

**MEMORANDUM OF AGREEMENT  
BETWEEN  
THE NORTH DAKOTA STATE HISTORIC PRESERVATION OFFICER  
AND  
THE CITY OF MINOT  
REGARDING  
HOME SWEET HOME (103 4<sup>TH</sup> AVENUE NE)  
LOCATED WITHIN THE MINOT INDUSTRIAL HISTORIC DISTRICT**

MAY 2017

**WHEREAS**, the City of Minot (City), North Dakota was included in the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant Disaster Recovery (CDBG-DR) Program in 2011 and 2012. In accordance with the use of CDBG-DR funds, the City is the Responsible Entity (RE) for completing federally required environmental reviews per 24 CFR Part 58 (*Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities*). An RE is the “agency official” for the purposes of Section 106, and as such is the signatory for Section 106 agreements.

**WHEREAS**, the City Buyout Program was developed as part of the CDBG-DR Program for the purpose of buying properties located within the Flood Inundation Area, delineated by the City as the area where the heaviest flooding and damage occurred during the June 2011 severe flooding event. Such properties include single-family residences, multi-family residences, mobile homes, mobile home pads, religious establishments and commercial establishments. Once the lot is bought by the City, all existing structures will be removed and the parcel would remain as open space or be used for flood control measures, specifically a flood levee, flood wall or diversion.

**WHEREAS**, the City determined that the Buyout Program would be reviewed in a tiered environmental assessment, in accordance with 24 CFR 58.15 (Tiering) and 24 CFR 58.32 (Project Aggregation). The Broad Review (Tier 1) was completed and HUD authorized release of funds on December 13, 2013, under Grant Number B-13-MS-38-0001 (allocated May 19, 2013 under the Disaster Relief Appropriations Act, 2013 [Public Law 113-2]). Site-specific reviews (Tier 2) are ongoing.

**WHEREAS**, the commercial establishment, Home Sweet Home (103 4<sup>th</sup> Avenue NE), is proposed to be included in the City of Minot Buyout Program.

**WHEREAS**, the State Historic Preservation Office (SHPO) concluded that the acquisition and demolition of the structure located at this site (ND SHPO Ref: 14-5774) would be considered an “Adverse Effect.”

**WHEREAS**, the City has notified the Advisory Council on Historic Preservation (Advisory Council) of the adverse effect determination pursuant to §800.6(a)(1). The Advisory Council has 15 days to comment on the resolution of adverse effect; and

**NOW THEREFORE**, the City and SHPO agree that the parcel housing Home Sweet Home may be acquired by the City, but the following stipulations must occur so as to appropriately mitigate the Adverse Effect determination:

## STIPULATIONS

The City of Minot shall ensure that the following measures are carried out.

### I. MITIGATION

- A. Moving the subject property (inclusive of the main structure, addition and accessory building) to a suitable and appropriate location would constitute acceptable mitigation.
  - a. A suitable location is defined as: Having an orientation, setting and general environment that is compatible with the property's significance.
  - b. Such a location must meet the requirements set forth in the *National Register Bulletin: How to Apply the National Register Criteria for Evaluation*, [www.nps.gov/nr/publications/bulletins/pdfs/nrb15.pdf](http://www.nps.gov/nr/publications/bulletins/pdfs/nrb15.pdf).
- B. The basement of the existing structure would need to be filled with clean fill.
- C. A functional basement shall be constructed on the new location.
- D. SHPO shall review the potential new site prior to finalization. The address, description (including size and setting) and description of the new site's immediate vicinity shall be included in the submittal, as well as aerial imagery.
- E. All documentation shall be submitted to the Archaeology and Historic Preservation Division of the State Historical Society of North Dakota (SHPO), who shall review and approve all documentation.
- F. SHPO shall be afforded a period of no less than 30 days to review each portion of the documentation. The City will not proceed with any work until SHPO has determined mitigation complete and has issued written notice to proceed or otherwise directed.

### II. AMENDMENT

- A. Any signatory to this MOA may request that it be amended, whereupon the signatories to the MOA shall consider such an amendment. The MOA may only be amended by the written agreement of the signatories.

### III. TERMINATION

- A. This MOA will terminate upon written notification by SHPO to the City that the mitigation requirements in Stipulation I has been satisfied.

Execution of this MOA by SHPO and the City, its filing with the Advisory Council, and satisfaction of its terms evidence that the City has taken into account the effects of the undertaking on historic properties pursuant to Section 106 of the National Historic Preservation Act. This document may be executed in counterpart.

BY: \_\_\_\_\_  
Chuck Barney  
Mayor, City of Minot

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Claudia J. Berg  
North Dakota State Historic Preservation Officer

DATE: \_\_\_\_\_