



**DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
HUNTINGTON DISTRICT
502 8TH STREET
HUNTINGTON, WV 25701**

July 9, 2021

Regulatory Division
South/Transportation Branch
LRH-2020-00476-SCR – Scioto River
FRA-71-14.36 Phase 6R, PID 105588

Mr. Timothy Hill
Ohio Department of Transportation
1980 West Broad Street, Mail Stop 4170
Columbus, Ohio 43223

Dear Mr. Hill:

This letter is in response to your Pre-Construction Notification (PCN) and plans received by this office on June 11, 2020 requesting authorization to discharge fill material into the Scioto River as part of the FRA-71-14.36 Phase 6R, PID 105588 project. This project would involve the construction of a new bridge from westbound Interstate (I) 70/71 to southbound I-71 over the Scioto River. The project is located in the City of Columbus, Franklin County, Ohio. The FRA-71-14.36 Phase 6R, PID 105588 project consists of one (1) single and complete project.

The United States Army Corps of Engineers' (Corps) authority to regulate waters of the United States is based on the definitions and limits of jurisdiction contained in 33 CFR 328, including the amendment to 33 CFR 328.3 (85 Federal Register 22250), and 33 CFR 329. Section 404 of the Clean Water Act (Section 404) requires a Department of the Army (DA) permit be obtained prior to the discharge of dredged or fill material into waters of the United States, including wetlands. Section 10 of the Rivers and Harbors Act of 1899 (Section 10) requires a DA permit be obtained for any work in, on, over or under a navigable water. The Scioto River is a navigable water from the mouth near Portsmouth, Ohio to mile 175.0, near Green Camp, Ohio.

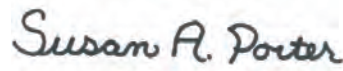
The proposed project, as described in the submitted PCN, has been reviewed in accordance with Section 404 and Section 10. In the PCN, you requested a DA authorization to permanently discharge 350 cubic yards of concrete into 68 linear feet (0.063 acre) and to temporarily discharge 25,500 cubic yards of construction access fill into 250 linear feet (2.687 acre) of the Scioto River to construct the new bridge. Based on your description of the proposed work, and other information available to us, it has been determined that the project will not involve activities or work within navigable waters of the U.S. subject to the requirements of Section 10. However, the project will include the discharge of fill material into waters of the U.S. subject to the requirements of Section 404.

Based on the provided information, it has been determined that proposed discharges of fill materials as described above, meet the criteria of the RGP for the State of Ohio, Department of Transportation, A, *Linear Transportation Projects* as issued in the public notice dated October 24, 2019. **The attached special conditions are hereby included as part of this permit and must be met to validate this authorization. This verification is valid until the RGP for the State of Ohio, Department of Transportation expires on October 24, 2024, or until the RGP is modified or revoked.** The Ohio Environmental Protection Agency issued a Section 401 Water Quality Certification (WQC) with conditions for this RGP on October 4, 2019.

Please be aware this RGP authorization does not obviate the requirement to obtain other Federal, state or local authorizations required by law. A copy of the RGP and this verification letter must be supplied to your project engineer responsible for construction activities. A copy of the RGP and verification letter must be kept at the site during construction.

A copy of this letter has been provided to those on the enclosed Recipient List. If you have any questions concerning the above, please contact Tim Long of the Columbus Field Office at (614) 692-4660 or by e-mail at Timothy.M.Long@usace.army.mil

Sincerely,

A handwritten signature in dark ink that reads "Susan A. Porter". The signature is written in a cursive style with a clear, legible font.

Susan A. Porter
Chief, South/Transportation Branch

Enclosures

Recipient List

cc w/o enclosures:

Ms. Diana Welling
The Ohio History Connection
800 East 17th Avenue
Columbus, Ohio 43211-2474

cc w/ enclosures via e-mail:

Mr. Brandon Beck
The Ohio Environmental
Protection Agency
Division of Surface Water
P.O. Box 1049
Columbus, OH 43216-1049
Brandon.Beck@epa.ohio.gov

Mr. Jeffrey Boyles
The Ohio Environmental
Protection Agency
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Jeffrey.Boyles@epa.ohio.gov

Ms. Lee Robinette
U.S. Army Corps of Engineers
Huntington District
502 8th Street
Huntington, West Virginia 25701
Lee.A.Robinette@usace.army.mil

Ms. Adrienne Earley
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Adrienne.Earley@dot.ohio.gov

Mr. Matt Raymond
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Ms. Audrey Richter
U.S. Army Corps of Engineers
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Audrey.M.Richter@usace.army.mil

Mr. Mike Pettegrew
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Mike.Pettegrew@dnr.ohio.gov

Ms. Karen Hallberg
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Mr. Jason Freeman
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Mr. Christopher Mays
U.S. Army Corps of Engineers
Huntington District
502 8th Street
Huntington, West Virginia 25701
Christopher.D.Mays@usace.army.mil

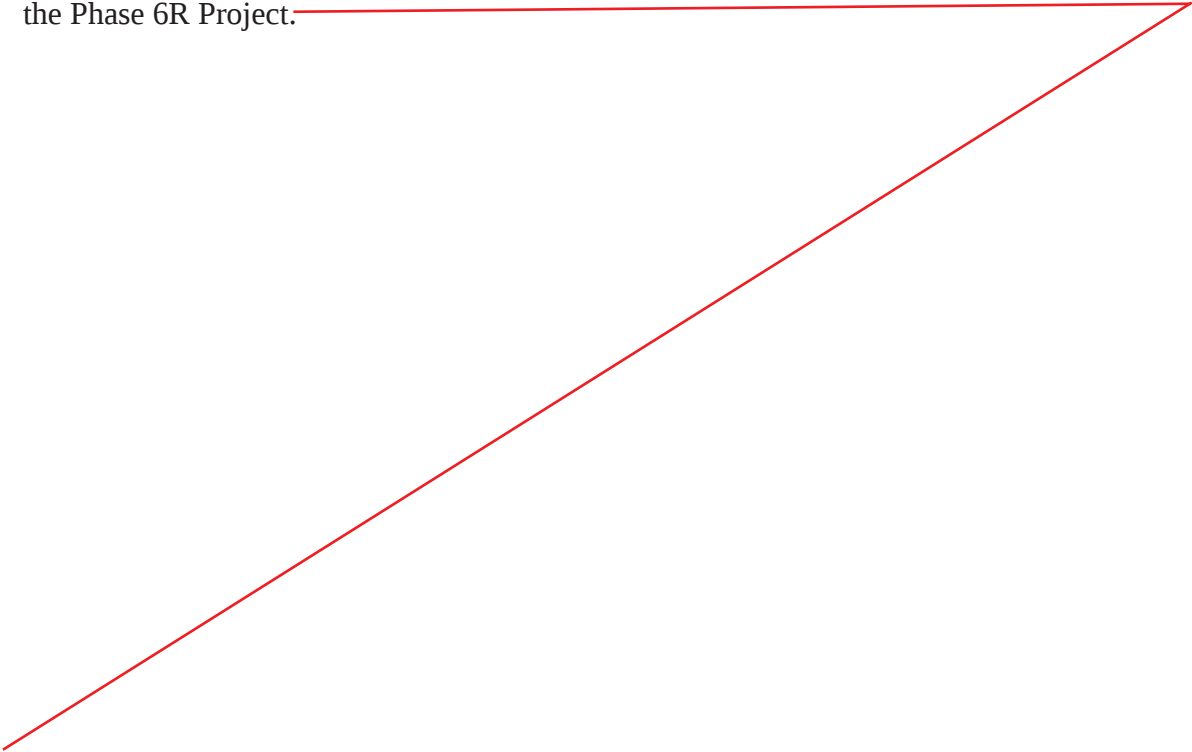
Ms. Mary Rody
The Ohio History Connection
800 East 17th Avenue
Columbus, Ohio 43211-2474
MRody@ohiohistory.org

SPECIAL CONDITIONS OF RGP VERIFICATION ISSUED TO
THE OHIO DEPARTMENT OF TRANSPORTATION

LRH-2020-00476-SCR - Scioto River

FRA-71-14.36 Phase 6R, PID 105588

Page 1 (1)

1. Suitable habitat for the Indiana and northern long-eared bats exists within the project areas. You shall preserve trees and associated habitats wherever possible. If suitable habitat cannot be saved during construction activities, the trees should not be cut from April 1 through September 30.
 2. The attached U.S. Army Corps of Engineers, Huntington District authorization under 33 U.S.C. 408, signed July 2, 2021, for the Ohio Department of Transportation I-70/I-71/SR-315 Interchange Project including all special conditions attached to or contained within, are hereby incorporated by reference as being special conditions of this permit.
 3. The Memorandum of Agreement (MOA) between the Federal Highway Administration (FHWA), Advisory Council on Historic Preservation (ACHP), Ohio State Historic Preservation Office (OHPO), and the Ohio Department of Transportation (ODOT) dated July 18, 2008, titled *First Amendment to the MOA Between the FHWA, ACHP, OHPO, and ODOT Regarding the Federal-Aid Highway Improvement of Interstate Route 70 in Central Columbus, Franklin, County, Ohio FRA-70-8.93; PID: 77369 Agreement Number 14913* (attached), including all conditions and stipulations, is made part of the permit for the Phase 6R Project.
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U.S. Department
of Transportation
**Federal Highway
Administration**

Ohio Division

January 29, 2014

200 North High Street, Room 328
Columbus, OH 43215
614-280-6896
614-280-6876

In Reply Refer To:
HAD-OH

Jerry Wray
Director
Ohio Department of Transportation
1980 West Broad Street
Columbus, OH 43223

Subject: FRA 70-8.93, PID 77369 Section 106 MOA, First Amendment Clarification

Dear Director Wray:

The above project was entered into an Amended Memorandum of Agreement (MOA) by the Federal Highway Administration (FHWA), Ohio Department of Transportation, (ODOT), Advisory Council on Historic Preservation (ACHP) and the Ohio State Historic Preservation Office (OHPO) on July 18, 2008. This MOA was titled *First Amendment to the MOA Between the FHWA, ACHP, OHPO and ODOT Regarding the Federal-Aid Highway Improvement of Interstate Route 70 in Central Columbus, Franklin, County, Ohio FRA-70-8.93; PID: 77369 Agreement Number 14913.*

Per the terms of Stipulation VII, the project has been implemented and will continue to be carried out in conformance with all the remaining stipulations in the amended MOA. Accordingly, the MOA remains in force and will continue to govern how the project will be carried out to completion of all phases of each phase of construction.

This letter of concurrence is to clarify and reaffirm the terms and conditions of the existing Amended MOA.

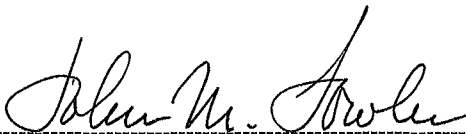
Sincerely,

For: Laura S. Leffler
Division Administrator

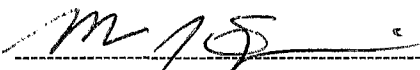
FRA 70-8.93, PID 77369 Section 106 MOA, First Amendment Clarification

By signing below, each signatory concurs with the statement above and understands the requirements contained in the July 18, 2008 Amended MOA.

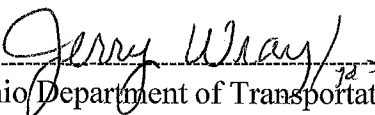
Signatories:



Advisory Council on Historic Preservation
2/12/14
Date



Ohio State Historic Preservation Office
1/30/14
Date



Ohio Department of Transportation
1/30/14
Date

Enclosure(s)

July 18, 2008 MOA PID 77369

ecc: Najah Duvall-Gabriel, ACHP
Tim Hill, ODOT
Mark Epstein, OHPO
Johnson
Mehlo

Electronic File Location:

L:\Electronic Subject and Project Files\Project Files\FRA\00 Columbus Crossroads
General\77369 Phase 1 North Interchange\77369 FRA-70 71 (NEPA and Project 1)\Executed
Amended MOA

Internal ecc: DA Reading File

bcc:



Preserving America's Heritage

July 18, 2008

Mr. Dennis Decker
Division Administrator
Ohio Division
Federal Highway Administration
200 North High Street, Rm 328
Columbus, OH 43215-2408

RE: *Proposed Interstate 70/71 Reconstruction
Columbus, Ohio*

Dear Mr. Decker:

Enclosed is a copy of the fully executed Memorandum of Agreement (MOA) for the referenced project. By carrying out the terms of the Agreement, you will fulfill your responsibilities under Section 106 of the National Historic Preservation Act and the regulations of Advisory Council on Historic Preservation. We have retained the original of the MOA for our files.

We commend FHWA and the Ohio Department of Transportation staff for its management of this consultation process that involved numerous consulting parties. The additional time and effort dedicated to addressing the full spectrum of historic preservation concerns expressed by the consulting parties resulted in an outcome that defines a process for continued consultation during the design phase of the undertaking will ensure that the consideration and balance of historic preservation issues with federal needs occurs in accordance with our regulations.

If we may be of further assistance as the MOA is implemented, please contact Katry Harris by telephone at (202) 606-8520 or by e-mail at kharris@achp.gov.

Sincerely,

Charlene Dwin Vaughn, AICP
Assistant Director
Federal Permitting, Licensing, and Assistance Section
Office of Federal Agency Programs

Enclosure

ADVISORY COUNCIL ON HISTORIC PRESERVATION

1100 Pennsylvania Avenue NW, Suite 803 • Washington, DC 20004
Phone: 202-606-8503 • Fax: 202-606-8647 • achp@achp.gov • www.achp.gov

First Amendment to the Memorandum of Agreement
Jefferson Avenue Historic District
Agreement Number 14913

FIRST AMENDMENT TO THE MEMORANDUM OF AGREEMENT
BETWEEN THE
FEDERAL HIGHWAY ADMINISTRATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
THE OHIO STATE HISTORIC PRESERVATION OFFICE AND THE
OHIO DEPARTMENT OF TRANSPORTATION
REGARDING THE FEDERAL-AID HIGHWAY IMPROVEMENT
OF INTERSTATE ROUTE 70 IN
CENTRAL COLUMBUS, FRANKLIN COUNTY, OHIO
FRA-70-8.93; PID: 77369
AGREEMENT NUMBER 14913

WHEREAS the Federal Highway Administration (FHWA) is an AGENCY responsible for compliance with Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended (16 U.S.C. § 470), and the implementing regulations 36 CFR § 800; and

WHEREAS, the Ohio Department of Transportation (ODOT) administers federal aid highway projects in the State of Ohio as authorized by Title 23 U.S.C. §302 and Sections 5501.03, 5501.11, and Chapter 5531 of the Ohio Revised Code; and

WHEREAS, the proposed Federal action, known as FRA-70-8.93, PID: 77369, the UNDERTAKING, as defined in 36 CFR § 800, will improve safety and traffic flow by reconstructing portions of Interstates 70 and 71 in central Columbus, Franklin County, Ohio; and

WHEREAS, the UNDERTAKING is a type of activity, located in an urban area with multiple alternatives under consideration, that has the potential to cause effects on historic properties in accordance with 36 CFR § 800; and

WHEREAS, this First Amendment to the Memorandum of Agreement (AMENDED AGREEMENT) constitutes an amendment to the attached August 1, 2007, *Memorandum of Agreement Between the Federal Highway Administration (FHWA), the Ohio Department of Transportation (ODOT) and the Ohio State Historic Preservation Office (OSHPO) Regarding the FRA-70-8.93, PID: 77369 Project Impact to the Jefferson Avenue Historic District Which Includes St. Paul African Methodist Episcopal Church (Agreement Number: 14242)* and the attached *Documentation for Consultation FRA-70-8.93 PID: 77369 (2002-2007)*, prepared in accordance with 36 CFR § 800, documents identification and consultation efforts conducted by the AGENCY through December 2007 for the UNDERTAKING. The August 1, 2007 Memorandum of Agreement remains in full force and effect; and

WHEREAS, intent of this AMENDED AGREEMENT in combination with the attached documentation is to build upon the identification and consultation efforts conducted thus far and to comply with

Section 106 by establishing an agreed upon process for this UNDERTAKING. This AMENDED AGREEMENT does not change the conditions of the attached executed Memorandum of Agreement; and

WHEREAS, FHWA and ODOT have consulted with the Advisory Council on Historic Preservation (ACHP) and the ACHP has decided that they will be participating in consultation; and

WHEREAS, FHWA and ODOT have consulted with the Ohio State Historic Preservation Office (OSHPO); and

WHEREAS, FHWA and ODOT will consult with federally recognized Indian tribes that may attach religious and cultural significance to historic properties; and

WHEREAS, FHWA and ODOT have identified and consulted with consulting parties and have not denied any of the identified consulting parties such status for this UNDERTAKING; and

WHEREAS, FHWA and ODOT have invited the identified consulting parties to concur with this AMENDED AGREEMENT and will continue to consult with the consulting parties as the UNDERTAKING progresses; and

WHEREAS, FHWA and ODOT have incorporated avoidance and minimization measures into ODOT's project development process by limiting the feasible alternatives to the footprint of the existing alignment and by incorporating noise walls, retaining walls, landscape features, pedestrian facilities, and aesthetic treatments into the design where warranted; and

WHEREAS, FHWA and ODOT have involved the public in the development of minimization measures for the UNDERTAKING through aesthetic committees and workshops; and

WHEREAS, FHWA and ODOT, will continue to incorporate avoidance and minimization measures into the UNDERTAKING as an integral part of ODOT's project development process; and

NOW THEREFORE, FHWA, ODOT, ACHP and OSHPO, agree that the UNDERTAKING shall be administered in accordance with the following stipulations to satisfy FHWA's Section 106 responsibilities for all aspects of the UNDERTAKING.

STIPULATIONS

FHWA shall ensure that the following measures are carried out:

I. ARCHITECTURAL PROPERTIES

A. In consultation with FHWA, OSHPO, and other consulting parties, ODOT has identified

architectural historic properties in the preliminary Area of Potential Effects (APE) as documented in the attached *Documentation for Consultation (2002-2007)* for the UNDERTAKING. The enclosed *Documentation for Consultation (2002-2007)* identifies the anticipated effects to historic properties located within the preliminary APE by the alternatives under consideration.

B. Upon the identification of a preferred alternative ODOT will consult with the OSHPO and consulting parties to identify the revised APE for the UNDERTAKING and to determine whether additional identification efforts are warranted. The results of additional identification efforts will be submitted to the OSHPO and the consulting parties concurrently for review and/or comment. The OSHPO will provide comments and/or concurrence with the findings within the 30-day review period established by 36 CFR § 800. All consulting party comments received by ODOT within the 30-day review period will be forwarded to the FHWA and the OSHPO, along with ODOT's proposed resolution, for consideration.

C. ODOT will document the effects to architectural historic properties within the revised APE for the preferred alternative and propose treatment plans to mitigate adverse effects. The *Determination and Proposed Resolution of Effects Report on Historic Architectural Properties* (REPORT) for the UNDERTAKING will document the anticipated and foreseeable effect the UNDERTAKING will have on each historic architectural property in accordance with 36 CFR § 800 (e.g. demolition of structure, alteration of streetscape, or increase in traffic).

D. ODOT will propose treatment plans commensurate with the level of impact. The cost of the treatment plans will be a reasonable public expenditure in light of the severity of the impact. ODOT will propose treatment plans using but not limited to, one or more of the treatments on the following list.

1. Demolition or alteration of a property or contributing element of a historic property, listed in the NRHP, or eligible for inclusion on the NRHP, will require Level II documentation as specified by the Historic American Building Survey (HABS) in accordance with 36 CFR § 68 *The Secretary of the Interior's Standards for the Treatment of Historic Properties* (STANDARDS). Archival HABS documentation will be maintained at the designated regional repository. High quality copies of any HABS documentation will be provided to the ODOT District 6 Office in Delaware, Ohio and any additional consulting party as appropriate. ODOT will provide additional hard or electronic copies to other institutions upon request or determination.

2. A plaque or plaques commemorating the significance of the historic property will be considered in association with commemorative displays or as stand-alone treatments.

3. The preparation of a historic context documenting the architect, significant events, patterns in history, and people associated with the resource in relation to the City of Columbus, the state or the nation during the period of significance. ODOT will provide hard or electronic copies to consulting parties as appropriate. ODOT will provide additional hard or electronic copies to other

Memorandum of Agreement
Jefferson Avenue Historic District
Agreement Number 14913

institutions upon request or determination.

4. The application of aesthetic treatments as mitigation for the UNDERTAKING will be in accordance with the STANDARDS.

5. Salvage of architectural elements, prior to demolition activities, for reuse as for commemorative purposes will be considered.

6. The development of educational materials, commemorative displays, and websites that provide a public benefit may be considered.

E. ODOT will submit the effect findings and proposed treatment plans to the OSHPO and the consulting parties concurrently for review and/or comment. The OSHPO will provide comments and/or concurrence with the findings and treatment plans within the 30-day review period established by 36 CFR § 800. ODOT will forward all consulting party comments received within the 30-day review period to the FHWA and the OSHPO, along with ODOT's proposed resolution, for consideration.

F. ODOT, in consultation with FHWA, ACHP, OSHPO, and the appropriate consulting parties, will amend this AMENDED AGREEMENT if a situation is complex, such as moving a historic property, or if it is advisable to document the mitigation plan. At a minimum, the provisions of the AMENDMENT(s) will be identified and agreed upon prior to approval of the final National Environmental Policy Act (NEPA) document.

II. ARCHAEOLOGICAL INVESTIGATION

A. ODOT, on behalf of FHWA, will submit to the appropriate federally recognized Indian tribes a notification of the UNDERTAKING and FHWA's intent to prepare an environmental document. The notification will include an overview of the UNDERTAKING with an invitation to participate in the consultation process. Because the improvement is located in an urbanized area characterized by modern development, the tribes will be informed of the low potential for discovery of significant archaeological resources.

B. After a preferred alternative has been identified, ODOT will submit to the OSHPO a recommendation identifying the parcels requiring archaeological fieldwork. The OSHPO will have 30 days to comment regarding recommendations.

C. For each parcel requiring archaeological fieldwork, ODOT will conduct site identification efforts. If an archeological site is found, ODOT will make an eligibility recommendation. This information will be submitted to the OSHPO in a standard report format, that follows ODOT and OSHPO reporting guidance, and concurrently to the federally recognized Indian tribes and appropriate consulting parties, as a summary of the results of site identification and eligibility

determination. OSHPO will provide comments and/or concurrence with the findings within the 30-day review period established by 36 CFR § 800. All comments received by ODOT within the 30-day review period will be forwarded to the FHWA and the OSHPO for consideration. ODOT will provide hard or electronic copies to consulting parties upon request or determination.

D. If there is an adverse effect to significant archaeological properties, ODOT will forward a data recovery plan concurrently to the OSHPO and the other consulting parties for review. OSHPO will provide comments and/or concurrence with the findings within the 30-day review period established by 36 CFR § 800. All consulting party comments received by ODOT within the 30-day review period will be forwarded to the FHWA and the OSHPO for consideration. Upon completion of the data recovery plan, a management summary will be submitted to the ODOT and OSHPO within ten working days of the completion date of the fieldwork. A copy of the approved management summary will be provided to all of the consulting parties upon request. A final report documenting the results of the data recovery plan will be submitted by the ODOT to the OSHPO for approval within 180-days after the completion of all fieldwork. If a final report cannot be completed within the allotted time, ODOT will request an extension from the OSHPO. ODOT will provide additional hard or electronic copies to other consulting parties upon request or determination.

E. The FHWA shall ensure that all fieldwork and reporting are conducted by an archaeological contractor meeting the ODOT prequalification standards and employing supervisory individuals meeting, at a minimum, the federal qualifications for an archaeologist as stipulated in 36 CFR § 61, Appendix A, and in the Federal Register, Volume 48, Number 190, (1983). All reports will conform to the OSHPO reporting standards as set forth in their *Archaeology Guidelines* (1994) as well as the ACHP reporting standards as set forth in their *Treatment of Archaeological Properties: A Handbook* (1980) and the *ODOT Cultural Resources Manual* (2004).

F. In compliance with the Ohio Revised Code Section 149.53, all of the artifacts recovered from state land during the implementation of the data recovery plan, as well as the field notes and related documents, will be curated at the Ohio Historical Society (OHS), Columbus, Ohio. Transfer of any of these items from the state repository to any other institution will be arranged by agreement between that institution and the OHS. In cases where artifacts are recovered from privately owned land, all artifacts will be returned to the landowner unless landowner releases the artifacts to the ODOT.

III. PROJECT MODIFICATIONS

If the APE must be revised due to modifications of the UNDERTAKING or the assessment of cumulative or secondary effects, ODOT will identify historic properties within the revised APE and determine the effects that the UNDERTAKING will have upon them. Upon completion of this identification and effect evaluation, an addendum report will be completed and submitted to the OSHPO and the other consulting parties concurrently. The OSHPO will provide comments and/or

concurrence with the findings within the 30-day review period established by 36 CFR § 800. All consulting party comments received by ODOT within the 30-day review period will be forwarded to the FHWA and the OSHPO for consideration.

IV. DISPUTE RESOLUTION

A. Should any signatory to this AMENDED AGREEMENT object at any time to any actions proposed for the manner in which the terms of this AMENDED AGREEMENT are implemented, FHWA, with ODOT as FHWA's agent, will consult with such signatory to resolve the objection.

B. If FHWA determines that such objection cannot be so resolved, FHWA will:

1. Forward all documentation relevant to the dispute, including FHWA's proposed resolution, to the ACHP. The ACHP should provide FHWA with the ACHP's advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FHWA will 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 FHWA's written response. FHWA will then proceed according to its final decision.

2. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FHWA will 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. FHWA's responsibility to carry out all other actions subject to the terms of this AMENDED AGREEMENT which are not the subject of the dispute will remain unchanged.

V. CONSTRUCTION MONITORING

A. In consultation with the OSHPO, ODOT will develop and implement a construction vibration monitoring plan for the areas of the APE affected by the construction of the UNDERTAKING. The monitoring will be performed by a professional engineering firm that meets the ODOT pre-qualification requirements for performing such work administered by ODOT (in accordance with the *I-70/I-71 South Innerbelt Preliminary Construction Vibration Screening*, February 2007, developed in lieu of written policy or technical guidance and based on the *California Department of Transportation (CALTRANS) Technical Advisory TAV-02-01-R9601*).

B. ODOT will submit the construction monitoring report to the OSHPO and appropriate consulting parties for review and/or comment concurrently. ODOT will address any consulting party

comments received and the final construction monitoring report will be revised as appropriate.

VI. POST REVIEW DISCOVERIES

A. In regard to the discovery of archeological resources during construction, the following will occur:

1. In accordance with 36 CFR § 800.13(b)(3), should an unanticipated discovery of archeological resources occur within the project area, construction related activities will be temporarily discontinued, and the OSHPO contacted within 48 hours. ODOT will enter into consultation with the OSHPO in order to evaluate the significance of the archaeological resource, assess potential effects, and develop mitigation strategies, as necessary. All activities will be in accordance with the Secretary of the Interior's *Standards and Guidelines for Archeological Documentation and Data Recovery* (48 FR 44716-44740); take into account the Advisory Council on Historic Preservation's publication *Treatment of Archeological Properties: A Handbook* (1980), and will be approved by the OSHPO prior to implementation.

2. All archeological work carried out pursuant to this AGREEMENT will be carried out by or under the direct supervision of individuals that meet, at a minimum, the appropriate federal qualifications and are pre-qualified by ODOT for such work (36 CFR § 61, App. A; OSHPO *Archeology Guidelines* [1994]).

B. Historic and prehistoric human remains are subject to protection under Ohio Revised Code Sections 2909.05 and 2927.11. As such, if human remains are discovered during construction, work in that portion of the project will stop immediately. The remains will be covered and/or protected in place in such a way that minimizes further exposure of and damage to the remains, and the ODOT project engineer will immediately consult with the ODOT District Environmental Coordinator, ODOT-OES, and immediately notify local law enforcement and/or the County Coroner. If the project has a US Army Corps of Engineers (USACOE) permit issued, the ODOT District Environmental Coordinator must notify ODOT-OES and the USACOE. If the remains are found to be Native American Indian, a treatment plan will be developed by ODOT-OES and SHPO in consultation with FHWA, ACHP and appropriate federally recognized Native American Indian tribes. FHWA and ODOT-OES will ensure that any treatment and reburial plan is fully implemented. If the remains are not Native American Indian, the appropriate local authority (i.e. local law enforcement and/or county coroner) will be consulted to determine final disposition of the remains. Avoidance and preservation in place is the preferred option for treating human remains.

For Native American Indian human remains discovered on Federal lands, the Federal land managing agency will be responsible for consultation under the Native American Graves Protection and Repatriation Act of 1990 (PL 101-601). For skeletal remains discovered on property owned by the State of Ohio, ODOT will comply with Section 149.53 of the Ohio Revised

Memorandum of Agreement
Jefferson Avenue Historic District
Agreement Number 14913

Code. Under this section, the Director of the OHS shall determine final disposition of any discovered skeletal remains.

VII. AMENDMENTS

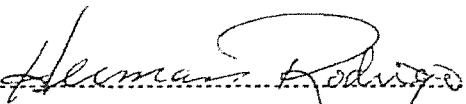
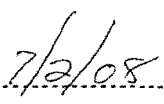
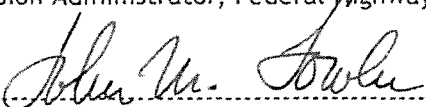
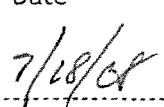
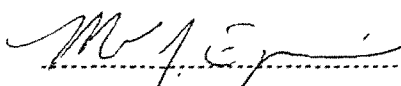
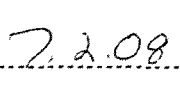
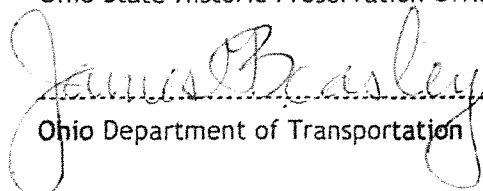
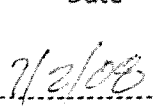
Any signatory to this AMENDED AGREEMENT may propose to other parties that it be amended, whereupon, the signatories will consult in accordance with 36 CFR § 800.6(c)(1) to consider such an amendment.

VIII. DURATION

If the UNDERTAKING has not been implemented within five (5) years of the date of the execution of this AMENDED AGREEMENT, this AMENDED AGREEMENT will be considered null and void, unless the signatories agree in writing to an extension for implementation of its terms. Signatories will return four and one-half (4 ½) years after execution of this AMENDED AGREEMENT to amend or renew this AMENDED AGREEMENT by concurrence.

Execution of this AMENDED AGREEMENT by FHWA and implementation of its terms evidences that FHWA has taken into account the effects of the UNDERTAKING on historic properties and afforded the ACHP an opportunity to comment.

Signatories:

 for Division Administrator, Federal Highway Administration	 Date
 Advisory Council on Historic Preservation	 Date
 Ohio State Historic Preservation Office	 Date
 Ohio Department of Transportation	 Date

Memorandum of Agreement
Jefferson Avenue Historic District
Agreement Number 14913

Concurring Parties:

Federally Recognized Indian Tribes (added as identified)

Date

Brewery District Business

Date

Brewery District Society

Date

Broad Street Presbyterian Church

Date

German Village Society

Date

Near East Side Area Commission

Date

Town Franklin Neighborhood

Date

Franklinton Historical Society and Commission

Date

Jefferson Center for Learning and the Arts

Date

Old Oaks Civic Association

Date

Bryden Road Association

Date

Trinity Evangelical Lutheran Church

Date

Harrogate Associates

Date

FRA-70-8.93
Memorandum of Agreement
Jefferson Avenue Historic District
Agreement Number 14913

Page 10

Fort Hayes Education Center

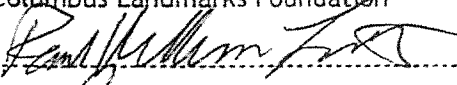
Date

City of Columbus Historic Preservation Office

Date

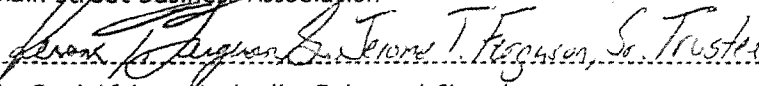
Columbus Landmarks Foundation

Date



Main Street Business Association

Date



St. Paul African Methodist Episcopal Church

Date

Miranova Residents Association

Date

Mt. Vernon Avenue District Improvement Association

Date

The Waterford

Date

Memorandum of Agreement
Jefferson Avenue Historic District
Agreement Number 14913

Fort Hayes Education Center

Date

City of Columbus Historic Preservation Office

Date

Columbus Landmarks Foundation

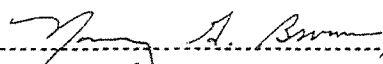
Date

Main Street Business Association

Date

St. Paul African Methodist Episcopal Church

Date

 *J. A. Brown, President*
Miranova Residents Association
*Condominium**7/11/08*

Date

Mt. Vernon Avenue District Improvement Association

Date

The Waterford

Date

**MEMORANDUM OF AGREEMENT
BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION (FHWA), THE OHIO
DEPARTMENT OF TRANSPORTATION (ODOT) AND THE
OHIO STATE HISTORIC PRESERVATION OFFICE (OSHPO)
REGARDING THE FRA-70-8.93, PID: 77369
PROJECT IMPACT TO THE
JEFFERSON AVENUE HISTORIC DISTRICT WHICH INCLUDES
ST. PAUL AFRICAN METHODIST EPISCOPAL CHURCH
(Agreement Number: 14242)**

1. WHEREAS, the proposed road-improvement project known as FRA-70-8.93, PID 77369 (UNDERTAKING) will improve safety and traffic flow by reconstructing portions of Interstates 70 and 71 in central Columbus, Ohio; and
2. WHEREAS, the project's current Area of Potential Effects includes the following areas of Columbus: Downtown, German Village, the Brewery District, the Near East Side, and Franklinton, and includes several historic districts listed in the National Register of Historic Places; and
3. WHEREAS, consultation for the UNDERTAKING has taken place in meetings with individuals, specific groups, and other parties; meetings for consulting parties, which included a kick-off meeting that provided history of the UNDERTAKING, discussion of the currently known Area of Potential Effects, and slide presentation of the Section 106 process; distribution of the Phase I History/Architecture Survey for the I-70/71 South Innerbelt Study (FRA-70-8.93, PID No. 77369) which includes efforts to identify historic properties in the currently known Area of Potential Effects; and through the National Environmental Policy Act (NEPA) public involvement process; and
4. WHEREAS, a situation has arisen that has caused a change in ODOT'S plan to complete the Section 106 process for the UNDERTAKING and FHWA, ODOT, OSHPO and the consulting parties have agreed to adopt the phased identification and evaluation procedure as described in 36 CFR Section 800.4(b)(2), Phased Identification and Evaluation, and in 36 CFR Section 800.5(a)(3), Phased Application of Criteria, of the regulations implementing Section 106 of the National Historic Preservation Act (15 U.S.C. 470); and
5. WHEREAS, the phased identification and evaluation procedure, which was designed for projects that include corridors or large land areas, is appropriate for this project; and
6. WHEREAS, a preferred alternative has not yet been selected by either FHWA or ODOT but both of the proposed "build" alternatives for the UNDERTAKING include improvements to the western side of Interstate 71 between Broad Street and Long Street that will require the permanent removal of parking spaces now used by tenants of and visitors to the Jefferson Avenue Historic District, which is listed on the National Register of Historic Places, and by members of and visitors to the St. Paul African Methodist Episcopal Church, which is a contributing resource within the Jefferson Avenue Historic District; and

Memorandum of Agreement
Jefferson Avenue Historic District
Agreement Number 14242

7. WHEREAS, because available parking spaces are critical to the success of existing programs and activities that bring people to the National Register sites and provide most of the income to support the National Register buildings in the Jefferson Avenue Historic District, it has been determined that elimination of existing parking spaces along the eastern side of the Jefferson Avenue Historic District as a direct and indirect result of the UNDERTAKING would have an adverse effect on the Jefferson Avenue Historic District; and
8. WHEREAS, FHWA, with ODOT as FHWA's agent, has determined, in consultation with the Ohio State Historic Preservation Office (OSHPO), that the loss of parking would have an adverse effect on the Jefferson Avenue Historic District; and
9. WHEREAS, the Board of Trustees of The Jefferson Center for Learning and the Arts (Jefferson Center) and officially designated members of The St. Paul African Methodist Episcopal Church of Columbus, Ohio (St. Paul AME Church) have formulated and proposed to FHWA and ODOT a solution for the reduction in parking; and
10. WHEREAS, replacement for existing parking spaces is currently available in the vicinity of the Jefferson Avenue Historic District; and
11. WHEREAS, funding has been established by ODOT, as FHWA's agent, and in partnership with Jefferson Center and St. Paul AME Church, to fund the mitigation measures applicable to the Jefferson Avenue Historic District which includes the St. Paul African Methodist Episcopal Church, which action will enable the procurement of alternative parking sites; and
12. WHEREAS, ODOT, as FHWA's agent, and in consultation with the OSHPO and other consulting parties, has determined that the purchase of the available property, as replacement parking would offset the anticipated loss of parking in the Jefferson Avenue Historic District and thus avoid the adverse effect; and
13. WHEREAS, there is urgency to proceed because certain property now available might not be available when the Section 106 review process is concluded for the larger UNDERTAKING and when the NEPA process is developed to a level that a full-scale determination of effects can be made for the larger UNDERTAKING; and
14. WHEREAS, when right-of-way acquisition commences in regard to the signatory owners' property(s) needed for the UNDERTAKING (as illustrated on Attachment 1) within the limits of the Jefferson Avenue Historic District boundary (as illustrated on Attachment 2), ODOT, as FHWA's agent, will appraise each such property of the signatory owners, will offer each owner the right to accompany the appraiser on the inspection of the property(s), will offer the full amount of the appraisal(s), will negotiate with the owner, and if an agreement cannot be reached, will appropriate the property(s) through the proper Court of Law. In any case, it is understood and agreed by all parties that the payment made in consideration of this Memorandum of Agreement (MOA) will serve as an advance payment for the property(s) needed for the UNDERTAKING and will be deducted from the fair market value amount determined by the

Memorandum of Agreement
Jefferson Avenue Historic District
Agreement Number 14242

appraisal, the negotiated amount, or the court award. It is currently believed by all parties that the payment advanced through this MOA will exceed the fair market value amount of the property(s) needed for the UNDERTAKING. In no event will the property owners be required to return any excess payment advanced under this MOA; however, if the fair market value amount as determined through the appraisal(s), negotiations, or court award(s), exceeds the amount advanced under this MOA, ODOT will pay to the owners the difference so determined. In lieu of the acquisition process outlined herein, the parties may elect to follow ODOT's donation process, which includes a full accounting of the owners' rights to compensation, including the owners' right to voluntarily waive compensation and donate the necessary rights-of-way for the project; and

15. WHEREAS, this Memorandum of Agreement (MOA) does not address effects of the UNDERTAKING on other historic properties in other areas within the currently known Area of Potential Effects; and
16. WHEREAS, foreseeable effects to other historic properties will be addressed during the project planning process and coordinated as appropriate with the OSHPO and consulting parties, through the ongoing Section 106 review process; and
17. WHEREAS, consulting parties have been given an opportunity to review and comment on this MOA and will be given the opportunity to review and comment on other agreements before they are executed during the FRA-70-8.93, PID 77369 project; and
18. WHEREAS, FHWA, with ODOT as FHWA's agent, will adhere to the Section 106 regulations in 36 CFR Part 800 for the UNDERTAKING;
19. NOW, therefore, FHWA, ODOT, the OSHPO, Jefferson Center, and St. Paul AME Church agree that the UNDERTAKING will be implemented in accordance with the following stipulations in order to take into account the described adverse effect of the UNDERTAKING on the Jefferson Avenue Historic District.

STIPULATIONS:

FHWA will ensure the following stipulations are carried out:

1. Parking will be provided through the purchase, joint tenancy, or long-term lease of available land or existing private parking facilities in the vicinity of the Jefferson Avenue Historic District. ODOT will transfer funds to Jefferson Center and St. Paul AME Church, who will purchase, acquire a joint tenancy, or appropriately lease such land or such facilities sufficient to insure that the described adverse effect is avoided.
2. ODOT, upon receipt of an acceptable plan detailing how Jefferson Center and St. Paul AME Church will acquire and manage the replacement parking property, will pay \$980,000 to the two organizations or their designee, \$490,000 to each, to be applied toward the purchase, lease, other

Memorandum of Agreement
Jefferson Avenue Historic District
Agreement Number 14242

acquisition, or improvement of the replacement parking property in or around the Jefferson Avenue Historic District. Jefferson Center and St. Paul AME Church may pay more for the replacement parking property than \$980,000 independently of FHWA and ODOT. The financial obligation of ODOT is subject to Section 126.07 of the Ohio Revised Code and shall terminate as of June 30, 2009. ODOT shall coordinate a review of the plan with FHWA.

3. Jefferson Center and St. Paul AME Church, as the new owners, joint tenants, or lessees of the replacement parking property, will be responsible for all enhancement, maintenance and liability associated with the replacement parking property.
4. Subject to the provisions in Stipulations No. 11 and No. 12 below, Jefferson Center and St. Paul AME Church, with the intention of binding themselves, their successors-in-interest, and their assigns, do hereby release, hold harmless from any liability, and forever discharge the FHWA, the State of Ohio, the Ohio Department of Transportation, and their agents, servants, employees and officers, personally and in any other capacity, from all claims, actions, causes of action, demands, costs, loss of services, expenses, and any and all other damages that the undersigned ever had, now have, or claim to have against the FHWA, the State of Ohio, the Ohio Department of Transportation, or their agents, servants, employees or officers, on account of or in any way arising out of the UNDERTAKING's described adverse effect on the Jefferson Avenue Historic District, which includes the St. Paul African Methodist Episcopal Church, including any further measures to avoid, minimize or mitigate such effect.
5. Jefferson Center and St. Paul AME Church will continue to be involved in project development and design enhancements as stakeholders and aesthetic design committee members.
6. FHWA, with ODOT as FHWA's agent, will make a *de minimis* Section 4(f) impact finding based on the terms of this MOA, in accordance with Section 6009(a) of SAFETEA-LU.
7. ODOT will assure all consulting parties that this purchase will not preclude the opportunity to avoid, minimize or mitigate adverse effects to other historic properties that may be identified elsewhere in the project Area of Potential Effects.
8. ODOT will assure all consulting parties that the money spent to replace the Jefferson Avenue Historic District's loss of parking will not deplete the project's mitigation budget.
9. FHWA, with ODOT as FHWA's agent, will continue to follow the regulations of 36 CFR Part 800 and involve consulting parties in assessing project impacts and defining appropriate avoidance, minimization and mitigation throughout the UNDERTAKING.
10. Should any signatory to this MOA object at any time to any actions proposed for the manner in which the terms of this MOA are implemented, FHWA, with ODOT as FHWA's agent, will consult with such signatory to resolve the objection. If FHWA determines that such objection cannot be so

resolved, FHWA will:

A. Forward all documentation relevant to the dispute, including FHWA's proposed resolution, to the ACHP. The ACHP should provide FHWA with the ACHP's advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FHWA will 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 FHWA's 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 thirty (30) day time period, FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FHWA will 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. FHWA's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute will remain unchanged.

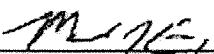
11. Any signatory or consulting party to this MOA may propose to other parties that this MOA be amended, whereupon, the parties will consult in accordance with 36 CFR Section 800.6(c)(7) to consider such an amendment.
12. The parties agree that if plans for the project substantially change and if such changes may have a significant direct or indirect adverse effect on the Jefferson Avenue Historic District, other provisions of this MOA notwithstanding, the parties will reopen discussion regarding mitigation, and proceed under ACHP rules 36 CFR 800 sections 800.5-800.7 to resolve or mitigate such adverse effects.
13. If the UNDERTAKING has not been implemented within five (5) years of the date of the execution of this MOA, this MOA will be considered null and void, and ODOT, as FHWA's agent, will so notify all of the signatories. If ODOT chooses to continue with the UNDERTAKING utilizing Federal funding, then FHWA will reinitiate consultation with the signatories in accordance with 36 CFR Part 800, however, if ODOT has paid monies to the Jefferson Center and St. Paul AME Church pursuant to Stipulations 1 and 2 by June 30, 2009, the Jefferson Center and St. Paul AME Church shall be precluded from reinitiating consultation or requesting any further measures to avoid, minimize, or mitigate the UNDERTAKING's described adverse effects.

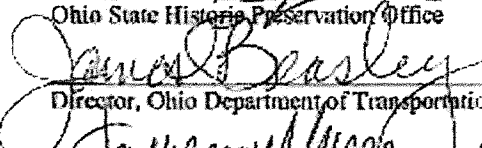
Execution of this MOA by FHWA and the OSHPO and implementation of this MOA's terms by FHWA, evidences that FHWA, and ODOT as FHWA's agent, has taken into account the effects of the UNDERTAKING on the Jefferson Avenue Historic District.

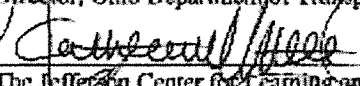
Memorandum of Agreement
 Jefferson Avenue Historic District
 Agreement Number 14242

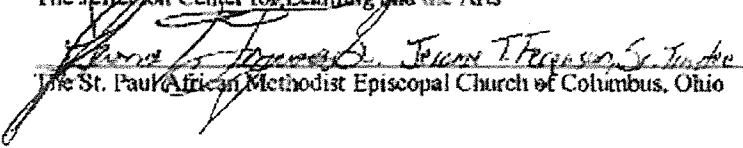
Signatories:


 Division Administrator, Federal Highway Administration 8/1/07
 Date


 Ohio State Historic Preservation Office 8/1/07
 Date


 Director, Ohio Department of Transportation 8/1/07
 Date

 Kathleen M. Fox, President 8/1/07
 The Jefferson Center for Learning and the Arts Date


 The St. Paul African Methodist Episcopal Church of Columbus, Ohio 8/1/07
 Date

ATTACHMENTS:

1. Map of Needed Temporary and Permanent Right-of-Way
2. Map of the National Register-listed Jefferson Avenue Historic District

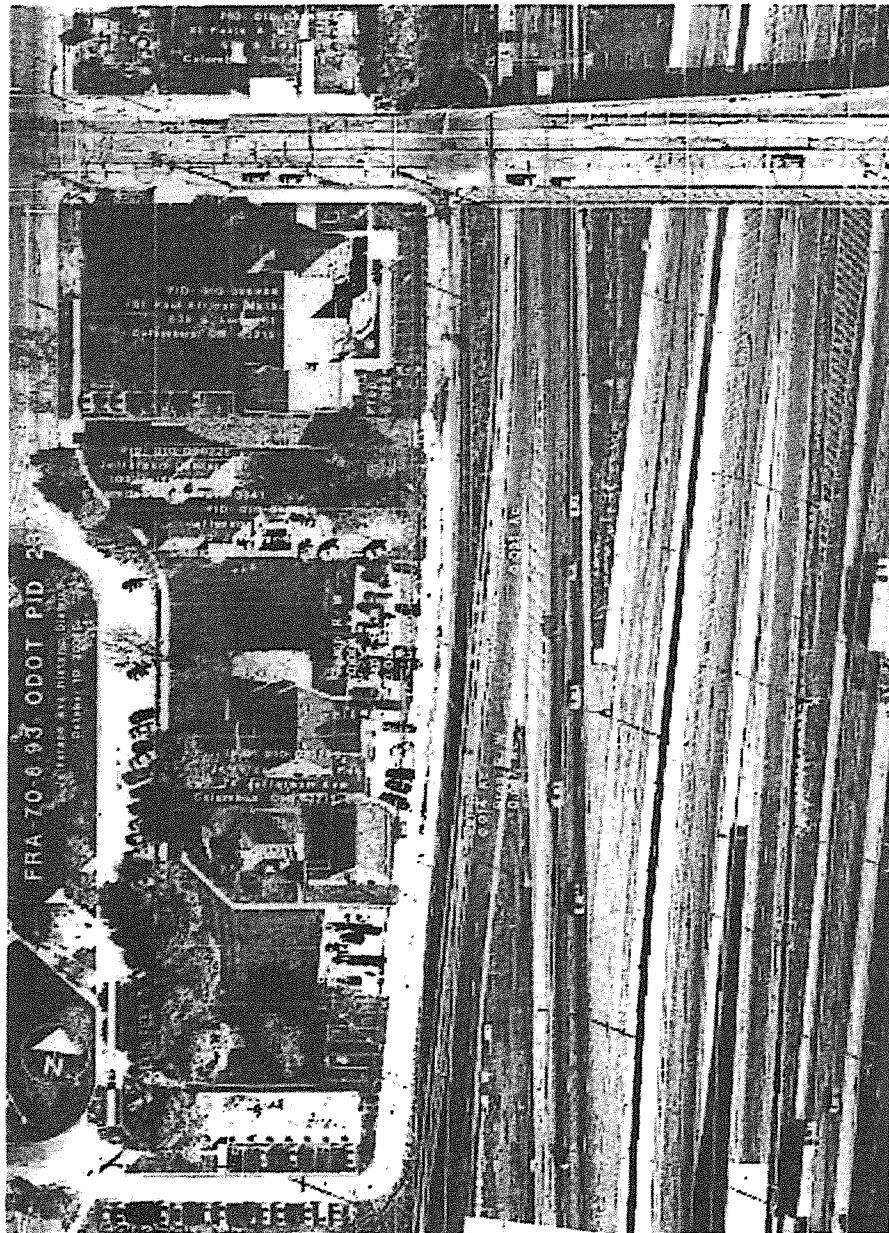
FRA-70-8.93

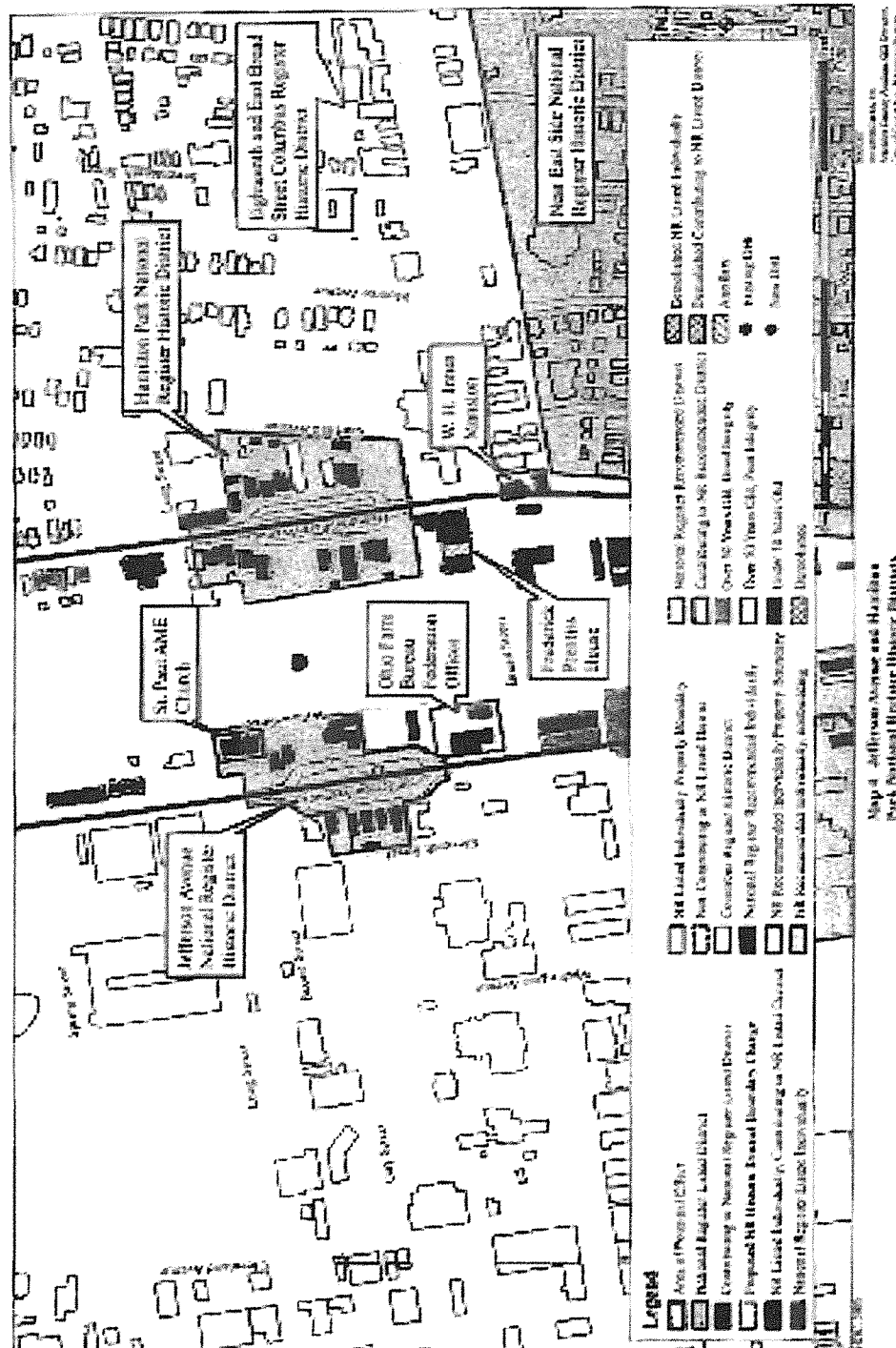
Page 7

Memorandum of Agreement

Jefferson Avenue Historic District

Agreement Number 14242







OHIO DEPARTMENT OF TRANSPORTATION

CENTRAL OFFICE, 1980 WEST BROAD STREET, COLUMBUS, OH 43223

TED STRICKLAND, GOVERNOR * JAMES G. BEASLEY, P.E., P.S., DIRECTOR

OFFICE OF ENVIRONMENTAL SERVICES

July 2, 2008

Ms. Katry Harris
FHWA Liaison
Advisory Council on Historic Preservation
The Old Post Office Building
1100 Pennsylvania Avenue NW, Suite 809
Washington, DC 20004

Subject: FRA-70-8.93 PID: 77369

Re: First Amended Memorandum of Agreement (Agreement Number 14913)

Dear Ms. Harris:

Enclosed is a copy of the *First Amended Memorandum of Agreement Between the Federal Highway Administration The Ohio State Historic Preservation Office and the Ohio Department of Transportation Regarding the Federal-Aid Highway Improvement of Interstate Route 70 in Central Columbus, Franklin County, Ohio FRA-70-8.93; PID: 77369 Agreement Number 14913* for review and signature. FHWA, with ODOT as their agent, will continue to involve the ACHP, OSHPO and consulting parties through the ongoing Section 106 process for the subject undertaking.

Respectfully,

Timothy M. Hill
Administrator
Office of Environmental Services

TMH:sg
Enclosure

c: Roger Ryder FHWA, w/attachment; Dave Snyder, FHWA, w/attachment; Mark Epstein, FHWA, w/attachment; Project File, w/attachment; Reading File



U.S. Department
of Transportation
**Federal Highway
Administration**

Ohio Division

January 31, 2014

200 North High Street, Room 328
Columbus, OH 43215
614-280-6896
614-280-6876

In Reply Refer To:
HAD-OH

Reid Nelson
Director
Office of Federal Agency Programs
Advisory Council on Historic Preservation
1100 Pennsylvania Avenue NW, Suite 803
Washington, DC 20004

Subject: FRA 70-8.93, PID 77369 Section 106 MOA, First Amendment Clarification

Dear Director Nelson:

The above project had an issue arise concerning the current Amended Section 106 MOA that we have been in consultation on with your office. The result of this consultation was to develop a letter of clarification to be concurred with by all of the signatories of the original MOA. We are asking your office to concur with the attached clarification regarding the project by returning a signed copy to our office.

If you have any questions, please contact Mr. Noel F. Mehlo, Jr, Environmental Program Manager at (614) 280-6841 or noel.mehlo@dot.gov. Thank you for your assistance.

Sincerely,

For: Laura S. Leffler
Division Administrator

Enclosure(s)

ecc: Johnson
Najah Duvall-Gabriel, ACHP
Tim Hill, ODOT
Mark Epstein, OHPO

Electronic File Location: L:\Electronic Subject and Project Files\Project Files\FRA\00
Columbus Crossroads General\77369 Phase 1 North Interchange\77369 FRA-70 71 (NEPA and
Project 1)\Executed Amended MOA

Internal ecc: DA Reading File



**US Army Corps of Engineers
Huntington District**

Permit Number: 2020-00476-SCR

Name of Permittee: Ohio Department of Transportation

Date of Issuance:

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

U.S. Army Corps of Engineers - Huntington District
Building 10/ Section 10
PO Box 3990
Columbus, OH 43218-3990

Please note that your permitted activity is subject to a compliance inspection by an U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above-referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date