervision of Certified Staff.
 - C. The City shall notify the SHPO annually whether it has employed or contracted with qualified professionals to carry out the Section 106 duties under the terms of the Agreement or whether assistance from the SHPO will be required. The resume of

qualified professionals and/or contractor(s) shall be provided to the SHPO as a part of the annual report submitted by the CED department to SHPO.

- D. In the event that the City does not have a Certified Staff person due to staffing changes or vacancy, or the SHPO does not certify a city staff person or consultant, then this agreement will be deemed null and void and the City 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 on the National Register of Historic Places or determined eligible for listing on the National Register of Historic Places, further review is not required because there is a limited potential for the undertaking to affect the historic resource.

- A. Properties less than 45 years old that are not currently listed on or eligible for listing on 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/cooling systems, and gas lines.
- C. Painting of any exterior component which has been previously painted.
- D. Repair or replacement of existing curbs and sidewalks in kind.

III. Identification of Historic Properties

A. Identification of Historic Properties

- 1. The City will continue to survey and evaluate historic properties and provide to the SHPO completed survey reports for properties that have been determined eligible. This information will also be included in the Annual Report submitted to SHPO.
- 2. In conducting a property evaluation the City shall review and consult:
 - a. The updated list of National Register properties in Rock Island
 - b. The updated list of locally designated landmark properties in Rock Island
 - c. The Rock Island Architectural Resources Survey
 - d. The Significant Structure List
 - e. The Illinois Historic Sites Survey (HARGIS)
 - f. Neighborhood Plans and other comprehensive building surveys
- 3. When Certified Staff determines that additional information is required to adequately assess the eligibility of historic properties, additional surveys shall be conducted in a manner appropriate for the undertaking. As appropriate, the

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

B. Evaluation of National Register Eligibility

1. Documentation of properties 45 years or older that are included in a HUD funded undertaking that are not individually listed on the National Register of Historic Places will be evaluated by Certified Staff. Certified Staff shall apply the National Register criteria to determine eligibility.
2. Under certain circumstances Certified Staff may choose to forward the property documentation to the Rock Island Preservation Commission (Commission) to obtain input and additional information regarding property eligibility.
3. If the Certified Staff and the Commission continue to question the eligibility of a property, the documentation will be forwarded to the SHPO for evaluation and recommendation. If the Commission chooses not to accept the SHPO recommendation, in this instance, the documentation, including the views of the SHPO, will be forwarded 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 the Commission and the SHPO concurrently in order to expedite the Section 106 review.
5. Properties determined not eligible for, or no longer eligible for listing on the National Register will be documented by Certified Staff and a copy of the determination will be included in the Annual Report.

IV. Treatment of Historic Properties

Properties listed on the National Register of Historic Places or determined eligible for listing on the National Register of Historic Places by meeting one or more of the National Register criteria in accordance with Stipulation III shall be treated in one of the following:

A. Rehabilitation

1. The City shall ensure that plans and specifications for all rehabilitation activities not listed as exempt under Stipulation II are developed in accordance with the Secretary of the Interior Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (Standards). The City may also use the local design guidelines for Historic Districts and local landmarks that are based upon the Standards and have been approved by the IHPA.
2. Prior to the initiation of rehabilitation activities, program recipients shall submit work write-ups or plans, photographs, and specifications that follow the Standards to Certified Staff for review and approve. The plans and specifications must be complete and provide a detailed understanding of the proposed project.
3. In the event that Certified Staff recommend modifications to the work write-up, plans and/or specifications to ensure that the project meets the standards,

program recipients shall make the suggested modifications and submit revisions to Certified Staff. If the program recipient determines that the recommended modifications cannot be made, program recipients shall consult with the Commission. If Certified Staff, in consultation with the Commission determine that the project meets the determination of adverse effect, the City will consult with SHPO to develop a Memorandum of Agreement that establishes mitigation measures in accordance with Stipulation V. If SHPO determines that the mitigation measures do not apply the City shall notify the Council and initiate the consultation process set forth in 36 CFR Part 800.5(e).

4. If a project will have no effect or no adverse effect on historic resources, it may proceed after the documentation has been reviewed by Certified Staff.

B. Demolition and Relocation of Historic Properties

Recipients shall not proceed with the demolition or relocation of contributing buildings within a historic district or properties listed or eligible for listing on the National Register of Historic Places until procedures set forth in this section are completed.

1. Demolition or relocation of properties that have been previously listed on the National Register or have been determined to be eligible for listing on the National Register, listed as contributing buildings within a historic district, or included in a survey (Stipulation III.A.2(a-f)), will be reviewed by the Commission on a case by case basis. Certified Staff will submit the following documentation to the Commission for review.
 - a. Project location and description (including map) of the property proposed for demolition or relocation, including public comment.
 - b. Reasons for demolition, including documentation of public code violations, structural reports citing building deficiencies; or reasons for relocation.
 - c. A cost comparison or rehabilitation versus property acquisition and demolition and summary of alternatives considered.
 - d. Photographs of property depicting the current condition.
 - e. Future plans for site.
 - f. Proposed site relocation and end use.
2. If Certified Staff, in consultation with the Commission, determines that demolition or relocation cannot be avoided, the City will consult with SHPO to develop an MOA in accordance with Stipulation V. If the SHPO specifies that an MOA does not apply the City shall notify the Council and initiate the consultation process set forth in 36 CFR Part 800.5(e).

C. New Construction

Program recipients shall ensure that the design of new construction, infill construction, and additions to historic buildings are compatible with the historic elements within the historic district or adjacent historic buildings in terms of size, scale, massing, design, features, and is responsive to the recommended approaches

for new construction set forth in the Standards and/or in *Residential Design Guidelines for Rock Islands Historic Districts and local landmarked properties*.

1. Program recipients shall develop preliminary design plans in consultation with the City. 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 City shall consult with SHPO to develop a MOA in accordance with Stipulation V.
3. If the SHPO determines that the MOA does not apply, the City shall notify the Council and initiate the consultation process set forth in 36 CFR Part 800.5(e).

D. Handicap Accessibility

Handicap accessibility project undertaken by the City must comply with American Disabilities Act and other local and federal requirements and will comply with the following guidelines:

1. The City will explore all alternative methods to provide handicap accessibility to historic buildings consistent with the Standards (NPS Brief No. 32 Making Historic Properties Accessible) and the Department of the Interior's report "*Access to Historic Buildings for the Disabled: Suggestions for Planning and Implementation.*"
2. To the extent possible, handicap accessible features will not be located on primary elevations of historic buildings and will not result in the removal of significant historic or architectural features or materials. Final plans and specifications for handicap accessibility projects shall be reviewed and approved by Certified Staff to determine if the project meets these guidelines. If the Certified Staff, in consultation with the Commission, determine that the Standards cannot be met or if the project could have an adverse effect to a historic property, the City will initiate consultation with SHPO and initiate procedures in accordance with Stipulation V.

E. Site Improvements and Public Improvements

1. Site and public improvements within historic districts, including sidewalk improvements, street repaving, installation of landscaping, street lighting, street furniture, and other infrastructure improvements will adhere to the Standards and/or *Residential Design Guidelines for Historic Districts and local landmarks in Rock Island*. These improvements will be designed to ensure that the character defining features of historic properties are preserved through repair or replacement of in kind material. 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 improvement projects 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 the City will consult with the Commission.

F. 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 to the health and safety of residents as identified by the local inspectors, fire department officials or other local officials.
2. The City shall forward documentation to Certified Staff for review immediately upon notification that an emergency exists. Documentation will include:
 - a. Nature of emergency
 - b. Historic property address
 - c. Current condition of building, including photographs
 - d. Time frame allowed by local officials to respond to, or correct the emergency situation
3. The City shall consult with the SHPO to the greatest extent possible.
4. The City shall ensure the any mitigation measures recommended by Certified Staff or SHPO are implemented, if feasible.

V. Resolution of Adverse Effects

- A. If Certified Staff, in consultation with the Commission, determines that a project meets the criteria of Adverse Effect, Certified Staff shall consult with the SHPO to determine whether the historic property should be treated in accordance with the Standard Mitigation Measures outlined in Appendix B as reviewed in accordance with 36 CFR 800.11(e).
 1. The City shall submit to the SHPO background documentation that includes an analysis of alternatives, recent structural reports or assessments of conditions, cost estimates for rehabilitation, programmatic and economic considerations, and market studies.
 2. If the SHPO determines that a proposed demolition is an acceptable loss or no prudent and feasible alternative exists to implementing the undertaking without adverse effects, Certified Staff, the SHPO, and the program recipient shall execute a Standard Mitigation Measures Agreement (MOA) as outlined in Appendix B.
 3. Upon receipt of the MOA from the City, program recipients shall sign the MOA and return the original to the City within 30 days following receipt. In cases where the City may act as program recipient, the City will consult with the SHPO. No further review of the undertaking is required by the Council.
 4. If program recipients object to the terms of the MOA the program recipients shall notify the City and SHPO and initiate the consultation process set forth in 36 CFR Part 800.5(e).

B. The MOA shall not be executed when one of the following circumstances exists.

1. The SHPO determines that the MOA does not apply to an undertaking.
2. Program recipients object to the mitigation measures proposed by the City.
3. The City fails to respond within 30 days.
4. The undertaking will have an adverse effect on a National Historic Landmark.
5. The public objects during the open Rock Island Preservation Commission meeting or by certified letter.
6. Human remains are present within the area of Potential effect.

VI. Treatment of Archaeological Sites

A. The City shall notify the SHPO when ground disturbing activities of an acre or more are part of the local undertaking.

1. The City shall request the SHPO's comments regarding the potential effect of such activities on archaeological properties prior to the initiation of activities. If the SHPO determines that there is a high probability for the presence of significant archaeological sites or cultural remains within the project area, the City or program recipient shall contract qualified archaeologists to conduct an archaeological reconnaissance survey to establish that there are cultural remains and apply the National Register criteria to determine site eligibility.
2. If the archaeological reconnaissance survey(s) conclude that the site(s) is/are eligible for listing on the National Register of Historic Places the City of the program recipient, in consultation with the SHPO, shall seek ways to preserve the site in-situ and pursue an alternative project location. If the site(s) cannot be avoided, the City or program recipient shall provide to the SHPO a Data Recovery Plan developed by a qualified archaeologist. The Data Recovery Plan will follow the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation (48 CFR 44737-37) and take into account the Council's publication, "Treatment of Archaeological Properties," its subsequent revisions and appropriate State Guidelines.

VII. Public Involvement

- A. Each year the City will hold a public hearing to discuss the City's current CDBG program and make available for public inspection, the Annual Action Plan, which documents the current CDBG program activities for the upcoming year.
- B. At any time during the implementation of the measures stipulated in this Programmatic Agreement, should the public raise objections pertaining to the treatment of a historic property, the City shall notify the Commission and take the objection into account. Program recipients, the City, the Commission, the SHPO, or the Council, when requested by the objector, shall consult to resolve the objection. Program recipients are not required to cease work while the objections are being reviewed, but the City reserves the right to halt work in light of valid arguments from the public.

VIII. Administration, Monitoring, and Reporting

- A. The SHPO shall provide comments within 30 days for review and comment as requested by the City and/or the Commission, with the exception of emergency undertakings. In the event that the SHPO fails to provide comments within 30 days, the City will assume SHPO concurrence.
- B. The SHPO shall conduct periodic training workshops for Certified Staff to review the requirements of this Agreement. The SHPO shall also provide guidance related to implementation of the terms of this Agreement.
- C. The City shall forward to the SHPO all project files that involve historic properties and are subject to this Agreement. The project files shall include at a minimum:
 - 1. Documentation, rationale, and applicability of "exemption from review."
 - 2. Comments from Certified Staff, the Commission, or the SHPO regarding the National Register eligibility of properties.
 - 3. Proposed treatment of historic properties.
 - 4. Photo-documentation of properties before and after rehabilitation.
 - 5. All documentation generated during the course of the project, including plans and specifications, any addendums to the scope of work, correspondence, contracts, press releases, and public comments.
 - 6. Date project was completed.
- D. Documentation shall be available for review by the SHPO or Council following reasonable notice.
- E. The SHPO shall conduct periodic monitoring visits to the City's project locations to ensure compliance with actions, plans, documents, and agreements approved by the City, the SHPO, or the Council pursuant to this Agreement.
- F. Nothing in this Agreement shall be construed to mean that the City cannot request advice or assistance of the SHPO at any time.
- G. As a component of the Annual report the City Shall summarize activities carried out under the terms of this Agreement. The report will be submitted no later than January 31 of the following calendar year. The report shall include:
 - 1. List of property address submitted for review.
 - 2. Evaluation and determination of National Register eligibility, and if eligible the finding of effect.

IX. Effective Date

This agreement shall take effect on the date it is signed by the following parties, the City, the SHPO, and the Council. This Agreement will remain in effect until 12/31/2022 unless terminated due to failure to comply with the terms of this Agreement.

X. Amendments

- A. Any party to this Agreement may request amendments or modifications, whereupon the City, the SHPO, and the Council will consult in accordance with 36 CFR Part 800.13 to consider revisions.
- B. Any resulting amendments or modifications shall be developed and executed among the City, the SHPO, and the Council in the same manner as the original Agreement.

XI. Termination

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

XII. Compliance with Agreement

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

Signatures:

John Fowler, Executive Director
Advisory Council on Historic Preservation

Date



Rachel Leibowitz, Deputy SHPO
Illinois Historic Preservation Agency

5/9/17

Date

Mike Thoms, Mayor
City of Rock Island

Date

Judith Gilbert, City Clerk
City of Rock Island

Date

Appendix A
Programs and Activities Administered

United States Department of Housing and Urban Development

- Community Development Block Grant
 - Neighborhood Housing Program (Rehab)
 - Commercial/Industrial Revolving Loan Fund
 - Public Infrastructure Improvements
 - Historic Preservation
- Lead Based Paint Hazard Control Program (When Funded)

Economic Development & Local Historic Preservation

- Community Wide Revitalization
- Neighborhood Revitalization

Appendix B
Standard Mitigation Measures for Adverse Effects

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

- A. Program recipients shall ensure that the historic property is recorded prior to its demolition, alteration, or relocation in accordance with the Historic Illinois Buildings Survey/ Historic Illinois Engineering Record (HAIBS/HIER) 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 of recordation materials and program recipients shall be responsible for submitting such materials.
- B. The City, in consultation with the SHPO, shall identify appropriate parties to receive architectural features salvaged from historic structures within the City of Rock Island. Program recipients shall ensure that significant architectural features are salvaged, properly stored, and curated prior to the initiation of demolition activities; when feasible, salvaged architectural features shall be reused in other preservation projects as appropriate.
- C. Program recipients shall ensure that the treatment of historic properties or the design of new construction infill that cannot meet the "Standards," or the approved design guidelines is carried out in accordance with the construction documents or work write-ups that have been reviewed and approved by Certified Staff and the Commission.
- D. Program recipients shall ensure that the marketing plan proposed by the City and the SHPO is implemented for a mutually agreed upon period prior to the demolition or relocation of historic properties. Program recipients shall review all purchase offers in consultation with the City 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 property has been recorded pursuant to II HAIBS/HIER Standards.