

**Programmatic Agreement
Among
The County of Wake
And
North Carolina State Historic Preservation Office
For the Community Development Block Grant and HOME and
Housing Opportunities for Peoples with AIDS Programs
FY 2019-2020 through FY 2023-2024
Wake County, North Carolina**

WHEREAS, in accordance with the provisions of the Housing and Community Development Act of 1974, as amended (CDBG), the HOME Investment Partnership Program Act (HOME), and the Housing Opportunities for Peoples with AIDS (HOPWA) program, the County of Wake, North Carolina (County) proposes to administer projects for acquisition, rehabilitation, demolition, new construction, and infrastructure improvements throughout the County's jurisdiction for the 2019-2020 through the 2023-2024 fiscal years; and

WHEREAS, the County has determined that the implementation of the individual undertakings of these programs may have an effect upon properties and districts that are listed in or may be eligible for listing in the National Register of Historic Places (National Register) as defined in 36 CFR Part 800, the regulations of the Advisory Council on Historic Preservation (Council) for implementing Section 106 of the National Historic Preservation Act, as amended (16 U.S.C.470f); and

WHEREAS, the County has been designated a Certified Local Government pursuant to the National Historic Preservation Act of 1980 (PL 96-151) and the corresponding regulations (36 CFR Parts 61.5 and 61.7);

WHEREAS, the County and North Carolina State Historic Preservation Officer (SHPO) have consulted in the development of this Programmatic Agreement (Agreement); and

WHEREAS, the County, pursuant to 36 CFR 800.6, notified the Advisory Council on Historic Preservation (Council) on [DATE], via its Electronic Section 106 Documentation Submittal System regarding its intent to prepare a Programmatic Agreement and invited Council to participate in consultation; and Council has (agreed or declined) to participate; and,

WHEREAS, the County consulted with the Catawba Indian Nation on [DATE]. Tribal consultation, included an invitation to be a concurring party to this agreement. A response letter was received on [DATE]; the Catawba Indian Nation (agreed or declined) to participate further in the agreement process; and

WHEREAS, the County invited the Wake County Historic Preservation Commission to be a concurring party to this agreement, and Commission has (agreed or declined) to participate; and

WHEREAS, the County, posted for public notification a written statement of intent to enter into this Programmatic Agreement for the CDBG, HOME, and HOPWA programs, on [DATE]. Public comment period ended on [DATE]; and

WHEREAS, the County, and the SHPO are each a "Signatory" to this Programmatic Agreement, hereafter, "Signatories;" and

NOW, THEREFORE, the County and SHPO agree that administration and implementation of the CDGB, HOME, and HOPWA programs by the County for fiscal years 2019-2020 through the 2023-2024, in accordance with the following stipulations, will provide measures adequate to avoid or satisfactorily mitigate any adverse effect on historic properties.

STIPULATIONS

The County will ensure that the following measures are implemented:

I. Qualifications of County Staff

- A. The County shall retain a contract consultant who meets the Secretary of the Interior's Professional Qualification Standards (Appendix A to 36 CFR Part 61), hereinafter referred to as "Certified Consultant." All historic preservation work carried out pursuant to this Agreement will be under the supervision of Certified Consultant.
- B. Currently the County contracts with Capital Area Preservation (CAP) on an annual basis, to act as the Certified Consultant. A statement of qualification for CAP is attached as Appendix A.
- C. The County must notify the SHPO of any changes in the Certified Consultant. Until a qualified candidate is approved by the SHPO to serve as Certified Consultant, the County will comply with 36 CFR 800.4 through 800.6 and all Program activities shall be reviewed individually by the SHPO.

II. Identification of Historic Properties

To determine if a property is historic, Certified Consultant will:

- A. Develop and maintain an up-to-date set of maps that shows all National Register, State Study-listed, and properties determined eligible, as well as all the areas within the County's jurisdiction that have been comprehensively surveyed and evaluated for National Register eligibility.
- B. Consult the maps, stipulated above, and the SHPO's most recent roster of properties that are listed in or have been determined eligible for listing in the National Register or are on the North Carolina State Study List for potential nomination to the National Register. Use of SHPO provided, online digital resources, such as HPOWEB, is acceptable. A property is considered historic, if it is on the roster or shown on the maps as National Register (NR), State Study-listed (SL), or determined eligible (DOE).
- C. If the property is not on the roster or study list and is over fifty (50) years old and appears to be eligible to Certified Consultant, or if a property is less than fifty years old, but appears to meet the exception criteria for listing in the National Register, Certified Consultant will submit a map, photographs, and brief history of the property (if known) to the SHPO for Determination of eligibility, unless the property has been previously surveyed for eligibility. If the SHPO opinion is not rendered within fifteen (15) working days, it will be assumed that the SHPO is in agreement with the findings of Certified Consultant and the property will be addressed under the terms of the Agreement.
- D. Program activities may be proposed in areas that are unsurveyed or merit re-survey due to age. Certified Consultant will evaluate the potential districts against National Register Criteria. If Certified Consultant determines that a district is eligible for the National Register, a report will be submitted to SHPO requesting concurrence with this determination. If the SHPO opinion is not rendered within fifteen (15) working days, it

will be assumed that the SHPO is in agreement with the findings of Certified Consultant.

- E. If the County does not concur with the SHPO's eligibility finding, the property will be submit to the Keeper of the National Register for a formal Determination of Eligibility in accordance with the Council's regulations at 36 CFR Part 800.4(c)(2).

III. Exempt Activities

The following CDBG, Home, and HOPWA Program undertakings, involving historic properties, have limited potential to affect historic properties and are exempt from the terms of this agreement when approved by Certified Consultant.

- A. Projects in public areas; including but not limited to:
 - 1. Maintenance or replacement of existing sidewalks, curbing, handicapped curb cuts, streetlights, signs, traffic lights, transportation shelters, street furniture or utility lines.
 - 2. New installation of sidewalks, curbing, and handicapped curb cuts, streetlights, signs, traffic lights, transportation shelters, street furniture or utility lines.
 - 3. Resurfacing or re-stripping of roadways and parking areas.
 - 4. Maintenance, replacement, or improvement of existing waterline, sewer line, or stormwater infrastructure where ground disturbance is in previously disturbed areas.
- B. Rehabilitation
 - 1. Exterior
 - a. Caulking, weather-stripping, and/or reglazing
 - b. Installation or replacement of gutters and downspouts.
 - c. Storm windows provided they conform to the shape size of the historic windows and the meeting rail coincides with that of existing sash. Color shall match trim; mill finish aluminum is not acceptable.
 - d. In-kind replacement – this is understood to mean that the new features/items will duplicate the material, dimension, configuration, and detailing of the original:
 - 1) Porches, including railings, posts/columns, brackets, cornices, steps, and flooring
 - 2) Roofs
 - 3) Siding
 - 4) Exterior architectural details and features
 - 5) Windows, including the frame, panes, and sash
 - 6) Concrete walks, curbs, retaining walls, and driveways
 - e. Repair or replacement of existing wheelchair ramps and the installation of detachable temporary handicap ramp.
 - f. Painting except for previously unpainted masonry.
 - g. Clean and seal treatments.
 - h. Removal of non-historic rear additions.
 - i. Repair of masonry foundations, walls, or chimneys by repointing using matching mortar composition, color, joint width and profile; removal of deteriorated secondary chimneys.
 - j. Repair of existing historic or traditional fences or installation of new fences that are compatible with neighborhood vernacular fences in terms of materials, style, scale, and color.

- k. Replacement of exterior storm doors, when necessary, with paneled wood or wood-clad steel doors to match existing, as closely as possible, and the reuse of existing hardware when possible.
 - l. Installation of plain storm doors, anodized or painted to match existing trim.
 - m. Installation or repair of sewer and water lines, within existing trenches, associated road repairs.
2. Interior
- 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 electrical panels, breakers, circuits, switches, receptacles and fixtures, plumbing and water lines, drains, sewers, fixtures, water heaters, heating vents, floor furnaces, wall heaters, central heat systems, and gas lines.
 - b. Restroom improvements for handicapped access, provided work is contained within the existing restroom.
 - c. Repair of wood floors, installation of new floor coverings, except for vinyl covering or carpet over wood flooring in main living areas, hallways, and bedrooms.
 - d. Repair of plaster wall and ceiling by patching plaster where possible or replacing with drywall with smooth finish when plaster repair not feasible.
 - e. Reuse or replace in-kind molding in its original location, where new wall and ceiling surfaces are installed, where replacement is needed or where new openings occur.
 - f. Installation of simple standard light fixtures to replace missing or broken interior and exterior light fixtures.
 - g. Installation of wood, fiberglass or plastic material paneled doors in principal rooms where original doors are damaged or missing.
 - h. Installation of new kitchen cabinets and countertops; installation of new bathroom fixtures.
 - i. Installation of new ceiling openings and pull-down attic steps, provided they are not located within primary spaces; removal and sealing of obsolete pull-down attic steps.
 - j. Interior surface treatments (floors, walls, ceilings, and woodwork) provided the work is restricted to repainting, refinishing, or repapering and the feature is not significant to the integrity of the property.
 - k. Installation of insulation provided it is restricted to ceilings, attics, crawl spaces, and proper vapor barriers are used.
 - l. Repair, replacement, or pouring of concrete basement floors.
 - m. Installation of smoke or carbon monoxide alarms.
3. Acquisition of properties when there is written assurance by the County that the properties will be secured and protected from the elements pending their disposal or reuse pursuant to 36 CFR Part 800. Securing the properties should, at a minimum, take into consideration the recommendations of the National Park Service contained in *Preservation Briefs #31, Mothballing Historic Buildings*, and include implementation of appropriate measures.

IV. Rehabilitation and New Construction

- A. Exterior alterations, additions, or new construction for which the Wake County Historic Preservation Commission issues a Certificate of Appropriateness, will have no adverse effect upon a historic property or district, and no further review is required.
- B. All other rehabilitation and new construction activities, which may have an effect on historic properties or are located within a historic district, will be determined to have no adverse effect if the activities meet the *Secretary of the Interior's Standards and Guidelines for Rehabilitation of Historic buildings* ("Standards") (Appendix A).
 - 1. To determine if a project meets the *Standards*, the County's Community Development Department staff will submit the following documentation to the Certified Consultant for review and comment prior to commencement of the project:
 - a. Brief project description
 - b. Location map and photographs of exterior elevation of the property, and of existing interior conditions if interior changes are proposed.
 - c. Description of proposed work; Scope of Work
 - d. Other materials as necessary such as floor plans, specifications, product samples, etc.
 - 2. Certified Consultant will respond within ten (10) working days of receipt of adequate information. Using the Certified Consultant's comments and recommendations the County's Community Development staff will revise the plans to meet the *Standards*.
- C. If the *Standards* cannot be met, Certified Consultant will submit the proposed undertaking to SHPO for review. If the SHPO determines the undertaking will result in an adverse effect, the County will comply with Stipulation V. A. below.
- D. In the event of an emergency undertaking necessitated by an imminent threat to public health and safety as determined by local officials or as a result of a natural disaster or other emergency declared by local, state or national officials, the County shall hand-deliver a project information packet to SHPO with a request for comments within five (5) business days. The SHPO will make every effort to review the packet as quickly as possible.
 - 1. The SHPO will notify the County in writing of its approval and any required mitigation measure (i.e. recordation, additional photographic documentation, architectural salvage, etc.

V. Adverse Effects

- A. If the *Standards* cannot be met and the proposed undertaking will result in an adverse effect upon a historic property, prior to taking any action, the County will notify and consult with the SHPO in accordance with 36 CFR Part 800.6 of the Council's regulations.
- B. Demolition
 - 1. Where demolition of a contributing property is needed to eliminate significant public safety hazard, the regulations outlined in 36 CFR Part 800.12 will be followed. Whether a demolition is needed to eliminate a significant public safety hazard shall be pursuant to local building code.
 - 2. The County may proceed with the demolition of properties that are listed as noncontributing on a historical district inventory list, provided there will be no adverse effect on other adjacent historic properties and/or districts.

3. Demolition of any properties that are individually listed or which are classified as contributing buildings located within listed historic districts or which have been determined eligible for listing on the National Register will be reviewed on a case-by-case basis by the SHPO. Certified Consultant will submit the following documentation to the SHPO for review and comment:
 1. Location (including a map) and description of the property proposed for demolition;
 2. Reasons for the demolition, including documentation of any code violations and structural damage and deterioration, and an explanation of why rehabilitation is neither prudent nor feasible.
 3. Photographic evidence and written description of the deteriorated condition of the building to be demolished.
 4. Analysis of the demolition on the related historic district (if any).

The SHPO will review the documentation submitted and, within thirty (30) days of receipt of adequate documentation, concur or object in writing to the proposed demolition, and forward an informational copy to the Advisory Council. If the North Carolina SHPO finds that demolition will have an adverse effect, the County will proceed in accordance with 36 CFR Part 800.6

VI. Archaeology

- A. Prior to any new ground-disturbing activities as part of new construction projects, the County shall notify the SHPO and request its opinion of the potential existence of any significant archaeological resources. The County will send the SHPO the following information to initiate the consultation process:
 1. A map locating the proposed activity.
 2. Information regarding the nature, depth, and date of the disturbance.
- B. If the SHPO determines that the potential for significant archaeological resources exists, the County will carry out an archaeological survey of the affected area in consultation with the SHPO. If archaeological resources are found that meet the National Register criteria, they will be avoided or preserved in place whenever feasible. When it is not feasible, the SHPO will be consulted and treatment consistent with the Council's handbook on archaeology and approved by the SHPO will be developed and implemented.

VII. Project Documentation and Recordkeeping

- A. To provide monitoring and oversight, the County will:
 1. Maintain, in individual project files, copies of all case documentation, including, before and after photographs, work write-ups, and the Certified Consultant's comments for nonexempt undertakings.
 2. Maintain copies of Certificate of Appropriateness for which a determination of no adverse effect was made pursuant to Stipulation IV.A above.
 3. At the end of each program year, provide a summary report to the SHPO and the Wake County Historic Preservation Commission summarizing actions taken to comply with the terms of this Agreement.
 4. Upon written request provide the SHPO and the Council with specific case documents.

- B. The SHPO may monitor any activities carried out pursuant to this Agreement, and the Council will review such activities if so requested. The County will cooperate with the Council and the North Carolina SHPO in carrying out their monitoring and review responsibilities.

VIII. Dispute Resolution

Should the SHPO object within thirty (30) days to any proposed undertakings pursuant to this Agreement; the County shall consult with the SHPO to resolve the objection. If the County or SHPO determines that the objection cannot be resolved, the County shall request the further comments of the Council pursuant to 36 CFR Part 800.7 (c). Any Council comment provided in response to such a request will be taken into account by the County. The County's responsibility to carry out all actions under this Agreement that are not the subjects of the dispute will remain unchanged.

IX. Agreement Modification and Termination

- A. This Programmatic Agreement will continue in full force and effect until June 30, 2024. At anytime in the six-month period prior to the date, the County may request in writing that the North Carolina SHPO review the County's program and consider an extension or modification to this Programmatic Agreement. No extension or modification will be effective unless all parties to the Programmatic Agreement have agreed to it in writing.
- B. Any party to this Programmatic Agreement may request that it be amended, whereupon the parties will consult in accordance with 36 CFR Part 800.6 (c) (7) to consider such amendment.
- C. Any party to this Programmatic Agreement may terminate it by providing thirty (30) days notice to the other parties, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the County will comply with 36 CFR Parts 800.4 through 800.6 with regard to individual undertakings covered by this Programmatic Agreement.

X. Notice

Any notice given pursuant to this Agreement shall be deemed given if delivered by hand or if deposited in the United States Mail, postage paid, certified mail, return receipt requested and addressed as follows:

If to North Carolina State Historic Preservation Officer:

Dr. Kevin Cherry, PhD.
Deputy Secretary
NC Department of Natural and Cultural Resources
109 East Jones Street
Mail Service Center 4601
Raleigh, NC 27601

If to the County:

Kelly Baraldi
Housing Manager
Housing Affordability and Community Revitalization
Wake County Human Services
P.O. Box 550, WCOB 448B
Raleigh, NC 27602

And with a copy to:

Scott Warren
County Attorney
Wake County
P.O. Box 550, Suite 700
Raleigh, NC 27602

Execution and implementation of this Programmatic Agreement evidences that the County has afforded the Council a reasonable opportunity to comment on the administration of CDBG, HOME, and HOPWA Programs for fiscal years 2018-2019 through 2022-2023 and that the County has taken into account effects of the Programs on historic properties, as per their Section 106 responsibilities.

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North Carolina State Historic Preservation Officer
For the Community Development Block Grant and HOME
and Housing Opportunities for Peoples with AIDS Programs
FY 2018-2019 through FY 2022-2023
Wake County, North Carolina**

Agreed:

Wake County

David Ellis, County Manager

Date

State Historic Preservation Officer

Dr. Kevin Cherry, PhD., SHPO

Date

Filed By:

Advisory Council on Historic Preservation

Executive Director

Date