

**MEMORANDUM OF AGREEMENT**  
**AMONG**  
**THE SAGINAW CHIPPEWA INDIAN TRIBE OF MICHIGAN**  
**THE MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY**  
**THE GENESEE COUNTY LAND BANK AUTHORITY**  
**THE MICHIGAN STATE HISTORIC PRESERVATION OFFICER**  
**AND**  
**THE CITY OF FLINT**  
**PURSUANT TO 36 CFR § 800.5(b)**  
**REGARDING**  
**THE NEIGHBORHOOD STABILIZATION PROGRAM 2 ACTIVITIES**  
**AT 612 WEST 2<sup>ND</sup> AVENUE, 624 WEST 2<sup>ND</sup> AVENUE, AND 615 WEST UNIVERSITY AVENUE**  
**IN FLINT, GENESEE COUNTY, MICHIGAN**

**WHEREAS**, pursuant to 24 CFR § 58, the United States Department of Housing and Urban Development (HUD) has delegated the responsibility for compliance with the requirements of Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended (16 USC 470f) to the Michigan State Housing Development Authority (MSHDA) as a recipient of Neighborhood Stabilization Program 2 (NSP2) funds; and

**WHEREAS**, NSP2 was established to stabilize neighborhoods whose viability has been and continues to be damaged by the economic effects of properties that have been foreclosed upon and abandoned and was authorized by Title XII of Division A of the American Recovery and Reinvestment Act of 2009; and

**WHEREAS**, MSHDA is the lead member of a Michigan NSP2 Consortium consisting of twelve (12) cities working in collaboration with eight (8) land banks, including the City of Flint (CITY) and the Genesee County Land Bank (GCLB), in high need and high risk communities in Michigan; and

**WHEREAS**, the GCLB intends to demolish three existing houses located at 612 West 2<sup>nd</sup> Avenue, 624 West 2<sup>nd</sup> Avenue, and 615 West University Avenue (the NSP2 Undertaking) in the Carriage Town Historic Neighborhood in Flint, MI, a locally designated historic district that was determined not eligible for the National Register of Historic Places (NRHP); and

**WHEREAS**, in compliance with CITY Ordinance §2-148, the Historic District Commission, appointed by the Mayor of the CITY, has reviewed and approved the proposed demolition of the three existing houses located at 612 West 2<sup>nd</sup> Avenue, 624 West 2<sup>nd</sup> Avenue, and 615 West University Avenue in the Carriage Town Historic Neighborhood that comprise the NSP2 Undertaking; and

**WHEREAS**, the NSP2 Undertaking is located near the Stone Street Development Project where, in 2008, Native American human remains dating from ca. 800-1,200 years ago (site number 20GS136) were uncovered in the process of digging foundations for new houses, and that site 20GS136 appears to meet Criterion D of the NRHP; and

**WHEREAS**, the Saginaw Chippewa Indian Tribe of Michigan, in cooperation with other Native American Tribes and the University of Michigan, have funded the reconciliation of ancestral human remains and associated funerary objects for reburial; and

**WHEREAS**, the boundaries of site 20GS136 are as yet unknown, the Saginaw Chippewa Indian Tribe of Michigan and the GCLB have acknowledged the potential that Native American human remains and associated funerary objects could be disturbed by the NSP2 Undertaking if demolition-related activity exceeds a depth of approximately one foot below the existing ground surface; and

**WHEREAS**, pending Tribal Council approval, the GCLB will transfer ownership of the three properties associated with the NSP2 Undertaking to the Saginaw Chippewa Indian Tribe of Michigan after all work on the three properties is completed; and

**WHEREAS**, The Little Traverse Bay Bands of Odawa Indians (LTBBOI) is a concurring party to this Memorandum of Agreement (MOA) because it has an interest to preserve and protect the Native American cemetery and associated historic properties because they are located within the area of land ceded through the 1807 Treaty of Detroit which was negotiated and signed by the Ottawa (Odawa), Wyandot, Potawatomi, and Chippewa nations with the United States government; and

**WHEREAS**, the GCLB has consulted with the State Historic Preservation Officer (SHPO) of Michigan in accordance with Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and its implementing regulations (36 CFR § 800); and

**WHEREAS**, the result of the consultation with the SHPO determined that the three houses that comprise the NSP2 Undertaking are not historic properties and that the NSP2 Undertaking would have no adverse effect on site 20GS136 if certain conditions are met; and

**WHEREAS**, all signatories to this MOA agree that Native American human remains and associated funerary objects shall be avoided and shall not be disturbed by the NSP2 Undertaking; and

**NOW, THEREFORE**, the Saginaw Chippewa Indian Tribe of Michigan, the LTBBOI, the CITY, the GCLB, MSHDA and the SHPO agree that the NSP2 Undertaking shall be implemented in accordance with the following stipulations to ensure there will be no disturbance of Native American human remains and associated funerary objects and will have no adverse effect on potential historic properties in accordance with 36 CFR § 800.5(b).

## **STIPULATIONS**

The GCLB shall ensure that the following measures are carried out:

### **I. Construction Specifications**

A. The GCLB shall specify to the demolition contractor that:

1. No earth moving activities are permitted as part of the NSP2 Undertaking.
2. Demolition crews shall not commence any demolition work on the site until the NSP2 archaeologist retained pursuant to item A Stipulation II is present.
3. The materials that comprise the house and the upper foundation blocks must be removed from the site and disposed of according to City of Flint regulations.
4. The foundation of the house shall be left in place below the existing ground surface, except for the top row of foundation blocks just below the surface to a

depth of a minimum of eight (8) inches and maximum of twelve (12) inches below the existing ground surface. The foundation shall be cut with a cement saw and removed carefully to minimize any additional disturbance to the remaining foundation,

5. The bottom of the foundation shall be carefully cracked into sections four (4) feet in diameter or smaller, split or perforated to allow drainage.
6. Clean fill obtained offsite and from outside the Carriage Town Neighborhood shall be used to fill in the foundation space up to the existing ground surface level.
7. GCLB's Contractor shall not undertake ground disturbing work before the NSP2 archaeologist retained under item A Stipulation II is on-site or during a time frame outside of those identified in the letter to the Tribal Councils and Groups is prepared pursuant to item B Stipulation III.
8. The Contractor and all employees shall cooperate with Native American and archaeological monitors described in Stipulation II at the site of the NSP2 Undertaking, including stopping work if so ordered.

## **II. Monitoring**

- A. The Saginaw Chippewa Indian Tribe of Michigan and LTBBOI shall be informed of the date and time of all items conducted under Stipulation I. Construction Specifications. Tribal members may conduct ceremonies and observances, as they desire, throughout the course of the NSP2 Undertaking.
- B. GCLB shall retain the services of a professional archaeologist meeting the qualifications specified in 36 CFR 61 for archaeology, attached and incorporated into this MOA as Attachment A, who must be present to monitor the foundation investigation, fill, and site clean-up work at the NSP2 Undertaking sites.
- C. In the event of an unanticipated discovery as defined in Stipulation VI, Tribal monitor(s) and professional archaeologist monitor(s) have the authority to order the Contractor to stop work, notify GCLB, and initiate consultation in accordance with Stipulation VI.

## **III. Notification**

- A. Schedule the Archaeologist
  1. GCLB shall contact the NSP2 Archaeologist retained as a result of item B in Stipulation II in advance of the ground disturbing work and let them know of the date and location of the work to be performed.
  2. GCLB shall make sure that the NSP2 Archaeologist is available for the date and time proposed by the Contractor.
  3. If the archeological monitoring cannot take place at the date and time proposed, the GCLB shall inform the Contractor who will propose a new date and time.
- B. Notification of Tribal Councils and Groups
  1. GCLB shall, ten (10) days prior to the commencing of ground disturbing work, send a letter via first class mail to Federally and State Recognized Native American Tribal Communities and Other Indigenous Organizations with interest in Flint and Genesee County with the date, time, location and description of work to be performed that is ground disturbing in nature.
  2. The list of recipients for the letter in item 1 is included as Attachment B, which is incorporated into this MOA.

3. This letter will include an invitation to be present while this work is performed, contact information for questions about the work and a statement that if the Tribal Council or Group does not respond to this request it is understood that they do not have issues or concerns about the NSP2 Undertaking.

#### **IV. Transfer of Properties**

The GCLB shall notify all parties to this MOA when ownership of each of the three properties associated with the NSP2 Undertaking is transferred to the Saginaw Chippewa Indian Tribe of Michigan.

#### **V. Reporting**

The GCLB shall:

- A. Report the demolition of each property associated with the NSP2 Undertaking to all parties to this MOA within 30 days of completion of all work on each property; and
- B. Report the final completion of all work associated with the NSP2 Undertaking to all parties to this MOA within 30 days of the last demolition.
- C. Require the monitoring archaeologist to prepare a brief report describing the demolition work and commenting on any relevant archaeological observations. The report will include a map that illustrates the three locations at which demolition took place relative to the cemetery location.
- D. Make the report prepared by the monitoring archaeologist under item C. available to all parties to this MOA within 30 days of the report's completion.

#### **VI. Unanticipated Discoveries**

- A. If a previously undiscovered archaeological, historical, or cultural property, as determined by the NSP2 monitoring archaeologist, is encountered during demolition, or previously known properties will be affected or have been affected in an unanticipated adverse manner, all activity around the encountered property shall cease immediately to avoid or minimize harm to the property.
- B. Activity shall not resume until the GCLB consults with the Saginaw Chippewa Indian Tribe, LTBBOI, and SHPO to determine the property's significance, identify the effects, and determine if adverse effects can be avoided by alteration of construction methods, the installation of protective measures, or other mitigation.
- C. If human remains are discovered, appropriate protocol will be followed by the contracting archaeologist, including notification of state police, GCLB, SHPO, in accordance with all relevant provisions of state law.
- D. Within seven (7) days of a discovery, all parties agree to meet to determine a course of action.
- E. All parties shall adhere to confidentiality moratorium regarding any discoveries.

#### **VII. Amendment**

Any signatory party to this MOA may propose that this MOA be amended, whereupon the parties will consult in accordance with 36 CFR § 800.6(c)(7) to consider such an amendment.

## **VIII. Dispute Resolution**

- A. Should any party to this MOA object within thirty (30) days to any of the proposed actions pursuant to this MOA, Saginaw Chippewa Indian Tribe of Michigan, the GCLB, MSHDA and the SHPO shall consult to resolve the objection. If MSHDA determines that the objection cannot be resolved pursuant to 36 CFR § 800.7(b), the GCLB shall forward all documentation relevant to the dispute to the Advisory Council on Historic Preservation (Council). Within forty-five (45) days after receipt of all pertinent documentation, the Council will either:
  1. Provide the GCLB with recommendations, which the GCLB will take into account in reaching a final decision regarding the dispute (36 CFR § 800.7(b)); or
  2. Notify the GCLB that it will comment pursuant to 36 CFR § 800.7(c) and proceed to comment. Any Council comment provided in response to such a request will be taken into account by the GCLB in accordance with 36 CFR § 800.7(c)(4) with reference to the subject of the dispute.
- B. Any recommendation or comment provided by the Council will be understood to pertain only to the subject of the dispute. The GCLB's responsibility to carry out all actions under this MOA that are not subjects of the dispute will remain unchanged.

## **IX. Duration**

The term of this MOA will begin at the date of execution and unless signatories agree to extend its term, will continue until February 11, 2013, when NSP2 ends.

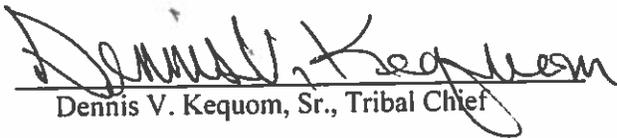
## **X. Termination**

- A. If the GCLB determines that it cannot implement the terms of this MOA, or if the Saginaw Chippewa Indian Tribe of Michigan, MSHDA, or SHPO determines that the MOA is not being properly implemented, that party may propose to the other parties to this MOA that it be terminated.
- B. The party proposing to terminate this MOA shall so notify the other parties to this MOA explaining the reasons for termination and affording at least thirty (30) days to consult and seek alternatives to termination. The parties shall then consult.
- C. Should such consultation fail, the Saginaw Chippewa Indian Tribe of Michigan, the GCLB, MSHDA, or the SHPO may terminate the MOA by so notifying all parties.
- D. Should this MOA be terminated, MSHDA and the GCLB shall either:
  1. Consult in accordance with 36 CFR Part 800.6 to develop a new MOA; or
  2. Request the comments of the Council pursuant to 36 CFR § 800.7.

Execution of this MOA by the Saginaw Chippewa Indian Tribe of Michigan, the GCLB, MSHDA, and the SHPO and implementation of its terms evidence that the GCLB and MSHDA have ensured there will be no disturbance of human remains and burials and no adverse effect on potential historic properties in accordance with 36 CFR § 800.5(b), have taken into account the effects of this undertaking on historic properties and have afforded the ACHP a reasonable opportunity to comment on the NSP2 Undertaking.

**SIGNATORIES:**

**THE SAGINAW CHIPPEWA INDIAN TRIBE OF MICHIGAN**

By:  Date: 12-19-12  
Dennis V. Kequom, Sr., Tribal Chief

**MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY**

By:  Date: 2 Jan 2013  
Jim Tischler, Community Development Director

**MICHIGAN STATE HISTORIC PRESERVATION OFFICER**

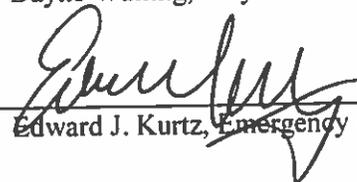
By:  Date: 1/9/13  
Brian D. Conway, State Historic Preservation Officer

**GENESEE COUNTY LAND BANK AUTHORITY**

By:  Date: 11/27/12  
Douglas K. Weiland, Executive Director

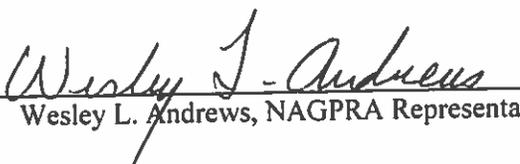
**THE CITY OF FLINT**

By:  Date: 11/27/12  
Dayne Walling, Mayor

By:  Date: 11/28/12  
Edward J. Kurtz, Emergency Financial Manager

**CONCURRING PARTY:**

**THE LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS**

By:  Date: 1/11/2013  
Wesley L. Andrews, NAGPRA Representative

## ATTACHMENT A

### ARCHEOLOGY AND HISTORIC PRESERVATION: Secretary of the Interior's Standards and Guidelines [As Amended and Annotated]

#### Professional Qualifications Standards

The following requirements are those used by the National Park Service, and have been previously published in the Code of Federal Regulations, 36 CFR Part 61. The qualifications define minimum education and experience required to perform identification, evaluation, registration, and treatment activities. In some cases, additional areas or levels of expertise may be needed, depending on the complexity of the task and the nature of the historic properties involved. In the following definitions, a year of full-time professional experience need not consist of a continuous year of full-time work but may be made up of discontinuous periods of full-time or part-time work adding up to the equivalent of a year of full-time experience.

#### History

The minimum professional qualifications in history are a graduate degree in history or closely related field; or a bachelor's degree in history or closely related field plus one of the following:

1. At least two years of full-time experience in research, writing, teaching, interpretation, or other demonstrable professional activity with an academic institution, historic organization or agency, museum, or other professional institution; or
2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of history.

#### Archeology

The minimum professional qualifications in archeology are a graduate degree in archeology, anthropology, or closely related field plus:

1. At least one year of full-time professional experience or equivalent specialized training in archeological research, administration or management;
2. At least four months of supervised field and analytic experience in general North American archeology, and
3. Demonstrated ability to carry research to completion.

In addition to these minimum qualifications, a professional in prehistoric archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the prehistoric period. A professional in historic archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the historic period.

#### Architectural History

The minimum professional qualifications in architectural history are a graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history, or a bachelor's degree in architectural history, art history, historic preservation or closely related field plus one of the following:

1. At least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or
2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.

#### Architecture

The minimum professional qualifications in architecture are a professional degree in architecture plus at least two years of full-time experience in architecture; or a State license to practice architecture.

#### Historic Architecture

The minimum professional qualifications in historic architecture are a professional degree in architecture or a State license to practice architecture, plus one of the following:

1. At least one year of graduate study in architectural preservation, American architectural history, preservation planning, or closely related field; or
2. At least one year of full-time professional experience on historic preservation projects.

Such graduate study or experience shall include detailed investigations of historic structures, preparation of historic structures research reports, and preparation of plans and specifications for preservation projects.

## ATTACHMENT B

### NATIVE AMERICAN TRIBAL GROUP CONTACTS

Tribe	Contact Name	Title	Address	City	State	Zip
Bad River Band of Lake Superior Chippewa Tribe	Edith Leoso	Tribal Historic Preservation Officer	P.O. Box 239	Odanan	WI	54861
Bay Mills Indian Community	Ms. Paula Carrick		12140 West Lakeshore Drive	Brimley	MI	49715
Burt Lake Band of Ottawa and Chippewa Indians	Curtis Chambers		6461 Brutus Rd	Brutus	MI	49716
Chippewa Cree Tribe of the Rocky Boy's Reservation of Montana	Raymond "Jake" Parker Jr.		31 Agency Square	Box Elder	MT	59521
Citizen Potawatomi Nation	Kelli Mosteller	Tribal Historic Preservation Officer	1601 S. Gordon Cooper Dr	Shawnee	Ok	74801
Fond du Lac Band of Lake Superior Chippewa	Jeff Savage		1720 Big Lake Road	Cloquet	MN	55720
Fond du Lac Band of Lake Superior Chippewa	Leroy DeFoe	Tribal Historic Preservation Officer	1720 Big Lake Road	Cloquet	MN	55720
Forest County Potawatomi Cultural Center, Library, and Museum	Mike Alloway, Sr.	Director	P.O. Box 340, 5415 Everybody's Rd	Crandon	WI	54520
Grand Portage Tribal Council	ATTN: Chairman		P.O. Box 428	Grand Portage	MN	55605
Grand River Band of Ottawa Indians	Ronald F. Yob	Chairman	P. O. Box 2937	Grand Rapids	MI	49501
Grand Traverse Band of Ottawa and Chippewa Indians	Cindy Patek		2304 N. West Bayshore Dr	Peshawbetown	MI	49682

Tribe	Contact Name	Title	Address	City	State	Zip
Gun Lake Band of Potawatomi Match-e-be-nash-shee-wish	Lorraine Shananaquat		3556 26th St	Hopkins	MI	49328
Gun Lake Band of Potawatomi Match-e-be-nash-shee-wish	Sydney Martin		3556 26th St	Hopkins	MI	49328
Hannahville Potawatomi Indians Community	Earl Meshigaud		M-14911 Hannahville B1 Rd	Wilson	MI	49896
Keweenaw Bay Indian Community	Chris Chosa		16429 Beartown Rd	Baraga	MI	49908
Keweenaw Bay Indian Community	Gerladine Mantilla		16429 Beartown Rd	Baraga	MI	49908
Lac Courte Oreilles Band of Lake Superior Chippewa	Jerry Smith	Tribal Historic Preservation Officer	13394 W. Trapania Rd. Bldg No. 1	Hayward	WI	54843
Lac du Flambeau Band of Lake Superior Chippewa Indians	Melinda Young		P.O. Box 67	Lac du Flambeau	WI	54538
Lac Vieux Desert Band of Lake Superior Chippewa Indians	Ms. Giiwegiizhigookway Martin	MACPRA Treasurer	P.O. Box 249	Watersmeet	MI	49969
Little River Band of Ottawa Indians	Jay Sam		375 River Street	Manistee	MI	49660
Little Traverse Bay Bands of Odawa Indians	Eric Hemenway		7500 Odawa Circle	Harbor Springs	MI	49740
Little Traverse Bay Bands of Odawa Indians	Wesley L. Andrews	NAGPRA Representative	7500 Odawa Circle	Harbor Springs	MI	49740
Mile Lacs Band of Ojibwe Assembly	Elisse Aune		43408 Oodena Drive	Onamia	MN	56359
Minnesota Chippewa Tribe	Brian Brunelle	Director of Administration	P.O. Box 217	Cass Lake	MN	56633
Minnesota Chippewa Tribe	Gary Frazer	Executive Director	P.O. Box 217	Cass Lake	MN	56633

Tribe	Contact Name	Title	Address	City	State	Zip
Notawasppi Huron Band of Potawatomi	RoAnn Beebe-Mohr		2221 1-1/2 Mile Rd	Fulton	MI	49502
Ottawa Tribe of Oklahoma	Margie Ross	Tribal Administrator	P.O. 110	Miami	OK	74355
Pokagon Band of Potawatomi Indians	Michael Zimmerman, Jr.	Tribal Historic Preservation Officer	58620 Sink Rd	Dowagiac	MI	49047
Pokagon Band of Potawatomi Indians	Mr. Mark Parrish		P.O. Box 180	Dowagiac	MI	49047
Prairie Band of Potawatomi Nation	Jancita Warrington	Tribal Council Member	16281 Q Road	Mayetta	KS	66509
Quechan Indian Tribal	Bridget Nash-Chrabasz	Tribal Historic Preservation Officer	P.O. Box 1899	Yuma	AZ	85366
Red Cliff Band of Lake Superior Chippewa Indians	Larry Belber		88385 Pike Rd, Hwy 13	Bayfield	WI	54814
Red Lake Band of Chippewa Indians	Donald Cook	Secretary, Red Lake Nation	P.O. Box 550	Red Lake	MN	56671
Red Lake Band of Chippewa Indians, Minnesota	Floyd Jourdain	Chairperson	P.O. Box 550	Red Lake	MN	56671
Saginaw Chippewa Indian Tribe of Michigan	William Johnson		6550 E. Broadway	Mt. Pleasant	MI	48858
Saint Croix Chippewa Indians of Wisconsin	Wanda McFaggen		24663 Angeline Ave	Webster	WI	54893
Sault Ste. Marie Tribe of Chippewa Indians	Cecil E. Pavlat Sr.		523 Ashmun St	Sault Ste. Marie	MI	49783
Sokaogon Chippewa Community	Chris Quade		3051 Sand Lake Road	Crandon	WI	54520
Turtle Mountain Band of Chippewa Indians of North Dakota	Kade Ferris	Tribal Historic Preservation Officer	Highway 5 West	Belcourt	ND	58316
White Earth Band of Minnesota Chippewa Tribe	Mike Swan	Natural Resources Director	41044 S. Ice Cracking Road	Ponsford	MN	56575

Tribe	Contact Name	Title	Address	City	State	Zip
Wyandotte Nation, Oklahoma	Sherri Clemons	Tribal Historic Preservation Officer	64700 E Highway 60	Wyandotte	OK	74370