

**MEMORANDUM OF AGREEMENT
BETWEEN THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
AND THE
NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE SALE OF HALL HOUSE
CHARLOTTE, NORTH CAROLINA**

Recitals

WHEREAS, the U.S. Department of Housing and Urban Development (“HUD”) has approved the disposition of the Hall House (formerly the Barringer Hotel) by the Charlotte Housing Authority (the “Authority”) so that the property may be sold and the proceeds used by the Authority to develop new affordable housing; and

WHEREAS, the sale of Hall House by the Authority (the “Undertaking”), may result in its demolition; and

WHEREAS, Hall House is eligible for listing in the National Register of Historic Places (“National Register”); and

WHEREAS, HUD has determined that the Undertaking may have an adverse effect on Hall House and has consulted with the North Carolina State Historic Preservation Officer (SHPO) pursuant to 36 C.F.R. Part 800, which implements Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f); and

WHEREAS, HUD has consulted with the Authority regarding the effects of the Undertaking on Hall House and has invited the Authority to sign this Memorandum of Agreement (“MOA”) as an invited signatory; and

WHEREAS, HUD has consulted with Historic Charlotte, Inc. and invited it to sign this MOA as a concurring party; and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), HUD has notified the Advisory Council on Historic Preservation (“ACHP”) of its adverse effect determination with specified documentation and the ACHP has chosen not to participate in the consultation pursuant to 36 C.F.R. § 800.6(a)(1)(iii); and

WHEREAS, during the negotiation of this MOA, the Authority received an unsolicited offer (“Current Offer”) to purchase Hall House from an national real estate firm (“Current Potential Purchaser”) with extensive experience in historic rehabilitation; and

WHEREAS, the Current Potential Purchaser intends to rehabilitate Hall House in accordance with the federal historic preservation tax credit program pursuant to 36 C.F.R. Part 67 and Section 47 of the Internal Revenue Code (“Historic Tax Credit Requirements”); and

WHEREAS, HUD, the Authority, the SHPO, and Historic Charlotte, Inc. recognize that Section 106 would be well served if the Authority and the Current Potential Purchaser agree on terms for a letter of intent (“LOI”) and later a purchase and sale agreement or similar document (“Sales Agreement”) that would require the Current Potential Purchaser to (a) cause to be prepared a National Register nomination for Hall House in accordance with Stipulation 1A below no later than 90 days from the execution of the Sales Agreement, (b) pursue such nomination in good faith, (c) carry out the Recordation Plan described at Stipulation 1B below no later than 90 days from the execution of the Sales Agreement, and (d) rehabilitate Hall House, upon assuming ownership, in accordance with the Secretary of the Interior’s Standards for Rehabilitation set forth at 36 C.F.R. Part 67 and Historic Tax Credit Requirements (provided Hall House is placed on the National Register as contemplated herein); and

WHEREAS, because a LOI with the Current Potential Purchaser is not complete and circumstances may change in the future such that the Current Potential Purchaser may not agree to purchase Hall House, the parties hereto recognize that provisions should be made to address Section 106 compliance in all potential circumstances;

NOW, THEREFORE, HUD and the North Carolina SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the Undertaking on Hall House.

STIPULATIONS

HUD shall ensure that the following measures are carried out:

I. Documentation and Recordation Plan. Regardless of whether the Authority and the Current Potential Purchaser arrive at an LOI or a Sales Agreement, the first action that shall be taken to mitigate the potential adverse effect of the sale of Hall House is documentation of the property. Toward that end:

A. The Authority shall cause to be prepared a National Register nomination for Hall House. The nomination shall be prepared in accordance with *National Register Bulletin 16A: Guidelines for Completing the National Register of Historic Places Registration Form, Practical Advice for Completing National Register Nominations in North Carolina* (Revised Edition 2004, attached to this MOA as Appendix A), and the SHPO’s guidelines and policies for digital photography at http://www.hpo.dcr.state.nc.us/NCHPO_Digital_Policy.htm. An acceptable final draft of the nomination, with its supporting documentation, shall be submitted to the SHPO no later than 90 days from the execution of the Sales Agreement so that the nomination may be presented to the North Carolina National Register Review Committee at its next regularly scheduled meeting.

B. In addition to the National Register nomination, the Authority shall carry out the Recordation Plan attached to this MOA as Appendix B. The recordation results shall be submitted to the SHPO by 90 days from the execution of the Sales Agreement and before any

changes are made to Hall House in anticipation of its sale. HUD agrees that the costs of completing the National Register nomination and the Recordation Plan are an eligible use of HUD funds available to the Authority.

C. If the Keeper of the National Register does not place Hall House on the National Register, SHPO agrees that the completion of the National Register nomination and Recordation Plan shall be determined to satisfy HUD's responsibilities under Section 106 of the National Historic Preservation Act and no further action is required of HUD or the Authority under this MOA.

II. Alternative Post-Recordation Plan Scenarios. At the time of the negotiation of this Memorandum of Agreement there are several potential scenarios under which HUD may satisfy its Section 106 responsibilities, including:

A. Implementation of Certified Historic Rehabilitation by Current Potential Purchaser. If Hall House is listed on the National Register and the Authority executes a Sales Agreement with the Current Potential Purchaser, such Sales Agreement shall provide that the Current Potential Purchaser shall rehabilitate Hall House pursuant to Historic Tax Credit Requirements, which compliance shall be monitored by the SHPO. The deed from the Authority to the Current Potential Purchaser (the "Deed") shall include a restrictive covenant (the "Restrictive Covenant") requiring: (A) that any rehabilitation of the Hall House shall be required to be completed in accordance with Historic Tax Credit Requirements and (B) if the Current Potential Purchaser sells the building prior to expiration of the Restrictive Covenant, such sale must include an easement that will run with the Hall House for two (2) drive lanes that shall "wrap" the building from North Tryon around the building to 8th Street the size and location of which drive lanes shall comply with all local building and zoning requirements. The Restrictive Covenant shall expire upon the earlier of (i) the date which is ten (10) years after the recording of the Deed or (ii) the date the property is placed in service following rehabilitation in accordance with the Historic Tax Credit Requirements. During the term of the Restrictive Covenant, the building may not be demolished or otherwise rehabilitated without meeting such requirements. If the Current Potential Purchaser sells the building during the term of the Restrictive Covenant, the sales process outlined in Stipulation II.C. of this document must be implemented by the Current Potential Purchaser, with any subsequent buyer agreeing to take the building subject to the Restrictive Covenant reflected in the Deed.

B. Purchase without Historic Rehabilitation. If Hall House is not listed on the National Register, the Authority may transfer Hall House to the Current Potential Purchaser or any other purchaser and SHPO agrees that the completion of the Documentation and Recordation Plan described in Stipulation I shall be determined to satisfy HUD's responsibilities under Section 106 of the National Historic Preservation Act and no further action is required of HUD or the Authority under this MOA.

C. Marketing to Broader Community – If Hall House is listed on the National Register and the Authority and the Current Potential Purchaser do not enter into any agreements, the Authority agrees that:

1. The Authority will develop a sales memorandum (“Sales Memorandum”) to solicit offers to purchase Hall House from a wide range of potential buyers.
2. The Sales Memorandum shall include an informational brochure developed by the Authority, in consultation with the SHPO and Historic Charlotte Inc., about the benefits of using the Federal and North Carolina Historic Preservation Tax Incentives (“Historic Preservation Tax Incentives”) programs to redevelop the historic property (“Historic Tax Incentives Brochure”).
3. The Sales Memorandum, including the Historic Tax Incentives Brochure, will be distributed to all potential buyers and will be referenced in all advertising of the property, including any web-based postings.
4. The Sales Memorandum, including the Historic Tax Incentives Brochure, will be distributed to potential buyers identified by the SHPO and consulting parties as entities that might be interested in purchasing Hall House and rehabilitating it with Historic Preservation Tax Incentives (“Historic Buyers”).
5. Hall House will be marketed for 90 calendar days. At the end of 90 calendar days, offers will be due.
6. After 90 calendar days, the offers will be qualified. They must meet the criteria listed in the Sales Memorandum to be a qualified buyer. For Historic Buyers, qualifications will include experience with and previous successful completion of the Historic Tax Credit Requirements.
7. After a period of one-two weeks, the Authority’s Broker will ask for a best and final offer from the three highest qualified buyers. If a Historic Buyer is not included in these three qualified buyers, then any Historic Buyer who has offered within 5% of the lowest of the three initial top offers will also be given an opportunity to submit a “best and final” offer.
8. After the “best and final” offers are received, if no historic offer is within 5% of the highest offer, then the property may be sold to the highest bidder. If a historic offer is within 5% of the highest offer, then the property will be sold to the Historic Buyer. The Authority reserves the right to reject all offers (both historic and otherwise) that are below appraised value or otherwise do not generate sufficient economic value for the Authority. In the case of such rejection, the Authority agrees to comply with this Agreement when re-marketing the property.
9. After negotiating a sales agreement with the buyer, there will be a due diligence period of 90-120 calendar days.
10. If, at the end of the due diligence period, the Historic Buyer does not move forward with the transaction (and the Current Potential Purchaser has also failed to close on the transaction after a due diligence period), the Authority may sell the Hall House with no restrictions. In such event, HUD and the Authority’s completion of the Documentation and

Recordation Plan described in Stipulation I shall be determined to satisfy HUD's responsibilities under Section 106 of the National Historic Preservation Act and no further action is required of HUD or the Authority

III. 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, HUD may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation IV below.

IV. Dispute Resolution

Should any signatory or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, HUD shall consult with such party to resolve the objection. If HUD determines that such objection cannot be resolved, HUD will:

A. Forward all documentation relevant to the dispute, including the HUD's proposed resolution, to the SHPO. The ACHP shall provide HUD with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, HUD shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. HUD will then proceed according to its final decision.

B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, HUD may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, HUD shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.

C. HUD's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

V. 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. All recitals are incorporated herein by reference.

VI. 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 V, 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, HUD must either (a) execute an MOA pursuant to 36 C.F.R. § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 C.F.R. § 800.7. HUD shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by HUD and the North Carolina SHPO and implementation of its terms evidence that HUD has taken into account the effects of this Undertaking on the historic Hall House/Barringer Hotel and afforded the ACHP an opportunity to comment.

SIGNATORIES:

Department of Housing and Urban Development

 _____ Date 7/7/08
By: _____
Michael A. Williams
Director
Title: Office of Public Housing

North Carolina State Historic Preservation Officer

 _____ Date 6/30/08
Jeffrey J. Crow, SHPO

SIGNATORIES:

Department of Housing and Urban Development

_____ Date _____
By:

Title:

North Carolina State Historic Preservation Officer

_____ Date _____
Jeffrey J. Crow, SHPO

INVITED SIGNATORY:

Charlotte Housing Authority

 Date 6-28-08

By: Charles Woodyard
Title: Chief Executive Officer

CONCURRING PARTIES:

Historic Charlotte, Inc.

_____ Date _____
By:

Title:

SIGNATORIES:

Department of Housing and Urban Development

_____ Date _____
By:

Title:

North Carolina State Historic Preservation Officer

_____ Date _____
Jeffrey J. Crow, SHPO

INVITED SIGNATORY:

Charlotte Housing Authority

_____ Date _____
By:

Title:

CONCURRING PARTIES:

Historic Charlotte, Inc.

 _____

By: David R. Pitser

Title: President

Date July 2, 2008 _____

Appendix A

National Register Nomination Instructions

Appendix B

Recordation Plan for Hall House/Barringer Hotel Charlotte, North Carolina, Mecklenburg County

- I. Historical Background: A brief historical and physical narrative/description of the building should be prepared to include the following:
- Date of construction
 - Architect/builder, if known
 - Owners and uses of the building since construction
 - Size and sketch plan of building
 - Materials and any significant architectural details or elements
- II. Photographic Requirements: Photographic views of the building and associated facilities, including:
- Overall views.
 - Each visible elevation of the building.
 - Details of construction or design including exterior and interior architecturally significant elements.
 - Streetscapes showing the relationship of the building to the street and adjoining properties /blocks if possible.
 - Sketch site plan keyed to photographs listed above.
- III. Format: Traditional or Digital
- Digital Images on CD. (must be accompanied with prints of each image):
- Use at least a 3 megapixel camera
 - May be jpeg format
 - Must be at least 2100 pixels x 1500 pixels (300 ppi for a 5" x 7")
 - Label files as follows: County Name, Property Name, Describe View/ Image, Photographer Name, Photo Date, Photo Number jpg.
 - Prints – 5" x 7" in color, on good quality photo paper.
- Traditional
- 35mm. or larger black and white negatives (all views).
 - 8 x 10 black and white prints (all views). Color slides (all views).
 - All processing to be done to archival standards. Fiber based paper is the traditional archival standard. According to Kodak, however, their resin-coated paper meets archival standards if it is stored in total darkness (in an envelope) and at low humidity.
 - All photographs, negatives, and slides to be labeled according to Division of Archives and History standards (County Name, Property Name, Describe View/ Image, Photographer Name, Photo Date).
- IV. Copies and Curation:
- One (1) set of all CD's, negatives, prints, and slides will be deposited with the North Carolina State Historic Preservation Office Division of Archives and History/State Historic Preservation Office to be made a permanent part of the statewide survey and iconographic collection.