

**MEMORANDUM OF AGREEMENT BETWEEN THE  
US ENVIRONMENTAL PROTECTION AGENCY, THE CITY OF BERLIN, AND THE  
NEW HAMPSHIRE STATE HISTORIC PRESERVATION OFFICER  
FOR THE SANITARY SEWER I/I REDUCTION PROJECT  
BERLIN, NEW HAMPSHIRE**

WHEREAS, the City of Berlin (CITY), the proponent, is proposing to demolish city-owned properties contributing stormwater to the sewer collection system in association with the Sanitary Sewer I/I Reduction Project, in Berlin, New Hampshire to be funded by the New Hampshire Department of Environmental Services State Revolving Fund program; and,

WHEREAS, properties proposed for demolition are located within the Lower East Side Historic District and the Berlin Heights Addition Historic District, resources that have been determined eligible for listing in the National Register of Historic Places; and,

WHEREAS, no known properties of archaeological significance are located within the Area of Potential Effects for the Undertaking; and

WHEREAS, The US. Environmental Protection Agency (EPA) has consulted with the New Hampshire State Historic Preservation Officer (NHSPO), pursuant to applicable regulations found in 36 CFR Part 800, of the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. Section 470f) and has determined that the Undertaking will have an adverse effect on historic properties due to demolition of contributing buildings within the Lower East Side Historic District and the Berlin Heights Addition Historic District; and,

WHEREAS, EPA has invited the Advisory Council on Historical Preservation to participate in the consultation process but it has determined that its participation to resolve adverse effects is not needed; and,

WHEREAS, the CITY has consulted with the Berlin & Coos County Historical Society (Society) on this undertaking and has invited the Society to be a concurring party to this agreement; and

NOW THEREFORE, EPA, the CITY, and NHSPO agree that if the undertaking is implemented in accordance with the following stipulations, EPA and NHSPO agree that the undertaking will properly account for the effects on historic properties. The signatories all agree that if the undertaking is implemented, all of the following stipulations shall be met:

**Stipulations**

The EPA shall insure that the following measures are carried out in consultation with the NHSPO:

#### I. Berlin & Coos County Historical Society Exhibit

The CITY shall create and install a permanent interpretive display in the Berlin & Coos County Historical Society building that interprets the historic neighborhoods of Berlin.

- A. The interpretive display shall consist of one or more panels containing text and historic images that interpret the general history of the City of Berlin as well as its unique historic neighborhoods.
- B. Design and development of the permanent interpretive display shall be overseen by an individual meeting the *Secretary of the Interior's Professional Qualification Standards* (36 CFR Part 61) for historian or architectural historian working in collaboration with a professional graphics design firm.
- C. The CITY shall provide the NESHPO with the opportunity to participate in a concept review meeting where the contractor producing the display shall present the conceptual layout of the display to the CITY, the Society and NESHPO for review and comment. The NESHPO shall provide comments on the layout within 14 days of the meeting.
- D. The CITY shall provide the NESHPO with the opportunity to review a draft and final copy of the text and design of the interpretive display. NESHPO shall have 30 days to provide comment.
- E. The CITY shall install the permanent interpretive display prior to the expiration of this agreement.

### **Administrative Conditions**

#### I. Dispute Resolution

Should any signatory to this Agreement object within thirty (30) days to any actions proposed or carried out pursuant to this Agreement, the EPA shall consult with NESHPO to resolve the objection. If the EPA determines that the objection cannot be resolved, the EPA shall forward all documentation relevant to the dispute the Advisory Council on Historic Preservation (Council). Within thirty (30) days after receipt of all pertinent documentation, the Council will either:

Provide the EPA with recommendations which the EPA will take into account in reaching a final decision regarding the dispute; or,

Notify the EPA that it will comment pursuant to 36 CFR 800.6(b), and proceed to comment. Any recommendations or comment provided by the Council will be understood to pertain only to the subject of the dispute; the EPA responsibility to carry out all actions under the Memorandum of Agreement that are not subjects of the dispute will remain unchanged.

If at any time during the implementation of the measures stipulated in this MOA, an objection should be raised by an interested member of the public, the EPA will consult with the other parties to this MOA to determine the appropriate response.

## II. Monitoring and Reporting

Each year following the execution of this MOA until it expires or is terminated, the CITY shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in the CITY's efforts to carry out the terms of this MOA.

## III. Amendments

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

## IV. Duration

This MOA will be null and void if its terms are not carried out within three (3) years from the date of its execution. Prior to such time, EPA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation III, above.

## V. Termination

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation III, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, EPA must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. EPA shall notify the signatories as to the course of action it will pursue.

Execution of this Memorandum of Agreement by EPA, the CITY, and NHSHPO and its subsequent filing with the Advisory Council on Historic Preservation, and implementation of its terms evidences that EPA has afforded the Council an opportunity to comment on the Sanitary Sewer I/I Reduction Project, and that the EPA has taken into account the effects of the undertaking on historic properties.

US ENVIRONMENTAL PROTECTION AGENCY

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

Ken Moraf, Director of Water Division, Region 1

NEW HAMPSHIRE STATE HISTORIC PRESERVATION OFFICER

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

Nadine Miller, NH Deputy State Historic Preservation Officer

CITY OF BERLIN

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

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Concurring Parties:

NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES

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

Robert R. Scott, Commissioner

BERLIN AND COOS COUNTY HISTORICAL SOCIETY

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

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