

**PROGRAMMATIC AGREEMENT EXTENSION
AMONG
CERTAIN KANSAS LOCAL GOVERNMENTS
THE KANSAS DEPARTMENT OF COMMERCE
THE KANSAS HOUSING RESOURCES CORPORATION
THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AND
THE KANSAS STATE HISTORIC PRESERVATION OFFICE
FOR
THE REVIEW OF HUD-FUNDED ACTIVITIES**

WHEREAS, a Programmatic Agreement (Agreement) to comply with Section 106 of the National Historic Preservation Act between the U.S. Department of Housing and Urban Development through various offices, including the Office of the Assistant Secretaries for Housing-Federal Housing Commissioner, Public and Indian Housing, and Community Planning and Development, the Kansas State Historic Preservation Office (SHPO), the State of Kansas, and units of general local government ("Responsible Entities") became effective on July 12, 2017, with a termination date of July 12, 2022; and

WHEREAS, in the Agreement, Stipulation VII. "TERM OF THE AGREEMENT" states that "at any time in the six-month period prior to the Agreement's expiration, the signatories may request that the SHPO extend the Agreement for five (5) additional years, provided the request is made in writing, that there are no substantive modifications, that HUD and the SHPO agree, and that any other signatory wishing to remain party to the Agreement also agrees;" and

WHEREAS, the Unified Government of Wyandotte County and Kansas City, Kansas, a signatory to the Agreement, requested in writing by email dated November 1, 2021, that the SHPO extend the Agreement for five additional years; and

WHEREAS, no substantive modifications were made to the Agreement; and

WHEREAS, the City of Lenexa, Kansas, was removed from the Agreement as a listed unit of general local government, June 18, 2020;

NOW, THEREFORE, HUD and the SHPO agree that the Agreement and all its terms shall be extended in accordance with Stipulation VII of the Agreement. All signatories wishing to remain party to the Agreement must agree in writing.

**PROGRAMMATIC AGREEMENT
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WHEREAS, the U.S. Department of Housing and Urban Development (“HUD”) through various offices, including the Offices of the Assistant Secretaries for Housing—Federal Housing Commissioner, Public and Indian Housing, and Community Planning and Development, provides grant funding, mortgage insurance and other assistance (“HUD Programs”) to a range of entities within the State of Kansas; and

WHEREAS, HUD is responsible for complying with Section 106 of the National Historic Preservation Act of 1966, as amended, (54 U.S.C. 306108), implemented pursuant to 36 C.F.R. Part 800 (“Section 106”) when HUD conducts an environmental review under 24 C.F.R. Part 50; and

WHEREAS, separately and distinctly, the State of Kansas or a unit of general local government (“Responsible Entities”) is responsible for complying with Section 106 when it conducts an environmental review under 24 C.F.R. Part 58, which allows a state or unit of general local government to assume HUD’s environmental responsibility; and

WHEREAS, agencies for the State of Kansas administering Section 106 responsibility under 24 C.F.R. Part 58 include the Kansas Department of Commerce and the Kansas Housing Resources Corporation; and

WHEREAS, units of general local government in the State of Kansas assuming Section 106 responsibility under 24 C.F.R. Part 58 include, but are not limited to, the City of Lawrence, the City of Leavenworth, the City of Lenexa, the City of Manhattan, the City of Overland Park, the City of Shawnee, the City of Topeka, the City of Wichita, Johnson County, the Unified Government of Wyandotte County and Kansas City, and other units of general local government in the State of Kansas that may act as a Responsible Entity pursuant to 24 C.F.R. Part 58; and

WHEREAS, Responsible Entities and HUD may undertake activities that include, but are not limited to, acquisition, land-banking, leasing, repair, rehabilitation, improvement, demolition, conversion and new construction of residential and non-residential properties, structures, or facilities, each of which is an undertaking (“Undertaking”) as defined pursuant to 36 C.F.R. § 800.16(y), and

WHEREAS, the Responsible Entities and HUD have determined that certain Undertakings funded by the HUD Programs have limited potential to affect properties included in or eligible for inclusion in the National Register of Historic Places and have consulted with the Kansas State Historic Preservation Officer (“SHPO”) pursuant to 36 C.F.R. § 800.14 of the regulations implementing Section 106; and

WHEREAS, in recognition of the unique government-to-government relationship between the Federal government and federally-recognized American Indian tribes, federally-recognized American Indian tribes and other tribes identified by the SHPO, collectively listed in Exhibit A, were notified and invited to comment and/or consult in the development of this Agreement; and

WHEREAS, the tribes listed in Exhibit A either did not provide comment or, in the case of the United Keetoowah Band of Cherokee Indians in Oklahoma, declined to participate in consultation but requested a copy of the executed Agreement; and

WHEREAS, in 1995 and 2006 the Advisory Council on Historic Preservation respectively issued and revised a “Policy Statement on Affordable Housing and Historic Preservation” that addresses implementation principles for Section 106 compliance, and those principles have been utilized in developing and revising this Agreement;

NOW, THEREFORE, the Responsible Entities, HUD, and the SHPO agree that the HUD Programs shall be administered in accordance with the following stipulations to satisfy the Section 106 responsibilities of the Responsible Entities and HUD, as appropriate to their respective responsibilities under 24 C.F.R. Part 58 or Part 50.

STIPULATIONS

The Responsible Entities and HUD will insure that the following measures are carried out.

I. EXEMPTED UNDERTAKINGS

The following proposed Undertakings have limited potential to affect historic properties and may be approved by the Responsible Entities under 24 C.F.R. Part 58 or HUD under 24 C.F.R. Part 50 without further consultation with the SHPO.

All Undertakings not identified under either (A) or (B) of this Stipulation must be reviewed in accordance with 36 C.F.R. Part 800.

A. General Exemption

1. Undertakings on existing residential or non-residential buildings, structures or facilities less than fifty years old, which may include demolition and rehabilitation, but not new construction. To qualify for this exemption, the property’s age or date of construction must be documented through written records (e.g., building permit, water permit, tax assessor, title records, fire insurance rate map, aerial photograph or other age-identifying record) and recent, clear, good quality photographic documentation.
2. Refinancing without demolition, rehabilitation or construction.
3. Leasing without demolition, rehabilitation or construction.
4. Acquisition of real property provided there is no reasonably foreseeable plan to rehabilitate, repair, improve or demolish the building(s).

B. Exempt Activities

The list of exempt activities applies to all Undertakings not otherwise made exempt under

Section I (A) “General Exemption.” For purposes of this Agreement, the term “in-kind replacement” is defined as installation of a new element that duplicates the material, dimensions, configuration and detailing of the original element.

1. Site Work

- a) Streets, driveways, alleys, and parking areas. Repair of existing concrete or asphalt surfaces and parking areas as long as they are not expanded.
- b) Curbs, gutters, sidewalks, retaining walls. Repair of existing concrete or asphalt surfaces or in-kind repair/replacement of brick, rock, or stone materials for curbs, gutters, sidewalks, and retaining walls.
- c) Site improvements. Repair or in-kind repair/replacement of site improvements, including, but not limited to fences, landscaping, and steps not attached to any building.
- d) Below Ground Utilities. Modifications to existing water, sewer, natural gas distribution, electric or telecommunication facilities where no new above-ground structures are involved and the ground at the site where such modifications will occur has been substantially disturbed, including previously disturbed utility corridors or road rights-of-way, not including brick streets.
- e) Above Ground Utilities. Repair or replacement of existing wires, anchors, crossarms, and other miscellaneous hardware on existing overhead lines; not including pole replacement or installation outside city limits. Water tower replacement is not exempt.
- f) Park and playground equipment. Installation, repair or replacement of park and playground equipment, excluding buildings.
- g) Temporary structures. Installation of temporary construction-related structures including scaffolding, barriers, screening, fences, protective walkways, signage, office trailers or restrooms.

2. Exterior Rehabilitation

- a) Foundations. Below-grade repair of brick or stone foundations that does not include applying weatherproofing or sealers, and repairs to all other types of foundation
- b) Windows and doors. Repair of windows and doors, including caulking and weather stripping of existing window or door frames, and installation of new single-glazed clear glass in existing sashes or doors, and replacement of glazing putty.
- c) 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 installation is consistent with National Park Service Preservation Briefs #3: *Conserving Energy in Historic Buildings* and #9: *The Repair of Historic Wooden Windows*.
- d) Walls and Siding. Repair of wall or siding material or in-kind replacement of brick, stone, or stucco materials and wood siding consistent with National Park Service Preservation Brief #47, *Maintaining the Exterior of Small and Medium Size Historic Buildings*.
- e) Painted surfaces.
 1. Removal of exterior paint by non-destructive means, limited to hand scraping, low pressure water wash (less than 200 p.s.i.), 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 Poisoning Prevention in Certain Residential Structures,” and National Park Service Preservation Briefs #10: *Exterior Paint Problems on Historic*

Woodwork, and #37: Appropriate Methods for Reducing Lead-Paint Hazards in Historic Housing.

2. All lead paint abatement that does not involve removal or alteration of exterior features and/or windows.
 3. Application of exterior paint and caulking, other than on previously unpainted masonry.
- f) Porch elements. Minor repair or in-kind replacement of deteriorated porch elements that match existing materials and dimensions, such as columns, flooring, floor joists, ceilings, railing, balusters and balustrades, and lattice, consistent with the provisions of National Park Service Preservation Brief #45: *Preserving Historic Wood Porches*.
 - g) Roofing. Repair or in-kind replacement of roof cladding and sheeting, flashing, gutters, soffits, and downspouts with no change in roof pitch or configuration.
 - h) Awnings. Repair or in-kind replacement of awnings.
 - i) Mechanical systems. Placement and installation of exterior HVAC mechanical units and vents not on the front elevation.
 - j) Basement bulkhead doors. Replacement or repair of basement bulkhead doors and installation of basement bulkhead doors not on the front elevation.
 - k) Lighting. Repair or in-kind replacement of existing light fixtures and installation of additional decorative or security lights.
 - l) Mothballing. Securing or mothballing a property by boarding over window and door openings, making temporary roof repairs, and/or ventilating the building.
 - m) Accessibility Ramps. Temporary ramps that do not irreversibly impact porches or railings.

3. Interior Rehabilitation

- a) Mechanical systems. Installation, replacement or repair of plumbing, HVAC systems and units, electrical wiring and fire protection systems, provided no structural alterations are involved. Included are restroom improvements for handicapped access, provided the work is contained within the existing restroom walls.
- b) Insulation. Installation of non-spray insulation in ceiling and attic spaces.
- c) Basement floor. Installation or repair of concrete basement floor in an existing basement.
- d) Asbestos abatement. Abatement or control of asbestos that does not involve removal or alteration of ornamental features (e.g., plaster molding, cornice, medallion).
- e) Surfaces. Repair or in-kind replacement of interior surface treatment, such as floors, walls, ceilings, plaster and woodwork. If covering historic features, such as 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.
- f) Painted surfaces.
 1. Removal of interior paint by non-destructive means, limited to hand scraping, 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 Poisoning Prevention in Certain Residential Structures," and National Park Service Preservation Brief #37: *Appropriate Methods for Reducing Lead-Paint Hazards in Historic Housing.*
 2. All lead paint abatement that does not involve removal or alteration of ornamental features.

II. DISCOVERIES AND UNFORESEEN EFFECTS

If, during the implementation of these programs, a previously unidentified property that may be found eligible for inclusion in the National Register is encountered, or a known National Register historic property may be affected in an unanticipated manner, the Responsible Entity or HUD, as appropriate under Part 58 or Part 50, will assume its responsibilities pursuant to 36 C.F.R. § 800.13(b).

III. DISPUTE RESOLUTION

At any time during the implementation of the measures stipulated in this Agreement, should an objection to any measure or manner of implementation be raised by a signatory, the Responsible Entity or HUD, as appropriate, which is responsible for the Undertaking, shall take the objection into account and consult with the objecting party and the SHPO to resolve the issue.

- A. The respective Responsible Entity or HUD, as appropriate under Part 58 or Part 50, shall represent themselves in all matters of dispute resolution that pertain specifically to this Agreement.
- B. The responsibilities of the signatories to carry out all other actions subject to the terms of this Agreement that are not the subject of the dispute remain unchanged.

IV. NOTIFICATION

Notification or other communication between parties to this Agreement should be made in care of the addresses provided in Exhibit B.

V. AMENDMENT

Any party may request that this Agreement be amended, whereupon HUD and the SHPO will consult with the other parties in accordance with 36 C.F.R. § 800.14(b) to consider an amendment. Amendments will only be considered if made in writing and must be approved in writing by all parties to this Agreement to go in effect.

VI. TERMINATION

Any party to this Agreement may terminate its participation by providing thirty (30) days written notice to all other parties. In the event of termination, the terminating party will comply with 36 C.F.R. §§ 800.3 through 800.6 with respect to individual Undertakings covered by this Agreement. Should a party to this Agreement, other than HUD or the SHPO, choose to terminate its participation in the Agreement, the Agreement will not be nullified for the other parties. Termination by HUD or the SHPO will nullify the Agreement upon all parties.

VII. TERM OF THE AGREEMENT

This Agreement shall continue in force and effect for five (5) 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 signatories may request that the SHPO extend the Agreement for five (5) additional years, provided the request is made in writing, that there are no substantive modifications, that HUD and the SHPO agree, and that any other signatory wishing to remain party to the Agreement also agrees. Should a party to this Agreement, other than HUD or the

SHPO, choose to not extend its participation in the Agreement, the Agreement will not be nullified for the other parties.

EXECUTION AND IMPLEMENTATION of this Agreement evidences that the Responsible Entities and HUD have satisfied their responsibilities under Section 106 for Undertakings as described in this Agreement and funded by the HUD Programs. This Agreement may be executed in counterpart.

KANSAS STATE HISTORIC PRESERVATION OFFICE

By: 

Date: July 12, 2022

Name: Patrick Zollner

Title: State Historic Preservation Officer

Signed:

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Digitally signed by: DANA BUCKNER

By:  Date: 2022.07.06 09:13:47 -05'00' Date: 7/6/2022

Name: Dana Buckner

Title: Director, Community Planning and Development

Signed:

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

By: Julie Miles Date: 6-27-22

Name: Julie Miles
Title: Director (Kansas City Hub), Office of Public Housing

Signed:

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

By: **KENNETH COOPER** Digitally signed by KENNETH COOPER
DN: CN = KENNETH COOPER C = US O = U.S. Government OU
= Department of Housing and Urban Development, Office of
Administration
Date: 2022.06.14 10:46:56 -0500 _____ Date: _____

Name: Kenneth Cooper

Title: Production Division Director, Southwest Region, Office of Housing

KANSAS STATE HISTORIC PRESERVATION OFFICE

By: _____ Date: _____

Name: Jennie Chin

Title: State Historic Preservation Officer



This document is now complete.

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KANSAS DEPARTMENT OF COMMERCE

By: David C. Toland Date: 7/5/2022

Name (Print): David C. Toland

Title: Secretary of Commerce



KANSAS HOUSING RESOURCE CORPORATION

By:  Date: June 14, 2022

Name (Print): **Ryan Vincent**

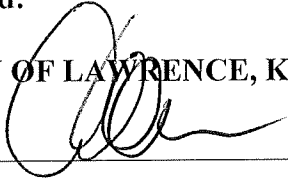
Title: **Executive Director**

The undersigned hereby executes this Counterpart Signature Page to the document titled "Programmatic Agreement Extension Among Certain Kansas Local Governments, the Kansas Department of Commerce, the Kansas Housing Resources Corporation, the U.S. Department of Housing and Urban Development, and the Kansas State Historic Preservation Office for the Review of HUD-Funded Activities" executed by HUD and the Kansas State Historic Preservation Office on or before July 12, 2022.

Signed:

CITY OF LAWRENCE, KANSAS

By: _____



Date: _____

6/29/22

Name (Print): Craig S. Owens

Title: City Manager

Signed:

CITY OF LEAVENWORTH, KANSAS

By: Camilla Leonhard

Date: 6/15/2022

Name (Print): Camilla Leonhard

Title: Mayor

Signed:

CITY OF MANHATTAN, KANSAS

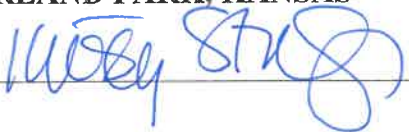
By: *Linda Morse* Date: 06/14/2022

Name (Print): Linda Morse

Title: Mayor

Signed:

CITY OF OVERLAND PARK, KANSAS

By:  Date: 6 27 22

Name (Print): KRISTY STALLINGS

Title: INTERIM CITY MANAGER

Signed:

CITY OF SHAWNEE, KANSAS

By:  _____ Date: 6-27-22

Name (Print): Michelle Distler

Title: Mayor

Signed:

CITY OF TOPEKA, KANSAS

By:  _____ Date: 6/14/2022

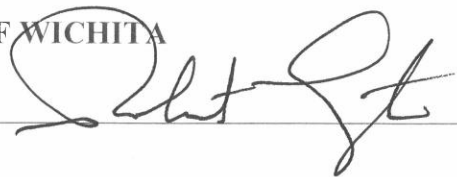
Name (Print): Corrie Wright

Title: Division Director

Singed:

CITY OF WICHITA

By: _____

A handwritten signature in black ink, appearing to read "Robert Layton", written over a horizontal line.

Date: 6-15-22

Name (Print): Robert Layton

Title: City Manager

Signed:

JOHNSON COUNTY, KANSAS

By: 

Date: 6/24/22

Name (Print): DAVID M. WARD

Title: Director of Housing Services

Signed:

UNIFIED GOVERNMENT OF WYANDOTTE COUNTY AND KANSAS CITY,
KANSAS

By:  Date: 6-23-22

Name (Print): TYRONE A. GARNER

Title: Mayor / CEO