

**MEMORANDUM OF UNDERSTANDING AMONG
THE ALABAMA DIVISION OF THE FEDERAL HIGHWAY ADMINISTRATION,
THE ALABAMA STATE HISTORIC PRESERVATION OFFICER,
AND THE ALABAMA DEPARTMENT OF TRANSPORTATION**

**THE SECTION 106 PROCESS FOR MAINTENANCE AND MINOR HIGHWAY
FEDERAL-AID TRANSPORTATION PROJECTS IN THE STATE OF ALABAMA**

WHEREAS, the Federal Highway Administration (FHWA), under authority of 23 U.S.C. 101, et. Seq., implements the Federal-aid Highway Program (Program) in the state of Alabama by funding and approving state and locally sponsored transportation projects that are administered by the Alabama Department of Transportation (ALDOT); and

WHEREAS, the FHWA Alabama Division Administrator is the "Agency Official" responsible for ensuring that the Program in the state of Alabama complies with Section 106 of the National Historic Preservation Act (NHPA), as amended, and codified in its implementing regulations, 36 CFR Part 800; and

WHEREAS, the responsibilities of the Alabama State Historic preservation Officer (SHPO) under Section 106 of the NHPA and 36 CFR Part 800 are to advise, assist, review, and consult with Federal agencies as they carry out their historic preservation responsibilities, and to respond to Federal agencies' requests within a specified period of time; and

WHEREAS, the FHWA has determined that implementation of the Program in the state of Alabama may have an effect upon properties included on or eligible for inclusion in the National Register of Historic Places (NRHP), hereafter, referred to as historic properties, and has consulted with the SHPO and ALDOT; and

WHEREAS, pursuant to the consultation, the signatories have developed this Memorandum of Understanding (MOU), in order to streamline the Section 106 process with the SHPO, as described in 36 CFR Part 800, Subpart B.

BACKGROUND

The FHWA, the ALDOT, and the SHPO determined that certain maintenance activities and minor highway projects constitute an undertaking, as defined in 36 CFR 800.16(y), but do not have the potential to affect historic properties (history and archaeology resources) included in or considered eligible for inclusion in the NRHP. Provided that the maintenance activities and minor highway projects are limited to the activities specified, are not part of a larger undertaking, and do not involve unusual circumstances, they are jointly determined by ALDOT, FHWA and the SHPO not to have the potential to cause effects to historic properties.

This MOU supersedes the 1994 Programmatic Agreement regarding Implementation of Transportation Enhancement Activities. The 2011 MOU for Reevaluating Federal-aid Transportation Projects remains valid.

CONDITIONS

Individual project consultation with FHWA and the SHPO will not occur for the project types outlined below. Although this MOU serves as the consensus determination of No Potential to Cause Effects for the above-specified undertakings, ALDOT cultural resources staff will provide oversight on project application to confirm this finding and will include closure in appropriate NEPA documentation. This determination for the identified maintenance activities and minor highway projects is made pursuant to 36 CFR 800.3(a)(1). Based on this determination, there are no further obligations under Section 106 of the National Historic Preservation Act for these specified undertakings and no additional documentation is required.

This MOU applies to projects with the following general exceptions (specific exceptions are listed for each activity):

- No activity can involve the acquisition of additional right-of-way or easement (activities must be restricted to existing right-of-way and/or easements),
- No activity can be a subset of a larger activity or part of a state of emergency declared by the Governor of Alabama or the President of the United States, and
- No activity may occur on Federal property or Federally-granted easement.

Section A: Bridge Repairs/Maintenance on Interstates, State Routes, and County Routes (Activities permissible on historic/non-historic bridges unless noted in the Exceptions)

No.	Description of Activity	Exceptions
A1	Bridge painting, bridge jacking, and bridge joint replacement	Not applicable to historic bridges
A2	Pile encasement	Not applicable to historic bridges
A3	Milling and/or hydro-demolition of bridge decks or full deck replacement	Full deck replacement not applicable to historic bridges
A4	Installation of carbon fiber reinforcement or post-tensioning design	Not applicable to historic bridges
A5	Heat straightening anchor pipes and/or minor in-kind replacement of structural members as a result of collisions	
A6	Installation of chain link safety (jump-inhibiting) fencing	Not applicable to historic bridges
A7	Repair/replace existing box girder drainage system, epoxy crack damage inside box girder, and repair undermined edge bents	
A8	Replacement of beams (floor and edge) on bridges to include the following activities: removal of concrete and rebar and the subsequent setting of PSC beams and the placing of framework, rebar, and concrete	Not applicable to historic bridges
A9	Repair/replace portions of approach slabs & bridge deck, damaged PE pipes, tower elevators, field splice bolts, joints and	

	headers, voids, cheek & back walls, concrete bent caps, bridge/pot bearings, and slope paving	
A10	Crack repair, spall and delaminated repair, post tension duct repair, repair/replace co-polymer overlay (replaced with conductive polymer overlay system), replace gasket, neoprene washers, and anchorage covers, replace cable end grout patches, reset bearings, clean drainage scuppers/drain pipes and remove vegetation in previously approved right-of-way	
A11	Replacement of existing bridge fender structures	Not applicable when new support piles are required outside of existing locations
A12	Placement of rip rap or fill over existing in-kind materials at bridge bents	All construction activities associated with the repair must be restricted to the existing roadway
A13	Installation of "helper" support piles through the existing bridge deck	Not applicable to historic bridges

Section B: Pavement Resurfacing/Shoulder Rehabilitation and Guardrail/Cable Barriers on Interstates, State Routes, and County Routes

No.	Description of Activity	Exceptions
B1	Overlay, milling, grooving, resurfacing and pavement rehabilitation of ramp, roadway and parking lot surfaces	No expansion of the wearing surface allowed
B2	Modernization of an existing highway by widening less than the width of a full travel lane	Widening may not expand beyond shoulder paving of two (2) or four (4) feet on both sides
B3	Rehabilitation of existing guardrail and guardrail anchors or installation of new guardrail and guardrail anchors	Not applicable to historic bridges
B4	Installation and upgrading of median crossovers on divided highways, to include the addition of right turn lanes	Not applicable to continuous turn lane projects or medians with monuments, graves, or cultural resources
B5	Installation of new cable barriers or rehabilitation of existing cable barriers	Not applicable to historic bridges
B6	Existing roadbed (toe-of-slope to toe-of-slope) or culvert washout, erosion, or failure compromising vehicular traffic safety, in-kind replacement (increasing culvert size may need review)	All construction activities associated with the repair must be restricted to the existing roadway and cannot go below existing grade

Section C: Signage/Utilities/Lighting/Traffic Signals on Interstates, State Routes, and County Routes

No.	Description of Activity	Exceptions
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C1	Railroad crossing rehabilitation to include installation of bells, lights, gates, striping, and paving of unpaved approaches.	Section B1 and B2 apply. Must not require modification to the railroad alignment or grade. Paving of unpaved approaches must not exceed 24 feet in width nor extend past the existing toe of slope. Paving of unpaved approaches must not extend beyond 350 feet in length on either side of the crossing.
C2	New signage (roadway signs, advance warning signs, changeable message signs [CMS]), rumble strips, chevrons, stop bars and other pavement markings (raised, reflective, or otherwise)	
C3	New or replacement signalization of intersections including lights, light upgrades, controller cabinets, cameras, traffic loops, pedestrian/communication/pull/timing boxes	Not applicable to activities including new poles or replacement of existing poles which are out-of-character (materials, size, and design) with the existing poles and/or when these activities involve altering vegetation (trees, bushes, and shrubbery)
C4	Directional underground boring within the roadway footprint (i.e. toe-of-slope to toe-of-slope)	
C5	Installation of TMS (traffic management systems) using existing poles	
C6	Installation and in-kind replacement of pipes (drainage, water, gas, conduit, or other utility) or rehabilitation of existing pipes within the roadway or adjacent driveways	Activity must be restricted to the existing roadway and cannot go below existing grade unless associated with in-kind replacement
C7	Traffic signal timing adjustments which involves opening an existing signal controller cabinet and adjusting the settings of the controller equipment inside the cabinet. No new equipment would be installed	
C8	Add or replace roadway striping	

Section D: Interstate Specific Maintenance/Upgrade Activities

No.	Description of Activity	Exceptions
D1	Landscaping within Interstate rights-of-way	

D2	Installation of new highway signage (see section C.2 above), or replacement of existing highway signage within Interstate right-of-way	
D3	In-kind replacement of existing lighting within Interstate right-of-way or at underpasses	
D4	Interstate ramp rehabilitation and intersection improvements consisting of in-place replacement or upgrading of ramps, the widening of cross-road bridge overpasses and the addition of ramp turn lanes within Interstate rights-of-way	
D5	Right-of-way reclamation of Interstate highways to include the removal of vegetation which has grown since construction or reconstruction of the Interstate	
D6	Weigh Station/Welcome Center improvements within existing right-of-way including installation of weigh-in-motion equipment, vehicle classification detection equipment, signage, and conduit routing for power service and communications back to the weigh station facility	Not applicable to the installation of new high mast lighting

ADMINISTRATIVE

The ALDOT will submit the basis for the determination, as part of the NEPA documentation, and place a file copy in the Administrative Record. Upon request by the FHWA or SHPO, ALDOT shall provide the requested project documentation.

MODIFICATIONS

- A. The FHWA, ALDOT, and SHOP will consult annually, beginning on or about March 1, 2017, to review the implementation of the conditions of the MOU, and determine whether amendments or revisions are needed. If amendments or revisions are needed, all involved parties will consult to amend the MOU.
- B. The ALDOT will provide the FHWA and SHPO with a list of projects executed under this MOU approximately thirty (30) calendar days prior to the scheduled annual review.
- C. The MOU may be amended or revised at any time, upon mutual written consent of the FHWA, SHPO, and ALDOT.

TERMINATION

Any party may terminate this MOU by providing thirty (30) calendar days written notice to the other parties, provided that all parties consult during the period prior to termination to seek agreement on amendments and other actions that would avoid termination.

Execution of this MOU and the implementation of its terms evidences that all parties involved have been afforded a reasonable opportunity to comment on activities listed under CONDITIONS, and that FHWA has taken into account the effects of such activities on historic properties and cultural resources.

FEDERAL HIGHWAY ADMINISTRATION, ALABAMA DIVISION

By: Mark D. Bartlett Date: 7/20/2016
Mark Bartlett, Division Administrator

ALABAMA DEPARTMENT OF TRANSPORTATION

By: John Cooper Date: _____
John Cooper, Director

ALABAMA STATE HISTORIC PRESERVATION OFFICER

By: Lee Anne Wofford Date: 4/28/16
Lee Anne Wofford, Deputy SHPO