

# Final Section 4(f) Evaluation

FOR

East Side Corridor (SD100)  
Project EM-P 0100(101)405 PCN 00T7

I-90 to South of Madison Street  
Sioux Falls, South Dakota


Minnehaha County  
South Dakota

November 2017

Submitted Pursuant to:  
42 U.S.C. 4332 and 49 U.S.C. 303  
By the  
US Department of Transportation  
Federal Highway Administration  
and  
South Dakota Department of Transportation



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Attachment 1	Final Memorandum of Agreement
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# 1. Introduction

## Regulatory Setting

Section 4(f) of the Department of Transportation Act of 1966 (49 U.S.C. 303), declares that it is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

Section 4(f) specifies that the Secretary [of Transportation] may approve a transportation program or project . . . requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if:

- (1) there is no prudent and feasible alternative to using that land; and
- (2) the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.

Section 4(f) further requires consultation with the Department of the Interior and, as appropriate, the involved offices of the Departments of Agriculture and Housing and Urban Development in developing transportation projects and programs which use lands protected by Section 4(f).

## Evaluation of Impacts to Section 4(f) Properties

If the use of a Section 4(f) property has changed after the NEPA document, such as the Finding of No Significant Impact (FONSI), a separate Section 4(f) approval is required (23 CFR 774.9(c)). This can happen despite a good faith effort to consider all impacts to historic properties during the NEPA evaluation.

Upon completion of the project design, the South Dakota Department of Transportation (SDDOT) determined the project will result in a rise in the base flood elevation (BFE) of more than one tenth of a foot. As part of the National Flood Insurance Program (NFIP) this rise is regulated by the Federal Emergency Management Administration (FEMA) and requires:

- A Conditional Letter of Map Revision (CLOMR) and
- Flood control mitigation for structures located within the impacted flood plain.

This Section 4(f) evaluation considers the adverse effects to eligible historic properties located at 5100 N. Timberline Avenue. These adverse effects are a result of mitigation determined necessary to minimize impacts of future flood events within the floodplain.

## 2. Proposed Action

The project, referred to as the Proposed Action for purposes of Section 4(f), is a Federal aid highway project to construct a new limited-access regional arterial roadway planned to address future transportation system needs in the Sioux Falls area. The Proposed Action consists of constructing a paved 17-mile roadway that will connect I-29 to I-90 (Figure 1). Part of each alternative, except the no build alternative, includes a crossing of the Big Sioux River.


## 3. Purpose and Need

The purpose and need for the East Side Corridor Project (SD 100) was first introduced in the 1995 Sioux Falls Regional Transportation Study (Sioux Falls MPO, 1995). It was developed as a means to address future transportation needs in the area south and east of the current city limits of Sioux Falls. It was proposed as a 17-mile regional arterial highway to accommodate forecasted regional travel demand in Lincoln and Minnehaha Counties. This highway includes a large crossing of the Big Sioux River.





Since 1995, SD 100 has been mentioned, studied, and refined in a host of documents including:

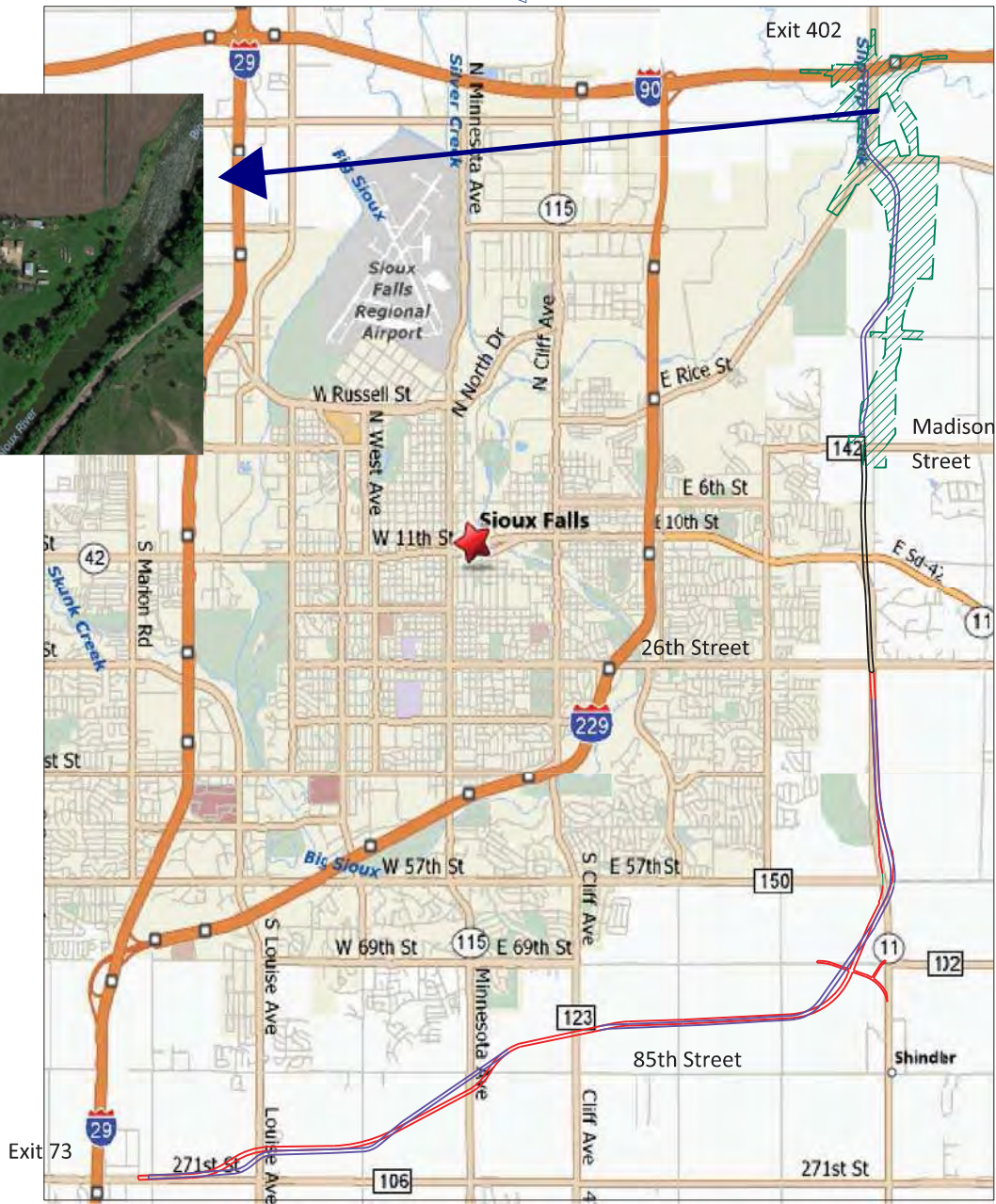
- Sioux Falls Regional Arterial Corridor Analysis-East Side Corridor Study- Phase I (1999) (City of Sioux Falls 2003);
- Final Environmental Assessment, Sioux Falls East Side Corridor Minnehaha and Lincoln Counties, South Dakota, I-29 (Exit 106) east and north 17 miles to I-90 (Exit 402), Sioux Falls, South Dakota (FHWA/SDDOT 2003)
- Year 2025 Long Range Transportation Plan for the Sioux Falls Metropolitan Planning Area (Sioux Falls MPO 2005);
- Sioux Falls 2015 Comprehensive Development Plan (Sioux Falls Planning and Building Services 2003)
- Sioux Falls Comprehensive Development Plan: Shape Sioux Falls 2035 (City of Sioux Falls 2009)
- Direction Sioux Falls MPO Long Range Transportation Plan (Sioux Falls MPO 2010)
- Final Supplemental Environmental Assessment and Section 4(f) *De Minimis* Impact Finding: East Side Corridor (SD100) I-29/County Road 106 (Exit 73) to South of 26<sup>th</sup> Street, Sioux Falls, South Dakota (FHWA/SDDOT 2012)
- South Dakota State Transportation Improvement Plan (STIP) 2014-2017 (SDDOT 2013)
- Environmental Assessment and Section 4(f) *De Minimis* Analysis for East Side Corridor (SD100) I-90 to South of Madison Street, Sioux Falls, South Dakota (FHWA/SDDOT 2014)



 Not to Scale

**Legend**

-  2003 EA Preferred Alternative
-  SDDOT Supplemental Segment
-  Revised Build Alternative (Southern Segment)
-  EA Study Area 2014



Project Location Map

Figure

1

- Federal Highway Administration Environmental Assessment and Section 4(f) *De Minimis* Impact Finding, Reevaluation for East Side Corridor (SD100) I-90 to South of Madison Street, Sioux Falls, South Dakota (FHWA/SDDOT 2016)

This project is designed to adequately prepare the City of Sioux Falls for needs consistent with planning decisions and future construction of other public and private infrastructure investments and it will meet the transportation needs of 2025 and 2035. This project will prevent highway transportation deficiencies that will occur in the study area if nothing is done including deficiencies in highway capacity, safety, and access.

## 4. Description of Section 4(f) Properties

The Section 4(f) *de minimis* impact finding included in the original EA (FHWA/SDDOT 2014) documented the projects *de minimis* impacts to four individual historic properties. New information has prompted a reevaluation of one of these four historic properties. The following describes the features, attributes, and activities of 5100 North Timberline Avenue that may be affected by the Project.

The Olson-Rist-Sunvold farmstead (MH03000001-MH03000010) located at 5100 North Timberline Avenue consists of a residential home and nine outbuildings. The parcel and buildings face west toward North Timberline Avenue and are south and west of a large agricultural field. The house and outbuildings are set back from the road by a manicured lawn with several large trees. A gravel driveway partially bisects the property, running east-west from North Timberline Avenue past the house to the outbuildings. The structures include a primary residence, two recently constructed garage structures, a barn/shop, open hay storage, and a number of garage-storage-shop buildings. The Big Sioux River abuts the parcel at its southeast corner, which also is paralleled by railroad tracks.

The 144 acres (58.27 hectares) property is designated as Government Lots 1 and 2 of Section 30, Township 102N, Range 48W. The property ownership is traced to 1879 until the last private owner purchased the property in 1979, Mr. Bennett L. Sunvold. Due to the projects proximity to the property Mr. Sunvold requested the SDDOT purchase the property as part of the project and in early 2017 SDDOT completed the purchase of the property. Access to the property is from North Timberline Road and the driveway to the structures. It is a semi-rural farmstead on the edge of a growing urban area. Similar properties in this area, northeast of Sioux Falls, are typically associated with one or two agricultural fields and are interspersed with small properties containing single family homes with no agricultural usage.

The residence was constructed in 1912 and the outbuildings were constructed at various times by the three twentieth century owners of the property. It is said that the Olson family lived in a dugout structure on the parcel prior to the 1912 residence construction but no evidence of the structure was found during the cultural survey, likely due to the several flooding events that have occurred since that time. The last large flood that clearly affected the structures was in 1973 and while there may have been smaller flooding events since it appears some major structural repairs were required after 1973. Four of the ten structures located on the parcel (Figure 2) are considered eligible for listing on the National Register of Historic Places (NRHP):



MH03000002

MH03000001

MH03000006

MH03000009



AERIAL PHOTO OF 5100 N. TIMBERLINE AVE PROPERTY

FIGURE 2



HDR

**Building 1 (MH03000001)** is the two-story, wood frame foursquare type residence constructed in 1912. The structure sits on a stone foundation and faces west toward North Timberline Avenue across the manicured lawn. The house has a pyramidal roof clad with asphalt shingles and a front facing dormer. Its exterior walls are clad with wood siding, which appears to be original on all facades except the rear (east). This facade has replacement vertical wood siding on the lower story. Windows appear to be wood, double-hung sash with one over one lights (panes of glass). The exception to the original windows is one small vinyl sliding window on the lower portion of the north facade.

The west facade has an enclosed porch with a flat roof that serves as a balcony for the upper story. The porch is accessed via three concrete steps with recent wood railings that lead to the houses front door. There is a wood panel door with an oval light in the center bay flanked by a double-hung, one over one light wood window on each side. The upper story door accesses the balcony.

The building has two small additions that are well designed and proportional to the house. On the south facade is a small one story, gable roof kitchen addition and the east facade contains a small addition.

**Building 2 (MH03000002)** is a one-car garage/storage structure estimated of 1920s-30s construction. The small wood frame structure has a side-gable roof and faces east. Its exterior walls are clad with wood siding, and its only opening is via double-leaf wood vehicle doors. The lower portion of the rear (west) facade extends out. This may be the original garage that has been relocated as it sits on a new concrete foundation and its location is peripheral to the outbuilding group.

**Building 6 (MH03000006)** is a one-car garage/storage structure of estimated 19120s-30s construction. The wood frame structure sits on a wood sill and faces west. It has a clipped front-gable roof clad with asphalt shingles. Its exterior is clad with wood siding except for its overhead metal vehicle door. On the rear (east) facade are a boarded up pedestrian door and a window. The garage may be the second garage in sequence. Installation of an overhead door likely occurred in the 1950s-60s.

**Building 9 (MH03000009)** is a small, wood frame storage building with a square plan and a tall pyramidal roof. It sits on a concrete block foundation and faces north. Its only openings are a two-car overhead metal door on the main (north) facade and a glazed panel pedestrian door on its west facade. At the center of the roof is a tin wind vane. It may be an earlier building relocated to its current concrete block foundation. This building and the house are the only two structures with pyramidal roofs. The vehicle door is a modification of the north facade.

These four buildings were determined eligible for listing on the NRHP under National Register Criteria for Evaluation (National Park Service Bulletin 15), "Criteria A. That are associated with events that made a significant contribution to the board patterns of our history." These structures, although it appears two were moved slightly, likely following the 1973 flood of the Big Sioux River, remained on the original parcel of land settled under the Homestead Act. This was



an important period of settlement and development in South Dakota and the original location and general setting have remained intact for this property (SDSHS 1994).

## 5. Impacts to the Section 4(f) Properties

Initial cultural resource reviews for the SD100 project did not include the property at 5100 N. Timberline Ave (the property) as it was outside of the original corridor boundary. It was not until research for a revised Northern Segment of SD100 in 2012 that a survey was conducted to include the property. During this survey 4 structures on the property were identified as eligible for listing on the NRHP. At this time there were no impacts to the Section 4(f) structures as the preliminary design only indicated a small impact to the front yard (from which the house is set far back). At that time, the landowners continued to plan to reside in the residence as well as maintain the property in its original use.

In 2016, at the request of the landowner, the SDDOT agreed to acquire this property. The 2016 Findings of No Significant Impacts (FONSI) re-evaluation (FHWA/SDDOT 2016) included considerations for changes to the property's ownership. As part of the re-evaluation SHPO concurred with the SDDOT that the stipulations originally included in the no adverse effect determination (July 13, 2016) requiring the property to maintain a direct access to N. Timberline Ave and calling for additional plantings (screening) were not necessary.

On August 3, 2017, the SDDOT and FHWA were made aware of FEMA's regulatory concerns regarding the effects a rise in the floodplain would have on the property. Each of the Big Sioux River crossing alternatives discussed in the EA (FHWA/SDDOT 2016) impact the property in the same manner and have the same effects to the base flood elevation (BFE). For a projected rise of 1% annual chance flood event (i.e. a 100-year flood) the water surface elevation (WSEL) will be approximately 0.32 feet above the current BFE of 3 feet. The difference in potential impacts to property, natural, cultural, and socioeconomic resources from a flood event of 3 feet and 3.32 feet would be similar. In consultation with SHPO, FHWA obtained concurrence that the difference in the projected BFE alone, before and after construction, would have no adverse effect on the property.

On August 23, 2017, FEMA informed the SDDOT that to comply with FEMA regulations for the National Flood Insurance Program 44 CFR 59-65 and to obtain the necessary CLOMR, the projected rise in the BFE by 0.32 feet would require flood mitigation for any structure within the BFE. This included the historic structures at 5100 N. Timberline Avenue. Upon further review by the SDDOT, it was determined that any crossing of the Big Sioux River that met the project's purpose and need would also result in a rise in the BFE of more than 0.10 feet and thus require flood mitigation.

To meet the requirements for a CLOMR, the structures must be removed from the BFE or flood proofed. The following table (Table 1) demonstrates a comparison and review of the alternatives considered to meet the CLOMR requirements as well as evaluate feasible and prudent avoidance alternatives under Section 4(f).

Table 1 lays out the options and an evaluation of the challenges associated with flood proofing the property's residence and three outbuildings utilizing the following guidance documents put forth by FEMA:

- “Homeowner’s Guide to Retrofitting: Six Ways to Protect Your Home from Flooding” (FEMA P-312, 3<sup>rd</sup> edition, June 2014);
- “Floodplain Management Bulletin; Historic Structures” (FEMA P-467-2 May 2008);
- “Engineering Principles and Practices for Retrofitting Flood-Prone Residential Structures (Third Edition)” (FEMA P-259 January 2012).

## 6. Avoidance Alternatives Analysis

Numerous alternatives for SD 100 were evaluated but all required a crossing of the Big Sioux River with the exception of the no build alternative. Under the no build alternative, the City of Sioux Falls would be unable to meet the traffic needs for the years 2025 and beyond, therefore this alternative is not feasible and prudent. The following discussion is a brief synopsis of the alternative discussion in the “Federal Highway Administration Environmental Assessment and Section 4(f) *De Minimis* Impact Finding, Reevaluation for East Side Corridor (SD100) I-90 to South of Madison Street, Sioux Falls, South Dakota” (FHWA and SDDOT 2016).

As all the build alternatives evaluated in the EA required a crossing of the Big Sioux River. A hydrological study was undertaken to evaluate the alternatives for the location of the crossing and the impacts of a bridge construction project (FEMA application Case Number 17-08-0628R, August 25, 2017). Alternatives were reviewed to attempt to identify a ‘no rise’ alternative for the base flood elevation (BFE).

It became apparent that any piers placed in the channel caused an increase in the BFE. Due to the length of this bridge (between 780 and 1000 feet) and the surrounding topography, piers within the channel are required. Therefore, it became necessary to look at where the increases in the rise of BFE occurred and how far upstream and downstream these rises occurred.

Alternatives to the east of the preferred alternative were considered (Alternatives 1, 2, and 3), these crossing alternatives faced significant constructability challenges with overhead utility lines. Operational changes have increased the electrical loads carried through the transmission lines. These increased loads result in additional sag in the power lines. In this case, the increased sag reduced the clearance between the ground and the power lines by as much as 8 feet. Lack of clearance between the transmission lines and the ground prevent construction equipment that would be needed to erect the Big Sioux River Bridge, such as cranes, to operate safely. In addition, changes in utility regulations have made it challenging to obtain approval for powering down transmission lines during construction. Due to these constraints, these alternatives did not meet the constructability need of the project and were determined not feasible and prudent.

**Table 1. Flood Proofing Impacts**

	Impacts to Section 106 and Section 4(f) Resources	Challenge	Results/Conclusion
<p><i>Option 1</i></p> <p><u>Relocate Structures outside the BFE</u></p>	<p>Relocation of the residential structure, i.e. MH03000001, would allow it to maintain its historic significance under Criteria C for distinctive characteristics of type, period, or method of construction however, it would lose its significance under Criteria A with changes to the original location and agricultural setting.</p> <p>"A property removed from its original or historically significant location can be eligible if it is significant primarily for architectural value or it is the surviving property most importantly associated with a historic person or event." NPS Bulletin 15. Properties can even be moved within a property boundary and retain significance, such as the 3 outbuildings did. However once removed from the original parcel their significance is lost.</p> <p><i>Relocation of these structures would adversely affect the historic properties and Section 4(f) resources.</i></p>	<p>Substantial improvements would be required to make the house structurally sound prior to relocation. The following issues were observed:</p> <ul style="list-style-type: none"> <li>- Sill plates show significant wear and some water damage</li> <li>- floor joists do not meet current code have some areas of water damage.</li> <li>- additional cross girders added and are supported by 4 steel poles bolted to the concrete floor in the center of the house.</li> <li>- appears much of this work was done after 1973 flooding.</li> <li>- due to the shape of the first floor and the structure of the home, there is a high potential for catastrophic failure without substantial improvements.</li> </ul> <p>Locating a site of similar size and setting to accommodate the residence and outbuildings for placement could be challenging given a rapidly growing community like Sioux Falls.</p>	<p>There is a high risk that the residential structure would not survive relocation without substantial improvements. It is likely reconstruction of the first floor would be needed as well as additional wall supports.</p> <p>Relocation would be an Adverse Effect under Section 106 of the NRHP.</p> <p>The cost for land, structural rehabilitation, and relocation is not considered feasible or prudent under Section 4(f).</p> <p><b>Option dismissed.</b></p>

	Impacts to Section 106 and Section 4(f) Resources	Challenge	Results/Conclusion
<p><i>Option 2</i></p> <p><u>Elevate Structures above the BFE</u></p>	<p>Raising the residential structure may allow the residential structure to maintain its historic significance under Criteria C for distinctive characteristics of type, period, or method of construction and significance under Criteria A by retaining the original location and agricultural setting. Although retrofitting could cause an impact to material, feeling, and potentially the workmanship of a structure.</p> <p>Elevating the outbuildings would make them either unusable for their intended purpose or substantial improvements would be required (e.g. lowering the garage doors from the structure to a new concrete foundation, rewiring, shoring). These improvements would detract from the property's historic setting, feeling, workmanship, and would compromise the amount of historic material.</p> <p><i>Raising these structures would adversely affect the historic properties and Section 4(f) resources.</i></p>	<p>Substantial improvements would be required to make the residence structurally sound to withstand an elevation shift of approximately 5.5 feet (per Sioux Falls ordinance 156.066). The following issues were observed:</p> <ul style="list-style-type: none"> <li>- Sill plates show significant wear and some water damage</li> <li>- floor joists do not meet current code have some areas of water damage.</li> <li>- additional cross girders added and are supported by 4 steel poles bolted to the concrete floor in the center of the house.</li> <li>- appears much of this work was done after 1973 flooding.</li> <li>- due to the shape of the first floor and the structure of the home, there is a high potential for catastrophic failure of this option.</li> <li>- both additions to structure would need to be removed, either permanently or temporarily.</li> </ul> <p>Elevating the remaining structures would require a substantial improvements to make them useable (e.g. lowering the garage doors from the structure to a new concrete foundation, rewiring, shoring).</p> <p>The purpose and need of the new highway is to provide a limited access highway restricting entrances to major intersections. This requires eliminating the existing approach road to this property. A new access road would be required into this property.</p>	<p>There is a high risk that the residential structure would not survive being elevated without substantial improvements.</p> <p>Elevating the remaining structures approximately 5.5 feet above the BFE would require substantial improvements (i.e. shifting the garage doors from the structure to a new concrete foundation). The appearance of such retrofits would detract from the setting making this an Adverse Effect on the properties setting.</p> <p>Locating a new access road to the property would require acquisition of property from adjacent land owners and would affect use of these properties.</p> <p>For the residence and outbuildings, significant retrofitting to make the structures useable at a raised elevation would have considerable cost, creating a new use for the structures separate from their current use will be challenged and is not considered feasible or prudent under Section 4(f).</p> <p><b>Option dismissed</b></p>

	Impacts to Section 106 and Section 4(f) Resources	Challenge	Results/Conclusion
<i>Option 3 Dry Flood Proof Structures</i>	<i>No impacts to Section 4(f) Resources</i>	This option is not allowed under FEMA and National Park Service requirements.	Not an acceptable option Option dismissed
<i>Option 4 Wet Flood Proof Structures</i>	<i>No impacts to Section 4(f) Resources</i>	<p>This involves raising utilities, structural component (first floor), filling basement/crawlspace, and contents above BFE</p> <p>Due to the need to raise the structural components approximately 5.5' above the ground, the entire first floor would need to be elevated, resulting in similar challenges to Option 2.</p> <p>Challenges identified under Option 2 also apply to this option.</p>	<p>Refer to same results and conclusions listed under Option 2.</p> <p><b>Not an acceptable option Option dismissed</b></p>

	Impacts to Section 106 and Section 4(f) Resources	Challenge	Results/Conclusion
<p><i>Option 5</i></p> <p><i>Construct Flood Wall or Levee</i></p>	<p>Construction of a floodwall or levee would adversely affect the setting of the property identified under Criteria C.</p> <p>There is a potential for adverse impacts to additional Section 4(f) and 6(f) properties upstream, (two potentially eligible properties observed during windshield survey and one 6(f) property identified), because of rise in the BFE due to material being placed within the floodplain.</p> <p><i>Constructing a floodwall or levee would have an adverse effect to the historic properties and Section 4(f) resources.</i></p>	<p>A large floodwall or levee would need to be constructed to prevent water from reaching this property. This would either need to completely encapsulate the property or it would need to extend the length of the river.</p> <p>Prevent impacts to other homes and potential 4(f) and 6(f) properties in the surrounding area or to provide mitigation for the properties would be required for any additional rise in the BFE that would result from additional material being placed in the flood plain.</p>	<p>Constructing a floodwall or levee would have an Adverse Effect on the local setting of the historic resource and additional Adverse Effects on other resources upstream and downstream.</p> <p>Encapsulating the property would require blocking access to the property and make the property unusable.</p> <p>A levee would need to extend the length of the river which is not feasible and would create an additional rise in the BFE.</p> <p>This alternative is not considered feasible or prudent under Section 4(f).</p> <p><b>Option dismissed</b></p>
<p><i>Option 6</i></p> <p><i>Demolition</i></p>	<p>The structures would be demolished and the property would be returned to green space.</p> <p><i>Adverse Effect would be mitigated with MOA and Adverse Impact to Section 4(f) resource could be minimized through MOA with SHPO.</i></p>	<p>Removal of structure from the floodplain meets FEMA requirements.</p>	<p>While an Adverse Effect to the historic property, this effect is mitigated through an MOA with SHPO. This option is the only feasible and prudent alternatives identified under Section 4(f).</p> <p><b>Potential option for further consideration.</b></p>

Alternatives further to the west were considered but the number of residences that would be impacted by the rise in the BFE grew with increased shoreline impacts being required for these alternatives. The western alternatives would result in an increased hardship for numerous residences that would have to either be relocated or elevated above the BFE. In addition, a preliminary review of the plats of these residences and structures indicate a high probability that they are from the same period as 5100 N. Timberline Ave. Additional impacts to historic resources, public parks (6(f) resources) would be likely with the most western options and therefore these alternatives were considered not feasible and prudent.

The other alternatives considered in the EA, Alternatives 4, 4A, and 7 were carried forward for analysis and have very similar bridge placements and although there is some slight variation in the BFE and floodplain boundary it does not change the impact on the historic properties at 5100 N. Timberline Ave required due to flood mitigation. These alternatives are considered in this document. As the impacts for these alternatives are the same, they have been treated as one construction alternative and reflect the final Alternative chosen in the EA, Alternative 4A.

## 7. Least Overall Harm Analysis

With no prudent and feasible avoidance alternatives, Alternative 4A was evaluated for measures to minimize harm to the Section 4(f) resources. Since the project construction requires compliance with the NFIP 44 CFR 59-65 Flood Management Procedures, options for flood proofing and minimizing impacts to these eligible historic properties were evaluated. Table 1 identifies the impacts, challenges, and the recommended conclusion for each of these options.

Based on the evaluation in Table 1, the only feasible option is to demolish the structures at 5100 N. Timberline Avenue. FHWA, SDDOT, and the SD SHPO have prepared a draft Memorandum of Agreement (Attachment 1) intended to mitigate for the loss of historic properties that includes the following commitments:

- 1) A comprehensive parcel map will be created of 5100 N. Timberline documenting all of the structures located on the property, the agricultural fields, driveways, and other ancillary facilities associated with the property.
- 2) All mapped structures, features, and facilities will be documented with National Register quality photographs as described in the “Photography Guidelines for the Purposes of Section 106 Mitigation” provided by the SD SHPO.
- 3) If available, aerial views of the farmstead showing the properties development from establishment to the present will be compiled.
- 4) The above documentation will be donated to the South Dakota State Archives.

The Advisory Council on Historic Preservation (ACHP) has been provided the opportunity to participate in resolution of adverse effects to these historic properties. Based on their September 22, 2017 letter to the FHWA, the ACHP has concluded that Appendix A, *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*, of their regulations, “Protection of Historic Properties” (36 CFR Part 800), does not apply to this undertaking. Further, they do

not believe their participation in the consultation to resolve adverse effects is needed at this time though they may reconsider this decision if their participation is requested by other consulting parties.

## 8. Public Involvement and Agency Coordination

The SD100 project included public consultation throughout its development and are documented in the studies and plans referenced in Section 3. The environmental assessments and public involvement information since January 2007 was made available on the SDDOT website:

<http://www.sddot.com/transportation/highways/planning/specialstudies/sd100/default.aspx>

During the public meeting held on October 21, 2014, project impacts associated with the ROW and alignment adjacent to 5100 N. Timberline Avenue were discussed and 5100 N. Timberline Ave. property owner expressed displeasure with the alignment. No other public comments were received specifically for this property. As plans developed the landowner asked SDDOT to purchase his property.

Documentation of Section 106 coordination completed to date is in Attachment 2. As the Project continues forward, additional coordination will be completed.

Since identifying the impacts on 5100 N. Timberline Avenue for the CLOMR there have been no public meetings. The public was notified in accordance with the SDDOT's Public Involvement Procedures to include a request for public review and comment on this Section 4(f) evaluation. This evaluation was made available through public notice (Attachment 3) and a public website. In addition, copies of the documents were made available at the South Dakota Department of Transportation, Sioux Falls Regional Office and the City of Sioux Falls Public Works Department. In addition an opportunity to request a public meeting regarding these Section 4(f) resources was provided. No comments were received from the public or State agencies.

Section 4(f) requires consultation with the Department of the Interior and, as appropriate, the involved offices of the Departments of Agriculture and Housing and Urban Development in developing transportation projects and programs for all Section 4(f) impacts unless determined to be *de minimis*. The Department of the Interior, Office of Environmental Policy and compliance has commented that they have no objections to the 4(f) evaluation and concur with the measure to mitigate the adverse effects of the project through the Memorandum of Agreement with the South Dakota SHPO (Attachment 4).



## 9. Findings of Section 4(f) Determination

No feasible and prudent avoidance alternatives were identified as a result of this analysis. Of the alternatives that were evaluated to avoid and minimize impacts to the Section 4(f) properties were evaluated but deemed infeasible. The FHWA and SDDOT concluded that there are no prudent and feasible avoidance alternatives, and that the action constitutes an adverse effect pursuant to Section 106 of the National Historic Preservation Act, as amended (36 CFR 800.5(a)(1)). A Memorandum of Agreement with the SD State Historic Preservation Office regarding mitigation measures has been executed to mitigate the adverse effects of the project. Therefore, it has been determined that this alternative will cause the least overall harm to the Section 4(f) properties after the consideration of mitigation measures.

## 10. References

Brooks, Allyson and Steph Jacon. 1994. Homesteading and Agricultural Development Context. Edited by Michael Bedeau. South Dakota State Historical Preservation Center, Vermillion, South Dakota.

Federal Highway Administration and South Dakota Department of Transportation 2014. Federal Highway Administration Environmental Assessment and Section 4(f) *De Minimis* Impact Finding for East Side Corridor (SD100) I-90 south of Madison Street, Sioux Falls, South Dakota, Minnehaha County, South Dakota.

Federal Highway Administration and South Dakota Department of Transportation 2016. Federal Highway Administration Environmental Assessment and Section 4(f) *De Minimis* Impact Finding, Reevaluation for East side Corridor (SD100) I-90 to South of Madison Street, Sioux Falls, South Dakota, Minnehaha County, South Dakota.