

**MEMORANDUM OF AGREEMENT
AMONG THE FEDERAL HIGHWAY ADMINISTRATION,
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION,
AND
NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICER
FOR
WIDEN AND IMPROVEMENTS TO A 6.8-MILE SECTION OF INTERSTATE
85 (I-85) FROM NORTH OF SR 2120 (EXIT 81) TO US 29-52-70/I-85 BUSINESS
(EXIT 87) DAVIDSON AND ROWAN COUNTIES, NC
TIP PROJECT I-2304A
FEDERAL AID PROJECT NHF-85-3(164)80**

WHEREAS, the Federal Highway Administration (FHWA) has determined that the widening and improvements to a 6.8-mile section of Interstate 85 (I-85) from north of SR 2120 (Exit 81) in Rowan County to US 29-52-70/I-85 Business (Exit 87) in Davidson County (the Undertaking) will have an adverse effect upon the Yadkin River Crossings Historic District, a property determined eligible for the National Register of Historic Places (NRHP) and includes Fort York, Rowan County Bridges 46 and 392, North Carolina Railroad Bridges 1 and 2, Beard's Bridge site, Big Island, and the Trading Path Road Trace as contributing elements; and

WHEREAS, the Undertaking will require the removal of Rowan County Bridge No. 392 and may result in the removal of Rowan County Bridge No. 46; and

WHEREAS, the FHWA has consulted with the North Carolina State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

WHEREAS, the North Carolina Department of Transportation (NCDOT) has participated in the consultation and been invited by FHWA and the North Carolina SHPO to be a signatory to this Memorandum of Agreement (MOA); and

WHEREAS, the Counties of Davidson and Rowan and the Trading Ford Historic District Preservation Association have participated in the consultation and have been invited to concur with the MOA; and

WHEREAS, the FHWA has notified the Advisory Council on Historic Preservation (Council) of the adverse effect and the Council has declined to comment or participate in the consultation;

NOW, THEREFORE, FHWA, NCDOT, and the North Carolina SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effects of the Undertaking on the historic district.

STIPULATIONS

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

I. Photodocumentation of Bridges

Prior to the initiation of work, NCDOT shall record Rowan County Bridge Nos. 46 and 392 and their surroundings in accordance with the attached Recordation Plan (Appendix A). NCDOT shall deposit copies of the documentation with the SHPO, Historic Architecture Group of NCDOT, North Carolina Transportation Museum in Spencer, Davidson County Historical Museum, and Historic Salisbury Foundation, Inc. within three (3) years of the execution of this MOA.

II. Wil-Cox Bridge (Rowan County Bridge No. 46)

NCDOT, in accordance with its Bridge Reuse and Relocation Program, shall attempt to find a new owner for the Wil-Cox Bridge. A new owner must be willing to accept all future financial and legal responsibility for the bridge, including title, liability, and maintenance. NCDOT will assist the new owner(s) in the identification of and application for financial resources to maintain the bridge if requested in writing by the new owner.

NCDOT and FHWA will comply with Section 144(o) of Title 23 of the U.S. Code, entitled "Historic Bridge Program," which provides for the reasonable costs associated with actions to preserve, or reduce the impact of a project on the integrity of historic bridges. However, if no willing owner is identified by completion of the Right Of Way Consultation, NCDOT may elect to remove the bridge as a part of the Undertaking.

In the event the Wil-Cox Bridge is removed, NCDOT shall provide a sidewalk and pedestrian-safe railing on the replacement bridge so that pedestrians may safely cross the Yadkin River.

III. Design of Replacement Bridge(s) on US 29/70

NCDOT shall develop plans/designs for the replacement bridge(s) in the Yadkin River Crossings Historic District that, barring unforeseen circumstances, should last more than fifty (50) years.

Prior to completion of the final Design-Build Request for Proposals for the Undertaking, NCDOT shall afford the SHPO and concurring parties an opportunity to review and comment on the specifications for the parapet and bridge rail. If no comments are received from the SHPO or concurring parties within thirty (30) days of confirmed receipt, NCDOT can assume that the SHPO and concurring parties do not object to the proposed specifications. Should any of the parties notified have questions about or comments on such specifications or desire a meeting to discuss the design, FHWA and NCDOT shall arrange a joint consultation to address such questions and comments.

IV. Borrow Pit and Waste Areas

Waste and borrow areas proposed by the contractor will be reviewed by the SHPO in accordance with the NCDOT Special Provision. Special consideration shall be given to any proposed waste or borrow areas within 1/2 mile of the river.

V. Staging Areas

NCDOT shall not permit staging areas for construction within the boundary of the Yadkin River Crossings Historic District. For the purposes of this agreement, staging areas are defined as (1) the storage of equipment or materials that are not needed for the construction/demolition of the bridges over the Yadkin and (2) the placement of temporary offices or trailers.

NCDOT may permit overnight parking of equipment and storage of materials, associated with current construction needs, within the construction right-of-way limits along any part of the project corridor.

VI. Heritage Kiosk

NCDOT will provide the public with information about the historical and cultural significance of the Yadkin River Crossings Historic District. NCDOT will design and produce a custom kiosk at a location specified by the SHPO (with input from the Counties of Davidson and Rowan and the Trading Ford Historic District Preservation Association) within one (1) year of the completion of construction of the Undertaking.

1. More specifically, NCDOT will research and design the interpretive panels; design the structure, provide funding for fabrication of the kiosk, and install the kiosk at the site along with a small area for visitors to park their vehicles.
2. Prior to fabrication of the interpretive panels and kiosk structure NCDOT shall afford the SHPO and concurring parties an opportunity to review and comment on the panels and structure. If no comments are received from the SHPO or concurring parties within thirty (30) days of confirmed receipt, NCDOT can assume that the SHPO and concurring parties do not object to the proposed specifications. Should any of the parties notified have questions about or comments on such specifications or desire a meeting to discuss the design, FHWA and NCDOT shall arrange a joint consultation to address such questions and comments.
3. NCDOT will maintain the parking area and execute a municipal agreement with Davidson County to transfer maintenance responsibility of the kiosk to the county after NCDOT installs the kiosk. NCDOT will also provide \$10,000 (ten thousand dollars) to the county for future kiosk maintenance costs.

VII. Unanticipated Discovery

In accordance with 36 CFR 800.11(a), if NCDOT identifies additional cultural resource(s) during construction and determine them to be eligible for the NRHP, all work will be halted within the limits of the NRHP-eligible resource(s) and the

FHWA and SHPO contacted. If after consultation with the Signatory and Concurring Party(ies) additional mitigation is determined necessary, the NCDOT, in consultation with the Signatory and Concurring Party(ies), will develop and implement appropriate protection/mitigation measures for the resource(s). Inadvertent or accidental discovery of human remains will be handled in accordance with North Carolina General Statutes 65 and 70.

VIII. Dispute Resolution

Should any of the Signatory or Concurring Party(ies) object within (30) days to any plans or documentation provided for review or object to the implementation of any of the stipulations pursuant to this MOA, the FHWA shall consult with the objecting party(ies) to resolve the objection. If the FHWA or objecting party(ies) determines that the objection cannot be resolved, the FHWA will forward all documentation relevant to the dispute to the Council. Within thirty (30) days after receipt of all pertinent documentation, the Council will either:

1. Provide the FHWA with recommendations which the FHWA will take into account in reaching a final decision regarding the dispute, or
2. Notify the FHWA that it will comment pursuant to 36 CFR Section 800.7(c) and proceed to comment. Any Council comment provided in response to such a request will be taken into account by the FHWA, in accordance with 36 CFR Section 800.7 (c) (4) with reference to the subject of the dispute.

Any recommendation or comment provided by the Council will be understood to pertain only to the subject of the dispute; FHWA and NCDOT's responsibility to carry out all of the actions under this agreement that are not the subject of the dispute will remain unchanged.

IX. Amendments

If any Signatory to this MOA believes that its terms cannot be carried out or that an amendment to the terms must be made, that party(ies) shall immediately consult with the other party(ies) to develop amendments in accordance with 36 CFR 800.6(c)(7). If an amendment cannot be agree upon, the dispute resolution process set forth in Stipulation VIII will be followed.

X. Termination

Any Signatory to this MOA may terminate the agreement by providing notice to the other parties, provided that the signatories and concurring parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. Termination of this MOA will require compliance with 36 CFR 800. This MOA may be terminated by the execution of a subsequent MOA that explicitly terminates or supersedes its terms.


XI. Duration

Unless terminated pursuant to Stipulation X above, this MOA will be in effect until FHWA, in consultation with the other Signatory and Concurring Party(ies), determines that all of its terms have satisfactorily been fulfilled or if NCDOT is unable or decides not to construct the Undertaking.


Execution of this Memorandum of Agreement by FHWA, NCDOT and the North Carolina SHPO, its subsequent filing with the Council, and implementation of its terms evidence that FHWA has afforded the Council an opportunity to comment on the Undertaking that FHWA has taken into account the effects of the Undertaking on the historic properties.

AGREE:

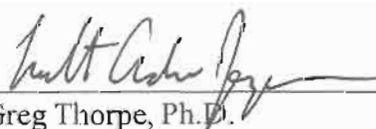
Federal Highway Administration

For  _____ Date 5/14/09
John F. Sullivan, III, P.E.
Division Administrator

State Historic Preservation Officer:

 _____ Date 5/13/09
Jeffery J. Crow
North Carolina State Historic Preservation Officer

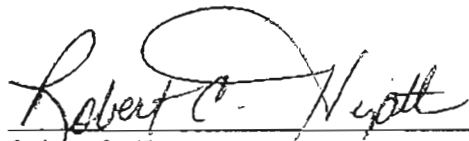
North Carolina Department of Transportation:

For  _____ Date 5/13/09
Greg Thorpe, Ph.D.
Project Development & Environmental Analysis Branch Manager

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CONCUR:



Robert C. Hyatt
Davidson County Manager

5-14-09

Date

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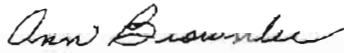
Rowan County

Date

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CONCUR:



Ann Brownlee
Trading Ford Historic District Preservation Association

May 15, 2009
Date

Signature statement: I have signed this concurrence form solely to preserve my rights as a Concurring Party under the terms of the MOA. I do not agree that this MOA adequately protects or mitigates the effect of the project on historic properties under Section 106 of the NHPA or Section 4(f) of the DOT act.

APPENDIX A

**Historic Structures and Landscape Recordation Plan
Widen and upgrade a 6.8-mile section of Interstate 85 (I-85) from north of SR 2120
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PHOTOGRAPHIC REQUIREMENTS

- Overall views of Rowan County Bridge Nos. 46 and 392 and their immediate surroundings.
- Images showing the details of the superstructure and substructure of Rowan County Bridge Nos. 46 and 392

PHOTOGRAPHIC FORMAT

- All images will be captured, labeled, and stored according to the North Carolina State Historic Preservation Office's, "Policy and Guidelines for Digital Photography for Historic Property Surveys, National Register Nominations and NRAC PowerPoint Presentations, Revised November 2008."

COPIES AND CURATION

- One (1) set of all photographic documentation will be deposited with the North Carolina Division of Archives and History/State Historic Preservation Office to be made a permanent part of the statewide survey and iconographic collection.
- One (1) set of all photographic documentation will be deposited in the files of the Historic Architecture Group of NCDOT, North Carolina Transportation Museum in Spencer, Davidson County Historical Museum, and Historic Salisbury Foundation, Inc..