



HISTORIC PRESERVATION COMMISSION MEETING AGENDA December 21, 2022

Tom Baker Meeting Room	3:00 p.m.	City-County Office Building
The City of Bismarck encourages citizens to provide their comments via email to planning@bismarcknd.gov. The comments will be sent to the Historic Preservation Commissioners prior to the meeting and included in the minutes of the meeting. To ensure that comments are compiled and forwarded to the Historic Preservation Commission with enough time to review all comments, please submit your comments no later than 12 noon the day of the meeting. Comments should also include which agenda item number or topic your comment references and your name (anonymous		comments will not be forwarded to the Historic Preservation Commissioners or included in the minutes of the meeting). If you would like to appear via video or audio link for a 3-5-minute comment on a public hearing item, please provide your e-mail address and contact information to planning@bismarcknd.gov at least one business day before the meeting. As always, live meeting coverage is available on Government Access Channels 2 & 602HD, Radio Access 102.5 FM Radio, or stream FreeTV.org and RadioAccess.org
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MINUTES

1. Consider approval of the minutes of the November 16, 2022 meeting of the Bismarck Historic Preservation Commission.

PUBLIC COMMENT

2. **Public Comment:** The public comment period is available for residents and other interested parties to address items on the agenda or any general public input for consideration by the Historic Preservation Commission.



REGULAR AGENDA

3. **State Historical Society of North Dakota Historic Preservation Fund Development Grant Program Applications – Project Review** (Continued from November 16, 2022 HPC meeting)
 - Hoskins-Meyer Building – 200 North 4th Street.....7
 - Sandaker Residence – 1023 West Highland Acres Road 14
 - 2022 Application Guidelines 20
4. **Update on Historic Timeline and Discussion of Distribution Strategy –**
Commissioner Jackson

OTHER BUSINESS

5. **Other Business**

ADJOURNMENT

6. **Adjourn:** The next regular meeting date is scheduled for January 18, 2023 at 3:00 PM in the Tom Baker Meeting Room.

**BISMARCK HISTORIC PRESERVATION COMMISSION
MEETING MINUTES
November 16, 2022**

The Bismarck Historic Preservation Commission met on Wednesday, November 16, 2022 at 3:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. The meeting was held in person and via Zoom. Chair Sakariassen presided.

Commissioners present were Walt Bailey, Blake Dinkins, Calvin Grinnell, Tory Jackson, Beth Nodland and Amy Sakariassen.

Commissioner Mark Splonskowski was not present.

Staff members present were Sandra Bogaczyk – Office Assistant II, Ben Ehreth – Community Development Director, Kim Lee – Planning Manager and Stephanie Pretzer – Assistant City Attorney.

There were no guests present.

MINUTES

Chair Sakariassen called for consideration of the minutes of the October 19, 2022 meeting of the Historic Preservation Commission.

MOTION: A motion was made by Commissioner Nodland to approve the minutes of the October 19, 2022 meeting of the Historic Preservation Commission, as presented. The motion was seconded by Commissioner Grinnell and with Commissioners Bailey, Dinkins, Grinnell, Jackson, Nodland and Chair Sakariassen voting in favor of the motion, the motion was approved.

PUBLIC COMMENT

Chair Sakariassen noted that there were no members of the public in attendance.

There being no public input Chair Sakariassen resumed the meeting.

SHSND HPF SUBGRANT REVIEW – HOSKINS-MEYER BUILDING, ALSO KNOWN AS THE KFYR TV BUILDING.

Ms. Lee stated that the State Historical Society of North Dakota (SHSND) is requesting Bismarck Historic Preservation Commission review and comment on a Historic Preservation Fund (HPF) Subgrant for the Hoskins-Meyer Building at 200 North 4th Street. She summarized the project proposal to restore the property's exterior historic character. She drew attention to the prepared declaration requesting comments from Commissioners and stated that the property is located in the DC – Downtown Core zoning district and the proposed project would also be subject to the City's Downtown Design Review process.

Letters of support were included in the meeting packet.

Mr. Dinkins noted the misuse of a technical term.

Ms. Nodland asked for clarification of how the grants are funded. Chair Sakariassen made a suggestion but deferred to the Grants and Contracts Officer at the State Historical Society of North Dakota and stated that contractors' bids must be sought and submitted.

There was discussion about the building's history and the proposed budget.

Ms. Nodland stated that she supported renovation but wanted to respect the 1940s renovation. Chair Sakariassen agreed and stated that questions needed to be answered by the Grants and Contracts Officer at the State Historical Society of North Dakota.

Mr. Bailey questioned the thoroughness of the research submitted and there was discussion about the lack of State Historic Preservation Office (SHPO) information. Chair Sakariassen stated that it is difficult to consider without SHPO comments.

There was discussion about covenants and Mr. Jackson questioned aspects about the second floor windows.

Ms. Nodland suggested and there was consensus that there should always be a representative at such reviews.

There was discussion about the list of questions that needed to be answered and agreement of the proposed list.

MOTION: A motion was made by Commissioner Grinnell to approve postponing evaluation and discussion for the next Historic Preservation Commission regular meeting in order to have outstanding questions answered. The motion was seconded by Commissioner Bailey and with Commissioners Bailey, Dinkins, Grinnell, Jackson, Nodland and Chair Sakariassen voting in favor of the motion, the motion was approved.

SHSND HPF SUBGRANT REVIEW – 1023 WEST HIGHLAND ACRES ROAD

Ms. Lee summarized the request from The State Historical Society of North Dakota (SHSND) to review and comment on a Historic Preservation Fund (HPF) Subgrant for the single-family residence at 1023 West Highland Acres Road. She stated that the proposed project would replace old roof shingles with new asphalt shingles in order to maintain the integrity of both the interior and exterior of the home and improve aesthetics of the home and neighborhood.

There was discussion about requesting funds from public versus private interests.

Mr. Jackson stated that he needed more information to determine if the request meets SHPO criteria.

MOTION: A motion was made by Commissioner Nodland to approve postponing evaluation and discussion for the next Historic Preservation Commission regular meeting in order to have questions answered. The motion was seconded by Commissioner Jackson and with Commissioners Bailey, Dinkins, Grinnell, Jackson, Nodland and Chair Sakariassen voting in favor of the motion, the motion was approved.

POTENTIAL PROJECTS FOR 2023 HPF GRANT APPLICATION

Ms. Lee prompted Commissioners to discuss their preferences for projects to be included in the Historic Preservation Grant application for 2023.

There was discussion about several projects, mainly listed in the memorandum dated November 9th, 2022 and included in the meeting packet.

There was discussion about incorporating a process for selecting projects into the Historic Preservation Plan.

There was consensus about scheduling more training for members and staff and a prioritization of the following items:

1. Administrative support
2. Development of historic images and banners for the three historic districts
3. Brochures for walking/driving tours of Highland Acres Historic District
4. Conference attendance and training for Commissioners and staff
5. National Register Nominations

There was discussion about funding for the Timeline promotional opportunities. Ms. Lee stated that staff will look into any remaining funds for the event. And the traveling exhibit.

Chair Sakariassen stated that a subcommittee should be formed for the travel banner publications.

UPDATE ON HISTORIC TIMELINE

Ms. Lee updated Commissioners on the progress of the Timeline project.

Mr. Jackson stated that the printers should have a proof soon, before the end of the year.

OTHER BUSINESS

There was no other business to discuss.

ADJOURNMENT

There being no further business, Chair Sakariassen declared the meeting of the Bismarck Historic Preservation Commission adjourned at 4:13 p.m. to meet again on December 21, 2022 at 3:00 p.m. in the Tom Baker Meeting Room.

Respectfully Submitted,

Sandra Bogaczyk
Recording Secretary

APPROVED:

DRAFT



MEMORANDUM

TO: Chair Sakariassen and Historic Preservation Commissioners

FROM: Kim L. Lee, AICP, Planning Manager

SUBJ: SHSND HPF Subgrant Review – Hoskins-Meyer Building

DATE: November 9, 2022

The State Historical Society of North Dakota (SHSND) is requesting Bismarck Historic Preservation Commission review and comment on a Historic Preservation Fund (HPF) Subgrant for the Hoskins-Meyer Building at 200 North 4th Street.

As outlined in their application, the proposed project would restore the property's exterior to its original appearance which, based on historical photographs and information contained within the 2001 Downtown Bismarck Historic District nomination, complete with Classical Revival detailing including arched openings and corbeled dentils. KFYZ TV's historic brickwork was covered up in 1958 with porcelain panels, considered at the time a move to modernize. While the mid-century exterior materials are now considered historic, the change did occur beyond the period of significance defined in the district's National Register listing (1872-1951). A local mason was hired to remove a sample of the panels, in order to examine the integrity of the original brickwork, and reported that the historic brick underneath the porcelain panels is pristine.

Relevant portions of the application to the SHSND are attached for your information.

This property is located in the DC – Downtown Core zoning district and the proposed project would also be subject to the City's Downtown Design Review process.

Staff Recommended Action:

Review the proposed project and provide comments on any potential historic impacts.

Attachments: Draft Declaration
Historic Preservation Fund Grant Application (part)





DECLARATION

The Bismarck Historic Commission, on behalf of the City of Bismarck, has been advised of the proposed Historic Preservation Fund Subgrant for the Hoskins-Meyer Building at 200 North 4th Street to restore the property's exterior to its original appearance, and hereby finds that the proposed project WILL/WILL NOT have an adverse impact on the subject property or on any adjacent historic properties.

The following concerns were noted by the Bismarck Historic Preservation:

Amy Sakariassen, Chair
Bismarck Historic Preservation Commission

Dated: _____



KFYR TV building, Historic Preservation Fund application narrative

Section One:

KFYR TV's building exists at 200 North Fourth Street in downtown Bismarck. Also known as the Hoskins-Meyer Building (32BL199) it is considered a contributing property in the National Register-listed Downtown Bismarck Historic District. As described in a 2001 update to the National Register nomination for the District, the early 1900s building stands today as a two-story corner office block with an International Style veneer on its street facades. Situated at the heart of the City's commercial core, it has played an important role in local history, particularly that of area news and broadcast journalism. It was built in 1908 and was originally a printing office and home to the Bismarck Tribune through the 1910s. The retail space historically housed Robert D. Hoskins' and Philip Meyers' book, stationery, and office supplies store—hence its historical name, the “Hoskins-Meyers Block.” Later, in the mid-1920s, Meyer operated an experimental radio station here that came to be known by its call letters “KFYR.”

The physical condition of the KFYR TV building (as it is better-known today) given that it was built in 1908, is in very good working condition. The building is currently used to house roughly 65 full time employees who work and operate our local television station on a daily basis. In addition, the KFYR TV building houses, and rents to four local companies, including CoSchedule, BB's Bath Bakery, Your Own Two Wings boutique and Luna Nox boutique.

The proposed project is to restore the property's exterior to its original appearance which, based on historical photographs and information contained within the 2001 Downtown Bismarck Historic District nomination, was (and is) complete with Classical Revival detailing including arched openings and corbeled dentils. On December 29, 1908, upon its completion, the *Bismarck Tribune* described the building as, “a model of its kind.” KFYR TV's historic brickwork was covered up in 1958 with porcelain panels, considered at the time a move to modernize. And while the mid-century exterior materials are now considered historic, the change did occur beyond the period of significance defined in the district's National Register listing (1872-1951). We feel strongly that our staff, tenants, our neighbors and community members, travelers, and visitors deserve to see this building returned to its original, character and condition—in acknowledgment and recognition of the building's important and long-standing association with early business and local news broadcasting in Bismarck.

We hired a contractor to remove a sample of the panels, in order to examine the integrity of the original brickwork. Jim Fetter, owner of Fetter Masonry, reported that the historic brick underneath the porcelain panels is pristine! Should we be awarded a grant through the Historic Preservation Fund, our intention is that no original materials will be altered, in fact they will be restored and exposed to viewing for the first time in 64 years.

Section Two:

Treatment to the KFYP TV building will include careful removal of all exterior porcelain panels, and the firing that was used to attach them. In addition, tuck-pointing and color match detailing will ensure a return to this historic facade which the public knew from 1908 to 1958. Below is a picture of the KFYP TV building from 1917, this will be our final product. Also included below is a current photo of the KFYP TV Building. The contrast between these two photos is stark; notable also is the footprint and original design that the KFYP TV building has had on the Bismarck-Mandan community for 114 years. Our desire is to utilize this grant in order to showcase this pearl of the community and the grand effects this grant, should we be awarded, is capable of producing.



Section Three:

Fetter Masonry will be contracted for the work to be done on the KFYP TV building to ensure a return to original historic character. Existing façade removal, awning removal, new brick work, tuck pointing, color match and recapping of roof line will all be contracted to Fetter Masonry. Fetter Masonry would be the chosen contractor since they have decades of experience rehabbing, rebuilding, revitalizing, and restoring historic storefronts, homes, and buildings. Fetter Masonry is a high quality local masonry business.

Current KFYP TV building photograph:



Budget for historical preservation & restoration, KFYP TV building:

removal of existing facade=	\$17,695
refurbish and re-tuck original brick=	\$73,705
sidewalk closure, incidentals=	\$7,700
windows, street level=	\$85,737
new signage=	<u>\$17,919</u>
total project=	<u>\$202,756</u>

August 31, 2022

Members of the State Historical Society Grants Review Committee,

I am writing to support the application for Historic Preservation grant funding for the project presented by KFYZ News by the General Manager Barry Schumacher. I speak for myself in this matter, as the request for a support letter did not reach Bismarck's Historic Preservation Commission until after the August meeting. Our next regularly scheduled meeting will not occur until later in September, a date too late for this grant deadline. However, I am at present the Chair of the HPC, and am comfortable in giving my personal opinion about the application. As a life-long preservationist, I believe that the project to address the façade of the building owned by KFYZ's parent company, returning its outward appearance to a more original state, is one which we should all be pleased to see take place. As an Advisor to the National Trust for Historic Preservation, I am well aware of the economic and social benefit to the community that such interest in restoration of properties of such local significance creates.

I am pleased to see that efforts made by dedicated Bismarck preservationists, educators, and historians in recent years have in fact influenced public awareness of the value of recognizing places that connect us to our shared historic past. I believe that Mr. Schumacher's grant application is one all preservationists should happily support. The property occupies a highly visible location in the heart of the Bismarck Downtown Historic District. A preservation project on the building will be attention-getting and will likely trigger other owners of previously altered buildings to consider similarly appropriate renovations. All of this is healthy for the businesses of the downtown, and exciting for the members of the supporting community.

I respectfully ask that you view the grant funding application with favor.

Sincerely,

Amy Guthrie Sakariassen

603 N. Mandan St.

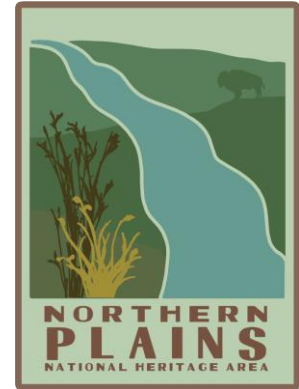
Bismarck, N.D. 58501

701-202-2950

yippity@hotmail.com

August 9, 2022

Attn: Amy Munson
Grants & Contracts Officer
State Historical Society of North Dakota
612 E Boulevard Avenue
amunson@nd.gov



**RE: Letter of Support to Historic Preservation Fund: Historic Hoskins-Meyer Building,
aka KFYZ Building, 200 N. 4th Street, Bismarck, 58501**

As champions of past, present, and future heritage recreation projects within the footprint of the Northern Plains National Heritage Area, the Northern Plains Heritage Foundation offers advance thanks to the State Historical Society of North Dakota (SHSND) Historic Preservation Fund (HPF) Development Grant Program for accepting this letter of unconditional support for the application submitted on behalf of the historic Hoskins-Meyer Building/KFYZ Building at 200 N. 4th Street, Bismarck, North Dakota 58501.

This proposed project checks all the boxes for the SHSND HPF Development Grant Program's efforts for preservation, restoration, and rehabilitation to its 1908 aesthetic. This project is also a singular contribution to bolstering the historic integrity of the Bismarck Downtown Historic District.

Advanced thanks for your strongest consideration of this proposed project.

Sincerely,

A handwritten signature in blue ink that reads "Aaron L. Barth". The signature is stylized with a large, sweeping "A" and a long, horizontal line extending from the "B".

Aaron L. Barth, PhD
Executive Director



MEMORANDUM

TO: Chair Sakariassen and Historic Preservation Commissioners

FROM: Kim L. Lee, AICP, Planning Manager

SUBJ: SHSND HPF Subgrant Review – 1023 West Highland Acres Road

DATE: November 9, 2022

The State Historical Society of North Dakota (SHSND) is requesting Bismarck Historic Preservation Commission review and comment on a Historic Preservation Fund (HPF) Subgrant for the single-family residence at 1023 West Highland Acres Road.

As outlined in their application, the proposed project would replace old three-tab shingles with asphalt shingles in order to maintain the integrity of both the interior and exterior of the home. The proposed roof replacement would also improve the aesthetics of the home and the surrounding historic neighborhood.

Relevant portions of the application to the SHSND are attached for your information.

Staff Recommended Action:

Review the proposed project and provide comments on any potential historic impacts.

Attachments: Draft Declaration
Historic Preservation Fund Grant Application (part)





DECLARATION

The Bismarck Historic Commission, on behalf of the City of Bismarck, has been advised of the proposed Historic Preservation Fund Subgrant for the single-family residence at 1023 West Highland Acres Road to replace the roof, and hereby finds that the proposed project WILL/WILL NOT have an adverse impact on the subject property or on any adjacent historic properties.

The following concerns were noted by the Bismarck Historic Preservation:

Amy Sakariassen, Chair
Bismarck Historic Preservation Commission

Dated: _____



1023 West Highland Acres Rd, Bismarck, ND 58501

Section 1:

The physical condition of our property at 1023 West Highland Acres is well maintained and in excellent condition, except for the roof. Our roof has very old three tab shingles that need replacing. This is important to maintain the integrity of the interior and exterior of the home, as well as the added benefit of aesthetics to add to the historic Highland Acres area. We currently reside in the home and take great pride in keeping the home updated, while still maintaining its 1950's aesthetic.

That being said, I don't feel any historic materials will be altered by the addition of asphalt shingles on our home.

Section 2:

All existing roofing will be removed and replaced with asphalt shingles. This would be a preservation treatment to maintain the interior and exterior integrity of the home.

Section 3:

All existing roofing will be professionally removed and replaced with new asphalt shingles. The new roof will also include an ice and water barrier, underlayment, ridge cap and new sewer vents. Project estimates were received by Wegner roofing and Sealed Solutions.









Historic Preservation Fund Development Grant Program 2022 Application Guidelines

Annually, the State Historical Society of North Dakota (SHSND) receives federal funds for the identification, evaluation, and preservation of cultural resources. As part of this annual appropriation of federal funds, the Society is obligating \$120,000 toward preservation, restoration, and rehabilitation of projects for the National Register listed properties.

Interested owners of National Register listed properties that have a project they wish to be considered for an award should thoroughly read the guidelines and submit an application. The completed application must be accepted (not postmarked) at the SHSND by 5 pm on Wednesday August 31, 2022.

Only properties listed in the National Register of Historic Places are eligible for a Historic Preservation Fund Grant. The property must have maintained its historic integrity to be considered for these funds.

AMOUNT OF AWARDS

Qualified persons may apply for a grant of any amount up to and including \$50,000.

A non-federal cash match of at least 50% is required. Grant fund can only be used for a maximum of 50% of the total project cost. The total project cost includes the grant funds and the cash match.

WHO QUALIFIES

Owners of property in North Dakota that is listed on the National Register of Historic Places.

This includes:

- Private citizens
- Non-Profit organizations
- Educational institutions
- Federally recognized Indian Tribes
- Governmental entities
- Owners of land containing a National Register archeological site
- Owners of a contributing property within a National Register Listed District

WHO DOES NOT QUALIFY

- Owners of religious property
 - Property currently owned by and used for religious organizations may qualify for pre-development funds which include funding for pre-construction planning and drawings.
- Owners who objected to the National Register listing of the property
- Owners whose mortgage holders will not agree to sign the contract and covenant
- Owners of National Register listed property only but not the land the property is on, unless the landowner agrees to sign the contract as well
- Owners of property that is at risk of being moved
- Owners of property that has lost enough historical integrity to make it no longer eligible for listing
- Projects that have been started or completed prior to the awarding of the grant

WHAT QUALIFIES

The following types of development projects are eligible for grant funding:

Preservation and restoration includes process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property, including preliminary measures to protect and stabilize the property. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make the property functional is appropriate within a preservation project. This category also includes the restoration of a property to a specific, significant point in its history.

Rehabilitation is the process of repairing or altering a property to make efficient contemporary use of it while sensitively preserving the features of the property, which are significant to its historical, architectural, and cultural values.

Pre-development projects provide the historical, architectural, and archeological research necessary to properly and adequately document both the historic significance and the existing physical condition of the materials and features of a property or site. Pre-development work must be performed to insure projects are historically appropriate.

Routine maintenance is not an allowable expense as a standalone project. Routine maintenance includes painting, refinishing and cleaning.

All work must be approved in advance by the SHSND and must comply with the statutes regarding construction, local building codes, and the Secretary of Interior's Standards for Treatment of Historic Properties as well as federal safety regulations. Attachment 3 of the guidelines provides a brief explanation of the Secretary's standards and Attachment 8 provides a list of past projects. For further information or project specific standards please contact the

SHSND or the following web links:

Secretary of the Interior's Standards for the Treatment of Historic Properties

<https://www.nps.gov/tps/standards.htm>

Preservation Briefs provide guidance on preserving, rehabilitating and restoring historic buildings. Hard copies of the Briefs are available upon request from the SHSND.

<https://www.nps.gov/tps/how-to-preserve/briefs.htm>

MATCH

Historic Preservation Fund Grants require a minimum 50/50 cash match. The match cannot be from another source of federal funds. Exceptions to this are Community Development Block Grants; however, other restrictions may apply. Please check with the Grants & Contracts Officer if match will be from a federal source.

HOW TO APPLY

Submit one copy of the application, including photos to the SHSND by 5 pm on Wednesday August 31, 2022. Applications can be submitted electronically or paper copy. Incomplete or late applications will not be considered. Applications, including photos will not be returned to the applicant.

A complete application will have the following 6 sections:

1. **Application form** (Attachment 2) must be completed and attached to the cover of the application. Do not use a cover sheet over the application form.
2. The **narrative** should include 3 clear and concise sections:

Section One: Detail the existing physical conditions of the property. Describe the work needed and why it is needed. Include how the property is currently used or proposed uses once the work is complete. We need to know why the project is important. Detail what historic materials will be altered by the proposed work and any replacement materials that will be used. If this is a phase of a larger project, please provide the master plan for the project.

Section Two: Describe the treatment chosen for the project and the reasoning behind the choice. Treatment choices include preservation, restoration, rehabilitation or pre-development. If pursuing a restoration project, the historic written and photographic documentation on which the project is based should be provided.

Section Three: Detail the work to be done on the building or site. Include materials to be used in the project, who will be doing the work (professional, contractor, property owner or volunteers). If the work is to be completed by

non professionals, include their qualifications. If products other than the building work will be produced (histories, architectural plans or drawings), please list them. If lead-based paint or asbestos is known to be present or suspected of being present, and the project may disturb the hazardous materials, please note where they exist, by what means their presence will be further identified, and plans to avoid, mitigate, or remove the hazard. The FURTHER INFORMATION section provides more information on these hazards.

3. Current **photographs** of the property must be included with the application. Clear, good quality photo of the entire building from foundation to chimney on all four sides must be included. Detailed close-up photos of the project area must also be submitted. Copies of historic photos must be included for a restoration project.
4. The **budget** must include details on each line item and needs to include all major work elements. The line items should equal the total project cost (the federal grant and the cash match). The basis for the estimated cost of work must be explained. Copies of professional estimates need to be provided to verify budget figures. The sources of the cash match needs to be provided (city funds, personal funds, grants, etc.). The following items may be included in the budget:
 - a. The required acknowledgement sign which must be a minimum of 4 square feet (2' x 2'). The sign must be posted prior to work beginning and visible throughout the construction project. The exact phrasing will be included in the contract.
 - b. Photos of the finished project. Post project photos are required to be submitted with the final report.
 - c. Architectural or engineering plans
 - d. Cost of a lead-based paint and/or asbestos risk assessment or inspection.

Miscellaneous or contingency budget categories are not acceptable.

5. A **timeline** detailing expected completion dates for each phase of the project is required. Applications selected for funding will be contracted by early September 2022. The grant year runs from October 1, 2022 through September 30, 2024. Work completed after the September 30, 2024 deadline will not be eligible for grant funds. Work may not begin on a project until the contract has been signed with the SHSND
6. Assurances – Construction Programs (Attachment 5) must be completed, signed, and returned with the application.

DEADLINES

All applications must be received at the State Historical Society of North Dakota Office in Bismarck before 5:00 pm on Wednesday August 31, 2022.

SELECTION CRITERIA

The applications will be reviewed and rated based on four major categories:

- Quality of the application
- Need for the work, preference is given to public buildings
- Impact on the historic preservation program
- Compliance with the Secretary of the Interior's Standards

ADDITIONAL INFORMATION

Applications selected for grant funding will be required to sign a contract with the SHSND. The contract will include the budget, timeline, scope of work and other specific requirement to the project.

Detailed drawings or plans of proposed work, if requested, must be submitted to the SHSND for approval prior to contract signing.

All work must be approved in advance by the SHSND. A site inspection of work will be made by SHSND staff to assure compliance with the contract. The owner will be required to make any changes the SHSND requires prior to payment of grant funds.

If awarded funds, federal and state procurement regulations must be followed to obtain materials or services. See Attachment 6 for details of regulations.

A **lead-based paint and/or asbestos inspection or risk assessment** may be required by law for the project. A list of qualified inspectors and basic information can be found in Attachment 4. To determine if the project will need a lead paint or asbestos inspection and the cost, call one of the inspectors listed. More information can be found at the ND Department of Health's Air Quality website, <https://deq.nd.gov/WM/Lead/renovation.aspx> or call 701-328-5188.

Upon completion of the project and before payment of grant funds, a historic preservation covenant must be signed by the property owner and the SHSND. The covenant will require the property owner to assume the cost of continued maintenance and repair to preserve the integrity of the property for a minimum of ten years. A sample of the covenant is provided with the application guidelines (see Attachment 8).

Payment of grant fund is done by reimbursement. Payment will not be made until the project work is completed and approved by the SHSND. Receipts and other appropriate documentation must be submitted with the reimbursement request.

Completed work must generally be available for public viewing. If the project involves exterior work that cannot be viewed from a public right of way or the project work was on the interior of the structure, the property must be made available for viewing at least 12 days a year on an equally spaced basis and must publish a notice in the local newspaper announcing days and times for the public viewing. If the project involves only exterior work and is clearly visible from

a public right of way, public access to the property is not required. If the project involves interior work on structural or mechanical systems only, not public access is required.

The SHSND reserves the right to reject any and all applications.

Submit application to:

Amy Munson
Grants & Contracts Officer
State Historical Society of North Dakota
Historic Preservation Division
612 East Boulevard Avenue
Bismarck, ND 58505

Phone: 701-328-3573

E-mail: amunson@nd.gov

Attachment 1	Application Checklist
Attachment 2	Application Form
Attachment 3	Historic Preservation Treatment
Attachment 4	Approved Lead-based paint firms in North Dakota
Attachment 5	Assurances Construction Programs
Attachment 6	Federal Procurement Standards
Attachment 7	Past Historic Preservation Grant projects
Attachment 98	Sample covenant

This program receives Federal funds from the National Park Service. Regulations of the U.S. Department of the Interior strictly prohibit unlawful discrimination in departmental Federally Assisted Programs on the basis of race, color, national origin, age or disability. Any person who believes she or he has been discriminated against in any program, activity, or facility operated by a recipient of Federal assistance should write to: Director, Equal Opportunity Program, U. S. Department of the Interior, National Park Service, P. O. Box 37127, Washington, D.C. 20013-7127.

APPLICATION CHECKLIST

- ☐ **Application Form**, completed and signed (Attachment 2)
- ☐ **Narrative** Detailing existing physical condition, historic preservation treatment, and information on the work to be done
- ☐ **Budget**, detailed line-item budget with justification
- ☐ **Timeline**, include beginning and ending dates, with checkpoints in between
- ☐ **Assurances for Construction Programs**, completed and signed (Attachment 5)
- ☐ **Photographs** of all four sides of the building, plus details of the project area. Photos should be sleeved or attached to each application packet.
- ☐ **Historic drawings, photos, or research** should be included for restoration projects
- ☐ **Electronic Submission Requirements**
 - ☐ Must be submitted as a single pdf including photo
 - ☐ Submit via email to: amunson@nd.gov
- ☐ **Paper Submission Requirements**
 - ☐ One copy, single sided, 8.5 x 11" paper
 - ☐ Do not individually sleeve pages

APPLICATIONS MUST BE RECEIVED
BY THE STATE HISTORICAL SOCIETY
BY 5 PM **Wednesday August 31, 2022.**

HISTORIC PRESERVATION FUND GRANT APPLICATION FORM

CONTACT PERSON: _____

MAILING ADDRESS: _____

CITY, STATE, ZIP: _____

PHONE: _____ E-MAIL: _____

NAME & LOCATION OF NATIONAL REGISTER PROJECT SITE:

Name_____
Physical Address_____
City, State_____
County

OWNER'S NAME: _____

IS THIS PROPERTY MORTGAGED? _____

PROJECT PERIOD: Beginning Date: _____ Completion Date: _____

FEDERAL FUNDS REQUESTED _____

CASH MATCH _____

TOTAL PROJECT COST: _____

I certify that I have read the Society's Historic Preservation Fund Development Grant Guidelines and do understand the terms and conditions relating to the use of HPF grant funds. I understand that I may not proceed with any project work for which reimbursement is expected until I sign a contract with the State Historical Society of North Dakota and receive written notification from the State Historical Society of North Dakota to begin. I also certify that I, or the organization I represent, have sufficient resources to satisfy the proposed matching share.

Applicant Signature_____
Title_____
Date

Choosing an appropriate treatment for a historic building or landscape is critical

- **Preservation** focuses on the maintenance and repair of existing historic materials and retention of a property's form as it has evolved over time.
- **Rehabilitation** acknowledges the need to alter or add to a historic property to meet continuing or changing uses while retaining the property's historic character.
- **Restoration** depicts a property at a particular period of time in its history, while removing evidence of other periods.

The choice of treatment depends on a variety of factors, including the property's historical significance, physical condition, proposed use, and intended interpretation. Historic buildings are used as an example below. The decision-making process would be similar for other property types.

Relative importance in history

Is the building nationally significant? Is it a rare survivor or the work of a master architect or craftsman? Did an important event take place in it? National Historic Landmarks, designated for their "exceptional significance in American history," or many buildings individually listed in the National Register often warrant Preservation or Restoration. Buildings that contribute to the significance of a historic district but are not individually listed in the National Register more frequently undergo Rehabilitation for a compatible new use.

Physical condition

What is the existing condition, or degree of material integrity, of the building prior to work? Has the original form survived largely intact or has it been altered over time? Are the alterations an important part of the building's history? Preservation may be appropriate if distinctive materials, features, and spaces are essentially intact and convey the building's historical significance. If the building requires more extensive repair and replacement, or if alterations or additions are necessary for a new use, then Rehabilitation is probably the most appropriate treatment.

Proposed use

An essential, practical question to ask is: Will the building be used as it was historically, or will it be given a new use? Many historic buildings can be adapted for new uses without seriously damaging their historic character. However, special-use properties such as grain silos, forts, ice houses, or windmills may be extremely difficult to adapt to new uses without major intervention and a resulting loss of historic character and even integrity.

Mandated code requirements

Regardless of the treatment, code requirements will need to be taken into consideration. But if hastily or poorly designed, code-required work may jeopardize a building's materials as well as its historic character. Thus, if a building needs to be seismically upgraded, modifications to the historic appearance should be minimal. Abatement of lead paint and asbestos within historic buildings requires particular care if important historic finishes are not to be adversely affected. Finally, alterations and new construction needed to meet accessibility requirements under the Americans with Disabilities Act of 1990 should be designed to minimize material loss and visual change to a historic building.

Key Ideas in the Standards

Standards for Preservation

1. Use the property as it was used historically or find a new use that maximizes retention of distinctive features.
2. Preserve the historic character (continuum of property's history).
3. Stabilize, consolidate, and conserve existing historic materials.
4. Replace minimum amount of fabric necessary and in kind (match materials).

Standards for Rehabilitation

1. Use the property as it was used historically or find a new use that requires minimal change to distinctive features.
2. Preserve the historic character (continuum of property's history).
3. Do not make changes that falsify the historical development.
4. Repair deteriorated historic materials and features. Replace a severely deteriorated feature, using to the greatest extent possible, matching new materials.
5. New additions and alterations should not destroy historic materials or character. New work should be visually compatible from the old, yet be differentiated from it, e.g., the form, features, and detailing of the historic building should not be replicated in the new work.

Standards for Restoration

1. Use the property as it was historically or find a new use that reflects the property's restoration period.
2. Remove features from other periods, but document them first.
3. Stabilize, consolidate, and conserve features from the restoration period.
4. Replace a severely deteriorated feature from the restoration period with a matching feature (limited substitute materials may be used).
5. Replace missing features from the restoration period based on documentation and physical evidence. Do not make changes that mix periods and falsify history to create a "hybrid" building. Do not execute a design that was never built.

ASSURANCES - CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0042), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET.
SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Awarding Agency. Further, certain Federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i)

any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction sub agreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the

National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL		TITLE	
APPLICANT ORGANIZATION		DATE	

FEDERAL PROCUREMENT STANDARDS

This is a brief overview of the required Federal procurement standards.

Selection Procedures

All procurement transactions, without regard to the method of procurement or dollar value, shall be conducted in a manner that provides maximum open and free competition. Procurement procedures shall not restrict or eliminate competition.

Solicitations of offers, whether by sealed bid or small purchase method, shall incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not contain features which unduly restrict competition. Solicitations must also set forth all requirements which offer or must fulfill and all other factors in evaluating bids or proposals, such as a deadline for completion of project work.

Awards shall be made only to responsible contractors that possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

Contract awards shall not be made to a contractor who has developed or has drafted bid specifications, requirements, and a statement of work or an invitation for bids.

METHOD OF PROCUREMENT

Procurement shall be made by small purchase procedures and competitive sealed bids.

Small Purchased Procedures

Small purchases are simple, informal methods used for the procurement of services, supplies, or other material costing in the aggregate of not more than \$100,000. An adequate number (usually 3) of price or rate quotations shall be obtained from qualified sources to assure competition.

Competitive Sealed Bids (formal advertising)

Sealed bids are publicly solicited. A firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lowest in price and most advantageous to the grantee considering price, discounts, transportation costs, taxes, and the Contractor's ability to fulfill the contract.

Procurement through competitive sealed bids shall satisfy all of the following:

1. Invitations for bid shall be publicly advertised 20-30 calendar days prior to the date set for opening of bids.
2. The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation.
3. All bids shall be opened publicly at the time and place stated in the invitation for bids.
4. A firm fixed-price contract award shall be made to that responsible bidder whose bid, conforming to the invitation for bids, is lowest.
5. Any and all bids may be rejected when there are sound documented business reasons for doing so. If all bids are rejected as too costly and the scope of work is then substantially altered, the work must be re-advertised.
6. The formal advertisement must state that Federal funds are involved and that compliance with all applicable Federal, State, and local laws, rules and regulations is required.

CONTRACT PRICING PROHIBITIONS

A cost-plus-a-percentage-of-cost method of contracting shall not be used when awarding contracts and sub agreements with HPF grant funds.

PROCUREMENT RECORDS

Whether formally advertised or negotiated, the grant recipient must provide documents to the Society supporting all procurements involving federal funds. This documentation must include, at a minimum, the names of the persons/firms bidding, the amount of the bids, the person/firm selected, and the reason for the selection.

Historic Preservation Fund Grant projects in North Dakota

This list is intended to provide an idea of the types of projects eligible for grant funding. It is not comprehensive. If you are unsure that your project will qualify for grant funding, please call the State Historical Society for more information.

- 28 Conklin Ave, Grand Forks - Exterior masonry, rehabilitation back porches and 2 windows.
- 808 Belmont Road, Grand Forks - Restoration of front porch.
- Dickey County Courthouse, Ellendale - Basement slab replacement and moisture mitigation work.
- Emmons County Courthouse, Linton - Rehabilitation of sandstone stairs and window sills.
- Masonic Temple, Devils Lake – Exterior door replacement.
- Pi Beta Phi House, 409 Cambridge Street, Grand Forks – Tuckpointing and roof repairs.
- Casselton Heritage Center, Casselton - Rehabilitation of stained glass windows.
- Ellendale Opera House, Ellendale - Main level sub floor rehabilitation.
- Lander House, Grand Forks - Front porch rehabilitation.
- Pi Beta Phi House, Grand Forks – Tuckpointing.
- Sheriff's House Museum, Devils Lake - Roof replacement.
- Empire Arts Center, Grand Forks, Window repairs and replacement.
- James Memorial Building, Williston, Window repairs and replacement.
- Pi Beta Phi House, Grand Forks, Re shingle roof.
- Valley City County Public Library, Valley City, Tuckpointing.

Sample Preservation Covenant

INTRODUCTION. This conservation covenant agreement is made the *Date* day of *Month*, 20 *Year*, between *Organization*, as GRANTOR of a conservation Covenant (hereafter referred to as the “Grantor”), and the *State Historic Preservation Office/Other*, as GRANTEE of the conservation Covenant (hereafter referred to as the “Grantee”). This conservation Covenant agreement is entered under *State Law/Regulation* for the purpose of preserving the *Name of Subject Property*, a building that is important culturally, historically, and/or architecturally.

1. **The Subject Property.** This agreement creates a conservation covenant in real estate legally described in Exhibit A. The Subject Property is the site of the *Name of Subject Property*, located at *Street Address, City, County, & State* (hereafter referred to as the “Subject Property”).
2. **Grant of conservation Covenant.** In consideration of the sum of \$*Grant Amount* received in grant-in-aid financial assistance from the National Park Service of the United States Department of the Interior, the Grantor hereby grants to the Grantee a conservation Covenant in the Subject Property for the purpose of assuring preservation of the *Subject Property*.
3. **Covenant required for Federal grant.** This conservation Covenant is granted as a condition of the eligibility of the Grantor for the financial assistance from the National Park Service of the United States Department of the Interior appropriated from the Historic Preservation Fund for the *HPF Development Grant*
4. **Conditions of Covenant:**
 1. *Duration.* This conservation Covenant is granted for a period of *insert number of five years* (5) years commencing on the date when it is filed with the *County* County Recorder, in the State of *State*, in the United States of America.
 2. *Documentation of condition of the Name of Subject Property at time of grant of this Covenant.* In order to make more certain the full extent of Grantor’s obligations and the restrictions on the Subject Property, and in order to document the nature and condition of the Subject Property, including significant interior elements in spatial context, a list of character-defining materials, features, and spaces is incorporated as Exhibit “B” at the end of this agreement. The Grantor has provided to the Grantee with any prepared architectural drawings of the Subject Property. To complement Exhibit “B”, Grantee and/or the NDSHPO personnel have compiled a photographic record, including photographer’s affidavit, black and white photographs and negatives, or electronic image files saved as high resolution images, photograph logs, and a keyed location map. The Grantor agrees that the nature and condition of the Subject Property on the date of execution of this Covenant is accurately documented by the architectural drawings and photographic record, which shall be

maintained for the life of this Covenant in the Grantee's conservation Covenant file for the Subject Property.

3. *Duty to maintain the Subject Property.* The Grantor agrees to assume the cost of continued maintenance and repair of the Subject Property so as to preserve the architectural, historical, and/or archeological integrity of the Subject Property and its materials to protect those qualities that made the Subject Property eligible for listing in the National Register of Historic Places (or a Subject Property contributing to the significance of a National Register listed Historic District) throughout the effective date of this Covenant.
4. *Restrictions on activities that would affect historically significant components of the Subject Property.* The Grantor agrees that no demolition, construction, alteration, remodeling, or any other activity shall be undertaken or permitted to be undertaken on the Subject Property which would affect historically significant exterior features or interior spaces identified as significant in Exhibit "B." Exterior construction materials, architectural details, form, fenestration, scale, and mass should not be adversely affected nor the structural soundness or setting altered without prior written permission of the Grantee affirming that such reconstruction, repair, refinishing, rehabilitation, preservation, or restoration will meet The Secretary of the Interior's *Standards for the Treatment of Historic Properties* (hereinafter referred to as the "Standards").
5. *Restrictions on activities that would affect archeological resources.* The Grantor agrees that no ground disturbing activity shall be undertaken or permitted to be undertaken on the Subject Property which would affect historically significant archeological resources identified in Exhibit "A" without prior written permission of the Grantee affirming that such work will meet The Secretary of the Interior's applicable *Standards for Archeology and Historic Preservation*.
6. *Maintenance of recovered materials.* The Grantor agrees to ensure that any data and material recovered will be placed in a repository that will care for the data in the manner prescribed in the applicable *Standards for Archeology and Historic Preservation* or will comply with the requirements of the Native American Graves Protection and Repatriation Act, and with 36 CFR 79 and 43 CFR 10.
7. *Public access.* The Grantor agrees to provide public access to view the grant-assisted work or features no less than 12 days a year on an equitably spaced basis. The dates and times when the Subject Property will be open to the public must be annually published and provided to the Grantee. At the option of the Grantor, the relevant portions of the Subject Property may also be open at other times in addition to the scheduled 12 days a year. Nothing in this agreement will prohibit a reasonably nondiscriminatory admission fee, comparable to fees charged at similar facilities in the area.

8. *Right to inspect.* The Grantor agrees that the Grantee, its employees, agents and designees shall have the right to inspect the Subject Property at all reasonable times, with twenty-four hours written notice, in order to ascertain whether the conditions of this conservation Covenant agreement are being observed. However, in the case of any natural or man-made disaster or imminent endangerment to the Subject Property the Covenant holder shall be granted access to the Subject Property with no prior notice.
9. *Anti-discrimination.* The Grantor agrees to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Americans with Disabilities Act (42 U.S.C. 12204), and with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). These laws prohibit discrimination on the basis of race, religion, national origin, or disability. In implementing public access, reasonable accommodation to qualified disabled persons shall be made in consultation with the Grantee (*or State Historic Preservation Office if another organization is holding the Covenant*).
10. *Covenant shall run with the land; conditions on conveyance.* This conservation Covenant shall run with the land and be binding on the Grantor, its successors, and assigns. The Grantor agrees to insert an appropriate reference to this Covenant agreement in any deed or other legal instrument by which it divests itself in part or in whole of either the fee simple title or other lesser estate in the Subject Property, the Subject Property, or any part thereof.
11. *Casualty Damage or Destruction.* In the event that the Subject Property or any part of it shall be damaged or destroyed by fire, flood, windstorm, earth movement, or other casualty, the Grantor shall notify the Grantee in writing within 14 calendar days of the damage or destruction, such notification including what, if any, emergency work has already been completed. No repairs or reconstruction of any type, other than temporary emergency work to prevent further damage to the Subject Property and to protect public safety, shall be undertaken by the Grantor without the Grantee's prior written approval indicating that the proposed work will meet the Standards. The Grantee shall give its written approval, if any, of any proposed work within 60 days of receiving the request from the Grantor. If after reviewing the condition of the Subject Property, the Grantee determines that the features, materials, appearance, workmanship, and environment (or setting) which made the Subject Property eligible for listing in the National Register of Historic Places have been lost or so damaged that its continued National Register listing is in question, the Grantee will notify the Keeper of the National Register (*or the SHPO if the Grantee is not the State*) in writing of the loss. The Keeper of the National Register will evaluate the findings and notify the Grantee in writing of any decision to remove the Subject Property from the National Register. If the Subject Property is removed, the Grantee will then notify the Grantor that the agreement is null and void. If the damage or destruction that warrants the properties removal from the National Register is deliberately caused by the gross negligence or other actions of the Grantor or successor owner, then the Grantee will initiate requisite legal

action to recover, at a minimum, the Federal grant funds applied to the Subject Property which will then be returned to the U.S. Government.

12. *Enforcement.* The Grantee shall have the right to prevent and correct violations of the terms of this conservation Covenant. If the Grantee, upon inspection of the Subject Property, finds what appears to be a violation, it may exercise its discretion to seek injunctive relief in a court having jurisdiction. Except when an ongoing or imminent violation will irreversibly diminish or impair the cultural, historical and/or architectural importance of the Subject Property, the Grantee shall give the Grantor written notice of the violation and allow thirty (30) calendar days to correct the violation before taking any formal action, including, but not limited to, legal action. If a court, having jurisdiction, determines that a violation exists or has occurred, the Grantee may seek to obtain an injunction to stop the violation, temporarily or permanently. A court may also issue a mandatory injunction requiring the Grantor to restore the Subject Property to a condition that would be consistent with preservation purposes of the grant from the National Park Service. In any case where a court finds that a violation has occurred, the court may require the Subject Property to reimburse the Grantee and the *State* Attorney General for all the State's expenses incurred in stopping, preventing, and/or correcting the violation, including, but not limited, to reasonable attorney's fees. The failure of the Grantee to discover a violation or to take immediate action to correct a violation shall not bar it from doing so at a later time.
13. *Effective date; severability.* This conservation Covenant shall become effective when filed by the Grantor in the Office of the Recorder of *County* County, *State*, with a copy of the recorded instrument provided to the Grantee for its conservation Covenant file. If any part of this conservation Covenant agreement is held to be illegal by a court, the validity of the remaining parts shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the conservation agreement does not contain the particular part held to be invalid.
14. *Amendments.* The parties may by mutual written agreement jointly amend this conservation Covenant, provided the amendment shall be consistent with preservation purpose of this conservation Covenant and shall not reduce the regulatory controls listed in the conditions of this conservation Covenant. Any such amendment shall not be effective unless it is executed in the same manner as this Covenant, refers expressly to this Covenant, and is filed with the *County* County Recorder.

This instrument reflects the entire agreement of Grantor and Grantee regarding the subject Covenant. Any prior or simultaneous correspondence, understandings, agreements, and representations are null and void upon execution of this agreement, unless set out in this instrument. In witness whereof, Grantor and Grantee have set their hands under seal on the days and year set forth below.

Exhibit A to the Conservation Covenant Agreement

Legal description of the Subject Property as found in the property deed

Exhibit B to the Conservation Covenant Agreement

Baseline Documentation

Subject Property Name, City, State

To remain eligible for listing on the National Register of Historic Places, a Subject Property must be able to convey its significance. The following character-defining materials, spaces, and features have been identified as those that help convey the significance of *Subject Property name*. Also current photo documentation and the narrative of the National Register nomination must be attached to the baseline documentation.

Significant Character-Defining Interior Spaces and Features

- Insert list of character-defining interior spaces

Significant Character-Defining Exterior Spaces and Features

- Insert list of character-defining exterior spaces

Exhibit C to Conservation Covenant Agreement

Written Documentation of the Signatories' Authority to Sign for and Legally Bind their Organization

RESOLUTION OF THE BOARD OF DIRECTORS OF *Insert Grantor Name Here*

RESOLVED, that *INSERT GRANTOR NAME HERE*, a *INSERT STATE* non-profit corporation [change as appropriate] (the "Grantor") shall execute a conservation Covenant with *INSERT GRANTEE NAME HERE*, the *INSERT STATE* State Historic Preservation Office (the "Grantee"). This conservation Covenant will be entered under *STATE LAW/REGULATION* for the purpose of preserving the *NAME OF SUBJECT PROPERTY*, a building that is important culturally, historically, and architecturally.

RESOLVED, that *INSERT SIGNATOREE* to the *COVENANT'S NAME* as *INSERT TITLE* of *INSERT GRANTOR NAME HERE*, is authorized, directed, and empowered to take such action and execute and deliver such document in such form as he or she deems to be in the best interests of *INSERT GRANTOR NAME HERE*, including without limitation the execution and delivery of a conservation Covenant.

I, *INSERT CHAIRMAN'S NAME HERE*, Chairman of *INSERT GRANTOR NAME HERE*, do hereby certify that the foregoing is a full, true and correct copy of the resolution of the Board of Directors of said Corporation, duly and regularly passed by the Board of Directors of said Corporation in all respects as required by law, and by the By-Laws of said Corporation, on the *Date* day of *Month* 20 *Year*, at which time a majority of the Board of Directors of said Corporation was present and voted in favor of said resolution.

Date: *Date*

By: *INSERT GRANTOR NAME HERE*

By: *Chairman's Signature*

INSERT CHAIRMAN'S NAME HERE, Chairman