

**PROGRAMMATIC AGREEMENT
AMONG
THE CITY OF CHICAGO, ACTING BY AND THROUGH ITS
DEPARTMENT OF ASSETS, INFORMATION AND SERVICES, AND
THE ILLINOIS STATE HISTORIC PRESERVATION OFFICER**

**FOR THE ADMINISTRATION OF SECTION 106 OF THE NATIONAL HISTORIC
PRESERVATION ACT FOR CERTAIN PROGRAMS FUNDED BY
THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
MAY 1, 2022, TO APRIL 30, 2027**

THIS PROGRAMMATIC AGREEMENT (“Agreement”) is entered into as of May 1, 2022, among the City of Chicago (“City”), the Illinois State Historic Preservation Officer (“SHPO”), and the Advisory Council on Historic Preservation (“ACHP”).

RECITALS

WHEREAS, the City is a direct recipient of funds from the U.S. Department of Housing and Urban Development (“HUD”) and a sub-recipient of HUD funds via the Illinois Housing Development Authority and/or the Illinois Department of Commerce and Economic Opportunity; and

WHEREAS, in accordance with 24 CFR Part 58.4, HUD recognizes the City as a Responsible Entity (“RE”) for programs and activities within the City of Chicago that are identified in 24 CFR Part 58.1(b); and

WHEREAS, the City is the RE for the Chicago Housing Authority (“CHA”), via an Intergovernmental Agreement executed on November 2, 2020, for funds CHA directly receives from HUD which require environmental reviews under 24 CFR part 58; and

WHEREAS, the City’s Department of Assets, Information and Services (together with any successor department thereto, “AIS”) has assumed environmental review, decision-making and action pursuant to the City’s role as RE; and

WHEREAS, collectively, these programs as enumerated in Appendix A provide financial support for a wide variety of activities, including: rehabilitation, new construction, demolition, infrastructure improvements, and other eligible activities; and

WHEREAS, projects that receive such funds constitute “Undertakings” (as that term is defined in 36 CFR 800.16(y)) subject to Section 106 of the National Historic Preservation Act of 1966, as amended, 54 U.S.C. § 306108, and its implementing regulations (36 CFR Part 800) (the “Act”); 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 Act to administer the State Historic Preservation Program or a representative designated to act for the

SHPO (see 36 CFR § 800.16(v)); and

WHEREAS, the responsibilities of the SHPO under Section 106 of the Act 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, AIS has consulted with the SHPO pursuant to the Act; and

WHEREAS, AIS 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, AIS and the SHPO have determined that AIS can more effectively fulfill its Section 106 review responsibilities for the specified HUD-funded activities if a programmatic approach is used to delegate Section 106 and other compliance responsibilities to AIS, pursuant to 36 CFR Part 800.14(b) of the Act; and

WHEREAS, the City is a Certified Local Government with a Historic Preservation Commission ("Commission") and Qualified Personnel (as defined and further described in Section II.A. below) who will carry out and/or assist with the duties enumerated below; and

WHEREAS, in accordance with 36 CFR Part 800.14(b), AIS has notified the ACHP of this Agreement, and on March 22, 2022, the ACHP chose not to participate in the consultation; and

WHEREAS, recognizing the government-to-government relationship with federally recognized Indian tribes, the City invited the following tribes to participate in consultation pursuant to 36 CFR § 800.2(c)(2)(ii): Hannahville Indian Community, Michigan; Kickapoo Tribe of Oklahoma; Little Traverse Bay Bands of Odawa Indians, Michigan; Menominee Indian Tribe of Wisconsin; Citizen Potawatomi Nation, Oklahoma; Forest County Potawatomi Community of Wisconsin; Prairie Band Potawatomi Nation; Miami Tribe of Oklahoma; and

WHEREAS, the Forest County Potawatomi Community of Wisconsin (FCPC) chose to participate in consultation, and the City has invited FCPC to sign this Agreement as a Concurring Party; and

NOW, THEREFORE, AIS 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, as defined in Stipulation III, on historic and potentially historic properties.

STIPULATIONS

I. Applicability

- A. This Agreement shall apply only to those Undertakings funded, in whole or in part, by the programs and activities, as set forth in 24 CFR 58.1(b), for which the City has assumed authority as the Responsible Entity, as further specified in the Stipulations of this Agreement. Any Undertaking not governed by this Agreement shall be subject to compliance with the Section 106 review process as defined in the Act.
- B. If a federal agency or other entity acting under another federal program has previously completed a Section 106 review and approved an Undertaking within the past two (2) years, the City has no obligation to complete a Section 106 review regarding that Undertaking, provided that the City:
 - 1. Adopts the findings and determinations of the previous Section 106 review;
 - 2. Confirms that the proposed scope of work and effect, as defined by 36 CFR 800.16(i), of its Undertaking are the same as the scope of work and effect of the previous Undertaking;
 - 3. Determines that the previous review was completed in compliance with Section 106; and
 - 4. Documents its findings and determinations in its project file that all requirements of Section 106 for the Undertaking have been satisfied and include the project in its Annual Report pursuant to Stipulation XII.F.

If AIS, in consultation with SHPO, determines that the previous Section 106 review was insufficient or involved interagency disagreements about eligibility, effect, and/or treatment measures, the City shall conduct a new Section 106 review in accordance with the Stipulations of this Agreement.

II. Qualified Personnel

- A. AIS shall ensure that it maintains staff, whether employed or contracted, hereafter referred to as “Qualified Personnel, that meets the enumerated qualifications below. Qualified Personnel’s curriculum vitae and, if applicable, proof of successful completion of “The Section 106 Essentials” course shall be submitted to the SHPO for review and concurrence.
 - 1. Qualifications outlined in 36 CFR Part 61, the Secretary of the Interior’s Professional Qualification Standards, for History or Architectural History (see: <https://www.nps.gov/articles/sec-standards-prof-quals.htm>); and
 - 2. One of the following:
 - a. Successful completion of “The Section 106 Essentials” course given by the ACHP (see: www.achp.gov/training/classroom). AIS must provide the SHPO proof of course completion. To be considered as Qualified Personnel:

- i. Contractors must have successfully completed the course at the time of hiring
 - ii. Newly hired City employees must successfully complete the course within 12 months of hiring
 - iii. Existing City employees must successfully complete the course within 12 months of either the acceptance of this Agreement or the assignment of executing tasks stipulated in this Agreement
- b. One year of direct experience with the implementation of the Section 106 process.
- 3. Successful completion of at least one ACHP webinar (see: <https://www.achp.gov/training/webinars>) per year on a Section 106 topic. Proof of completion must be submitted to the SHPO as a part of the annual report stipulated in XI.F.
- B. AIS shall ensure that all historic determinations made pursuant to this Agreement are carried out by or under the direct supervision of Qualified Personnel.
- C. AIS shall notify the SHPO of Qualified Personnel changes or vacancies. During periods of Qualified Personnel vacancy, AIS must submit all Undertakings to the SHPO in accordance with the Act.
- D. If AIS does not have Qualified Personnel in place for a period longer than 12 consecutive months, then the SHPO and the City may mutually agree in writing that this Agreement will terminate, and AIS will comply with 36 CFR §§ 800.4 through 800.6 with regard to Undertakings covered by this Agreement, unless SHPO and AIS agree to a longer period if AIS demonstrates a good-faith effort to contract Qualified Personnel.

III. Activities that constitute an Undertaking and are governed by this Agreement

- A. 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” subject in its entirety to this Agreement.
- B. Undertakings that contain ground-disturbing activities must be submitted to the SHPO for archaeological review pursuant to Section 106. AIS’s submission to the SHPO must contain a cover letter that includes the paragraph in Appendix B. If the SHPO determines that there are no significant archaeological resources present in the project area, the SHPO shall return the Undertaking to AIS for continued review pursuant to Section III et seq. of this Agreement. If the SHPO determines that the project area contains significant archaeological resources, the Undertaking will not be subject to this Agreement, and the SHPO will complete the Section 106 review of the Undertaking in consultation with AIS.
- C. For the purposes of this Agreement, ground-disturbing activities include but are not limited to the following:

1. Excavation for entirely new footings and new foundations.
 2. Installation of entirely new utilities, such as sewer, water, electrical, gas, and leach lines; wells; storm drains; and septic tanks.
- D. For the purposes of this Agreement, ground-disturbing activities do not include the following:
1. Repair, removal, or replacement in kind of existing utilities in the same locations. Utilities include sewer, water, electrical, gas, and leach lines; storm drains; septic tanks; and wells.
 2. Installation of new utilities when those new utilities are replacing existing utilities that must be relocated to meet all applicable legal requirements.
 3. Repair, removal, or replacement in kind of existing, non-historic infrastructure, such as foundations, sidewalks, curbs, driveways.
 4. Replacement of existing porch footings in their current locations.

IV. Determining a Historic Property and an Area of Potential Effects (“APE”)

- A. When an Undertaking is proposed for a property, the property must undergo a determination as set forth in Stipulations IV.C and IV.D, regardless of previous evaluations. Notwithstanding the foregoing, the Qualified Personnel may consider previous evaluations in its determination.

B. Determining the APE

For each Undertaking, Qualified Personnel shall determine an Area of Potential Effects (“APE”), 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 properties within the APE. For properties not individually listed on the National Register of Historic Places (“NRHP”), Qualified Personnel shall apply the NRHP criteria. Existing information consulted must include:
 - a. The current listing of the NRHP;
 - b. The Chicago Historic Resources Survey (“CHRS”);
 - c. The current landmark list and surveys within the City of Chicago;
 - d. The Illinois Historic and Architectural Resources Geographic Information System (HARGIS); and

- e. Designations of significant buildings or buildings of merit cataloged as part of the land use and building condition surveys for official neighborhood plans in the City 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, 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, 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 (as defined in 36 CFR § 67.5);
 5. A property is a National Historic Landmark;
 6. A property is a locally-designated landmark, either individually or as part of a

landmark district; and/or

7. A property is colored-coded “red” or “orange”, the two highest categories of potential significance, in the CHRS inventory.
- E. If Qualified Personnel determines that there are no Historic Properties present in an Undertaking’s APE, Section 106 requirements are satisfied, and the Undertaking can proceed in accordance with 24 CFR Part 58.
- F. Undertakings for which Qualified Personnel determined that no Historic Properties were involved must be re-evaluated under this Agreement if the Undertaking does not proceed within two (2) years of the date of the determination.
- G. Qualified Personnel may elect to submit a Historic Property to SHPO for further review and determination.

V. Exempt Activities

For Undertakings that involve Historic Properties, or are within APEs that contain Historic Properties, as determined by Qualified Personnel, 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 interior 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. Repair or replacement of existing asphalt roofing shingles with new asphalt roofing shingles.
- C. Painting of any exterior component which has previously been painted.
- D. Repair, removal, or replacement in kind of existing utilities in the same locations. Utilities include sewer, water, electrical, gas, and leach lines; storm drains; septic tanks; and wells. Installation of new utilities when those new utilities are replacing existing utilities that must be relocated to meet all applicable legal requirements.
- E. Repair, removal, or replacement in kind of existing, non-historic infrastructure, such as foundations, sidewalks, curbs, driveways.
- F. Replacement of existing porch footings in their existing locations.
- G. Activities involving historic infrastructure, such as but not limited to stone and brick sidewalks; curbs; roads; and historic street furniture, i.e., street lighting, benches, and water fountains, are NOT exempt from review.

- H. Acquisition, refinance or acquisition assistance.
- I. Non-structural, non-permanent interior modifications for handicapped accessibility in kitchens and bathrooms, including grab bars, walk-in/roll-in tubs/showers, etc.
- J. Non-structural interior modifications such as installing smoke/carbon monoxide detectors, weatherstripping, caulking, wall/trim repairing, painting previously painted surfaces, and installing new hardware where no historic hardware is present.

VI. Reviewing Undertakings that Affect “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 V 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 in order to meet the Standards, the Undertaking will constitute an Adverse Effect, and AIS will consult with the SHPO and initiate the consultation process set forth in 36 CFR Part 800.6).
3. If Qualified Personnel determine that an Undertaking will have No Adverse Effect on a Historic Property, the Undertaking may proceed in accordance with 24 CFR Part 58. Documentation shall be placed in individual project files by Qualified Personnel or AIS.

B. Undertakings that Involve the Demolition or 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 AIS will consult with the SHPO and initiate the consultation process set forth in 36 CFR § 800.6.

C. Undertakings that Involve “New Construction”

For purposes of this Section C., “New Construction” refers to site preparation for, and construction of, entirely new structures and/or significant extensions to existing, non-historic structures whether or not the site was previously developed.

For Undertakings that involve New Construction within existing or potential NRHP

historic districts or within APEs that contain Historic Properties, Qualified Personnel will follow Stipulation III.B and 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 AIS shall consult with the SHPO and initiate the consultation process set forth in 36 CFR § 800.6.

D. Undertakings that Involve ADA Compliance

For Undertakings on Historic Properties that seek to comply with the ADA and other related local, state and federal requirements, and that are not exempt under Stipulation V, AIS will explore all alternative methods to provide handicapped accessibility consistent with the Standards. Undertakings that do not meet the Standards will constitute an Adverse Effect, and AIS shall consult with the SHPO and initiate the consultation process set forth in 36 CFR § 800.6.

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 V, 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 AIS shall consult with the SHPO and initiate the consultation process set forth in 36 CFR § 800.6.

F. Emergency Undertakings

1. When an Undertaking on a Historic Property involves an emergency situation, Qualified Personnel will conduct an immediate review. 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 City 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. The City 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 photographs; and
 - d. Time frame allowed by local officials to respond to, or correct, the emergency

situation.

3. In the event of an Emergency Undertaking, AIS shall consult with the SHPO to the greatest extent possible given the particular circumstances. The SHPO shall provide comment within seven days of notification.
 4. If the Emergency Undertaking cannot be made to meet the Standards, it will constitute an Adverse Effect, and AIS shall consult with the SHPO and initiate the consultation process set forth in 36 CFR § 800.6, each to the greatest extent possible given the particular circumstances.
- 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 VI.

VII. Resolution of Adverse Effects

When an Undertaking constitutes an Adverse Effect, AIS shall initiate the consultation process set forth in 36 CFR § 800.6 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.

VIII. Post-Review Discoveries

As required under [36 CFR 800.6\(c\)\(6\)](#), if previously unidentified archaeological or historic properties or unanticipated effects are discovered after completion of the reviews described in this Agreement, the City shall ensure that the procedures below are followed:

- A. The discovering party shall immediately stop all construction activity within a 100-foot radius of the discovery and cease further disturbance. If the discovering party is unaware of the size and scope of the discovery or if the discovery suggests the possible presence of other undiscovered artifacts, potential historic properties, or human remains within the work site, the discovering party shall also immediately stop all construction activity beyond a 100-foot radius of the discovery to the extent appropriate.
- B. The discovering party shall immediately notify the SHPO and AIS of the discovery. The SHPO will then notify the Tribe and any other relevant parties as needed within two business days of the time of discovery.
- C. Within 48 hours of notification of the discovery, the SHPO and Qualified Personnel shall review a description and photographs of the discovery provided by the discovering party and determine whether work may resume or if a site visit is warranted to document and evaluate the discovery. Consultation with the Qualified Personnel and the Tribe will be initiated at this stage to help determine NRHP eligibility. If a site visit is warranted, the SHPO will have two business days following the site visit and Tribal input to determine

the NRHP eligibility of the discovery. The Tribe shall be invited to attend site visits, and the SHPO must consult with the Tribe in making NRHP eligibility determinations.

- D. If the discovery is not eligible for listing on the NRHP, the SHPO will inform the necessary parties, including the Tribe, that construction in the area of the discovery may resume.
- E. If the discovery is determined, through consultation, to be eligible for listing on the NRHP, the SHPO and Qualified Personnel will consult with the Tribe regarding proposed actions to resolve the adverse effects, if adverse effects cannot be avoided. The Tribe will have two business days to provide their views on the proposed actions. The SHPO will ensure that such views are taken into account prior to granting approval of the measures that will be implemented to resolve adverse effects. These measures may include:
 - 1. preparation of a mitigation plan in consultation with the SHPO and the Tribe;
 - 2. implementation of the mitigation plan;
 - 3. archaeological mitigation of the site (data recovery);
 - 4. SHPO approval to resume construction following completion of the fieldwork component of the mitigation plan;
 - 5. photographic documentation and/or scaled mapping of the resource; and
 - 6. visits to the site by the Tribe, Qualified Personnel, and SHPO.

IX. Unanticipated Discoveries of Human Remains

If previously unidentified human remains are discovered during construction, the City shall ensure that the following steps occur:

- A. All activities with a potential to disturb the remains shall immediately cease within a 100-foot radius of the discovery. If the discovering party is unaware of the size and scope of the discovery or if the discovery suggests the possible presence of other human remains or an unmarked human burial within the work site, the party shall also immediately stop all construction activity beyond a 100-foot radius of the discovery to the extent appropriate.
- B. The discovering party shall take all appropriate steps to secure the site and protect the remains. The remains will be covered and/or protected in place in such a way as to minimize further exposure of or damage to the remains.
- C. The discovering party will immediately contact the SHPO and AIS regarding the discovery. The SHPO will then consult with the Tribe regarding the discovery and will immediately notify local law enforcement and/or the County Coroner.

- D. In coordination with the Tribe and Qualified Personnel, the SHPO will determine if the skeletal remains are human, the degree to which they were disturbed, and if possible, assess their potential age and cultural affiliation without any further disturbance. SHPO will consult with the Tribe to assess the possible cultural affiliation of the remains with Native American tribes.
- E. If the remains are not Native American, the appropriate local authority will be consulted to determine final disposition of the remains. Avoidance and preservation in place are the preferred options for treating human remains. Project construction work shall not recommence until the remains and any associated objects are removed and recommencement is authorized by the SHPO. If discoveries are not of human remains, the SHPO shall further consult with the Tribe or other interested tribes to determine if such discoveries are funerary objects, sacred objects, or objects of cultural patrimony as defined by [43 CFR 10.2\(d\)](#).
- F. If it is determined by the SHPO, in consultation with Qualified Personnel and the Tribe, that intact or fragmented human remains are present and are Native American in origin, or that the discovered materials are funerary objects, sacred objects, and objects of cultural patrimony, the SHPO will further consult with the Tribe and Qualified Personnel regarding measures to avoid and protect the discovery or mitigate any adverse effect of the project on the discovery. These measures may include:
1. Altering project plans to avoid human remains and/or burials (including funerary objects, sacred objects, and objects of cultural patrimony) and preserving them in place;
 2. If avoidance is not feasible, recovering the human remains and/or burial (including funerary objects, sacred objects, and objects of cultural patrimony) through standard archaeological methods;
 3. Preparation and implementation of a mitigation plan;
 4. Additional archaeological mitigation of the site (data recovery);
 5. Visits to the site by the SHPO, Qualified Personnel and Tribe;
 6. SHPO approval to resume construction following completion of the fieldwork component of the mitigation plan; and
 7. Consultation regarding disinterment and reinternment of Native American human remains. The SHPO will defer to Tribe recommendations regarding cultural affiliations, disinterment, and reburial of Native American human remains and/or burials (including funerary objects, sacred objects, and objects of cultural patrimony).
- G. Nothing in this Agreement shall alter responsibilities for compliance with the requirements

of the Native American Graves Protection and Repatriation Act (NAGPRA) ([25 USC § 3001](#) et seq.) and its implementing regulations ([43 CFR Part 10](#)) regarding disposition of human remains by entities that have control and/or custody of such remains.

X. Tribal Consultation

AIS 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.

XI. Public Involvement

- A. Annually, AIS 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, Qualified Personnel shall notify the Commission and take the objection into consideration. Program recipients, AIS, 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 AIS reserves the right to halt work in light of arguments from the public AIS deems valid.

XII. Administration, Monitoring, and Reporting

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

request the advice or assistance of the SHPO at any time.

- F. Qualified Personnel shall summarize activities carried out under the terms of this Agreement in an Annual Report that must be submitted to the SHPO no later than June 1 of each year this Agreement is in effect. The Annual Report shall include:

1. List of property addresses submitted for review
2. Program in which the Undertaking took place
3. Assertion of NRHP eligibility for evaluated properties
4. The finding of effect for Undertakings involving Historic Properties

XIII. Effective Date and Extension

- A. This Agreement shall be in effect from May 1, 2022, to April 30, 2027, 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 XIV, provided that the original Agreement has not expired.

XIV. Amendments

- A. Any party to this Agreement may request it be amended or modified, whereupon AIS and the SHPO will consult in accordance with 36 CFR § 800.14(b) to consider such revisions.
- B. Any resulting amendments or addenda shall be developed and executed among AIS and the SHPO in the same manner as the original Agreement.

XV. 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.

XVI. Compliance with Agreement

Execution and implementation of this Agreement and carrying out its provisions evidences that AIS has satisfied its responsibilities under Section 106 of the Act for all individual Undertakings of the programs.

XVII. 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.

XVIII. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, without regard to its choice of laws principles.

XIX. Severability

If any provision in this Agreement, or any paragraph, sentence, clause, phrase, word or the application thereof, in any circumstance, is held invalid, this Agreement shall be construed as if such invalid part were never included herein and the remainder of this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

[Signature pages to follow]

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MAY 1, 2022, TO APRIL 30, 2027**

SIGNATORY

ILLINOIS STATE HISTORIC PRESERVATION OFFICER (SHPO)

By:  Date: 5-3-22
Colleen Callahan, Director and Illinois State Historic Preservation Officer
Illinois Department of Natural Resources

APPROVED FOR EXECUTION


Date: 5/2/22
Legal Counsel: Nicole Thomas

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SIGNATORY

CITY OF CHICAGO DEPARTMENT OF ASSETS, INFORMATION AND SERVICES (AIS)

By:  Date: 04/29/2022
Sandra Blakemore, Acting Commissioner
City of Chicago, Department of Assets, Information and Services

**PROGRAMMATIC AGREEMENT
AMONG
THE CITY OF CHICAGO, ACTING BY AND THROUGH ITS
DEPARTMENT OF ASSETS, INFORMATION AND SERVICES, AND
THE ILLINOIS STATE HISTORIC PRESERVATION OFFICER**

**FOR THE ADMINISTRATION OF SECTION 106 OF THE NATIONAL HISTORIC
PRESERVATION ACT FOR CERTAIN PROGRAMS FUNDED BY
THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
MAY 1, 2022, TO APRIL 30, 2027**

CONCURRING PARTY

FOREST COUNTY POTAWATOMI COMMUNITY OF WISCONSIN

By: _____ Date: _____
Ned Daniels, Jr., Chairman

By: _____ Date: _____
Benjamin Rhodd, THPO

Appendix A

Programs Administered by the City of Chicago

U.S. Department of Housing and Urban Development Programs

1. Community Development Block Grant (CDBG) program under Title I of the Housing and Community Development Act of 1974, in accordance with section 104(g) (42 U.S.C. 5304(g)), including federally authorized subsets of the CDBG program (e.g. CDBG-CV, CDBG-DR, etc.)
2. Grants to states and units of general local government under the Emergency Shelter Grant Program, Supportive Housing Program (and its predecessors), Shelter Plus Care Program, and Safe Havens for Homeless Individuals Demonstration Program, and Rural Homeless Housing Assistance, authorized by Title IV of the McKinney-Vento Homeless Assistance Act, in accordance with section 443 (42 U.S.C. 11402)
 - a. Grants beginning with Fiscal Year 2001 to private non-profit organizations and housing agencies under the Supportive Housing Program and Shelter Plus Care Program authorized by Title IV of the McKinney-Vento Homeless Assistance Act, in accordance with section 443 (42 U.S.C. 11402)
3. The Home Investment Partnership Program (HOME) program authorized by Title II of the Cranston-Gonzalez National Affordable Housing Act in accordance with section 288 (42 U.S.C. 12838)
4. Grants to States and units of general local government for abatement of lead-based paint and lead dust hazards pursuant to Title II of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1992, and grants for lead-based paint hazard reduction under section 1011 of the Housing and Community Development Act of 1992, in accordance with section 1011(o) (42 U.S.C. 4852(o))
5. Public Housing Programs under Title I of the United States Housing Act of 1937, including HOPE VI grants authorized under section 24 of the Act for Fiscal Year 2000 and later, in accordance with section 26 (42 U.S.C. 1437x)
 - a. Grants for the revitalization of severely distressed public housing (HOPE VI) for Fiscal Year 1999 and prior years, in accordance with Title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999
 - b. Assistance administered by a public housing agency under section 8 of the United States Housing Act of 1937, except for assistance provided under part 886 of this title, in accordance with section 26 (42 U.S.C. 1437x)

6. Special Projects appropriated under an appropriation act for HUD such as special projects under the heading “Annual Contributions for Assisted Housing” in Title II of various Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Acts, in accordance with section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994 (42 U.S.C. 3547)
7. The FHA Multifamily Housing Finance Agency Pilot Program under section 542(c) of the Housing and Community Development Act of 1992, in accordance with section 542(c)(9)(12 U.S.C. 1707 note)
8. The Self-Help Homeownership Opportunity Program under section 11 of the Housing Opportunity Program Extension Act of 1996 (Pub. L. 104–120, 110 Stat. 834), in accordance with section 11(m))
9. Assistance provided under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), in accordance with:
 - a. Section 105 for Indian Housing Block Grants and Federal Guarantees or Financing for Tribal Housing Authorities (25 U.S.C. 4115 and 4226); and
 - b. Section 806 for Native Hawaiian Housing Block Grants (25 U.S.C. 4226)
10. Indian Housing Loan Guarantees authorized by section 184 of the Housing and Community Development Act of 1992, in accordance with section 184(k) (12 U.S.C. 1715z–13a(k))
11. Grants for Housing Opportunities for Persons with AIDS (HOPWA) under the AIDS Housing Opportunity Act, as follows: competitive grants beginning with Fiscal Year 2001 and all formula grants, in accordance with section 856(h) (42 U.S.C. 12905(h)); all grants for Fiscal Year 1999 and prior years, in accordance with section 207(c) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105–276, approved October 21, 1998)
12. Any other HUD-assisted programs that are delegated to the City through an amendment to applicable section of the Code of Federal Regulations or publication in the Federal Register.

Appendix B

For Undertakings that involve ground disturbance as described in Stipulation III.B, AIS shall submit the Undertaking to the SHPO as directed on the SHPO website (<https://www2.illinois.gov/dnrhistoric/Preserve/Pages/resource-protection-submittal.aspx>). The Undertaking must be accompanied by a letter that contains the following wording in bold type as the first paragraph of the cover letter:

Pursuant to the 2021-2026 Programmatic Agreement (Agreement) between the City of Chicago, Acting by and through its Department of Assets, Information and Services (AIS) and the SHPO, AIS is submitting this Undertaking that involves ground disturbance to the SHPO for an archaeological review. The project is receiving the following HUD funds: **[provide list]**. If the SHPO determines that the Undertaking involves no significant archaeological resources, the SHPO will inform AIS, and AIS will complete the review of the Undertaking as per the Agreement. If the SHPO determines that the Undertaking involves significant archaeological resources, the Undertaking will not be subject to this Agreement, and the SHPO will complete the Section 106 review of the Undertaking in consultation with AIS.