

**MEMORANDUM OF AGREEMENT
BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION AND
THE PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER
PURSUANT TO 36 CFR 800.6(c)
REGARDING IMPLEMENTATION OF THE PROPOSED
CRAWFORD COUNTY BRIDGE NO. 32 REPLACEMENT PROJECT
CRAWFORD COUNTY, PENNSYLVANIA**

WHEREAS, the Federal Highway Administration (FHWA) proposes to replace Crawford County Bridge No. 32 (also known as Smith Road Bridge), which carries Township Road T-406 over a tributary of Conneaut Creek in Summerhill Township, Crawford County, Pennsylvania, hereinafter referred to as the Project; and

WHEREAS, the FHWA, in consultation with the Pennsylvania State Historic Preservation Officer (SHPO), has established that the Project's Area of Potential Effect (APE), as defined at 36 CFR 800.16(d), extends 300 feet from the bridge portals along both approaches, and 300 feet upstream and downstream; and

WHEREAS, the FHWA, in consultation with the SHPO, has determined, pursuant to 36 CFR 800.4(c), that one historic property is located within the APE: Crawford County Bridge No. 32, a property eligible for listing in the National Register of Historic Places; and

WHEREAS, the FHWA has determined, pursuant to 36 CFR 800.5(d) and in consultation with the SHPO, that the Project will have an adverse effect on Crawford County Bridge No. 32 (Determination of Effect Report, December 2008); and

WHEREAS, the FHWA, in consultation with the SHPO, has determined that the project has no potential to affect archaeological resources due to the limited area that will be subject to ground disturbance; and

WHEREAS the FHWA has consulted with the SHPO in accordance with Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470 (National Historic Preservation Act), and its implementing regulations (36 CFR 800) to resolve the adverse effect of the Project on historic properties; and

WHEREAS the FHWA has notified the Advisory Council on Historic Preservation (ACHP) of the adverse effect on historic properties and has invited the ACHP to participate in consultation, and the ACHP declined to participate in a letter dated August 25, 2009; and

WHEREAS the FHWA has invited the Crawford County Historical Society to be a Consulting Party but that organization did not respond to the FHWA's invitation; and

WHEREAS the FHWA and SHPO have also invited the Pennsylvania Department of Transportation (PennDOT) to participate in the consultation and to concur in this Memorandum of Agreement (MOA); and

WHEREAS the FHWA has involved, and will continue to involve, the public and other historic preservation interest groups and will involve the Tribes as necessary as stipulated under the National Environmental Policy Act (NEPA) of 1969, as amended [16 U.S.C 470] and its implementing regulations in a manner consistent with PennDOT's Public Involvement Procedures;

NOW, THEREFORE, the FHWA and the SHPO agree that upon FHWA's decision to proceed with the Project, FHWA shall ensure that PennDOT implements the following stipulations in order to take into account the effects of the undertaking on historic properties.

Stipulations

1. PENNDOT shall ensure that Crawford County Bridge No. 32 is documented to Pennsylvania state-level standards prior to its demolition or relocation. The documentation project will include a short narrative on the bridge, photographic documentation, and sketch-level site plans and elevation views. Black-and-white photographs, keyed to a site plan, will document the bridge, its significant features, and its setting. All written and photographic documentation must be accepted by the SHPO prior to the removal of the bridge. Copies of the documentation will be made available to the SHPO and the Crawford County Historical Society.
2. PENNDOT shall market the bridge for possible reuse by others by ensuring that an advertisement describing the bridge and its availability is placed in appropriate trade publications and on the PENNDOT website.
3. PENNDOT shall offer some of the bridge's structural elements to the Crawford County Historical Society.

Administrative Conditions

A. Personnel Qualifications

PENNDOT shall ensure that all archaeological work is carried out by or under the direct supervision of a person or persons meeting, at a minimum, *The Secretary of the Interior's Professional Qualifications Standards for Archaeologists (48 FR 44738-9)*, and that all historic preservation work is carried out by or under the direct supervision of a person or persons meeting, at a minimum, *The Secretary of the Interior's Professional Qualifications Standards for Architectural Historian Professionals (48 FR 44738-9)*.

B. Late Discovery

If any unanticipated discoveries of historic properties or archaeological sites are encountered during the implementation of this undertaking, all work will cease in the vicinity of the discovery and PennDOT shall immediately notify the FHWA. In compliance with 36 CFR § 800.13, FHWA shall notify within 24 hours the ACHP, the SHPO, and, if applicable, federally recognized tribal organizations that attach religious and/or cultural significance to the affected property. The SHPO, the FHWA, PennDOT, and Tribal representatives, as appropriate, will conduct a joint field view within 72 hours of the notification to the FHWA. The FHWA, in consultation with the appropriate parties, will develop a treatment plan for the discovery prior to the resumption of construction activities in the area of the discovery.

C. Amendments

Any party to this Agreement may propose to the FHWA that this Agreement be amended, whereupon the FHWA shall consult with other parties to this Agreement to consider such an amendment in accordance with 36 CFR 800.6(c)(7).

D. Resolving Objections

1. Should any party to this Agreement object in writing to FHWA regarding any action carried out or proposed with respect to the Crawford County Bridge No. 32 Replacement Project or implementation of this Agreement, the FHWA shall consult with the objecting party to resolve the objection. If after initiating such consultation the FHWA determines that the objection cannot be resolved through consultation, FHWA shall forward all documentation relevant to the objection to the ACHP including the FHWA's proposed response to the objection. Within 30 days after receipt of all pertinent documentation, the ACHP shall exercise one of the following options:
 - a) Advise the FHWA that the ACHP concurs in the FHWA's proposed response to the objection, whereupon the FHWA shall respond to the objection accordingly;
 - b) Provide the FHWA with recommendations, which the FHWA shall take into account in reaching a final decision regarding its response to the objection; or
 - c) Notify the FHWA that the objection will be referred for comment pursuant to 36 CFR § 800.7, and proceed to refer the objection and comment. The resulting comment shall be taken into account by the FHWA in accordance with 36 CFR § 800.7(c)(4) and § 110(1) of NHPA.
2. Should the ACHP not exercise one of the above options within 30 days after receipt of all pertinent documentation, FHWA may assume the ACHP's concurrence in its proposed response to the objection.

3. The FHWA shall take into account any ACHP recommendation or comment provided in accordance with this stipulation with reference only to the subject of the objection; the FHWA's responsibility to carry out all actions under this Agreement that are not the subjects of the objection shall remain unchanged.

E. Resolution of Objections by the Public

Should any objection pertaining to historic preservation or the implementation of the terms of this MOA be raised by a member of the public in a substantive manner, the FHWA shall notify the parties to this MOA and take the objection into account, consulting with the objector and, should the objector so request, with any of the parties to this MOA to resolve the objection.

F. Review of Implementation

If the stipulations have not been implemented within five years after execution of this Agreement, the parties to this agreement shall review the Agreement to determine whether revisions are needed. If revisions are needed, the parties to this Agreement shall consult in accordance with 36 CFR § 800 to make such revisions.

G. Sunsetting/Duration

If the terms of this Agreement have not been implemented by December 31, 2014, this Agreement shall be considered null and void. In such an event, the FHWA shall so notify the parties to this Agreement, and if it chooses to continue with the undertaking, shall reinitiate review of the Project in accordance with 36 CFR 800.

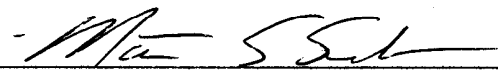
H. Termination

1. If the FHWA determines that it cannot implement the terms of this Agreement, or if the SHPO determines that the Agreement is not being properly implemented, the FHWA or the SHPO may propose to the other parties to this Agreement that it be terminated.
2. The party proposing to terminate this Agreement shall so notify all parties to this Agreement, explaining the reasons for termination and affording them at least 30 days to consult and to seek alternatives to termination. The parties shall then consult.
3. Should such consultation fail, the FHWA or the SHPO may terminate the Agreement by so notifying all parties.
4. Should this Agreement be terminated, the FHWA shall either:
 - a) Consult in accordance with 36 CFR 800.6(a)(1) to develop a new Agreement; or


- b) Request the comments of the ACHP pursuant to 36 CFR 800.7(a)(2).
- 5. The FHWA and the ACHP may conclude the Section 106 process with an Agreement between them if the SHPO terminates consultation in accordance with 36 CFR 800.7(a)(2).
- 6. If, at any time during the course of the Project, PennDOT cancels the Project or withdraws its request for federal funding, PennDOT will notify the FHWA. The FHWA will notify the other signatories and concurring parties to the Agreement that FHWA is terminating the Agreement. The FHWA, in consultation with those parties, will consider the effects of any Project related activities undertaken prior to Project cancellation or withdrawal of the federal funding request and the FHWA will assess its responsibilities and obligations pursuant to 36 CFR 800 and determine steps to terminate the Agreement.

Execution of this Agreement by the FHWA and the SHPO, and implementation of its terms, evidences that the FHWA has taken into account or will take into account the effects of the undertaking on historic properties and fulfilled its responsibilities under Section 106 of the National Historic Preservation Act of 1966 as amended.

FEDERAL HIGHWAY ADMINISTRATION


By:  Date: 3-30-2010

PENNSYLVANIA STATE HISTORIC PRESERVATION OFFICER

By:  Date: 2/8/10

CONCUR:

PENNSYLVANIA DEPARTMENT OF TRANSPORTATION

By:  Date: 1/26/10

Approved as to Legality and Form

By: Michael A. Hines Date: 26 Feb 2010
For Chief Counsel

By: A. C. C. C. Date: 2.4.10
Deputy General Counsel

By: Amy McWhitt Date: 3/17/10
Deputy Attorney General

STATE LEVEL RECORDATION

A. Building Description and History:

The applicant must submit a completed Pennsylvania Historic Resource Form including a description and history of the building. The date of construction and historic uses of the building should be documented by reference to historic maps, deeds or other appropriate sources listed in the Bureau for Historic Preservation Biographical References.

B. Photography:

Photographs must show all exterior elevations of the buildings as well as any significant interior features. Photographs should be labeled in pencil with the name and address (including county) of the property, date and view shown in the photograph (i.e. east elevation). Photographs must be taken with 35mm or larger format cameras with black and white film printed on black and white paper or follow the National Register photograph policy (see our website www.phmc.state.pa.us/bhp). Prints may be 3 1/2" X 5" or larger. Negatives must be housed in polypropylene sleeves, labeled with the same information as the photographs, and submitted to PHMC/Bureau for Historic Preservation.

C. Map Location:

Submit a U.S.G.S. quadrangle, 7.5 minute map showing the outline of the property associated with the buildings. A site map must also be submitted with includes the property boundaries and the location of the buildings outlining the walls at ground level (building's footprint), noting the dimensions and indicating porches with dashed lines.

D. Digital Copy:

Submit an additional copy of above items in digital format. Contact the Bureau for Historic Preservation's National Register section for guidelines.