

ORDINANCE NO. 06-20 AC CMS

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A COORDINATION AGREEMENT WITH THE STATE HISTORIC PRESERVATION OFFICE IN ORDER TO EXPEDITE IMPLEMENTATION OF CERTAIN ELEMENTS OF THE FY2005 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) DOWNTOWN REVITALIZATION PROGRAM AND DECLARING AN EMERGENCY

WHEREAS, the City has received notification from the Ohio Department of Development that a FY2005 Community Development Block Grant (CDBG) Downtown Revitalization grant in the amount of \$400,000 has been awarded to the City of Oberlin; and

WHEREAS, it is necessary for the City to enter into a Coordination Agreement with the State Historic Preservation Office as a part of the FY2005 Downtown Revitalization Program.

NOW, THEREFORE BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio, five-sevenths (5/7ths) of all members elected thereto concurring:

SECTION 1. That the City Manager is hereby authorized to enter into a Coordination Agreement with the State Historic Preservation Office, a copy of the agreement being attached hereto and incorporated herein by reference.

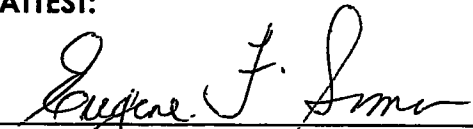
SECTION 2. It is hereby found and determined that all formal actions of this Council concerning or relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council, and any of its committees, that resulted in such formal actions took place in legal meetings in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

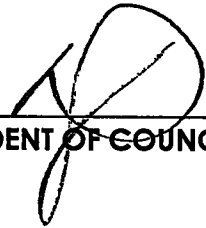
SECTION 3. That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, and safety of the citizens of the City of Oberlin, Ohio, or to provide for the usual daily operation of a municipal department, to wit:

"to approve a Coordination Agreement with the Ohio State Historic Preservation Office as soon as possible so that FY2005 CDBG grant monies that have been awarded to the City can be utilized for downtown revitalization at the earliest possible date", and shall take effect immediately upon passage.

**PASSED: 1st Reading – March 6, 2006 (E)
 2nd Reading –
 3rd Reading –**

ATTEST:


CLERK OF COUNCIL


PRESIDENT OF COUNCIL

POSTED: March 7, 2006

EFFECTIVE DATE: March 7, 2006

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**Coordination Agreement
between
City of Oberlin
and the
Ohio State Historic Preservation Office
for the
Administration of CDBG/Downtown Revitalization Program-funded activities**

WHEREAS, the U.S. Department of Housing and Urban Development ("HUD") has allocated Community Development Block Grant (CDBG) and Home Investment Partnerships (HOME) funds to the State of Ohio Department of Development ("State");

WHEREAS, the State has awarded CDBG and/or HOME funds to the City of Oberlin (hereinafter referred to "City") for undertakings that may affect properties that are listed in or eligible for listing in the National Register of Historic Places ("National Register"); and

WHEREAS, the City and the Ohio State Historic Preservation Officer ("SHPO") agree that by following the procedures outlined in this agreement, the City will be able to meet its obligations pursuant to Section 106 and Section 110(f) of the National Historic Preservation Act (16 U.S.C. 470) and its implementing regulations, Protection of Historic Properties (36 CFR Part 800), to take into account the effects of federally assisted project on historic properties and provide the Advisory Council on Historic Preservation ("Council") an opportunity to comment.

NOW, THEREFORE, the City and the SHPO have agreed to carry out their respective responsibilities pursuant to Section 106 and Section 110(f) of the NHPA and the regulations at 36 CFR Part 800, in accordance with the following stipulations:

STIPULATIONS

I. Archaeology

In the event the City plans any ground disturbance as part of a rehabilitation, new construction, site improvement, or other undertaking, the City will consult with the OHPO to determine whether the undertaking will affect an archaeological property eligible for or listed in the National Register.

II. Exempt Activities

A. If the City determines that an undertaking only involves (a) buildings that are less than 50 years old or (b) exempt activities, as defined by Stipulation II.B, II.C, and II.D, then the undertaking shall be deemed exempt and require no further review under this agreement because these activities generally have no effect on historic properties. The City will keep documentation of this decision on file and compile a list of exempt undertakings annually, as required in Stipulation V.

B. If the proposed undertaking falls within one of the following categories, the activity shall be deemed exempt:

1. Non-Construction Work

- a. Public service program that does not physically impact buildings or sites.
- b. Architectural and engineering fees and other non-construction fees and costs.
- c. Rental or purchase of equipment.
- d. Temporary board-up, bracing or shoring of a property, provided that it is installed without permanent damage to the building or site.
- e. Mortgage refinancing where no change in use will occur.

2. Site Work

- a. Repair, replacement, line painting, resurfacing and maintenance of existing streets, roads, alleys, sidewalks, curbs, ramps and driveways where no change in width, surfaces, or vertical alignment to drainage is to occur.
- b. Maintenance and repair of existing landscape features, including plantings, fences, retaining walls, and walkways.

3. Exterior Rehabilitation

- a. Rebuilding of existing wheelchair ramps.

new file or check to
D66out
(reset)

- b. Repair of porches, cornices, exterior siding, doors, balustrades, stairs, or other trim as long as any new material matches existing features in composition, design, color, texture, and other visual and physical qualities.
 - c. Foundation repair.
 - d. Exterior scraping with non-destructive means and painting of wood siding, features and trim; exterior painting of brickwork, if existing surfaces are already painted. (This does not apply to lead-encapsulant paint.)
 - e. Caulking, reglazing and weather-stripping.
 - f. Installing of screens and storm windows, provided that they:
 - (1) Completely fill the original window opening.
 - (2) Match the meeting rail or other major divisions.
 - (3) Outside storms must not protrude beyond the face of the building.
 - (4) Interior storms must not cause damage to the original interior trim.
 - (5) Interior storms must be designed to seal completely and the primary window should allow some air infiltration so as to protect the primary window from condensation damage.
 - g. Installation of storm doors, if they are undecorated and have a painted finish to match existing trim.
 - h. Repair or replacement of asphalt, fiberglass shingle and asbestos roof covering with in-kind materials as long as the shape of the roof does not change.
 - i. Replacement of a flat roof not visible from a public right of way, as long as the shape of the roof does not change.
 - j. Repair or replacement of gutters and down spouts.
4. Interior Rehabilitation
- a. Repair or installation of new basement floors.
 - b. Installation of attic insulation.
 - c. Repair of existing interior walls, floors, ceilings, decorative plaster, or woodwork, provided the work is limited to repainting, in-kind patching, refinishing, or repapering.
 - d. Kitchen and bathroom remodeling if no walls, windows, or doors are altered.
 - e. Installation of new furnace, water heater, or furnace cleaning and repair.
 - f. Installation or repair of all electrical, plumbing, heating, ventilation, and air conditioning systems as long as no alteration is made to structural or decorative features.
 - g. Asbestos abatement activities that do not involve removal or alteration of structural or decorative features.
- C. Activities defined in 24 CFR Section 58.34 of the "Environmental Review Procedures for Entities Assuming HUD Environmental Review Responsibilities, as amended" are exempt from review under this agreement (**Appendix C**).
- D. Activities defined in 24 CFR Section 58.35(b) of the "Environmental Review Procedures for Entities Assuming HUD Environmental Review Responsibilities, as amended" are exempt from review under this agreement (**Appendix D**).

III. Project review

- A. If the City determines that an undertaking will involve any activities that are not exempt under Stipulation II, the City will, in accordance with 36 CFR Part 800, consult with the SHPO before starting the undertaking by submitting the following documentation to the SHPO: (1) project location, including a map; (2) project description, including work write-ups, plans, or specifications, as appropriate; (3) color photographs of all elevations of the building or site; (4) date any buildings in the project area were built; (5) a statement of whether any properties in the project area are listed in or eligible for listing in the National Register; and (6) if there are listed or eligible properties, a statement of whether and how the undertaking will affect the historic properties (**see Appendix A**).
- B. This submission should include, and the SHPO will consider, the following information if it explains the City's decisions regarding National Register-eligibility and effect:
 - (1) condition assessments for various historic elements;
 - (2) an explanation of the goals of the undertaking;
 - (3) alternative treatments considered and cost estimates for each;

- (4) life cycle maintenance costs related to each alternative;
- (5) proposed measures to mitigate or minimize adverse effects;
- (6) available marketing studies; and
- (7) any other information that warrants consideration.

- C. The SHPO will respond, in accordance with 36 CFR Part 800, to the City within 30 days after receiving the project documentation by stating that (1) the SHPO concurs with the City's decision about eligibility and effect; (2) the SHPO disagrees with the City's decision about eligibility and effect; or (3) the SHPO needs more information in order to concur or disagree with the City's decision about eligibility and effect.
- D. If the SHPO and the City agree that the undertaking will have no effect on properties that are listed in or eligible for listing in the National Register, the City will retain the SHPO's letter in its project file and the review process, in accordance with 36 CFR Part 800, will be complete.
- E. If the SHPO and the City agree that the undertaking will have an effect on properties that are listed in or eligible for listing in the National Register or the SHPO disagrees with the City's decision, the City will follow the procedures described in 36 CFR Part 800.5 (see Appendix B).
- F. After receiving additional information requested from the City, the SHPO will respond within 30 days as described in Stipulation II.C., above.

IV. Technical Assistance and Educational Activities

Staff in the SHPO's Resource Protection and Review Department will provide technical assistance, consultation, and training of City staff as requested by the City or as proposed by the SHPO in order to assist the City in carrying out the terms of this agreement.

V. Monitoring

Within 30 days after the end of each calendar year that this agreement is in force, the City will submit to the SHPO a list of the undertakings exempted from review under Stipulation I of this agreement. For each exempt undertaking, the list will include a brief description of each activity undertaken and the age of the building or a notation that it was less than 50 years old.

VI. Definitions

The definitions provided in the National Historic Preservation Act and the regulations at 36 CFR Part 800 apply to terms used throughout this agreement, such as "historic property" and "effect".

VII. Term of agreement

This agreement will continue in full force until February ____, 2009, and will be reviewed for modification, termination, or renewal before that date. At the request of either party, this agreement may be reviewed for modification at any time.

By execution and implementation of this agreement, the City and the SHPO agree that their respective responsibilities under the NHPA, associated regulations, and other related statutes, will be fulfilled.

City Manager Robert DiSpirito
City of Oberlin

Date

Mark J. Epstein, Department Head, Resource and Protection Review
Ohio State Historic Preservation Office

Date

Gary Boyle

To: Main Street Oberlin; Lauren Falcone; gboyle@cityofoberlin.com
Subject: RE: OHPO Coordination Agreement- 06

23 February 2006

Geof and Lauren:

The Coordination Agreement will be scheduled for City Council's meeting on Monday, March 6, 2006. It is my understanding that the agenda for that meeting is being set by the City Clerk at this time and I can not, therefore, advise as to where it will end up being on the agenda. Since the information received from Poggemeyer indicates that Council will need to pass a resolution on the Agreement rather than an ordinance, resolutions are normally scheduled for consideration after ordinances so it will probably be considered much later than the 8:00 or 8:30 p.m. time frame referred to in Lauren's e-mail. I will ask City Manager Rob DiSpirito to advise us once the tentative agenda has been set and that will give us a better sense of when Council may get to the required resolution. I will also ask Rob whether he has any preference as to having either Lauren or Geof handling the matter at Council. I will let you know once I receive that information from Rob.

Any questions in the interim, please contact me. Thanks.

Gary

-----Original Message-----

From: Main Street Oberlin [mailto:oberlinmainst@oberlin.net]
Sent: Thursday, February 23, 2006 1:20 PM
To: Lauren Falcone; gboyle@cityofoberlin.com
Subject: Re: OHPO Coordination Agreement- 06

I'd expect that I can handle it, but I have no idea what all is involved.
Gary, what do you think?

Geof

----- Original Message -----

From: "Lauren Falcone" <falconel@Poggemeyer.com>
To: <gboyle@cityofoberlin.com>
Cc: <oberlinmainst@oberlin.net>
Sent: Thursday, February 23, 2006 11:20 AM
Subject: RE: OHPO Coordination Agreement- 06

> Hi Gary. I forwarded this request to our BG Office. Sarah Sitterle
> will be getting you sample legislation and correcting the error on
> Mayor. I have to be at Wellington's Council meeting at 7 pm. on 3/6 and
> not sure how long it will last. Can Geof handle the Council meeting for
> the OHPO Coordination Agreement? Geof- ok with you? I could probably
> be there by 8 or 8:30 ish if you can't, but no guarantees where I am on
> the agenda in Wellington. Thanks!

>

> Lauren O. Falcone
> Project Planner
> Poggemeyer Design Group, Inc.
> P.O. Box 360827
> Strongsville, Ohio 44136
> 440-846-6186 Voice 440-846-6187 Fax

> >>> "Gary Boyle" <gboyle@cityofoberlin.com> 02/22/06 2:51 PM >>>
> 22 February 2006
>
> Lauren:
>
> Thanks for the update. The ordinance authorizing the Coordination
> Agreement
> with OHPO will probably be on the next Council agenda (i.e. March 6th
> meeting). Do you have a copy of an ordinance that we could use? Also,
> P. 3
> of the Agreement refers to Rob as "Mayor". Could we get a copy with his
> title showing as "City Manager"? Thanks for your help.
>
> Gary
>
> -----Original Message-----
> From: Lauren Falcone [mailto:falconel@Poggemeyer.com]
> Sent: Monday, February 20, 2006 10:46 AM
> To: gboyle@cityofoberlin.com; oberlinmainst@oberlin.net
> Subject: OHPO Coordination Agreement- 06
>
>
> Hi Gary. I checked with our BG office and they said OHPO will not
> accept the CDBG DT FY'05 Legislation to apply for CDBG funds as
> legislation for the OHPO Coordination Agreement. They also said that
> even though passed legislation before on last Coordination Agreement,
> OHPO requires specific legislation for each renewal of the Coordination
> Agreement. Sorry! Let me know if you need me to be at Council and
> when. Thanks!
>
> Lauren O. Falcone
> Project Planner
> Poggemeyer Design Group, Inc.
> P.O. Box 360827
> Strongsville, Ohio 44136
> 440-846-6186 Voice 440-846-6187 Fax
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> --
> No virus found in this incoming message.
> Checked by AVG Free Edition.
> Version: 7.1.375 / Virus Database: 268.0.0/267 - Release Date: 2/22/2006
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