



**RESOLUTION OF THE COUNTY BOARD
WILL COUNTY, ILLINOIS**

Authorizing a Programmatic Agreement between the County of Will and the Illinois Historic Preservation Officer for the Administration of Section 106 for Certain Programs Funded by the U. S. Department of Housing and Urban Development November 1, 2019 to October 31, 2024

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 State Historic Preservation Officer (SHPO); and

WHEREAS, the County has consulted with SHPO pursuant to Section 106 of the National Historic Preservation Act of 1996; and

WHEREAS, the County 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 County and the SHPO have determined that the County can more effectively fulfill its Section 106 review responsibilities for the specified 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 County; and

WHEREAS, the County is a Certified Local Government with a Historic Preservation Commission (Commission) and qualified personnel who will carry out duties enumerated in the attached Agreement; and

WHEREAS, the County and the State Historic Preservation Office 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, subject to the review and approval of the Will County State's Attorney's Office.

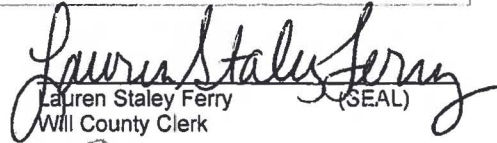
NOW, THEREFORE, BE IT RESOLVED, that the Will County Board hereby authorizes the Will County Executive to execute the attached Programmatic Agreement between the County of Will and the Illinois State Historic Preservation Officer for the Administration of Section 106 for Certain Programs Funded by the U.S. Department of Housing and Urban Development, November 1, 2019 to October 31, 2024, in substantially the form attached hereto.

BE IT FURTHER RESOLVED, that the Preamble of This Resolution is hereby adopted as if fully set forth herein. This Resolution shall be in full force and effect upon its passage and approval as provided by law.

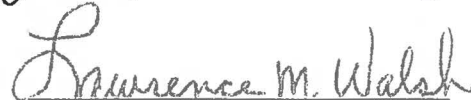
Adopted by the Will County Board this 17th day of October, 2019.

AYES:	Ogalla, Koch, Moustis, Rice, Tyson, Harris, Traynere, Fritz, Mueller, Gould, VanDuyne, Balich, Fricilone, Brooks Jr., Winfrey, Parker, Ventura, Marcum, Berkowicz, Cowan, Tuminello, Weigel, Ferry, Kraulidis
ABSENT:	Summers, Dollinger

Result: Approved - [Unanimous]


Lauren Staley Ferry (SEAL)
Will County Clerk

Approved this 28th day of October, 2019.


Lawrence M. Walsh
Will County Executive

**PROGRAMMATIC AGREEMENT
BETWEEN THE COUNTY OF WILL
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
NOVEMBER 1, 2019 TO OCTOBER 31, 2024**

THIS PROGRAMMATIC AGREEMENT ("Agreement") is entered into as of November 1, 2019 between the County of Will ("County") and the Illinois State Historic Preservation Officer (SHPO).

WHEREAS, the County is a direct recipient of funds from the U.S. Department of Housing and Urban Development (HUD) and 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. § 306108, and its implementing regulations (36 CFR Part 800) (Act); and

WHEREAS, collectively, these programs are administered by the County's Land Use Department, Community Development Division, and 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 County has consulted with SHPO pursuant to Section 106 of the Act; and

WHEREAS, the County 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 County and the SHPO have determined that the County can more effectively fulfill

its Section 106 review responsibilities for the specified 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 County; and

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

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

Attachment: 2019 Will Co SHPO Programmatic Agreement (19-287 : Will County and State Historic Preservation Office Programmatic

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 Will County's Register of Historic Places, i.e. current landmark list
- c. Rural Historic Structural Surveys for the County of Will
- d. The current landmark list and surveys for the municipalities within Will County participating in the programs included in Appendix A
- e. The Illinois Historic Sites survey (1972)
- f. Designations of significant buildings or buildings of merit cataloged as part of the land use and building condition surveys for official neighborhood plans in Will County 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. Activities Exempt for Further Review

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 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).
 - 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 County 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

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

VIII. Tribal Consultation

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

X. Administration, Monitoring, and Reporting

- A. The SHPO shall provide comments within 30 days for reviews or comments requested by the County or the Commission, with the exception of Emergency Undertakings. In the event that the SHPO fails to comment within the 30-day time period, the County 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 County's project sites and files to ensure compliance this Agreement.
- E. Nothing in this Agreement shall be construed as meaning that the County cannot request the advice or assistance of the SHPO at any time.

- F. As a component of the Certified Local Government Annual Report, the County shall summarize activities carried out under the terms of this Agreement. The report will be submitted no later than December 31 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 November 1, 2019 to October 31, 2024, 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 County 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 County 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 County 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]

**PROGRAMMATIC AGREEMENT
BETWEEN THE COUNTY OF WILL
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
NOVEMBER 1, 2019 TO OCTOBER 31, 2024**

Illinois State Historic Preservation Officer (SHPO)

By: Colleen Callahan Date: 9-30-19

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

APPROVED FOR EXECUTION

Date: 9/26/19

Legal Counsel: [Signature]

**PROGRAMMATIC AGREEMENT
BETWEEN THE COUNTY OF WILL
AND THE ILLINOIS STATE HISTORIC PRESERVATION OFFICER
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NOVEMBER 1, 2019 TO OCTOBER 31, 2024**

Attachment: 2019 Will Co SHPO Programmatic Agreement (19-287) : Will County and State Historic Preservation Office Programmatic

COUNTY OF WILL (County)

By: _____ Date: _____

Lawrence M. Walsh, Will County Executive
County of Will

ATTEST:

By: _____ Date: _____

Lauren Staley Ferry, Will County Clerk

Appendix A

Programs Administered by the County of Will

U.S. Department of Housing and Urban Development Programs

1. Community Development Block Grants (CDBG)
2. Home Investment Partnership Program (HOME)
3. Lead Hazard Control Grant (LHCG)
4. Lead Hazard Reduction Demonstration Grant (LHRDG)
5. Section 108 Loan Guarantee Program
6. Continuum of Care (CoC) Program
7. Emergency Solutions Grant (ESG)