



**Date** March 24, 2014

**RESOLUTION AUTHORIZING MEMORANDUM OF AGREEMENT WITH  
THE IOWA STATE HISTORIC PRESERVATION OFFICE REGARDING  
THE PROPOSED DEMOLITION OF THE ASBURY CHURCH**

WHEREAS, the City of Des Moines proposes to demolish the Asbury Church (aka Lighthouse Full Gospel Baptist Church) at 1600 Capitol Avenue utilizing Community Development Block Grant (CDBG) funding from the United States Department of Housing and Urban Development (HUD); and,

WHEREAS, the church was severely damaged by a fire and the structure poses a public nuisance to the Capitol East Neighborhood; and,

WHEREAS, the City of Des Moines, pursuant to 24 CFR 58.1, has assumed the responsibility for environmental review, decision making, and actions that would otherwise apply to HUD under the National Environmental Policy Act (NEPA) and other provisions of the law that further the purpose of NEPA, including Sections 101, 106 and 110 of the National Historic Preservation Act (NHPA), as specified in 24 CFR 58.5; and,

WHEREAS, the City of Des Moines and Iowa State Historic Preservation Office (SHPO) have determined that the removal of the Asbury Church will result in an ‘adverse effect’ due to the property’s potential eligibility for the National Register of Historic Places as a contributing structure in the Capitol Hill Commercial District; and

WHEREAS, the City of Des Moines and Iowa SHPO have come to agreement on the necessary steps to avoid an adverse effect, which are outlined a proposed Memorandum of Agreement which is on file in the office of the City Clerk.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. The proposed Memorandum of Agreement with the Iowa SHPO for the demolition of the Asbury Church is hereby approved.
2. The Mayor and City Clerk are hereby authorized and directed to execute the Memorandum of Agreement on behalf of the City of Des Moines.

★ Roll Call Number

Agenda Item Number

29

Date March 24, 2014

MOVED by \_\_\_\_\_ to adopt.

FORM APPROVED:

*Roger K Brown*

Roger K. Brown

Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				
MOTION CARRIED			APPROVED	

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

**MEMORANDUM OF AGREEMENT**  
**Demolition of Asbury Church**  
**1600 Capitol Avenue**  
**Des Moines, Iowa**

The State Historic Preservation Officer of Iowa (“SHPO”) and the City of Des Moines (“City”) hereby enter into this agreement in consideration for the demolition of the Asbury Church a/k/a Lighthouse Full Gospel Baptist Church located at 1600 Capitol Avenue utilizing Community Development Block Grant (“CDBG”) funding; and,

WHEREAS, the City proposes to demolish the Asbury Church at 1600 Capitol Avenue (“Project”). The project will utilize CDBG funding from the United States Department of Housing and Urban Development (“HUD”); and,

WHEREAS, the City, pursuant to 24 CFR 58.1, has assumed the responsibility for environmental review, decision making, and actions that would otherwise apply to HUD under the National Environmental Policy Act (NEPA) and other provisions of the law that further the purpose of NEPA, including Sections 101, 106 and 110 of the National Historic Preservation Act (NHPA), as specified in 24 CFR 58.5; and,

WHEREAS, the City has consulted with SHPO pursuant to 36 CFR 800.2(c)(1) and has come to an agreement on the project Area of Potential Effects (hereafter, APE) pursuant to 36 CFR 800.4(a)(1); and,

WHEREAS, the Project will require the removal of the fire damaged church structure at 1600 Capitol Avenue in order to proceed with neighborhood revitalization activities by removing the blighted, fire damaged structure that currently poses a public nuisance to the Capitol East Neighborhood; and,

WHEREAS, the City and SHPO have determined that the removal of the structure at 1600 Capitol Avenue will result in an adverse effect due to the property’s potential eligibility for the National Register of Historic Places as a contributing structure in the proposed Capitol Hill Historic District; and,

WHEREAS, the Advisory Council on Historic Preservation (hereafter, Council) has been notified of the adverse effect finding and has been invited to enter into consultation pursuant to 36 CFR 800.6 (a)(1), but has concluded that its participation in the consultation process will not be necessary to resolve the adverse effects.

NOW, THEREFORE, the City and SHPO agree that the undertaking shall be implemented pursuant to the following mitigation actions in order to take into account the effects of the project on significant historic properties:

I. MITIGATION ACTIONS:

A. Historic Survey

The City will commission the preparation of a historic building and social history study of other early East side churches and fraternal organizations (extant and non-extant). The City will work with a qualified architectural historian/historian consultant to undertake this study. The City will work with the selected consultant to finalize a detailed scope of work. The SHPO will be consulted in the final scope of work to ensure that it meets the requirements of this MOA. Once completed, the City will provide a copy of the final survey to the SHPO. The City will also make the survey available to the public via the City’s website and on file at the Des Moines Public Library. The City shall ensure public access to the document for no less than 10 years from the completion date.

B. Salvage

Prior to demolition of the Asbury Church, the City has the option to pursue architectural salvage if practical. The fire that damaged the Asbury Church was quite significant, therefore it is unknown at the time of preparation of this MOA whether there are any significant features or materials worth salvaging. If architectural salvage is deemed desirable, the City, in consultation with the SHPO, will identify significant architectural features to be removed from the property. The City will be responsible for removing the identified architectural features prior to demolition and storing them in a secure off site location. The City may utilize the architectural features for educational purposes in a display of Des Moines's architectural history or other interpretation of local history as it applies to this church. As an alternative, the City, in consultation with the SHPO, will attempt to identify a private or public not-for-profit local or regional historic preservation or architectural salvage organization to receive a donation of the architectural features. The recipient organization may sell the architectural features to the general public for the specific purpose of raising funds to support future historic preservation or salvage/reuse activities, preferably within the community or state. The City shall realize no financial gain from the transfer of architectural features to the recipient organization or from any subsequent sale of materials or services related to the salvage.

The City shall provide the SHPO with a report on the salvage activities no later than 30 calendar days after the completion of demolition of the building.

C. Anticipated Timeline

March 2014 – Finalize and execute the MOA  
March-April 2014 – Contract consultant to begin historic survey  
April-July 2014 – Historic survey process  
Spring 2014 – Evaluate salvage opportunities  
July 2014 – Historic survey completed  
July-August 2014 – Proceed with demolition

II. ADMINISTRATIVE CONDITIONS

A. Area of Potential Effects (APE). The signatories to this MOA understand and accept the following property as the project APE:

Lot 1 of Block 59 Stewart's Addition to Des Moines.

The City shall appropriately document and immediately notify the SHPO of subsequent changes to the project APE and shall allow reasonable opportunity for review and comment. SHPO will respond to the City's notice of changes to the APE within five (5) calendar days of receipt of the notice.

B. Unanticipated Discoveries. The City shall ensure that all provisions of NAGPRA are observed. No human remains are anticipated to be found during this data recovery work. However, any human remains and/or grave-associated funerary objects encountered during the data recovery are protected by provisions of the Iowa Codes 144.34 and 263B.7 through 263B.9, the Iowa Administrative Code Section 685, Chapter 11 and by the Native American Graves Protection and Repatriation Act of 1990 (PL 101-601; 25 U.S.C. 3001-3013; 104 Stat. 3048-3058) and its implementing regulations at 43CFR part 10. The City shall ensure that, if human remains and/or grave associated objects are encountered, all construction and excavation activities will cease immediately within the area. The area will be secured, the material will be left in place with no further disturbance. A tarp, plastic sheeting, or other appropriate covering will be placed over the exposed remains and weighted with loose soil along the edges and the top. The SHPO and the Director of the Burials Program at the Office of the State Archaeologist of Iowa (319) 384-0740 will be contacted immediately. In the event that other excavation discoveries of historical, architectural, or archaeological significance are encountered all construction and excavation activities will cease immediately within the area. The area will be secured, the

material will be left in place with no further disturbance and the SHPO will be contacted immediately. The SHPO will respond within 48 hours of the discovery.

- C. Termination. This agreement shall be null and void if its terms are not carried out within two (2) years from the date of its execution unless the signatories agree in writing to an extension for carrying out its terms. This agreement may be terminated prior to this time by either the City of Des Moines or SHPO upon written notice to the other party with copies furnished to the Council and the other consulting parties.
- D. Monitoring. The City shall prepare a status report upon request that summarizes the actions taken to implement the provisions contained herein. The City shall submit the status report to the SHPO within fourteen (14) calendar days of the request.
- E. Amendment. The parties to this MOA may propose to amend the MOA by providing a written request for such amendment to all other parties whereupon all parties shall consult as appropriate within thirty (30) calendar days of receipt of the written request. Any amendments shall be in writing and signed by the parties to this agreement.

Execution of this Memorandum of Agreement by the City of Des Moines and the State Historic Preservation Officer of Iowa, filing of the executed MOA with the Advisory Council on Historic Preservation, and implementation of its terms evidence that the City has afforded the Council an opportunity to comment on the demolition of the Asbury Church at 1600 Capitol Avenue and its effect on historic properties, and that the City has taken into account the effect of this undertaking on historic properties.

**City of Des Moines**

By: \_\_\_\_\_  
T. M. Franklin Cownie, Mayor

\_\_\_\_\_  
Date

Attest:

By: \_\_\_\_\_  
Diane Rauh, City Clerk

\_\_\_\_\_  
Date

Authorized by the Des Moines City Council by Resolution and Roll Call No. 14-\_\_\_\_\_ on March \_\_, 2014.

Approved as to Form:

  
\_\_\_\_\_  
Roger Brown, Assistant City Attorney

March 18, 2014  
Date

\_\_\_\_\_  
Steve King, State Historic Preservation Officer  
State Historical Society of Iowa

\_\_\_\_\_  
Date