PROGRAMMATIC AGREEMENT
AMONG THE CITY OF ELGIN
THE ILLINOIS STATE HISTORIC PRESERVATION OFFICER,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM OF THE
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WHEREAS, the City of Elgin (City) has determined that the implementation of its Community Development Block Grant (CDBG) Program, hereafter referred to as Program, for Federal Fiscal Years 1999-2009 may have an effect on properties included or eligible for inclusion in the National Register of Historic Places; and

WHEREAS, the Program is administered by the City's Planning Department, hereafter referred to as Department, and encompasses a variety of activities including: interior and exterior rehabilitation, demolition, infrastructure improvements 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 implemented regulations, "Protection of Historic and Cultural Properties" (36 CFR Section 800); and

WHEREAS, the City, the SHPO and the Council have determined that the City can more effectively fulfill Section 106 review responsibilities for Program activities related to historic structures if a programmatic approach is used to delegate Section 106 compliance responsibilities to the City; and

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

NOW, THEREFORE, the City, the SHPO, and the Council agree that the Program shall be implemented in accordance with the following stipulations in order to take into account the effect on historic properties.

STIPULATIONS

I. Qualified Personnel

A. The City shall ensure that it maintains staff who meet the qualifications outlined in 36 CFR Part 61(48 CFR 44738.9), the Secretary of the Interior's Professional Qualification Standards, hereafter referred to as Certified Staff. In the event that Certified Staff is not available, a Consultant that meets the specified qualifications, hereafter referred to as Qualified Consultant, shall perform required activities.

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 Certified Staff or Qualified Consultant.

C. The City shall notify the SHPO annually whether it has employed or contracted with qualified professionals to carry out reviews under the terms of the Programmatic Agreement or whether it will require assistance from the SHPO. The vitae of qualified professionals and contractors shall be provided to the SHPO for review as a component of the Certified Local Government Annual Report.

D. The City will notify the SHPO of any proposed staffing changes or vacancies. If the City does not have Certified Staff in place or if the SHPO does not certify a City staff person or consultant, then this Agreement will become null and void and the City instead will comply with 36 CFR Section 800.3 through 800.7 with regard to individual undertakings covered by this agreement.

II. Exempt Activities

A. Involvement of properties less than 50 years old not listed on or eligible for 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 replacements of electrical panels, breakers, circuits, switches, receptacles and fixtures, plumbing and water lines, drains, sewer fixtures, water heaters, heating vents, floor furnaces, wall heaters, central heat systems and gas lines.

C. Paint application of any exterior component which has previously been painted. However, the paint removal process will need to be reviewed.

D. Repair or replacement of existing curbs and sidewalks in kind.

III. Identification and Evaluation of Historic Properties

A. Identification of Historic Properties

1. The City will continue to survey its historic properties and forward information on locally significant properties to the SHPO. This information will be conveyed via the Certified Local Government Annual Report.

2. In conducting a local identification of historic properties, the City shall review and consult:

   a. The current listing of the National Register of Historic Places.

   b. The current City of Elgin Landmarks list.

   c. The surveys of older neighborhoods within the City of Elgin and the Significant Rated Buildings List (compiled for the City of Elgin's Heritage Commission in 1996 and 1998). See Appendix A: Elgin Heritage Commission: Long-term Plan for Survey.

   d. The Illinois Historic Sites Survey (1972).

3. When the City 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 of the undertaking. As appropriate, the focus of the identification surveys shall be on target areas rather than property-by-property.

B. Evaluation of National Register Eligibility

1. Documentation of properties 50 years or older involved in the Program that are not individually listed in the National Register of Historic Places will be evaluated by Certified Staff. Certified Staff shall apply the National Register Criteria and determine if the structures qualify for National Register eligibility.

2. If Certified Staff has questions concerning the eligibility of a certain property, he or she will forward documentation to the City of Elgin's Heritage Commission (Commission) for evaluation and recommendation. However, if the Commission is not composed of members who are qualified to make a National Register determination of eligibility, the SHPO will be consulted.

3. If the Commission has questions concerning the eligibility of a certain property, they will forward documentation to the SHPO for evaluation and recommendation. If the Commission chooses not to accept the recommendation of the SHPO, in this instance, they will forward adequate documentation, including the views of the SHPO, to the Keeper of the National Register of Historic Places for a formal determination of eligibility in accordance with 36 CFR Section 800.4(c). The SHPO shall be notified accordingly.

4. Certified Staff may submit eligibility determinations for properties to the Commission and SHPO concurrently in order to expedite the Section 106 review.

5. Properties determined to be ineligible for the National Register will be documented as such by Certified Staff and a copy of that determination will be included in the individual project files.

IV. Treatment of Historic Properties

A. Properties listed on the National Register, eligible for listing on the National Register, and which have been determined to meet the National Register criteria in accordance with Stipulation III shall be treated in accordance with this section.

B. Rehabilitation

1. The City shall ensure that work scopes and plans and specifications for all Program related rehabilitation activities not listed as exempt under Stipulation II are developed in accordance with the recommended approaches in The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (Standards). The plans shall be responsive to the recommended approaches for rehabilitation set forth in the Standards and in the Elgin Design Guideline Manual (Guidelines) for historic properties and districts which is based upon the Standards and has been approved by the SHPO.

2. Prior to the initiation of rehabilitation activities, the Program Participant shall submit a scope of work or plans, photographs and specifications which are consistent with the Standards and Guidelines to Certified Staff for review and approval. These plans must be complete and facilitate understanding of the proposed project.

3. Should Certified Staff recommend modifications to the scope of work or plans and specifications to ensure that the project meets the Standards and Guidelines, Program participants shall make the appropriate modifications and submit a revised work scope or plans to Certified Staff. Should Program participants determine that they cannot make the modifications recommended by Certified Staff to meet the Standards, participants shall consult further with the Commission. If Certified Staff, in consultation with the Commission, determine that the project meets the Criteria of Adverse Effect, the City will consult with the SHPO to develop a Standard Mitigation Measures Agreement in accordance with Stipulation V. If the SHPO determines that the Standard Mitigation Measures do not apply, the City shall notify the Council and initiate the consultation process set forth in 36 CFR Section 800.6.

4. If a project will not affect historic properties or not adversely affect historic properties, it may proceed after review and documentation in individual project files by Certified Staff.

C. Demolition and Relocation of Historic Properties

1. Program participants shall not proceed with the demolition or relocation of contributing buildings within an historic district or properties listed in or eligible for listing in the National Register until the procedures set forth in this section are completed.

2. Demolition or relocation of properties that are included in or eligible for inclusion in the National Register, located within Elgin's Historic Districts or are on the Landmarks list, will be reviewed by Certified Staff on a case by case basis. Plans shall be responsive to the recommended approaches for demolition or relocation set forth in the Standards and Guidelines.

Certified Staff will submit the following documentation to the Commission for review:

a. Location (including map) and description of the property proposed for demolition or relocation, including views of the public areas.

b. Reason for demolition, including documentation of building code violations, structural reports citing building deficiencies and estimated cost for rehabilitation; or reasons for relocation.

c. An analysis of alternatives which consists of a cost comparison of rehabilitation versus property acquisition and demolition.

d. Photographs of the property depicting its current condition.

e. Future plans for the site.

f. Proposed site for relocation.

3. If the Certified Staff, in consultation with the Commission, determine that demolition or relocation cannot be avoided, the City will consult with the SHPO to develop a Standard Mitigation Measures Agreement in accordance with Stipulation V. If the SHPO specifies that the Standard Mitigation Measures do not apply, the City shall notify the Council and initiate the consultation process set forth in 36 CFR Section 800.6.

D. Handicapped Accessibility

Handicapped accessibility projects undertaken through the Program to comply with the American Disabilities Act and other local and federal requirements will follow these guidelines:

1. The City will explore all alternative methods to provide handicapped accessibility to historic buildings consistent with the Standards, National Park Service Preservation Brief Number 32 "MakingHistoric Properties Accessible," and the Departmentof the Interior's report "Access to Historic Buildingsfor the Disabled: Suggestions for Planning and Implementation".

2. To the greatest extent feasible, handicapped accessibility 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 handicapped accessibility projects shall be reviewed and approved by Certified Staff to determine if the projects meet 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 on an historic property, then prior to taking any action, the City will consult with the SHPO and initiate procedures set forth in Stipulation V.

E. Site Improvements and Public Improvements

1. Site and public improvements within historic districts including modifications to sidewalks, repavement of streets, installation of landscaping, street lighting and street furniture and other improvements to

infrastructure will adhere to the recommended approaches for improvements as set forth in the Standards and Guidelines. These improvements will be designed to ensure that character-defining elements of historic properties are preserved through repair or replacement in-kind. Any new materials or features introduced in an 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, prior to taking any action, the City will consult with the Commission.

F. Emergency Undertakings

1. When emergency demolition is required for historic properties associated with HUD 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 within thirty days an imminent threat to health and safety of residents as identified by local building 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 should include:

   a. Nature of emergency.

   b. Historic property involved.

   c. Current condition of the building, including photographs.

   d. Timeframe allowed by local officials to respond to and correct the emergency situation.

3. The City shall consult with the SHPO to the greatest extent possible given particular circumstances.

4. The City shall ensure that any mitigation measures recommended by the Certified Staff or SHPO are implemented, if feasible.

V. Resolution of Adverse Effects

A. If the City, in consultation with the Commission, determines that a project meets the Criteria of Adverse Effect, the City shall consult with the SHPO to determine whether the historic properties should be treated in accordance with the Standard Mitigation Measures outlined in Appendix B or reviewed in accordance with 36 CFR Section 800.6.

1. The City shall submit, to the SHPO, background documentation to include an analysis of alternatives, recent structural reports or assessments of conditions, cost estimates for rehabilitation, programmatic and economic considerations, and marketing studies.

2. If the SHPO determines that a proposed demolition is an acceptable loss or no prudent and feasible alternatives exist to implementing the undertaking without adverse effects, the City, the SHPO and the Program Participant shall execute a Standard Mitigation Measures Agreement as outlined in Appendix B.

3. Upon receipt of the Standard Mitigation Measures Agreement from the City, Program Participants shall sign the Agreement and return the original to the City within 30 days following receipt. In cases where the City may

act as Program Participant, the City will consult with the SHPO. No further review of the undertaking is required by the Council.

4. If Program Participants object to the terms of the Standard Mitigation Measures Agreement, the Program Participants shall notify the City and SHPO and initiate the consultation process set forth in 36 CFR Section 800.6.

B. Standard Mitigation Measures Agreements shall not be executed when one of the following circumstances exist.

1. The SHPO determines that the Standard Mitigation Measures do not apply to an undertaking.

2. Program Participants object to the Standard Mitigation Measures proposed by the City.

3. The City fails to respond within 30 days.

4. The undertaking will adversely effect a National Historic Landmark.

5. The public objects during the open Commission meeting or by certified letter.

6. Human remains are present within the area of potential effect.

VI. Treatment of Archeological Sites

A. The City shall notify the SHPO when ground disturbing activities over an acre in size are part of the Program's undertaking.

1. The City shall request the SHPO's opinion regarding the potential effect of such activities on archeological properties prior to initiation of project activities. If the SHPO can determine that there is a high probability for the presence of significant archeological sites or cultural remains within the project area, the City or Program participants shall contract qualified archeologists to conduct archeological surveys. The City shall forward the scope of work for the archeological survey to the SHPO for review and approval.

2. If the City and the SHPO determine that there is the potential for archeological properties listed in or eligible for listing in the National Register, the City and the Program Participants shall seek ways to avoid the archeological properties. If the properties cannot be avoided, the City and the SHPO shall develop a data recovery plan that is consistent with the Secretary of the Interior's Standards and Guidelines for Archeological Documentation (48 CFR 44734-37) and take into account the Council's publication, "Treatment of Archeological Properties," its subsequent revisions and appropriate State guidelines. The City shall ensure that the approved plan is implemented by qualified archeologists.

VII. Public Involvement

A. Each year the City will notify the public of the current CDBG Program and make available, for public inspection, documentation on the Program. Included in this documentation will be general information on the types of activities undertaken with CDBG funds, information on identified historic properties in the community which might be affected by these activities, the amount of CDBG funds available in the current year, and how further information on the program can be obtained.

B. At any time during the implementation of the measures stipulated in this Programmatic Agreement, should the public raise an objection pertaining to the treatment of an historic property, the City shall notify the Commission and take the objection into account. Program Participants, the City, the Commission, the SHPO, or the Council, when requested by the objector, shall consult to resolve the objection. Program Participants are not required to cease work while 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 any 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 Certified Staff to review the requirements of this Programmatic Agreement. The SHPO shall also provide guidance related to implementation of the terms of the Programmatic Agreement.

C. The City shall ensure the SHPO that documentation for local undertakings, which involve historic properties and are subject to the terms of the Programmatic Agreement, will be provided in individual project or environmental files. Each project file shall include at a minimum:

1. Documentation on the reason for exempting the project from review.

2. Comments from Certified Staff, the Commission or the SHPO regarding the National Register eligibility of the property.

3. Proposed treatment of historic properties.

4. Before and after photographs.

5. Workscopes.

6. Date the 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 of the City's project sites to ensure compliance with actions, plans, documents and agreements approved by the City, the SHPO or Council pursuant to this Programmatic Agreement.

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

G. As a component of the Certified Local Government Annual Report, the City shall summarize activities carried out under the terms of this Programmatic Agreement. The Report will be submitted no later than June 1 of each year and shall include:

1. List of property addresses submitted for review.

2. Evaluation of National Register eligibility, and if eligible, the finding of effect.

IX. Effective Date

This Programmatic Agreement shall take effect on the date it is signed by all the parties, including the City, the SHPO and the Council. The Programmatic Agreement will remain in effect until September 30, 2011, unless terminated due to failure to comply with the terms of the Agreement.

X. Amendments

A. Any party to this Programmatic Agreement may request it be amended or modified, whereupon the City, SHPO and Council will consult in accordance with 36 CFR Section 800.14 to consider such revisions.

B. Any resulting amendments or addenda shall be developed and executed among the City, SHPO and Council in the same manner as the original Programmatic Agreement.

XI. Termination

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

XII. Compliance with Agreement

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

ADVISORY COUNCIL ON HISTORIC PRESERVATION

3/21/02

By: Date:

ILLINOIS STATE HISTORIC PRESERVATION AGENCY

3-5-02

By: Date:

CITY OF ELGIN

3-11-02

By: Date:

APPENDIX A

LONG-TERM PLAN FOR SURVEY

of Older Established Neighborhoods in Elgin, Illinois

The Elgin Heritage Commission has planned the survey and inventory of structures in following neighborhoods. The information obtained from surveys is used for neighborhood development plans, rehabilitation guidelines for individual buildings, and broader community based projects.

List of completed and future surveys of older neighborhoods within the City of Elgin

1. Illinois Historic Structures Survey (Interim Report 1972)	complete	1972
2. Illinois Historic Landmarks Survey (Interim Report 1974)	complete	1974
3. Elgin Historic District (photographic)	complete	1981
4. Center City Survey	complete	1991
5. Near West Side	complete	1995
6. Laurel Area	complete	1995
7. Michigan Triangle	complete	1995
8. Spring-Douglas Corridor	complete	1995
9. Northeast Neighborhood	complete	1997
10. Southeast Neighborhood (Elgin National Watch Historic District)	complete	1998
11. Lord's Park Neighborhood	complete	2000
12. Southwest Neighborhood Part 1	ongoing	2002
13. Southwest Neighborhood Part 2	ongoing	2002
14. Northwest Neighborhood	proposed	2003
15. Midwest Neighborhood (Dutch Flats)	proposed	2004
16. Shoe factory District	proposed	2005
17. Sunset Park	proposed	2006
18. Elgin Historic District	proposed	2007

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18. Elgin Historic District	proposed	2007

APPENDIX B

STANDARD MITIGATION MEASURES FOR ADVERSE EFFECTS

Program Participants, the City and the SHPO may develop and execute an agreement that includes one or more of the following Standard Mitigation Measures, as modified by the SHPO, for undertakings not listed in Stipulation V when the SHPO deems it appropriate. The Council will not be a party to these agreements.

A. Program participants shall ensure that the historic property is recorded prior to its demolition, alteration or relocation in accordance with the Illinois Historic American Buildings Survey/Historic American Engineering Record (IL HABS/HAER) standards or a recordation plan developed by the SHPO. At a minimum, recordation methods and standards will be established. The SHPO shall identify appropriate archives for the deposit of recordation materials and Program Participants shall be responsible for submitting such materials.

B. The City, in consultation with the SHPO, shall identify appropriate parties to receive salvaged architectural features. Program Participants shall ensure that significant architectural features are salvaged prior to the initiation of demolition activities and properly stored and curated.

C. Program Participants shall ensure that the treatment of historic properties or the design of new buildings which cannot feasibly meet the Standards and Guidelines is carried out in accordance with the construction documents or work write-ups reviewed and approved by Certified Staff and the Commission.

D. Program Participants 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 Participants shall review all purchase offers in consultation with the City and the SHPO. If a successful purchaser is selected, Program Participants shall include preservation covenants approved by the SHPO in the transfer deed. If no successful purchaser is identified, Program Participants may either convey the property without covenants or proceed with the demolition or relocation after the historic properties have been recorded pursuant to agreed upon recordation standards.

Appendix A to Part 61 "Professional Qualifications Standards"

In the following definitions, a year of full-time professional experience need not consist of a continuous year of full-time work but may be made up of discontinuous periods of full-time or part-time work adding up to the equivalent of a year of full-time experience.

(a) **History**. The minimum professional qualifications in history are a graduate degree in history or closely related field; or a bachelor's degree in history or closely related field plus one of the following:

1. At least two years of full-time experience in research, writing, teaching, interpretation or other demonstrable professional activity with an academic institution, historical organization or agency, museum, or other professional institution; or

2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of history.

(b) **Archeology**. The minimum professional qualifications in archeology are a graduate degree in archeology, anthropology, or closely related field plus:

1. At least one year of full-time professional experience or equivalent specialized training in archeological research, administration or management;

2. At least four months of supervised field and analytic experience in general North American archeology; and

3. Demonstrated ability to carry research to completion.

In addition, to these minimum qualifications, a professional in prehistoric archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the prehistoric period. A professional in historic archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the historic period.

(c) **Architectural history**. The minimum professional qualifications in architectural history are a graduate degree in architectural history, art history, historic preservation, or closely related field, with course work in American architectural history; or a bachelor's degree in architectural history, art history, historic preservation, or closely related field plus one of the following:

1. At least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or

2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.

(d) **Architecture**. The minimum professional qualifications in architecture are a professional degree in architecture plus at least two years of full-time professional experience in architecture; or a State license to practice architecture.

(e) **Historic Architecture**. The minimum professional qualifications in historic architecture are a professional degree in architecture of State license to practice architecture, plus one of the following:

1. At least one year of graduate study in architectural preservation, American architectural history, preservation planning, or closely related field; or

2. At least one year of full-time professional experience on historic preservation projects. Such graduate study or experience shall include detailed investigations of historic structures, preparation of historic structures research reports, and preparation of plans and specification for preservation projects.