

AMENDMENT ONE TO DRAFT PROGRAMMATIC AGREEMENT
AMONG
THE UNITED STATES DEPARTMENT OF ENERGY, THE WYOMING
DEPARTMENT OF FAMILY SERVICES,
THE WYOMING BUSINESS COUNCIL, AND
THE WYOMING STATE HISTORIC PRESERVATION OFFICER
REGARDING THE ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT PROGRAM,
THE STATE ENERGY PLAN, AND THE WEATHERIZATION ASSISTANCE PROGRAM

WHEREAS, on August 24, 2010, The United States Department of Energy (DOE), The Wyoming Department of Family Services (WYDFS), and The Wyoming Business Council (WYBC), and The Wyoming State Historic Preservation Officer (WYSHPO) entered into a Programmatic Agreement (PA) to fulfill the requirements of Section 106 of the National Historic Preservation Act (NHPA) for certain DOE-funded Undertakings in Wyoming.

WHEREAS, in 2010, as the result of unprecedented funding levels resulting from the implementation of the American Recovery and Reinvestment Act (Recovery Act), DOE, the Advisory Council on Historic Preservation (ACHP), and the National Conference of State Historic Preservation Officers (NCSHPO) developed a first-of-its-kind Prototype Programmatic Agreement (Prototype PA) for National Historic Preservation Act Section 106 reviews;

WHEREAS, the intent of the Prototype PA was to provide DOE, recipients of financial assistance under DOE's Weatherization Assistance Program (WAP), State Energy Program (SEP), and Energy Efficiency Conservation Block Grant (EECBG) program, as applicable, and State Historic Preservation Offices (SHPOs) with a tailored method for complying with Section 106 of the NHPA. DOE, recipients, and SHPOs negotiated and executed subsequent programmatic agreements (subsequent PAs; i.e. this PA) in accordance with the Prototype PA;

WHEREAS, the Prototype PA originally provided that each subsequent PA would be valid for three years from the date of execution. As the result of ACHP's Program Comment dated March 11, 2013, however, all subsequent PAs, including this PA, were extended through December 31, 2020. (78 FR 16275, 16277);

WHEREAS, the Wyoming Energy Authority administers the State Energy Program;

WHEREAS, ACHP, NCSHPO, and DOE recognize the Prototype PA and subsequent PAs continue to provide great value to DOE, recipients, and SHPOs, notwithstanding expiration of most Recovery Act funding, this amendment extends the use of the PA for an additional 10 years; and

WHEREAS, DOE will send a copy of this executed amendment to the ACHP;

NOW, THEREFORE, in accordance with Stipulation XIV of the PA the DOE, WYSHPO, WYDFS, and the WEA agree that the PA shall be amended as follows:

1. Remove the word "Draft" from the title of the Agreement.
2. Change all references to the 'Wyoming Business Council' to the 'Wyoming Energy Authority'

Amendment One to the Programmatic Agreement among the United States Department of Energy, the Wyoming Department of Family Service, the Wyoming Energy Authority and the Wyoming State Historic Preservation Officer regarding the Energy Efficiency and Conservation Block Grant Program, the State Energy Program, and the Weatherization Assistance Program.

3. Amend the PA to add Stipulation XV, as follows:

XV. Duration

This PA will be valid until December 31, 2030, as verified with DOE filing the PA with the ACHP.

General Provisions

- A. **Entirety of Agreement.** Amendment One, consisting of six (6) pages and the original PA consisting of twenty one (21) pages represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations and agreements, whether written or oral, regarding compliance with Section 106 of the National Historic Preservation Act.
- B. **Prior Approval.** This Amendment One shall not be binding upon a party unless the Amendment has been reduced in writing before performance begins as described under the terms of this Amendment One, and unless the Amendment One is approved as to form by the Attorney General or his representative.
- C. **Severability.** Should any portion of this Amendment One be judicially determined to be illegal or unenforceable, the remainder of the PA shall continue in full force and effect, and any party may renegotiate the terms affected by the severance.
- D. **Sovereign Immunity.** The State of Wyoming and WYSHPO do not waive their sovereign or governmental immunity by entering into this Amendment One and each fully retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of this Amendment One.
- E. **Indemnification.** Each Signatory to this Amendment One shall assume the risk of any liability arising from its own conduct. Each Signatory agrees they are not obligated to insure, defend, or indemnify the other Signatories to this Amendment One.

Signatures. In witness whereof, the Signatories of this Amendment One through their duly authorized representatives have executed this Amendment One on the days and dates set out below, and certify that they have read, understand, and agreed to the terms and conditions of this Second Amendment as set forth herein.

The effective date of this Amendment One is the date of the last Signatory affixed to these pages.

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This Amendment One may be executed in counterparts, each of which when so executed shall be deemed an original, but all of which shall together constitute one and the same instrument, it being understood that all parties need not sign the same counterpart. This Amendment One is not effective until each party executes the Amendment One.

SIGNATORIES:

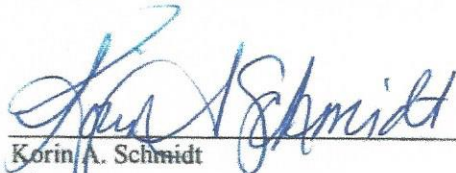
Office of Energy Efficiency and Renewable Energy
United States Department of Energy

Derek G. Passarelli
Director, Golden Field Office

Date

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Wyoming Department of Family Services



Korin A. Schmidt
Director

12/14/2010
Date

Attorney General's Office: Approval as to form


 #207518

11-04-20

 Megan Pope, *Senior Assistant Attorney General*

Date

Wyoming Energy Authority




Glen Murrell
Executive Director
Wyoming Energy Authority

12/1/2020

Date

Attorney General's Office: Approval as to form




Kristin M. Nuss, *Supervising Assistant Attorney General*

11-04-20


Date

Wyoming State Historic Preservation Office


Mary Hopkins
State Historic Preservation Officer
Wyoming State Historic Preservation Office

12/2/2020
Date

Attorney General's Office: Approval as to form

 # 207518
Alysia Goldman
Assistant Attorney General

11/4/2020
Date

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Consent to Assignment:
Wyoming Business Council



Joshua J Dorrell (Dec 7, 2020 12:59 MST)

Dec 7, 2020

Josh Dorrell
Chief Executive Officer
Wyoming Business Council

Date

Attorney General's Office: Approval as to form


for: Margaret A. R. Schwartz
Assistant Attorney General

11-04-2020
Date

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