

PROGRAMMATIC AGREEMENT
BETWEEN ANNE ARUNDEL COUNTY, MARYLAND AND THE MARYLAND STATE
HISTORIC PRESERVATION OFFICER FOR THE ADMINISTRATION OF
FEDERALLY FUNDED HOUSING PROGRAMS

WHEREAS, Anne Arundel County, Maryland (County), a body corporate and politic, serves as the responsible entity for funds received by the County under Programs funded by the U.S. Department of Housing and Urban Development (HUD) and therefore assumes HUD's environmental review responsibility in accordance with its Environmental Review Procedures, 24 CFR Part 58, published in the Federal Register on April 30, 1996; and

WHEREAS, the County has authorized Arundel Community Development Service, Inc. (ACDS), a non-profit organization incorporated in the State of Maryland in 1993 to administer approved programs of eligible activities with funds from HUD, which programs with their enabling legislation include, *but are not limited to*:

- The Community Development Block Grant (CDBG) Program, under Title I of the Housing and Community Development Act of 1974, as amended;

HOME Investment Partnerships (HOME) Program, under Title II of the National Affordable Housing Act of 1990 (HOME Investment Partnership Act);

Emergency Shelter Grant (ESG) Program, under Subtitle B of Title IV of the Stewart B. McKinney-Vento Homeless Assistance Act;

Housing Opportunities for Persons with AIDS (HOPWA) program, under the AIDS Housing Opportunity Act, as amended by the Housing and Community Development Act of 1992; and

Projects financed with competitive awards of Supportive Housing Program (SHP) funds, under Title IV, subtitle C, of the Stewart B. McKinney-Vento Act; and

WHEREAS, Arundel Community Development Service, Inc. (ACDS), as the authorized administering agency of federal Housing and Community Development programs performs activities on behalf of the County in accordance with the Environmental Review Procedures, 24 CFR Part 58, and defined within the Agreement.

WHEREAS, the MD SHPO agrees that fulfillment of the terms of this Programmatic Agreement (Agreement) will satisfy the responsibilities of any Maryland state agency under the requirements of Article 83B, Section 5-617 and 5-618 of the Annotated Code of Maryland, in the event that the County receives any form of licensing, permitting, or financing from the State of Maryland for projects implemented under this Agreement;

WHEREAS, the County has determined that certain types of rehabilitation projects typically have no adverse effect upon historic properties included in or eligible for inclusion in the National Register of Historic Places and has consulted with the Maryland State Historic Preservation Officer (MD SHPO) pursuant to Section 800.14 of the regulations (36 CFR Part 800 Subpart C) implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

WHEREAS, the Advisory Council on Historic Preservation (Council) has declined to participate in this Programmatic Agreement (Agreement); and

WHEREAS, ACDS participated in the consultation and has been invited to be a concurring party to this Agreement; and

WHEREAS, the County maintains staff within the Office of Planning and Zoning who meet professional qualifications for historic preservation in accordance with 36 CFR Part 61 and serve as Section 106 staff support to the County;

NOW, THEREFORE, HUD, the County, and the MD SHPO agree that these programs shall be implemented in accordance with the following stipulations, exercising reasonable judgement and good faith, to satisfy the Section 106 responsibilities for all individual undertakings of the programs.

STIPULATIONS

The County will ensure that the following measures are carried out:

I. DEFINITIONS

For the purpose of this Agreement, each of the following terms shall have the meaning specified for such term, and in addition the meaning defined in 36 CFR 800.16:

- A. Agreement means this Programmatic Agreement.
- B. Days mean calendar days.
- C. DOE means Determination of Eligibility as defined in the *Trust's General Guidelines for Compliance-Generated Determinations of Eligibility*.
- D. Historic District means a district which has been formally determined eligible for listing in the National Register/Maryland Register by the Trust and/or has been formally listed in the National Register/Maryland Register.
- E. Historic Property means an individual property included in or eligible for inclusion in the National Register or a contributing property within an historic district included in or eligible for inclusion in the National Register. The historic property may be a

single family residential property by itself, one or more properties in a series of residential dwelling structures, one or more structures involved in a multi-family project or non residential property.

- F. In-Kind means identical in size, shape, material, texture and composition.
- G. National Register means the National Register of Historic Places as maintained by the Secretary of the Interior.
- H. Principal Elevation means the primarily the street facade.
- I. Project means any project receiving financing from these programs for acquisition, rehabilitation, or construction.
- J. Standards means the Secretary of the Interior's *Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*.
- K. Survey District means a potentially eligible district that has been surveyed by the Trust, but not formally evaluated for eligibility.
- L. Work Write-Up means a detailed description of architectural, structural, mechanical, electrical and other work items needed for the project.

II. PURPOSE AND APPLICABILITY

This Agreement sets forth the process by which the County will meet its responsibilities under Section 106 of the National Historic Preservation Act (NHPA) for programs funded by HUD.

III. GUIDELINES, STANDARDS AND REGULATIONS

Guidelines, standards and regulations relevant to this PA and its purposes include:

36 CFR Part 68: Secretary of the Interior's *Standards for the Treatment of Historic Properties* including Section 68.3 (b) *Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*;
General Guidelines for Compliance-Generated Determinations of Eligibility (DOEs) (Maryland Historical Trust 2002);

36 CFR Part 800: Protection of Historic Properties (1999); and

- *Standards and Guidelines for Architectural and Historical Investigations in Maryland* (Maryland Historical Trust 2000).

All applicable Preservation Briefs created by the National Park Service

IV. IDENTIFICATION OF HISTORIC PROPERTIES

The County will evaluate the significance of all properties that are at least fifty years of age in the manner described below. The MD SHPO does not require documentation or identification for properties less than fifty years old that are not within eligible or listed historic districts.

- A. Historic Sites Planner Determination. The County Historic Sites Planner will make a determination concerning the eligibility of the property for listing in the National Register as an individual structure or as a contributing element within an eligible historic district. The County will forward the results of the determination to the MD SHPO for 30-day review and comment.
- B. Eligibility Determinations (DOEs).
 - 1 The County will ensure that all DOEs meet the requirements set forth in the MD SHPO's *General Guidelines for Compliance-Generated Determinations of Eligibility (DOEs)*. Labeling of photographs, when applicable, will follow the standards described in *Standards and Guidelines for Architectural and Historical Investigations in Maryland*.
 - 2. The County Historic Sites Planner will complete all DOEs and submit the documentation to the MD SHPO for 30-day review and concurrence.
- C. Determination of Ineligibility. In cases where the County Historic Sites Planner and the MD SHPO agree on a determination of ineligibility no further review is required.
- D. Determination of Eligibility. For all properties that the County Historic Site Planner and the MD SHPO agree are eligible for inclusion in the National Register, the County will review work write-ups for the proposed work in accordance with Stipulation V of this Agreement.
- E. Disagreement. In those cases where there is a disagreement between the County Historic Sites Planner and the MD SHPO on the eligibility of properties, the County Historic Sites Planner will request the opinion of the Keeper of the National Register in accordance with 36 CFR Part 63 or applicable National Park Service regulations and guidelines.
- F. MD SHPO Review Time Frames. The MD SHPO will provide written comments on a eligibility determinations within 30 days after receipt of an adequately documented request for review. If the MD SHPO determines that the DOE documentation is incomplete, the MD SHPO will advise the Historic Sites Planner of any additional information required. The time permitted for review will not include the time from the date of the MD SHPO's request for additional

information to the date of receipt by the MD SHPO of the additional information submitted by the Historic Sites Planner.

V. PROJECT REVIEW

The County will handle project review for properties that are listed in or eligible for the National Register of Historic Places, individually or as contributing resources to historic districts, in the following manner.

1. Project Types

- A. The majority of projects are unlikely to adversely affect historic properties if completed in accordance with the *Standards*. Therefore, the following project activities will be reviewed for Section 106 and Article 83B, Section 5-617 and 5-618 purposes within the County and documented in accordance with Stipulation V, 3, without further review by MD SHPO, provided:
- 1) The County Historic Sites Planner bases its review upon information adequate to assess projects' effects on historic properties;
 - 2) The County Historic Sites Planner bases its decisions on the guidelines, standards and regulations identified in Stipulation III;
 - 3) The County Historic Sites Planner finds that the undertaking will have no effect or no adverse effect upon them.
- B. Projects limited to the following activities, with limited potential to affect significant features of historic properties, are exempt from review and comment by the MD SHPO and will be reviewed internally by the County. All items exempted from MD SHPO review are conditioned upon their meeting the *Standards*.
- 1) Exterior. The consulting parties agree that the following activities will either have no effect or no adverse effect on historic properties and warrant no MD SHPO review.
 - (a) caulking, weatherstripping, reglazing;
 - (b) in-kind sidewalk replacement;
 - (c) gutters and downspout replacements;
 - (d) repainting masonry; and

- (e) repainting of exterior surfaces;
 - (f) replacement of non-visible roof surfaces and placement of skylights on non-visible roof surfaces;
 - (g) repair or in-kind replacement of existing porch ceilings, steps, doors, railings and cornices on principal elevations;
 - (h) repair, replacement, or demolition of porch ceiling, steps, doors, railings, and cornices on secondary elevations;
 - (i) installation of storm windows;
 - (j) cleaning of masonry; and
 - (k) repairing or reconstructing exterior masonry.
- 2) Interior. The consulting parties agree that the following activities will have no effect or no adverse effect on historic properties and warrant no MD SHPO review.
- (a) plumbing system rehabilitation/replacement, to include pipes and fixtures in both bathrooms and kitchens;
 - (b) heating system rehabilitation/replacement, including furnace pipes, radiators or other heating unit.;
 - (c) rehabilitation/replacement of electrical wiring;
 - (d) bathroom improvements for handicap access, provided that all work is concealed within the existing bathroom;
 - (e) interior surface (floors, walls, ceilings, woodwork) treatments, providing the work is restricted to repainting, refinishing, repapering or laying carpet or other flooring material; and
 - (f) insulation, provided it is restricted to ceilings and attic spaces.
- 3) Other Activities. The consulting parties agree that the following activities will have no effect or no adverse effect on historic properties and warrant no MD SHPO review.

- (a) acquisition or mortgage assistance when rehabilitation or construction is not anticipated as a result of, or in conjunction with, the proceeds of ACDS assistance;
 - (b) repairs to project infrastructure and public facilities that do not disturb new ground;
 - (c) rehabilitation and demolition of properties less than 50 years old; and
 - (d) any items required by building, housing, fire, occupancy or other codes where the code dictates a single required treatment and does not provide for waiver under the section of the code relating to historic structures.
- C. If the *Standards* cannot be met, or the proposed treatment of the property is not rehabilitation, or the proposed work has the potential to affect archeological resources, or demolition is contemplated, or if the contemplated action could have an indirect effect on such properties, prior to taking any action the County Historic Sites Planner will consult with the MD SHPO as per Stipulation V, 2 .

2. Review Process

The County will afford the MD SHPO the opportunity to comment on the proposed work write-up for all Historic Properties unless the work on a Historic Property is exempted from review under the provision of Stipulation V, 1 of this Agreement.

- A. Request for Review. The County Historic Sites Planner will submit all the applicable project documentation listed below to the MD SHPO.
- 1) Photograph of the property
 - 2) Location map
 - 3) Work Write-Up
 - 4) Notation of previous eligibility determination
- B. Review Time Frames. The MD SHPO will provide written comments on a Project within 30 days after receipt of an adequately documented request for review. If the MD SHPO determines that the Project information is incomplete, the MD SHPO will advise the Historic Sites Planner of any additional information required. The time permitted for review will not include the time from the date of the MD SHPO's request for additional information to the date of receipt by the MD SHPO of the additional information submitted by the Historic Sites Planner.
- C. MD SHPO Comments. The MD SHPO comments will include recommendations for modifying project plans so as to be consistent with the *Standards*.

- D. Incorporation of Comments. Upon receipt of the comments from the MD SHPO, the County Historic Sites Planner will evaluate the comments. If the Historic Sites Planner determines that all the suggested changes cannot be made and that the undertaking will result in an adverse effort pursuant to 36 CFR 800.6, the Historic Sites Planner will adhere to Stipulation V, 2, E of this Agreement
- E. Adverse Effects. For undertakings that may result in adverse effects on historic properties, the County will consult with the MD SHPO in accordance with 36 CFR Part 800.6 to resolve the adverse effect.

3. Documentation

- A. No Effects. The County Historic Sites Planner will keep documentation in the project file, consisting of good, clear photographs before and after the work is completed and which are labeled with the date, property address, and a brief description of what is shown.
- B. No Adverse Effects. The County Historic Sites Planner will retain documentation including the work write-ups. Photographs will be taken prior to the start and completion of rehabilitation and will be used as evidence of the application of the *Standards*.

4. Monitoring

- A. Monitoring. For the first two years of this agreement the County Historic Sites Planner shall arrange an annual meeting with the MD SHPO to review exempted projects. Beginning 90 days after the execution of this agreement, and on an annual basis thereafter, the Historic Sites Planner shall
 - (1) submit to the MD SHPO the address of each historic property to which the exemptions outlined in Stipulations of V of this Agreement have been applied using the chart in Attachment A or something equivalent; and
 - (2) permit the MD SHPO to review and inspect the documentation and sites of projects to verify adherence to the terms of this agreement.
- B. Privacy. Nothing in this Agreement shall require the disclosure by the County of personal or financial information concerning owners, developers, tenants, or other persons, non-official papers, or other information not required by the MD SHPO to perform properly its authorized functions.

VI. PUBLIC INVOLVEMENT

Each year ACDS on behalf of the County, following the citizen participation plan required by HUD, will notify the public of the County's current CDBG, HOME, ESG,

HOPWA, and SHP funded programs and make available for public inspection documentation. Included in this documentation will be general information on the type(s) of activities undertaken, information on identified historic properties that might be affected by these activities, the amount of funds available, or expected to be available in the current program year, and how interested persons can receive further information on the programs.

PUBLIC OBJECTION

At any time during implementation of the measures stipulated in this Agreement, should an objection to any such measure or its manner of implementation be raised by a member of the public, ACDS shall notify the County Historic Sites Planner and the County Historic Sites Planner shall notify the other parties to the Agreement of the objection, take the objection into account and consult as needed with the objecting party, MD SHPO, and the Council to resolve the objection.

VIII. AMENDMENT

Any party to this Agreement may request that it be amended, whereupon the parties will consult pursuant to 36 CFR 800.6(c)(7). No modification will be effective unless the County, HUD, and the MD SHPO have agreed to it in writing.

TERMINATION

- A. If the MD SHPO or any other party to this Agreement, determine that the County is in violation of any of the terms of the Agreement, it may terminate the Agreement 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.
- B. In the event the County does not carry out the terms of this Agreement, the County will comply with Subpart B – the Section 106 Process with regard to individual undertakings covered by this agreement.

X. DISPUTE RESOLUTION

Should the MD SHPO object within twenty (30) days to any plans, specifications, or other actions proposed pursuant to this agreement, the County shall consult with the MD SHPO to resolve the objection. If the County determines that the objection cannot be resolved, the County shall request the further comments of the Council pursuant to 36 CFR 800.5(c)(3). Any Council comment provided in response to such a request will be taken in account by the County in accordance with 36 CFR 800.5(c)(3) with reference only to the subject of the dispute; the County's responsibility to ensure that all actions under this agreement that are not in dispute are carried out will remain unchanged.

XI. DURATION

This Agreement shall continue in full force and effect until August 1, 2008. At any time in the six-month period prior to this date, the signatory parties shall consult to consider an extension or amendment of the Agreement. No extension or amendment will be effective unless all parties to the Agreement have agreed to it in writing by amending the Agreement using the form in Attachment B or a suitable alternative.

Execution and implementation of this Programmatic Agreement evidences that HUD has satisfied its Section 106 responsibilities for individual undertakings receiving HUD financing through Anne Arundel County, Maryland.

ANNE ARUNDEL COUNTY, MARYLAND



Robert L. Walker, Chief Administrative Officer

1/20/04

Date

MARYLAND STATE HISTORIC PRESERVATION OFFICER

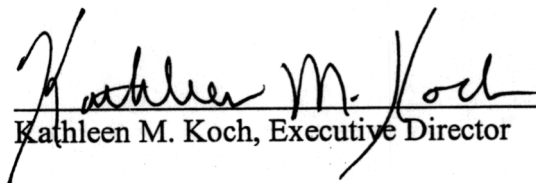

Rodney Little, Director
Maryland State Historic Preservation Officer

2-5-04

Date

CONCURRING PARTY


ARUNDEL COMMUNITY DEVELOPMENT SERVICES, INC.


Kathleen M. Koch, Executive Director

12-31-03

Date

APPROVED AS TO FORM AND LEGAL SUFFICIENCY


Anne Arundel County Office of Law

1-16-04

Date

Attachment B

The Programmatic Agreement among the U.S. Department of Housing and Urban Development, Anne Arundel County, Maryland, and The Maryland State Historic Preservation Officer for the Administration of Federal and State Funded Housing Programs was reviewed by all signatories no greater than six months prior to August 1, 2008. It has been agreed that the Programmatic Agreement will be extended until August 1, 2013. At any time in the six-month period prior to this date, the signatory parties shall consult to consider an extension or amendment of the Agreement. No extension or amendment will be effective unless all parties to the Agreement have agreed to it in writing by amending the Agreement.

ANNE ARUNDEL COUNTY, MARYLAND

Robert L. Walker, Chief Administrative Officer

Date

MARYLAND STATE HISTORIC PRESERVATION OFFICER

J. Rodney Little, Director
Maryland State Historic Preservation Officer

Date