



WELD COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

PROGRAMMATIC AGREEMENT

BY AND BETWEEN:

WELD COUNTY, COLORADO

THE

TOWN OF ERIE, COLORADO

AND THE

COLORADO STATE HISTORIC PRESERVATION OFFICER

Regarding the Administration of
U.S. Department of Housing & Urban Development Programs

February 2025

Programmatic Agreement by and between
The County of Weld, Colorado
The Town of Erie, Colorado
and
The Colorado State Historic Preservation Officer
Regarding the Administration of
U.S. Department of Housing & Urban Development Programs

This Programmatic Agreement {"Agreement"} is made this ___day of ____, 2024, by and among the County of Weld, Colorado ("County"), the Town of Erie, Colorado ("Town"), and the Colorado State Historic Preservation Officer {"SHPO"}.

WHEREAS, the U.S Department of Housing and Urban Development ("HUD") provides formula grant funding to cities and counties in Colorado and to the State of Colorado; and

WHEREAS, the County is an Entitlement Community and receives funding from the HUD's programs and the Town is a sub-recipient; and

WHEREAS, due to its acceptance of federal environmental review responsibility, in accordance with Section 104(g) of the Housing and Community Development Act of 1974 1(42 U.S.C. 5304(g)], the County has assumed federal agency responsibility for compliance with Section 106 of the National Historic Preservation Act of 1966, as amended 1(54 U.S.C. 100101 et seq.) (Section 106)]; and

WHEREAS, the County now, or in the future, administers HUD grant programs which include but are not limited to, the following program ("HUD Programs"): Community Development Block Grant ("CDBG").

WHEREAS, the County and the Town has determined implementation of the HUD Programs may include housing activities such as minor rehabilitation (multiple undertakings), energy efficiency retrofits, weatherization, emergency home repairs, demolition and new construction, which may have an effect on properties included in or eligible for inclusion in the National Register of Historic Places ("Historic Properties"); and

WHEREAS, the County has determined that certain activities funded by the HUD Programs have limited potential to affect Historic Properties and have consulted with the SHPO and the Advisory Council on Historic Preservation (ACHP) pursuant to 36 C.F.R. 800.14 of the regulations implementing Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f); and

WHEREAS, the County acknowledges the importance of compliance with 36 C.F.R. Part 800 regarding mandatory consulting and has implemented policies and procedure. regarding such consultation with the SHPO; and

WHEREAS, pursuant to 36 C.F.R. 800.14(b) the County notified the ACHP of its intentions to enter into a programmatic agreement and submit this Agreement for review and consultation. The ACHP responded on December 2, 2024 that they did not believe their participation in the Section 106 process for this Programmatic Agreement was needed; and

WHEREAS, pursuant to 36 C.F.R. 800.14(b) on October 22, 2024, the County consulted with the appropriate Tribal contacts regarding this Agreement. A thirty (30) day comment period was given for any comments regarding the Agreement. The County received comments. The County shall consult with Indian Tribes that attach traditional religious and cultural significance to historic properties that may be affected by the County and the Town undertakings. The County recognizes the unique legal and political relationship the United States Government has with federally recognized

Indian Tribes, including government-to-government relationships, and consultation responsibilities as set forth in 36 C.F.R. Part 800, et al.

WHEREAS, the County has invited the appropriate Tribal contacts to participate in this Agreement and the Cheyenne and Arapaho Tribes of Oklahoma, has requested to participate as a Consulting Party.

NOW, THEREFORE, the County, the Town, and the SHPO agree that HUD Programs shall be administered in accordance with the following stipulations to satisfy the Section 106 responsibilities of the County, Town, and HUD.

STIPULATIONS

EXEMPTED AND NON-EXEMPTED ACTIVITIES

A. Exempted Activities Not Requiring Review

The following proposed undertakings have limited potential to affect historic properties and may be approved by the County and/or HUD without further consultation with the SHPO, Indian Tribes, or the ACHP.

Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the repairs will be in-kind. The term "in-kind" is hereby defined as matching the existing in design, color, texture and, where possible, materials in accordance with the Secretary of the Interior's Standards for Rehabilitation.

Should unidentified historic properties or unanticipated effects to historic properties be discovered in the course of the undertaking, work must be interrupted in order to complete consultation with Colorado State Historic Preservation Office and other consulting parties pursuant to 36 CFR 800.13. Also, should the consulted-upon scope of the work change, Colorado State Historic Preservation Office will be contacted for continued consultation under Section 106 of the National Historic Preservation Act.

1. General

- a. Projects on buildings less than fifty (50) years old;
- b. Projects on buildings fifty years or older but that have been

determined by the SHPO within the past five years (as of the date listed above) as not eligible for the National Register of Historic Places;

- c. Projects not affecting the exterior of a building or site work located in listed or determined National Register-eligible historic districts will follow consultation stipulated 36 CFR 800
- d. Refinancing; or
- e. Leasing without rehabilitation or construction

2. Site Work

- a. Installation or in-kind repair of retaining walls, driveways, curbs and gutters, and parking areas. However, repair of **existing** rock retaining walls is not an exempt undertaking.
- b. Installation or in-kind repair/replacement of brick or stone sidewalks and alleys.
- c. In-kind repair/replacement of site improvements, including but not limited to, fences, retaining walls, landscaping and steps not attached to any building.
- d. Installation, repair or replacement of gas, sanitary and storm sewer, water, electrical, cable or underground utilities within previously developed land and public right-of-way.
- e. Installation, repair or replacement of park and playground equipment, excluding buildings.
- f. Installation of temporary construction-related structures such as scaffolding, screening, fences, protective walkways, or dust hazard containment enclosures.
- g. Installation or repair of streets, curb, gutter, and sidewalks within public right-of-way.
- h. Shallow ground disturbance of previously disturbed soil to a depth of twelve (12) inches or less, over one (1) acre or less (i.e. landscaping).
- i. Removal and disposal of superficial on-site abandoned debris and personal property less than fifty(50) years old.
- j. Site dean-up including trimming trees or other plantings and

planting native grasses, shrubs, bushes, and trees, provided such activity does not change the characteristic size or shape of the tree(s) or planting(s), and replacement of dead trees or other plantings with in-kind species.

- k. Projects involving underground utilities installed by plow on, or immediately parallel to, the previously disturbed road or highway right-of-way where the cable, pipe or line will:
 - I. Be on or within five (5) feet of the edge of the right-of-way;
 - II. Be in cultivated land, or in open areas where no tree clearing is needed; and
 - III. Not affect wetlands, rock outcroppings or human constructions such as stone walls.
- l. Placement of transformers, utility pedestals, or water meters immediately adjacent to installed utility lines.
- m. Decommissioning, plugging and infilling abandoned wells, shafts, and basements when the backfilling does not remove or destroy supporting walls or character defining elements. The feature should be filled but not obliterated. Structural characteristics such as well houses and support walls should be preserved.
- n. Temporary installation of water, sewer or gas lines on the surface of the ground.
- o. Construction of new ancillary facilities adjacent or appurtenant to existing above-ground facilities constructed for replacement of water wells.
- p. Repair or reconstruction of above-ground water storage facilities not involving modification in height or new ground disturbance for the installation of footings or foundation pad
- q. Test Holes and Wells - soil borings and associated tests or drilling exploratory test wells that do not require a temporary or permanent new access road to a site and would not occur on previously undisturbed soils.
- r. In-kind repair or replacement of hardscaping such as paving, driveways, parking lots, walkways, planters, trellises, irrigation systems, and lighting following the existing or historic

configuration and with in-kind material.

- s. In-kind repair or replacement of fencing and other freestanding exterior walls not 50 years old or older.
- t. Resurfacing of recreational facilities (e.g. tennis courts, basketball courts or street hockey arenas).
- u. Upgrading existing telecommunications towers where no height increases are proposed and where the same or substantially equivalent support structure will be utilized at the existing tower location.
- v. Repair or replacement of existing wires, anchors, cross-arms, and other miscellaneous hardware on existing overhead lines, and of existing poles when conducted at or immediately adjacent to the old pole locations.
- w. Relocation of existing overhead lines or cables resulting from highway reconstruction or improvement adjacent to the new highway easement.
- x. Repair or replacement of subsurface water, sewer, natural gas, electric or telecommunications lines within previously road right-of-way or utility corridors. However, this does not include water and sewer lines over 50 years old.
- y. Modifications to existing water, sewer, natural gas distribution, electric or telecommunication facilities where no new above-ground structures are involved and the area where such modifications will occur has been substantially disturbed. However, this does not include water and sewer lines over 50 years old.
- z. Repair of existing mechanical or electrical systems if no alterations of character defining features are required in the work plan and the work follows existing pathways. Installation of mechanical equipment which does not affect the exterior of the building or the required installation on new duct work through the interior. Plumbing work limited to upgrading or in-kind replacement. In the case of new plumbing, work shall be situated within existing stud and joist cavities.

3. Exterior Rehabilitation

- a. Installation of exterior storm windows and storm doors, provided they conform to the shape and size of the historic windows and doors, and the meeting rails of storm windows coincide with that of the existing sash.
- b. Removal of exterior paint by non-destructive means, provided the removal method on buildings and components is consistent with the provisions of the HUD Office of Healthy Homes and Lead Hazard Control (24 CFR Part 35) and the Environmental Protection Agency (EPA) Lead- Based Paint Renovation, Repair and Painting Program- RRP (40 CFR Part 745).
- c. Application of exterior paint and caulking other than on previously unpainted masonry.
- d. All lead-based paint abatement or mitigation not involving the removal or alteration of exterior features and/or windows.
- e. Repair or partial in-kind replacement (or adding of matching, in-kind elements for safety/code requirements) of existing porch elements such as columns, flooring, floor joists, ceilings, railings, balusters and balustrades, and lattice.
- f. Maintenance, repair, strengthening, and in-kind replacement to code of roofing shingles, roof cladding and sheeting, gutters, downspouts, and soffits with no change in roof pitch or configuration.
- g. Weatherizing of historic doors and windows, including caulking, insulation and weather stripping of existing frames, and installation of clear glass in historic sashes.
- h. Placement and installation of exterior HVAC mechanical units, vents, and exterior electrical and plumbing modifications not on the front elevation of the building.
- i. Installation, replacement or repair of basement bulkhead door
- j. Installation of additional decorative or security lights, or other security fixtures (e.g. sensors, alarms) as long as the installation does not damage historic material.
- k. Securing or mothballing a property by boarding over window

and door openings, making temporary roof repairs and/or ventilating the building.¹

- l. Testing for removal of any hazardous materials, such as lead paint and asbestos, provided it does not involve the removal or destruction of character-defining features.
- m. Construction of temporary wooden ramps to one entrance of a given structure. The ramps shall not be attached to the selected building; and the ramps shall not damage the existing material.
- n. Installation of wheelchair ramps on secondary elevations meeting code as long as the ramps can be easily removed and are not permanently affixed to the building. Stairs and railings may not be removed to construct a ramp.
- o. Installation of accessibility tools such as railings and grab bars as long as they can be easily removed and are not permanently affixed to the building.
- p. Strengthening of foundations and the addition of foundation bolts, provided the visible new work is in-kind.
- q. Power washing of exterior features if performed at no more than 600 psi with mild detergent. Refer to national Park Service (NPS) "Preservation Brief #6: Dangers of Abrasive Cleaning to Historic Buildings".
- r. Installation of ridge vents or louver type soffit vents provided existing styles, dimensions, materials, colors and sheens are maintained.
- s. Fascia/soffit repair or replacements when the new fascia/soffit will be of the same dimensions, configuration, design and material as the original.
- t. In-kind repair or reconstruction of concrete/masonry walls, parapets, fireplaces, chimneys or cornices including comparable brick and mortar that matches the color, strength, content, rake and joint width. Bracing and reinforcing of chimneys and fireplaces, provided the bracing and reinforcing are either

¹ See the National Park publication "*Preservation Brief 31: Mothballing Historic Buildings*" by Sharon C. Park, AIA September 1993, ISSN: 0885-7016.

concealed from exterior view or removable in the future.

- u. In-kind repair or partial in-kind replacement of porches, cornices, exterior siding, doors, balustrades, stairs, or other trim when the repair and replacement is done to closely match existing material and design.
- v. In-kind repair or historic door and window hardware.
- w. Installation of wood storm windows and doors that match the dimensions and arrangement of the lines of the primary sashes and/or doors.
- x. Installation of security devices such as dead bolts, door locks, window latches and door peepholes.
- y. Repair of existing, deteriorated materials with sound material of like species, grade, dimension, composition, and finish in a manner which duplicates the existing design of the deteriorated feature.
- z. Repainting painted surfaces with chemically compatible paint in the historic colors.

4. Interior Rehabilitation

- a. Installation of exterior storm windows and storm doors, provided they conform to the shape and size of the historic windows and doors, and the meeting rails of storm windows coincide with that of the existing sash.
- b. Installation, replacement, upgrade or repair of plumbing (including non-historic bath and kitchen fixtures, cabinetry and appliances), HVAC systems and units, electrical and fire protection systems, provided no structural alterations are involved.
- c. Repair or partial in-kind replacement of historical Interior surface treatment such as floors, walls, ceilings, plaster, and woodwork. If covering historic features, such as wood floors, carpet and other flooring shall be installed in a reversible manner (i.e., tacking or with an underlayment so that historic floors shall not be irreversibly damaged).
- d. Blown in installation in ceilings, walls, and attic spaces, or

interior insulation of basement or crawlspace areas.

- e. Restroom/bathroom improvements for accessibility, including doorways, provided the work is contained within the existing restroom/bathroom walls.
- f. Installation or repair of concrete basement floor in an existing basement.
- g. Structural repairs to sustain the existing structure that does not alter the existing building configuration.
- h. Lead, asbestos, **or** other hazardous material abatement, remediation or mitigation that does not involve removal or alteration of interior historic features.
- i. Widening of existing interior doorways for accessibility.
- j. Correcting structural deficiencies in basements, crawl spaces, and beneath porches and decks.
- k. Interior lead-based paint abatement when it is limited to washing, scraping and repainting, wallpapering and chemical stripping of lead-painted surfaces. The installation of new window jambs or jamb liners, installation of metal panning in window wells and the replacement of non-significant flat stock trim. Exterior lead-based paint abatement which includes scraping and repainting of exterior wood and masonry surfaces.
- l. Installation of grab bars and other minor interior modifications for disabled accessibility.
- m. Replacement of in-kind insulation systems, provided that decorative Interior plaster, woodwork, or exterior siding is not altered. Installation of insulation in the attic, basement, crawl space, under floor, in walls, and around pipes and ducts in such cases where the installation can be accomplished without permanent visual changes to the character defining features of the exterior or interior. Refer to NPS "Preservation Bulletin #3: Conserving Energy in Historic Buildings".
- n. Repairing, replacing, retaining, preserving, protecting, or maintaining the in-kind materials or features of historic

interior floors, walls, ceilings, stairs, plaster and wallboard; floor refinishing and the replacement of non-historic flooring materials.

- o. Repairing and retaining non-significant interior historic trim including moldings, doors, baseboards, chair rails, wainscoting, paneling, cornice trim, fireplace mantels, stair balusters, newel posts, window and door casings and other decorative features or replacement of non-significant flat stock trim.
- p. Repair, replacement and installation of the following systems, provided such work does not affect the exterior of the building or require the installation of new ducts throughout the interior: electrical work, plumbing pipes and fixtures; HVAC system improvements; installation of fire and smoke detectors; fire suppression (i.e., security alarm systems, ventilation systems, furnaces and water heaters); and bathroom improvements where work is contained within the existing building.

5. Loan Making and Servicing Activities.

- a. The legal transfer of ownership between private parties through acquisition, sale, transfer, and/or assumption of an existing property where no physical improvements or change in use is proposed or is reasonably foreseeable.
- b. Technical assistance or predevelopment grants provided the services will not result in an adverse effect on a property listed in, or eligible for, listing to the National Register of Historic Places. These grants are typically used for planning, feasibility studies, engineering studies, environmental reviews, managing and other service types of assistance. These programs involve no construction or real property acquisition.
- c. Intermediary relending programs to intermediary lenders.
- d. Loans or grants not involving any construction. These types of activities include loans and grants for equipment, working capital, debt restructure, emergency vehicles, motor vehicles and/or servicing activities.

- e. Project management activities relating to invitations for bids and contract awards.
- f. Project management of construction activities.
- g. Additional financial assistance that does not alter the purpose, operation, location or design of an approved project.

B. Non-Exempted Activities Requiring Review

All activities not identified in STIPULATIONS - Section A of this Agreement must be reviewed in accordance with 36 CFR Part 800.

C. Resolution of Adverse Effects

Unless an undertaking is set forth in Section A of the Agreement, the Town shall consult with the SHPO to evaluate alternatives, or modifications to the undertaking that could avoid, minimize or mitigate adverse effects on historic properties pursuant to 36 CFR 800.6(a). The Town shall also consult Indian Tribes that attach traditional religions and cultural significance to historic properties that may be affected by the undertakings. When to notify Indian Tribes that may be affected by the undertakings include demolition and new construction that increases acreage, projects with land that has remained undisturbed or undeveloped, site works in undisturbed areas around project areas, and lastly for areas that were not previously reviewed for cultural resources even though they were previously developed but have a large project APE. Off-site staging and equipment areas should not be located on undeveloped ground when at all possible.

D. Annual Report

By January 31st of each year under this agreement, the County will file a report on projects completed in the previous year to the SHPO that will include project addresses, year built, nature of the work and referencing the appropriate exempted activity as detailed in STIPULATIONS – Section A of this agreement.

DISCOVERIES AND UNFORSEEN EVENTS

If during the implementation of the programs, a previously unidentified property that may be eligible for the National Register is encountered, or a known National Register historic property may be affected in an unanticipated manner, the County will assume responsibilities pursuant to 36 CFR 800.13 (b).

AMENDMENTS

Any party may request to amend this agreement, whereupon the County will consult with the other interested parties in accordance with 36 CFR 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 into effect.

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 CFR Part 800.3 through 800.7 with respect to individual undertakings covered by the Agreement. This Agreement will be binding on all parties upon the date of its signature and shall be in force for a term of five (5) years thereafter, unless the parties agree to extend in accordance to the AMENDMENTS section above.

NOTIFICATION

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

EXECUTION AND IMPLEMENTATION

This Agreement evidences the County and the SHPO have satisfied their responsibilities under Sec 106 for undertakings funded by the HUD programs. This Agreement may be executed in counterpart.

Signed:

COLORADO STATE HISTORIC PRESERVATION OFFICE

By: _____

Date: _____

Printed Name and Title:

COUNTY OF WELD, COLORADO

BY: _____
Perry L. Buck, Chair, Board of County Commissioners

Date: _____

ATTEST: Weld County Clerk to the Board

BY: _____
Deputy Clerk to the Board

Date : _____

TOWN OF ERIE, COLORADO

BY: _____
Andrew Moore, Mayor

Date: _____

ATTEST:

BY: _____
Debbie Stamp, Clerk

Date: _____