

**PROGRAMMATIC AGREEMENT
BETWEEN THE VILLAGE OF OAK PARK
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
JUNE 1, 2019 TO MAY 31, 2024**

THIS PROGRAMMATIC AGREEMENT (“Agreement”) is entered into as of June 1, 2019 between the Village of Oak Park, an Illinois home rule municipal corporation (“Village”), and the Illinois State Historic Preservation Officer (SHPO).

WHEREAS, the Village is a direct recipient of funds from the U.S. Department of Housing and Urban Development (HUD) including through the Community Development Block Grant (CDBG) and a sub-recipient of HUD funds via the Illinois Housing Development Authority (IHDA) 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 (54 U.S.C. §§ 300101 et seq.); 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 National Historic Preservation Act (NHPA) of 1966, as amended (54 U.S.C. § 302301(1)), to administer the State Historic Preservation Program or a representative designated to act for the SHPO (see 36 C.F.R. § 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 Village has consulted with SHPO pursuant to Section 106 of the NHPA (54 U.S.C. § 306108) and its implementing regulations, “Protection of Historic and Cultural Properties” (36 CFR Part 800); and

WHEREAS, the Village and the SHPO have determined that the Village can more effectively fulfill its Section 106 review 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 Village; and

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

NOW, THEREFORE, the Village and the SHPO 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 Village 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 Village 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.

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 Village 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 Village shall notify the SHPO of Qualified Personnel changes or vacancies. During periods of Qualified Personnel vacancy, the Village must forward all Undertakings to the SHPO for review under Section 106 of the NHPA.

D. If the Village does not have Qualified Personnel in place for a period longer than 6 months, then this Agreement will become null and void, and the Village 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 Village of Oak Park Landmarks
- c. Historic resource surveys for the Village of Oak Park
- d. The Illinois Historic Sites survey (1972)
- e. Designations of significant buildings or buildings of merit catalogued as part of the land use and building condition surveys for official neighborhood plans in Oak Park 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.

IV. 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 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 or replacement of existing curbs and sidewalks in kind (historic stone sidewalks are NOT exempt).

V. Reviewing Undertakings that Effect "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). The Village may also use the Village of Oak Park's "Architectural Review Guidelines," which are based upon the Standards and have been approved by the SHPO.
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 to meet the Standards, the Undertaking will constitute an Adverse Effect and the Village 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, if Qualified Personnel determines that demolition or relocation cannot be avoided, the Undertaking will constitute an Adverse Effect, and the Village 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 constitutes an Adverse Effect, and the Village 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 Village 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 Village 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 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 Village 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 Village 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 building, including photograph
- 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 Village 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 Village 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 Village shall consult with the SHPO and initiate the consultation process set forth in 36 CFR § 800.5 (c).

VI. Resolution of Adverse Effects

When an Undertaking constitutes an Adverse Effect, the Village 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.

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 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 Village shall submit the Undertaking to the SHPO for review pursuant to Section 106 of the NHPA.

VIII.Tribal Consultation

The Village 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 Village 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 Village shall notify the Commission and take the objection into consideration. Program recipients, the Village, 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 Village reserves the right to halt work in light of arguments from the public the Village deems valid.

X.Administration, Monitoring, and Reporting

A. The SHPO shall provide comments within 30 days for reviews or comments requested by the Village 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 Village 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 Village's project sites and files to ensure compliance this Agreement.

E. Nothing in this Agreement shall be construed as meaning that the Village cannot request the advice or assistance of the SHPO at any time.

F. As a component of the Certified Local Government Annual Report, the Village 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

This Agreement shall be in effect from June 1, 2019 to May 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 Village and the SHPO will consult in accordance with 36 CFR § 800.13 to consider such revisions.

B. Any resulting amendments or addenda shall be developed and executed among the Village 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 Village 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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Illinois State Historic Preservation Officer

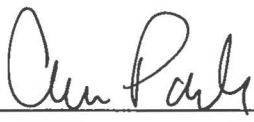
By:  Date: 5-3-19

Colleen Callahan, Director and Illinois State Historic Preservation Officer
Illinois Department of Natural Resources

APPROVED FOR EXECUTION
Date: 4/30/19
Legal Counsel: 

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VILLAGE OF OAK PARK

By:  Date: 5/21/19
Cara Pavlicek, Village Manager
Village of Oak Park

ATTEST:

By:  Date: 5/21/19
Vicki Scaman, Village Clerk

REVIEWED AND APPROVED
ASTO FORM


MAY 23 2019
LAW ENFORCEMENT

Appendix A

Programs Administered by the Village of Oak Park

U.S. Department of Housing and Urban Development Programs

1. Community Development Block Grant/Revolving Loan Fund (program income from CDBG loan repayments)
 - a. Single Family Housing Rehabilitation Loan Program
 - i. HOME Loans (Legacy)
 - ii. 4% Amortization Loans (Legacy)
 - iii. Deferred Payment Loans including Single Family Rehabilitation & Emergency (Current)
 - iv. Lead Hazard Reduction Grants (Current)
 - b. Small Rental Properties Rehabilitation Program
 - c. Commercial Rehabilitation and Preservation Programs (Legacy)
 - d. Infrastructure Improvements (Current)
 - e. Public Facilities and Improvements (Current)
2. Illinois Housing Development Authority
 - a. Home Modification Program (Legacy)