

**FIRST AMENDMENT TO THE  
PROGRAMMATIC AGREEMENT  
BETWEEN  
THE UNITED STATES DEPARTMENT OF ENERGY,  
THE COLORADO GOVERNOR'S ENERGY OFFICE AND  
THE COLORADO STATE HISTORIC PRESERVATION OFFICE  
REGARDING EECBG, SEP AND WAP UNDERTAKINGS**

**WHEREAS**, on July 13, 2011 the United States Department of Energy ("DOE"), the Colorado Governor's Energy Office ("GEO") and the Colorado State Historic Preservation Office ("SHPO") entered into a "Prototype Programmatic Agreement" ("PA") in order to fulfill the requirements of Section 106 of the National Historic Preservation Act for certain DOE-funded Undertakings in Colorado; and

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**WHEREAS**, the SHPO has requested that the PA be amended primarily to modify the process by which DOE's EECBG, SEP and WAP Recipients (and their Subrecipients) work with qualified professionals and how those qualified professionals seek preliminary reviews of eligibility by the SHPO office; and

**WHEREAS**, the GEO has notified the other signatories that GEO's name has been changed by state law to Colorado Energy Office (CEO), effective as of July 1, 2012 and that the change is limited to a change in name such that all rights and responsibilities of the GEO are now the rights and responsibilities of the CEO.

**WHEREAS**, the signatories to the PA have found other provisions in need of clarification through an amendment to the PA; and

**WHEREAS**, Stipulation XIV 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 that the PA is hereby amended by:

- A) Changing all references to the Governor's Energy Office or the GEO to Colorado Energy Office or CEO;
- B) Deleting the term "Prototype" from the title of the PA;
- C) Inserting the following as Stipulation I (G):

G. The terms of this PA may be utilized by DOE Recipient's other than CEO that are located in Colorado and receive funding directly from DOE under EECBG, WAP or SEP (hereinafter "Direct Recipients") in order to achieve compliance with Section 106 to the same extent as CEO. In addition, any Subrecipients of Direct Recipients may utilize this PA to the same extent as the Subrecipients of CEO. When utilized by a Direct Recipient, any references to Recipient or CEO shall be construed to mean the Direct Recipient, with the exception of references to the signatory rights or

responsibilities of the CEO that are contained in Stipulations XIV (Amendments), XVI (Termination of Agreement), or XVII (SHPO Participation in [CEO] Workshops). When utilized by a Subrecipient of a Direct Recipient, any references to Subrecipients of CEO shall be construed to mean the Subrecipients of Direct Recipients, if any. Recipient and Direct Recipients remain responsible for ensuring that their Subrecipients, if any, comply with Section 106. No DOE Recipient (Recipient, Direct Recipients and their Subrecipients) may delegate Section 106 responsibilities to home contractors or homeowners.

D) Inserting the following after the first sentence in Stipulation I (D):

For the purposes of this PA the term “qualified professionals” means an individual or group of individuals who : (1) meet the Secretary of Interior Professional Qualification Standards for Archeology and Historic Preservation ([http://www.cr.nps.gov/local-law/arch\\_stnds\\_9.htm](http://www.cr.nps.gov/local-law/arch_stnds_9.htm)) ; (2) have at least a total of one year full time prior experience in, or primary responsibility for, Section 106 reviews or state/local historic preservation reviews; (3) are currently employed by, or have worked in historic preservation matters for, a designated certified local government; (4) have completed a formal training in the Section 106 review process conducted by the ACHP, SHPO or DOE; or (5) are listed as a historic preservation consultant or contract resource on the Directory of Cultural Resource Management Agencies, Consultants and Personnel for Colorado ([http://www.historycolorado.org/sites/default/files/files/OAHP/crforms\\_edumat/pdfs/1502.pdf](http://www.historycolorado.org/sites/default/files/files/OAHP/crforms_edumat/pdfs/1502.pdf)). Recipients or their Subrecipients may make arrangements to utilize qualified professionals in the manner that is most appropriate given the scope and nature of their particular program and projects, including hiring qualified professionals on a full-time, part-time, project-specific, employee or contractual basis.

E) Deleting Section (C) in its entirety from Stipulation III and replacing it with the following:

“(C) The Recipient or their Subrecipient will retain qualified professionals to act as its primary point of contact for Section 106 historic preservation matters and to assist Recipients and their Subrecipients in implementing their responsibilities under the PA throughout the Section 106 process (including, without limitation, initiating consultations, evaluating a property against the criteria of eligibility for the National Register, or evaluating the applicability of PA exemptions to particular projects).

If a qualified professional requires assistance in making a determination of eligibility of a property for inclusion on the National Register, then the qualified professional may submit a photograph of the property involved by email to [oa hp.isu@state.co.us](mailto:oa hp.isu@state.co.us) in order to receive the SHPO’s preliminary opinion on whether or not the property may be eligible for inclusion in the National Register. (Only a qualified professional may utilize this email process to gain SHPO’s preliminary opinion on eligibility). The qualified professional will also contact SHPO by telephone at (303) 866-2673 to inform SHPO that an email has been forwarded. SHPO will respond within ten business days of the email or telephone call, whichever is later, to the qualified professional. If SHPO responds that

the property does not have the potential to be eligible, Recipients, Subrecipients or their contractors may proceed with the project without additional consultation. If SHPO responds that the property may have the potential to be eligible, the Recipient or Subrecipient will follow the procedure set forth in Stipulation V (F) to reach a final determination of eligibility. If the property is determined, through the process described in Stipulation V (F), to be eligible for listing on the National Register, then the Recipient or Subrecipient will follow the remaining procedures in Stipulations IV, V, VI, VII, VIII, IX, X and XI. The Recipient and Subrecipient are responsible for ensuring that their contractors comply with the procedures of this PA.”

F) Adding the following to the end of Stipulation III (A):

Recipients and Subrecipients of any of the Programs may utilize either Appendix A or Appendix B in identifying exempt undertakings.

G) Amending Stipulation V(F) by deleting the following language:

“and referral to the Keeper of the National Register”

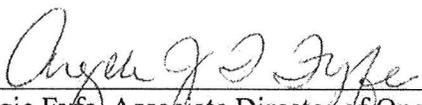
H) Deleting “XIII” from the second sentence in Stipulation III (A) and replacing it with “XIV.”

I) Adding the following to Appendix A-- WAP Undertakings Exempt from Section 106 Review:

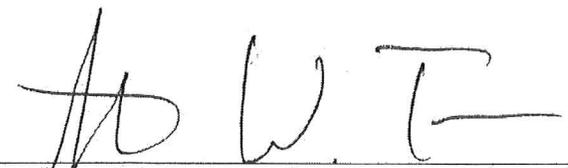
(C) Additional Miscellaneous Exempt Activities:

1. Replacement or installation of new storm windows where the finish on the new storm windows matches the finish of the existing windows in color.
2. Replacement of interior doors where the size of the openings are not altered.
3. Replacement or repair of door knobs and other door hardware.
4. Installation of furnace outdoor termination plates.
5. Installation of exterior furnace vents and caps.

Signatories:

  
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Angie Fyfe, Associate Director of Operations  
COLORADO ENERGY OFFICE (formally GOVERNOR'S ENERGY OFFICE)

*July 2, 2012*  
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Date

  
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Edward C. Nichols, State Historic Preservation Officer

*7/5/12*  
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Date



COLORADO STATE HISTORIC PRESERVATION OFFICE



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Anna Garcia, Acting Program Manager

7/26/12

Date

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

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