

**FIRST AMENDMENT TO
PROGRAMMATIC AGREEMENT
AMONG
THE UNITED STATES DEPARTMENT OF ENERGY, THE MISSOURI
DEPARTMENT OF NATURAL RESOURCES' DIVISION OF ENERGY AND THE
MISSOURI DEPARTMENT OF NATURAL RESOURCES' STATE HISTORIC
PRESERVATION OFFICE**

WHEREAS, on June 7, 2010, the United States Department of Energy (hereinafter DOE), the Missouri Department of Natural Resources' Division of Energy (hereinafter DE), and the Missouri State Historic Preservation Office (hereinafter SHPO), entered into a Programmatic Agreement (hereinafter PA) to allow the Interagency Agreement signed in December 2009 by the SHPO and DE (labeled as "Appendix A" to the PA), to fulfill the requirements of Section 106 of the National Historic Preservation Act for certain DOE-funded Undertakings in Missouri; and.

WHEREAS, it is desirable that the PA be amended so that it includes additional stipulations that will further streamline compliance with Section 106 for the Undertakings; and

WHEREAS, DOE recipients in Missouri other than DE (hereinafter "Direct Recipients") also receive funding from DOE under the Programs to conduct Undertakings; and

WHEREAS, it is desirable that the PA be amended and updated to clarify that all of the Direct Recipients listed on Attachment A may also utilize the PA to achieve compliance with Section 106; and

WHEREAS, it is desirable to have any Direct Recipients not listed on Attachment A provide a written notification to the SHPO when they intend to utilize the PA to comply with Section 106; and

WHEREAS, Stipulation L of the PA allows for amendment of the PA in the same manner as the original PA was executed; and

WHEREAS, this First Amendment shall take effect on the date of the last signature and remain in force until the expiration of the PA.

NOW THEREFORE, the signatories to the PA agree to amend the PA in the following manner:

- A) To add the following list of undertakings to the Specific Activities Exempt from Further Review (Appendix A, Section D, Part 2):
 - (d) Additional Exempt Activities:
 - (i) Replacement or installation of new storm windows where the finish on the new storm windows matches the finish of the existing windows in color.
 - (ii) Replacement of interior doors where the size of the openings is not altered.
 - (iii) Replacement or repair of door knobs and other door hardware.

- B) To add the following section to Appendix A, Section C. Process of Section 106 Review:

(5) Emergency Undertakings: All projects that require non-exempt activities and involve health or safety emergencies (defined as situations that pose an acute and immediate threat to health or safety) can be completed in two phases as follows: the Recipient or Subgrantee may elect to perform emergency individual health and safety measures that are listed in the *Missouri Low Income Weatherization Assistance Program Operations Manual* (LIWAP), Emergency Situations Section 3, Subsection 1, Part B: 4-6 in the initial phase of the project prior to approval from the SHPO; and, prior to performing the second phase of the project, the Recipient must submit a Project Information Form and all applicable documents for the entire project, and await approval from the SHPO before commencing work on the second phase. The Missouri LIWAP Operational Manual is located at <http://www.dnr.mo.gov/energy/weatherization/wx.htm>. Notwithstanding this provision and anything contained in the Missouri LIWAP, immediate rescue and salvage operations conducted to preserve life or property remain exempt from the provisions of Section 106 and this Programmatic Agreement pursuant to 36 C.F.R. 800.12.

- C) To add the following provisions to those listed under Appendix A, Section A. Roles of MDNR/EC and Subgrantees:

4. The terms of this PA may be utilized by Direct Recipients in order to achieve compliance with Section 106 to the same extent as DE (MDNR/EC), and any Subgrantees of Direct Recipients may utilize this PA to the same extent as the Subgrantees of DE (MDNR/EC). When utilized by the Direct Recipient, any references to Recipient, DE, or MDNR/EC, shall be construed to include the Direct Recipient, with the exception of references to the signatory responsibilities of the Recipient, DE or MDNR/EC contained in Sections K. Term of Agreement, L. Amendment, and M. Termination. When utilized by a Subgrantee of a Direct Recipient, any references to Subgrantees of DE (MDNR/EC) shall be construed to include the Subgrantees of Direct Recipients, if any. Recipients and Direct Recipients will remain responsible for ensuring that their Subgrantees, if any, comply with Section 106 and Recipients, Direct Recipients and Subgrantees cannot delegate Section 106 responsibilities to homeowners.

- D) To add the following section to Appendix A, Section B. Qualifications of Personnel:

6. DOE's liaison to the Advisory Council on Historic Preservation (ICHHP), in coordination with DOE, DE and the SHPO, to the extent practicable, will provide at least one training session or workshop required for all Direct Recipients intending to use the PA, in order to ensure their understanding of the terms of the PA and such training is deemed to meet the training requirements found in Stipulation B(1) of Appendix A. The scope of training should include a basic outline of the following topics: the Section 106 process; the research and identification of historic properties; obtaining qualified professional services; and limitations imposed by the PA (e.g., examples of Undertakings not exempted by the Agreement). The training should include additional topics relevant to the

terms of this PA, particularly the stipulations in Appendix A on recordkeeping requirements, (Appendix A, Section J).

E) To add the following section to Appendix A, Section P. Notification:

DOE: Office of Energy Efficiency and Renewable Energy
United States Department of Energy
Golden Field Office
1617 Cole Boulevard
Golden, CO 80401-3393
gohistoricpreservation@go.doe.gov

and,

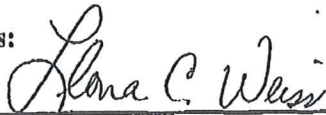
If concerning a particular project receiving DOE funding under EECBG, WAP or SEP, then written notice shall also be given to the DOE project officer assigned to the respective award.

F) To delete Section K. Term of Agreement from Appendix A in its entirety.

G) To add the following Section to Appendix A following Section P:

Q. Anti-Deficiency Act Assurance. This Amendment to the PA is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds among or between parties to this Amendment to the PA will be handled in accordance with applicable laws, regulations and procedures, and will be subject to separate agreements that shall be effected in writing.

Signatories:

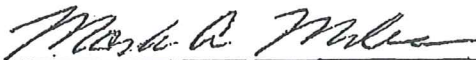


7-12-11

Llona C. Weiss, Director

Date

MISSOURI DEPARTMENT OF NATURAL RESOURCES
DIVISION OF ENERGY



7/12/11

Mark A. Miles, Director and Deputy State Historic Preservation Officer

Date

MISSOURI DEPARTMENT OF NATURAL RESOURCES
STATE HISTORIC PRESERVATION OFFICE



7/13/11

LeAnn Oliver, Program Manager

Date

UNITED STATES DEPARTMENT OF ENERGY
OFFICE OF ENERGY EFFICIENCY AND RENEWABLE ENERGY
OFFICE OF WEATHERIZATION AND INTERGOVERNMENTAL PROGRAMS

Attachment A to Amendment

Grantee	Recipient Type
Chesterfield	City
University City	City
Cape Girardeau	City
Kansas City	City
St. Louis	City
St. Louis	County
Missouri	SEO
Joplin	City
Jefferson City	City
Springfield	City
St. Peters	City
Jefferson	County
St. Charles	City
St. Charles	County
Cass	County
Independence	City
Jackson	County
St. Joseph	City
Franklin	County
Christian	County
Blue Springs	City
Jasper	County
Greene	County
Lee's Summit	City
O'Fallon	City
Columbia	City
Florissant	City
Clay	County
Missouri Department of Agriculture	State