

MEMORANDUM OF AGREEMENT (MOA)

AMONG

*THE FEDERAL HIGHWAY ADMINISTRATION,
MISSOURI STATE HISTORIC PRESERVATION OFFICE,
AND JACKSON COUNTY, MISSOURI*

REGARDING

*STP-3453 (401) and STP-3453 (402)
ROCK ISLAND SHARED USE PATH PROJECT
IN JACKSON COUNTY, MISSOURI*

WHEREAS, Jackson County, Missouri, a political subdivision of the State of Missouri (the County), plans to construct the Rock Island Shared Use Path; and

WHEREAS, the Federal Highway Administration (FHWA) plans to fund the shared use path construction thereby making the project an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 54 USC § 306108, and its implementing regulations, 36 CFR § 800; and

WHEREAS, the County is the project sponsor and has been invited to participate in consultation for this project and to sign this Memorandum of Agreement; and

WHEREAS, the undertaking consists of construction of an approximately 15.6-mile, 10-foot wide, shared use path parallel to and on the rail bed, designed to standards adhering to the Americans with Disabilities Act (ADA). The path surface will consist of a combination of crushed limestone aggregate and concrete dependent upon the slope and drainage considerations. The project requires clearing vegetation, landscaping, pet enclosures, fencing, and other residential and commercial items and materials that currently encroach upon the right of way. Handrails and decking will be installed and/or repaired on existing railroad bridges crossing roadways and waterways on existing right of way. Fencing will be installed in limited locations. Five new pedestrian bridges over roadways, rail bed, and drainage channels would be constructed. Retaining walls would be constructed where needed for side slope stability along the project alignment. Culverts will be extended and drainage structures will be installed to mitigate stormwater runoff onto right of way from surrounding urban landscape. Modifications will be made to roadway crossings including the installation of warning devices, crosswalks, and curb ramps. Relocation of some overhead and underground utilities will be required for construction of the shared use path; and

WHEREAS, the area of potential effects (APE) for archaeology is the footprint of the construction limits including staging and any ground disturbing activities. The APE for the history/architecture above-ground resources includes the rail line and associated structures (mainly bridges and culverts) as well as resources identified within the linear resource of the rail such as tracks, ties, etc.; and

WHEREAS, the FHWA has determined that the undertaking may have an adverse effect on the Lee's Summit to Kansas City section of the Rock Island Rail Corridor, which is a property determined to be eligible for inclusion in the National Register of Historic Places

FILED

AUG 23 2022

MARY JO SPINO
COUNTY CLERK

(NRHP), and the State Historic Preservation Office (SHPO) has concurred with this recommendation (letter dated May 19, 2017) pursuant to 36 CFR Part 800, the regulations implementing Section 106 of the National Historic Preservation Act (54 USC § 306108); and

WHEREAS, the Missouri Rock Island Trail, Inc., the Railway and Locomotive Historical Society, Inc., the Katy Railroad Historical Society, the Rock Island Technical Society, the National Railway Historical Society, the National Railway Historical Society Missouri Chapter, the Historic Kansas City Foundation, the Kansas City Archeological Society, the Raytown Historical Society and Museum, the Historical Society of Lee's Summit and Museum, the Jackson County Historical Society, Missouri Preservation, the Missouri Archaeological Society, the National Trust for Historic Preservation, the City of Kansas City, the City of Lee's Summit, the City of Raytown, the Missouri Department of Conservation, Missouri State Parks, and the Kansas City Area Transportation Authority were invited to participate in the consultation (the Invited Consulting Parties); and

WHEREAS, FHWA has consulted with City of Kansas City, City of Raytown, City of Lee's Summit, the Kansas City Archeological Society, and the Kansas City Area Transportation Authority regarding the effects of the undertaking on historic properties (the Consulting Parties); and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), FHWA has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination (insert date of letter) with specified documentation, and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii) (l); and

NOW, THEREFORE, FHWA and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

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

I. DOCUMENTATION OF HISTORIC AND CULTURAL PROPERTIES

Prior to the alteration of any NRHP-eligible properties, the following documentation measures will be carried out in consultation with the SHPO:

- A. Bridges, Culverts, and Vale Tunnel
 - i. The County will take photographs consistent with NRHP standards of representative sample of bridges, culverts, and the Vale Tunnel sufficient to document overall views and details of the structures. Photograph selection will be done in consultation with the SHPO. Digital images of a quality consistent with NRHP standards will be provided on a DVD. A selection of one set of archivally stable, black and white, 5-by-7 inch photographs will be submitted.
 - ii. As available, the County will provide digital copies on a DVD of original construction plans, historic photographs of bridges, culverts, and the Vale Tunnel.
- B. Rail Corridor, Infrastructure, Tracks and Ties

- i. The County will take photographs consistent with NRHP standards of a representative sample of the rail corridor including the infrastructure, track, ties, and overall views and details of the Rock Island corridor in Jackson County. Photograph selection will be done in consultation with the SHPO. Digital images of a quality consistent with NRHP standards will be provided on a DVD. A selection of one set of archivally stable, black and white, 5-by-7 inch photographs will be submitted.
- ii. As available, the County will provide digital copies on a DVD of original construction plans and historic photographs of associated historic properties, including but not limited to depots, tell tales, etc.
- iii. The County will prepare interpretive exhibits, which will be reviewed prior to production by the SHPO and the Consulting Parties. Placement of the interpretive exhibit shall be done in consultation with the individual cities. A minimum of two exhibits will be provided, one near MP 282.5 in Raytown which is the site of a former depot and one near MP 277.5 at the "tell tale" and north of the Vale Tunnel near Kansas City and Lee's Summit.

C. Historic Context Narrative

Jackson County will create a narrative report focusing on the history and development of this section of the Rock Island Rail Road, with references to the Rock Island historic documents that had been prepared for earlier phases of the Rock Island Rail Road from near St. Louis to Pleasant Hill. The final report shall be developed with the input from the SHPO and Consulting Parties.

II. DURATION

This MOA will expire if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, FHWA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VIII below.

III. PROJECT RELATED ACTIVITIES.

As access roads, parking lots, staging areas and other project related activities are identified, the consulting parties shall be notified and asked to comment. The FHWA shall determine, with concurrence from SHPO, if further investigations are warranted.

IV. POST-REVIEW DISCOVERIES

If properties are discovered that may be historically significant or unanticipated effects on historic properties found, the following procedures will be carried out.

A. Procedures for Unanticipated Discoveries of Cultural Resources and Historic Properties.

- i. There are no known archaeological sites located within the Rock Island corridor in Jackson County, Missouri. However, in the event that any unreported or unanticipated archaeological sites or cultural resources are discovered during construction activities, the County shall:

- a. Immediately cease all work within a minimum 50-foot radius;
 - b. Clearly mark the area of discovery;
 - c. Implement interim measures to protect the discovery from looting and vandalism; and
 - d. Notify FHWA, federally recognized Tribes, and the SHPO pursuant to 36 CFR § 800.13(b).
- ii. Upon notification of the discovery, FHWA shall consult with the SHPO, MoDOT, federally-recognized Tribes, the County, and other consulting parties, if any, to determine the NRHP eligibility of the discovery and whether appropriate mitigation measures, such as protection in place or archaeological data recovery plans, are necessary.
- a. FHWA, in consultation with SHPO and appropriate federally recognized Tribes, will have 30 calendar days following notification to determine the NRHP eligibility. FHWA may assume the newly discovered property to be eligible for the NRHP.
 - b. If the find is determined to be potentially significant, FHWA will consult with the SHPO and appropriate federally recognized Tribes regarding appropriate measures for site treatment pursuant to 36 CFR § 800.6(a). Once presented, the SHPO and the federally recognized Tribes will have 30 calendar days to provide their objections or concurrence on the proposed actions. Mitigation measures may include:
 - i. Formal archaeological evaluation of the site;
 - ii. Visits to the site by the SHPO and/or appropriate tribes; and/or
 - iii. Preparation and implementation of a mitigation plan by FHWA in consultation with federally recognized Tribes for approval by SHPO.
- iii. In the event that any human remains (other than from a crime scene) are discovered or excavated, they are subject to immediate control, possession, custody, and jurisdiction of SHPO, pursuant to the Missouri Unmarked Human Burials Sites Act (RSMo. 194.400-194.410). The excavation of human remains will follow guidance obtained through SHPO and federally-recognized Tribes. The excavation, handling, and processing of any such human remains and associated funerary objects, sacred objects, or objects of cultural patrimony shall be in accordance with SHPO instructions and pursuant to any provisions of the Native American Graves Protection and Repatriation Act (NAGPRA) applicable to such remains and artifacts found in the APE.

This excludes any cemetery human remains that may be discovered or excavated in the APE. These finds would be regulated by local government and law enforcement agencies pursuant to Chapter 214, Cemeteries.

- B. In the event of any unanticipated discoveries, the County shall ensure that a report on the archaeological investigations conducted pursuant to this "Unanticipated Discoveries" section is provided to the SHPO and FHWA and upon request to other interested parties.
- C. Any report on unanticipated discoveries shall follow (1) procedures for the processing, analysis, and curation of collected materials as described in the Advisory Council's Handbook Treatment of Archaeological Properties, Part III of the Secretary of the Interior's Guidelines,

and (2) currently accepted standards for the analysis curation of archaeological remains.

V. DISPUTE RESOLUTION

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

- A. Forward all documentation relevant to the dispute, including the FHWA's proposed resolution, to the ACHP. The ACHP shall provide FHWA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. FHWA will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the 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 shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a 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 remain unchanged.

VI. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

VII. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatories to attempt to develop an amendment per Stipulation VII, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, FHWA must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. FHWA shall notify the signatories as to the course of action it will pursue.

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

SIGNATORIES:

MEMORANDUM OF AGREEMENT (MOA)

AMONG

*THE FEDERAL HIGHWAY ADMINISTRATION,
MISSOURI STATE HISTORIC PRESERVATION OFFICE,
AND JACKSON COUNTY, MISSOURI*

REGARDING

*STP-3453 (401) and STP-3453 (402)
ROCK ISLAND SHARED USE PATH PROJECT
IN JACKSON COUNTY, MISSOURI*

Federal Highway Administration



Raegan Ball, Program Development Team Leader

Date 8/22/17

[Remainder Of Page Intentionally Left Blank]

MEMORANDUM OF AGREEMENT (MOA)

AMONG

*THE FEDERAL HIGHWAY ADMINISTRATION,
MISSOURI STATE HISTORIC PRESERVATION OFFICE,
AND JACKSON COUNTY, MISSOURI*

REGARDING

*STP-3453 (401) and STP-3453 (402)
ROCK ISLAND SHARED USE PATH PROJECT
IN JACKSON COUNTY, MISSOURI*

Missouri State Historic Preservation Officer

Toni M. Drawl

Toni Prawl, PhD., Director

Date AUG 18 2017

[Remainder Of Page Intentionally Left Blank]

MEMORANDUM OF AGREEMENT (MOA)

AMONG

***THE FEDERAL HIGHWAY ADMINISTRATION,
MISSOURI STATE HISTORIC PRESERVATION OFFICE,
AND JACKSON COUNTY, MISSOURI***

REGARDING

***STP-3453 (401) and STP-3453 (402)
ROCK ISLAND SHARED USE PATH PROJECT
IN JACKSON COUNTY, MISSOURI***

Jackson County, Missouri



Frank White, Jr., County Executive

Date 8/4/17

[Remainder Of Page Intentionally Left Blank]