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CITY OF AURORA, ILLINOIS
RESOLUTION NO. R03-261
DATE OF PASSAGE May 27, 2003

RESOLUTION TO ENTER INTO AN AGREEMENT
WITH THE ILLINOIS STATE HISTORIC PRESERVATION OFFICER, AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION FOR CERTAIN PROGRAMS OF THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ADMINISTERED BY THE CITY OF AURORA

WHEREAS, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit as defined in Article 7, Section 6(a) of the 1970 Constitution of the State of Illinois; and

WHEREAS, said section of the Constitution authorizes a home rule unit to exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the City of Aurora has been a Certified Local Government with the State of Illinois since 1983 and has fulfilled Section 106 requirements pursuant to the National historic Preservation Act for certain programs of the U.S. Department of Housing and Urban Development administered by the City of Aurora; and

WHEREAS, the City of Aurora desires to renew the Programmatic Agreement attached hereto as Exhibit "A" to continue to fulfill said Section 106 requirements through 2012.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Aurora, Illinois, that the Director of the Preservation Commission be authorized to execute said Programmatic Agreement attached hereto as Exhibit "A" with the Illinois State Historic Preservation Officer, and the Advisory Council on Historic Preservation for certain programs of the U.S. Department of Housing and Urban Development administered by the City of Aurora.

PRESENTED to the City Council of the City of Aurora, Illinois on this 27th day of May, 2003.

PASSED AND APPROVED by the City Council of the City of Aurora, Illinois, on this 27th day of May, 2003 by a roll call vote as follows:

AYES 12 NAYS 0 NOT VOTING 0

SIGNED by the City Council of the City of Aurora, Illinois, on this 27th day of May, 2003.

ATTEST:
City Clerk

David L. Stover, Mayor

PROGRAMMATIC AGREEMENT
AMONG THE CITY OF AURORA, THE ILLINOIS STATE HISTORIC PRESERVATION OFFICER, AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION FOR CERTAIN PROGRAMS OF THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ADMINISTERED BY THE CITY OF AURORA

WHEREAS, the City of Aurora, Illinois (City) has determined that the implementation of its Community Development Block Grant (CDBG) and other U.S. Department of Housing and Urban Development (HUD) programs for Federal Fiscal Years 2002 – 2012 (listed in Appendix A) may have an effect on properties included or eligible for inclusion in the National Register of Historic Places; and

WHEREAS, these programs are administered by the City's Community Development Department (Department) and encompass a variety of activities including: rehabilitation, new construction, demolition, and infrastructure improvements; 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 on 1966, as amended (16 U.S.C. 470f) and its implementing regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800); and

WHEREAS, the City , the SHPO and the Council have determined that the City can more effectively fulfill its Section 106 review responsibilities for CDBG, HUD and IHDA program activities 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 a historic preservation review commission and qualified professional staff who will carry out duties enumerated below.

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

STIPULATIONS

I. Qualified Personnel

A. The City shall ensure that it maintains a staff that meets the qualifications outlined in 36 CFR Part 61, the Secretary of the Interior's Professional Qualification Standards, hereafter referred to as Certified Staff.

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.

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/or 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 Part 800.4 through 800.6 with regard to individual undertakings covered by this Agreement.

II. Exempt Activities

When the following activities are proposed for properties listed on the National Register or eligible for listing on the National Register, further review is not required because there is limited potential to affect the historic resource.

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, sewers, fixtures, water heaters, heating vents, floor furnaces, wall heaters, central heat systems and gas lines.

C. Painting of any exterior component which has previously been painted.

D. Repair or replacement of existing curbs and sidewalks in kind (historic slate sidewalks are **NOT** exempt).

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 Aurora Local Landmarks list.

   c. The Illinois Historic Sites Survey (1972).

d. Designations of "primary significance" cataloged as part of the general survey of Aurora buildings.

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 for properties 50 years or older involved in a HUD or IHDA funded undertaking 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 Aurora Historic Preservation Commission (Commission) for evaluation and recommendation.

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 Part 800.4(c). The SHPO shall be notified accordingly.

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

5. Properties determined to be not listed on the National Register or not eligible 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 write-ups of plans and specifications for all rehabilitation activities not listed as exempt under Stipulation II are developed in accordance with the recommended approaches in *The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (Standards). The City may also use "*City of Aurora Historic Districts and Landmarks Guidelines*", which are based upon the Standards and have been approved by the SHPO.

2. Prior to the initiation of rehabilitation activities, program recipients shall submit work write-ups or plans, photographs and specifications which evidence adherence to the Standards to Certified Staff for review and approval. These plans must be complete enough in order to facilitate understanding of the proposed project.

3. Should Certified Staff recommend modifications to the work write-up or plans and specifications to ensure that the project meets the Standards, program recipients shall make the appropriate modifications and submit revised work write-ups or plans to Certified Staff. Should program recipients determine that they cannot make the modifications recommended by Certified Staff to meet the Standards, program recipients 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 Part 800.5(e).

4. If a project will have no effect or no adverse effect on historic resources, it may proceed after review and documentation in individual project files by Certified Staff.

C. Demolition and Relocation of Historic Properties

1. Recipients 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, listed as contributing buildings within a historic district or included in the surveys listed in Section III.A.2., parts a through f, will be reviewed by the Commission on a case by case basis. The City and 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.

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

c. A cost comparison of rehabilitation versus property acquisition and demolition and summary of alternatives considered.

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 Part 800.5(e).

D. New Construction

Program recipients shall ensure that the design of new construction, infill construction, or additions to historic buildings is compatible with the historic qualities of the historic district or adjacent historic buildings in terms of size, scale, massing, design, features, and materials, and is responsive to the recommended approaches for new construction set forth in the Standards.

1. Program recipients shall develop preliminary design plans in consultation with the City. Final plans and specifications will be submitted to Certified Staff for review and approval prior to the initiation of construction activities.

2. If Certified Staff, in consultation with the Commission, determine that the design of the new construction does not meet the Standards or would otherwise result in an adverse effect to historic properties, the City shall consult with the SHPO to develop a Standard Mitigation Measures Agreement in accordance with Stipulation V.

3. 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 Part 800.5(e).

E. Handicapped Accessibility

Handicapped accessibility projects undertaken by the City 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 Brief Number 32 "Making Historic Properties Accessible," and the Department of the Interior's report *Access to Historic Buildings for the Disabled: Suggestions for Planning and Implementation.*

2. To the 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 a historic property, then prior to taking any action, the City will consult with the SHPO and initiate procedures set forth in Stipulation V.

G. Site Improvements and Public Improvements

1. Site and public improvements within historic districts including sidewalk improvements, repaving of streets, installation of landscaping, street lighting and street furniture and other infrastructure improvements will adhere to the Standards. 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 a 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.

H. Emergency Undertakings

1. When emergency demolition is required for historic properties associated with a HUD funded activity, Certified Staff will conduct an immediate review, if conditions allow. 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 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 the emergency

   b. Historic property involved

   c. Current condition of the building, including photographs

d. Time frame allowed by local officials to respond to, or 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, determine 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 Part 800.5(e).

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 recipient 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 recipients 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 recipient, the City will consult in the Standard Mitigation Measures Agreement with the SHPO. No further review of the undertaking is required by the Council.

4. If program recipients object to the terms of the Standard Mitigation Measures agreement, the program recipients shall notify the City and SHPO and initiate the consultation process set forth in 36 CFR Part 800.5(e).

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 recipients object to the Standard Mitigation Measures proposed by the City.

3. The City fails to respond within 30 days.

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

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

6. Historic 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 are part of a local 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 recipients 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 recipients 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 City 's current CDBG program and make available for public inspection documentation on the City 's CDBG 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 program year, and how interested persons can receive further information on the program.

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 recipients, the City, the Commission, the SHPO, or the Council, when requested by the objector, shall consult to resolve the objection. Program recipients 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 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 of documentation for local undertakings which involve historic properties and were subject to the terms of the Programmatic Agreement in individual project or environmental files. Each project file shall include at a minimum:

1. Documentation why one of the exemptions from review is applicable.

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. Work write-ups

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. The Annual Report shall include:

1. List of property addresses submitted for review.

2. Program in which the undertaking took place.

3. 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, 2012, 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 Part 800.13 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

By: Date:

ILLINOIS STATE HISTORIC PRESERVATION OFFICER

By: 3/27/03 Date:

CITY OF AURORA

By: 05-27-03 Date:

APPENDIX A

Programs Administered by the City of Aurora

U.S. Department of Housing and Urban Development Programs

1. Community Development Block Grant
   (a.) –Preservation Deferred Loans
   (b.) –Non-Profit Rehabilitation Grants
   (c.) –Emergency Deferred Loans
   (d.) –Any other approved CDBG Grants

2. Section 108

Appendix B

Standard Mitigation Measures for Adverse Effects

Program recipients, 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; however, the City must submit a copy to the Council for their records within 30 days after the Agreement is executed.

A. Program recipients 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 this plan will establish recordation methods and standards. The SHPO shall identify appropriate archives for the deposit of recordation materials and program recipients 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 recipients shall ensure that significant architectural features are salvaged prior to the initiation of demolition activities and properly stored and curated. When feasible, salvaged architectural features shall be reused in other preservation projects, if appropriate.

C. Program recipients shall ensure that the treatment of historic properties or the design of new buildings which cannot feasibly meet the Standards or approved design 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 recipients 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 recipients shall review all purchase offers in consultation with the City and the SHPO. If a successful purchaser is selected, program recipients shall include preservation covenants approved by the SHPO in the transfer deed. If no successful purchaser is identified, program recipients may either convey the property without covenants or proceed with the demolition or relocation after the historic properties have been recorded pursuant to IL HABS/HAER standards.