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EM 1225(03)
Minn. Co.
PEN: 004H

MEMORANDUM OF AGREEMENT
BETWEEN FEDERAL HIGHWAY ADMINISTRATION
AND THE
SOUTH DAKOTA STATE HISTORIC PRESERVATION OFFICE
REGARDING THE DOWNTOWN
SIoux FALLS RAIL YARD REDEVELOPMENT PROJECT

WHEREAS, the Federal Highway Administration (FHWA), South Dakota Department of Transportation (SDDOT) and the City of Sioux Falls (City) plan to carry out the Downtown Sioux Falls Rail Yard Redevelopment Project (Project) to purchase approximately 9 acres of the Downtown Burlington Northern Santa Fe Railway (BNSF) Rail Yard, removing rail infrastructure, and making the land available for economic development; and

WHEREAS, the FHWA plans to fund the Project pursuant to Public Law 109-59 – Aug. 10, 2005, Transportation Improvements Number 377 to construct Phase II and III of Phillips to the Falls Project thereby making the Project an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, and its implementing regulations, 36 C.F.R. Part 800; and

WHEREAS, FHWA has defined the undertaking's area of potential effect (APE) as approximately 50 feet surrounding the limits of the property to be acquired from BNSF and the extents for construction and/or removal of ancillary rail lines, as shown on Attachment A; and

WHEREAS, FHWA has determined that the undertaking may have an adverse effect on Site 39MH2000 - the historic Burlington Northern Railway, a portion of which is located between 10th Street and just north of 6th Street in downtown Sioux Falls, and Site MH00002262 - the Great Northern Railway Freight House Addition, located between 8th Street and 6th Street in downtown Sioux Falls, which are eligible for listing in the National Register of Historic Places, and has consulted with the South Dakota State Historic Preservation Office (SHPO) pursuant to 36 C.F.R. Part 800; and

WHEREAS, FHWA has consulted with the Flandreau Santee Sioux Tribe, the Lower Brule Sioux Tribe, the Sisseton-Wahpeton Oyate Tribe, the Standing Rock Sioux Tribe, the Yankton Sioux Tribe, the Iowa Tribe of Oklahoma, the Three Affiliated Tribes (Mandan, Hidatsa, Arikara Nation), and the Ponca Tribe of Nebraska (Tribes) for which the downtown area of Sioux Falls may have religious and cultural significance. No properties of religious and cultural significance were identified by the Tribes within the area affected by this undertaking; and

WHEREAS, FHWA has consulted with the SDDOT and the City regarding the effects of the undertaking on historic properties and has invited them to sign this MOA as invited signatories; and

WHEREAS, FHWA has consulted with the Sioux Falls Board of Historical Preservation (BHP) regarding the effects of the undertaking on historic properties and has invited them to sign this MOA as concurring parties; and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), FHWA has notified the Advisory Council on

Historic Preservation (ACHP) of its adverse effect determination providing the 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

NOW, THEREFORE, FHWA and the 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 historic properties.

STIPULATIONS

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

I. REDEVELOPMENT PLAN

The City, in consultation with the SHPO and the BHP, has developed the redevelopment master plan as shown in Attachment B. Redevelopment of the site will generally conform to the master plan. Buildings constructed as part of the redevelopment will be compatible with the historic nature of the surrounding area and will have a similar industrial design. The City will consult with SHPO and BHP if any significant changes to the redevelopment master plan are required.

II. SIGNAGE

The City will develop a signage plan to install at least 2 signs in consultation with the SHPO and BHP regarding the historic railroad and its role in the development of downtown Sioux Falls. This signage will then be placed in an area for public consumption within the vicinity of the former rail yard.

III. RECORDATION

The City will record and document the current state of the rail yard prior to any changes taking place to the tracks or the warehouse building. This recordation will include a site plan and elevation drawing of the rail yard; ground level photos of the tracks, buildings (including the Great Northern Railway Freight House Addition) and operating features; and a brief history of the rail yard with annotated bibliography for reference. Sources for the documentation may include newspaper articles, oral histories, and city development records. The SHPO will have an opportunity to review and comment prior to final draft. Copies the final draft will be submitted in both digital and print copies (specifications in Attachment C) to the Collections department of the Siouxland Heritage Museum in Sioux Falls and the SHPO.

IV. DURATION

This MOA will begin on the date of the last signatory's signature and will expire if its stipulations are not carried out within five (5) years from the date of its execution. At such time, and prior to work continuing on the undertaking, FHWA shall either (a) execute a 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. Prior to such time, FHWA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VIII below. FHWA shall notify the signatories as to the course of action it will pursue.

V. POST-REVIEW DISCOVERIES

If there is an inadvertent discovery of a historic property during construction of the undertaking, the City will stop construction and immediately notify FHWA. FHWA will notify the appropriate authorities and follow the procedures outlined in 36 CFR 800.13.

VI. 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 written summary detailing work carried out pursuant to its terms. The summary shall include status of completion by stipulation, 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. The summary provided by December 31 of each year.

VII. DISPUTE RESOLUTION

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

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

B. If the ACHP does not provide its advice regarding the dispute within the 30 day time period; FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FHWA 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 written response.

C. Carry out all other actions subject to the terms of this MOA that are not the subject of the dispute.

VIII. 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.

IX. 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 VIII, above. If within 30 days an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

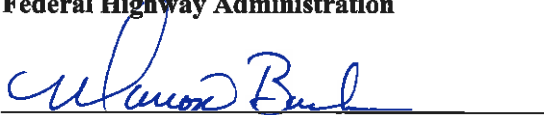
Once the MOA is terminated, and prior to work continuing on the undertaking, FHWA must

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. FHWA shall notify the signatories, in writing, as to the course of action it will pursue.

EXECUTION of this MOA by the FHWA and SHPO and implementation of its terms evidence that FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORIES:

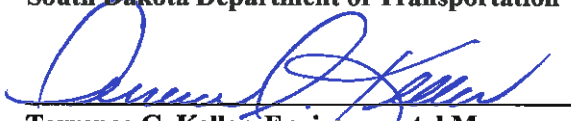
Federal Highway Administration

 Date 6/25/2013
Marion Barber, Environmental Engineer


State Historic Preservation Office

 Date 06-20-2013
Jay D. Vogt, Historic Preservation Officer

South Dakota Department of Transportation

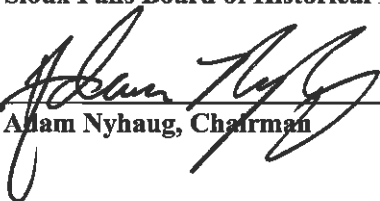
 Date 6/17/13
Terrence G. Keller, Environmental Manager

City of Sioux Falls, South Dakota

 Date 6/13/13
Mayor Mike Huether

CONCURRING PARTIES:

Sioux Falls Board of Historical Preservation

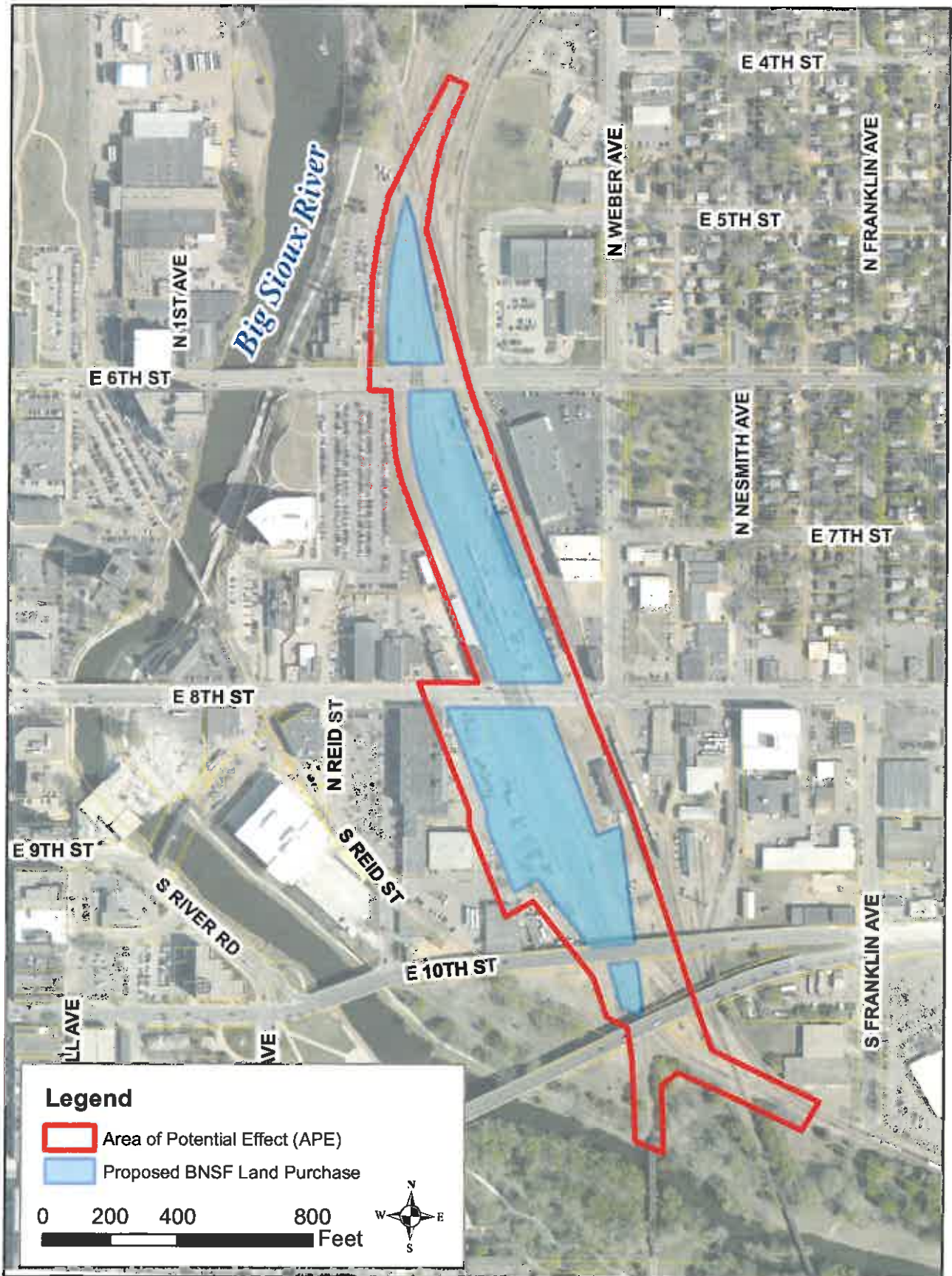
 Date 6-13-2013
Adam Nyhaug, Chairman

CITY USE ONLY

Agreement No. 13-3312 Dept. No. and MOU No. 14
P.O. No. NA Attorney [Signature]
CIP No. 452019 Finance [Signature]
Project BK Bolcale City Engineer [Signature]

Handwritten notes and signatures:
M...
[Signature]

ATTACHMENT A
STUDY AREA 2/AREA OF POTENTIAL EFFECT (APE)



**ATTACHMENT B
REDEVELOPMENT MASTER PLAN**

Proposed Land for Purchase

A portion of Outlot 1 Manitoba Addition
and a portion of C & NW RR SW 1/4 16-101-49
±1.1 acres

6th Street ROW
±0.35 acres

Portions of C & NW RR SW 1/4 16-101-49;
Tracts 18 & 19 SW 1/4 16-101-49;
Tract 5 SE 1/4 16-101-49;
and Trackage & Depot abutting both sides
of 8th Street SW 1/4 16-101-49
±3.7 acres






8th Street ROW
±0.65 acres

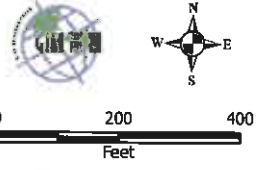
Trackage & Depot abutting both sides
of 8th St SE 1/4 16-101-49;
A portion of C & NW Railroad Right-of-way
(ex PE-1 & PE-2) SE 1/4 16-101-49;
and a portion of Tract 6 SE 1/4 16-101-49
±4.8 acres

10th Street ROW
±0.15 acres

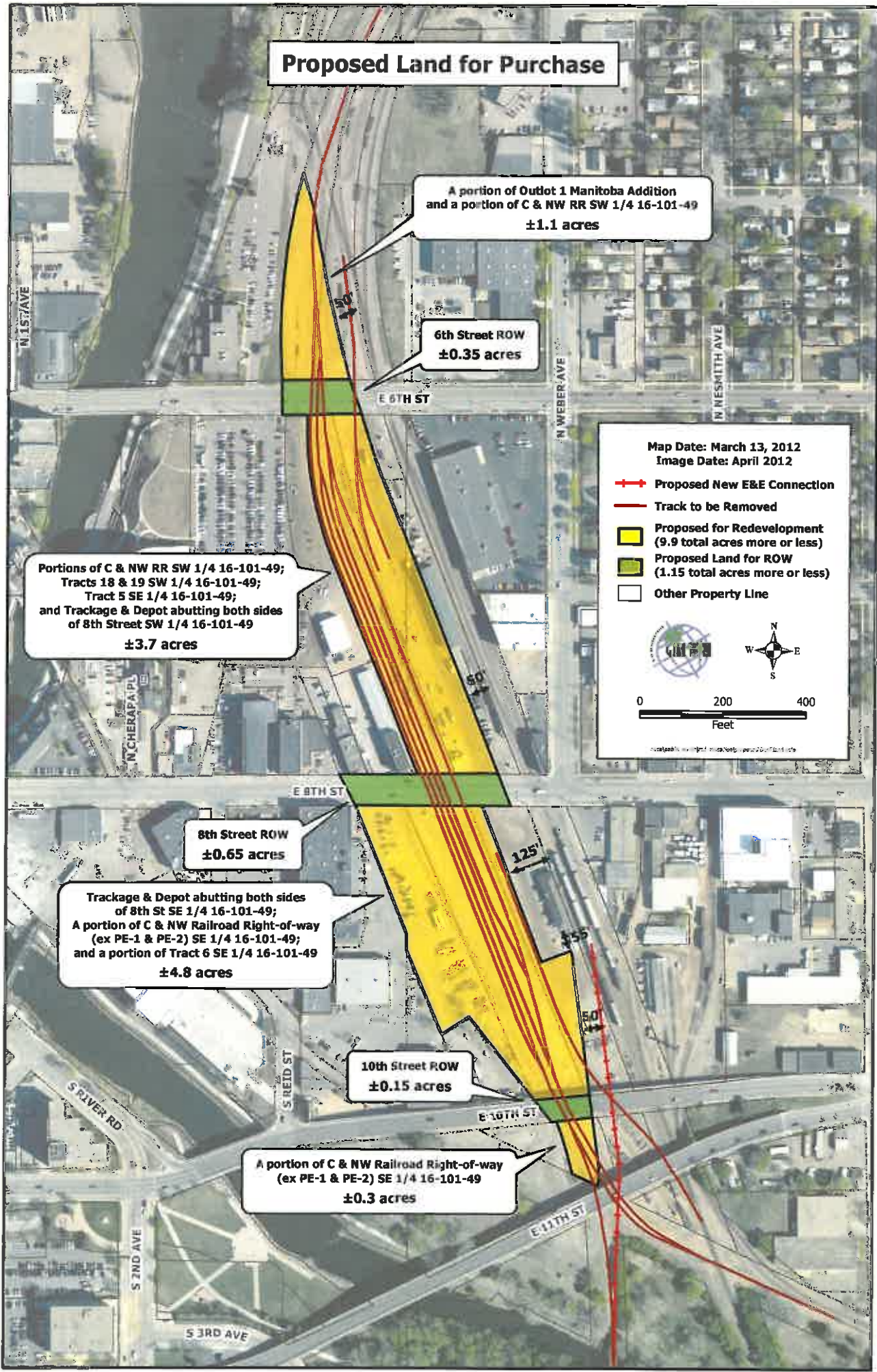
A portion of C & NW Railroad Right-of-way
(ex PE-1 & PE-2) SE 1/4 16-101-49
±0.3 acres

Map Date: March 13, 2012
Image Date: April 2012

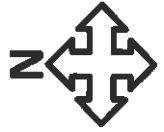
-  Proposed New E&E Connection
-  Track to be Removed
-  Proposed for Redevelopment (9.9 total acres more or less)
-  Proposed Land for ROW (1.15 total acres more or less)
-  Other Property Line



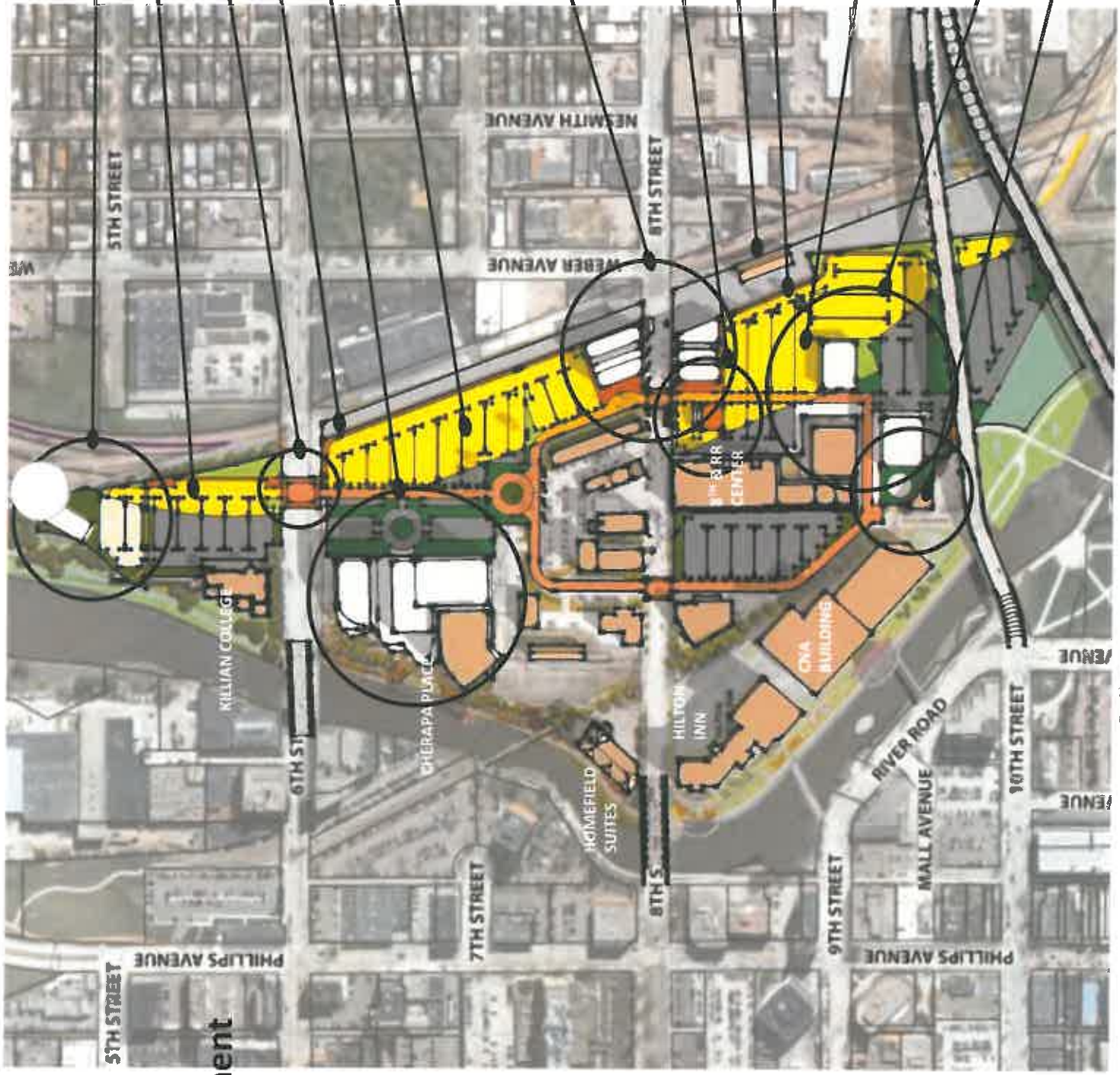
0 200 400
Feet



Downtown Sioux Falls Rail Yard Redevelopment



04/24/13



**FUTURE CONDOMINIUMS
AND PARKING EXPANSION**
ADD 66 PARKING SPACES
TO EXISTING

**NEW 6TH STREET CROSSING
INTERSECTION**

**NEW 6' HIGH DECORATIVE
FENCE ALONG PARKING LOT
CHERAPA PLACE BUILDING
AND PARKING ADDITIONS**

**ADD 205 PARKING SPACES
TO EXISTING**

**NEW 8TH STREET CROSSING
INTERSECTIONS**

**(2) NEW BUILDINGS
ON 8TH STREET**

- 80,000 s.f. GLA total
- 266 parking spaces

**HISTORIC RR PAVERS AND
INTERPRETIVE SHELTER/
8TH & RR MARKET OPTION.
TROLLEY STOP.
GREAT NORTHERN DEPOT
ALTERNATE BIKE PATH**

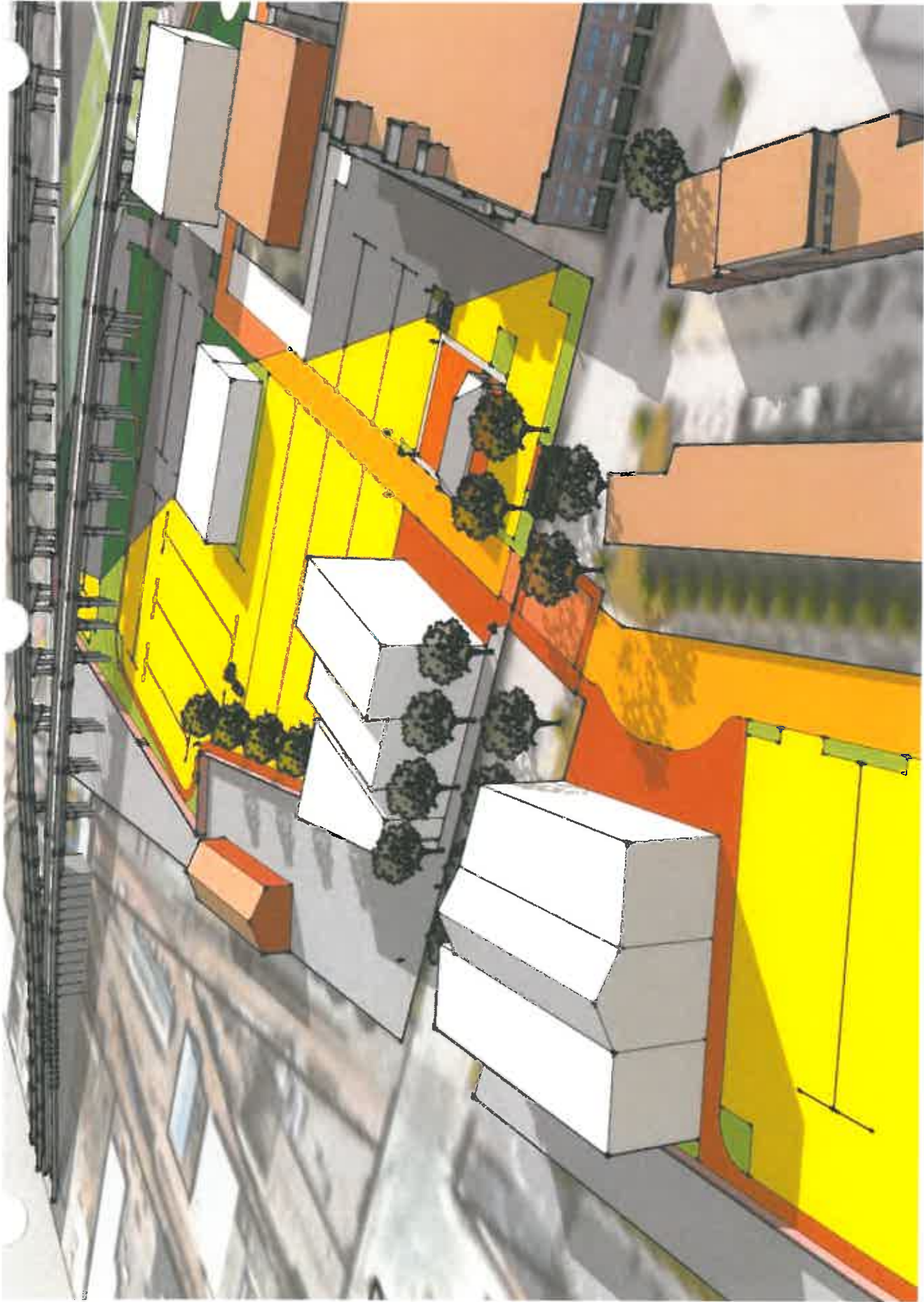
**ADD 708 PARKING SPACES
TO EXISTING**

(2) NEW 4-STORY BUILDINGS

- 80,000 s.f. GLA
- 266 parking spaces

1910 SF BOILERWORKS BLDG.

Rail Relocation Project - Phase III Area



**View of historic paving section, interpretive shelter/8th & Railroad market
And Great Northern Depot from above.**



**View of historic paving section, interpretive shelter/8th & Railroad market
And Great Northern Depot from new 8th Street crossing and trolley stop.**



**View of historic paving section, interpretive shelter/8th & Railroad market
And new building on 8th Street.**

ATTACHMENT C
RECORDATION SPECIFICATIONS

I - Photo Documentation

All photos will be recorded on a site map and in a photo log.

Photos will be labeled as follows:

- 1) Photo Number - from photo log and site map
- 2) Name and Address of property – if property does not have legal address then please note either the UTM's or the legal location down to the quarter section.
- 3) Month and Year of photograph
- 4) Description of view, including camera direction (cardinal direction)

Photos will be submitted in both of the following formats:

- 1) Digital Photographs
 - a. At least 2000 X 3000 pixels at 600 dpi
 - b. Saved as jpegs submitted on CDs
- 2) 35mm Color Photographs
 - a. 35mm photographic paper in 8" X 10"

II – Written Documentation

Should be submitted in:

- 1) printed form on archival paper
- 2) digital form as a pdf.