

**PROGRAMMATIC AGREEMENT AMONG
THE CITY OF ST. LOUIS (THE CITY), THE MISSOURI STATE HISTORIC PRESERVATION OFFICE
(SHPO) AND THE OSAGE NATION
REGARDING
ALL HOUSING AND URBAN DEVELOPMENT ADMINISTRATION (HUD) PROGRAMS
UNDER 24 CFR PART 58 ADMINISTERED BY THE CITY OF ST. LOUIS AND
OTHER HUD PROGRAMS AS ENACTED DURING THE LIFE OF THIS DOCUMENT**

WHEREAS, the City of St. Louis (hereinafter “the City”) receives funding from the United States Department of Housing and Urban Development (hereinafter “HUD”) for community development and other activities and accepts responsibility for ensuring the administration of these funds, including the compliance-related requirements of Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) pursuant to 24 CFR Part 58 and other HUD programs established during the life of this document; and

WHEREAS, the City’s Cultural Resources Office (CRO) may assist as requested with Section 106 requirements relating to 24 CFR Part 50, the Missouri Housing Development Commission (MHDC), and other HUD programs, in consultation with HUD and the Missouri State Historic Preservation Office (SHPO); and

WHEREAS, the City proposes to administer or assist private home and business owners in administration of funding from HUD programs for activities that may include the rehabilitation, new construction or demolition of residential and/or commercial buildings; and

WHEREAS, in accordance with 36 CFR § 800.14(b), the City has notified the Advisory Council on Historic Preservation (ACHP) and the ACHP has chosen not to participate in the consultation; and

WHEREAS, The Osage Nation has demonstrated interests in any pre-historic and proto-historic resources, as defined in *Appendix A* that may exist in the City of St. Louis. The Osage Nation is willing to assume responsibility for the identification and evaluation of such resources therefore, it has been invited to participate in this Agreement as an Invited Signatory; and

WHEREAS, the City contacted federally-recognized Indian tribes as listed in *Appendix C*, and solicited their views on which types of undertakings may have potential to affect resources to which the tribes may attach religious and cultural significance. The City asked the tribes how they wish to be consulted, and has invited the tribes to review and comment on this agreement in the capacity of a concurring party; and

WHEREAS, the Ho-Chunk Nation agreed to participate as a concurring party; and

WHEREAS, the City has posted a public notice in a daily newspaper and on CRO’s website in order to solicit public comment regarding this Agreement and no individual or group has requested to consult; and

WHEREAS, the City has determined that the administration of these programs may have an effect on properties listed in or eligible for listing in the National Register of Historic Places (NRHP), and has consulted with the SHPO, pursuant to 36 CFR 800.14 of the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

WHEREAS, the City, having determined that there are a significant number of properties in the City of St. Louis that are listed or eligible for listing in the NRHP. A portion of such properties are endangered due to age, fragility, structural condition and/or neglect, and wishes to prioritize the use of limited resources by concentrating funds for rehabilitation on those properties categorized as most significant; and

WHEREAS, the professional staff of the CRO of the Planning and Urban Design Agency of the City of St. Louis meets the qualifications necessary, under 36 CFR Part 61, “Procedures for Approved State and Local Government Historic Preservation Programs” Appendix A—Professional Qualification Standards, to perform the work specified by this Programmatic Agreement; and

WHEREAS, the CRO staff meet the professional qualifications of Appendix A of 36 CFR Part 61 and routinely reviews projects to meet the standards for rehabilitation per the Secretary of Interior’s Standards for Rehabilitation under the former *Programmatic Agreement Among the City of St. Louis, the Missouri State Historic Preservation Office and the Osage Nation Regarding All Housing and Urban Development Administration Programs Under 24 CFR Part 58*; and per local historic district standards; and further has demonstrated expertise in the review of projects under both standards; and

WHEREAS, the City has completed Volumes One, Two and Three of the City of St. Louis Preservation Plan (hereinafter, “the Plan”), attached to this Document as *Appendix D*. The Plan is comprised of identified contexts for historic St. Louis development, the documentation of one hundred forty-six (146) property types resulting from historic development, and study maps and neighborhood matrices for the twenty-eight St. Louis City wards; and

WHEREAS, during the past twenty years, CRO has compiled extensive records through physical surveys performed by CRO staff and others concerning the eligibility for the NRHP of a variety of individual sites and districts, is continually expanding and augmenting these records and identifying concentrations of property types throughout the City of St. Louis, and maintains a database that includes the results of these surveys and twenty (20) years of building permit documentation, demolition permit documentation and City Building Division condemnations for demolition documentation;

NOW, THEREFORE, the City, the SHPO and the Osage Nation agree that programs and projects utilizing funding from HUD shall be administered in accordance with the following stipulations to satisfy the City’s Section 106 responsibilities for all undertakings of these programs.

STIPULATIONS:

I. LONG RANGE IDENTIFICATION:

In areas affected by expenditures of HUD funding programs, CRO shall continue on behalf of the City to survey districts, sites, buildings, structures, and objects that may meet the requirements of 36 CFR Section 60.4, Criteria for Evaluation (Criteria). CRO shall expand its program of designating local historic districts and landmarks, and shall pursue nomination of eligible properties to the NRHP with an emphasis upon those properties determined in the Plan to be most significant. Surveys shall be conducted in accordance with the “Guidelines

for the Location and Identification of Historic Properties Containing Scientific, Prehistoric, Historical or Archaeological Data” (36 CFR Part 66, Appendix I).

II. TIMING:

The City shall ensure that the Section 106 process is initiated early in the planning stages of activities covered under this Agreement that are determined to be “Undertakings,” as that term is defined in 36 CFR 800.16(y), when the widest feasible range of alternatives is open for consideration.

III. CATEGORICAL EXEMPTIONS:

The following Undertakings have been agreed to have little or no potential to cause affects to historic properties and are therefore exempt from further review or consultation with SHPO or the ACHP under this Agreement. Determination of exempt status shall be made by CRO staff members certified under the professional qualifications of Appendix A of 36 CFR Part 61.

A. Undertakings on Properties Less than 45 Years Old. All properties less than forty-five (45) years of age and that do not meet the criteria established in the NRHP National Register Bulletin 22, *Guidelines for Evaluating and Nominating Properties that Have Achieved Significance Within the Past Fifty Years*, do not require further review or consultation. To qualify for this exemption, the property’s age or date of construction and that of adjacent buildings must be documented through written records (e.g., building permit, water permit, tax assessor, title records or other age-identifying local government record) and photographic documentation.

B. Acquisition of Vacant Property. Acquisition or land-banking of vacant property (i.e., property without buildings or structures) for which there is no reasonably foreseeable plan for redevelopment, reuse, or new construction and without any reasonably foreseeable plan for ground disturbing activity, does not require review or consultation at the time of acquisition. Properties acquired under this exemption shall require review pursuant to 36 CFR Parts 800.3 through 800.6, as appropriate, and pursuant to HUD regulation 24 CFR Part 58.47, “Re-evaluation of environmental assessments and other findings,” upon identification of a plan for redevelopment, reuse, new construction or ground disturbance.

IV. IDENTIFICATION:

Potential historic resources that may be involved in activities proposed for expenditure of Federal funds shall be evaluated in the following manner:

A. Historic properties that have not been identified by SHPO as eligible for listing in the NRHP, or have not been previously determined eligible by CRO shall be evaluated by CRO on behalf of the City to determine if a property meets the NRHP Criteria for listing (Criteria). Where there is a question of eligibility, CRO shall forward eligibility documentation to SHPO for its determination. SHPO shall respond within thirty (30) working days unless SHPO requests additional information from CRO. If SHPO does not respond within thirty days, CRO shall confirm that SHPO received the documentation

and they concur with the determination. If CRO and/or the City and SHPO do not agree, CRO shall request an official determination of eligibility by the Keeper of the National Register, pursuant to 36 CFR 800.4.

- B.** For rehabilitation projects, CRO shall inspect the property and its surrounding context and make a determination regarding its significance, integrity, condition and property type that shall be used in the assessment of the project meeting the Secretary of Interior's Standards for Rehabilitation.
- C.** CRO shall consult with SHPO under Standard 106 procedures for all historic properties that it is evaluating for eligibility in conjunction with projects that have the potential for ground disturbing activities and major rehabilitation.
- D.** CRO shall keep a written record of all correspondence with the Osage Nation concerning the evaluation of a cultural resource.

V. UNANTICIPATED DISCOVERIES:

A. Archaeological sites and historic resources:

1. If previously unidentified archaeological sites or historic properties are discovered as a result of construction activities, the construction contractor shall immediately halt all construction activity within a three-hundred (300) foot radius of the discovery, notify the City of the discovery and implement interim measures to protect the discovery from looting and vandalism. Within forty-eight (48) hours of receipt of this notification of the discovery, the City shall:
 - a) inspect the work site to ensure that construction activities have halted;
 - b) implement additional measures, as appropriate, to protect the discovery from looting and vandalism; and
 - c) notify SHPO, the Osage Nation and the Ho-Chunk Nation of the discovery.
2. The City shall have seven (7) calendar days following notification to determine the NRHP eligibility of the discovery to have the site evaluated by a SOI-qualified archaeologist. The archaeological report will be submitted to the SHPO who will comment within thirty (30) days and to interested Indian Tribes or other parties.
3. For properties determined eligible, the City shall notify HUD, SHPO and interested Indian Tribes or other parties of those actions that it proposes to resolve adverse effects in a mitigation plan.
 - a) Consulting parties shall have seven (7) calendar days to provide their views on the proposed mitigation plan.
 - b) The City shall ensure that the recommendations of consulting parties are taken into account to resolve adverse effects.
 - c) The City shall carry out the mitigation plan approved by the consulting parties.
 - d) The construction contractor shall resume construction activities in the area of the discovery once all work for the mitigation plan is complete.

B. Human remains:

If human remains are encountered during construction:

1. The contractor shall immediately stop all work within a three hundred (300) foot radius of the remains and notify the City. The construction contractor shall implement interim measures to protect the discovery from vandalism and looting, but must not remove or otherwise disturb any human remains or other items in the immediate vicinity of the discovery. Work shall not resume without specific authorization from either the SHPO or the local law enforcement officer, whichever party has jurisdiction over and responsibility for such remains.
2. Upon notification from the contractor the City shall notify the local law enforcement (to ensure that it is not a crime scene) and the SHPO as per RSMo 194 or to notify SHPO what has occurred and that it is covered by Missouri's Cemeteries Law, §§ 214. RSMo.
3. The City shall then ensure that construction activities have halted within a three hundred (300) foot radius and that protection measures have been implemented.
4. If local law enforcement determines that it is not a crime scene and that SHPO has jurisdiction, the City shall contact an SOI-qualified archaeologist to conduct a preliminary examination to determine possible cultural affiliation and if necessary biological characteristics. The human remains should not be removed at any point in this process.
5. If the remains cannot be avoided and must be removed, then a SOI-qualified archaeologist shall remove the human remains and any associated grave goods. The City will then transfer control to the SHPO office.

The City recognizes that SHPO assumes responsibility for any human remains and associated funerary objects, sacred objects, or objects of cultural patrimony (other than from a crime scene or covered under Missouri's Cemeteries Law, §§ 214. RSMo) that may be discovered or excavated during an undertaking's activities and are located on state land, and are to be handled pursuant to the Missouri Unmarked Human Burial Sites Act, §§ 194.400 – 194.410, RSMo, and subject to any provisions of NAGPRA applicable to such remains and artifacts found on non-federal lands.

VI. SPECIFIC ACTIVITIES EXEMPT FROM FURTHER REVIEW:

Undertakings on properties more than (or equal to) forty-five (45) years old do not require further review by or consultation with SHPO provided that CRO determines that the Undertaking complies with the National Park Service's Secretary of the Interior (SOI) *Standards for the Treatment of Historic Properties* 2017 (Secretary's Standards) and related technical guidelines. Undertakings meeting this requirement are limited solely to the activities described below.

The following exemptions only apply to above ground projects (See Appendix A).

- A. Acquisition of Buildings or Structures.** Acquisition of a building or structure is exempt from further review or consultation provided that, within thirty (30) days of acquisition, the building or structure is properly secured.
- B. Disposition of Property.** Upon disposition of real property acquired with HUD funds and containing a building or structure that has been determined eligible for or listed in the NRHP, or upon disposition of a vacant property located within a NRHP historic district or an area eligible to be listed in the NRHP, the City shall consult with the SHPO concerning restrictions or conditions to be placed in the transfer documents to ensure the property shall be redeveloped and/or maintained in accordance with the Secretary's Standards. Disposition of property that has been determined in consultation with SHPO within five years of the disposition to be ineligible for listing in the NRHP does not require further review or consultation.
- C. Site Work.**
1. Streets, driveways, alleys, and parking areas. In-kind repair of existing concrete or asphalt surfaces or in-kind repair/replacement of brick, rock, or stone materials on streets, driveways, alleys, and parking areas. Maintenance, repair or replacement line painting of streets, alleys, driveways, or other rights-of-way as long as no substantial ground disturbance occurs. Maintenance, repair or replacement in place of traffic signals and traffic signs, traffic lights, transportation shelters, or street furniture during repair or use of in-kind replacement of materials.
 2. Curbs, gutters, sidewalks, retaining walls. In-kind repair of existing concrete or asphalt surfaces or in-kind repair or replacement of brick, rock, or stone materials for curbs, gutters, sidewalks and retaining walls as long as no new ground disturbance occurs during repair or in-kind replacement of materials.
 3. Site improvements. Repair or in-kind replacement of site improvements, including, but not limited to fences, landscaping, and steps not attached to any building as long as no new ground disturbance occurs during repair or in-kind replacement of materials.
 4. Utilities. Repair or replacement of gas, sanitary and storm sewer, water, electrical, cable or other underground utilities within previously developed land and public right-of-ways located within city limits as long as no new ground disturbance occurs during repair or replacement of materials. This exemption does not apply to the placement of new utility lines.
 5. Park and playground equipment. Repair or replacement of park and playground equipment as long as no new ground disturbance occurs during repair or replacement of materials, excluding buildings, fountains, sculptures, bridges, and other resources that are contributing elements to a historic park.
 6. Temporary structures. Installation of temporary construction-related structures including scaffolding, barriers, screening, fences, protective walkways, signage, office trailers or restrooms as long as no structure is physically attached to any

building and no new ground disturbance occurs during repair or replacement of materials

7. Property Conservation. Maintenance of lots with or without buildings.

D. Minor Building Repair — Exterior.

1. Mothballing buildings. When a building is to be acquired and secured for a period of time prior to rehabilitation, such mothballing shall be done within 30 days in accordance with the guidelines of *Preservation Brief #31: Mothballing Historic Buildings* (U.S. Department of the Interior, National Park Service).
2. Foundations. Repair of foundations or in-kind replacement of foundations as long as no new ground disturbance occurs during repair or in-kind replacement of materials.
3. Windows and doors. Repair of existing windows and doors, including glazing putty and weather stripping of existing window or door frames, and installation of new clear glass.
4. Storm windows and storm doors. Installation of exterior storm windows and doors, provided they conform to the shape and size of the historic windows and doors; that the meeting rails of storm windows coincide with that of existing sash; and the installation does not include the wrapping of historic trim on primary and other visible facades.
5. Walls and siding. Repair of wall or siding material through repointing in keeping with *Preservation Brief #2: Repointing Mortar Joints in Historic Masonry Buildings*. with mortar to match original in color, texture, composition and joint profile or in-kind replacement of brick, stone or stucco materials and wood siding or trim.
6. Painted surfaces.
 - a) Removal of exterior paint on wood or metal elements by non-destructive means, limited to hand scraping, low pressure water wash (less than 200 PSI) heat plates or heat guns, or paint removal chemicals provided that the removal method is consistent with the provisions of 24 C.F.R. Part 35, “Lead-Based Paint Poisoning Prevention in Certain Residential Structures”, including 35.140, “Prohibited methods of paint removal” and *Preservation Brief #37: Appropriate Methods for Reducing Lead-Paint Hazards in Historic Housing* (U.S. Department of the Interior, National Park Service).
 - b) All lead paint abatement that does not involve removal or alteration of exterior features and/or windows.
 - c) Application of non-elastomeric exterior paint and caulking, other than on previously unpainted masonry.
7. Porch elements. Repair or in-kind replacement of existing porch elements, such as columns, flooring, floor joists, ceilings, railing balusters, balustrades and lattice,

provided that the removal method is consistent with the provisions of *Preservation Brief #45: Preserving Historic Wooden Porches* (U.S. Department of the Interior, National Park Service).

8. Roofing. Repair or in-kind replacement of roof cladding and sheeting, flashing, gutters, soffits and downspouts with no change in roof pitch or configuration.
9. Cornices. Repair or in-kind replacement of cornices.
10. Awnings. Repair or in-kind replacement of awnings.
11. Mechanical systems. Placement and installation of exterior HVAC mechanical units and vents not on the front elevation as long as the location of outside condenser units is unchanging and no new openings into the building are required; and provided no new ground disturbance occurs during placement or installment of materials.
12. Basement bulkhead doors. In-kind replacement or repair of basement bulkhead doors and installation of basement bulkhead doors not on the front elevation as long as no substantial ground disturbance occurs during repair or replacement of materials.
13. Lighting. Repair or in-kind replacement of existing light fixtures.
14. Accessibility Repairs. Repair of individual elements of existing accessibility ramps and provided no new ground disturbance occurs during repair of ramps.
15. Historic Tax Credit Projects.
Projects approved for State or Federal Historic Tax Credits shall be considered to comply with the Secretary's Standards. No further review shall be required provided the application is certified by the National Park Service and the project complies with the tax credit application. CRO shall inform the applicant that should they fail to meet these requirements, their Section 106 comments shall no longer be valid and the project shall be required to undergo a complete review.

E. Minor Building Repair – Interior:

1. Mechanical systems. Installation, replacement or repair of plumbing, HVAC, elevator repair, systems and units, electrical wiring, fire and security alarm and fire protection systems, provided no structural alterations are involved. Included are restroom improvements for handicapped access upgrade or replacement, provided the work is contained within the existing restroom walls and provided that no new drop ceilings are added, no openings (windows or doors) are altered, and no decorative plaster is adversely effected.
2. Surfaces. Repair or in-kind replacement of interior surface treatment, such as floors, walls, ceilings, plaster and woodwork. If covering wood floors, then carpet or sheet goods (linoleum or vinyl) shall be installed in a reversible manner, either through tacking or with an underlayment so historic floors shall not be irreversibly damaged. The removal of decorative plaster or woodwork shall be avoided.

3. Stairways. Repair or in-kind replacement of individual stairway elements, provided no structural alterations are involved.
4. Insulation. Installation of roll or blown insulation above ceilings and in unfinished attic spaces that does not cause physical damage.
5. Basement floor. Repair of an existing concrete basement floor, or installation of a new concrete floor, provided that the building previously had a concrete floor.
6. Lead paint and asbestos abatement. Abatement or control of lead-based paint, consistent with the provisions of 24 C.F.R. Part 35 (“Lead-Based Poisoning Prevention in Certain Residential Structures”), *Preservation Brief #37: Appropriate Methods for Reducing Lead-Paint Hazards in Historic Housing* (U.S. Department of the Interior, National Park Service) and/or asbestos abatement that does not involve removal or alteration of interior features.

VII. TREATMENT:

The City shall ensure that, prior to the expenditure of any Federal funding for rehabilitation, the proposed activity shall receive the review and certification of the CRO staff. CRO professional staff is comprised of architectural historians that meet the professional qualifications of Appendix A of 36 CFR Part 61. Where additional expertise may be required, CRO will contract with outside consultants.

Project review will follow the procedures set forward below. When any such proposed activities would involve ground disturbing activity, CRO staff shall notify SHPO and Osage Nation at the earliest possible phase of project planning. SHPO may determine that a survey needs to be conducted and the city shall ensure that one is completed. If the Osage Nation wishes to conduct a field investigation to identify and evaluate the property for the presence of pre-historic and proto-historic resources, it shall bear all expenses for the field investigation and identification work. Initial findings shall be completed within sixty (60) days of the Osage Nation’s request to survey the site. If SHPO and the Osage Nation do not respond within thirty (30) days of the initial notification, CRO shall confirm the information was received by SHPO and the Osage Nation and that they concur with CRO’s findings.

A. Substantial Rehabilitation for non-exempt activities:

1. Properties that are listed in the NRHP individually and those that are identified as contributing resources in NRHP or Certified Local Historic Districts shall be treated in the following manner:
 - a) Properties that are to be rehabilitated shall be rehabilitated in accordance with the Secretary’s Standards. Should a property owner or other interested individual dispute CRO’s determination of compliance with the Secretary’s Standards, CRO shall forward photographic and written documentation to the SHPO for review and comment; and in the case of pre-historic and/or proto-historic properties, shall also forward documentation to the Osage Nation for review and comment. The SHPO shall respond within thirty (30) working days. If the SHPO and, the Osage Nation, do not respond within thirty (30)

working days, CRO will call the Osage Nation to determine continued interest. If CRO and/or the City and the SHPO, do not agree, CRO shall request the ACHP review of the findings pursuant to 36 CFR Part 800.5(c)(3).

- b) Projects approved for State or Federal Historic Tax Credits shall be considered to comply with the Secretary's Standards. No further review shall be required provided the application is certified by the National Park Service and the project complies with the tax credit application. CRO shall inform the applicant that should they fail to meet these requirements, their Section 106 comments shall no longer be valid and the project shall be required to undergo a complete review.
 - c) If the Secretary's Standards cannot be met and the proposed undertaking is determined to have an adverse effect upon a historic property, CRO shall consult on behalf of the City with the SHPO under the requirements of 36 CFR Part 800.6 to determine the appropriate mitigation measures, prior to the City's taking any action. If CRO and the SHPO cannot agree on appropriate mitigation measures, CRO shall request the comments of the ACHP in accordance with 36 CFR Part 800.7.
2. Properties that are determined to be eligible for inclusion in the NRHP, either individually or as contributing resources in a district, shall be treated in the following manner:
- a) The exterior of the property shall be treated in accordance with the Secretary's Standards for Rehabilitation, Preservation, Restoration, or Reconstruction.
 - b) Interiors of potentially eligible contributing properties shall be evaluated by CRO against the property types identified in the Plan for their condition, integrity and significance, as described Appendix D to this Agreement.
 - (a) If the evaluation of a building interior reveals that it has integrity, is significant, and in stable condition, the interior rehabilitation shall conform to the Secretary's Standards.
 - (b) If the building interior is not considered significant, or is in very poor condition, or has lost considerable integrity, there shall be no requirements concerning the interior rehabilitation.
 - c) CRO shall maintain records for review by the SHPO and HUD containing the results of all evaluations, including photographic documentation of the property, plans and scopes of work, photographs and site map of the potential district, the determination of eligibility, and a written justification for the interior evaluation.

B. New Construction:

- 1. Proposed new construction within or adjacent to a NRHP listed or eligible historic district or Certified Local Historic District shall be planned in a manner consistent

with the Secretary's Standards and the National Park Service's *Preservation Brief 14: New Exterior Additions to Historic Buildings: Preservation Concerns*.

2. New construction shall be compatible in size, scale, massing, color, material, and alignment with the surrounding historic neighborhood. Architectural detailing shall be compatible with the character of the historic neighborhood.
3. CRO shall review all new single-family dwellings; two-, four- and 6-family units; and mixed-use commercial buildings of less than 6 units and commercial buildings of similar scale for compliance with the above-referenced Secretary's Standards.
4. CRO shall submit each project containing ground disturbing activities to the SHPO and the Osage Nation for review of the potential existence of archaeological resources following the requirements of 36 CFR 800.
5. All new construction projects larger than those described in VI.A.3. above will be sent to SHPO along with CRO's certification and/or concerns. SHPO shall review new construction pursuant to 36 CFR Part 800.4-6 and shall provide comments to CRO within thirty (30) business days of receipt of the information. If SHPO does not comment within thirty business days, CRO shall confirm that SHPO received the documentation and they concur with the determination.

C. Demolition:

1. Identification and Evaluation:
Architectural Survey. For all resources not identified by existing records in terms of eligibility for listing in the NRHP, CRO shall complete an initial survey of each proposed demolition and maintain a file at the CRO office that shall include the following data on each structure.
 - a) Building Photographs
 - b) Context Photographs
 - c) SHPO General Architectural Survey Form
 - d) Location Map and Historic District Map, where applicable
 - e) Documentation of eligibility for listing in the NHPA, or justification for its ineligibility, and statement of significance if applicable.
2. Procedures:
NRHP Eligible or Listed Properties:
 - a) Properties listed individually in the NRHP or properties that are listed as contributing resources within established NRHP or Certified Local Historic Districts shall not be demolished under this Agreement unless the conditions of 36 CFR Part 800.12 apply.
3. Emergency Demolition
 - a) In the event of an emergency 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 other federal officials, CRO shall immediately notify SHPO and, the Osage Nation by telephone and e-mail and

provide them with a copy of the Section 106 Project Information Form. The form may be submitted electronically and shall always be followed up with a hard copy. The report shall always be accompanied by a statement that attests to the building's listed status, structural instability and threat to public safety by a local building official, local or state fire marshal or state emergency management personnel and supported, where practicable, by a structural engineer's report.

- b) SHPO and, the Osage Nation, shall respond to the report within seven (7) working days of receipt and notify CRO in writing of its concurrence and any recommended mitigation measures (e.g., recordation, additional photographic documentation, architectural salvage, etc.). SHPO's or the Osage Nation's failure to comment within the subject timeframe shall be considered by CRO as concurrence with the demolition and without recommendations.
- c) Emergency undertakings not complying with the provisions of this Agreement shall comply with the procedures outlined in 36 CFR Part 800.12(b).

4. Other Properties:

Based upon documentation completed under Section IV of this agreement, a determination of the property's eligibility for the NRHP shall be made by CRO.

- a) If, in the professional opinion of CRO staff, a property appears likely to qualify for individual listing in the NRHP, CRO shall complete preliminary documentation and research on the property, and shall consult with SHPO and, in the case of pre-historic and/or proto-historic properties, the Osage Nation, in order to make a determination of the eligibility of the resource.
- b) If, in the professional opinion of CRO staff, a property appears to be located in a potentially eligible NRHP Historic District and is 45 (forty-five) years old or older, the property shall be evaluated by CRO to determine if a district the meets the NRHP Criteria and whether the property would be a contributing property in such district. CRO shall keep a written record of the reasons why any property does or does not appear to meet the Criteria. Where there is a question of eligibility, the CRO shall consult with SHPO and, in the case of pre-historic and/or proto-historic properties, with the Osage Nation.
- c) Those buildings determined to be eligible for inclusion in the NRHP or as a contributing resource to a NRHP Historic District shall be treated under the procedures of Section VII.C.2. of this Agreement.
- d) Those buildings determined not to be eligible for inclusion in the NRHP are not subject to consideration under the terms of this Agreement.
- e) If a project results in an adverse effect, consultation meeting(s) will be arranged between the SHPO and CRO, the property owner and other interested parties to attempt to resolve the adverse effect following the requirements of 34 CFR 800.6, Resolution of Adverse Effects.

- f) If a project results in an adverse effect and any party requests that HUD and the ACHP be notified and invited to participate, the City shall submit the project to HUD and the ACHP to request their consultation. Copies of any MOAs resulting from this document shall be sent to the ACHP for record keeping purposes.
5. Mitigation:
- Mitigation may include any as-yet to be determined mitigation or one of the following means of mitigation, as determined in consultation between SHPO and CRO, the property owner and other interested parties, as outlined in 36 CFR 800.6.
- a) Documentation:

CRO shall maintain files documenting all NRHP and eligible buildings proposed for demolition and make this information available to the public. Both a hard copy and digital copy of all documentation shall be provided to SHPO. Documentation shall include:

 - (a) Location and description of the property proposed for demolition;
 - (b) Photographs of each elevation, the setting, and photographs of details of deteriorated areas and exceptional building elements, which photographs shall be digital photographs which are processed in a manner consistent with the NRHP, with sufficient coverage to provide overall views of interior and exterior of the building. Prior to the demolition, the SHPO shall be consulted about the selection and adequacy of the photographs. Black and white prints shall be produced and labeled to NRHP standards in 8X10 format. Color digital images of all views, in .tiff format, will be provided, labeled according to NRHP standards, on archival digital compact discs or archival DVDs.
 - (c) Interior photographs, where the condition of the property permits;
 - (d) Photo keys and logs
 - (e) Floor plan sketches where possible given the condition of the structure; and
 - (f) Explanation of the necessity for demolition, including references to any building code violations, public safety hazards including police reports, and/or planning and development considerations, and an analysis of why rehabilitation or other action is not feasible or prudent.
 - (g) Recordation of the history of the property, owners, designers, builders, and context.
6. Rehabilitation:
- For each property determined by CRO or the SHPO to be eligible for listing in the NRHP either individually or as a contributing resource to a NRHP or Certified Local Historic District that is to be demolished under this Agreement, a property of similar significance shall be rehabilitated according to the Secretary's Standards.

7. Salvage:

All properties listed in the NRHP either individually or as a contributing resource in a NRHP or City Local Historic District that are to be demolished under this Agreement shall be assessed by CRO for possible salvage of architecturally significant details. Those details determined by CRO to be significant, in sound condition, and where salvage is practicable shall be carefully removed and retained by the City prior to the commencement of demolition. Salvaged artifacts will be retained in a secure location and protected from weather. Further requirements shall be determined in consultation with the SHPO. Salvage rights shall be retained by the City and salvaged items shall be offered by the City to neighborhood groups, City agencies, SHPO, and residents of St. Louis for use in rehabilitation projects. CRO shall maintain a log of all salvaged items, a copy of which shall be made available to SHPO and public upon request.

8. Limitations:

Unless an emergency condition exists due to fire or other natural disaster, or there are below-grade conditions, such as the historic presence of a sink hole or quarry that makes it impossible to return buildings to use without complete reconstruction, the demolition of a group of buildings on any one block within a NRHP or Certified Local Historic District large enough that the block would no longer retain half of its buildings shall require further mitigation. If the block has already lost its historic integrity through extensive losses, additional demolitions are not subject to this requirement. The required mitigation shall be determined through consultation with SHPO.

VIII. DISPUTE RESOLUTION:

At any time during implementation of the measures stipulated in this agreement, should an objection to any measure or manner of implementation be raised by a member of the public, the City shall take the objection into account and consult with the objecting party, SHPO, and the Osage Nation if it pertains to pre-historic or proto-historic survey or resources. If no agreement can be reached, the City shall request that the ACHP participate in resolving the objection.

1. If stakeholders or members of the public dispute CRO's determination of compliance for rehabilitation or new construction, CRO shall forward photographic and written documentation to SHPO for review and comment. SHPO shall review the project and respond with its determination of compliance of the terms of the PA within thirty (30) working days. If SHPO does not respond within thirty (30) working days, it shall be considered to be in agreement with CRO. If CRO and SHPO do not agree, CRO shall request the ACHP's review of the findings pursuant to 36 CFR Part 800.5 (c) (3).
2. With regards to disputes concerning archeological survey, treatment that cannot be resolved among SHPO, the Osage Nation and the City, the City shall seek and take into account the recommendations of HUD. Within seven (7) days of receipt of such a written request, the HUD shall provide the City with recommendations on

resolving the dispute. The City shall take into account the recommendations provided by HUD in making a final decision about how to proceed.

3. With regards to disputes concerning the eligibility of architectural or archeological properties, the City shall seek the determination of the Keeper of the National Register.

IX. TECHNICAL ASSISTANCE:

Nothing in this agreement shall be construed as meaning that CRO cannot request advice, counsel, or assistance of the SHPO at any time.

X. MONITORING AND OVERSIGHT:

The City shall retain individual project files for each undertaking reviewed under this Agreement. The files shall include work write-ups, eligibility determinations, and before and after photographs. The files shall be available for review by SHPO and the Osage Nation in order to verify adherence to the stipulations of this Agreement. The City will make project files related to this Agreement available to SHPO, HUD, and interested Indian Tribes upon request. Files shall be maintained at the CRO office for a period of seven (7) years from the date of review completion.

XI. AMENDMENT:

If any of the signatories to the Agreement determines that the terms of the Agreement cannot be met or believes a change is necessary, that signatory shall request the other signatories to consider an amendment or addendum to the Agreement. Such an amendment or addendum shall be executed in the same manner as the original Agreement.

XII. TERM OF AGREEMENT:

This Agreement will continue in full force and effect for ten (10) years from the date all signatories have signed the Agreement. At any time in the six-month period prior to the Agreement's expiration, the City may request the ACHP and SHPO to extend the Agreement for five (5) more years, provided the request is made in writing, that all signatories agree, and there are no substantive modifications. The Osage Nation shall be promptly notified of any termination or extension and shall be invited to participate in any revision of the agreement.

XIII. PUBLIC INVOLVEMENT:

As appropriate, the City shall notify the public of the City's current Federally-funded programs and make documentation of the programs available for public inspection. This notification and ensuing consultation shall be appropriate for the nature, magnitude, and complexity of the Undertaking and its effects on historic properties, and the likely interest of the public on the effects on historic properties and the potential for controversy.

Included in this documentation shall be general information on the programs; information on the types of activities to be undertaken with funds from each program; information on identified historic properties which might be affected by these activities, with the exception

of any identified archaeological resources which is protected information under the NHPA ; the amount of funds available from each program in the current year; and how interested persons can receive further information on the program; and record of public comment.

XIV. NOTIFICATION:

Notifications or other communication between parties to this agreement should be made in care of the addresses provided in *Appendix B*.

XV. EXECUTION:

Execution of this Programmatic Agreement evidences that the City has afforded the ACHP a reasonable opportunity to comment on its terms and that the City has taken into account the effects of its activities on historic properties.

XVI. SUBMISSION TO THE ACHP:

In accordance with 36 CFR 800.6(b)(1)(iv) the City shall submit an executed copy of this Programmatic Agreement to the ACHP prior to reviewing any undertakings under it.

**Programmatic Agreement Among the City of St. Louis, the Missouri State Historic
Preservation Office and the Osage Nation
(First of four signature pages)**

SIGNED:

CITY OF ST. LOUIS

By: _____ Date: _____
Lyda Krewson, Mayor

**Programmatic Agreement Among the City of St. Louis, the Missouri State Historic
Preservation Office and the Osage Nation
(Second of four signature pages)**

SIGNED:

MISSOURI STATE HISTORIC PRESERVATION OFFICE

By: _____ Date: _____

Mike Sutherland, Acting Director, Missouri State Parks and
Deputy Missouri State Historic Preservation Officer

**Programmatic Agreement Among the City of St. Louis, the Missouri State Historic
Preservation Office and the Osage Nation
(Third of four signature pages)**

Invited Signatory:
OSAGE NATION

By: _____ Date: _____
Geoffrey Standing Bear, Principle Chief

**Programmatic Agreement Among the City of St. Louis, the Missouri State Historic
Preservation Office and the Osage Nation
(Fourth of four signature pages)**

Concur:
HO-CHUNK NATION

By: _____ Date: _____
[Title] _____

LIST OF APPENDICES:

- Appendix A: Definitions
- Appendix B: Addresses of Signatories
- Appendix C: Mailing Addresses of Federally-recognized Tribes
- Appendix D: A Preservation Plan for St. Louis City

APPENDIX A — DEFINITIONS

- In-kind:** A replacement action or repair that uses materials that match the original material in terms of composition, appearance, dimension, detailing and durability.
- Pre-historic Property:** An archaeological site that is dated prior to 1673, the year Père Jacques Marquette and Louis Joliet began their expedition down the Mississippi River.
- Proto-historic Property:** An archaeological site that is dated to the period from 1673 to circa 1900.

APPENDIX B — MAILING ADDRESSES OF SIGNATORIES

CITY OF ST. LOUIS:

Cultural Resources Office
Department of Planning & Urban Design
1520 Market Street, Suite 2000
St. Louis, MO 63103
Email: krasnoffd@stlouis-mo.gov
cameronj@stlouis-mo.gov

MISSOURI STATE HISTORIC PRESERVATION OFFICER:

State Historic Preservation Office
Attn: Review and Compliance
P.O. Box 176
Jefferson City, Missouri 65102
Email: moshpo@dnr.mo.gov

OSAGE NATION

Dr. Andrea Hunter
Tribal Preservation Officer
627 Grandview
P.O. Box 779
Pawhuska, Oklahoma 74056
Email: ahunter@osagetribe.org

APPENDIX C — LIST OF FEDERALLY-RECOGNIZED TRIBES

Absentee-Shawnee Tribe of Indians of Oklahoma

Devon Frazier
Cultural Resources
2025 South Gordon Cooper Drive
Shawnee, Oklahoma 74801

Caddo Nation

Phil Cross
Tribal Historic Preservation Officer
P.O. Box 487
Binger, Oklahoma 73009

Cherokee Nation

Bill John Baker
Principal Chief & THPO
P.O. Box 948
Tahlequah, Oklahoma 74465

Cheyenne & Arapaho Tribes of Oklahoma

Max Bear
Tribal Historic Preservation Officer
P.O. Box 137
Concho, Oklahoma 73022

Chickasaw Nation of Oklahoma

Attn: Governor Bill Anoatubby
Division of Historic Preservation
P.O. Box 1548
Ada, Oklahoma 74821-1548

Choctaw Nation of Oklahoma

Ian Thompton
Tribal Historic Preservation Officer
P.O. Box 1210
16th & Locust Street
Durant, Oklahoma 74702

Citizen Potawatomi Nation

Kelli Mosteller
Tribal Historic Preservation Officer
1601 South Gordon Cooper Drive
Shawnee, Oklahoma 74801

Delaware Nation

Erin Thompson

Historic Preservation/106 Director
Delaware Nation
P.O. Box 825
Andarko, Oklahoma 73005

Eastern Shawnee Tribe of Oklahoma

Brett Barnes

Tribal Historic Preservation Officer
12705 E. 705 Road
Wyandotte, OK 74370

Forest County Potawatomi Community of Wisconsin Potawatomi Indians

Michael LaRonge

Tribal Historic Preservation Officer
P.O. Box 340
Crandon, Wisconsin 54520

Gun Lake Potawatomi

Bob Peters

Tribal Chairman
2872 Mission Drive
Shelbyville, Michigan 49344

Hannahville Indian Community of Michigan

Mr. Kenneth Meshigaud

Chairman
N14911 H. B-1 Road
Wilson, Michigan 49845

Ho-Chunk Nation of Wisconsin

William Quackenbush

Tribal Historic Preservation Officer
P.O. Box 667
Black River Falls, Wisconsin 54615

Huron Potawatomi Nation

Jamie Stuck

Chairman
1485 Mno-Brnadzewen Way
Fulton, Michigan 49502

Iowa Tribe of Kansas and Nebraska

Lance M. Foster
Tribal Historic Preservation Officer
3345B Thrasher Road
White Cloud, Kansas 66094

Iowa Tribe of Oklahoma

Edgar Kent
Chairman
335588 E. 750 Road
Perkins, Oklahoma 74059-9599

Jena Band of Choctaw Indians

Alina Shively
Tribal Historic Preservation Officer
P.O. Box 14
Jena, Louisiana 71342-0014

Kaw Nation

Lynn Williams
Chairperson
698 Granview Drive
Kaw City, Oklahoma 74641

Kialegee Tribal Town of the Creek Nation of Oklahoma

Brian Givens
Town King
P.O. Box 332
Wetumka, Oklahoma 74883

Kickapoo Traditional Tribe of Texas

Estavio Elizando
Chairperson
2212 Rosita Valley Road
Eagle Pass, Texas 78852

Kickapoo Tribe in Kansas

Lester Randall
Chairperson
824 111th Drive
Horton, Kansas 64439

Kickapoo Tribe of Oklahoma

David Pacheco
Chairperson
P.O. Box 70
McCloud, Oklahoma 74851

Miami Tribe of Oklahoma

Diane Hunter
Tribal Historic Preservation Officer
Box 1326
Miami, Oklahoma 74355

Muscogee (Creek) Nation of Oklahoma

Corain Lowe-Zepeda
Tribal Historic Preservation Officer
P.O. Box 580
Okmulgee, Oklahoma 74447

Omaha Tribe of Nebraska and Iowa

Thomas Parker
Tribal Historic Preservation Officer
P.O. Box 368
Macy, Nebraska 68039

Otoe-Missouria Tribe of Oklahoma

Elsie Whitehorn
Tribal Historic Preservation Officer
8151 Highway 177
Red Rock, Oklahoma 74651

Pawnee Nation of Oklahoma

Joseph Reed
Tribal Preservation Officer
P.O. Box 470
Pawnee, Oklahoma 74058

Peoria Tribe of Oklahoma

Chief John P. Froman
P.O. Box 1527
6435 S. Quebec Avenue
Miami, Oklahoma 74355

Pokagon Band of Potawatomi Indians of Michigan

Matthew J. N. Bussler
Tribal Historic Preservation Officer
P.O. Box 180
Dowagiac, Michigan 49047

Ponca Tribe of Indians of Oklahoma

Halona Cabe
Tribal Historic Preservation Officer
20 White Eagle Drive
Ponca City, Oklahoma 74601

Ponca Tribe of Nebraska

Nicholas Mauro
Tribal Historic Preservation Officer
P.O. Box 288
Niobrara, Nebraska 68760

Prairie Band of Potawatomi Indians

Joseph Rupnick
Tribal Chairman
16281 Q Road
Mayetta, Kansas 66509

Quapaw Tribe of Oklahoma

Ms Carrie V. Wilson
NAGPRA
Archaeological Survey
2475 N. Hatch
Fayetteville, Arkansas 72704

Sac and Fox of the Missouri in Kansas and Nebraska

Tiauna Carnes
Chairperson
305 North Main
Reserve, Kansas 66434

Sac and Fox Nation of Oklahoma

Chief Elizabeth Kay Rhoads
920883 S. Hwy 99, Building A
Stroud, Oklahoma 74079

Sac and Fox Tribe of the Mississippi in Iowa

Johnathan Buffalo
Historic Preservation Coordinator
349 Meskwaki Road
Tama, Iowa 52339

Shawnee Tribe

Devon Frazier
NAGPRA Representative
P.O. Box 189
Miami, Oklahoma 74355

United Keetoowah Band of Cherokee Indians of Oklahoma

Eldine Stevens
Tribal Historic Preservation Office
P.O. Box 746
Tahlequah, Oklahoma 74457
estevens@ukb-nsn.gov

APPENDIX D — A PRESERVATION PLAN FOR ST. LOUIS CITY

<http://www.stlouis-mo.gov/government/departments/planning/cultural-resources/preservation-plan/St-Louis-Preservation-Plan-TOC.cfm>