

**PROGRAMMATIC AGREEMENT
BETWEEN THE CITY OF JOLIET
AND THE ILLINOIS STATE HISTORIC PRESERVATION OFFICER
FOR THE ADMINISTRATION OF SECTION 106 FOR CERTAIN PROGRAMS FUNDED BY
THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
APRIL 1, 2019 TO MARCH 31, 2024**

WHEREAS, the City of Joliet, Illinois, (City), through its Neighborhood Services Division (Division), is a direct recipient of HUD funds, a subrecipient of HUD funds via the Illinois Housing Development Authority and/or the Illinois Department of Commerce and Economic Opportunity; and

WHEREAS, projects that receive such funds constitute Undertakings subject to the National Historic Preservation Act of 1966, as amended (54 U.S.C. 300101 et seq.) (NHPA); and

WHEREAS, collectively, these programs provide financial support for a wide variety of activities, including rehabilitation, new construction, demolition, infrastructure improvements and other eligible activities; 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 NHPA (54 USC § 302301(1)), to administer the State Historic Preservation Program or a representative designated to act for the SHPO (see 36 CFR § 800.16(v)); and

WHEREAS, the responsibilities of the SHPO under Section 106 of the NHPA and 36 CFR 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 the SHPO pursuant to Section 106 of the NHPA (54 USC 306108) and its implementing regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800); and

WHEREAS, the City and the SHPO have determined that the City can more effectively fulfill its Section 106 review and other responsibilities for HUD-funded activities, and Section 106 review and other responsibilities on behalf of other jurisdictions with whom it has intergovernmental agreements, if a programmatic approach is used to delegate Section 106 and other compliance responsibilities to the City; and

WHEREAS, the City is a Certified Local Government with a historic preservation commission (Commission) and qualified professional staff who will carry out duties enumerated below;

NOW, THEREFORE, the City and the SHPO agree that said programs shall be implemented in accordance with the following stipulations in this Programmatic Agreement (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:
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); and
 2. Successful completion of "The Section 106 Essentials" course given by the Advisory Council on Historic Preservation (ACHP) (see: 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 and provide proof of that completion to the SHPO.

Qualified Personnel's curriculum vitae and proof of successful completion of "The Section 106 Essentials" course shall be submitted to the SHPO for review.

- 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 Section 106 of the NHPA.
- 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 part 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 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 Effect (APE)

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

For each Undertaking, Qualified Personnel shall determine an Area of Potential Effect, as defined in C.F.R. § 800.16 and described in C.F.R. § 800.4.

- C. Determination of a "Historic Property"

1. Documentation for resources involved in an Undertaking that are not individually listed in the National Register of Historic Places (NRHP) shall be evaluated by Qualified Personnel, who shall apply the NHRP criteria. Qualified Personnel shall review and consult:
 - a. The current listing of the NRHP
 - b. The City of Joliet's List of Designated Properties, as amended
 - c. Historic structure surveys for the City of Joliet
 - d. The Illinois Historic Sites survey (1972)
 2. When Qualified Personnel 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 and impact of the Undertaking.
 3. If Qualified Personnel has questions concerning the NRHP eligibility of a certain property or resource, he or she may forward documentation to the Joliet Historic Preservation Commission (Commission) for evaluation and recommendation.
 4. If the Commission has questions concerning the NRHP eligibility of a certain property, they 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 NHRP for a formal determination of NRHP eligibility, in accordance with 36 CFR Part 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 NHRP.

2. A property is located within the boundaries of an existing NHRP 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 NHRP.
 4. A property that Qualified Personnel has determined to be contributing to an area that Qualified Personnel has determined eligible for listing to 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.

III. Exempt Activities

When the following Undertakings are proposed for Historic Properties or are within APEs that contain Historic Properties, further review is not required because there is limited potential for the Undertaking to result in an Adverse Effect.

- A. Repair or replacement of electrical, plumbing, heating and ventilation systems or their components, when no alteration to structure or wall/ceiling finishes 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.
- B. Painting of any exterior component that has previously been painted.
- C. Repair or replacement of existing public infrastructure in kind in their existing locations and with the same materials and design.

IV. Reviewing Undertakings that Effect "Historic Properties"

- A. Undertakings that Involve Interior or Exterior Rehabilitation of Historic Properties
 1. Prior to the initiation of the Undertaking, Qualified Personnel shall review work write-ups, photographs, plans and/or specifications for Undertakings that will effect Historic Properties to ensure that all work not listed as exempt under Stipulation III meets *The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* as promulgated by the National Park Service (Standards).
 2. If Qualified Personnel determines that the Undertaking cannot be made 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 determines that an Undertaking will have no Adverse Effect on a Historic Property, the Undertaking may proceed.

B. Undertakings that Involve the Demolition and Relocation of Historic Properties

For Undertakings that involve the demolition or relocation of a Historic Property, 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 Part 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 Part 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 constitutes an Adverse Effect, and the City shall consult with the SHPO and initiate the consultation process set forth in 36 CFR Part 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 Part 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 III, including 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 Part 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 should 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 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 Part 800.5 (c).

V. Resolution of Adverse Effects

When an Undertaking constitutes an Adverse Effect, the City shall submit to the SHPO documentation that includes an analysis of alternatives, recent structural reports or assessments of conditions, cost estimates for rehabilitation, programmatic and economic considerations, and marketing studies.

VI. Undertakings that involve ground-disturbing activities

For Undertakings that involve ground-disturbing activities not exempted in III.C, including but not limited to excavation for footings and foundations and installation of utilities, such as sewer, water, storm drains, electrical, gas, leach lines, 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.

VII. 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 amount of program funds available in the current program year, the types of activities that will be undertaken with program funds, 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, or the SHPO, 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 with 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. The Annual Report shall include:
 - 1. List of property addresses submitted for review
 - 2. Program under 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

This Agreement shall be in effect from April 1, 2019 to March 31, 2024, unless terminated earlier due to failure to comply with the terms of the Agreement.

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 Part 800.14.
- B. Any resulting amendments or addenda shall be developed and executed among 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 Section 106 responsibilities for all individual Undertakings of the programs.

[Signature pages to follow]

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APRIL 1, 2019 TO MARCH 31, 2024**

Illinois State Historic Preservation Officer

By:  Date: 3/3/19
Wayne A. Rosenthal, Director and Illinois State Historic Preservation Officer
Illinois Department of Natural Resources

APPROVED FOR EXECUTION
Date: 3/1/2019
Legal Counsel: 

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City of Joliet

Signature: Robert O'Dekirk Date: 3-20-19
Name: Robert O'Dekirk
Title: Mayor

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APPENDIX A

**U.S. Department of Housing and Urban Development Programs
Covered Under this Agreement**

1. Community Development Block Grant Program
2. Continuum of Care Grant Program
3. Emergency Solutions Grant Program
4. Home Investment Partnerships Program
5. Neighborhood Stabilization Program 1
6. Neighborhood Stabilization Program 3
7. Section 8 Housing Choice Voucher Program
8. Section 108 Loan Program