



MEMORANDUM OF AGREEMENT
REGARDING THE DEMOLITION OF IMPROVEMENTS
MONTANA-DAKOTA UTILITIES BUILDING, SITE 24YL1686, BILLINGS, MONTANA
SUBMITTED TO THE MONTANA STATE HISTORIC PRESERVATION OFFICER
PURSUANT TO 36 CFR § 800.6(a)

WHEREAS, the General Services Administration (GSA) proposes the construction of a new the U.S. Courthouse facility, including without limitation, the demolition and disposal of all existing improvements (Improvements), on the parcel of land at 2600 Second Avenue North in Billings, Montana (Undertaking); and

WHEREAS, GSA and Montana State Historic Preservation Officer (SHPO) have consulted about the Undertaking pursuant to 36 CFR Part 800 and regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470(f)); and

WHEREAS, the SHPO and GSA believe the Improvements on this site, specifically the Montana-Dakota Utilities Building (MDU) (as identified in Montana Historic Property Record), is eligible for listing on the National Register of Historic Places; and

WHEREAS, GSA and SHPO agree that the Undertaking may result in an adverse effect to the Historic Property and that there is no other effect on historic resources due to the Undertaking; and

WHEREAS, in accordance with 36 CFR Section 800.6(a)(1), GSA has notified the Advisory Council on Historic Preservation (Council) of its adverse effect determination concerning the MDU Building and, pursuant to 36 CFR Section 800.6(a)(1)(iii), the Council advised GSA by letter dated July 23, 2009 that it will not participate in the consultation; and

WHEREAS, GSA desires to ensure that the effects of the Undertaking will be mitigated in a manner beneficial to the public as defined below.

NOW THEREFORE, GSA and the SHPO agree that the Undertaking shall be implemented as defined below in order to take into account and mitigate the effects of the Undertaking on the Historic Property.

STIPULATIONS:

1. GSA will ensure that the following measures are accomplished:

A. GSA shall ensure delivery of historic documentation of the Historic Structures to the SHPO. Guidance for said documentation has been provided through consultation with the SHPO, will be of the HABS/HAER style, and shall include (i) at least 20 black and white photographs, developed on archival paper using archival quality ink, of each elevation, significant interior spaces and details, labeled and presented in protective archive-quality sleeves; (ii) an archival

CD of the same digital photos; and (iii) as-built drawings on Mylar of each elevation and floor, labeled accordingly.

B. GSA will require that one copy each of all documents resulting from the recordation be provided to HABS/HAER office of the National Park Service, Yellowstone Historic Preservation Board, and the SHPO.

C. GSA or its designated contractor shall work with the Yellowstone Historic Preservation Board to create, and ensure delivery of, a portable Downtown through the Decades exhibit of the MDU Building.

D. GSA shall salvage building material resulting from the demolition of the MDU Building in Billings, MT. Materials to be salvaged shall be limited to: brass hand rail caps, wood hand rails, glass block, birch kitchen cabinets, metal kitchen cabinets, and exterior stone cladding. Salvaged material shall be reused in the new building, donated to the Yellowstone Art Museum, or sold at public auction. MT SHPO shall not be held responsible for the act of or costs associated with material removal, staging of material removal, storage of materials, personal injuries or damage to property associated with this work, or permits for work.

E. If either firm is not able to remove materials from the MDU Building site, the responsibility to do so shall become that of the MDU Building's owner.

2. This Memorandum of Agreement is subject to applicable laws and regulations. Fulfillment of this Memorandum of Agreement by GSA is subject, pursuant to the Anti-Deficiency Act, 31 U.S.C. §§ 1341 et seq., to the availability of funds. This Memorandum of Agreement is not an obligation of funds in advance of an appropriation of such funds, and it does not constitute authority for the expenditure of funds. If GSA does not have sufficient funds available to fulfill the stipulations of this Memorandum of Agreement, GSA shall so notify the SHPO and shall take such actions as are necessary to comply with all requirements of 36 CFR Part 800. Nothing in this Memorandum of Agreement shall be deemed to authorize an expenditure of funds in violation of the Anti-Deficiency Act, 31 U.S.C. §§ 1341 et seq.

3. Execution of this Memorandum of Agreement by GSA and SHPO and implementation of its terms evidence that GSA has fully complied with 36 CFR Part 800 and Section 106 of the National Historic Preservation Act by affording the SHPO an opportunity to comment on the Undertaking and its potential effects on the Historic Structures, and by taking into account and appropriately addressing such effects on the Historic Structures through the provisions of this Memorandum of Agreement. No other actions by GSA are required with regard to the Undertaking.

U.S. GENERAL SERVICES ADMINISTRATION

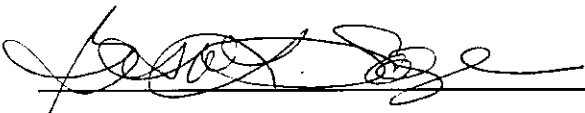
By: 
Scott Conner
Acting Assistant Regional Administrator
Public Buildings Service, Rocky Mountain Region

Date: 11/16/09

Concurrence:

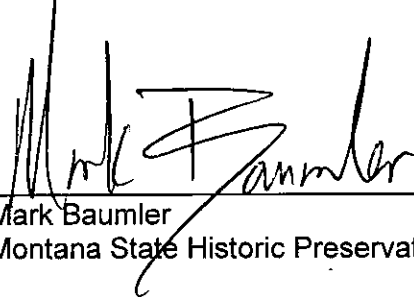

Andrea Collins
Regional Historic Preservation Officer

Date: 11-16-09


Beth L. Savage
Federal Preservation Officer

Date: 11/10/09

MONTANA STATE HISTORIC PRESERVATION OFFICE

By: 
Mark Baumler
Montana State Historic Preservation Officer

Date: 11/18/2009