

PROGRAMMATIC AGREEMENT

WHEREAS, the City of Troy (City) proposes to administer the Entitlement Grant Program funded by a Community Development Block Grant (CDBG) from the Department of Housing and Urban Development (HUD) in accordance with the provisions of the Housing and Community Development Acts of 1974 and 1977, and, other HUD-funded programs, including:

1. Emergency Shelter Grant
2. HOME
3. HOPE

WHEREAS, the City has determined that the program may have an effect upon properties included in or eligible for the National Register of Historic Places and has consulted with the Advisory Council on Historic Preservation (Council) and the New York State Historic Preservation Officer (SHPO) pursuant to Section 800.13 of the regulations (36 CFR Part 800) implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f)

NOW, THEREFORE, the City, the Council, and the New York SHPO agree that the program shall be administered in accordance with the following stipulations to satisfy the MCD's Section 106 responsibilities for all individual undertakings of the program.

STIPULATIONS

The City will ensure that the following measures are carried out.

I. Identification of National Register Listed or Eligible Properties.

- A. The City will determine the impact area of any of the activities noted in the CDBG application to HUD and whether the activity may cause changes in the character or use of properties:
 1. listed on the National Register of Historic Places, or
 2. previously determined as eligible for inclusion in the National Register of Historic Places, or
 3. identified as meeting the National Register criteria by the SHPO as a result of reconnaissance survey, or
 4. which are fifty years of age or older and identified by the SHPO as eligible as a result of Stipulation I(B).

- B. Eligibility Assessment for properties which fall under Stipulation I(A)(4).
1. The City will submit to the New York SHPO for a determination of eligibility:
 - a. a completed building/structure inventory form;
 - b. property address;
 - c. a map locating the property within the MCD;
 - d. original photographs of the property to be affected by the project. If the property is a structure, original photographs of all sides of the structure and any related outbuildings as well;
 - e. streetscape photographs taken of properties in all directions and across from the property to be affected.
 2. The New York SHPO will review the City's submission and provide the City with a determination of eligibility in accordance with 36 CFR 800.4(c); or based upon a review of information provided, request additional information in order to make such a determination.
 3. If there is not agreement concerning the eligibility of a property the City will submit the matter to the Secretary of the Interior for a determination of eligibility pursuant to applicable National Park Service regulations.

II. Responsibilities of the City

- A. If the impact area of the proposed activity does not include or is not adjacent to historic properties identified in Stipulation I(A), or is a property identified as not eligible for listing on the National Register of Historic Places as a result of the assessment described in Stipulation I(B), no further consultation is required.
- B. For all proposed activities not listed in Stipulation III (E)(1) and IV (A) below, the City agrees to follow the procedure outlined in Stipulation III(A)(1), (A)(2), (B), (C), and (D) or IV(B), as appropriate for all properties addressed in Stipulation I(A).
- C. For all ground disturbing activities the City will follow the procedure outlined in Stipulation V.

III. Review Procedure for Rehabilitation Activities.

- A. Listed and eligible properties will be rehabilitated in accordance with "The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" (Standards).
 1. The City will apply the Standards in consultation with the New York SHPO on a case-by-case basis.
 2. To begin consultation with the SHPO, prior to initiating each rehabilitation project the City will provide documentation for SHPO review which includes the following:
 - a. Original photographs, not photocopies, of the project site that completely describe existing conditions. In the case of buildings, all exterior elevations and interior spaces should be photographed. All photographs should be clearly labeled as to location of view, and keyed to existing condition floor/site plans.
 - b. Photographs (labeled) of all architectural details, keyed to existing condition floor/site plans.
 - c. Architect's floor plans or sketches of both existing and proposed conditions.
 - d. Specifications for proposed work to fully describe methods and materials proposed for repair or replacement.
 - e. Elevation drawings where exterior changes or additions are proposed. Drawings must fully describe existing and proposed conditions, materials, and finishes.
 - f. A "Survey of Architectural Conditions" to fully describe both existing and proposed conditions, where floor plan changes or removals are to occur, as outlined in Attachment 1.
 - g. Description of any building additions.
 3. The SHPO will respond in accordance with Stipulation VI.
- B. For those rehabilitation loan and grant projects where the Standards cannot be met, the City will consult with the SHPO and prior to taking any further action, will initiate the process set forth at 36 CFR Section 800.5(e) to obtain the Council's comments.
- C. Documentation of the work (project files), including "before" photographs, will be retained and will be available to the SHPO.

D. Undertakings which require no SHPO consultation.

1. Work Items

Although requiring no consultation, documentation including before and after photographs and work specifications of undertakings involving the following work items will be retained and made available to the SHPO upon request.

a. Site Work

1. Resurfacing of roads where no change in width, surface material, depth of roadbed, vertical alignment or drainage is to occur.
2. Repair/replacement of underground utility lines within existing trench.
3. Repair/replacement of existing curbing or sidewalks in kind.
4. Repair/replacement of existing septic systems, storm drainage or fuel storage where significant site features, such as mature vegetation, are not impacted.

b. Exterior

1. In kind roof repairs and replacement of asphalt roofing material.
2. In kind repair/replacement of gutters and downspouts using colors complementing building facades.
3. Window and door repair using in kind materials and matching original details exactly, including replacement of isolated wooden members, glazing and hardware, and replacement or addition of window screens. Replacement of entire sash or frame is specifically excluded.
4. In kind replacement of missing or broken glass.
5. Minor wood repairs of clapboard, structural elements, and isolated trim sections provided new material matches original exactly in material and detail.
6. Minor porch repair using in kind materials including jacking of porch and replacement in kind of deteriorated framing members and flooring.
7. In kind minor repairs of wheelchair ramps.

8. Repair of concrete cellar floors.
9. Repair in kind of concrete block foundations, minor repairs to parged foundations to match existing, and repointing in kind of all foundations where new mortar matches original in color, texture, hardness, joint width and profile. The use of silicone sealers or other non-breathable coatings is specifically excluded. (n.b.: new parging on non-concrete block foundations must be reviewed by the SHPO).
10. Exterior painting with traditional color schemes, or complementary colors, removable oil base or latex paint of previously painted surfaces provided that: appropriate surface preparation is undertaken, including washing, scraping, and sanding, and priming of all exposed areas with oil base primer; and painting is undertaken only when temperature is at least 50 degrees F.
11. Repair in kind/replacement of signs.
12. Cleaning or repointing of brick and stone providing that, non-ionic cleaners and non-ferrous brushes are used, new mortar matches original in color, texture, hardness, joint width and profile and water pressures do not exceed 150 psi. Sandblasting is strictly prohibited.

c. Interior

1. Minor structural repairs including in kind repair/replacement of deteriorated floors, or floor and ceiling framing members.
2. Minor patching of flat, non-decorated interior ceilings and walls in kind. Replacement of flat, non-decorated interior walls and ceilings with sheetrock when existing conditions are irreparable, providing the new surface lies in the same plane as the original.
3. Interior painting/staining with materials matching original paint/stain finish and texture.
4. In kind repair, replacement, or upgrading of HVAC, plumbing and electrical systems (excluding the installation of additional ducts outside of basement, attic, or other concealed spaces).
5. Installation of adequate lighting where required in kitchens, bathrooms, or public areas where installation will not damage or obscure architectural details.
6. Installation/repair/replacement of smoke alarms.
7. Repair/replacement of locksets.

d. Energy Conservation

1. Storm Windows:

- a. Exterior: New wood or aluminum exterior storm windows provided they completely fill the window opening; mullions and meeting rails match those of prime window; and color matches that of prime sash and trim. Aluminum may be used provided that: the above conditions are met; the finish is baked enamel, and units are flush mounted and do not protrude beyond face of window trim. Filler panels on aluminum or wood storm windows are not acceptable.
 - b. Interior: Interior storms where: units are installed within existing opening; match interior trim color; are reversible and do not cause damage to existing trim; and have structural elements that align with those of prime window. Windows should be installed to completely fill existing opening and with a seal so as to protect prime window from condensation.
2. Double-glazing of existing sash: replacement of original, non-significant glazing by modifying existing sash to receive double glazing, providing original sash can withstand additional weight.
 3. Caulking and weatherstripping.
 4. Attic and basement ceiling insulation when a vapor barrier of two coats of vapor barrier paint are applied to the warm side of ceiling or cavity, and adequate ventilation is provided on the cold side.
 5. Wrapping of heating pipes and ducts in basement.

IV. Review Procedure for Activities Other Than Rehabilitation.

- A. No consultation is required for the following actions:
 1. Purchase of equipment.
 2. Public service programs.
 3. Community Development Administration.
 4. Relocation assistance.
- B. If the proposed treatment of the property is not rehabilitation, if demolition is contemplated, or if the contemplated action could have an indirect effect on listed or eligible properties, prior to taking any action the City will consult with the New York SHPO and initiate the process set forth at 36 CFR 800.5 to obtain the Council's comments. To begin consultation with the SHPO, prior to initiating each activity, the City will provide documentation for SHPO review which includes the following:

1. A description of the undertaking;
 2. Original photographs, not photocopies, of the project site that completely describe existing conditions. In the case of buildings, all exterior elevations and the affected interior spaces should be photographed. All photographs should be clearly labeled as to location of view, and keyed to existing condition floor/site plans;
 3. Streetscape photographs taken of properties in both directions of the property to be affected;
 4. A map locating the property/site to be affected;
 5. Site plans/elevation drawings if new construction is proposed;
 6. Specifications for proposed work to fully describe methods and materials proposed for repair or replacement;
- C. The SHPO will respond in accordance with Stipulation VII.

V. Review Procedure for Archeology.

- A. Prior to any non-exempt ground disturbing activities associated with the program activities on lands previously undisturbed or undeveloped, the City shall notify the SHPO and request his opinion on the potential existence of archeological resources. To begin consultation with the SHPO, prior to initiating each ground disturbing activity, the City will provide documentation for SHPO review which includes the following:
1. A map locating the proposed activity.
 2. Photographs of the site and its surroundings keyed to the map.
 3. Information on any ground disturbance in the project area not listed in Stipulation III(E)(1)(a) should include:
 - a. nature and date of disturbance.
 - b. map indicating depth and location of disturbance.
- B. The SHPO will respond in accordance with Stipulation VII.
- C. If warranted, archeological survey of the affected area will be carried out in consultation with the SHPO. If archeological resources are found which meet the National Register Criteria (36 CFR Section (60.6), whenever feasible, they will be avoided or preserved in place. When this is not feasible, the SHPO will be consulted and a treatment consistent with the Council's Handbook, "Treatment of Archeological Properties" and approved by the SHPO will be developed and implemented.

VI. Public Involvement

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

VII. Responsibilities of the SHPO.

The New York SHPO will review the documentation and may:

- A. Request additional information and/or provide recommendations.
- B. Provide a project effect finding which may:
1. complete the consultation process;
 2. require continued consultation with the SHPO;
 3. require consultation with the Council;
 4. establish conditions for project approval, which may require that the SHPO be informed in writing that conditions will be incorporated into the project and that the SHPO be provided with revised documents incorporating these conditions.

VIII. Renewal of Agreement.

The Council and the SHPO may monitor activities carried out pursuant to this Programmatic Agreement, and the Council will review such activities if so requested. The City will cooperate with the Council and the SHPO in carrying out their monitoring and review responsibilities.

This Programmatic Agreement will continue in force for the duration of FY 97 - FY 01 grant funding. Any party to this Programmatic Agreement may request that it be amended, whereupon the parties will consult in accordance with 36 CFR 800.13 to consider such amendment.

Any party to this Programmatic Agreement may terminate it by providing thirty (30) 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. In the event of termination, the MCD will comply with 36 CFR 800.4 through 800.6 with regard to individual undertakings covered by this Programmatic Agreement.

In the event the City does not carry out the terms of the Programmatic Agreement, the City will comply with 36 CFR 800.4 through 800.6 with regard to individual undertakings by this Programmatic Agreement.

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Renewal of City of Troy, NY "Programmatic Agreement" 2005-2009

Renewal period: through the end of the 2009 Federal funding year (6-30-09)

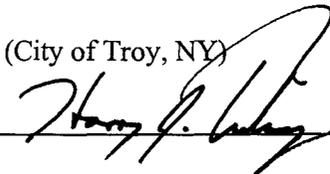
Additional stipulation: the City of Troy, NY agrees to submitting to the New York State Historic Preservation Office annually a listing of HUD federally funded projects that are exempt or categorically excluded.

Execution and implementation of the Programmatic Agreement evidences that the MCD has satisfied its Section 106 responsibilities for all individual undertakings of these projects and programs.

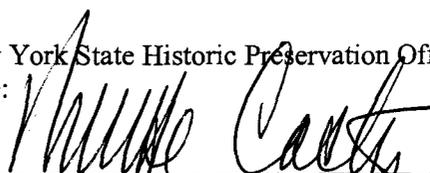
Advisory Council on Historic Preservation

_____ Date: _____

MCD (City of Troy, NY)

x  _____ Date: 10/12/05

New York State Historic Preservation Officer

Date:  _____ Date: 11/06/05