

**PROGRAMMATIC AGREEMENT  
AMONG  
KANSAS ENTITLEMENT COMMUNITIES  
THE KANSAS DEPARTMENT OF COMMERCE  
THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT  
THE KANSAS HOUSING RESOURCES CORPORATION  
THE U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
THE KANSAS STATE HISTORIC PRESERVATION OFFICE, AND  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
FOR  
THE ADMINISTRATION OF CERTAIN HUD-FUNDED ACTIVITIES**

**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 and/or entitlement funding to the State of Kansas and to entitlement communities in Kansas (collectively, State and Entitlement Communities); and

**WHEREAS**, HUD grant and/or entitlement programs to the State of Kansas are administered by the Kansas Department of Commerce, the Kansas Department of Health and Environment, and the Kansas Housing Resources Corporation; and

**WHEREAS**, the entitlement communities include the City of Lawrence, the City of Leavenworth, 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 communities as may in time become entitlement communities in the State of Kansas; and

**WHEREAS**, the State and Entitlement Communities, now, or may in the future, administer HUD grant and/or entitlement programs which include, but are not limited to, the following programs (HUD Programs):

- American Dream Downpayment Initiative Program
- Community Development Block Grant Program
- Emergency Shelter Grant Program
- HOME Investment Partnerships Program
- Housing Opportunities for People with AIDS Program
- Lead-Based Paint Hazard Control Grant Program
- Lead Hazard Reduction Demonstration Grant Program
- Neighborhood Initiative Program
- Shelter Plus Care Program
- Special Projects Appropriated Under an Appropriations Act for HUD
- Supportive Housing Program

**WHEREAS**, HUD regulations at 24 C.F.R. Part 58 implement statutory authorities that permit certain entities to assume HUD's environmental responsibilities for various HUD programs, and

included among the statutory authorities under which this responsibility is assumed is compliance with Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470f] (Section 106); and

**WHEREAS**, HUD also has responsibility under 24 C.F.R. Part 50 and related statutory authorities to review HUD programs and activities in the State of Kansas, including but not limited to the aforementioned HUD Programs, for compliance with Section 106; and

**WHEREAS**, the State and Entitlement Communities and HUD have determined that implementation of the HUD Programs may include activities, such as rehabilitation, demolition and new construction, that may have an effect on properties included in or eligible for inclusion in the National Register of Historic Places (Historic Properties); and

**WHEREAS**, the State and Entitlement Communities and HUD have determined that certain activities funded by the HUD Programs have limited potential to affect Historic Properties 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;

**NOW, THEREFORE**, the State and Entitlement Communities, 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 State and Entitlement Communities and HUD.

### STIPULATIONS

The State and Entitlement Communities and HUD will insure that the following measures are carried out.

#### I. EXEMPTED ACTIVITIES

The following proposed undertakings have limited potential to affect historic properties and may be approved by the State and Entitlement Communities and/or HUD without further consultation with the SHPO or Advisory Council on Historic Preservation.

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

- Projects on residential or non-residential buildings, structures or facilities less than fifty years old. Projects may include demolition and rehabilitation, but not construction.
- 2 Refinancing without demolition, rehabilitation or construction.  
Leasing without demolition, rehabilitation or construction.

## B. Exempt Activities

The list of exempt activities applies to all projects 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.

### Site Work

- a) Streets, driveways, alleys, and parking areas. Repair of existing concrete or asphalt surfaces or in-kind repair/replacement of brick, rock, or stone materials on streets, driveways, alleys, and parking areas.
- 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. Construction of new curbs, gutters and sidewalks provided that no removal or replacement of such items is required.
- 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) Utilities. Installation, repair or replacement of gas, sanitary and storm sewer, water, electrical, cable or other underground utilities within previously developed land and public right-of-ways located within city limits. In the event of unanticipated archeological discoveries, the SHPO shall be contacted immediately.
- e) Park and playground equipment. Installation, repair or replacement of park and playground equipment, excluding buildings.
- f) 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 and repairs to all other types of foundations.
- b) Windows and doors. Repair of windows and doors, including caulking and weather stripping of existing window or door frames, and installation of new clear glass in existing sashes or doors, including retrofitting for double and triple glazing, 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, and that the meeting rails of storm windows coincide with that of existing sash.
- d) Walls and Siding. Repair of wall or siding material or in-kind replacement brick, stone, or stucco materials and wood siding.
- 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," including § 35.140, "Prohibited methods of paint removal."

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. Repair or in-kind replacement of existing porch elements, such as columns, flooring, floor joists, ceilings, railing, balusters and balustrades, and lattice.
  - 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.

### 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) 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.
- c) Insulation. Installation of non-spray insulation in ceilings and attic spaces.
- d) Basement floor. Installation or repair of concrete basement floor in an existing basement.
- e) Lead paint and asbestos abatement. Abatement or control of lead-based paint, consistent with the provisions of 24 C.F.R. Part 35 ("Lead-Based Poisoning Prevention in Certain Residential Structures"), and/or asbestos abatement that does not involve removal or alteration of interior features.

## **II. DISCOVERIES AND UNFORESEEN EFFECTS**

If, during the implementation of these programs, a previously unidentified property that may be eligible for inclusion in the National Register is encountered, or a known National Register historic property may be affected in an unanticipated manner, the Entitlement Community, State Agency, or HUD will assume its responsibilities pursuant to 36 C.F.R. Part 800.13(b).

## **III. NOTIFICATION**

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

## **IV. 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. Part 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.

## **V. 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 800.7 with respect to individual undertakings covered by this agreement. Should a party to this agreement, other than HUD, the SHPO or Council, choose to terminate its participation in the agreement, the agreement will not be nullified for the other parties. Termination by HUD, the SHPO or Council will nullify the agreement upon all parties.

## **VI. TERM OF THE AGREEMENT**

Following signature by HUD and the SHPO, this Agreement will be binding on a party upon the date of its signature and shall be in force until December 31, 2010.

**EXECUTION AND IMPLEMENTATION** of this Agreement evidences that the State and Entitlement Communities 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.

Signed:



**EXHIBIT A**

**MAILING ADDRESSES OF SIGNATORIES**

**U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT:**

U.S. Dept. Housing & Urban Development  
Great Plains – Region VII  
400 State Avenue, Room 500  
Kansas City, Kansas 66101-2406

**KANSAS STATE HISTORIC PRESERVATION OFFICER:**

Kansas State Historical Society  
6425 Southwest 6th Avenue  
Topeka, KS 66615-1099

**ADVISORY COUNCIL ON HISTORIC PRESERVATION:**

Advisory Council on Historic Preservation  
1100 Pennsylvania Avenue NW, Suite 809  
Washington, DC 20004

**KANSAS DEPARTMENT OF COMMERCE:**

Kansas Department of Commerce  
1000 SW Jackson Street, Suite 100  
Topeka, Kansas 66612-1354

**KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT:**

Kansas Dept Health & Environment  
1000 SW Jackson, Suite 200  
Topeka, KS 66612

**KANSAS HOUSING RESOURCES CORPORATION**

Kansas Housing Resource Corp  
611 S Kansas Avenue, Suite 300  
Topeka, KS 66603-3803

**CITY OF LAWRENCE:**

Department of Neighborhood Resources  
6 East 6th Street  
Lawrence, KS 66044-2268

**CITY OF LEAVENWORTH:**

Planning and Community Development Dept  
100 North 5th Street  
Leavenworth, KS 66048-1970

**CITY OF OVERLAND PARK:**

Planning and Development Services  
8500 Santa Fe Drive  
Overland Park, KS 66212

**CITY OF SHAWNEE:**

Planning Department  
11110 Johnson Drive  
Shawnee, KS 66203

**CITY OF TOPEKA:**

Department of Housing and Neighborhood Development  
707 SE Quincy Street  
Third Floor  
Topeka, KS 66603-3920

**CITY OF WICHITA:**

Department of Finance  
455 North Main Street  
City Hall, 12th Floor  
Wichita, KS 67202

**JOHNSON COUNTY:**

Department of Community Development  
111 South Cherry Street  
Suite 2300  
Olathe, KS 66061-3441

**UNIFIED GOVERNMENT OF WYANDOTTE COUNTY AND KANSAS CITY:**

Community Development Department  
701 North 7th Street  
Kansas City, KS 66101

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U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

By: *Marie D. Houston* Date: *2/25/05*

Title: Regional Director

KANSAS STATE HISTORIC PRESERVATION OFFICER

By: *James Chen* Date: *3/7/05*

Title: State Historic Preservation Officer

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: *John M. Stule* Date: *1/29/05*

Title: EXECUTIVE DIRECTOR

KANSAS DEPARTMENT OF COMMERCE

By: Edward T. Fube

Date: 4-5-05

Title: Secretary

**KANSAS HOUSING RESOURCES CORPORATION**

By: Norma Phillips Date: 4/6/05

Title: Executive Vice President




CITY OF LAWRENCE, KANSAS

By: Mike Hildgen Date: 3.31.05

Title: City Manager

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CITY OF LEAVENWORTH, KANSAS

By: JOHN P. KEMFBERG, 

Date: 03-29-2005

Title: COMMUNITY DEVELOPMENT DIRECTOR  
HISTORIC PRESERVATION OFFICER

CITY OF OVERLAND PARK, KANSAS

By: *[Signature]*

Date: 4-7-05

Title: Mayor

APPROVED AS TO FORM:

*[Signature]*

J. Bart Bussett  
Assistant City Attorney



CITY OF SHAWNEE, KANSAS

By: *Jeff Mayers*

Date: 3/29/05

Title: Mayor

CITY OF TOPEKA, KANSAS

By: \_\_\_\_\_

*James A. McClinton*  
James A. McClinton, Mayor

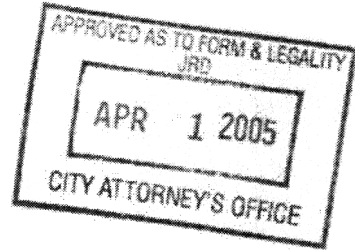
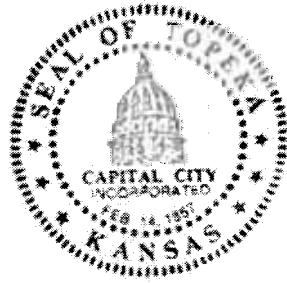
Date: \_\_\_\_\_

*4/1/05*

Title \_\_\_\_\_

ATTEST:

*Brinda Younger*  
Deputy  
CITY CLERK



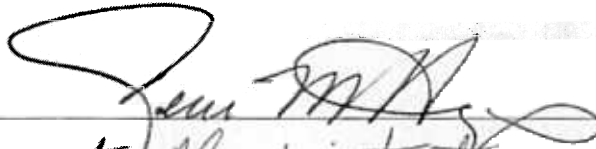
JOHNSON COUNTY, KANSAS

By: Michael Bress

Date: 4/4/05

Title: COUNTY MANAGER

**UNIFIED GOVERNMENT OF WYANDOTTE COUNTY AND KANSAS CITY,  
KANSAS**

By:  Date: 12 July 05  
Title: County Administrator