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**PROGRAMMATIC AGREEMENT**  
**for the County of Chester, Pennsylvania's**  
**U.S. Department of Housing and Urban Development (HUD) Programs**

WHEREAS, the County of Chester, Pennsylvania (County), now administers, or may in the future administer, Programs which are funded in whole or in part by the U.S. Department of Housing and Urban Development (HUD) with funds received from one or more of its current or future Programs, under statutes that authorize HUD to provide for the assumption of its environmental review responsibilities by units of general local government in accordance with its Environmental Review Procedures, 24 CFR Part 58, published in the Federal Register on September 30, 2003, as may be amended during the time period covered by this Programmatic Agreement, which include among others:

- Community Development Block Grant Program
- Emergency Shelter Grant Program
- HOME Investment Partnerships Program
- Supportive Housing Program
- Shelter Plus Care Program
- Special Projects Appropriated Under an Appropriations Act for HUD
- Section 8 Project Based Assistance Program including Single Room Occupancy
- FHA Multifamily Housing Finance Agency Risk Sharing Pilot Program
- Public Housing Programs Under Title I of the United States Housing Act of 1937
- Housing Opportunities for People with AIDS
- Self-help Homeownership Opportunity Program

WHEREAS, in accordance with 24 CFR Part 58, the County may also assist HUD with the administration of its Section 106 compliance responsibilities for projects under Programs where HUD must assume environmental responsibilities; and

WHEREAS, the County has determined that the implementation of Program activities during program years 2004 through 2009 will affect properties included in or eligible for inclusion in the National Register of Historic Places, and has consulted with the Advisory Council on Historic Preservation (Council) and the Pennsylvania State Historic Preservation Officer (SHPO), pursuant to Section 800.13 of the regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), implementing Section 106 and Section 110(f) of the National Historic Preservation Act; and

WHEREAS, the County, pursuant to Section 800.6 of Part 800, invited the Council by letter of August 11, 2003 (attached), to participate in the development of this Programmatic Agreement and become a signatory on the Programmatic Agreement; and

WHEREAS, the Council, by letter of September 26, 2003 (attached), declined to participate in the development of this Programmatic Agreement or become a signatory to it;

**NOW, THEREFORE**, HUD, the County, and the SHPO, agree that projects assisted with funds from these Programs shall be implemented in accordance with the following stipulations in order to take into account the affect of projects on historic properties.

### Stipulations

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

#### I. Personnel

- A. The County will ensure that all historic preservation work carried out pursuant to the Agreement is carried out by or under the direct supervision of a person(s) who meets the qualifications published in Appendix A, 36 CFR Part 61.
- B. The County will notify the SHPO annually of the staff person(s) or consultants the County intends to designate to administer the Agreement. The SHPO will evaluate the staff person's training and experience and advise the County if they are qualified to make determinations of eligibility, assess effect, and apply the Standards (hereafter known as "Certified Staff").
- C. The County will notify the SHPO of any proposed staffing changes or vacancies. If the County does not have Certified Staff in place or if the SHPO determines that a County staff person or consultant is not qualified to carry out the review, the County and the SHPO shall consult to develop alternative administrative procedures for implementing the Programmatic Agreement.

#### II. Consultation with Indian Tribes

To make a reasonable and good faith effort to identify historic properties of religious and cultural significance to Indian tribes, the County will notify, by letter, the Tribal Leaders on the list of Indian tribes provided by the SHPO. The County will ask the Tribal leaders if they are interested in participating in the County's Section 106 review process in agreement with 36 CFR Part 800.3(f). Indian tribes that respond in the affirmative, providing a demonstrated interest, will be consulted as described in this Agreement.

#### III. Identification and Evaluation

- A. Until surveys are completed within designated Program target areas, properties which may be affected by Program activities will be evaluated by the County's Certified Staff, against the National Register Criteria and a determination of eligibility will be made in accordance with 36 CFR Section 800.4. Those properties and districts determined eligible by the County will be treated as eligible properties as covered in the stipulation of this Agreement. In the event that the County is unable to come to a determination on whether a property is eligible for the National

Register and/or a contributing element in a historic district, the County will forward all documentation to the SHPO and the Indian tribes for evaluation.

1. If the Pennsylvania SHPO's opinion is not rendered within 30 days of the SHPO receipt of the submission of adequate documentation (BHP Resource Form), the County will assume that the SHPO is in agreement with the County's determination of eligibility/ineligibility.
2. Properties that the SHPO or County determine meet the Criteria will be considered eligible for inclusion in the National Register of Historic Places.
3. If the County and the Pennsylvania SHPO cannot agree as to whether a property meets the National Register Criteria, or the Council or the Secretary of the Interior so requests, the County will request a formal determination of eligibility from the Keeper of the National Register in accordance with 36 CFR 800.4(c)
4. The County will keep a written record of all interim determinations, and of the reasons why any property does or does not appear to meet the Criteria, and will forward a copy of this record to the Pennsylvania SHPO for review on a schedule to be agreed upon by the County and the SHPO.

- B. If the County determines that no historic properties are involved in a Program activity, the County will document the basis for that determination and include a copy in the individual project files.

#### IV. Activities Not Requiring Review

The following Program activities which have limited potential to affect historic properties, may be approved by the Certified Staff without further consultation with the Pennsylvania SHPO, Indian tribes or Council.

##### A. Rehabilitation

##### 1. Exterior

- (a) Caulking, weather-stripping, reglazing, scraping and/or repainting.
- (b) Flat or shallow pitch roof repair/replacement (shallow pitch is understood to have a rise-to run ratio equal to or less than 3" to 12").
- (c) Windows repair and/or replacement - in-kind is understood to mean new windows that duplicate the material,

dimensions, design, detailing, and operation of the historic windows.

- (i) Repair, scrape, repainting of existing windows.
  - (ii) In-kind replacement of window sash, glass and hardware, including jam tracks.
  - (iii) In-kind replacement of damaged and non-operable transoms.
- (d) Storm windows and doors-provided that they conform to the shape and size of the historic windows and doors. The meeting rail of storm windows must coincide with that of the existing sash. Color should match trim; mill finish aluminum is not acceptable.
- (e) In-kind replacement - this is understood to mean that the new feature/items will duplicate the material, dimensions and detailing of the original:
- (i) Porches - railings, posts/columns, brackets, cornices, steps, flooring and other decorative treatments.
  - (ii) Roofs.
  - (iii) Siding.
  - (iv) Exterior architectural details and features.
  - (v) Cellar/bulkhead doors.
  - (vi) Doors.
  - (vii) Gutters and downspout.
- (f) Masonry repair using materials, mortar composition, color, joint profile, and width which matches the historic materials.
- (g) Rebuilding of wheelchair ramps.
- (h) In-kind repair or replacement of non-historic features.

## 2. Interior

- (a) Plumbing, rehabilitation/replacement - includes pipes and fixtures when no structural alteration is involved.
- (b) HVAC system rehabilitation/replacement - includes furnaces, pipes, ducts, radiators or other HVAC units when no structural alteration is involved.

- (c) Electrical wiring - includes switches and receptacles when no structural alteration is involved.
- (d) Interior surface treatments (floors, walls, ceilings, decorative plaster, woodwork) - provided the work is limited to repainting, in-kind patching, refinishing, repapering or laying carpet, or vinyl floor materials.
- (e) Interior feature treatments including, but not limited to doors, moldings, fireplaces, and mantels provided the work is limited to in-kind repair, patching, repainting and refinishing.
- (f) Insulation provided that it is restricted to ceilings and attic spaces.
- (g) Restroom improvements for handicapped access - provided that work is contained within the existing restroom.
- (h) Repair of or pouring of concrete cellar floor, in an existing cellar.

B. Site Improvements

- 1. In-kind repair or replacement of sidewalks, curbing, driveways, streetlights, and ramps.
- 2. In-kind repair or replacement of site improvements including, but not limited to fences, retaining walls, and landscaping.
- 3. Line painting, maintenance, repair, resurfacing, or reconstruction of roads where no change in width, surfaces, or vertical alignment of drainage is to occur.
- 4. Repair to or replacement of water, gas, storm, and sewer lines if it occurs in the original trench. Disturbance to either side of the original trench will require consultation with the SHPO.

C. Other

- 1. Mortgage refinancing – this is understood to mean that no change in use will occur.
- 2. Acquisition – this is understood to mean that any future rehabilitation of the property using HUD Program funds covered by this PMOA will be subject to Section 106 review.

V. Treatment of Historic or Contributing Properties

Individual properties that are determined by the Certified Staff to be eligible for, nominated to, or listed in the National Register, or properties determined by the Certified Staff to be contributing elements within a National Register listed or eligible Historic District will be treated as follows:

A. Rehabilitation

1. Rehabilitation of historic or contributing properties will be done in accordance with the recommended approaches in The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (Standards).
2. Pre-project documentation including work write-up's, bid documents, architectural plans and photographs, will be prepared by the County staff with responsibility for the project and in consultation with the Certified Staff.
3. Certified Staff will review the rehabilitation plans and issue a Letter of Approval verifying that the Program activity adheres to the Standards.
4. The documentation of each project will be retained by Certified Staff as part of the permanent project files and may be reviewed by the SHPO upon request, or as part of the annual report.
5. If the Standards cannot be met, or if the contemplated action could have an adverse effect on properties listed on or eligible for the National Register, then prior to taking any action, the County will consult with the SHPO and the relevant Indian tribes and initiate the procedures set forth in 36 CFR 800.6.
  - a. In those instances where the Standards cannot be met, and the County needs to consult with the SHPO and the relevant Indian tribes, the following documentation shall be provided by the County to the SHPO and relevant Indian tribes: current photographs and a site location map on a U.S.G.S. map; a conditions assessment; an analysis of the alternatives; a cost analysis of the alternatives; and the proposed mitigation measures..
  - b. The SHPO shall provide written comments within 30 days following receipt of adequate documentation.

B. New Construction and Additions

1. New construction which will be assisted with Program funds and located within an historic district or adjacent to historic properties included in or eligible for the National Register will be designed to adhere to the guidelines for new construction contained in the Standards and be responsive to the overall character of the historic property in terms of height, scale, massing, set-backs, color, materials, and detailing.
2. Preliminary plans will be sent to the Certified Staff for review and approval. Once the Certified Staff determines that the plans are compatible with the Historic Property, they will be sent to the Pennsylvania SHPO for review and approval unless alternative design guidelines are approved by the SHPO.
  - a. The SHPO will respond in writing to the County within 30 days of receipt of the preliminary plans. If there is no response within 30 days, the County will assume that the SHPO finds the plans in conformance with the Standards and may proceed.
  - b. Prior to initiating construction activities, the County will contact the SHPO if written notification is not received.
  - c. The final design will be consistent with preliminary approved plans, and modified to address any recommendations by the SHPO.
3. The design of infill construction on vacant parcels within historic districts or on parcels where historic properties have been demolished by the County under the terms of the Programmatic Agreement and previous MOA's, shall adhere to the Standards and will be developed in consultation with the SHPO.
4. Such designs will be submitted to the SHPO on a case-by-case basis or for a specific block or a target area where a prototype design(s) is proposed and agreed to by the SHPO.
  - a. The County shall inform the SHPO of Program needs, budget constraints, and other mitigating measures related to the design of infill construction within a redevelopment project.
  - b. Once the SHPO has approved a prototype(s) for an area, Certified Staff may review and approve subsequent new construction projects based upon prototype(s) developed for a block or target area.
5. Additions to historic buildings or contributing buildings within historic districts shall adhere to the Standards and be consistent with guidelines in National Park Service Preservation Brief #14, "New Exterior additions to

Historic Buildings: Preservation Concerns." Plans for such additions must be reviewed and approved by the Certified Staff to ensure consistency with the Standards and guidelines.

6. If the Standards cannot be met in designing new construction and additions, or if the contemplated action could have an adverse effect on properties eligible for the National Register, then prior to taking any action, the County will consult with the SHPO and initiate the procedures set forth in 36 CFR 800.6.
  - a. In those instances where the Standards cannot be met, and the County needs to consult with the SHPO and relevant Indian tribes, the following documentation shall be provided by the County to the SHPO and the relevant Indian tribes: current photographs and a site location map on a U.S.G.S. map; a condition assessment; an analysis of the alternatives; a costs analysis of the alternatives; and, the proposed mitigation measures.
  - b. The SHPO shall provide written comments within 30 days following receipt of documentation.

C. Handicapped Accessibility

1. The County will explore alternative methods for handicapped accessibility to historic buildings consistent with the Secretary of the Interior's Standards, National Park Service Preservation Brief No. 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 (i.e. ramps and elevators) 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 will be reviewed and approved by the Certified Staff if the projects meet the guidelines.
3. If 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 County will consult with the Pennsylvania SHPO and initiate the procedures set forth in 36 CFR part 800.6 before proceeding.
  - a. In those instances where the Standards cannot be met, and the County needs to consult with the SHPO and the relevant Indian tribes, the following documentation shall be provided by the County



to the SHPO and the relevant Indian tribes: current photographs and a site location map on a U.S.G.S. map; a condition assessment; an analysis of the alternatives; a costs analysis of the alternatives; and, the proposed mitigation measures.

- b. The SHPO shall provide written comments within 30 days following receipt of documentation.

D. Site Improvements and Public Improvements

1. Site improvements and public improvement activities proposed within historic districts, including sidewalk improvements, repaving of streets, installation of landscaping, street lighting, and street furniture, will adhere to the Standards and 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 will be reviewed and approved by the 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 County will consult with the Pennsylvania SHPO and the relevant Indian tribes and initiate the procedures set forth in 36 CFR 800.6.

- a. In those instances where the Standards cannot be met, and the County needs to consult with the SHPO and the relevant Indian tribes, the following documentation shall be provided by the County to the SHPO relevant Indian tribes: current photographs and a site location map on a U.S.G.S. map; a condition assessment; an analysis of the alternatives; a costs analysis of the alternatives; and, the proposed mitigation measures.

- b. The SHPO shall provide written comments within 30 days following receipt of documentation.

VI. Lead Paint Abatement/Hazard Reduction

- A. When it is determined that a property listed on, eligible for listing on the National Register, or located within a historic district, must be decontaminated of lead paint hazards, the County will consult with its Certified Staff to explore alternatives to minimize alteration of significant historic features. Evaluation of abatement and reduction activities shall be based upon the Standards, HUD's Guidelines for Lead Paint Abatement, and the NPS Preservation Brief No. 37.

- B. When it is determined that the proposed abatement or reduction plan does not adhere to the Standards, the County will consult with the SHPO and request the Council's comments in accordance with procedures set forth in 36 CFR 800.5(e).
1. In those instances where the Standards cannot be met, and the County needs to consult with the SHPO and the relevant Indian tribes, the following documentation shall be provided by the County to the SHPO: current photographs and a site location map on a U.S.G.S. map; a condition assessment; an analysis of the alternatives; a costs analysis of the alternatives; and, the proposed mitigation measures.
  2. The SHPO shall provide written comments within 30 days of following a receipt of documentation.

## VII. Demolition

A. Demolition of non-historic or non-contributing buildings. The County may proceed with the demolition of non-historic properties or non-contributing buildings in historic districts without further review of the Pennsylvania SHPO. The County must retain documentation of all such demolitions in its project files. No demolition may proceed until the Certified Staff has issued a Letter of Approval.

### 1. Emergency Demolition

In the event that the County determines that emergency demolition of a historic property is required to comply with local regulations and to avoid imminent threat to the health and safety of residents, the County will forward documentation to the Pennsylvania SHPO via express mail and notification of its intent to apply the emergency review procedure by facsimile with a request for comments within seven (7) days, as per procedures outlined in 36 CFR 800.12. The documentation will include a copy of the official order requiring demolition (declared by a local government's chief executive officer or his/her legal designee for such determinations), current photographs of the property, a BHP Resource form or other documentation regarding the property's eligibility and map location (U.S.G.S. and/or County map). The SHPO will notify the County in writing of its approval and any required mitigation measures (e.g.) recordation, additional photographic documentation, architectural salvage, etc.).

### 2. Non-Emergency Demolition.

- a. Demolition of properties listed on or eligible for listing on the National Register or contributing buildings within a district listed or eligible for listing on the National Register, will be reviewed on a case-by-case basis with the SHPO and the relevant Indian tribes.

The County will submit the following documentation to the SHPO and the relevant Indian tribes for review:

- (1) Map location (U.S.G.S. quadrangle maps and County maps) and description of the property for demolition.
- (2) Reasons for demolition, including documentation of any building code violations, and documentation showing why rehabilitation is neither prudent nor feasible.
- (3) Photographic evidence and written description of the deteriorated condition of the building to be demolished.
- (4) Photographs of each elevation and any significant architectural elements that might exist.

- b. The SHPO will review the documentation submitted and within thirty (30) working days of receipt of adequate documentation, concur or object in writing to the proposed demolition, and forward an informational copy to the Council. Once the comments of the SHPO have been received the County will request the Council's comments in accordance with 36 CFR 800.6.

#### VIII. Archaeological Resources

If any ground disturbing activities are anticipated or planned as part of Program activities covered by the Agreement, the County will consult with the SHPO and the relevant Indian tribes to determine if the project area contains known archaeological resources, or if there is a high probability that archaeological resources may be present. When archaeological resources are found that meet the National Register Criteria of Eligibility they will be avoided or preserved in place whenever feasible. When it is determined infeasible to avoid archaeological resources in place, the County will consult with the SHPO to develop a treatment plan consistent with the Council's handbook, Treatment of Archaeological Resources and the SHPO Guidelines for Archaeological Investigations (1991). The plan will be implemented by the County following approval of the SHPO.

#### IX. Technical Assistance

- A. The SHPO staff will provide periodic training regarding the application of the Standards and the administration of this Programmatic Agreement for County personal (e.g. preservation staff, managers, rehabilitation inspectors) as requested by the County.

- B. The County may develop guidance documents, in consultation with the SHPO, to assist County staff and sub-recipients in complying with the terms of the Programmatic Agreement.

X. Monitoring

- A. The County shall retain documentation, including work write-ups and before and after photographs, in individual project files, for all activities carried out pursuant to the Agreement. Files will be retained for a minimum of three (3) years.
- B. An annual report, including the addresses of properties included in Program activities and a description of the work completed at historic properties, shall be sent to the SHPO for review and comment. Supporting documentation will be available to the SHPO upon written request.
- C. The SHPO will periodically review files for the activities to verify that the terms of the Agreement are being properly implemented.
- D. Nothing in this Agreement shall be construed as meaning that the County cannot request the advice or assistance of the SHPO at any time.

XI. Dispute Resolution

- A. Should the Pennsylvania SHPO object within 30 days to any plans or specifications, or other documents provided pursuant to this Agreement, the County shall consult with the Pennsylvania SHPO to resolve the objections. If the County determines that the objection cannot be resolved, the County shall request the recommendations of the Council. The Council shall provide its recommendations within 30 days following receipt of adequate documentation.
- B. Any Council recommendation provided in response to such a request will be taken into account by the County in accordance with 36 CFR 800.6(c)(2) with reference only to the subject of the dispute. The County's responsibility to carry out all actions under this agreement that are not subjects of the dispute will remain unchanged.

XII. Public Notice

Consistent with the County's public participation procedures, each year the County will notify the public of the County's current Program activities and make available for public inspection documentation on such Program activities. Included in this documentation will be general information on the type(s) of activities undertaken with Program funds provided by HUD; information on identified historic properties which 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 Program activities. Furthermore, depending on the nature and scope of the undertaking, the County will ensure that

consulting parties are provided with timely and substantial information concerning National Register listed or eligible historic resources that may be affected by individual undertakings covered by this Agreement.

XIII. Public Objections

- A. In those cases where a public objection is received by the County regarding the eligibility or proposed treatment of historic properties, Certified Staff will review the objection to determine the basis of the objection and consult with the objecting party, as appropriate, in order to resolve the issue.
- B. Where the Certified Staff is unable to resolve the objection to the satisfaction of the objecting party and the County, the County will consult with the SHPO or, as appropriate, the Council.

XIV. Amendment

This Programmatic Agreement may be amended by the amending party after the signatory to the agreement requesting an amendment provides thirty (30) days written notice to the other signatories, provided that all signatories will consult during the period prior to the amendment to discuss the issues or Program activities that are the basis of the proposed amendment. An amendment to this Programmatic Agreement must be in writing and signed by all parties.

XV. Termination


Any signatory to this Programmatic Agreement may terminate it by providing thirty (30) days notice to the other signatories, provided that the signatories 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 County will comply with 36 CFR 800.4 through 800.6 with regard to individual undertakings covered by this Programmatic Agreement.

XVI. Renewal

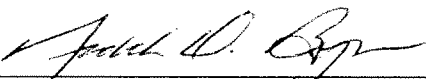
This Programmatic Agreement will continue in force through and including December 31, 2010. At the end of calendar year 2009, the Programmatic Agreement will be reviewed by the County, the Pennsylvania SHPO, and the Council for possible modifications, termination, or extension.

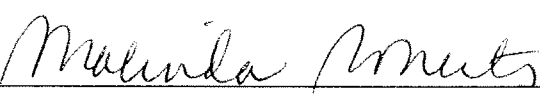
Execution and implementation of this Programmatic Agreement evidences that the County has afforded the Council an opportunity to comment on its Programs and effects on historic properties, and that the County has taken into account the effects of its undertakings on historic properties, and that the County has satisfied its Section 106 responsibilities for all individual undertakings of the Program.

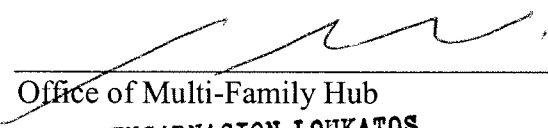
COUNTY OF CHESTER

BY:  Date: 10/14/04  
Carol Aichele, Chairman, Chester County Commissioners

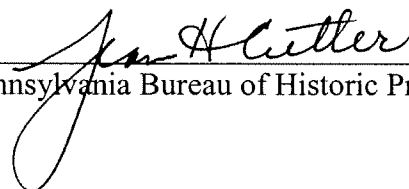
UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

BY:  Date: 8/25/04  
Office of Community Planning and Development

BY:  Date: 8/24/04  
Office of Public Housing

BY:  Date: 8/26/04  
Office of Multi-Family Hub  
**ENCARNACION LOUKATOS**  
Director  
Philadelphia, Multifamily HUB

PENNSYLVANIA BUREAU OF HISTORIC PRESERVATION

BY:  Date: 11-9-04  
Pennsylvania Bureau of Historic Preservation