
From: Jeff Vlach [JVlach@b-l-n.com]
Sent: Thursday, December 22, 2011 12:37 PM
To: Alice Davis ; Andrew Cornelius ; Andy Tandale; Ann Simms ; April Hauber; Bill Wright ; Brian Fogle ; Candy Stewart ; Carl Kramer ; Charles Cash ; Cheryl Cotner ; Chris Zimmerman ; Craig Oliver ; Craig Potts; Cynthia Johnson ; David Coyte ; David Warner; Doug Magee ; Edward Meyer ; Elizabeth Merritt; Emily Boone ; Frank Hecksher ; George Strack ; Greg Sekula; Henry Dorman ; Henryetta Ellis ; Historic Homes Foundation ; James Glass ; James Halvatgis ; Jane Sarles ; Jason Ross ; Jay Ellis; Jeanne Burke; Jeremy Raney ; Jim Segrest ; Jodi Hayes ; Joe Rafferty ; John Carr ; John Morton; Jon Salomon ; Karen Nickless ; Keith Stayton ; Kentucky Center for African-American Heritage ; Laura Renwick; Lindy Casebier ; Lisa Stopp; Mandie Ferguson ; Marianne Zickuhr ; Meme Sweets Runyon ; Paula Wahl; Peggy Hagerty Duffy ; Rachelle Kennedy ; Richard Allen ; Richard Jett; Richard Moore ; Rick Jones ; Rick Madden ; Robert Griffith ; Robert Jennings; Robin Dushane ; Russell Townsend ; Steve Kersey ; Tamara Francis ; Ted Pullen ; Thomas Galligan ; Todd Eberle, Mayor; Trish Fraser; Vicki Birenberg ; Wanda Fuller ; William Huff
Cc: Amanda Abner ; Andy Barber; Bob Lauder ; Brian Shaw; Carl Pearcy ; Carol Legard ; Charlene Dwin Vaughn ; David Kroll ; David Waldner; Duane Thomas ; Gary Valentine ; Jackie Turner ; Janice Osadcuk; Jim Hilton ; Mettelle, John L.; John Sacksteder; Kevin Hetrick ; Laura Hilden ; Lee Walker ; Mary Kennedy ; MaryAnn Naber ; Paul Boone; Thompson, Rebecca; Wright, Samantha J; Staffan Peterson ; Tim Foreman ; Tim Hagerty
Subject: Save the Date for January 27, 2012

Dear Section 106 Consulting Parties,

Thank you for your patience as we have been working through the Section 106 process for the Louisville-Southern Indiana Ohio River Bridges Project (Project). Since we last met in November 2011, the Project team has been working to revise the Effects Recommendations Workbook. Updated effects documentation will be sent to you in the near future.

As part of our effort, please mark your calendars for a meeting to discuss the mitigation of effects on historic resources beginning at 10:00 AM on January 27, 2012 and save this date! The meeting will be held at the Frazier History Museum located at 829 West Main Street in Louisville, Kentucky. We will have a lunch break around noon that day. This will be the final of the four key consultation points, which are (1) Initiation; (2) Identification of Eligible Resources, (3) Assessment of Effects, and (4) *Development of Mitigation Strategies*. Prior to the meeting, you will receive a draft of the First Amendment to the Memorandum of Agreement (MOA) for your review and comment, as well as teleconference information. We will discuss this Amended MOA at the January 27, 2012 meeting.

Thank you for your continuing cooperation in the development of the Project.

Jeff Vlach
Environmental Commitments Manager
Community Transportation Solutions -
General Engineering Consultant
8126 Castleton Road
Indianapolis, Indiana 46250
317-849-5832 (Telephone)
317-696-3617 (Cell)
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AGENDA

Section 106 Consultation Meeting
Louisville Southern Indiana Ohio River Bridges Project (LSIORB)
Frazier Museum
Louisville, Kentucky

January 27, 2012 at 10:00 a.m.

- 1. Welcome & Introductions**
- 2. Overview of Section 106 Process**
- 3. Recap of Section 106 Consultation to date**
 - a. Eligibility Issues raised during comment period**
 - b. Supplemental Traffic Analysis in Extensions to the APE**
 - c. Other Effects issues raised during comment period**
- 4. Proposed Amended MOA Discussion**
- 5. Next Steps**
- 6. Comment and Discussion Period**

From: Thompson, Rebecca
Sent: Friday, January 13, 2012 3:25 PM
To: 'Jeff Vlach'; Alice Davis ; Andrew Cornelius ; Andy Tandale; Ann Simms ; April Hauber; Bill Wright ; Brian Fogle ; Candy Stewart ; Carl Kramer ; Charles Cash ; Cheryl Cotner ; Chris Zimmerman ; Craig Oliver ; Craig Potts; Cynthia Johnson ; David Coyte ; David Warner; Doug Magee ; Edward Meyer ; Elizabeth Merritt; Emily Boone ; Frank Hecksher ; George Strack ; Greg Sekula; Henry Dorman ; Henryetta Ellis ; Historic Homes Foundation ; James Glass ; James Halvatgis ; Jane Sarles ; Jason Ross ; Jay Ellis; Jeanne Burke; Jeremy Raney ; Jim Segrest ; Jodi Hayes ; Joe Rafferty ; John Carr ; John Morton; Jon Salomon ; Karen Nickless ; Keith Stayton ; Kentucky Center for African-American Heritage ; Laura Renwick; Lindy Casebier ; Lisa Stopp; Mandie Ferguson ; Marianne Zickuhr ; Meme Sweets Runyon ; Paula Wahl; Peggy Hagerty Duffy ; Rachelle Kennedy ; Richard Allen ; Richard Jett; Richard Moore ; Rick Jones ; Rick Madden ; Robert Griffith ; Robert Jennings; Robin Dushane ; Russell Townsend ; Steve Kersey ; Tamara Francis ; Ted Pullen ; Thomas Galligan ; Todd Eberle, Mayor; Trish Fraser; Vicki Birenberg ; Wanda Fuller ; William Huff
Cc: Amanda Abner ; Andy Barber; Bob Lauder ; Brian Shaw; Carl Percy ; Carol Legard ; Charlene Dwin Vaughn ; David Kroll ; David Waldner; Duane Thomas ; Gary Valentine ; Jackie Turner ; Janice Osadcuk; Jim Hilton ; Mettelle, John L.; John Sacksteder; Kevin Hetrick ; Laura Hilden ; Lee Walker ; Mary Kennedy ; MaryAnn Naber ; Paul Boone; Wright, Samantha J; Staffan Peterson ; Tim Foreman ; Tim Hagerty
Subject: RE: Save the Date for January 27, 2012
Attachments: Draft Amended LSIORB MOA 010612.docx; Stipulation status 122911.pdf

Section 106 Consulting Parties,

The next set of LSIORB materials are in the mail (if you have not received them yet). These will form the basis for discussions during the January 27th Mitigations meeting. We will send out an Outlook meeting invite with an agenda and the call in/log in information early next week. Here is an overview of the updated materials, available on the project website (<http://www.kyinbridges.com/public-involvement/group-sec106.aspx>):

1. *Identification Findings Report* – Minor edits and mapping corrections have been made to the October version. None of the eligibility determination have changed. Updated PDF files are available on the project website. Because changes were minor, we are not reprinting this report, but if you would like a fresh paper copy of the updated version, please email Rebecca Thompson.
2. *Effects Findings Report* – This replaces the initial *Effects Recommendations Document* provided in early November. The previous content has been revised to incorporate changes discussed during the November 18 Effects Meeting and other issues identified by consulting parties in follow-up letters. These findings represent FHWA's determinations for the Effects phase of the Section 106 process. Paper copies of this report have been mailed; electronic copies are available through the project website.
3. *Final 800.11(e) Report* – This represents FHWA's official findings regarding eligibility and effects to satisfy the regulations outlined in 36 CFR 800.11(e). This document acts as a summary, incorporating information contained in the *Identification Findings Report* and the *Effects Findings Report* (items 1-2 above). Appendix A to the 800.11(e) Report includes a complete set of correspondence and meeting summaries for the Section 106 process. Electronic copies of this report and its appendices are available on the project website; to request a paper copy, please email Rebecca Thompson.
4. *Draft Amended MOA* – This document outlines the team's mitigation recommendation, tracking all changes from the Original MOA. A *Stipulation Status Matrix* is also included which summarizes what efforts have been accomplished to fulfill stipulations in the Original MOA. These documents together will form the basis for discussion at the January Mitigation Meeting. Paper copies of both these documents have been mailed; electronic copies are attached to this email for your review.

The team has also prepared a comment summary labeled “Responses to Consulting Party Comments” that summarizes the comments we received from consulting parties on the Effects consultation phase. A brief description of how the team addressed these comments is also included in this document. Because we did receive one additional set of comments earlier, we will address these new comments and consolidate our responses into a single file. We plan to provide these responses to you by next week; thanks for your patience.

Comments or questions related to the Mitigations materials (item 4 above) should be directed to Janice Osadczuk (janice.osadczuk@dot.gov). Please provide any comments relating to the mitigation of adverse effects on historic resources by no later than Monday, February 13.

Thank you for your continuing participation in the Section 106 process for the LSIORB project. We will provide additional details about the upcoming Mitigation Meeting as soon as possible. In the meantime, please let us know if you have any questions or concerns. Thank you.

Rebecca Thompson, P.E.

CDM Smith | 1648 McGrathiana Parkway, Ste. 340 | Lexington, KY 40511 | 859.254.5759 |
ThompsonRD@cdmsmith.com | cdmsmith.com

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Subject: Save the Date for January 27, 2012

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As part of our effort, please mark your calendars for a meeting to discuss the mitigation of effects on historic resources beginning at 10:00 AM on January 27, 2012 and save this date! The meeting will be held at the Frazier History Museum located at 829 West Main Street in Louisville, Kentucky. We will have a lunch break around noon that day. This will be the final of the four key consultation points, which are (1) Initiation; (2) Identification of Eligible Resources, (3) Assessment of Effects, and (4) *Development of Mitigation Strategies*. Prior to the meeting, you will receive a draft of the First Amendment to the Memorandum of Agreement (MOA) for your review and comment, as well as teleconference information. We will discuss this Amended MOA at the January 27, 2012 meeting.

Thank you for your continuing cooperation in the development of the Project.

FIRST AMENDMENT TO THE MEMORANDUM OF AGREEMENT (MOA)

AMONG

THE FEDERAL HIGHWAY ADMINISTRATION,

THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,

THE INDIANA STATE HISTORIC PRESERVATION OFFICER, AND

THE KENTUCKY STATE HISTORIC PRESERVATION OFFICER,

REGARDING THE

**LOUISVILLE – SOUTHERN INDIANA OHIO RIVER BRIDGES PROJECT IN
CLARK COUNTY, INDIANA AND JEFFERSON COUNTY, KENTUCKY**

(Project No. Item-5-118.00)

WHEREAS, the Federal Highway Administration (FHWA), in cooperation with the Indiana Department of Transportation (INDOT) and the Kentucky Transportation Cabinet (KYTC) is proposing to construct the Louisville-Southern Indiana Ohio River Bridges Project (Project) to improve cross-river mobility between Jefferson County, Kentucky and Clark County, Indiana; and

WHEREAS, the Project provides for two new bridges using Alignment C1 and Alignment A15 as described in the Project [Supplemental](#) Draft Environmental Impact Statement and [Supplemental](#) Final Environmental Statement ([SDEIS/SFEIS](#)), reconstruction of the Kennedy Interchange [at](#) its present location, and other improvements and enhancements within the Project corridor as described in Attachment A, Project Description; and

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[WHEREAS, FHWA, KYTC, INDOT, the Kentucky and Indiana State Historic Preservation Officers \(SHPOs\), and Advisory Council on Historic Preservation \(ACHP\) executed a Memorandum of Agreement \(MOA\) for this undertaking on April 1, 2003, and the signatories have agreed to amend the Original MOA per the supplemental analysis of the Project;](#)

WHEREAS, the Project [SDEIS/SFEIS](#) and supporting technical reports (Attachment B) provide background information to this [Amended](#) Memorandum of Agreement (MOA); and

WHEREAS, it is understood that this [Amended](#) MOA is based upon review of conceptual design alternatives, shown in the [SDEIS](#), which will be refined during the design development process; and

WHEREAS, the FHWA, in consultation with the Kentucky and Indiana State Historic Preservation Officers (SHPO) has delineated an Alternative Specific Area of Potential Effects (APE) as depicted in Attachment C; and

WHEREAS, the FHWA, in consultation with the Kentucky and Indiana SHPOs and the Advisory Council on Historic Preservation (ACHP) has determined that the Project will have an Adverse Effect on certain historic properties, as described in Attachment D, pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (NHPA), as amended (16 USC 470f); and

WHEREAS, pursuant to 36 CFR § 800.4(b)(2) and 36 CFR §800.5(a)(3), FHWA has phased the final identification, evaluation, and determination of Project effect for archeological resources because alternatives consist of large corridors where access is restricted; and

WHEREAS, FHWA has determined that the Project may adversely affect additional historic properties because sites for construction staging, wetland mitigation, borrow or waste, dredge disposal, or other ancillary activities associated with construction of the Project have not yet been selected; and

WHEREAS, FHWA acknowledges that the Project could result in indirect and cumulative effects on historic properties within the Broad APE, as depicted in Attachment E; and

WHEREAS, terms used in this [Amended](#) MOA are defined in accordance with 36 CFR §800.16, unless otherwise indicated; and

WHEREAS, the INDOT and KYTC have participated in consultation and have been invited to be signatories to this [Amended](#) MOA; and

WHEREAS, the Eastern Band of Cherokee Indians, Cherokee Nation, United Keetoowah Band of Cherokee Indians, Absentee Shawnee Tribe of Oklahoma, Eastern Shawnee Tribe, The Shawnee Tribe, the Miami Tribe of Oklahoma, Peoria Tribe of [Indians of](#) Oklahoma, [and the](#) Delaware Nation, have participated in consultation and have been invited to concur in this [Amended](#) MOA; and

WHEREAS, the remaining Section 106 Consulting Parties, included in the list at Attachment F, have participated in consultation and have been invited to concur in this [Amended](#) MOA;

NOW, THEREFORE the FHWA, the ACHP, the Indiana SHPO, and the Kentucky SHPO agree that the Project will be implemented in accordance with the following Stipulations in order to take into account the effects of the Project on historic properties.

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STIPULATIONS

The FHWA will ensure that the following measures are implemented:

I. PROJECT COORDINATION

A. Advisory Teams

1. On or before December 31, 2003, FHWA and the respective State Transportation Agencies (STA) will convene an Indiana Historic Preservation Advisory Team (IHPAT) and a Kentucky Historic Preservation Advisory Team (KHPAT) to ensure the Project is designed in a manner that respects the historic qualities, landscapes, historic buildings and features within the Alternative Specific APE.
2. The Advisory Teams will assist the Bi-State Historic Consultation and Bi-State Management Teams in developing Project design-
build special provisions to implement the measures stipulated in this Amended MOA.
3. Each of the Advisory Teams will be co-chaired by a representative of the respective STA and SHPO. The Co-chairs will be responsible for convening meetings of the Advisory Teams, preparing and maintaining a summary of meetings, and preparing and submitting Advisory Team recommendations to the Bi-State Historic Consultation Team for further action.
4. **[Commitment Fulfilled]** Representatives of the following will be invited by FHWA and the Indiana Advisory Team co-chairs to participate on the IHPAT:
 - a. City of Jeffersonville Historic Preservation Commission
 - b. Clark County
 - c. City of Jeffersonville
 - d. Town of Utica
 - e. Jeffersonville Main Street Association
 - f. Clarksville Historical Society
 - g. Town of Clarksville
 - h. Clark County, Historian
 - i. Rose Hill Neighborhood Association
 - j. Historic Landmarks Foundation of Indiana
 - k. Jeff -Clark Preservation Inc.
5. **[Commitment Fulfilled]** Representatives of the following will be invited by FHWA and the Kentucky Advisory Team co-chairs to participate on the KHPAT:
 - a. Louisville/Jefferson County Metro Government Historic Preservation Office
 - b. Louisville/Jefferson County Metro Government
 - c. Butchertown Neighborhood Association Inc.
 - d. City of Prospect

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- e. Phoenix Hill Association Inc.
- f. River Fields, Inc.
- g. The National Trust for Historic Preservation
6. Additional participants may be invited to participate on the Advisory Teams at the discretion of the Advisory Team Co-chairs.
7. The ACHP may participate as it sees fit on an ad-hoc basis.
8. As soon as practical following execution of the [Original](#) MOA, the respective co-chairs will convene the Advisory Teams for an initial organizational, kick-off meeting to establish process and procedure for operation of the Advisory Teams. **[Commitment Fulfilled]**.
9. [This stipulation has been removed since it is addressed by Stipulation I.A.2 above.](#)
10. INDOT or KYTC, as appropriate, shall provide any materials needed for review by the Advisory Teams at least fifteen (15) days before scheduled meetings. In addition to any comments voiced in the meetings, the Advisory Team members may provide written comments to the co-chairs within fifteen (15) days following the scheduled meeting.
11. Based on comments provided by the Advisory Teams, the co-chairs will develop recommendations, which they will submit to the Bi-State Historic Consultation Team for consideration and action.

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<#>Prior to the development of the scopes of work for the Historic Preservation Plans (HPP) and Treatment Plans under Stipulation III; ¶
<#>Prior to the selection of contractors for preparation of the HPPs and Treatment Plans under Stipulation III; ¶
<#>Prior to the development of the scope of work for design consultant services on individual Project sections; ¶
<#>Prior to the preliminary plan field check inspections (about 30%); ¶
<#>After preliminary plans are revised, to report on how comments were addressed (about 30%); ¶
<#>Prior to the design approval for plans for commencement of right-of-way acquisition (about 60%); ¶
<#>Prior to the final plan inspections (about 90%); and ¶
<#>After final plans are completed, to report on how comments were addressed. ¶

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B. Bi-State Historic Consultation Team

1. Bi-State Historic Consultation Team shall consist of representatives of FHWA, INDOT, KYTC and the respective SHPOs. **[Commitment Fulfilled]**.
2. The Bi-State Historic Consultation Team will advise the Bi-State Management Team as to appropriate design [build special provisions](#) to comply with the terms and historic preservation commitments of this [Amended](#) MOA. The Bi-State Historic Consultation Team shall make its recommendations to the Bi-State Management Team on methods, systems, and plans after considering recommendations provided by the Historic Preservation Advisory Teams.
3. The Bi-State Historic Consultation Team may make final decisions as delegated by the Bi-State Management Team.
4. The Bi-State Historic Consultation Team shall convene to consider the recommendations provided by the Advisory Teams and prepare recommendations for the Bi-State Management Team.
5. The Bi-State Historic Consultation Team will ensure that the comments and recommendations of the Advisory Teams are given full consideration in preparing its recommendations to the Bi-State Management Team or in reaching its final decision.

C. Bi-State Management Team

1. The Bi-State Management Team ([BSMT](#)) shall consist of representatives of the INDOT, the KYTC, and FHWA who shall have the authority for final approval of actions required to implement the measures to avoid, minimize, or mitigate effects to historic properties. [Commitment Fulfilled](#).
2. The Bi-State Management team shall ensure that consultant services procured to assist in the management of the Project include professionals with experience in the following areas: architecture, landscape architecture, historic preservation, archeology, anthropology, landscape history, as well as highway, bridge, and tunnel design to help implement the provisions of this [Amended](#) MOA.
3. The Bi-State Management Team shall prepare progress reports, as set forth in Stipulation IX of this [Amended](#) MOA.
4. The Bi-State Management Team shall give full consideration to the recommendations of the Bi-State Historic Consultation Team for incorporation into the final plans to the extent reasonable, feasible, and prudent.

D. Ombudsmen

1. The Bi-State Management Team will ensure that two Ombudsmen (one for [the East End Bridge and its approaches](#) and one for [the Downtown Bridge, Indiana Approach, and Kennedy Interchange](#)), will be retained for the duration of the Project.
2. Ombudsmen should be selected who have demonstrated communication and conflict resolution skills, as well as a working knowledge of historic preservation practices as they relate to the goals of this Project.
3. The individuals selected for Ombudsmen will [act as liaisons to the communities and will](#) be responsible for communicating with the public and investigating reported problems on all aspects of the Project, including the implementation of measures set forth in this [Amended](#) MOA. They shall report recommendations, complaints, and their findings to the Bi-State Management Team for resolution. The Ombudsmen will report findings, decisions, and resolutions as appropriate.
4. The Ombudsmen will be located in an office or offices within or close to the Project area.
5. Every reasonable effort shall be made to locate the offices of the Indiana and Kentucky Ombudsmen assigned to the Project in

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historic properties that can be restored and preserved in association with the Project.

6. Roles and responsibilities of the Ombudsmen shall be further defined in the management plan of the Project developed by the two states and the FHWA. **[Commitment Fulfilled]**.

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II. PROJECT DEVELOPMENT

The stipulations within this section apply to the overall construction of the Project unless otherwise noted. All measures stipulated within this [Amended](#) MOA shall be implemented as part of the Project prior to its completion. The FHWA and STAs agree to program and fund as a Project cost component, monies necessary for implementation of the measures stipulated within this [Amended](#) MOA.

- A. Project Goals** - The design goal of the Project is to meet the Project purpose and need while avoiding, minimizing, or mitigating adverse impacts to the environment, including adverse effects to historic properties to the extent reasonable, feasible, and prudent. Avoidance of adverse effects is the preferred treatment.
- B. Public Involvement** - The views of the public are important and will be solicited and considered at a minimum through each state's normal transportation project development process through informational meetings to be convened by the respective STAs.
- C. Context Sensitive Solutions** -The roadways, bridges, and other Project elements [where applicable](#) shall be designed and constructed with sensitivity to aesthetic values, historic cultural landscapes, and the historic context, utilizing the services of professionals with experience in areas related to historic preservation. Design shall include aesthetic treatments to surfaces, structures, portals, appurtenances, and land contours and landscaping that complement the historical contexts of historic properties.
- D. Roadway Lighting** – Project roadway lighting within the viewshed of historic properties and any navigational lighting required on structures included in the Project shall be designed and constructed to minimize the dispersion of light beyond the highway right of way and include state-of-the-art techniques and systems, such as Full Cutoff Optics (FCOs) or other

similar systems, to the extents that are required to ensure safe roadway lighting designs, and navigation required by the U. S. Coast Guard and the Federal Aviation Administration.

E. Noise Abatement – The Project shall be designed so as to minimize adverse noise effects on historic properties in accordance with state and federal noise regulations, policies, and guidance, including special consideration of enhanced noise abatement measures for historic properties. Noise abatement measures shall be designed and implemented utilizing state-of-the-art methods and systems to minimize adverse noise effects on historic properties, such as innovative pavement designs, bridge decks and joints, berms, noise barriers, and landscaping. Pavements shall be designed incorporating measures and materials that contribute to quieter pavements, such as those identified through the Purdue University Quiet Pavement Research or other innovative measures and technologies, while providing durability and safe driving conditions.

F. Historic Preservation Plans The BSMT, in consultation with the SHPOs and appropriate local governments, shall have HPPs prepared for historic properties and districts as set forth below and detailed in Stipulation III. The HPPs shall be prepared by a qualified consultant(s) specializing in preservation planning. The HPPs will provide a context to inform the implementation of specific mitigation measures as set forth in Stipulation III. The HPP may include recommendations for additional measures that could be implemented and funded by others outside this Amended MOA. Additional avoidance, minimization, or mitigation measures identified in the HPPs which may not have been specified in this Amended MOA, but are found by the Historic Preservation Advisory Teams to be reasonable to incorporate into the Project will be considered by the Bi-State Historic Consultation Team and may be submitted to the Bi-State Management Team for possible implementation as part of the Project.

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1. The HPPs will meet the following provisions:

- a. The scopes of work for the HPPs will be developed in consultation with the respective Historic Preservation Advisory Teams.
- b. The HPPs will be developed in consultation with owners of the historic properties and/or related neighborhoods.
- c. Where access to privately owned property is necessary for the preparation of an HPP, consent shall be obtained prior to entry.

Deleted: The HPP for a property or district shall be completed prior to the preliminary field plan check inspections for the relevant section of the Project, as referenced in Stipulation I.A.9.d, unless otherwise recommended by the Bi-State Historic Consultation Team and determined appropriate by the Bi-State Management Team.

- d. The HPPs shall consider and build upon existing related studies and plans, such as the Ohio River Corridor Master Plan and Louisville's Downtown Development Plan.
 - e. The HPPs shall be developed in cooperation with the appropriate local government and approved by the respective SHPO.
 - f. The HPPs will recognize the unique character, context, and historic significance of each resource/area and will identify ways to protect and enhance the historic qualities found there, particularly those related to avoidance, minimization, and mitigation of adverse Project effects.
 - g. The HPPs will consider land use, transportation patterns, and other urban/suburban related planning issues, as appropriate.
 - h. The HPP shall be presented to the relevant city/county governments and the Kentuckiana Regional Planning and Development Agency (KIPDA) for incorporation into local land use planning processes as appropriate.
2. HPPs will be developed for the following historic properties:
- a. Old Jeffersonville Historic District [Commitment Fulfilled]
 - b. Township of Utica Historic Lime Industry
 - c. Butchertown Historic District
 - d. Phoenix Hill Historic District [Commitment Fulfilled]
 - e. Country Estates of River Road/River Road Corridor [Commitment Fulfilled]

Deleted: <#>Swartz Farm Rural Historic District ¶
<#>James Smith Rural Historic Farmstead ¶

Plans completed prior to January 1, 2012 will be revised as appropriate to reflect Project design changes.

G. Survey Updates –Within five years following the Record of Decision, the historic preservation documents listed below will be updated by a qualified historic preservation consultant chosen by INDOT or KYTC, as appropriate, with the information developed for the Project and in conformance with GIS or other format specified by the respective survey sponsor and SHPO. [Commitment Fulfilled].

- 1. Clark County Interim Report and Indiana Historic Sites and Structures Inventory of Clark County will be updated by INDOT in consultation with the INSHPO.
- 2. The Jefferson County Inventory and Survey of Historic Sites in Kentucky will be updated by KYTC in consultation with the KYSHPO and the Louisville/Jefferson County Metro Government Historic Preservation Office.

H. Historic Preservation Easements - Preservation easements set forth in this [Amended](#) MOA shall be placed on the historic properties identified in Stipulation III in perpetuity by INDOT or KYTC, as appropriate, and held by a local government, local or state preservation organization, or other entity as determined by the INDOT or KYTC in consultation with the respective SHPO. A one-time, lump sum monitoring fee determined through negotiation among INDOT or KYTC, the easement holder, and the respective SHPO will be paid by INDOT or KYTC to the easement holder to monitor and enforce the preservation restrictions. The Bi-State Historic Consultation Team will coordinate as necessary with INDOT or KYTC land acquisition personnel for the acquisition of preservation easements.

I. National Register Documentation and Nomination – When stipulated for a specific property in Stipulation III, documentation required for a National Register of Historic Places (NRHP) nomination shall be prepared by a qualified historic preservation consultant selected by INDOT or KYTC, as appropriate, upon receipt of written consent from the property owner(s). The nomination, owner's written consent, and other supporting documentation shall be forwarded to the INSHPO or the KYSHPO within the first three years following the Record of Decision for the Project to secure National Register listing of the property. INDOT or KYTC, as appropriate, will coordinate with the Bi-State Historic Consultation Team to ensure that an individual with experience in historic preservation issues participates in presenting any proposal for nomination to the property owners.

J. Streetscape Improvements - Streetscape improvements, such as landscaping, tree plantings, ornamental street lighting, fencing, curbing, pavements, sidewalks, traffic calming, or other similar work, when specified in Stipulation III, shall be designed in consultation with the respective SHPO and constructed within public rights of way unless otherwise provided for in this [Amended](#) MOA or approved by the Bi-State Management Team. Approval from the agency holding title to the right of way will be obtained prior to use, whenever required. Streetscape improvements shall be designed in conformance with recommendations of any HPP developed for the property in accordance with Stipulation III of this [Amended](#) MOA. In the absence of an HPP, design of streetscape improvements shall be based on recommendations provided by the Bi-State Historic Consultation Team with Advisory Team input.

K. Interpretative Signage - Interpretative signage, when specified in Stipulation III, shall be placed within the right of way of public streets, or on easements, to explain the significance of the historic properties, their context, and their importance to the development of the area. Approval from the agency holding title to the right of way will be obtained prior to use, whenever required. The BSMT shall coordinate the text and placement of the signs with the respective Historic Preservation Advisory Team and may implement this provision through existing state historic marker programs where determined appropriate.

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L. Blasting and Vibration

1. To avoid damage to historic properties, the BSMT shall ensure that construction blasting/vibration plans and bridge pier construction plans shall be developed by their contractor(s) prior to the beginning any construction activities that would require blasting or result in vibration. These construction blasting/vibration plans shall be implemented during appropriate construction activities.
2. These plans shall be developed for those properties specified in Stipulation III and shall include provisions for pre-and post-construction surveys, construction monitoring, and other measures to minimize harm to historic properties.
3. The Bi-State Management Team or its designee will make the determination whether damage has occurred to historic properties identified in the Section 106 process as a result of Project activities.
4. The BSMT shall be responsible for repair of any blast and vibration damage to historic properties. Any repairs shall be coordinated in advance with the respective SHPO to ensure they are carried out in accordance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (Secretary's Standards).
5. Where access to privately owned property is necessary for monitoring or damage repair, consent shall be obtained prior to entry.

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M. Timing of Construction Activities - Provisions shall be included in the Project contracts that limit construction activities and construction noise during specific periods of time such as holidays or special events. The Bi-State Management Team shall develop these provisions, with input from the Bi-State Historic Consultation Team and Advisory Teams. If any modification to these provisions are made after the construction contract is

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awarded, the Bi-State Management Team shall notify the Bi-State Historic Consultation Team and the Advisory Teams.

N. No-Work Zones – A “no-work zone” will be established on construction plans and in the contract documents within the National Register boundaries of those historic properties specified in Stipulation III of this Amended MOA. A “no-work zone” for a historic property is an area where any potentially damaging Project activities such as storage yards, waste disposal, borrow pits, staging areas, or other related activities shall not be permitted. “No-work zones” will be designated in the plans and contract documents by note. The BSMT shall advise the Bi-State Historic Consultation Team of the protective measures to be used by the Contractor to protect the “no-work zones.”

Deleted: and will identify protective measures such as “temporary fencing” within right of way determined for the property through consultation with the Bi-State Historic Consultation Team.

O. Smart Growth Conference - Within three years following the Record of Decision for the Project, KYTC, in cooperation with FHWA, INDOT, ACHP, SHPOs, and appropriate local government organizations, will sponsor a Smart Growth Conference for the Louisville – Southern Indiana Region to inform local governments about the opportunities of smart growth to promote changes in local land use planning in a manner that provides for maximum efficiency within the transportation projects while promoting the preservation of historic properties within the region. The conference will involve local and national experts in the field and provide model ordinances and other materials that can be used by local governments in the implementation of new measures for this region Commitment Fulfilled.

P. Education and Interpretation

1. In developing materials for public education and interpretation, FHWA will ensure that sensitive information about the location and nature of archeological resources identified in the APE is withheld or disclosure limited pursuant to Section 304 of the National Historic Preservation Act.
2. KYTC and INDOT, in consultation with FHWA, the respective SHPOs, Indian Tribes, the Advisory Teams, and other parties deemed appropriate by FHWA, shall develop a popular report, in plain English intended for the general public, describing the history, historic properties, and archeological resources identified within the APE. The parties shall consult regarding the format, content, and style of the report. FHWA shall provide an

opportunity for the parties to comment on the draft(s) of the report. The parties shall have thirty (30) days from receipt of the draft to provide written comments. FHWA will consider these comments in preparing the final draft of the popular report. Copies of the final report shall be distributed to the SHPOs, parties, and public libraries and museums within the Broad APE.

3. In consultation with the FHWA, ACHP, KYSHPO, Indian Tribes, and the KHPAT, KYTC will develop an exhibit for display in the museum to be established at the Trolley Barn. The exhibit will showcase local history and the historic properties identified during the Project within a regional context and educate visitors about the Federal regulatory process. KYTC will make every effort to have the exhibit completed so that it can be presented during the National Trust for Historic Preservation Annual Conference to be held in Louisville in 2004. **Commitment Fulfilled**.
 - a. KYTC will ensure that the exhibit is prepared by a professional in the development of museum exhibits.
 - b. During its preparation, KYTC will ensure that the parties shall have opportunities to review and provide comments on the proposed exhibit.

III. SITE SPECIFIC MITIGATION

A. Train Depot – Indiana

1. The BSMT will include streetscape improvements within the limits of the Project and through the Spring Street frontage of the Depot consistent with Stipulation II.J. These improvements may include curbing, ornamental street lighting and tree planting developed with input from the IHPAT and recommended for the Project by the Bi-State Historic Consultation Team.
2. The BSMT will make a reasonable and good faith effort to acquire this property at the fair market value and from a willing seller **Commitment Fulfilled**. If acquired, the following additional stipulations shall apply:
 - a. Any activities in the building or on the property shall be permitted only after consultation between the BSMT and the INSHPO.
 - b. Any work to rehabilitate the Train Depot shall be undertaken in consultation with the INSHPO and in accordance with the Secretary's Standards.
 - c. A preservation easement shall then be placed on the property consistent with Stipulation II.H and the property shall be sold at fair market value to a preservation

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organization or other party acceptable to the Bi-State
Historic Consultation Team or donated to a local
government.

3. If the BSMT is unable to acquire the property as stipulated above, the BSMT shall consult with the INSHPO to identify and implement alternative mitigation measures.
4. The BSMT will develop documentation for and seek NRHP nomination as set forth in Stipulation II.I.
5. In consultation with the IHPAT and the INSHPO, the BSMT shall develop and place interpretative signage as set forth in Stipulation II.K near the facility to explain its historic significance.

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B. Colgate-Palmolive Historic District

1. The BSMT will develop documentation and seek NRHP nomination as set forth in Stipulation II.I. If the property owner does not consent to NRHP listing, then the BSMT shall make reasonable effort to prepare documentation for the historic district at a level to be agreed upon by the INSHPO, the BSMT and the FHWA.
2. In consultation with the IHPAT and the INSHPO, the BSMT shall develop and place interpretative signage as set forth in Stipulation II.K near the facility, to explain the historical importance of the site, its evolution, and its importance to the economic growth of the region.

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C. Ohio Falls Car and Locomotive Company Historic District

1. INDOT will develop documentation and seek NRHP nomination as set forth in Stipulation II.I. If the property owner does not consent to National Register listing; then INDOT shall make reasonable effort to prepare documentation for the historic district at a level to be agreed upon by the INSHPO, INDOT and the FHWA **[Commitment Fulfilled]**.
2. In consultation with the IHPAT and the INSHPO, the BSMT shall develop and place interpretative signage as set forth in Stipulation II.K near the facility, to explain the historical significance of the site, its evolution, and its importance to the economic growth of the region.

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3. Prior to initiating construction activities in this section of the Project, the BSMT will ensure that the construction contractor shall develop and implement a blasting/vibration plan for the Project to avoid damage to the District as set forth in Stipulation II.L.

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D. George Rogers Clark Memorial Bridge

1. The BSMT shall make every reasonable effort to avoid displacement of the historic bridge pylons on the Indiana approach to the Clark Memorial Bridge (US 31).
2. In the event displacement of the bridge pylons cannot be avoided, the BSMT, in consultation with FHWA and the Historic Preservation Advisory Teams, shall develop and implement a Treatment Plan which will include measures designed to minimize damage to the original contributing elements to the structure, including retaining walls and administration building. The Treatment Plan shall include documentation on the original bridge pylons, retaining walls and other features within the Project limits at a level to be agreed upon by the parties noted above, and shall include recommendations for historically appropriate lighting where it is necessary to replace the existing fixtures.
3. The BSMT shall make every reasonable effort to relocate the pylons in a way that will ensure protection of the NRHP designation for the bridge.

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E. Old Jeffersonville Historic District

1. INDOT shall have an HPP developed for the property as set forth in Stipulation II.F. The HPP will provide a context and other information for use in developing streetscape improvements, relocating contributing houses, and designing pedestrian friendly facilities under the bridges as outlined below. The HPP shall also include guidelines and/or best practices for the selection and implementation of noise abatement measures in a manner so as not to compromise the historic integrity of the district **Commitment Fulfilled**. The HPP will be updated to reflect Project design modifications.
2. The HPP will be presented to the City of Jeffersonville for potential use as a component of the City's Comprehensive Plan and to inform the community and local government of additional

historic preservation threats and opportunities **Commitment Fulfilled.**

3. The BSMT will design and construct streetscape improvements along city streets within the historic district between Spring Street and the Project, as set forth in Stipulation II.J, taking into consideration the type of improvements on Spring Street by the City of Jeffersonville.

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4. The BSMT shall design and construct pedestrian friendly facilities within Indiana right of way under the new bridge and existing John F. Kennedy Bridge. These facilities shall include amenities such as opportunities for public art, lighting, and other treatments as set forth in Stipulation II.J and will be in keeping with the context identified in the HPP for the Old Jeffersonville Historic District.

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5. The BSMT shall minimize spacing between the proposed new downtown bridge along the C-1 alignment and the existing John F. Kennedy (I-65) Bridge consistent with prudent engineering principles.

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6. The BSMT will develop and implement a highway signage plan that minimizes the number of overhead directional signs on the approach spans to the bridge, while preserving and improving highway safety.

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7. The BSMT, in consultation with INSHPO and FHWA, will make a reasonable effort to relocate the five contributing structures that would otherwise be demolished by the Project, including those located at 115 Fort Street, 116 Fort Street, 502 West Market Street, 432 West Riverside Drive, and 502 West Riverside Drive, to available vacant lots within the Historic District.

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 - a. During the acquisition phase, the BSMT, in consultation with the INSHPO, will make a reasonable effort to purchase vacant lots within the historic district from a willing seller at fair market value, then move and place the houses on new foundations in accordance with the approaches recommended in *Moving Historic Buildings* (John Obed Curtis, 1979, American Association for State and Local History), and by a professional who has the capability to move historic buildings properly. The relocated buildings will be made available for sale at fair market value on the open market.

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 - b. The BSMT shall place a preservation easement on these relocated historically significant houses as set forth in Stipulation II.H.

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 - c. The BSMT shall stipulate through a covenant that the purchaser must occupy the house for 5 years and maintain the property in accordance with preservation standards acceptable to the INSHPO.

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8. If [the BSMT](#) is unable to obtain suitable property within the historic district for the relocation of any of the structures referenced above, [the BSMT](#), in consultation with the INSHPO, shall prepare and implement a marketing plan to market the building(s) for relocation by others at a nominal fee.
 - a. The plan shall include information about the building(s), including photographs and information on the property's significance, cost, and tax benefits of rehabilitation; notification that the recipient will be required to rehabilitate the building(s) in accordance with the Secretary's Standards; a distribution list of potential purchasers or transferees; an advertising plan and schedule; and a schedule for receiving and reviewing offers.
 - b. Upon INSHPO's agreement with the marketing plan, [the BSMT](#) shall implement the plan for a minimum of six months.
 - c. [The BSMT](#) shall review all offers in consultation with INSHPO prior to acceptance.
9. If there is no acceptable offer that will conform to the requirements for rehabilitation and maintenance, [the BSMT](#), with the approval of INSHPO, may donate the property to a local government.
10. [The BSMT](#) shall design and construct roadway lighting in the viewshed of the historic district as set forth in Stipulation II.D.
11. [The BSMT](#) shall implement noise abatement measures where Project noise is expected to affect the historic district as set forth in Stipulation II.E.
12. Timing of construction activities shall be scheduled in accordance with Stipulation II.M.
13. Prior to initiating construction activities, [the BSMT](#) shall ensure that construction contractors shall develop and implement blasting/vibration plans for properties abutting the Project to avoid damage to listed and eligible historic properties in accordance with Stipulation II.L.

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F. INAAP Igloo Storage Historic District

Prior to initiating construction activities, [the BSMT](#) will ensure that the construction contractor will develop and implement a blasting/vibration plan for the Project in consultation with the [River Ridge Development Authority](#), and the INSHPO to avoid damage to this property as set forth in Stipulation II.L. This plan shall include provisions for blast monitoring and repair if the [River Ridge Development Authority](#) grants permission and access.

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G. Lentz Cemetery

1. Prior to initiating construction activities, the BSMT will ensure that the construction contractor will develop a blasting/vibration plan for the Project to avoid damage to this property as set forth in Stipulation II.L.
2. The BSMT will design the section of roadway adjacent to the cemetery to minimize noise impacts to this property and complement the refinement with landscaping within the public right of way whenever appropriate.

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H. Lime Kilns within the Utica Lime Industry Multiple Property Listing

1. The BSMT shall develop a HPP in accordance with Stipulation II.F to include a Context Study focusing on the development of the lime industry within the region and including the identification of significant lime industry structures with recommendations for preservation of the history of the lime industry in Utica Township/Southern Indiana. In consultation with the INSHPO, INDOT will develop and publish a pamphlet for public distribution presenting the results of the lime industry study.
2. Prior to initiating any construction activities within 1,000 feet of the individual lime kilns districts, the BSMT shall prepare a Condition Report of these resources that includes photographs to serve, in part, as a baseline to measure any construction related damage that may occur to the kilns. The documentation shall be at a level agreed upon between INDOT and INSHPO.
3. Prior to initiating construction activities, the BSMT will ensure that the construction contractor shall develop and implement a blasting/vibration plan for the Project to avoid damage to the three lime kilns identified as IE-HC-48002, IE-HC-48003, and IE-HC-48004 as set forth in Stipulation II.L. The location of these three kilns shall be noted in the plans for the contractor's use to protect these resources. This plan shall include provisions for construction monitoring for this property.
4. The BSMT shall delineate a "no-work zone" around lime kilns identified as IE-HC-48001, IE-HC-48002, IE-HC-48003, and IE-HC-48004, as set forth in Stipulation II.N. The "no-work zone" shall generally extend 100 feet from the kilns. Because the associated quarries do not require preservation in place, portions of the quarries beyond the 100-foot boundary are not included within this restriction. Quarries that are adversely affected by the Project will be documented at a level agreed upon by INDOT and the INSHPO.

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5. The BSMT shall repair any damage caused as a result of Project construction to the three lime kilns, noted above, in accordance with accepted preservation standards and in consultation with the INSHPO.
6. The lime kiln identified as IE-HC-48004 has been determined to fall within the right-of-way of Upper River Road; therefore, it is not necessary to acquire a preservation easement as set forth in Stipulation II.H.
7. The BSMT, in consultation with INSHPO, will develop and place an interpretive marker along Utica Pike as set forth in Stipulation II.K that describes the importance of the lime industry in the area and the significance of the kilns and quarries.
8. The BSMT will develop documentation for and seek NRHP nomination for the lime kilns and associated quarries as set forth in Stipulation II.I.

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<#>INDOT will, in consultation with the INSHPO, purchase that portion of the Swartz Farm lying on the west side of the Project that includes the house, barn, and associated outbuildings. ¶
<#>Prior to initiating construction activities, INDOT will ensure that the construction contractor shall develop and implement a blasting/vibration plan for the Project to avoid damage to this portion of the Swartz Farm as set forth in Stipulation II.L. ¶
<#>INDOT will develop documentation for that portion of the Swartz Farmstead defined above and seek NRHP nomination of the remaining farmstead as set forth in Stipulation II.I. ¶
<#>INDOT shall delineate a "no-work-zone" around the remaining Swartz farmstead, as set forth in Stipulation II.N. ¶
<#>INDOT will place a preservation easement on the property as set forth in Stipulation II.H and sell the property to a historic preservation organization or donate the property to a local government or historic preservation organization. If neither a local government nor preservation organization is willing to accept title to the property, it may be sold to anyone who would accept the property's preservation easement. If sold, the current owner will have first right of refusal. ¶
<#>In consultation with the INSHPO, INDOT shall prepare archival documentation of the Central Passage House prior to its demolition. ¶
<#>In consultation with the INSHPO and FHWA., INDOT will develop and implement a landscaping plan for the property to minimize visual impacts of the Project paying particular attention to the roadway and SR 62 interchange. ¶
<#>INDOT will accept by donation and preserve that portion of the James Smith Farm (#45024) that was determined eligible for the National Register as a rural historic farm (... [1])

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I. Swartz Farm Rural Historic District

The Swartz Farm Rural Historic District is no longer eligible for the National Register as the farmhouse was razed by the property owner and the Central Passage House was determined to be not eligible for individual listing; therefore, this stipulation has been eliminated. The commitment to develop a thematic context (II.L.4) has been fulfilled.

J. Trolley Barn

KYTC will ensure that any rehabilitation of the Louisville Railway Complex (Trolley Barn), associated with Project, shall be developed and implemented in consultation with the KYSHPO to ensure that plans are in conformance with the Secretary's Standards for Rehabilitation.

Commitment Fulfilled

K. Butchertown Historic District

1. The BSMT shall develop an HPP for the property as set forth in Stipulation II.F. The HPP shall include recommended measures for context sensitive design, noise abatement, streetscape improvements, connectivity to the river, and interpretive signage which shall be implemented as part of the Project to mitigate adverse effects to the historic district and provide additional strategies for rehabilitation and reuse of buildings and grounds that could enhance the district. The HPP shall develop a thematic context to assist with future nominations in the region. The HPP shall be coordinated with the latest development plans available from the Louisville/Jefferson County Metro Government (Metro

Government) that affect the historic district and East Downtown area.

2. The Witherspoon Extension is no longer part of the Project; therefore, this stipulation has been eliminated.
3. The Witherspoon Extension is no longer part of the Project; therefore, this stipulation has been eliminated.
4. Because of design changes, the Project will not change existing or future noise levels at Edison House; therefore, this stipulation has been eliminated.
5. Because the Kennedy Interchange will be reconstructed at its existing location, the Project will not change existing or future noise levels at Wesley House therefore; this stipulation has been eliminated.
6. Because the Kennedy Interchange will be reconstructed at its existing location, the Project will not change existing or future noise levels at St. Joseph's Church; therefore, this stipulation has been eliminated.
7. Because the Kennedy Interchange will be reconstructed at its existing location, the Project will not change existing or future noise levels at Franklin Street Baptist Church; therefore, this stipulation has been eliminated.
8. Due to its change in use, the Marcus Lindsay Methodist Church is no longer a noise sensitive use; therefore, this stipulation has been eliminated.
9. Because of design changes, the Project will not change existing or future noise levels at Grace Immanuel United Church of Christ; therefore, this stipulation has been eliminated.
10. Grocers Ice and Cold Storage Company (601 – 615 East Main Street) – The BSMT shall, in consultation with the KYSHPO, make a reasonable effort during Project development to provide a plan that supports the adaptive reuse of this property. In the event such a plan cannot be developed or there are no parties interested in reusing the buildings as defined in the plan or for other reasons, then the BSMT will develop documentation for the property at a level agreed upon by the KYSHPO, KYTC, and FHWA and proceed to demolish the structure once the agreed upon documentation has been accepted [Commitment Fulfilled].
11. Mellwood/Story Connection – The BSMT will conduct a study of the Mellwood Avenue – Story Avenue Connector during the development of detailed plans in order to evaluate the elimination of this proposed connector and restoration of two-way traffic flow on Mellwood Avenue and Story Avenue. Results of the study will be provided to the Advisory Team for review and comment and reported in the Progress Reports provided for in Stipulation IX [Commitment Fulfilled].

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Deleted: In consultation with the KHPAT, KYTC shall design and construct the roadway sections along the north side of the Butchertown Historic District using embankments or other designs recommended by KHPAT that support aesthetically pleasing noise abatement measures, lighting, and landscaping that maintain the context of the historic district as set forth in the HPP. ¶

Deleted: – KYTC shall provide funding for rehabilitation of the exterior of the Edison House provided its owners agree to provide a preservation easement to ensure long-term preservation of its exterior in accordance with Stipulation II.H. Plans shall be submitted to the KYSHPO for approval as to conformance with the Secretary's Standards prior to implementation. During the development of detailed plans and in consultation with the Edison House owners and KYSHPO, KYTC will conduct a noise study to determine whether interior noise abatement measures are justified. Interior noise abatement will be considered in accordance with Stipulation II.E. if predicted noise levels exceed the interior noise abatement criteria.

Deleted: – KYTC will provide funding for the rehabilitation of the exterior of the Wesley House provided its owners agree to provide a preservation easement to ensure long term preservation of its exterior ... [2]

Deleted: – During the development of detailed plans and in consultation with the Church and KYSHPO, KYTC will conduct a noise study to determine whether interior noise abatement measures are justified ... [3]

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12. The BSMT shall design and construct streetscape improvements for the gateway entrance improvements on East Main Street as set forth in Stipulation II.J, in accordance with provisions of the HPP and the Kentucky Heritage Council's streetscape design guidelines.
13. Because of design changes, the Project will not change access to Waterfront Park through Butchertown; therefore, this stipulation has been eliminated.
14. The BSMT shall design and construct Project roadway lighting within the viewshed of the historic district as set forth in Stipulation II.D.
15. The BSMT shall implement noise abatement measures wherever Project noise is expected to adversely affect the historic district as set forth in Stipulation II.E.
16. Prior to initiating construction activities in this section, the BSMT will ensure that the construction contractor shall develop and implement a blasting/vibration plan for the Project to avoid damage to the District as set forth in Stipulation II.L

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L. Phoenix Hill Historic District

1. KYTC shall develop an HPP for the Phoenix Hill Historic District as set forth in Stipulation II.F. The HPP shall include recommended measures for context sensitive design, noise abatement, streetscape improvements, gateway elements, and interpretive signage which shall be implemented as part of the Project to mitigate adverse effects to the historic district, as well as additional recommendations for measures to enhance the historic district and include strategies for rehabilitation and reuse of the buildings and grounds that lie within the historic district. The HPP shall develop a thematic context to assist with future nominations in the region. The HPP shall be coordinated with the latest development plans available from the Metro Government that affect the historic district and East Downtown area. **Commitment Fulfilled.**
2. The BSMT shall design and construct Project roadway lighting as set forth in Stipulation II.D.
3. Because Baer Fabrics Company is no longer located within this historic property, this stipulation has been eliminated.
4. In consultation with the KYSHPO and the Metro Government, the BSMT shall develop a treatment plan for rehabilitation of the Vermont American Buildings affected by the Project and to explore options for there re-use. The BSMT shall undertake the rehabilitation of the exterior of the building, if recommended in the treatment plan, as a part of the Project.

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Deleted: KYTC shall make a reasonable effort to work with the owner to relocate the Baer Fabrics Company to another historic property within the District or to a suitable facility within the Phoenix Hill neighborhood, as defined by the Metro Government. If the owner agrees to move his business to an historic property within the District or neighborhood, Project funds will be made available for its rehabilitation in accordance with Secretary's Standards and to suit the needs of its new function.

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5. St. John's Church - During the development of detailed plans and in consultation with the Church and KYSHPO, the BSMT will conduct a noise study to determine whether interior noise abatement measures are justified for the Church. Interior noise abatement will be considered, in accordance with Stipulation II.E, if the predicted noise levels exceed the interior noise abatement criteria.
6. Refuge in Kentucky Church - During the development of detailed plans and in consultation with the Church and KYSHPO, the BSMT will conduct a noise study to determine whether interior noise abatement measures are justified for the Church, Day Care Center, and School. Interior noise abatement will be considered, in accordance with Stipulation II.E, if the predicted noise levels exceed the interior noise abatement criteria. .
7. The BSMT shall place interpretative signage as set forth in Stipulation II.K within the historic district to explain its historic significance.
8. The BSMT shall include streetscape improvements along Main Street and Market Street from Floyd Street to Clay Street and in the area under the I-65 Bridge as set forth in Stipulation II.J and in accordance with provisions of the HPP and the Kentucky Heritage Council's streetscape design guidelines.
9. Prior to initiating construction activities in this section, the BSMT will ensure that the construction contractor shall develop and implement a blasting/vibration plan for the Project to avoid damage to the District as set forth in Stipulation II.L.

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M. Country Estates Historic District/River Road Corridor

1. The BSMT shall develop an HPP as set forth in Stipulation II.F which will identify the context and provide recommended measures for context sensitive design, noise abatement, roadway lighting, blasting and vibration plans, and interpretive signage which shall be implemented as part of the Project to mitigate adverse effects to the historic district and individual properties within the vicinity of the construction of the A-15 Corridor. The HPP shall specifically consider and develop recommendations for the following historic properties:
 - a. Country Estates of River Road Historic District, including individually listed National Register properties within the District,
 - b. James T. Taylor/James W. Chandler House
 - c. Merriwether House,
 - d. Upper River Road Bridge over Harrods Creek,
 - e. Harrods Creek Village Historic District,

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- f. [The Ohio River Camps Group Multiple Property Listing, which includes the Schildnecht House, Determan House, and Juniper Beach Historic District,](#)
 - g. Allison-Barrickman House,
 - h. St. Francis in the Fields Church,
 - i. Bellevue, and
 - j. Rosewell
2. [The BSMT](#) shall design and construct the proposed roadways, bridges, and tunnels from I-71 to the Ohio River as set forth in Stipulation II, taking into consideration the cultural landscapes that are an important contributing element to the historic district. Special attention will be given to viewsheds that are significantly affected and will focus on the development and implementation of creative strategies for mitigating those impacts. This may include landscaping of public rights of way and on private land should the property owner's consent be given. [The Advisory Teams will be involved in the design review process or development of the special provisions, as described in Stipulation I.A.9.](#)
3. [The BSMT](#) shall design and construct Project roadway lighting within the viewshed of the historic district as set forth in Stipulation II.D.
4. [The BSMT](#) shall implement noise abatement measures where Project noise is expected to affect the listed and eligible properties as set forth in Stipulation III.M.1.a – [j](#) in accordance with Stipulations II.E.
5. Prior to initiating construction activities, [the BSMT](#) shall ensure that construction contractors shall develop and implement blasting/vibration plans for this portion of the Project to avoid damage to the listed and eligible properties as set forth in Stipulation III.M.1.a – [j](#) including the Strater House, in accordance with Stipulation II.L.
6. [The BSMT](#) shall define a “no-work zone” within the National Register boundaries of the listed and eligible properties as set forth in Stipulation III.M.1.a – [j](#) in accordance with Stipulation II.N.

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N. Drumanard

1. The Project through this property will be contained in a tunnel so as to limit adverse effects to the historic property.
2. Prior to initiation of construction activities on the A15 Corridor, [the BSMT](#) shall make every effort to acquire or otherwise establish an historic preservation easement for the entire Drumanard historic property as set forth in Stipulation II.H. The easement shall be held by the KYSHPO.

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3. If the BSMT cannot acquire an historic preservation easement, then the BSMT will acquire the Drumanard property, place an historic preservation easement on the property, and seek to sell the property at fair market value to a preservation organization or other party acceptable to the Bi-State Historic Consultation Team or donate the property to a local government. The current owner will have first right of refusal.
4. Prior to initiating construction activities, the BSMT will ensure that the construction contractor shall develop and implement a blasting/vibration plan for the Project to avoid damage to the historic structures within the property as set forth in Stipulation II.L. During construction activities on and around the property, the BSMT shall monitor the historic buildings to preclude impacts due to blasting or vibration.

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O. Allison-Barrickman House

1. The BSMT shall make reasonable efforts to acquire a preservation easement on the tract of land within the National Register boundary of the Allison-Barrickman house and an easement on the property bounded by US 42, KY 841, the Allison-Barrickman property, and Wolf Pen Branch Road, as set forth in Stipulation II.H.
2. The BSMT shall implement noise abatement measures as set forth in Stipulation II.E.
3. The BSMT shall define a “no-work zone” within the National Register boundary of the property as set forth in Stipulation II.N.
4. Prior to initiating construction activities, the BSMT shall ensure that construction contractors shall develop blasting/vibration plans for this portion of the Project to avoid damage to the Allison-Barrickman house as set forth in Stipulation II.L.

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P. Rosewell

1. Prior to the initiation of construction activities on the A15 Corridor, the BSMT shall develop and implement a Treatment Plan in consultation with the KYSHPO, FHWA, and KHPAT to minimize damage to the historic property Commitment Fulfilled.

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2. KYTC shall make every reasonable effort to acquire the Rosewell property at the fair market value and from a willing seller **[Commitment Fulfilled]**.
3. Immediately following its acquisition and implementation of the treatment plan, the BSMT shall place a preservation easement on the property as set forth in Stipulation II.H and sell the property to a local historic preservation organization or other party acceptable to the Bi-State Historic Consultation Team or donate the property to a local government. KYSHPO shall hold the easement. If sold, the current owner will have first right of refusal.
4. The BSMT shall design and construct roadway lighting as set forth in Stipulation II.D.
5. The BSMT shall implement noise mitigation measures as set forth in Stipulation II.E.
6. Prior to initiating construction activities, the BSMT shall ensure that the construction contractors shall develop blasting/vibration plans for this portion of the Project to minimize damage to the house as set forth in Stipulation II.L.
7. The BSMT shall define a “no-work zone” within the National Register boundary of the property as set forth in Stipulation II.N.

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Q. Belleview

1. The BSMT shall design the Ohio River Bridge and embankment adjacent to Belleview as set forth in Stipulation II taking into account the cultural landscape associated with this historic property. Context sensitive landscaping and other visual treatments, in accordance with Stipulation II.C, will be considered on or adjacent to the national register boundary, with owner consent and maintenance.
2. The BSMT shall design and construct roadway lighting within the viewshed of Belleview as set forth in Stipulation II.D.
3. The BSMT shall implement noise mitigation measures as set forth in Stipulation II.E.
4. Prior to initiating construction activities, the BSMT shall ensure that construction contractors develop blasting/vibration plans for this portion of the Project to avoid damage to the historic buildings as set forth in Stipulation II.L.

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5. The BSMT shall define “no-work zones” within the National Register boundary of the historic property as set forth in Section II.N.

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IV. ARCHAEOLOGICAL RESOURCES

A. Implementation Standards

1. In implementing Stipulation IV, FHWA may withhold or limit public disclosure of information about historic properties in accordance with Section 304 of the National Historic Preservation Act and 36 CFR §800.6(a)(5) and 36 CFR §800.11 (c).
2. FHWA shall ensure that consultation with Indian Tribes is conducted in a manner which is consistent with 36 CFR §§ 800.2 (c)(2)(ii)(A), (B), and (C). Using the phrase “Indian Tribes when appropriate” means to consult with an Indian tribe that might attach religious and cultural significance to an historic property.
3. In order to maximize the opportunity to avoid adverse effects, FHWA will make every effort to complete identification and evaluation of archeological resources at the earliest possible time in Project design.
4. In implementing Stipulation IV, FHWA may consult with the parties listed in Attachment F and others identified in accordance with 36 CFR §800.2(c)(2)(ii) and 36 CFR §800.2(c)(5).
5. FHWA, in consultation with the SHPOs, Indian Tribes when appropriate, and other parties deemed appropriate by FHWA, will take reasonable measures to avoid disinterment and disturbance to human remains and grave goods of religious and cultural significance to Indian Tribes, including modification of the Project.

B. Identification

1. Before letting any type of Project construction in the APE or selecting sites for ancillary activities associated with the Project, FHWA shall complete the identification and evaluation of archeological resources for inclusion in the NRHP in accordance with applicable Federal and state standards and guidelines listed in Stipulation VIII.B.
2. FHWA shall examine all locations where ground-disturbing activities are proposed or where they may occur within temporary easements and permanent right of way. These locations may include, but are not limited to, roadway cuts and fills, bridge

- foundations, tunnel shafts, drainage excavations, waste areas, borrow sites, dredge disposal sites, construction staging areas, storage areas, and wetland and other mitigation sites.
3. In ensuring that any human remains and grave goods identified are treated in a sensitive, respectful and careful manner, FHWA shall be guided by the ACHP's Policy Statement Regarding Treatment of Human Remains and Grave Goods (September 27, 1988), the 2007 Human Remains Treatment Protocol developed for the Project (Attachment G), and where appropriate other guidelines, such as the Eastern Band of Cherokee Indians (EBCI) Treatment Guidelines for Human Remains and Funerary Objects, and the following conditions:
- a. FHWA will make every reasonable effort to avoid disinterment or disturbance of human remains and grave goods during identification and evaluation.
 - b. FHWA will make a reasonable and good faith effort to determine the location, cultural/temporal period, and cultural affiliation of human remains and/or grave goods without any removal or destructive analysis of these remains. If, in consultation with the SHPO, Indian Tribes when appropriate, and other parties deemed appropriate by FHWA, FHWA determines that this information cannot be obtained without disturbance to the human remains and/or grave goods, FHWA may remove the remains for study.
 - c. FHWA will ensure that human remains and/or grave goods are not photographed or subject to invasive study during the identification and evaluation phases.
 - d. In the event that human remains and/or grave goods that may be of religious or cultural significance to Indian Tribes are identified, FHWA shall provide written notification and documentation to the appropriate SHPO, Indian Tribes, and other parties deemed appropriate by FHWA who have requested such notification within 48 hours following the identification, and shall consult with them to determine a specific protocol for addressing the possible analysis, interim curation, and, if necessary, the reburial of the remains.
4. A Plan(s) for the identification and evaluation of archeological resources will be developed by FHWA in consultation with the SHPOs, Indian Tribes when appropriate, and other deemed appropriate by FHWA. Preparation of the Plan(s) for identification and evaluation will be guided by each state's standards for conducting fieldwork and reporting and the archeological component of each state's Historic Preservation Plan.
- a. FHWA shall provide the SHPOs, Indian Tribes when appropriate, and other parties deemed appropriate by

- FHWA, thirty (30) calendar days from the day of confirmed receipt, to review and provide comments on the Plan(s). The final Plan(s) shall address comments received.
- b. If no response is received within 30 days of confirmed receipt, FHWA may proceed with its Plan(s).
 - c. Any dispute regarding the Plan(s) shall be resolved in accordance with Stipulation XIII.
5. FHWA shall prepare and distribute final Identification and Evaluation reports in accordance with Stipulation IV.F.

C. Evaluation

1. The studies completed pursuant to Stipulation IV.B shall demonstrate a level of effort consistent with 36 CFR § 800.4(b)(1) and provide FHWA with the information to determine which archeological resources are eligible for inclusion in the NRHP in accordance with 36 CFR § 800.4(c). The FHWA shall acknowledge and seek the special expertise of Indian Tribes in assessing the eligibility of historic properties that may possess religious and cultural significance to them.
2. If the FHWA determines any of the National Register criteria are met and the appropriate SHPO agrees, the archeological resource shall be considered eligible for the National Register and treated in accordance with the Stipulations IV.D and IV.E.
3. If FHWA and the appropriate SHPO do not agree on NRHP eligibility, the FHWA shall seek a formal determination of eligibility from the Keeper of the NRHP.
4. If FHWA and the SHPO agree that the archeological resource is not NRHP eligible, then no further action is necessary under the terms of this [Amended](#) MOA unless there is a written objection submitted in accordance with Stipulations IV.C.5 and IV.C.6.
5. FHWA shall notify the Indian Tribes and other parties whom so request of its findings regarding eligibility.
6. If a party who has been so notified objects in writing within 15 days to FHWA's determination of eligibility, even though FHWA and the appropriate SHPO may agree, FHWA shall reconsider its determination, consult with the appropriate SHPO, Indian Tribes, and the objecting party in accordance with 36 CFR § 800.4 (c)(2), and review any evidence brought forward prior to making a decision.

D. Assessment of Effects

1. In consultation with the SHPOs, Indian Tribes when appropriate, and other parties deemed appropriate by FHWA, FHWA shall determine if the Project will adversely affect archeological resources determined eligible for inclusion in the NRHP pursuant to 36 CFR § 800.5, including those archeological sites identified in Attachment D.
2. If, in consultation with the SHPO, Indian Tribes when appropriate, and other parties deemed appropriate by FHWA, FHWA determines the Project may adversely affect eligible archeological resources; the FHWA shall make reasonable efforts to avoid or minimize the adverse effect. If, in consultation with the SHPO, Indiana Tribes when appropriate, and other parties deemed appropriate by FHWA, FHWA determines it is not possible to avoid disturbance, then FHWA shall treat the archeological resource in accordance with Stipulation IV.E.
3. Any dispute regarding the determination of effects on eligible archaeological resources shall be resolved in accordance with Stipulation XIII.

E. Treatment

1. If FHWA, in consultation with the SHPOs, and the Indian Tribes when appropriate, and other parties deemed appropriate by FHWA, determines that the adverse effect cannot be avoided or minimized, then the FHWA shall develop and implement a Treatment Plan(s), as part of the above consultation, to mitigate the adverse effects to an archeological resource on a site-by-site basis. The implementation of the Treatment Plan must be completed for each site prior to the initiation of any Project construction activities within a segment that could affect that site. The Treatment Plan(s) shall specify at a minimum:
 - a. Description of the historic properties or portions of historic properties where treatment will be carried out,
 - b. Description of any historic property or portion thereof that will be adversely affected without treatment for such action,
 - c. Methods for site preservation/protection.,
 - d. Research questions to be addressed through data recovery with a clear and explicit discussion of their scientific justification and an explanation of their relevance and importance, which is guided by the archeological component of the respective state's Historic Preservation Plan.

- e. Field methods to be used with an explanation of their relevance and applicability to the scientific research questions,
 - f. Methods to be used in data analysis, data management and dissemination of data, including a schedule,
 - g. Plans for the treatment of human remains and grave goods developed in accordance with Stipulation IV.E.2,
 - h. Plans for curation of recovered materials and records,
 - i. Provisions for reburial of human remains and grave goods where appropriate, including timeframes for analysis and reburial,
 - j. Plans for public education and interpretation,
 - k. Plans for keeping the SHPOs, Indian Tribes, and other appropriate parties informed of work progress and findings, and
 - l. A schedule for the submission of reports and other deliverables.
2. Plans addressing the treatment of human remains and grave goods, as provided for in Stipulation IV.E.1.g, shall be guided by the ACHP's Policy Statement Regarding Treatment of Human Remains and Grave Goods (September 27, 1988), the Human Remains Treatment Protocol developed for the Project (Attachment G), and where appropriate other guidelines, such as the Eastern Band of Cherokee Indians (EBCI) Treatment Guidelines for Human Remains and Funerary Objects. In determining how to treat human remains and grave goods, FHWA shall also be guided by the following considerations:
- a. Burials that will not be threatened or disturbed by the Project shall not be disinterred or disturbed through scientific study.
 - b. If disturbance cannot be avoided, FHWA will determine if scientific study of the human remains, grave goods and the burial matrix will be conducted by carefully weighing the contribution of scientific study against the religious and cultural significance ascribed to the remains on a site-by-site basis in consultation with the SHPOs, Indian Tribes when appropriate, and other parties determined appropriate by FHWA. FHWA's decision to conduct scientific study of human remains, grave goods, and burial matrix must be supported by an explicit set of definitive and justified research questions on a case-by-case basis.
 - c. Human remains and funerary objects of religious and cultural significance to Indian Tribe(s) may be photographed only when FHWA in consultation with the SHPOs, Indian Tribes when appropriate, and other parties deemed to be appropriate by FHWA, determines that it is

called for and justified in a site-specific treatment plan to support scientific study. Detailed drawings and sketches may be developed.

- d. Human remains and/or grave goods, which have been disinterred, should be reburied as soon as possible, in a timeframe, location, and manner determined appropriate by FHWA, on a case-by-case basis in consultation with the SHPOs, Indian Tribes when appropriate, and other parties deemed appropriate by FHWA. The dates, times, and location of disinterment and reburial should be considered sensitive and confidential and will be subject to restrictions under Stipulation IV.A.1.
3. Human remains and grave goods shall be made available for reburial to the appropriate party or responsible official within thirty (30) days of any determination made pursuant to this stipulation to rebury human remains and grave goods or the date for such reburial specified in any time frame agreed upon under this stipulation.
4. FHWA shall provide ACHP, the SHPO, Indian Tribes who have expressed interest in the site, and other parties deemed appropriate by FHWA, thirty (30) calendar days to review and provide comments on the Treatment Plan(s) developed in accordance with Stipulation IV.E. FHWA shall ensure that the final Treatment Plan(s) takes into consideration comments received. FHWA may provide other consulting parties, as appropriate, an opportunity to review and comment on the proposed Treatment Plan(s). If no response is received within thirty (30) days of confirmed receipt, FHWA may proceed with the Treatment Plan(s).
5. Any dispute regarding the Treatment Plan(s) shall be resolved in accordance with Stipulation XIII.
6. After implementing the above stipulations for treatment, FHWA may elect to monitor construction activities in selected portions of the right of way. Monitoring shall be conducted by an archeologist meeting the qualification standards in Stipulation IV.F.1. In deciding whether to conduct monitoring, FHWA shall consider the likelihood of identifying additional archeological resources and any recommendations provided by the SHPO, Indian Tribes, and other participating parties. Any archeological resources identified during construction monitoring will be treated in accordance with Stipulation V.

F. Qualifications and Reporting

1. In consultation with the SHPOs, FHWA shall ensure that all archeological work carried out pursuant to this [Amended](#) MOA is

performed by, or under the direct supervision of, a person or persons meeting *Secretary of the Interior's Professional Qualification Standards* in archeology and who has supervisory experience in the prehistoric and historic archeology of the lower Ohio Valley.

2. FHWA shall ensure the results of all archeological studies performed under the terms of this [Amended](#) MOA are presented in professionally written reports meeting the standards for fieldwork, laboratory work, analysis, and report preparation that have been established by the SHPOs for each state.
3. FHWA, INDOT, KYTC, [BSMT](#), SHPOs, contractors, consultants, and Indian Tribes shall ensure that sensitive information regarding the nature and location of human remains and grave goods, and the location, character, and ownership of archeological sites is kept confidential from the public, in accordance with Section 304 of the NHPA and 36 CFR § 800.11(c).
4. The ACHP, SHPOs, Indian tribes, and other parties deemed appropriate by FHWA shall have thirty (30) days after confirmed receipt to review and comment on the written reports. The FHWA shall address all comments received in the final written reports.
5. Any dispute regarding the report(s) shall be resolved in accordance with Stipulation XIII.

G. Distribution of Final Reports

1. Upon completion of work, the FHWA shall provide copies of final reports to the respective SHPOs, [KYTC, INDOT](#), and Indian Tribes when appropriate.
2. The FHWA, in consultation with the appropriate SHPO, shall prepare sufficient copies of final reports completed pursuant to this [Amended](#) MOA for dissemination to the public libraries, educational institutions, and other repositories in Jefferson and Clark Counties and Indian Tribes as appropriate.
3. FHWA will ensure that all final archaeological reports for public dissemination do not contain sensitive information regarding the nature and location of human remains and grave goods, and the location, character, and ownership of all archaeological sites as provided for in Section 304 of the NHPA and 36 CFR §800.11(c).

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V. UNANTICIPATED DISCOVERIES

- A. If, during the implementation of the Project, a previously unidentified property is discovered or a previously identified historic property is affected in an unanticipated manner, the BSMT shall ensure that all work within a minimum of 50 feet around the area of the discovery shall cease until such time as a treatment plan can be developed and implemented as set forth below.
- B. The BSMT shall require the contractor to take all reasonable measures to avoid harm to the property until the FHWA concludes consultation with appropriate SHPO, Indian Tribes, and other parties deemed appropriate by FHWA.
- C. Upon being notified of the discovery, the FHWA shall contact the appropriate SHPO, Indian Tribes, and other parties determined to have an interest within 48 hours and provide written details of the discovery.
- D. Within 48 hours of the discovery, or at the very earliest opportunity thereafter, the BSMT shall conduct an on-site evaluation of the discovery to consider eligibility, effects, and possible treatment measures. The FHWA, SHPOs, Indiana Tribes, and other consulting parties deemed appropriate by FHWA may participate in the on-site evaluation and shall be notified in advance of the location, date, and time.
- E. If, based on the on-site evaluation, FHWA determines that a historic property is being adversely affected, then the parties shall consult to determine an appropriate Treatment Plan(s). If archeological resources are discovered, FHWA will develop a Treatment Plan as set forth in Stipulation IV.E. The Treatment Plan will be submitted to the parties for review and comment within seven days of receipt of the proposed plan. FHWA will take comments received into account in developing and implementing the final plan.
- F. If FHWA, SHPO, and Indian Tribes agree the site is not eligible for the NRHP, then ground-disturbing work may proceed.
- G. If the parties cannot reach agreement regarding eligibility, effects, or treatment, they shall invoke the provisions for dispute resolution at Stipulation XIII.

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VI. ADDITIONAL HISTORIC PROPERTIES AND EFFECTS

- A. Before the approval by the BSMT of sites for staging, wetland mitigation, borrow or waste, dredge disposal, or other construction activities requiring BSMT approval associated with the Project, INDOT or KYTC shall consult with the FHWA, SHPOs, Indian Tribes, and other parties deemed appropriate by FHWA, in accordance with 36 CFR §§ 800.3– 800.7 to determine if historic properties in addition to those identified in Attachment D and through Stipulation IV will be affected by the Project.

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- B. If FHWA determines that there is any adverse effect to an historic property assessed in accordance with Stipulation VI.A, then FHWA shall consult with the INDOT and/or KYTC, the respective SHPO, Indian Tribes, and other parties deemed appropriate to FHWA to seek ways to minimize or mitigate the adverse effects.
- C. If the parties can agree on measures to mitigate the adverse effect, FHWA will ensure that those measures are implemented. If the parties cannot agree, the dispute will be resolved in accordance with Stipulation XIII.
- D. The BSMT will develop a pre- and post- construction monitoring plan to verify the degree of traffic diversion within the Extensions to the APE.

Comment [E1]: We will discuss at the January 27 Mitigation meeting to develop additional details.

VII. EXCESS RIGHT OF WAY

Should the Project result in excess right-of-way to be disposed, such as is anticipated for the Kennedy Interchange, the FHWA shall consult with the appropriate SHPO to determine whether the disposal or sale would have an adverse effect on historic properties. If consultation indicates the potential for historic resources to be adversely affected, FHWA shall consult pursuant to 36 CFR §§ 800.3 – 800.7 to develop and implement the treatment of the affected resources and disposition of the property.

VIII. PERFORMANCE STANDARDS

- A. Professional Qualifications - The FHWA shall ensure that all cultural resources work carried out pursuant to this Amended MOA shall be carried out by or under the direct supervision of individuals that meet the *Secretary of the Interior's Professional Qualification Standards*.
- B. Standards and Guidelines - The FHWA, shall also ensure that all historic preservation resource work carried out pursuant to this Amended MOA shall be guided by the most recent version of the following standards and guidelines, as applicable:
1. The Secretary of Interior: Standards and Guidelines for Archeology and Historic Preservation.
 2. Advisory Council on Historic Preservation: Treatment of Archeological Properties: A Handbook.
 3. Indiana Guidelines: Division of Historic Preservation and Archaeological Guidelines; most recent version of the Indiana Archaeological Guidelines updating the Guidebook for Indiana Historic Sites.
 4. Kentucky Guidelines: Specifications for Conducting Fieldwork and Preparing Cultural Resource Assessment Reports; most recent version of the Kentucky State Historic Preservation Office.

IX. PROGRESS REPORTS

- A. Progress reports detailing implementation of the measures stipulated within this [Amended](#) MOA and providing advanced notice of milestones, such as Plans, Specifications, and Estimates (PS&E) approval, scheduled letting dates, and initiation of construction activities, shall be submitted by the Bi-State Management Team to the signatories, concurring parties, and HPAT members every six (6) months, until all phases of the Project are complete.
- B. The first progress report shall be distributed six (6) months following execution of the [Original](#) MOA ~~(Commitment Fulfilled)~~.
- C. The progress report shall identify the status of activities for each stipulation outlined in this [Amended](#) MOA and of associated documents and products, such as HPPs, treatment plans, late discoveries, and acquisition and preservation of historic properties.

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X. PROJECT MODIFICATION

If the Project, as described in Attachment A, is significantly modified, such that additional effects to historic properties not previously considered may result in adverse effects, or if actions are taken by a property's owners in the interim unrelated to the Project which change the NRHP status of previously identified historic properties affected by the Project, then FHWA will consult with the signatories to determine if the [current version of the](#) MOA should be amended. If the signatories agree that the MOA should be amended, they will consult in accordance with Stipulation XI to amend the MOA.

XI. AMENDMENT

- A. Any signatory to this [Amended](#) MOA may request that it be amended, whereupon the signatories of this [Amended](#) MOA shall consult to consider such an amendment.

- B. Any resulting amendments shall be developed and executed among the signatories in the same manner as the previous version(s) of the MOA.
- C. Any amendment to this agreement will go into effect only upon written agreement of all signatories.

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XII. FAILURE TO COMPLY/TERMINATION

If any signatory determines that the terms of this Amended MOA cannot be or are not being carried out, then the signatories shall consult to seek amendment of the MOA. If the MOA is not amended, any signatory may terminate it by providing thirty (30) calendar days written notice to the other parties. FHWA shall then either execute a new agreement with the signatories pursuant to 36 CFR § 800.6(c)(1) or request and respond to the comments of the Council under 36 CFR § 800.7.

XIII. DISPUTE RESOLUTION

- A. Should any signatory or concurring party object in writing within thirty (30) days of the receipt of any plans or implementation of any actions proposed pursuant to this Amended MOA, FHWA shall consult with the objecting party and the appropriate SHPO to try to resolve the objection. If the FHWA and the SHPO determine that the objection cannot be resolved, FHWA shall forward all documentation relevant to the objection to the ACHP. Within fifteen (15) days after receipt of all pertinent documentation, the ACHP shall either:
 - 1. Provide the FHWA with a recommendation, which the FHWA shall take into account in reaching a final decision regarding the dispute; or
 - 2. Notify the FHWA that it shall comment pursuant to 36 CFR § 800.7(c) and proceed to comment within the following 30 days.
- B. Any recommendations provided by the ACHP in response to a request made pursuant to Stipulation XIII.A.1 shall be taken into account by FHWA with reference only to the subject of the dispute.
- C. Any comment provided by the ACHP in response to a request made pursuant to Stipulation XIII.A.2 shall be taken into account and responded to by the FHWA in accordance with 36 CFR §800.7(c)(4) with reference only to the subject of the dispute.
- D. FHWA's responsibility to carry out all actions under this Amended MOA that are not subject to the dispute shall remain unchanged.

XIV. DURATION

This [Amended](#) MOA shall remain in effect for twenty years following its execution. If the Project has not been completed and the terms of the [Amended](#) MOA implemented within this time, the signatories shall consult to reconsider the terms of the [Amended](#) MOA and determine whether extension, amendment, or termination is in order.

EXECUTION and implementation of this [Amended](#) MOA evidence that FHWA has taken into account the effects of the Project on historic properties and has afforded the ACHP an opportunity to comment on those effects.

SIGNATORIES:

FEDERAL HIGHWAY ADMINISTRATION

By: _____ Date: _____

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____ Date: _____

INDIANA STATE HISTORIC PRESERVATION OFFICER

By: _____ Date: _____

KENTUCKY STATE HISTORIC PRESERVATION OFFICER

By: _____ Date: _____

INVITED SIGNATORIES:

INDIANA DEPARTMENT OF TRANSPORTATION

By: _____ Date: _____

KENTUCKY TRANSPORTATION CABINET

By: _____ Date: _____

CONCURRING PARTY:

[Insert Name]

By: _____ Date: _____

[INDIVIDUAL PAGE PER CONCURRING PARTY TO BE INSERTED INTO
AGREEMENT WHEN SIGNED.]

Current Status of Original MOA Stipulations

MOA Item	Description	Status	Remarks & Comments
Stipulation I - Project Coordination			
I.A.1	Convene IHPAT and KHPAT	On going	A meeting of the IHPAT was convened on 4/13/11. The KHPAT was convened on 4/14/11.
I.A.2	Advisory Teams will assist the BSHCT and BSMT in developing Project design details to implement measures stipulated in the MOA	Ongoing	
I.A.3	Each Advisory Team will be Co-chaired by a representative of the respective STA and SHPO.	Completed	Each Advisory Team has designated Co-chairs as directed.
I.A.4	Representatives of the listed organizations will be invited by FHWA and IHPAT Co-chairs to participate on the IHPAT.	Completed	
I.A.5	Representatives of the listed organizations will be invited by FHWA and KHPAT Co-chairs to participate on the KHPAT.	Completed	
I.A.6	Additional participants may be invited to participate on the Advisory Teams at the discretion of the Advisory Team Co-chairs.	As needed	
I.A.7	ACHP may participate as it sees fit on an ad-hoc basis.	As needed	
I.A.8	The Co-chairs will convene the Advisory Teams for an initial organizational kick-off meeting to establish process and procedure for operation of the Advisory Teams.	Completed	IHPAT - December 16, 2003 KHPAT - December 17, 2003
I.A.9	Co-chairs will convene additional meetings at the following times to review plans, comment & make recommendations	Ongoing/As needed	Propose MOA revision to define role of HPATs if Project is let as Design-Build.
I.A.10	Meeting materials to be provided to Advisory Teams at least 15 days before a scheduled meeting. Any comments from Advisory Teams to be returned in 15 days after a meeting.	Ongoing/As needed	
I.A.11	Based on comments from Advisory Teams, Co-chairs to develop recommendations and submit to the BSHCT for consideration and action.	Ongoing/As needed	
I.B.1	BSHCT shall consist of representatives of FHWA, INDOT, KYTC and the respective SHPOs	Completed	
I.B.2	BSHCT will advise the Bi-State Management Team as to appropriate design & construction approaches so as to comply with the MOA	Ongoing	
I.B.3	BSHCT may make final decisions as delegated by the Bi-State Management Team	Ongoing/As needed	
I.B.4	BSHCT shall convene to consider recommendations provided by the HPATs and prepare recommendations to the BSMT	Ongoing	
I.B.5	BSHCT to ensure comments & recommendations given full consideration in preparing its recommendations to the Bi-State Management Team	Ongoing/As needed	
I.C.1	Bi-State Management Team to consist of representatives of INDOT, the KYTC & FHWA who shall have authority for final approval of actions.	Completed	
I.C.2	Bi-State Management Team to ensure consultant services procured include professionals with the appropriate experience to implement provisions of MOA.	Ongoing	
I.C.3	Bi-State Management Team to prepare progress reports as set forth in Stipulation IX.	Ongoing	
I.C.4	Bi-State Management Team to give full consideration to recommendations of BSHCT for incorporation into final plans.	Ongoing/As needed	
I.D.1	Bi-State Management Team to ensure retainment of two Ombudsmen	Ongoing	Mr. Lee Walker was selected as the KY Ombudsman. Mr. Carl Percy was selected as the IN Ombudsman. Ombudsmen are involved with meetings of the HPATs and BSHCT to stay current with historic aspects of the Project. Ombudsmen have regular office hours to facilitate public concerns.
I.D.2	Ombudsmen should have demonstrated communication & conflict resolution skills, as well as a working knowledge of historic preservation practices as related to the goals of the Project.	Ongoing	
I.D.3	Ombudsmen will be responsible for communicating with the public and investigating reported problems on all aspects of the Project. Will report to the Bi-State Management Team.	Ongoing	
I.D.4	Ombudsmen will be located in an office(s) within or close to the Project area.	Ongoing	

MOA Item	Description	Status	Remarks & Comments
I.D.5	Reasonable efforts will be made to locate the offices of the ombudsmen in historic properties.	Ongoing	Ombudsman will not be housed at the Train Depot
I.D.6	Roles & responsibilities of the Ombudsmen to be further defined in the management plan of the Project.	Completed	
Stipulation II - Project Development			
II.A	Project goal is to avoid adverse effects to the environment and historic properties to the maximum extent possible.	Ongoing	Implemented through continued coordination with HPATs, AATs, RAC and SDCs.
II.B	Informational meetings will be convened by respective STAs for public views	Ongoing/As needed	
II.C	The roadway, bridges, and other Project elements shall be designed and constructed with sensitivity to aesthetic values, historic cultural landscapes and the historic context.	Ongoing	HPAT recommendations will be considered by BSHCT and elevated to BSMT for final decision.
II.D	Roadway lighting within the viewshed of historic properties & navigational lighting designed and constructed to minimize dispersion of light beyond highway right-of-way and include state-of-the-art techniques and systems.	Ongoing	HPAT recommendations will be considered by BSHCT and elevated to BSMT for final decision.
II.E	Design Project to minimize adverse noise effects on historic properties in accordance with state and federal noise regulations, policies, and guidance, including special consideration of enhanced noise abatement measures for historic properties.	Ongoing	HPAT recommendations will be considered by BSHCT and elevated to BSMT for final decision.
II.F	HPPs will be prepared for historic properties and districts	Ongoing	See notes on specific properties in Stipulation III
II.F.1	HPPs to meet the provisions listed as a-h.	Ongoing	
II.F.2.a	HPP to be prepared for the Old Jeffersonville Historic District	Completed	Final HPP approved by the BSMT on 9/28/09; Will be updated to reflect changes due to Project design modifications
II.F.2.b	HPP to be prepared for the Township of Utica Historic Lime Industry	Ongoing	The kilns and associated quarries are eligible for the NRHP as a multiple property group (discontiguous). HPP to be developed after SEIS completion.
II.F.2.c	HPP to be prepared for the Swartz Farm Rural Historic District	Propose Removing	No longer eligible as historic district since farmhouse has been razed and the Central Passage House is not individually eligible. Propose this stipulation be removed from the Amended MOA.
II.F.2.d	HPP to be prepared for the James Smith Rural Historic Farmstead	Propose Removing	Owners elected to not donate the portion of the property determined eligible for the NRHP by not responding by the established deadline: June 14, 2006.
II.F.2.e	HPP to be prepared for the Butchertown Historic District	Ongoing	The Final HPP is pending completion of dispute resolution.
II.F.2.f	HPP to be prepared for the Phoenix Hill Historic District	Completed	Final HPP approved by the BSMT on 11/23/09. HPP sent to City of Louisville on 1/20/10. Will be updated to reflect changes due to Project design modifications
II.F.2.g	HPP to be prepared for the Country Estates of River Road / River Road Corridor	Completed	Final HPP approved by BSMT on 1/24/11. HPP sent to City of Louisville and KIPDA on 4/7/11. Will be updated to reflect changes due to Project design modifications
II.G.1	Survey will be updated for Clark County Interim Report and Indiana Historic Sites and Structures Inventory of Clark County	Completed	
II.G.2	Survey will be updated for the Jefferson County Inventory and Survey of Historic Sites in Kentucky	Completed	
II.H	Historic Preservation Easements to be placed on properties identified in Stipulation III in perpetuity	Ongoing	For Wesley House, easement is not to be placed. For Edison House, KYTC advised that work on the easements was to be placed on hold per instructions from the FHWA. For Drumanard, negotiations with the property owner are underway to place the easement; if negotiations fail, KYTC is prepared to make an offer to acquire the property. After rehabilitation, an easement is to be placed on the Train Depot.
II.I	Preparation of NRHP documentation and nomination of properties identified in Stipulation III.	Completed except for Train Depot. Swartz Farm proposed to be eliminated	Refer to Stipulation III.A.4, III.B.1, III.C.1., III.H.8. and III.19.e

MOA Item	Description	Status	Remarks & Comments
II.J	Streetscape improvements to be designed in consultation with the respective SHPOs and occur within the public right-of-way. Obtain right-of-way title holder approval prior to use.	Ongoing	
II.K	Interpretative signage to be placed within the right-of-way of public streets or on easements to explain significance of the historic properties. Obtain right-of-way title holder approval prior to use.	Ongoing	
II.L.1	Ensure construction blasting/vibration plans and bridge pier construction plans are developed by the contractor(s).	To be Completed by Contractor	
II.L.2	Plans to be coordinated with the contract documents, special provisions and notes included in the construction plans.	To be Completed	Propose MOA revision to define plan development if Project is let as Design-Build.
II.L.3	BSMT to determine whether damage has occurred as a result of Project activities.	To be Completed/As needed	
II.L.4	INDOT/KYTC shall be responsible for repair of any blast and vibration damage to historic properties. Repairs to be carried out in accordance with the Secretary's Standards.	To be Completed/As needed	
II.L.5	Obtain consent for entry of privately owned property to access monitoring equipment or damage repair.	To be Completed/As needed	
II.M	Include in the Project contracts provisions that limit construction activities and construction noise during specific periods of time.	On-going	Being addressed by each Section Design Consultant, in conjunction with the Contractor.
II.N	Establish no-work zones on construction plans within the NRHP boundaries of properties identified in Stipulation III.	On-going	Being addressed by each Section Design Consultant. Propose MOA revision to establish no-work zones if Project let as Design-Build.
II.O	Sponsor a Smart Growth Conference for the Louisville - Southern Indiana region to inform local governments about the opportunities of smart growth.	Completed	The Smart Growth Conference was held 9/18/06 - 9/20/06.
II.P.1	Ensure that sensitive information about the location and nature of archaeological resources identified in the APE are not disclosed.	Ongoing	
II.P.2	Develop a Popular Report, in plain English intended for general public, describing history, historic properties and archaeological resources identified in the APE. Draft copy to be provided to parties for 30-day review; comments to be considered in final report.	To be Completed	
II.P.3	Develop an exhibit for display in the museum to be established at the Trolley Barn. Exhibit to showcase local history and the historic properties identified during the Project within a regional context and educate visitors about the Federal regulatory process.	Completed	
Stipulation IIIA - Train Depot			
III.A.1	Streetscape improvements at Train Depot	To be Completed	Train Depot is under construction; landscaping should be completed in Spring 2012.
III.A.2	Good faith effort to be made in acquiring site at fair market value from a willing seller.	Completed	
III.A.2.a	Make available during the construction period to house personnel assigned to the Project & the Indiana Ombudsman.	To be Completed	Propose revision: Ombudsmen will not be housed at depot.
III.A.2.b	Any work to rehabilitate to be done in accordance with the Secretary of Interior Standards.	Ongoing	Construction underway - estimated completion April 2012
III.A.2.c	Place preservation easement on property & sell at fair market value or donate to a local government.	Ongoing	To be completed following construction
III.A.3	If unable to acquire, implement alternative mitigation measures.	Not Required	
III.A.4	Document and seek NRHP nomination.	To be Completed	
III.A.5	Develop and place interpretative signage.	To be Completed	
Stipulation IIIB - Colgate-Palmolive Historic District			
III.B.1	Document and seek NRHP nomination	Completed	Documentation was prepared in lieu of NRHP nomination as the property owner did not consent to NRHP listing. Because property owner has since changed, CTS will work with present owners to determine their willingness to seek a nomination.
III.B.2	Develop and place interpretative signage	To be Completed	

MOA Item	Description	Status	Remarks & Comments
Stipulation IIIC - Ohio Falls Car and Locomotive Company Historic District			
III.C.1	Document and seek NRHP nomination	Completed	Documentation was prepared but the property owner did not consent to NRHP listing.
III.C.2	Develop and place interpretative signage	To be Completed	
III.C.3	Develop and implement a blasting/vibration plan as set forth in Stipulation II.L.	To be Completed	
Stipulation IIID - George Rogers Clark Memorial Bridge			
III.D.1	INDOT will make effort to avoid displacement of the historic bridge pylons on the IN approach to the bridge	To be Completed	
III.D.2	If displacement cannot be avoided, develop and implement a Treatment Plan to minimize damage to the original contributing elements.	To be Completed/As needed	
III.D.3	Relocate pylons in a way to ensure protection of the NRHP designation.	To be Completed/As needed	
Stipulation IIIE - Old Jeffersonville Historic District			
III.E.1	Develop a HPP	Completed	The final HPP was approved by the BSMT on 9/28/09; Will be updated to reflect changes due to Project design modifications
III.E.2	Present HPP to the City of Jeffersonville for potential use as a component of the City's Comprehensive Plan.	Completed	Sent to City of Jeffersonville on 11/23/09
III.E.3	Design and construct streetscape improvements within the HD between Spring Street and the Project.	To be Completed	
III.E.4	Design and construct pedestrian friendly facilities within IN ROW under the new bridge and existing I-65 bridge.	Ongoing	The Ohio River Greenway was recently completed by the City of Jeffersonville. Project will include these improvements where appropriate.
III.E.5	Minimize spacing between the existing bridge and the proposed downtown bridge consistent with prudent engineering principles.	Ongoing	To be evaluated further in future advancement of the bridge design.
III.E.6	Develop and implement highway signage plan that minimizes the number of overhead directional signs on the approaches.	To be Completed	
III.E.7	Relocate five contributing structures (115 Fort St., 116 Fort St., 502 W. Market St, 432 W. Riverside Dr. and 502 W. Riverside Dr.) that would otherwise be demolished by the Project.	To be Completed	Contributing resource historical significance to be reviewed to determine relocation potential.
III.E.7.a	Make a reasonable effort to purchase vacant lots within the district from a willing seller at fair market value. House to be moved & placed on new foundations in accordance with approaches recommended in Moving Historic Buildings. Relocated houses to be sold at fair market value.	To be Completed	
III.E.7.b	Place preservation easement on relocated houses.	To be Completed	
III.E.7.c	Stipulate through a covenant the purchaser must occupy house for five years and maintain in accordance with preservation standards.	To be Completed	
III.E.8	If unable to obtain suitable property within the district, prepare & implement a marketing plan for relocation by others at a nominal fee.	To be Completed/As needed	
III.E.8.a	Plan to include information about the buildings.	To be Completed/As needed	
III.E.8.b	Upon INSHPO agreement, INDOT to implement for a minimum of six months.	To be Completed/As needed	
III.E.8.c	INDOT to review with INSHPO all offers prior to acceptance.	To be Completed/As needed	
III.E.9	If no acceptable offer made that conforms to the requirements for rehabilitation & maintenance, may donate property to a local government	To be Completed/As needed	
III.E.10	Design and construct roadway lighting in the viewshed of district as set forth in Stipulation II.D.	To be Completed	
III.E.11	Implement noise abatement measures as set forth in Stipulation II.E.	To be Completed	
III.E.12	Timing of construction activities shall be scheduled to limit construction activities which may result in additional impacts to the district.	To be Completed by Contractor	
III.E.13	Develop and implement a blasting/vibration plan as set forth in Stipulation II.L.	To be Completed by Contractor	

MOA Item	Description	Status	Remarks & Comments
Stipulation IIIF - INAAP Igloo Storage Historic District			
III.F	Develop and implement a blasting/vibration plan as set forth in Stipulation II.L. Plan to include provisions for blast monitoring & repair if the Department of the Army grants access.	To be Completed by Contractor	Much of property has been converted to industrial uses
Stipulation IIIG - Lentz Cemetery			
III.G.1	Develop and implement a blasting/vibration plan as set forth in Stipulation II.L.	To be Completed by Contractor	
III.G.2	Design the section of roadway adjacent to the cemetery to minimize noise to the property and complement the refinement with landscaping within the public right-of-way.	To be Completed	
Stipulation IIIH - Lime Kilns within the Utica Lime Industry Multiple Property Listing			
III.H.1	Develop a HPP to include a Context Study focusing on the development of the lime industry. Develop and publish a pamphlet for public distribution presenting the results of the lime industry study	To be Completed	Lime kilns and associated quarries have been identified as eligible for the NRHP as a discontinuous group of four individual districts. HPP to be developed after SEIS completion.
III.H.2	Prepare a condition report of the resources, which includes photographs, to establish a baseline condition.	To be Completed	
III.H.3	Develop and implement a blasting/vibration plan as set forth in Stipulation II.L. To be developed for kilns identified as IE-HC-48002, IE-HC-48003 and IE-HC-48004.	To be Completed	
III.H.4	Delineate a "no-work zone" around the three lime kilns, noted above, which is to extend 100 feet from the kilns.	To be Completed	
III.H.5	Repair any damage caused by the Project to the lime kilns	To be Completed/As needed	
III.H.6	Acquire Lime Kiln IE-HC-48004; place a preservation easement on the property and sell it to a preservation organization or donate it to a local government	Not Required	It was determined that the kiln is within the existing right-of-way. Propose revision: No further action is required.
III.H.7	Develop and design an interpretive marker along Utica Pike describing the importance of the lime industry & significance of the kilns.	To be Completed	
III.H.8	Document and seek NRHP nomination	Ongoing	NRHP nomination form has been developed
Stipulation III.I - Swartz Farm Rural HD			
III.I.1	Develop thematic context study for agriculture in Clark County, Indiana and surrounding counties to assist in future nominations in the region.	Completed	June 2009
III.I.2	Purchase the portion of Swartz Farm lying on the west side of the Project	Propose Removing	No longer eligible as historic district; propose this stipulation be removed
III.I.3	Develop and implement a blasting/vibration plan as set forth in Stipulation II.L.	Propose Removing	No longer eligible as historic district; propose this stipulation be removed
III.I.4	Document and seek NRHP nomination of the remaining farmstead	Propose Removing	No longer eligible as historic district; propose this stipulation be removed
III.I.5	Delineate a "no-work zone" around remaining Swartz farmstead	Propose Removing	No longer eligible as historic district; propose this stipulation be removed
III.I.6	Place a preservation easement on property and sell to a historic preservation organization or donate to a local government or it can be sold to anyone who would accept the preservation easement.	Propose Removing	No longer eligible as historic district; propose this stipulation be removed
III.I.7	Prepare archival documentation for Central Passage House	Ongoing	Photo documentation is under review by the INDOT and IN SHPO
III.I.8	Develop and implement a landscaping plan to minimize visual impacts of the Project.	Propose Removing	No longer eligible as historic district; propose this stipulation be removed
III.I.9	Accept by donation and preserve the portion of the James Smith Farm that was determined eligible for the NRHP:	Propose Removing	Swartz Farm is no longer eligible as historic district since farmhouse has been razed and the Central Passage House is not individually eligible. Propose this stipulation be removed from the Amended MOA.
III.I.9.a	Develop and implement a plan to stabilize the property	Propose Removing	Swartz Farm is no longer eligible as historic district; propose this stipulation be removed
III.I.9.b	Place a preservation easement on property and sell to a historic preservation organization or donate to a local government	Propose Removing	Swartz Farm is no longer eligible as historic district; propose this stipulation be removed
III.I.9.c	Prior to sale or donation, fund exterior rehabilitation of the structure	Propose Removing	Swartz Farm is no longer eligible as historic district; propose this stipulation be removed

MOA Item	Description	Status	Remarks & Comments
III.I.9.d	Develop HPP	Propose Removing	Swartz Farm is no longer eligible as historic district; propose this stipulation be removed
III.I.9.e	Document and seek NRHP nomination and listing	Propose Removing	Swartz Farm is no longer eligible as historic district; propose this stipulation be removed
Stipulation IIIJ - Trolley Barn			
III.J	Rehabilitation shall be developed and implemented in consultation with the KY-SHPO	Completed	Building has been donated to the KY Center for African-American Heritage.
Stipulation IIIK - Butchertown Historic District			
III.K.1	Develop a HPP, which shall develop a thematic context to assist with future nominations in the region. Plan is to be coordinated with latest development plans available from Metro Government.	Ongoing	Final HPP pending conclusion of dispute resolution.
III.K.2	Develop the Witherspoon Extension in accordance with provisions of HPP as the principal east-west route through the district and implement measures that encourage north-south traffic through the district to use Clay Street and Frankfort Avenue.	Propose Removing	Witherspoon Extension and other local connections adjacent to the Kennedy Interchange have been revised in the Modified Selected Alternative.
III.K.3	Design and construct roadway sections along north side of district using embankments or other designs that support aesthetically pleasing noise abatement measures, lighting and landscaping that maintain the context of the district.	Propose Removing	Witherspoon Extension and other local connections adjacent to the Kenndy Interchange have been revised in the Modified Selected Alternative.
III.K.4	Edison House - Provide funding for the exterior rehabilitation and conduct a noise study to determine whether interior noise abatement measures are justified.	Propose Removing	With reconstruction of Kennedy Interchange in-place, existing and future noise levels will not change
III.K.5	Wesley House - Provide funding for the exterior rehabilitation and conduct a noise study to determine whether interior noise abatement measures are justified.	Propose Removing	With reconstruction of Kennedy Interchange in-place, existing and future noise levels will not change
III.K.6	St. Joseph's Church - Conduct a noise study for St. Joseph's Church to determine whether interior noise abatement measures are justified for the Church, Day Care Center and School.	Propose Removing	With reconstruction of Kennedy Interchange in-place, existing and future noise levels will not change
III.K.7	Franklin Street Baptist Church - Conduct a noise study for Franklin Street Baptist Church to determine whether interior noise abatement measures are justified.	Propose Removing	With reconstruction of Kennedy Interchange in-place, existing and future noise levels will not change
III.K.8	Marcus Lindsay Methodist Church - Conduct a noise study for Marcus Lindsay Methodist Church to determine whether interior noise abatement measures are justified.	Propose Removing	Site is being converted to condominiums and is no longer noise-sensitive
III.K.9	Grace Immanuel united Church of Christ - Conduct a noise study for Grace Immanuel United Church of Christ to determine whether interior noise abatement measures are justified.	Propose Removing	With reconstruction of Kennedy Interchange in-place, existing and future noise levels will not change
III.K.10	Grocers Ice and Cold Storage Company - Provide a plan for adaptive reuse the property; if plan cannot be developed, develop documentation of the property and proceed to demolish the structure once the documentation has been accepted.	Completed	Treatment Plan was approved by the BSMT on 6/15/09 and distributed to the KHPAT on 6/18/09.
III.K.11	Mellwood Avenue/Story Avenue Connection - Conduct a study of the Connector in order to evaluate the elimination of this proposed connector and restoration of two-way traffic flow on these two roads.	Completed	Louisville Metro Government must determine alternate funding to proceed with construction.
III.K.12	Design and construct streetscape improvements within the entire district in accordance with provisions of the HPP and the KHC streetscape design guidelines.	To be Completed	
III.K.13	Design and construct traffic calming measures on existing streets in the district with attention to the expansion of east downtown Louisville and Phase Two of Waterfront Park.	Propose Removing	Reconstructing Kennedy Interchange in-place will not change access to Waterfront Park through Butchertown.
III.K.14	Design and construct roadway lighting within the viewshed of the district	To be Completed	
III.K.15	Implement noise abatement measures as set forth in Stipulation II.E where the Project is expected to adversely effect the district	To be Completed	
III.K.16	Develop and implement a blasting/vibration plan as set forth in Stipulation II.L.	To be Completed by Contractor	
Stipulation IIIL - Phoenix Hill Historic District			
III.L.1	Develop a HPP, which shall develop a thematic context to assist with future nominations in the region. Plan is to be coordinated with latest development plans available from Metro Government.	Completed	Final HPP approved by BSMT on 11/23/09. HPP sent to City of Louisville for use and reference on 1/20/10. Will be updated to reflect changes due to Project design modifications.

MOA Item	Description	Status	Remarks & Comments
III.L.2	Design and construct roadway lighting as set forth in Stipulation II.D.	To be Completed	
III.L.3	Work with the owner to relocate the Baer Fabrics Company within the HD or a suitable facility within the Phoenix Hill neighborhood	Propose Removing	Baer Fabrics Company is no longer located in historic building
III.L.4	Develop a treatment plan for rehabilitation of the Vermont American Buildings, explore options for reuse and rehabilitate the exterior of the building if recommended in the treatment plan	Ongoing	An initial draft of the Treatment Plan was completed in 7/2010, and a revised draft was submitted for BSHCT review in 8/2010. Written review comments were issued by FHWA on 1/5/11, which requested revisions and clarifications. The second draft of the plan is under development.
III.L.5	St. John's Church - Conduct a noise study for St. John's Church to determine whether interior noise abatement measures are justified.	To be Completed	
III.L.6	Refuge in Kentucky Church - Conduct a noise study for Refuge in Kentucky Church to determine whether interior noise abatement measures are justified for the Church, Day Care Center and School.	To be Completed	
III.L.7	Place interpretive signage within the district	To be Completed	
III.L.8	Streetscape improvements along Main Street and Market Street from Floyd Street to Clay Street and in the area under the I-65 Bridge in accordance with provisions of the HPP and the KHC streetscape design guidelines.	To be Completed	
III.L.9	Develop and implement a blasting/vibration plan as set forth in Stipulation II.L.	To be Completed by Contractor	
Stipulation IIIM - Country Estates Historic District / River Road Corridor			
III.M.1	Develop a HPP, which shall specifically consider and develop recommendations for the properties listed as a-k	Completed	The final HPP was approved by the BSMT on 1/24/11. It was posted to the Project website and distributed to the KHPAT on 2/7/11.
III.M.2	Design and construct proposed roadways, bridges and tunnels from I-71 to the OH River, taking into consideration the cultural landscapes that are important contributing elements to the district.	To be Completed	
III.M.3	Design and construct roadway lighting as set forth in Stipulation II.D.	To be Completed	Aesthetic requirements for lighting in historic districts were developed during the bridge type selection process.
III.M.4	Implement noise abatement measures where the Project noise is expected to affect the listed and eligible properties as set forth in Stipulation II.E.	To be Completed	
III.M.5	Develop and implement a blasting/vibration plan as set forth in Stipulation II.L.	To be Completed by Contractor	
III.M.6	Define a "no-work zone" within the NRHP boundaries of the listed and eligible properties.	To be Completed by Contractor	
Stipulation IIIN - Drumanard			
III.N.1	Project through this property to be contained in a tunnel so as to limit adverse effects.	Ongoing	
III.N.2	Acquire or establish a historic preservation easement for the entire Drumanard historic property	Ongoing	The property owner declined placing an easement on the property; therefore, KYTC will make an offer to acquire the entire property.
III.N.3	If acquiring a preservation easement is not possible, FHWA will acquire the property, place the required easement on the property and transfer to KYTC who shall seek to sell the property at fair market value or donate to a local government.	Propose Revision	KYTC will advance the property acquisition instead of FHWA
III.N.4	Develop and implement a blasting/vibration plan as set forth in Stipulation II.L. Monitor the historic buildings to preclude impacts due to blasting.	To be Completed by Contractor	
Stipulation IIIO - Allison-Barrickman House			
III.O.1	Acquire a historic preservation easement for the Allison-Barrickman house on the track of land within the NRHP boundary and an easement on the property bounded by US 42, KY 841, the Allison-Barrickman property and Wolf Pen Branch Road	Ongoing	For the tract of land within the NRHP boundary, coordination with the owner is continuing. For the land outside of this tract, the property owner has refused to place an easement.
III.O.2	Implement noise abatement measures as set forth in Stipulation II.E.	To be Completed	
III.O.3	Define a "no-work zone" within the NRHP boundary of the property.	To be Completed by Contractor	
III.O.4	Develop and implement a blasting/vibration plan as set forth in Stipulation II.L.	To be Completed by Contractor	
Stipulation IIIP - Rosewell			
III.P.1	Develop and implement a Treatment Plan to minimize damage to the property.	Completed	Final review is completed; construction letting is pending final approvals by KYTC.
III.P.2	Make a reasonable attempt to acquire the property at fair market value.	Completed	2006

MOA Item	Description	Status	Remarks & Comments
III.P.3	Place a preservation easement on the property and then sell to a local historic preservation organization or other acceptable party or donate to a local government.	To be Completed	
III.P.4	Design and construct roadway lighting as set forth in Stipulation II.D.	To be Completed	
III.P.5	Implement noise mitigation measures as set forth in Stipulation II.E.	To be Completed	
III.P.6	Develop and implement a blasting/vibration plan as set forth in Stipulation II.L.	To be Completed by Contractor	
III.P.7	Define a "no-work zone" within the NRHP boundary of the property.	To be Completed by Contractor	
Stipulation IIIQ - Belleview			
III.Q.1	Design Ohio River Bridge and embankment adjacent to the property taking into account the cultural landscape associated with this property. Consider context sensitive landscaping and other visual treatments on or adjacent to the NRHP boundary, with owner consent and maintenance.	To be Completed	
III.Q.2	Design and construct roadway lighting within the viewshed of Belleview as set forth in Stipulation II.D.	To be Completed	
III.Q.3	Implement noise mitigation measures as set forth in Stipulation II.E.	To be Completed	
III.Q.4	Develop and implement a blasting/vibration plan as set forth in Stipulation II.L.	To be Completed by Contractor	
III.Q.5	Define a "no-work zone" within the NRHP boundary of the property.	To be Completed by Contractor	
Stipulation IV - Archaeological Resources			
IV.A.1	In implementing Stipulation IV, FHWA may withhold or limit public disclosure of information about historic properties.	Ongoing	
IV.A.2	FHWA to ensure consultation with Indian Tribes is conducted in a manner consistent with 36 CFR 800.2(c)(2)(ii)(A), (B) & (C).	Ongoing	
IV.A.3	FHWA to make every effort to complete identification & evaluation of archaeological resources at the earliest possible time in Project design.	Ongoing	
IV.A.4	In implementing Stipulation IV, FHWA may consult with the parties identified in Attachment F of the MOA.	Ongoing	
IV.A.5	FHWA will take reasonable measures to avoid disinterment & disturbance to human remains and grave goods of religious & cultural significance to Indian Tribes.	Ongoing	
IV.B.1	Before letting any type of Project in the APE or selecting sites for ancillary activities associated with the Project, FHWA shall complete the identification & evaluation of archaeological resources for inclusion in the NRHP	Ongoing	On 1/24/11, INDOT Cultural Resources Office submitted an archaeological monitoring plan for the Train Depot rehabilitation, including the required monitoring to the IN SHPO. The IN SHPO approved the plan on 2/8/11.
IV.B.2	Examine all locations where ground-disturbing are proposed or where they may occur within temporary right-of-way.	Ongoing	
IV.B.3	To ensure the sensitive, respectful and careful treatment of human remains and grave goods, FHWA to be guided by ACHP's Policy Statement Regarding Treatment of Human Remains and Grave Goods and where appropriate other guidelines.	Ongoing	
IV.B.3.a	Make every reasonable effort to avoid disinterment or disturbance of human remains and grave goods.	Ongoing	
IV.B.3.b	Make a reasonable and good faith effort to determine the location, cultural/temporal period, and cultural affiliation of human remains and/or grave goods without any removal or destructive analysis of remains. FHWA may remove remains for study if determined in consultation with KHC & Indian Tribes that information cannot be obtained without disturbance.	As needed	
IV.B.3.c	Ensure human remains and/or grave goods are not photographed or subject to invasive study.	As needed	
IV.B.3.d	Provide written notification & documentation of discovery to the appropriate SHPO, Indian Tribes & other parties determined appropriate within 48 hours.	As needed	
IV.B.4	Develop a Plan(s) for the identification & evaluation of archaeological resources.	Ongoing	
IV.B.4.a	FHWA to provide the SHPOs, Indian Tribes and other parties determined appropriate 30 days to review & comment on Plan(s); final Plan(s) to address comments.	Ongoing	

MOA Item	Description	Status	Remarks & Comments
IV.B.4.b	If no response received from the above parties in 30 days, FHWA may proceed with Plan(s).	Ongoing/As needed	
IV.B.4.c	Any dispute regarding Plan(s) to be resolved in accordance with Stipulation XIII.	As needed	
IV.B.5	FHWA to prepare & distribute final Identification & Evaluation reports in accordance with Stipulation IV.F.	Ongoing	
IV.C.1	Studies completed pursuant to Stipulation IV.B to demonstrate a level of effort consistent with 36 CFR 800.4(b)(1) and provide FHWA with information to determine NRHP eligibility.	Ongoing	On 1/24/11, INDOT Cultural Resources Office submitted an archaeological monitoring plan for the Train Depot rehabilitation, including the required monitoring to the IN SHPO. The IN SHPO approved the plan on 2/8/11.
IV.C.2	Archaeological resources considered eligible for the NRHP by FHWA to be treated in accordance with Stipulations IV.D & IV.E.	Ongoing	
IV.C.3	FHWA to seek a formal determination of NRHP eligibility from Keeper of NRHP if disagreement between FHWA & SHPO.	As needed	
IV.C.4	No further action necessary for archaeological resource that FHWA & the SHPO agree are not eligible for the NRHP.	As needed	
IV.C.5	FHWA to notify Indian Tribes and other parties whom so request of findings of eligibility.	To be Completed/As needed	
IV.C.6	FHWA to reconsider its determination if a Party objects to FHWAs determination of eligibility in writing within 15 days.	To be Completed/As needed	
IV.D.1	FHWA to determine if Project will adversely effect NRHP eligible archaeological resources in consultation with the SHPO, Indiana Tribes when appropriate, & other parties deemed appropriate by FHWA.	Ongoing	
IV.D.2	If FHWA determines Project may adversely affect NRHP eligible archaeological resources, reasonable efforts to be made to avoid/minimize adverse effect. If it's not possible to avoid disturbance, FHWA to treat resources in accordance with Stipulation IV.E.	Ongoing/As needed	
IV.D.3	Disputes regarding the determination of effects on archaeological resources to be resolved in accordance with Stipulation XIII.	To be Completed/As needed	
IV.E.1	If FHWA determines that an adverse effect cannot be avoided or minimized, a treatment plan will be developed & implemented to mitigate such effects on a site-by-site basis. At a minimum, treatment plan is to include items listed as a-l	To be Completed/As needed	
IV.E.2	Plans addressing treatment of human remains & grave goods to be guided by the ACHPs Policy Statement Regarding Treatment of Human Remains & Grave Goods and other guidelines where appropriate. FHWA to be also be guided by:	To be Completed	
IV.E.2.a	Burials that will not be threatened or disturbed by the Project shall not be disinterred or disturbed through scientific study.	To be Completed	
IV.E.2.b	If disturbance cannot be avoided, FHWA to determine if scientific study of human remains, grave goods & the burial matrix will be conducted. FHWAs decision must be supported by an explicit set of definitive & justified questions on a case-by-case basis.	To be Completed/As needed	
IV.E.2.c	Human remains and funerary objects of religious & cultural significance to Indian Tribes may be photographed only when FHWA in consultation with the SHPOs, Indiana Tribes where appropriate & other appropriate parties determines that it is called for & justified in a site-specific treatment plan to support scientific study.	To be Completed/As needed	
IV.E.2.d	Disinterred human remains and/or grave goods should be reburied as soon as possible in a timeframe, location & manner determined appropriate by FHWA.	To be Completed/As needed	
IV.E.3	Human remains & grave goods to be made available for reburial to appropriate party or responsible official 30 days from determination.	To be Completed/As needed	
IV.E.4	FHWA to provide ACHP, the SHPOs, Indian Tribes who've expressed interest in the site, other parties deemed appropriate by FHWA, 30 days to comment on treatment plans. FHWA to ensure the final plan(s) take comments into consideration.	To be Completed	

MOA Item	Description	Status	Remarks & Comments
IV.E.5	Disputes regarding the treatment plan(s) to be resolved in accordance with Stipulation XIII.	To be Completed/As needed	
IV.E.6	After implementing stipulations for treatment, FHWA may elect to monitor construction activities in selected portions of right-of-way. Monitoring to be conducted by qualified archaeologist.	To be Completed	
IV.F.1	Work carried out is to be performed by, or under the direct supervision of a person(s) meeting <i>Secretary of the Interior's Professional Qualification Standards</i> in archaeology & has supervisory experience in prehistoric & historic archaeology of the lower Ohio Valley.	Ongoing	
IV.F.2	FHWA to ensure results of archaeological studies are presented in professionally written reports meeting standards established by the SHPOs.	Ongoing	
IV.F.3	Sensitive information regarding the nature & location of human remains/grave goods & the location, character & ownership of archaeological sites is kept confidential from the public.	Ongoing	
IV.F.4	Parties to have 30 days after confirmed receipt to review & comment on reports. FHWA to address comments in final reports.	Ongoing	
IV.F.5	Disputes regarding report(s) to be resolved in accordance with Stipulation XIII.	To be Completed/As needed	
IV.G.1	FHWA to provide copies of final reports to respective SHPOs, STAs & Indian Tribes, when appropriate.	Ongoing	
IV.G.2	FHWA to prepare sufficient copies of final reports for dissemination to public libraries, educational institutions & other repositories in Jefferson & Clark Counties.	To be Completed	
IV.G.3	FHWA to ensure that final archaeological reports for public dissemination do not contain sensitive information.	To be Completed	
Stipulation V - Unanticipated Discoveries			
V.A	KYTC or INDOT to ensure work within 50 ft. around the area of an unanticipated discovery ceases until a treatment plan is developed & implemented.	To be Completed/As needed	
V.B	FHWA to make all reasonable measures to avoid property until conclusion of consultation with SHPO, Indian Tribes and other appropriate parties.	To be Completed/As needed	
V.C	FHWA shall contact SHPO, Indian Tribes and other appropriate parties within 48 hours and provide written details of discovery.	To be Completed/As needed	
V.D	INDOT or KYTC shall conduct an on-site evaluation of discovery to determine eligibility, effects and possible treatment measures.	To be Completed/As needed	
V.E	Develop appropriate Treatment Plan(s) for discovered historic property.	To be Completed/As needed	
V.F	Ground-disturbing work may commence at sites determined ineligible for NRHP.	To be Completed/As needed	
V.G	Parties shall invoke provisions for dispute resolution should consensus on eligibility not be reached.	To be Completed/As needed	
Stipulation VI - Additional Historic Properties and Effects			
VI.A	INDOT or KYTC shall consult with FHWA, SHPOs, Indian Tribes and other parties to determine if other historic properties in addition to those already identified or through Stipulation IV will be affected by the Project.	To be Completed/As needed	
VI.B	Where historic properties are adversely effected, FHWA shall consult with INDOT and/or KYTC, SHPO, Indian Tribes and other appropriate parties to minimize or mitigate effects.	To be Completed/As needed	
VI.C	If agreement on measures to mitigate the adverse effect, FHWA will ensure those measures are implemented. Resolve disputes in accordance with Stipulation XIII.	To be Completed/As needed	
Stipulation VII - Excess Right-of-Way			
VII	If Project should result in excess right-of-way to be disposed, the FHWA shall consult appropriate SHPO to determine whether the disposal or sale would have an adverse effect on historic properties.	As needed	

MOA Item	Description	Status	Remarks & Comments
Stipulation VIII - Performance Standards			
VIII.A	FHWA shall ensure all cultural resources work carried out will be carried out by or under the direct supervision of individuals that meet the <i>Secretary of the Interior's Professional Qualification Standards</i> .	Ongoing	
VIII.B	FHWA shall ensure all historic preservation resource work carried out will be guided by the most recent version of the listed standards.	Ongoing	
Stipulation IX - Progress Reports			
IX.A	Progress reports detailing implementation of the measures stipulated within the MOA and providing advanced notice of milestones.	Ongoing	
IX.B	First progress report to be distributed six months following the execution of the MOA.	Completed	
IX.C	Progress report to identify the status of each stipulation outlined in the MOA & of associated documents.	Ongoing	
Stipulation X - Project Modification			
X	If the Project is significantly modified and additional effects to historic properties are considered the FHWA will consult with the signatories to determine if the MOA should be amended.	As needed	
Stipulation XI - Amendment			
XI.A	Any signatory may request that it be amended, whereupon the signatories shall consult to consider such an amendment.	As needed	
XI.B	Any resulting amendments shall be developed and executed among the signatories in the same manner as the previous version(s) of the MOA	As needed	
XI.C	Any amendment the MOA will go into effect only upon written agreement of all signatories.	As needed	
Stipulation XII - Failure to Comply/Termination			
XII	If any signatory determines that the terms of the MOA cannot be or are not being carried out, then the signatories shall consult to seek amendment of the MOA. If the MOA is not amended, any signatory may terminate it by providing thirty (30) calendar days written notice to the other parties.	As needed	
Stipulation XIII - Dispute Resolution			
XIII.A	Should any signatory or concurring party object in writing within thirty (30) days of the receipt of any plans or implementation of any actions proposed pursuant to this Amended MOA, FHWA shall consult with the objecting party and the appropriate SHPO to try to resolve the objection. If the FHWA and the SHPO determine that the objection cannot be resolved, FHWA shall forward all documentation relevant to the objection to the ACHP.	As needed	
XIII.B	Any recommendations provided by the ACHP in response to a request made pursuant to Stipulation XIII.A.1 shall be taken into account by FHWA with reference only to the subject of the dispute.	As needed	
XIII.C	Any comment provided by the ACHP in response to a request made pursuant to Stipulation XIII.A.2 shall be taken into account and responded to by the FHWA.	As needed	
XIII.D	FHWA's responsibility to carry out all actions under the MOA that are not subject to the dispute shall remain unchanged.	As needed	
Stipulation XIV - Duration			
XIV	The MOA shall remain in effect for twenty years following its execution. If the Project has not been completed and the terms of the MOA implemented within this time, the signatories shall consult to reconsider the terms of the MOA and determine whether extension, amendment, or termination is in order.	As needed	

SECTION 106 MITIGATION MEETING



The Louisville - Southern Indiana
Ohio River Bridges Project
(LSIORBP)

January 27, 2012

1

Meeting Agenda



1. Welcome/Introductions
2. Section 106 Process
3. Recap of Section 106 Consultation to date
4. Proposed Amended MOA Discussion
5. Next Steps

2

1. WELCOME/INTRODUCTIONS

3

Ground Rules

PLEASE

- Treat everyone with respect
- Listen to each other – keep an open mind
- Do not interrupt
- Be succinct
- Do not monopolize
- Be on time to meetings
- Stay on topic

4

2. SECTION 106 PROCESS

5

Section 106

- Set out in the National Historic Preservation Act (NHPA)
- Requires Federal agencies to:
 - Take into account the effects of Federal agency actions on historic properties
 - Afford the Advisory Council on Historic Preservation (ACHP) an opportunity to comment
- Is grounded in consultation among stakeholders of the project
- Regulations at 36 CFR Part 800

6

Section 106 Steps



- Initiate Consultation
- Establish Area of Potential Effect (APE) and Identify Historic Properties
- Assess Effects
- **Resolve Adverse Effects**

7

Adverse Effect in Section 106



Adverse Effect

- Alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the NRHP
- Diminishes property's location, design, setting, materials, workmanship, feeling, or association
- Direct or Indirect

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3. RECAP OF SECTION 106 CONSULTATION TO DATE

9

Recent Materials

- Identification Findings Report (Jan 13)
Minor edits to previous version – available online
- Effects Findings Report (Jan 13)
- Final 800.11(e) Report (Jan 13)
*Official Eligibility & Effects Determinations from FHWA
Technical Correction, page 11*
- Draft Amended MOA & matrix (Jan 13)
- Response to Consulting Party Comments on
Effects (Jan 23)

10

Consulting Party Eligibility Comments



- Refer Nuttall & Belleview North Field findings to the Keeper of the National Register
Coordination ongoing
- Evaluate Shadow Wood Subdivision
Not eligible: Houses less than 50 years old & typical of many middle class suburban developments in county
- Provide additional documentation regarding Thomas Payne House (5025 Nitta Yuma)
Not eligible: Supplement provided Jan 23
- Evaluate cemeteries in East End
Not eligible: Supplement to be provided

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Hoke Cemetery, 0 markers



Peyton Cemetery



Miller Cemetery



Hays Kennedy Site,
6 markers



3 cemeteries near
Wolf Pen Branch Rd



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Consulting Party Effects Comments



- Request additional traffic diversion information & analysis
Included as Section 7 in Effects Findings Report
- Request additional information on economic impacts
Included in SDEIS; summary text added to Effects Findings Report
- Requests for reevaluation of effects at specific properties: US 31 Bridge, Old Jeff HD, Lime Kilns, various properties in East End KY APE
See Responses to Comments list

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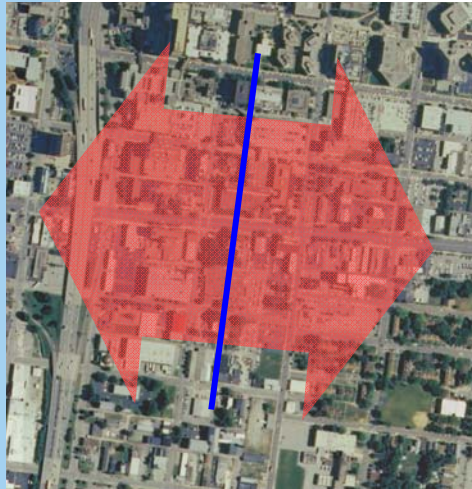
Supplemental Traffic Info



- Substantial effort to refine KIPDA travel demand model
- Screen line analysis to identify changes in traffic patterns between FEIS Selected Alternative & Modified Selected Alternative in 2030
A screen line is an imaginary line drawn across a group of streets. Traffic volumes on these streets are summed and comparisons are analyzed to find differences between scenarios.
- Commitment to monitor future traffic
We will discuss this later today (MOA discussion)

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What is a screen line?



- An imaginary line drawn over set of streets
- Example screen line shown in blue at left
- Analysis of traffic over a wide travel corridor rather than individual street

15

Supplemental Traffic Info

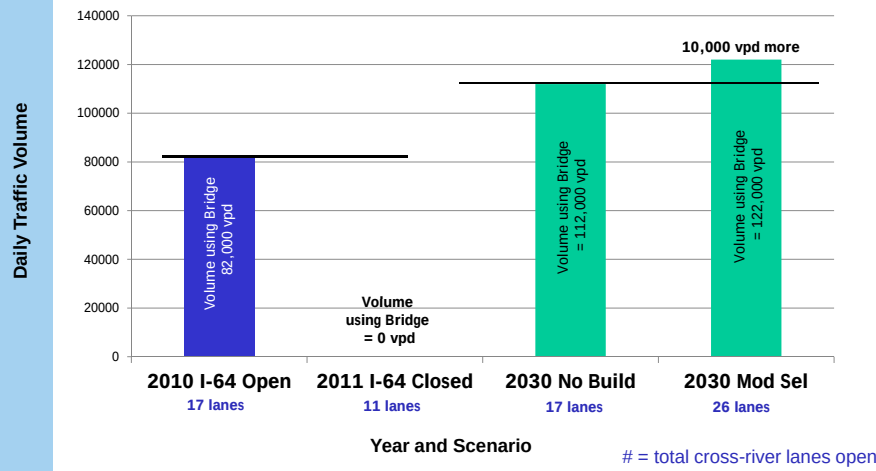


I-64 Closure Traffic vs Future Project Traffic:

- Today, 11 lanes are available in metro Louisville to cross the Ohio River. After the Project is built, there will be 26 lanes (10 toll-free).
- I-64 Bridge carried 82,000 vpd in 2010; these cars must now use I-65 and US 31 Bridges.
- I-64 Bridge would carry extra 10,000 vpd in Modified Selected Alternative vs No-Action.
- I-64 Bridge would carry extra 22,000 vpd in Modified Selected Alt vs FEIS Selected Alt.

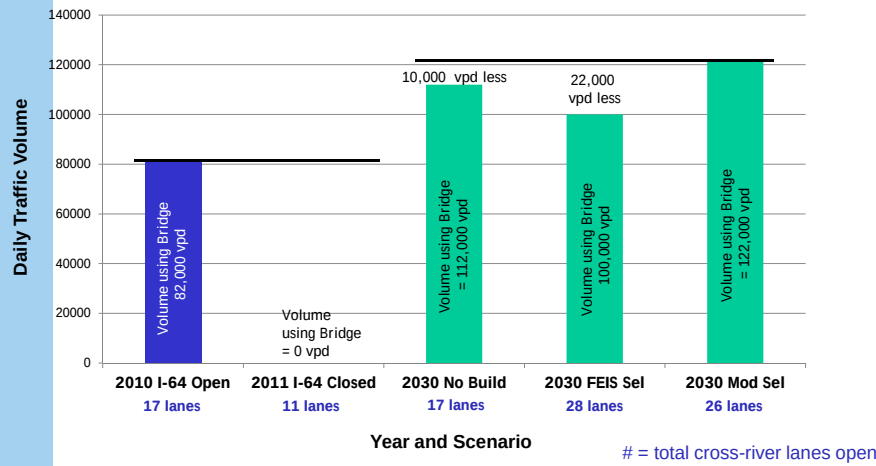
16

Daily I-64 Bridge Volumes & Diversion



17

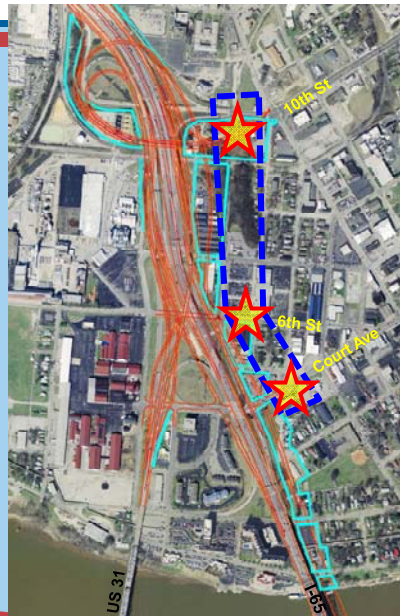
Daily I-64 Bridge Volumes & Diversion



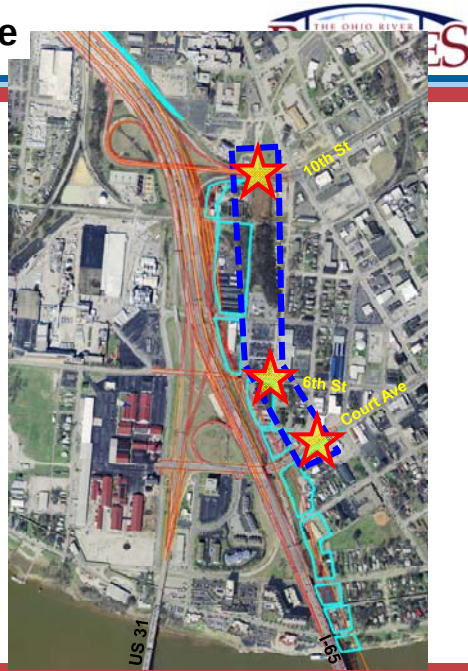
18

Jeffersonville Screen Line

Effects Findings Report Figure 10



FEIS Selected



Modified Selected

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Supplemental Traffic Info



Jeffersonville Screen Line:

- Court Ave, 6th St, 10th St
- Ten lanes total
- Max Difference = -520 vehicles per hour
- Max Difference = -1 vehicle per minute per lane
- Moving east, change in traffic is further distributed within street grid

See Effects Findings Report Figure 10

Year 2030 differences between Modified Selected & FEIS Selected 20

Supplemental Traffic Info



Diversion Patterns west to use I-64



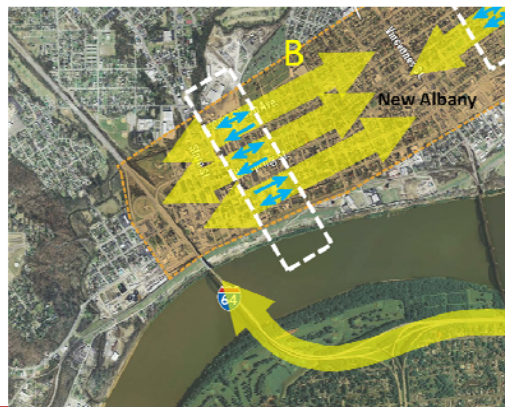
21

Supplemental Traffic Info



West New Albany Screen Line:

- Culbertson Ave, E Oak St, E Elm St, E Spring St, E Market St, E Main St/SR 111
- 13 lanes total
- Max Difference = +922 vph
- Max Difference = +1 vpm per lane



Effects Findings Report
Figure 11

Year 2030 differences between Modified Selected & FEIS Selected 22

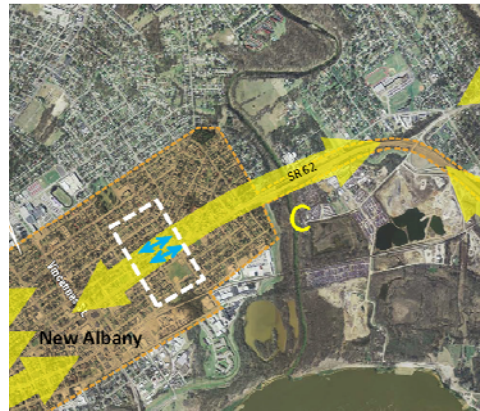
Supplemental Traffic Info



East New Albany/SR 62 Screen Line:

- E Spring St/Old SR 62 and E Elm St
- 6 lanes total
- Max Difference = +536 vph
- Max Difference = +1.5 vpm per lane

*Effects Findings Report
Figure 11*



Year 2030 differences between Modified Selected & FEIS Selected 23

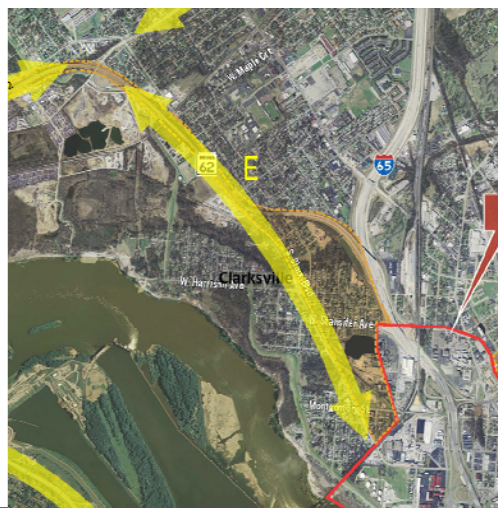
Supplemental Traffic Info



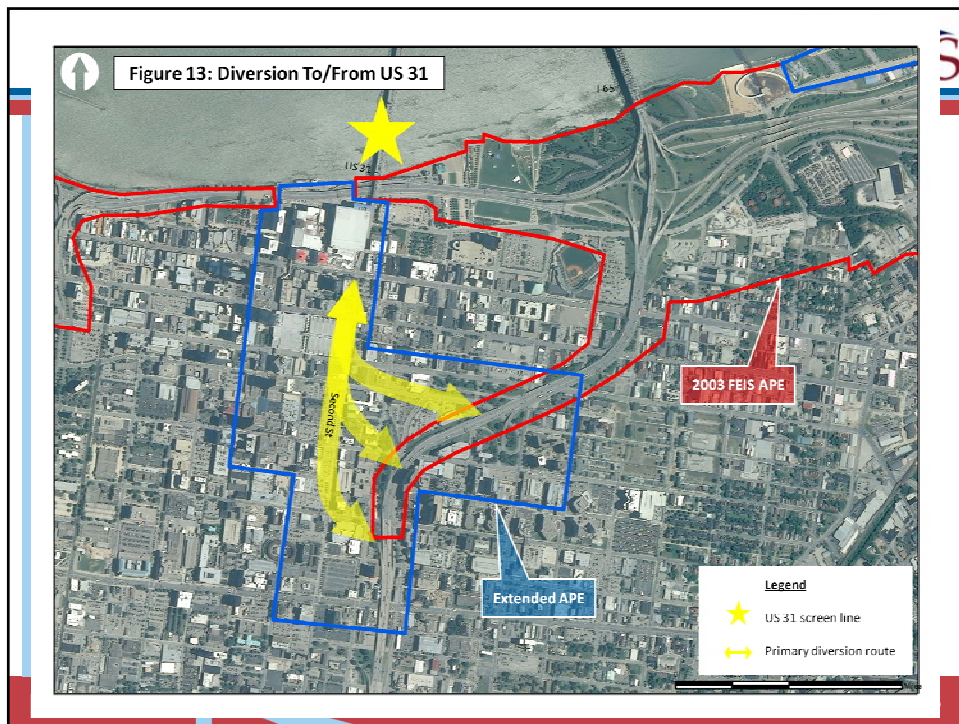
Clarksville:

- S Clark Blvd
(2 lanes total)
- Max Difference = +245 vph
- Max Difference = +2 vpm per lane

*Effects Findings Report
Figure 11*



Year 2030 differences between Modified Selected & FEIS Selected 24



Supplemental Traffic Info



US 31/Downtown Louisville:

- 2nd St (4 lanes total coming off bridge)
- Max Difference = +600 vehicles per hour
- Max Difference = +2.5 vehicles per minute per lane
- Moving off bridge, change in traffic is further distributed within street grid

Supplemental Traffic Info



River Road Corridor, Louisville:

- FEIS Selected Alternative includes Frankfort Avenue interchange
- No-Action and Modified Selected Alternative do not include Frankfort Avenue interchange
- River Road traffic between No-Action & Modified Selected Alternatives are within 10%

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4. AMENDED MOA

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MOA Responsibilities



- Signatories have sole authority to execute, amend, or terminate the MOA
 - FHWA, ACHP, SHPOs
- Invited Signatories have a defined role in fulfilling the MOA stipulations
 - INDOT, KYTC
- Concurring Parties are other consulting parties who can be invited to concur in the MOA

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Why is the MOA being amended?



- To address change in project management structure, e.g. Design-Build Contracting Method
- To address change in Preferred Alternative scope/limits downtown
- To address change in eligible resources, e.g. quarries added to kilns or de-listing of Swartz Farm
- To address new resources added, e.g. Ohio River Camps Group

Work through proposed changes in Original MOA

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9. NEXT STEPS

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Next Steps

- Provide any comments on the proposed MOA Amendments by February 13

106 Materials online at <http://kyinbridges.com/public-involvement/group-sec106.aspx>

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Thank you for your participation today!
If you have comments or concerns, please return them by

February 13, 2012

To:

Ms. Janice Osadczuk
Engineering Services Team Leader
Federal Highway Administration – Indiana Division
Room 254, Federal Office Building
575 North Pennsylvania Street
Indianapolis, Indiana 46204
Janice.Osadczuk@dot.gov

MEETING SUMMARY

Section 106 Consultation Meeting
Louisville-Southern Indiana Ohio River Bridges (LSIORB) Project
Frazier History Museum
Louisville, KY
January 27, 2012 at 10:00 a.m.

ATTENDEES

Section 106 Consulting Parties

- Ann Simms, City of Prospect
- Bill Eckreck, Kentuckians for Progress
- Carl Percy, Indiana Ombudsman
- Charles Cash, Preservation Louisville
- Craig Potts, Kentucky Heritage Council (KY SHPO)
- Cynthia Johnson, Louisville Metro
- David Nicklies, Kentuckians for Progress
- Elizabeth Merritt, National Trust for Historic Preservation
- Emily Boone, Butchertown Neighborhood Association
- Greg Sekula, Indiana Landmarks
- Jim Segrest, Butchertown Neighborhood Association
- John Carr, IDNR Division of Historic Preservation and Archaeology (IN SHPO)
- Laura Renwick, New Albany & Jeffersonville Historic Preservation Commissions
- Lee Cory, River Fields
- Lee Douglas Walker, Kentucky Ombudsman
- Marianne Zickuhr, Preservation Louisville
- Martina Kunneka, Kentucky Center for African America Heritage
- Meme Runyon, River Fields
- Phil Samuel, Clifton Community Council
- Richard Jett, Louisville Preservation
- Richard W Moore, RW Moore Consulting Engineers
- Rick Jones, IDNR Division of Historic Preservation and Archaeology (IN SHPO) (by phone)
- Shane Corbin, City of Jeffersonville
- Steven Kersey, Phoenix Hill Neighborhood Association
- Vicki Birenberg, Kentucky Heritage Council (KY SHPO)

State/Federal Agencies

- FHWA: Janice Osadczuk, MaryAnn Naber
- ACHP: Carol Legard
- KYTC: Andy Barber, David Waldner, Amanda Abner (by phone)

- INDOT: Paul Boone, Laura Hilden, Mary Kennedy

Project Team Members

- CTS: Jim Hilton, John Sacksteder, Mitch Green, David Kroll, Ben Ross, Jeff Vlach
- Frost Brown Todd: Tim Hagerty
- QK4: Tom Springer
- CDM Smith: John Mettillie, Tim Sorenson, Samantha Wright, Rebecca Thompson, Robert Ball
- Doe Anderson: Bob Lauder, Rich Glasser

Other Attendees

- Gordon Glass, Parsons Brinkerhoff

PRESENTATION/DISCUSSION

John Mettillie opened the meeting, welcoming attendees. Janice Osadczuk welcomed participants and gave a brief description of the Section 106 consultation process. Consulting parties introduced themselves. John M described handouts that were provided to attendees; information is also available on the project website. Responses to effects comments were provided via email on Monday. The Section 106 consultation effort is important to the successful completion of this process, so the FHWA and state DOTs can reach the completion of the Project with consensus from consulting parties. We are in the fourth step of the Section 106 process, resolving adverse effects.

Effects on Historic Properties

John M recapped the Section 106 process to date. Various materials were provided via email and mail on January 13th. John summarized comments received as part of the effects coordination phase. The team is preparing materials about the Belleview North Field and Nuttall House to request a determination from the NRHP Keeper. The team is continuing to evaluate several recently identified cemeteries in the KY East End APE to determine eligibility; supplemental information will be provided to consulting parties. Additional traffic and economic language was included in the *Effects Findings Report*.

Cemeteries

- Meme Runyon: The Hays Kennedy grave site has 6 markers and is an African American cemetery. Hays Kennedy Park was named for her.
- Jim Hilton: We also went out to look at the Stokes Cemetery yesterday.
- Meme: This may contain 75 graves. It is another African American cemetery but hasn't been documented previously.
- Meme: Can you describe the issue of eligibility for cemeteries?
- Ben Ross: Cemeteries are not typically eligible for the NRHP without meeting special criteria. We will provide a more detailed report; it is under development now.
- John M: Our preliminary finding, until we work through the rest of the available information, is that none of the five cemeteries qualify as NRHP eligible.

Traffic

- Meme: Regarding #5 in the “Response to Comments” on nuisance of traffic, can you describe the definition of “nuisance” and why that isn’t included for West Louisville.
- John M: The traffic diversion analysis did not indicate any trends in West Louisville where traffic diversion would occur as a result of tolling. What we are calling “nuisance of traffic” looked at traffic operations because of comments from consulting parties. We looked at whether the increase in traffic would alter the characteristics that make these subareas eligible, such as ease of access and movement.
- Betsy Merritt: There are places in the *Effects Findings Report* (pg 79+) showing percentages in traffic increases. Several of these are substantial during rush hour. Can you address this?
- John M: We’ll get to those in a few slides and discuss traffic in the individual subareas.
- Betsy Merritt: At the top of page 2 in the “Response to Comments,” there is a statement that the Minton and Clark bridges have capacity to handle increased traffic. When we looked at the traffic data in the SDEIS, it appears these two bridges will be over capacity in 2030 even without the diversion traffic. That assumption is not substantiated in the SDEIS. We have to ask if these congestion points will cause additional backup into the surrounding neighborhoods.
- Tim Sorenson: In the SDEIS, we got several comments on the capacity numbers you reference. The comparison of capacity looked at daily capacity in the Original FEIS whereas we are looking at hourly capacity. The SFEIS will include clarification.
- Meme: The denominator (capacity) in the volume/capacity calculation is typically 2,200 but you are using 1,600?
- Tim S: Typically, 2,200 vehicles per hour is used for wide lanes in uncongested situations. Adjustments for trucks, lane widths, etc are applied to get the 1,600. That’s a standard procedure outlined in the *Highway Capacity Manual*.

Strater House

- Betsy: Regarding the Strater House (discussed in “Response to Comments” #22), we requested a specific evaluation of effects of this resource. The Strater is specifically mentioned in the MOA (page 22, paragraph M.5). We suggest you reconsider assessing effects on this property individually.
- Meme: I found response #22 confusing. Can you clarify? The Strater House is so close to the alignment ... why isn’t it given the same evaluation of impacts as Drumanard?
- Robert Ball: Because the Strater House is a contributing resource within the larger Country Estates Historic District, we looked at it at the district level, rather than writing up each individual contributing property. We looked at effects as a whole.
- Meme: With visual, noise, and vibration impacts within the district, does that mean Section 106 won’t allow the Project to mitigate the effects on contributing properties?
- MaryAnn Naber: Normally for districts, we would look at contributing resources in nearest proximity to the Project and mitigate those properties affected. Impacts are being mitigated for the district as a whole and are being mitigated at the Strater House, even though it’s a contributing property and not listed individually.
- Meme: Why would there not be individual mitigation (as at Drumanard)?

- MaryAnn: That's the piece you referred to in the MOA: vibration would be monitored at the Strater House. Our starting place for this discussion is the 2003 ROD. We are looking at what additional mitigation may be necessary for impacts that were not taken into account at that time. Nothing in that area has changed that would affect impacts within the Country Estates HD since that time.

Tunnel Elevation

- Meme: River Fields and CARTS brought up in our SDEIS comments that \$9 million is being saved by changing the level of the approach of the Eastern Bridge to the tunnel. I understand that now there will be more extreme grade changes.
- Jim H: The downgrade to the tunnel is slightly steeper than in the original design. Leaving the tunnel towards the bridge, that grade has not changed.
- Meme: Because the grade is steeper, there will be more impacts - potentially an air quality hot spot as vehicles must accelerate to get up the grade.
- Mitch Green: The air quality analysis was modeled at a regional level. The overall VMT already includes the grade. The grade change would not impact PM_{2.5} or MSATs at a regional level; these require a larger level analysis.
- John Sacksteder: The difference is a slight change in grade, not a significant change. It saves a good bit of excavation but is not substantially different.
- Jim H: It changed from 2% to 3%.

Tim Sorenson presented the supplemental traffic information. The team provided more information in specific areas to understand how traffic changes compared to the No Build condition. We used a screenline analysis and have committed to monitoring traffic in the future. (Screenlines are imaginary lines used to look at traffic over a wider corridor: the river forms a natural screenline for the metro area.)

There have been a lot of questions about the closure of the I-64 Sherman Minton Bridge. Due to the closure, approximately 82,000 vehicles are being diverted today, with 6 fewer cross-river lanes. The future change in traffic is much smaller, with considerably more lanes to handle cross-river traffic.

- Meme Runyon: What is the capacity for the Sherman Minton bridge?
- Tim S: It has 6 lanes, with around 1400-1600 vehicles per hour per lane. The volumes on slide 17 are daily numbers. Diversion during peak hours is less than during off peak hours.
- Meme: So you are still assuming that the diversion wouldn't take place without tolls?
- Tim S: If you build the Project and don't toll it, the volume on the I-64 Bridge is around 100,000 vehicles per day. About 12,000 move from I-64 to another bridge in the FEIS Selected Alternative.

Tim explained the Jeffersonville screenline for the Extension to the APE. This is a funnel point to reach the I-65 corridor. This screenline covers 10 lanes and traffic would decrease by about 1 vehicle per minute per lane, comparing the Modified Selected to the FEIS Selected in year 2030.

West of I-64, there are more choices. The model looks at the region as a whole; to understand in more detail what is happening, we looked at several screenline locations. (These are included in the *Effects Findings Report*, page 77.) In West New Albany, traffic traveling over 13 lanes would increase by about 1

vehicle per minute per lane. In East New Albany, over 6 lanes, there's about a 1.5 vehicle per minute per lane increase.

- Laura Renwick: On the analysis in New Albany, were one way versus two way streets taken into account?
- Tim S: Yes, the time-of-day model looks at peak hours.
- Betsy: In the *Effects Findings Report*, the evening period shows a 49%-56% increase in the evening hours (pg 79-80). It says that if traffic doubles, there's a perceptible noise increase. These cases would show a doubling in traffic.
- Tim S: The way we are showing it, doubling traffic would be 100%.

In Clarksville, the change in traffic would be 2 vehicles per minute per lane. On US 31, we looked at impacts on the bridge. Moving south into the Extensions to the APE, the larger street grid provides additional route options. It's a combination of cross-river trips and travel in/to downtown on the larger street grid. On the bridge, the max difference is about 2.5 vehicles per minute per lane. At River Road, the Modified Selected Alternative does not include an interchange at Frankfort Avenue, so the model shows a change in traffic; the Modified Selected Alternative more closely resembles the configuration of the No Build.

- Betsy: The US 31 Bridge is another location identified in the SDEIS as over capacity. Is that another location that was wrong in the SDEIS?
- Tim S: Yes. We will update that.
- Meme: The west portion of River Road was added. Since we know there is increased traffic traveling to downtown Louisville, will you discuss this impact to the east Louisville grid? Is there an appreciable change?
- Tim S: As traffic moves from east to west to downtown, it must funnel from 71 and 64, which have capacity limitations today that will remain in 2030 (e.g. the Cochran Hill tunnel). Nearer downtown, the Kennedy Interchange will provide more capacity than today, so there will be less reason to divert from the interstate to local connections.
- Betsy: Page 83 of the *Effects Findings Report* shows a chart for US 31 volumes. They only look at overall daily and peak hours. Other screenlines present data for 4 periods. Why is this different?
- Tim S: We will update our table to include all four time periods.

Mellwood/Story

- Jim Segrest: Recently there has been a lot of traffic at the Story Avenue interchange – is that what you are calling the Frankfort Ave interchange? It's a problem today.
- John S: The Frankfort Ave interchange was in the original plans on I-71 but has been eliminated in the Modified Selected Alternative. It's different than the Mellwood/Story interchange. The Mellwood/Story interchange on I-64 is still part of the Project. Weaves there would be eliminated as part of the Project.
- Jim H: Temporary closure of the I-64 Bridge and some of these ramps make a difference in traffic patterns today.
- Jim S: We have pushed to relocate the interchange solely to Mellwood to keep Story as a local road.

- John S: Changing the configuration of the interchange would impact Mellwood further and require a separate environmental study. Louisville Metro may choose to pursue that separately but it's not part of this Project.

Consulting parties are welcome to submit further written comments in addition to the discussion today.

Amending the Original MOA

The Original MOA is being amended to account for changes in the project management structure, Project design changes, and historic resources that have been modified or newly identified.

- Jim H: Design-Build is a contracting method in which the owner puts out preliminary plans and specifications to define their expectations for the Project. The contractor completes both the final design work and actual construction, in line with the defined plans and specs.
- MaryAnn: The contract specs include any requirements developed as part of the Section 106 process, plus other NEPA commitments. The contractor will still have to comply with these requirements. By using a design-build mechanism, the contractor gets extra flexibility to use their technical know-how to find innovative solutions, as in Milton-Madison Bridge.

John M led the group through the proposed changes to the MOA.

Preamble

- John Carr: It's good to distinguish the Original MOA from the Amended MOA. Suggest specifying "First Amended MOA" throughout to be consistent.
- John C: We need to make it clear that the Original MOA will be terminated as soon as the First Amended MOA is signed. Let's be clear for future readers. Maybe add this language to the end of the new paragraph: "The Original MOA will terminate upon the execution of the First Amended MOA."
- MaryAnn: We've also said "this agreement supersedes the agreement signed on XX date."
- Carol Legard: I recommend adding similar language in the closing paragraph that this agreement supersedes and replaces the Original ... I'll email you language.
- Janice Osadczuk: In the last paragraph on page 1, add a reference to the SFEIS too.

Stipulation I.A – Advisory Teams

- Carol: Generally, this is a new agreement. I.A.1 references "on or before 2003" – this needs to be changed. Update the verb tense to show which things have been completed.
- Greg Sekula: On I.A.2 and 9, it seems that the advisory teams are being gutted at strategic milestones. Maybe the design-build alters the sequencing of that, but it seems like we don't have a voice at strategic milestones.
- Meme: I concur with Greg. Is there a reason "details" was replaced with "special provisions"?
- Jim H: Under the design-build structure, we don't provide plan details. We provide the special provisions, built around the MOA and other commitments, that define the expectations we will hold the contractor to.
- Andy Barber: "Special provisions" is part of INDOT's vocabulary; this is what they call that section of the contract.

- Betsy: The matrix says on I.A.9 that the team is proposing to change the MOA to define the role of HPATs and when they review items and provide input.
- Meme: I concur. The MOA doesn't define the role of the HPATs. River Fields strenuously objects to the reduction in their role. I understand the design-build contract, once it is let to a contractor, has no direct contact between the contractor and the consulting parties.
- Betsy: You can structure the contract so that that's possible.
- MaryAnn: The Design-Build structure doesn't remove obligations for the contractor to fulfill NEPA and Section 106 commitments. You mentioned accountability between the contractor and the HPATs – it's not an accountability situation now, just an advisory role. I foresee that advisory role would continue. Whatever we include in the MOA, the contractor must follow-through on the commitments as they design and construct the Project.
- Meme: Once the special provisions go to the contractor, there's no role for the HPATs to interact with the work process. Can you clarify?
- John M: We'll take this back to the team to discuss.
- Marianne Zickuhr: We concur with the concern about the reduction in the role in correlation with the historic preservation advisory teams.
- Betsy: There are several places noting commitments have been fulfilled. How does that look in the First Amended MOA? Will you change the language as Carol suggested or leave in the green notes?
- John M: We wanted to show what we have already done. We are hearing that you would like us to bring it up to date by changing the verb tense.
- MaryAnn: There are several ways we can do this. Whichever, we need to be consistent. A simple way is to leave the note in whether the commitment is fulfilled or ongoing.
- Betsy: It would be helpful to keep the info in the MOA. We appreciate your effort to keep track of the progress.
- Greg: Under I.A.4-5, it is appropriate to reflect updated participation by consulting parties at the table now. List specific organizations, including Preservation Louisville.
- Jim S: Additional parties should be supportive of historic preservation, rather than those destructive to historic preservation.
- Meme: Relative to the role of the HPAT, I.A.4 & 5 feel that the HPAT's role is done and over. That's not how we feel. We would prefer "commitment ongoing." It is contrary to the consultation process intention.
- MaryAnn: This stipulation is just the definition of who will be invited. Other references in the document identify roles. If others groups should be invited, we can list here.
- Betsy: I.A.9 is inconsistent with what was identified in the matrix. It should be modified rather than deleted.
- Meme: Is the intention that the HPATs will be used as defined in I.A.2?
- Betsy: Can you confirm you are going to define a role for the HPATs?
- John M: We'll work on it.

Stipulation I.B – Bi-State Historic Consultation Team

- Meme: I.B.2 says that the BSHCT shall make recommendations to the BSMT after working with the HPAT. Consider this as you define the roles of the HPAT.

Stipulation I.C – Bi-State Management Team

- Greg: Can you explain why BSMT replaces references to each DOT?
- Betsy: We are hearing through the media that the construction processes will be handled separately by IN & KY. This change seems to conflict with those news reports.
- John S: The BSMT refers to project managers of KYTC, INDOT, and FHWA. Updating the references includes FHWA in carrying out these commitments as well. The BSMT includes Gary Valentine (Andy Barber as deputy) for KYTC, Paul Boone for INDOT, Duane Thomas and Janice Osadczuk for FHWA.

Stipulation I.D - Ombudsmen

- Craig Potts: Why was I.D.3 amended?
- John M: The team was looking to connect the Ombudsmen more directly to the project by better defining their role.
- MaryAnn: That also better describes how the project will be divided up between KYTC and INDOT.
- Carol: In I.D.5, the “Indiana and Kentucky” Ombudsmen no longer exist – rephrase.
- Betsy: In I.D.5, the reference to the Train Depot has been removed. Where will the office be located?
- Carl Pearcy: I’m in the Quartermaster Depot (Jeffersonville), which is in the same facility as City Hall.
- Lee Walker: I’m not located in a historic property. KYTC and INDOT have been making reasonable efforts to find a historic office space, but I’m located in an office park with the GEC.
- Betsy: Will one Ombudsman office be relocated to facilitate coordination with the East End?
- Meme: Will the current KY Ombudsman become the one for the downtown portion and the current IN Ombudsman handle the East End?
- John S: This has not yet been decided.
- Betsy: How can I.D.6 be completed? Delete this note.
- Greg: It seems disingenuous that you can’t find a historic property for the KY Ombudsman. You need to put forth more effort to make this happen.

Stipulation II.A – Project Goals

- John C: The intro paragraph to Section II -- where it says all measures stipulated in the 1st Amended MOA shall be implemented prior to completion -- traffic monitoring would have to occur afterwards. This timeline reference needs to be fixed.

Stipulation II.B – Public Involvement

- Betsy: II.B didn’t have the note in the version we got. Has that been added or deleted?
- John M: It was added after we sent the version to you all.

- Betsy: I object that the public involvement effort is finished.

Stipulation II.C – Context Sensitive Solutions

- Betsy: Where is CSS not applicable?
- John M: This edit came because the downtown element is returning to its original footprint.
- Betsy: Does that mean Spaghetti Junction?
- John M: Yes. It would be applicable for the overpasses in those areas.
- John S: We are going into the design-build process, which does not have the same definition for final plans. As part of the specifications, we will work with the design team to define these areas. This edit is just trying to elaborate that there were changes in the Kennedy Interchange, moving away from the historic districts.
- Meme: On II.C, the issue with CSS was a deeply held commitment in the previous Section 106 process. What is the objective criteria to evaluate where CSS is applicable?
- John M: With a design-build contract, we have to work with the design-builder to define where CSS applications should be implemented. This will be in the contract itself.
- Jim H: The HPPs recommend some things should be addressed as part of the MOA.
- Meme: You should edit the MOA to say that. Taxpayers have spent a lot of money to put those HPPs together. As written, it's very subjective. The point of the MOA is to have objective, measureable commitments.
- John S: As you get further into the MOA, there are references to items within Butchertown, Phoenix Hill, etc. There, we'll define what those commitments are.
- MaryAnn: We will add an example after "where applicable" to define "where recommended in the HPPs."

Stipulation II.D – Roadway Lighting

- No comments.

Stipulation II.E – Noise Abatement

- Betsy: On II.E, we commented on the SDEIS to ask about adverse impacts of noise barriers on historic properties. Can we flag this as an issue to be addressed? It hasn't been discussed previously.

Stipulation II.F – Historic Preservation Plans

- Jim S: HPPs are linked to neighborhood plans. There may be some relationship between the plans requiring an update to the plans.
- Betsy: To cover the intent of the deleted sentence in the II.F intro paragraph, you may need to link in timing requirements consistent with the design-build process.
- Greg: The HPP for Old Jeff HD is marked as completed, but there's a note that it needs to be updated.
- Craig: Is the entire project design-build or just the Indiana section?
- John S: Both the East End and Downtown portions will be design-build. The Indiana portion is looking at a potential Public-Private Partnership as a funding option.

- Craig: Why is there a dispute on the Butchertown HPP?
- John S: With the original HPP, there are several issues: the interchange was shifting south and eliminating a big section of industrial properties. Several of the items proposed in the original EIS are no longer part of the project. Elements of the plan need to be defined again since the effects are changing.
- Craig: Use of the word “dispute” is misleading.
- Jim H: The word “dispute” was used because FHWA and SHPO were working to come together about how to treat Witherspoon. Now, that’s not an issue.
- Jim S: Promises to Butchertown are being gutted under III.K – that’s wrong. The things that caused us the most trouble in moving the interchange south still exist as they did in the previous design. Our 650 structures (more than any other area impacted) still experience those problems.
- Betsy: Regarding Swartz Farm, was the HPP initiated?
- Greg: It had begun before the demolition.
- Jeff Vlach: We did field work for identification of the resources when the property was razed in October 2007.
- Betsy: We are uncomfortable walking away from any/all mitigation work related to Swartz Farm just because of the owner’s destruction of the property. We are allowing the owner to benefit from the demolition. We need to discuss further what measures could be retained relating to the property, rather than totally washing our hands of it.
- MaryAnn: Because the Swartz Farm was demolished through no action of the FHWA or federally funded entity, we aren’t permitted to provide mitigation for the actions of others. We are guided by 23 CFR 800 as to what expenditures can happen. When a private property owner takes action outside of our project, we are restricted from developing mitigation. If documentation was previously developed, we can provide it as archival material.
- Greg: INDOT was in the midst of negotiations on the Swartz Farm property when the demolition took place. It was almost done as retaliation over a dispute about negotiations on the property. We feel state actions did lead to the demolition. It’s a gray area, but it’s troublesome because we aren’t privy to the negotiation discussions that are occurring. Depending on how those were executed, there could be a correlation.
- Jim H: The negotiations were in the process. INDOT was waiting for the property owner to respond. The appraisals were in line with fair market value, in compliance with regulations. INDOT made an offer and was waiting for a response on October 31; the next day the buildings weren’t there.
- John M: We are hearing that the Consulting Parties would like consideration of the documents that were previously compiled.

Stipulation II.G – Survey Updates

- Greg: The Clark County survey was updated but is only available through a computer database. It’s had limited usefulness since the results weren’t published. We are troubled by that trend. We feel the survey is an important tool. Is there an opportunity to publish the survey update as part of this process?

- Betsy: We strongly support updating II.G.1 to require the survey be made publicly accessible.
- John C: For the *Clark County Interim Report*, the IN SHPO made a policy decision not to publish interim reports once at least one report was published. That's a big part of the reason why the Clark County update wasn't published as a paper report -- it was a change in the office policy. There are different perspectives how to best publish the info.
- Greg: Was the update for Jefferson County published in print version?
- Richard Jett: The volume was published and included survey forms. We also have a document in digital form. There aren't hundreds of copies, but the electronic files can be distributed too.
- Meme: If the public asks for a copy of the Jefferson County report, is it a usable format?
- Richard: Yes.
- Betsy: Is the IN SHAARD (database containing updated survey findings) publicly accessible?
- Greg: Yes but there are numerous deficiencies with the database in our opinion. It is on DHPA's website but is frustrating to access.

Stipulation II.H – Historic Preservation Easements

- Meme: The matrix says that the Edison House easement has been dropped. Easements are also proposed for the Allison-Barrickman House and its field. The owners aren't interested in an easement for the house. Why aren't those referenced in the matrix? It should be uniform how they are referenced.

Stipulations II.I, J, & K – NRHP Nominations, Streetscape Improvements, & Signage

- No comments.

Stipulation II.L – Blasting and Vibration

- Betsy: Why was text removed in II.L.2?
- John M: It's related to the contracting process. Stipulations on blasting vibration will be included in the special provisions; the contractor has to demonstrate how he is fulfilling these requirements.
- Betsy: The contractor develops the blasting/vibration plans. It doesn't say that the plan has to be reviewed or approved by the BSMT. This commitment needs strengthening. A project management entity needs approval power, and review by the HPAT to ensure the plan works for historic properties. We recommend the plans be reviewed/approved by those with an interest in historic preservation.
- Jim H: The specs will have an extensive write-up about how the vibration plans have to work.
- Betsy: Maybe the BSMT and HPATs should review the specifications.
- Meme: There are going to be pre- and post- blasting surveys. But vibration monitoring is defined only during construction activities. There will be non-construction vibration issues (e.g. traffic vibration from trucks). Is there no evaluation of that? This is particularly important in light of the eastern bridge approach.
- MaryAnn: I think that's covered under II.L.2.
- Meme: What about during operations?

- Betsy: It says “other measures.”
- Jim H: Other measures would include where you put the monitoring. It doesn’t mean we are considering traffic vibration. Because of the distances, traffic vibration is not an issue for the historic properties.
- Meme: When we refer to construction monitoring, is that specific to blasting?
- Jim H: Yes.

Stipulation II.M – Timing of Construction Activities

- Betsy: In II.M, why are weekends removed? I ask because of the fact that measures related to many of the historic churches have been removed from the MOA. I think they need to go back in, especially if you allow construction during weekends.
- Jim S: I concur.

Stipulation II.N – No-Work Zones

- Meme: During the KHPAT meetings and development of the Country Estates HPP, the KY SHPO determined that the field around the Allison-Barrickman house was potentially eligible. I don’t know if that’s been addressed in this Section 106 process. Just as St Francis, the Taylor/Chandler House, and Merriwether House are eligible, the field should be added as a no-work zone. The SHPO said it was potentially eligible – that’s a large area for construction staging.
- John S: I agree. We have worked with developers to place a preservation easement, which is indicative of our intent. We don’t disagree with you.

Stipulations II.O & P – Smart Growth Conference & Education/Interpretation

- No comments.

Stipulation II.Q – Traffic Monitoring

- Carol: This is a good start. There’s no commitment to do anything if it turns out that traffic diversion is significantly higher than predicted.
- Greg: I concur. You should discuss the process how these decisions are made.
- Carol: We need to agree on what would constitute a significant impact. That’s in the EIS. I think it can be dealt with here.
- Jim S: It seems reconstruction of Spaghetti Junction in place will cause more traffic issues than other options would have caused.
- Betsy: It is important that the HPATs have input on the development of this plan.
- Laura Renwick: We would like to see more analysis of the economic impacts of tolling on these areas. That needs to be included here or elsewhere in the MOA
- Shane Corbin: I concur.
- John M: We also need to capture whether the character of the subarea has changed.
- Laura: Have the traffic impacts led to economic changes since it’s harder to access sites downtown?

- Meme: In the 800.11(e) document, the last paragraph of section 5 talks about this issue. We need to better coordinate this document with the MOA. This monitoring should include West Louisville too. The 800.11(e) says “details” will be included in the MOA. You should pull the sentence from the 11e into the MOA.
- Craig: I support that. Stipulation II.Q is one of the more important changes to the MOA. We need to make sure Q is as specific and detailed as possible. The team should commit to work on this further and re-coordinate with consulting parties.

Stipulation III.A – Train Depot

- Greg: INDOT owns the train depot. Item III.A.2 suggests the BSMT will acquire the property ... that may not be appropriate. The matrix needs to be updated for III.A to reflect the train depot has been listed on the NRHP.
- Greg: The decision was made not to house project offices at the Train Depot. Have there been further discussions on the fate of the property?
- Paul Boone: INDOT is still discussing it. We have been talking with the city of Jeffersonville; we may have project offices there.
- Greg: You may not want to delete that clause if it’s still a possibility.

Stipulation III.B – Colgate-Palmolive

- Richard Moore: Colgate-Palmolive should add clause 3, similar to the Ohio Falls statement (II.C.3).
- Meme: What is the status of the NRHP listing of Colgate-Palmolive?
- Greg: Documentation was completed by a consultant. At the time, the nomination didn’t move forward because the property owners didn’t consent. The new owners may be more receptive. Our hope (as noted in the matrix) is that we can move forward with preparing the nomination.

Stipulation III.C – Ohio Falls Car and Locomotive Company

- Jim H: For III.C.1, documentation was prepared but the property owners declined listing.

Stipulation III.D – Clark Memorial Bridge

- Meme: Is it appropriate that we didn’t include interpretive signage for the Clark Bridge in 2003? Please consider.
- Betsy: There’s not anything specifically addressing blasting/vibration on the bridge but there is an acknowledgement in the effects matrix that the bridge will experience these impacts. Should there be a blasting/vibration plan?

Stipulation III.E – Old Jeffersonville Historic District

- Greg: To clarify, what is the commitment for updating the HPPs? Do the updated plans address changes in the neighborhoods? Or is it just a technical update relative to the construction boundaries?
- John S: For example in the Phoenix Hill district, the configuration has changed. Technical aspects will be reevaluated. I think we would look at changes in the neighborhood to update to current information.

- Carol: That should be addressed in revising the language in III.E.1. Add “and changes to the HD neighborhood.” Bring the HPP up to date to include current challenges the neighborhood is facing.
- Greg: Relating to III.E.3, streetscape improvements, Market Street has had subsequent streetscape improvements and should be referenced alongside Spring Street.
- Greg: Relative to III.E.7, what does the note in the matrix mean?
- Jim H: Some of those houses back by the floodwall are deteriorating. Originally we had an investigation whether the homes could be moved but this occurred several years ago. As long as moving them is feasible and prudent, we’ll move them.
- Greg: One could argue that the homes are deteriorating because the property owners know INDOT is going to take them; therefore, they haven’t been keeping them up as well. It’s been 10 years since the initial commitment was made. We are concerned that after identifying available lots, there have been no efforts to acquire these properties. The owners are in limbo.
- Jim H: I did request that we investigate property within the district to relocate these houses. We were given a number of options but these weren’t feasible due to zoning or size restrictions. It’s very challenging to find vacant properties within the district that meet the criteria to relocate the homes.
- Laura R: Back to the matrix, it says the historic significance will be reviewed. But it sounds like that would be a feasibility issue whether the structures can feasibly be relocated.
- John S: We performed an investigation since the matrix was provided. Ratio determined these 5 houses would all be feasible for moving.
- Greg: Did they look at the deterioration?
- David Kroll: Based on exterior evaluation, all 5 buildings appear to be in the same or better condition than 2003.
- Betsy: For III.E.7, the 800.11(e) refers to seven contributing resources within the Old Jeff HD that would be displaced.
- John S: Five houses are the only five residences that are being relocated. It could be referring to the pylons. We will take a look at this.
- Betsy: Tying back to earlier comments on II.Q, we are talking about monitoring economic impacts. We are interested in discussing a proactive marketing campaign for Old Jeffersonville to correlate with adverse effects from construction. It seems like there’s a reason now to take proactive steps – similar to Milton-Madison – to try to neutralize these effects.
- Greg, Laura, Shane : We support this.
- Betsy: Measure III.E.12 deletes references to the HPAT involvement in the blasting/vibration plans. We would like the HPATs to be included.

Stipulation III.F – INAAP Igloos

- Greg: On III.F, there’s a lot of development out at River Ridge. I don’t know the status of the property currently; what are we monitoring? Check on the status of the resources.
- Janice: I’m not sure why vibration monitoring was included, based on the type of resource.

- John C: It's been a while since I've been involved with INAAP, but generally there's no protection that I recall. The Army was resistant to including specific commitments under the BRAC MOA.
- Meme: It may have been a mistake that we didn't discuss documentation before they were lost. That industrial area has quite a local history and could lend itself to interpretive signage.
- Greg: Was some of the documentation done as part of the INAAP closure?
- John C: Yes, for building and structure types. There may have been context materials generated also.
- Greg: If we are looking at the Reuse Authority instead of the Army, do we need to begin discussing preservation?
- MaryAnn: We really aren't having an adverse impact, except for the physical ramifications of blasting. It's an industrial use, not subject to noise, etc. Impacts are limited.
- Betsy: I like Meme's idea to shift the emphasis away from vibration to interpretive signage. This may be a better use of resources.

Stipulation III.G – Lentz Cemetery

- Meme: how large is the Lentz Cemetery? How many graves?
- Jim H/John S: Maybe 30 graves. It is approximately 500-800 ft away from the Project.
- Meme: Is it eligible or listed?
- Greg: Potentially eligible.
- Meme: Please email me the specifics.
- Rick Jones: If construction occurs within 100 ft of cemetery in Indiana, a cemetery plan must be developed and approved by DNR.
- Janice: Is there a similar law in KY?

Stipulation III.H – Lime Kilns/Quarries

- Greg: With III.H.4, add "with consultation with the IN HPAT."
- Rick J: For effects and the NRHP nomination, there have been at least 2 archaeological site codes assigned. These need to be clarified in the nomination and effects info sent out.
- Betsy: We raised objections about the draft Section 4(f) evaluation. We want to emphasize that the adverse effect is greater than what we understood in 2003. Therefore, the corresponding mitigation measures should be greater. One area to emphasize would be interpretation. We need to consider ways to beef up this commitment.
- Greg: We had provisions in the Original MOA to acquire the Smith Farm. Can an effort be made to acquire the kiln site to develop a park? The owners have no incentive to preserve the kilns. Is purchase a viable way to protect the kilns?
- Betsy: Since originally acquisition of one kiln was included in the MOA, perhaps others could be substituted?

Stipulation III.I – Swartz Farm

- John M: We discussed III.I briefly before, including the need to provide previously completed documentation even though the resource has been demolished.

- Greg: I have only one other comment on Swartz Farm – the Central Passage House was a contributing part of the HD. Can we offer the building for relocation prior to destruction of the resource? This was discussed at the HPATs. It would only include marketing for the relocation effort; INDOT wouldn't relocate it, but just offer it to others.

Stipulation III.J – Trolley Barn

- Craig: No suggestions for III.J, but we would like to have additional discussions before the ROD is changed/modified regarding the Craftsman Training program and KY Center for African American Heritage.

Stipulation III.K – Butchertown Historic District

- Jim S: Butchertown bought into the southern Spaghetti Junction location because of the traffic diversion associated with rebuilding the interchange in place. Reconstructing it in place doesn't alleviate our concerns about effects. Both ends of Butchertown are still impacted by the Project (I-65 flyover and the ramp to I-64), far more than Witherspoon ever did. Mitigation for the Edison House is being removed – that's wrong. St Joseph is also going to be affected – it should remain in the MOA. We agree to removing measures for the Wesley House. Marcus Lindsay has been extensively renovated. There's no change in the impacts to Grace Immanuel Church. We aren't sure what you mean about the Grocer's Ice & Cold Storage property – Butchertown has some of the hottest properties for reuse in the city. Revisions for the Butchertown HPP and plan are also needed.
- Phil Samuel: I concur with Jim. We feel the in-place construction will still have noise and vibration impacts. Traffic changes along I-64 could affect Clifton.
- Craig: This is extremely awkward – reevaluate how this is all spelled out. It doesn't follow very well.
- Meme: Could you explain the distance between alignments/properties, specifically Edison House. What is the current distance?
- Jim H/John S: We will follow up. Under the in-place alternative right now, the height of the interchange is significantly decreased. The viewshed issue is gone. The entire interchange is moved really close to the existing footprint.
- Meme: We've been given reasons for not fulfilling commitments because they are too far away. We don't have any real data why these measures are removed. I would be interested in that.
- Jim H: We are moving the improvement mostly back within the existing right-of-way. We aren't affecting these individual resources ... the footprint is the same as today, with a few exceptions.
- Jim S: According to the views, the ramp still goes over the Extreme Park. This was the problem for the Edison House originally. A lower elevation is still an increase and is still a problem. On the other end, there's some reworking of I-64 in-place to fix existing problems around St Joseph.
- John M: We'll work on getting a response to these distances.
- Betsy: I want to pile on with Jim's comments. Construction on the weekends will need to include noise mitigation for the churches.
- Carol: It would be helpful to have follow-up information on resource locations, distances, and elevations to clarify. Graphics would be helpful to understand proximity.
- MaryAnn: The Project causes an adverse visual effect for the historic district.

- Jim S: The measures I had eliminated – Wesley House and Marcus Lindsay – are not for reasons associated with the project.
- John S: The *Effects Findings Report* Figures 2-3 (pg 8-9) show the alignments around the Kennedy Interchange. Edison House isn't labeled. The alignment in and around Butchertown along I-64 is similar, but the Kennedy Interchange is shifted north.
- MaryAnn: We would like to see graphics with the existing configuration, proposed modification, elevations, and relationships to historic properties.
- Meme: Are the resources listed in III.K.4+ individually NRHP listed?
- Jim S: They are part of district but are not individually listed. They should be. Individual listings are under development currently.
- Meme: I understand that currently these contributing sites are identified for specific mitigation but are part of the larger district?
- MaryAnn: Looking at the effects in the Butchertown historic district, we looked at contributing properties in nearest proximity to the project. Additionally, churches were included because of noise issues. The historic resources are in the district. Particular properties within the district are identified for mitigation since they are nearest and it makes sense. This is one of the ways to mitigate the impact on the district as a whole. It depends on what makes sense in different situations.
- Meme: These sites need to be discussed in detail.
- Jim S: Why were so few stipulations cut out of Phoenix Hill compared to Butchertown?
- Betsy: In III.K.13, why were traffic calming measures removed? Given the impacts, will these be valuable? (Jim S nodded.) We should keep these.
- Jim H: Originally the Frankfort Ave interchange and local roads connected directly to the interstate. There were concerns that interstate traffic would funnel into the Butchertown HD so traffic calming was included. But this interchange and local connections have been eliminated.
- Jim S: Any construction activity isn't going to happen on the park side – it will happen on our side.
- Meme: This is why I asked about diverted traffic on River Road. Will traffic divert through Eastern Old Louisville? I know anecdotally how it works – at rush hour, they are over capacity today. Any additional traffic would have an impact.
- Tim S: They are building a new interchange and improving it so traffic doesn't have to go through Butchertown. Traffic will go through the interchange more smoothly. That's one of the reasons for construction.
- Meme: But phasing is a concern. The project doesn't define phasing clearly – the eastern bridge will be completed 4-5 years ahead of the downtown bridge. Traffic will divert for 4-5 years, maybe longer depending on funding. There's every reason to believe it could be a long time before the downtown project is completed. How do we evaluate phasing in the MOA? That could have an effect on resources. Butchertown is one of the areas that will feel the brunt of this issue. Unless you can promise the Downtown Bridge will follow the East End Bridge in 2-3 years?

- Janice: There are too many unknowns at this time to answer. We've been looking at the draft schedule. It's still to be determined, but tolling may not be initiated until the whole project is done.
- Betsy: That's not what the SDEIS says. It says that tolling will go into effect as soon as East End is completed.
- Meme: From a risk management perspective, you need to plan around some of these unknowns. There's less federal money today than 10 years ago. The project moves slowly and the schedule has been wrong so far. Indiana is close to having funding for the eastern bridge. But the East End Bridge carries so little traffic, it isn't self funded. It's very important to think through the impacts of this scenario.
- Betsy: Regarding the Butchertown District, the adverse effect findings show all categories are adverse. Construction impacts are not directly addressed except construction noise at the churches. There's nothing about traffic management. You need to add an element to develop a construction mitigation plan to deal with interim impacts, developed with the input of the HPAT. You need a comprehensive plan for temporary (multi-year) construction impacts.

Stipulation III.L – Phoenix Hill Historic District

- Betsy: The matrix indicates an intention to update the HPP for Phoenix Hill. Page 14 recommends a similar sentence for Old Jeff. Add similar language to III.L.1.
- Jim S: Is Baer Fabrics no longer a taking? It has been purchased.
- John S: It is still a taking.
- Greg: Is there any discussion about salvaging architectural features from the Baer Fabrics building?
- Meme: Mitigation for Baer Fabrics – as I recollect it – was included to preserve the cultural experience. We can't preserve the business, but should discuss mitigating the building, which is very important to the history of Louisville. There are things so important to the culture of the community that they should be documented, as at INAAP.
- Craig: Baer Fabrics has been fully documented. Ratio listed all salvageable items. The team committed to seeing this through.
- David K: We completed documentation of the building and identified any features/materials that could be salvaged and resold.
- Greg: This should be in the MOA.
- Meme: I agree. Why aren't we doing anything about interpretation?
- Greg: Perhaps before the features/materials are sold, they should be made available to museums. If items are valuable, they should be made available in the public realm first.
- MaryAnn: That is an extension of the salvage process.
- Craig: It was an oversight originally that we didn't do something more proactive so we addressed this through the BSHCT. Maybe it should be folded into the MOA as well.

Stipulation III.M – Country Estates Historic District

- Meme: Note that we discussed and agreed that the Allison-Barrickman field, including the family cemetery and a slave cemetery, has been determined potentially eligible. This happened since

the previous MOA. You should add this to list in III.M.1. [John S confirmed.] Also, Hays Kennedy cemetery is within the APE; Hays Kennedy Park is the only piece of infrastructure in the area named for an African American, illustrating her importance in the community.

- Meme: Related to the Strater House, we would like a separate letter listing. It's 300 ft from Drumanard and right on top of the tunnel. It's quite close to the portal opening. The Strater House needs separate consideration of noise and light. You should do the same for the Strater House as for you did for Drumanard.
- Phil: The III.M.2 reference to I.A.9 should point to I.A.2 instead.
- Meme: Why is III.O.3 not repeated in Drumanard? I suggest adding.
- Betsy: Two tracts of land are referenced in III.O.1. Is the second is the "north field" discussed earlier? (Yes.)
- Meme: The house is only on two acres.
- Betsy: Is house within boundary?

Stipulation III.N – Drumanard

- No comments

Stipulation III.O – Allison-Barrickman House

- Meme: You should reference that the Allison-Barrickman property field is potentially eligible.

Stipulation III.P -- Rosewell

- Meme: I recall from the KPAT meeting that the Rosewell treatment plan is completed but not implemented.
- Craig: Correct. We are waiting for contract documents.
- Andy: FHWA is reviewing the packet for the contract. The contract includes additional storm damage repairs from the recent tornado.
- Meme: III.P.1 hasn't been implemented so it shouldn't show up as fulfilled. Remove this note.
- Betsy: I would like you to consider adding easement acquisition as a potential mitigation measure. Since the Original MOA, the property owner has commented that they are disappointed that an easement wasn't included.
- Meme: Language disappeared prior to signing the Original MOA that several conservation easements would be offered: including Drumanard, Belleview, and Rosewell. No explanation was given why only one easement was offered.

Stipulation III.Q - Belleview

- Betsy: At the beginning of III.Q.1, there's a reference to Stipulation II that is unclear. Update this reference.
- MaryAnn: I think it is supposed to refer to all of those items in II.

Ohio River Camps

- Betsy: The addition of the Ohio River Camps needs to be addressed with measures to avoid, minimize, or mitigate impacts. This group isn't in the HPP since it was just added. Additional measures need to be developed to address effects on these newly identified resources.

- Craig: A number of comments referenced things being “potentially eligible” – this far into the Section 106 process, these determinations should be set by now.
- Meme: Related to MOA pages 21-22, you need to update HPP to include the River Camps. There are a few other issues to include too.

Stipulations IV-XIV

- Rick: We were allowed to comment on the document included as Appendix G in 2006. I don’t have any records on how these were addressed or receiving the final.
- John M: We’ll follow up with CTS to track that down.
- Rick: Please include the correct reference title for the INDOT guidance in VIII.3.
- Betsy: For VI.A, before approval of sites for staging, etc, it would be useful to add a provision saying that the BSMT will structure the contract so they are required to approve these items. Maybe FHWA has boilerplate language to address this.
- Janice: I believe INDOT and KYTC standard specifications already include this. (John S confirmed). We can refer to this if it helps.
- John C: Regarding Stipulation XIV, is 20 years the right timeframe? A lot can change in 20 years. If you want to leave it at 20 years, I suggest adding a specific clause in the MOA requiring reevaluation of resources similar to the process we just completed.
- Meme: I concur with John’s suggestion for reevaluation in a decade. If the project isn’t built by then, we need to reconsider changes in resources, etc.

John M explained that the team will consider consulting party comments and suggestions discussed today and will re-review the MOA after that. The team will consider the best format to communicate with consulting parties for future consultation. Over the coming months, the SFEIS will be published and followed by a 30-45 day comment period. The ROD will be prepared and signed. The MOA must be signed prior to the ROD.

Janice thanked attendees and requested comments. The meeting ended at 3:50.

FEBRUARY 10, 2012

ADDITIONAL COMMENTS on the draft Amended LSIORB MOA

1) It is our opinion that this review process and amended MOA should only take into consideration the affects of the changes caused by the scaled down versions to the already approved bridges plan. This review process should not be allowed to revisit already existing situations, discussed items and previously approved conditions/issues.

2) It is our opinion that this proposed amended MOA should be clear that it is in fact, just amending an already approved plan and that once approved will replace the previously approved plan in its entirety.

3) It is our opinion the response presented to Consulting Party Comments on Effects (Jan 23) by CRS, represents in our opinion to be an accurate, professional, objective and neutral response. It is also our opinion the responses of CRS represents what the vast majority of our community believe/feel to be accurate, legal and for the best interest of our community from an economic but more importantly a safety and environmental point of view.

4) It is our opinion that these additional reviews and possible inclusion into this scaled down, already approved project of more alleged (previously existing) historic sites/buildings, such as the fields, cemeteries and existing structures or demolished structures sites, etc (discussed at this meeting) will only add costs and provide no positive economic, safety or environmental nor historic preservation benefit to/for our community. It is also our opinion that the discussion and possible inclusion of the effects of existing traffic issues and patterns should not be allowed to be a part of this review since they are not relative to this scaled down, already approved bridges project.

5) It is our opinion the majority of the consulting party members in attendance at this meeting express the feelings and beliefs of less than 1% of our community, not the more than 99%, who believe the project should proceed and proceed now without additional costs and delays which have already occurred due to the actions of this minority.

6) It is our opinion that the majority of the Consulting Parties in attendance are using the words, not the intent

of the authors of the 106 regulations to add costs and delay and/or stop this beneficial project for our community. It is our opinion this project will improve the safety while reducing the negative environmental effects on our community of the effects of our current transportation system. It is also our opinion that this project will improve our economic position within the region, create thousands of jobs, all while preserving the properties and structures that the intent of the 106 regulations were written.

William Schreck,
Kentuckians for Progress (KFP)

cc: David Nicklies



STEVEN L. BESHEAR
GOVERNOR

**TOURISM, ARTS AND HERITAGE CABINET
KENTUCKY HERITAGE COUNCIL**

MARCHETA SPARROW
SECRETARY

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LINDY CASEBIER
ACTING EXECUTIVE DIRECTOR AND
STATE HISTORIC PRESERVATION OFFICER

February 7, 2012

Ms. Janice Osadczuk
Engineering Services Team Leader
Federal Highway Administration – Indiana Division
Room 254, Federal Office Building
575 North Pennsylvania Street
Indianapolis, IN 46204

Re: Comments from the Kentucky State Historic Preservation Officer (SHPO) on the January 27 Consulting Parties Meeting for the Louisville-Southern Indiana Ohio River Bridges (LSIORB) Project and the Draft Memorandum of Agreement

Dear Ms Osadczuk:

Our office was in attendance at the January 27, 2012 Consulting Parties Meeting for the LSIORB project at the Frazier History Museum in Louisville, KY. We have reviewed the information presented prior to and at the meeting and offer the following comments as requested:

First, we have comments in regards to the Effects Findings Report and the updates to Sections 3 and 7 regarding the Potential for Economic Effects and the Description of Traffic Diversion Trends. The conclusions reached in both of these sections hinge largely on models that include socioeconomic data, estimates and forecasts. We do not know specifically what values and presumptions in regards to socioeconomic data were plugged into these models (Section 7 states that “updated socioeconomic data were incorporated as well”), nor do we know what the latest year of data was included. We can assume, however, that if the data entered is older than 2007 that there are serious questions to be raised about its relevance and the accuracy of the subsequent forecasts that result. We are currently in the midst of an economic contraction of great magnitude, with high unemployment; zero-to-low wage growth; increasing costs in many sectors of the economy, including food and health care; and downward pressure on the net worth of many households. While the report correctly states that “the payment of tolls would only be one consideration in a multitude of factors influencing an individual’s decision where to relocate and how to maintain property,” it may seriously underestimate the elasticity of the demand for new travel routes when those routes come with an increased cost. It is our feeling that while the level of traffic diversion due to tolling may not come close to the levels seen with the closure of the Sherman Minton Bridge, there is still a potential for the volume of diversion to exceed those numbers presented in the Effects Report. For this reason, we feel strongly that subsequent monitoring, evaluation, and continued consultation on indirect effects should be included in the Memorandum of Agreement (MOA) for the project.

Likewise, we have concerns about the construction impacts relating to the phasing of construction that may not be captured in the Effects Findings Report. It would seem that construction impacts may have to be evaluated in a context that includes the construction timetable (and whether the project is actually completed within that timetable), whether both

bridges are built simultaneously or separately (which may cause other traffic diversions). Ongoing construction, albeit temporary, has the potential to impact economic investment in historic properties and economic viability of affected businesses located within historic properties in Butchertown and Phoenix Hill neighborhoods between the commencement of construction and the finished project. For that reason, we feel there needs to be further discussion about potential ways to address this in the MOA.

We also would like to re-iterate our concerns with potential effects to the Clark Memorial Bridge. Diverted traffic to the bridge may increase the rate of deterioration to this structure (loss of integrity of Materials and Workmanship). In addition, given that the bridge is also designed to carry pedestrians, thought needs to be given to how increased traffic due to tolling could impact the pedestrian's perception of safety. We would like to see additional discussion in the MOA to address these concerns with a post-review process to monitor traffic levels and any special maintenance issues related to heavier use than it was designed to accommodate.

The following are more specific comments to the draft version of the MOA:

Under I.A.5, we would like to see the addition of Preservation Kentucky to the Kentucky Historic Preservation Advisory Team (KHPAT).

Under I.B.2, the language has been changed to reflect the design-build approach for the project. A better understanding of the parameters of the design-build process and the limitations to be placed on consultation is needed for effective coordination between KHPAT, Bi-State Historic Consultation Team (BSHCT) and the Bi-State Management Team (BSMT). What limitations will be placed on the review and comment process? We assume that general parameters will be provided, but how general?

Under I.D.3, we are concerned that because of the change in the approach to building the project, the language has been altered to say the Ombudsman will act as a "liaison" to the communities, which doesn't meet the definition of "independent and unbiased mediator." A better explanation regarding the role of this person (or persons) and the scope of their responsibilities would be helpful.

Under I.D.5, we do not feel that every reasonable effort has been made to locate the offices of the Kentucky Ombudsman in a historic property. Surely an available office unit in a historic building could be found in Louisville.

Under II.L.2, we would like to see the deleted language added back.

Under II.M, if weekend construction activity is permitted, then mitigation measures for sound attenuation at historic churches in Butchertown should be reaffirmed in the MOA.

Under II.Q, we would like to see this section developed further, with language to address when results will be reviewed, what particular aspects will be reviewed, how it will be coordinated and what the process will be within the consulting party process to resolve unanticipated adverse effects.

In Section III, Site Specific Mitigation, there is nothing to address the adverse effects to the Ohio River Camps Multiple Property Group.

We would like to see the addition of III.D.4, which will contain language similar to the revised II.Q, to monitor and evaluate whether increased traffic due to tolling is having an adverse effect on the Clark Memorial Bridge.

Historic Preservation Plans: The HPP's should be updated / modified where appropriate to reflect the changes proposed in the SEIS.

Thank you for providing us with an opportunity to comment on the draft Memorandum of Agreement. We look forward to your response regarding our comments and those provided by other consulting parties. If you have any questions regarding this response, please contact Craig Potts at 502-564-7005 x 123 or Vicki Birenberg at 502-564-7005 x 127.

Sincerely,



Lindy Casebier
Acting Executive Director and
State Historic Preservation Officer

cc: Janice Osadczyk – FHWA, Indiana Division
John Ballantyne - FHWA
Duane Thomas –FHWA
Gary Valentine – KYTC
Amanda Abner – KYTC
John Mettillie – CDM Smith
David Kroll - Ratio Architects
John Sacksteder – CTS-GEC
Jeff Vlach – CTS-GEC

CP:vmb

FEBRUARY 10, 2012

ADDITIONAL COMMENTS on the draft Amended LSIORB MOA

1) It is our opinion that this review process and amended MOA should only take into consideration the affects of the changes caused by the scaled down versions to the already approved bridges plan. This review process should not be allowed to revisit already existing situations, discussed items and previously approved conditions/issues.

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of the authors of the 106 regulations to add costs and delay and/or stop this beneficial project for our community. It is our opinion this project will improve the safety while reducing the negative environmental effects on our community of the effects of our current transportation system. It is also our opinion that this project will improve our economic position within the region, create thousands of jobs, all while preserving the properties and structures that the intent of the 106 regulations were written.

William Schreck,
Kentuckians for Progress (KFP)

cc: David Nicklies



Division of Historic Preservation & Archaeology • 402 W. Washington Street, W274 • Indianapolis, IN 46204-2739
Phone 317-232-1646 • Fax 317-232-0693 • dhpa@dnr.IN.gov

February 10, 2012

Janice Osadczuk
Federal Highway Administration, Indiana Division
575 North Pennsylvania Street, Room 254
Indianapolis, Indiana 46204

Federal Agency: Federal Highway Administration ("FHWA")

Re: "Effects Findings Report," final "800.11(e) Report" (as modified by the errata sheet distributed on January 27, 2012), draft "First Amended MOA," "Current Status of Original MOA Stipulations," and "Meeting Summary" of the January 27, 2012 consulting parties meeting, all pertaining to the Louisville-Southern Indiana Ohio River Bridges Project (HDA-IN; INDOT Des. Nos. 0300799, 0201294, 0300798, 0201296, 0201297; DHPA No. 1774)

Dear Ms. Osadczuk:

Pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470f), and implementing regulations at 36 C.F.R. Part 800, the staff of the Indiana State Historic Preservation Officer has reviewed the aforementioned documents—all of which we received on January 17, 2012, except for the meeting summary, which we received on February 3, 2012—for the aforementioned project in Clark County, Indiana and Jefferson County, Kentucky.

In regards to archaeology, we wish to point out that, according to our records, the groundhog kiln (48001) was originally assigned archaeological site number 12 CI 551, and the two large vault kilns (48002 and 48003) were given archaeological site number 12 CI 561. We are not aware of a past archaeological site number assigned to kiln 48004. In the documentation, all four kilns are not subsumed under 12 CI 561. This should be clarified/corrected in our state archaeological records. In addition, an updated archaeological site form should be submitted for the current changes in the site description and delineations.

In the draft MOA, the citation for the Indiana guidebook should be the "most current draft of the Guidebook for Indiana Historic Sites and Structures Inventory--Archaeological Sites." Also in the draft MOA, we note that Attachment G contains provisions mostly similar to those in the previous signed 2003 MOA, and was approved in 2007 by the FHWA.

Please note that in Indiana, per IC 14-21-1-26.5, if ground disturbance is to occur within one hundred (100) feet of a burial ground or cemetery for the purpose of excavating or covering over the ground or erecting, altering, or repairing any structure, a development plan may need to be submitted to the Department of Natural Resources for approval.

We concur with the determinations in FHWA's January 12, 2012, final "800.11(e) Report" regarding the 2003 area of potential effects ("Original APE") for this undertaking and regarding the evaluation of historic properties within that 2003 APE that lie at least partly within the State of Indiana.

We also concur with the 2011 Extensions to the APE, with the evaluation of historic properties within the 2011 Extensions to the APE within Indiana, and with the finding of No Adverse Effect for properties within the 2011 Extensions to the APE that lie at least partly within the State of Indiana.

Furthermore, we concur with the findings of Adverse Effect for this undertaking regarding historic properties named in part 5. of the final "800.11(e) Report" that lie at least partly within the State of Indiana.

Although we did not locate an explicit finding of effect for the Louisville-Southern Indiana Ohio River Bridges undertaking as a whole in the "800.11(e) Report," it is reasonable to assume that FHWA has found that the effect of this undertaking is Adverse Effect, and we concur with that finding.

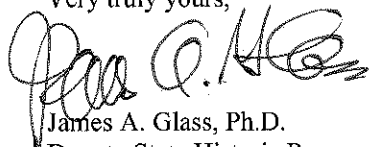
For the purposes of Section 4(f) of the Department of Transportation Act, we concur with FHWA's findings, in part 6. of the "800.11(e) Report," of Adverse Effect for the Old Jeffersonville Historic District and of Adverse Effect for the George Rogers Clark Memorial Bridge and the Municipal Bridge Building.

Except as otherwise indicated in this letter, we affirm the comments and suggestions that Dr. Rick Jones and John Carr of my staff made regarding the draft "First Amended MOA" during the January 27 consulting parties meeting.

We defer to the Kentucky State Historic Preservation Officer with regard to determinations and findings for historic properties lying entirely within the Commonwealth of Kentucky.

If you have questions about our comments here regarding above-ground properties, then you may contact John Carr of my staff at (317) 233-1949 or jcarr@dnr.in.gov. Questions about archaeological issues should be directed to Dr. Rick Jones at (317) 233-0953 or rjones@dnr.IN.gov. In all future correspondence regarding the Louisville-Southern Indiana Ohio River Bridges Project, please refer to DHPA No. 1774.

Very truly yours,



James A. Glass, Ph.D.

Deputy State Historic Preservation Officer

JAG/JLC:JRJ:jj

emc: MaryAnn Naber, Federal Highway Administration, Washington, D.C.
Janice Osadcuk, Indiana Division, Federal Highway Administration
Duane Thomas, P.E., Kentucky Division, Federal Highway Administration
Carol Legard, Advisory Council on Historic Preservation
Laura Hilden, Indiana Department of Transportation
Staffan Peterson, Ph.D., Indiana Department of Transportation
Mary Kennedy, Indiana Department of Transportation
Shaun Miller, Indiana Department of Transportation
Patrick Carpenter, Indiana Department of Transportation
Melany Prather, Indiana Department of Transportation
Kevin Hetrick, Indiana Department of Transportation
Paul Boone, Indiana Department of Transportation
Lindy Casebier, Acting Kentucky State Historic Preservation Officer
Craig Potts, Kentucky Heritage Council
John Sacksteder, P.E., Community Transportation Solutions-General Engineering Consultant
Jeffrey Vlach, Beam, Longest & Neff, L.L.C.
John Mettillie, CDM Smith
David Kroll, Ratio Architects, Inc.

Dear Rebecca,

This email is intended to supplement the Butchertown Neighborhood Association's (BNA) comments made during the Section 106 Consultation (draft Amended LSIORB MOA) Meeting, which took place on January 27, 2012. Mr. Jim Segrest, represented the BNA at this meeting and we reaffirm his comments as included in the Meeting Summary. In addition, the BNA hereby states:

- 1) Because the Kennedy Interchange will be constructed at its existing location, the Butchertown Historic Preservation Plan (HPP) should be revised and amended.**
- 2) Regarding Draft Amended LSIORB MOA Section III. K. Butchertown Historic District:**

III.K.4: BNA objects to the proposed elimination of this stipulation. There is no evidence that "Because of design changes, the Project will not change existing or future noise levels at Edison House." (Remarks and Comments section of the *Current Status of Original MOA Stipulations*.) BNA has no reason to believe that the project will not change future noise levels, thereby adversely impacting Edison House.

III.K.5: BNA does not object to the proposed elimination of this stipulation. However, BNA expressly states that our reason for this is not because we stipulate and that "Because the Kennedy Interchange will be reconstructed at its existing location, the Project will not change existing or future noise levels at Wesley House." (Remarks and Comments section of the *Current Status of Original MOA Stipulations*.) There is no evidence that, because of design changes and/or reconstruction, the project will not change existing or future noise levels at Wesley House.

III.K.6: BNA objects to the proposed elimination of this stipulation. There is no evidence that, "Because the Kennedy Interchange will be reconstructed at its existing location, the Project will not change existing or future noise levels at St. Joseph's Church." (Remarks and Comments section of the *Current Status of Original MOA Stipulations*.) There is no evidence that, because of design changes and/or reconstruction, the project will not change existing or future noise levels at St. Joseph's Church.

III.K.7: BNA objects to the proposed elimination of this stipulation. There is no evidence that, "Because the Kennedy Interchange will be reconstructed at its existing location, the Project will not change existing or future noise levels at Franklin Street Baptist Church." (Remarks and Comments section of the *Current Status of Original MOA Stipulations*.) There is no evidence that, because of design changes and/or reconstruction, the project will not change existing or future noise levels at Franklin Street Baptist Church.

III.K.8: BNA does not object to the proposed elimination of this stipulation. However, BNA expressly states that our reason for this is not because we stipulate and that "Due to its

change in use, the Marcus Lindsay Methodist Church is no longer a noise sensitive use.” (Remarks and Comments section of the *Current Status of Original MOA Stipulations*.)

III.K.9: BNA objects to the proposed elimination of this stipulation. There is no evidence that “Because of design changes, the Project will not change existing or future noise levels at Grace Immanuel United Church of Christ.” (Remarks and Comments section of the *Current Status of Original MOA Stipulations*.) BNA has no reason to believe that the project will not change future noise levels, thereby adversely impacting Grace Immanuel United Church of Christ.

III.K.10: BNA does not object to this stipulation ***on the condition*** that the following sentence is added to the end of the stipulation: “The BSMT identify parties interested in reusing the buildings in consultation with the BNA.”

III.K.11: BNA does not object to this stipulation. However, BNA notes our concern that while the HPP concludes that the Story Avenue Connector should be eliminated and two-way traffic flow should be restored on Mellwood and Story Avenue, and the complete interchange should be built on Mellwood, the FHWA, in cooperation with KYTC, has not taken the necessary steps to ensure that this becomes part of the design and construction of the Project.

III.K.12: BNA objects to this stipulation. Streetscape improvements should be provided within the entire historic district as originally agreed, as opposed to only “for the gateway entrance improvements on East Main Street,” (Remarks and Comments section of the *Current Status of Original MOA Stipulations*.) for the reason that the Butchertown Historic District *as a whole* will be adversely impacted by the Project.

Thank you for your consideration.

Respectfully Submitted,
Andrew S. Cornelius
Butchertown Neighborhood Association, President

February 10, 2012

Ms. Janice Osadcuk
Engineering Services Team Leader
U.S. Department of Transportation
Federal Highway Administration
575 North Pennsylvania Street, Room 254
Indianapolis, Indiana 46204

Re: Section 106 Comments
Louisville-Southern Indiana Ohio River Bridges
(LSIORB) Project

Dear Ms. Osadcuk:

The First Amendment to the Memorandum of Agreement (Amended MOA) lists Site Specific Mitigation in Section III. for the Colgate - Palmolive Historic District, the Ohio Falls Car and Locomotive Company Historic District, and the George Rogers Clark Memorial Bridge. These three areas are located at the gateway to the Town of Clarksville, Indiana (hereinafter referred to as the Town) and they form an anchor for the Town on the bank of the Ohio River. Implementation of the LSIORB Project as currently planned limits the development potential of the minority - owned Colgate - Palmolive Historic District and the Ohio Falls Car and Locomotive Company Historic District due to the planned elevated section of I-65. This in turn will have an adverse effect on the tax revenues of the Town and the minority owners ability to develop the Colgate-Palmolive property. As the implementation of the LSIORB Project unfolds, we believe it is vital that input from the Town be sought out and we urge you to make this a part of the Site Specific Mitigation for these three important areas.

Traffic forecasts for the Area of Potential Effect (APE) for the Town of Clarksville area which includes the three areas mentioned above are another concern that we have. Development of the Colgate - Palmolive Historic District and the Ohio Falls Car and Locomotive Company Historic District will generate traffic volumes in and around this area that exceed the traffic projections used for the Project.

Table 1 in the Effects Recommendations presented at the November 2011 Effects Meeting indicated that there would be Adverse Effects on each of the three areas listed above. Specifically, Table 1 presented the following information for the Modified Selected Alternative now under consideration for implementation:

Property	Encroachment	Visual	Noise	Vibration	Construction	Findings
Colgate - Palmolive Historic District	NE	AE	AE	NE	NAE	AE
Ohio Falls Car and Locomotive Company Historic District	NE	AE	AE	AE	NAE	AE
George Rogers Clark Memorial Bridge	AE	AE	NAE	AE	AE	AE

NE - No Effect; AE - Adverse Effect; NAE - No Adverse Effect

RWM

The Site Specific Mitigation measures in Section III. of the Amended MOA only partially address the Adverse Effects issues identified. Since one of the goals for the Project is to avoid adverse effects, we recommend that the Site Specific Mitigation measures in Section III. of the Amended MOA be changed to include the additional Site Specific Mitigation listed below.

COLGATE - PALMOLIVE HISTORIC DISTRICT - ADDITIONAL SITE SPECIFIC MITIGATION MEASURES

1. Prior to initiating construction activities in this section of the Project, the BSMT will ensure that the construction contractor shall develop and implement a blasting / vibration plan for the Project to avoid damage to the District as set forth in Stipulation II.L. The blasting / vibration plan shall be forwarded to the Town of Clarksville Planning Department prior to being implemented.
2. The BSMT, in consultation with the Town of Clarksville, will see that pedestrian friendly underpass facilities are designed and constructed within Indiana right-of-way under the bridges, separate from the vehicular travel routes, to provide pedestrian and biking linkages between the Big Four Bridge, the George Rogers Clark memorial Bridge, the Ohio River Greenway, the Heritage Trail, and the City of Louisville, Kentucky.
3. The BSMT, in consultation with the Town of Clarksville, will see that noise abatement measures as set forth in Stipulation II. E. are selected and implemented in a manner so as not to comprise the historic integrity of the District and to make sure features are incorporated into the design that minimize adverse noise effects.
4. The BSMT shall design and construct roadway lighting including under the bridges in the viewshed of the Historic District as set forth in Stipulation II. D. that minimize the dispersion of light past the highway right-of-way.
5. The BSMT shall delineate a "no-work zone" within the limits of the Colgate - Palmolive Historic District as set forth in Stipulation II. N.
6. The BSMT will include streetscape improvements, such as landscaping, tree plantings, ornamental street lighting, fencing, curbing, pavements, sidewalks, or other similar work within the limits of the Project as set forth in Stipulation II. J.
7. The BSMT will include site grading within the Indiana right-of-way to enhance landscaping features used to soften the elevated bridges structures.
8. The BSMT shall design and construct the elevated roadway to enhance the entry into the historic area and to soften the massive elevated structure proposed for the Project. Aesthetic treatments and color to surfaces and materials incorporated into the structures, portals and appurtenances should be considered. Consideration to using graffiti proof materials in the Project is encouraged.
9. The BSMT, in conjunction with the Town of Clarksville, Indiana, will reassess the traffic projections used for the South Clark's Landing Area in the development of the Project and

determine if additional improvements to the Project are needed to adequately address the traffic needs of the Colgate - Palmolive Historic District.

10. The BSMT should coordinate with and seek input from the Town of Clarksville, Indiana throughout the design and construction of the Project.

OHIO FALLS CAR AND LOCOMOTIVE COMPANY HISTORIC DISTRICT - ADDITIONAL SITE SPECIFIC MITIGATION MEASURES

1. Prior to initiating construction activities in this section of the Project, the BSMT will ensure that the construction contractor shall develop and implement a blasting / vibration plan for the Project to avoid damage to the District as set forth in Stipulation II.L. The blasting / vibration plan shall be forwarded to the Town of Clarksville Planning Department prior to being implemented.
2. The BSMT, in consultation with the Town of Clarksville, will see that pedestrian friendly underpass facilities are designed and constructed within Indiana right-of-way under the bridges, separate from the vehicular travel routes, to provide pedestrian and biking linkages between the Big Four Bridge, the George Rogers Clark memorial Bridge, the Ohio River Greenway, the Heritage Trail, and the City of Louisville, Kentucky.
3. The BSMT, in consultation with the Town of Clarksville, will see that noise abatement measures as set forth in Stipulation II. E. are selected and implemented in a manner so as not to comprise the historic integrity of the District and to make sure features are incorporated into the design that minimize adverse noise effects.
4. The BSMT shall design and construct roadway lighting including under the bridges in the viewshed of the Historic District as set forth in Stipulation II. D. that minimize the dispersion of light past the highway right-of-way.
5. The BSMT shall delineate a "no-work zone" within the limits of the Ohio Falls Car and Locomotive Company Historic District as set forth in Stipulation II. N.
6. The BSMT will include streetscape improvements, such as landscaping, tree plantings, ornamental street lighting, fencing, curbing, pavements, sidewalks, or other similar work within the limits of the Project as set forth in Stipulation II. J.
7. The BSMT will include site grading within the Indiana right-of-way to enhance landscaping features used to soften the elevated bridges structures.
8. The BSMT shall design and construct the elevated roadway to enhance the entry into the historic area and to soften the massive elevated structure proposed for the Project. Aesthetic treatments and color to surfaces and materials incorporated into the structures, portals and appurtenances should be considered. Consideration to using graffiti proof materials in the Project is encouraged.

9. The BSMT, in conjunction with the Town of Clarksville, Indiana, will reassess the traffic projections used for the South Clark's Landing Area in the development of the Project and determine if additional improvements to the Project are needed to adequately address the traffic needs of the Ohio Falls Car and Locomotive Company Historic District.
10. The BSMT should coordinate with and seek input from the Town of Clarksville, Indiana throughout the design and construction of the Project.

GEORGE ROGERS CLARK MEMORIAL BRIDGE - ADDITIONAL SITE SPECIFIC MITIGATION MEASURES

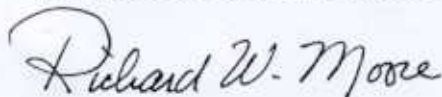
1. Prior to initiating construction activities in this section of the Project, the BSMT will ensure that the construction contractor shall develop and implement a blasting / vibration plan for the Project to avoid damage to the District as set forth in Stipulation II.L. The blasting / vibration plan shall be forwarded to the Town of Clarksville Planning Department prior to being implemented.
2. The BSMT, in consultation with the Town of Clarksville, will see that pedestrian friendly underpass facilities are designed and constructed within Indiana right-of-way under the bridges, separate from the vehicular travel routes, to provide pedestrian and biking linkages between the Big Four Bridge, the George Rogers Clark memorial Bridge, the Ohio River Greenway, the Heritage Trail, and the City of Louisville, Kentucky.
3. The BSMT, in consultation with the Town of Clarksville, will see that noise abatement measures as set forth in Stipulation II. E. are selected and implemented in a manner so as not to comprise the historic integrity of the District and to make sure features are incorporated into the design that minimize adverse noise effects.
4. The BSMT shall design and construct roadway lighting including under the bridges in the viewshed of the Historic District as set forth in Stipulation II. D. that minimize the dispersion of light past the highway right-of-way.
5. The BSMT will include streetscape improvements, such as landscaping, tree plantings, ornamental street lighting, fencing, curbing, pavements, sidewalks, or other similar work within the limits of the Project as set forth in Stipulation II. J.
6. The BSMT will include site grading within the Indiana right-of-way to enhance landscaping features used to soften the elevated bridges structures.
7. The BSMT shall design and construct the elevated roadway to enhance the entry into the historic area and to soften the massive elevated structure proposed for the Project. Aesthetic treatments and color to surfaces and materials incorporated into the structures, portals and appurtenances should be considered. Consideration to using graffiti proof materials in the Project is encouraged.
8. The BSMT should coordinate with and seek input from the Town of Clarksville, Indiana throughout the design and construction of the Project.

Ms. Janice Osadczuk
February 10, 2012
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We thank you for your attention and consideration to adding these Additional Site Specific Mitigation Measures for the Colgate - Palmolive Historic District, the Ohio Falls Car and Locomotive Company Historic District, and the George Rogers Clark Memorial Bridge to the First Amendment of the Memorandum of Agreement for the Louisville-Southern Indiana Ohio River Bridges (LSIORB) Project.

Sincerely,

R.W. Moore Consulting Engineers, P.S.C.



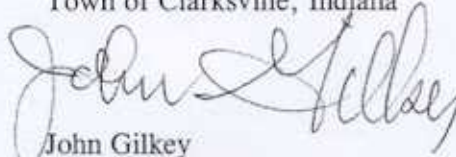
Richard W. Moore, P.E.
President

RWM:JG:mcm

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Sincerely,

Town of Clarksville, Indiana



John Gilkey
President Town Council

February 24, 2012

Ms. Janice Osadczuk
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John Sacksteder, PE,
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Louisville - Southern Indiana Ohio River Bridges Project
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Re: Comments on Draft First Amendment to the MOA and Revised Effects
Findings Report for the Ohio River Bridges Project

Dear Ms. Osadczuk and Mr. Sacksteder:

On behalf of the National Trust for Historic Preservation, we submit the following comments on the Draft First Amendment to the MOA and Revised Effects Findings Report for the Ohio River Bridges Project, pursuant to Section 106 of the National Historic Preservation Act. The vast majority of these concerns and comments were also raised and discussed during our consultation meeting on January 27, 2012.

I. Project Coordination (pp. 3-6)

A. Advisory Teams (pp. 3-4)

1. Stipulation I.A.1. on p.3 should be converted to “Whereas” language, since the convening of the HPATs has already occurred.
6. However, Stipulation I.A.6. on p.4 should be updated to require that additional participants be invited to join the HPATs going forward. Specifically, we request that Preservation Kentucky and Preservation Louisville be invited to join the Kentucky HPAT, and we hereby request that the National Trust for Historic Preservation be invited to join the Indiana HPAT. In particular, the National Trust has demonstrated a consistent and long-standing concern regarding the Lime Kilns and the Old Jeffersonville Historic District. We have established a track-record over many years of being a constructive participant in the administrative process, and we believe that our participation in the Indiana HPAT would assist in the ongoing resolution of effects for the historic properties in Indiana.
9. We strongly disagree with the proposal to remove Stipulation I.A.9. on p.4, and to replace it with nothing more than I.A.2 on p.3. We agree with the

concerns expressed at the January 27 consultation meeting by the Historic Landmarks Foundation of Indiana, that the role of the HPATs appears to be “gutted” by these proposed revisions to the Draft MOA. While the specifics may need to be modified in order to correspond more closely with the design-build process, we strongly recommend a level of detail that is comparable to the previous language of I.A.9., in order to ensure that the HPATs have input early and often, and that there is no ambiguity. The design-build process should not preclude input from the consulting parties.

B. Bi-State Historic Consultation Team (p.4)

2. In Stipulation I.B.2., more detail should be provided regarding the “design-build special provisions” in order to ensure that the Bi-State Historic Consultation Team has ongoing input (early and often) to the Bi-State Management Team.

C. Bi-State Management Team (p.5)

As we mentioned during the consultation meeting, this stipulation (and the corresponding changes throughout the Draft Amendment to the MOA) seem inconsistent with public reports that each of the two bridges will be separately managed. This stipulation needs to clarify whether these public reports are accurate, and if so, how the BSMT will interact with the separate project management teams.

1. In Stipulation I.C.1., the reference to “commitment fulfilled” should be deleted, since this will be an ongoing process.
4. In Stipulation I.C.4., the reference to “incorporation into the final plans” should be made more specific in order to spell out specific points when the BSMT will provide input (informed by the HPATs & BSHCT) to help ensure that the plans will incorporate all possible planning to minimize harm.

D. Ombudsmen (p.5)

3. In Stipulation I.D.3., we are very troubled by the proposed amendment to characterize the Ombudsmen as “liaisons to the communities.” This proposed language suggests that the neutrality of the Ombudsmen would be compromised, and that they would be “connect[ed] . . . more directly to the project” (Meeting Summary at p.8). This concept of the Ombudsmen as essentially spokesmen for the project, who interact with the community on behalf of the project, violates the code of ethics and standards of practice for ombudsmen. We strongly recommend that this change not be made.

5. In Stipulation I.D.5., delete “every reasonable effort shall be made,” and convert this to a mandatory requirement that the offices of the Ombudsmen must be located in historic properties. There is no excuse for the fact that the office of the Kentucky Ombudsman is not currently located in a historic property.

6. In Stipulation I.D.6., delete “Commitment Fulfilled.”

II. Project Development (pp. 6-12)

In the introductory paragraph on p.6, the reference to implementing all measures in the Amended MOA “prior to . . . completion” of the project needs to be adjusted, because of the fact that some mitigation measures, such as monitoring for traffic diversion are intended to be ongoing after construction of the project is completed.

B. Public Involvement (p.6)

We disagree with the assertion that the commitment to public involvement has been “fulfilled.” Public involvement must be ongoing.

C. Context Sensitive Solutions (p.6)

Stipulation II.C. should be revised to add specific reference to the applicable Historic Preservation Plans for guidance regarding context sensitive solutions. In addition, the proposed addition of the “where applicable” language should be clarified to indicate which areas are governed by CSS requirements and which areas are not.

E. Noise Abatement (p.7)

Stipulation II.E. needs to be modified to provide a procedure for specifically reviewing and minimizing the potential adverse visual effects of noise abatement measures on historic properties. This applies both to noise abatement measures intended to minimize noise effects on historic properties, and also noise abatement measures intended to reduce noise for non-historic properties, but which may then introduce adverse visual effects on adjacent historic properties. The Draft SEIS provides very specific information about the potential locations of noise barriers. As currently drafted, this provision in the MOA is completely passive, and fails to identify *who* will ensure that harm is minimized and that designs are appropriate; instead, it refers repeatedly to “shall be designed.” We strongly recommend that the HPATs and BSHCT both be involved in reviewing and approving these noise abatement measures.

F. Historic Preservation Plans (pp. 7-8)

The proposed amendments to Stipulation II.F. delete the requirement to complete the HPPs prior to “preliminary field plan check inspections” for the relevant section of the project. Apparently this reference was deleted because it does not correspond to a milestone in the design-build process. A specific time-deadline needs to be added. Our preference would be that the HPPs must be completed (or updated) prior to the initiation of any work by a design-build contractor for the relevant portion of the project. This will help to ensure that the HPPs are given full consideration from the very outset during the design process in order to develop Context Sensitive designs.

2. In Stipulation II.F.2. on p.8, references to “Commitment Fulfilled” for Old Jeffersonville, Phoenix Hill, and Country Estates of River Road should be changed to “needs updating to reflect project design changes.”

In addition, instead of deleting the HPP requirements for the Swartz Farm and James Smith Rural Historic Farmstead, the MOA should require IN-DOT to make publicly available all work that was initiated regarding those HPPs before the properties were destroyed by their owners.

G. Survey Updates (p.8)

1. We learned at the January 27 meeting that there has been great difficulty accessing the updated Inventory for Clark County, Indiana, in part because the on-line database is not user-friendly. We recommend adding an additional provision to Stipulation II.G.1. in order to require that the inventory be made public in an accessible way.

H. Historic Preservation Easements (p.9)

We strongly recommend that Belleview be added to the properties for which historic preservation easements are specifically included as mitigation measures.

L. Blasting and Vibration (p.10)

1. Stipulation II.L.1. is not adequate to ensure that blasting and vibration plans will protect historic properties from damage. The language of the stipulation completely delegates to the contractors the responsibility for developing blasting and vibration plans. No substantive standards are included to ensure that the plans are adequate, and the proposed MOA

does not even provide for the BSMT or the SHPOs to “review and approve” the plans.

2. While Stipulation II.L.2. does require that the plans address “pre- and post-construction surveys” and “construction monitoring,” it contains no quantitative standards for vibration limits, and reference to “input” from the BSHCT has been deleted (to which we object). In addition, reference to “coordinat[ion] with the contract documents, special provisions, and notes included in the construction plans” has been deleted, and has not been replaced by any comparable language that might be tied to the design-build process.

Although the discussion of vibration effects in the Effects Findings Report has been substantially expanded and improved since the previous draft (e.g., Effects Findings Report at 4-5), the assumptions in the Report are not reflected in the Draft Amendment to the MOA. For example, the Effects Findings Report states: “Prior to construction, Blasting Plans that identify specific provisions to monitor vibration and minimize harm will have to be submitted by the contractor and *approved by the Bi-State Management Team*. *Id.* at 5 (emphasis added). However, the Draft Amendment to the MOA does not require approval by the BSMT. Instead, the only requirement is to ensure that the plans are prepared and implemented by the contractors; there is no procedure for the BSMT to review and approve the content. Similarly, the Effects Findings Report now describes the appropriate vibration limits for historic properties. *Id.* at 5 & n.1. However, the Effects Finding Report falsely assures the reader that the construction contractor “*will be governed by the Construction Blasting/Vibration Plans . . . to not exceed vibration thresholds at surrounding structures.*” *Id.* (emphasis added). On the contrary, nothing in the Draft Amendment to the MOA contains any quantitative limit at all on vibration levels; nor does it provide any procedure for the BSMT to review and require changes to a proposed blasting/vibration plan that is inconsistent with the vibration thresholds specified in the Effects Findings Report.

In general this provision in the MOA needs to be made much stronger, both substantively and procedurally, especially considering the plans to blast a tunnel under Drumanard, which has enormous potential for vibration damage to historic properties. As an example of the kind of detail we think would be more appropriate, set forth below is a stipulation from a recent Section 106 MOA for the Memorial Bridge between Portsmouth, NH and Kittery, ME. The Memorial Bridge is a bi-state construction project that will be built using a design-build contract, and is thus an appropriate model for this project:

Vibration levels will be monitored during construction. The Design-Build Contractor will hire a qualified individual whose qualifications are specified below to conduct a preconstruction survey. This survey will establish the area

of vibration impact, provide details about the fragility of building materials, and specify the environmental conditions in the area of impact that would affect transmission of vibrations. This preconstruction survey will establish the baseline conditions for monitoring during construction, the construction activities that require monitoring, the general timeframes for monitoring, and the thresholds of vibration levels that will be maintained during construction. These elements will be placed in a Vibration Monitoring Plan. The NHSPO and MESHPO will be provided fourteen days in which to comment on the Vibration Monitoring Plan prior to its finalization prior to the beginning of construction. The NHSPO and MESHPO will also be afforded five days to review any modifications to the Vibration Monitoring Plan made during construction. While it is noted that the national standard for vibration threshold is established at 0.2 inches per second, the vibration limit for this project will be based on the findings of the preconstruction survey. Vibration will remain within safe levels for the historic buildings and structures within the Portsmouth Historic District that lie adjacent to the project area, including [specific structures] in the vicinity of the construction. If vibrations are found to exceed the thresholds established for this project, the work causing that vibration will cease and corrective action will be taken to return the vibration level to acceptable thresholds. The vibration monitoring for these particular structures will be incorporated into the design-build "Request for Proposals" for the requirements of the contract. If damage should occur to buildings within the area of vibration impact, then the contractor will be responsible for repairing the damage in accordance with *the Secretary of the Interior's Standards for Rehabilitation and Guidelines for the Rehabilitation of Historic Buildings*.

When developing the vibration thresholds and preparing the Vibration Monitoring Plan, the Design-Build Contractor will contract with an individual trained in Historic Architecture or closely related field. The individual will have five years of professional experience as a Building Conservation Specialist and will have successfully completed three building conservation projects where he/she has taken into account the effects of different levels of vibration on historic masonry and frame buildings. The standards cited herein are the *Secretary of the Interior's Historic Preservation Professional Qualification Standards*, 62 Fed. Reg. 33,707 (June 20, 1997) The NHSPO will provide the names and contact information of at least three individuals who would be qualified to perform such services.

MOA for Memorial Bridge Replacement Project, Portsmouth, NH-Kittery, ME, at pp. 8-9 (Mar. 15, 2011) (see http://www.nh.gov/dot/projects/portsmouthkittery13678f/documents/moa_fully_executed.pdf).

M. Timing of Construction Activities (pp. 10-11)

The proposed amendments to Stipulation II.M. on p.10 include removing the provision that would prohibit construction work on weekends. We object to

this proposed amendment, because of the fact that a number of historic churches are identified in the MOA as potentially affected by construction impacts such as noise, and the proposed amendment would leave them unprotected. Perhaps as a compromise you may wish to consider distinguishing between the two days of the weekend—allowing construction on Saturdays but prohibiting construction on Sundays.

The proposed new sentence at the end of Stipulation II.M. (pp. 10-11) suggests that the transportation agencies already anticipate that the construction contractors will not follow the rules in any event, and the rules will just be changed in order to lower the bar after the contractors fail to comply. Instead of notifying the parties that the rules are being relaxed, we would prefer to have the agencies enforce the rules as they are. Limiting construction activities and noise during Sundays, holidays, and special events should not be difficult to comply with; it is disturbing that the contractors are considered likely to violate such a modest safeguard.

N. No-Work Zones (p.11)

The proposed amendment at the end of Stipulation II.N. on p.11 would remove a requirement for “consultation” with the Bi-State Historic Consultation Team regarding protective measures and no-work zones, and instead, would delegate to the contractor the unilateral determination of what the protective measures will be. Even the reference to “temporary fencing” is proposed to be removed! After that unilateral decision has already been made by the contractor, the BSMT would “advise” the BSHCT of what the protective measures will be. We object to the delegation of these issues to the contractor, and recommend that the existing language be retained.

Q. Long-Term Monitoring of Traffic Diversion (p.12)

As discussed at the January 27 consultation meeting, the new provision regarding monitoring for traffic diversion needs a lot more detail. Among other things, the HPATs should be involved in the review of the monitoring data, and the plan should specify the time intervals and locations for monitoring. We would also like the monitoring to include adverse economic impacts resulting from the project. Finally, this provision will need to address what happens if the monitoring results indicate that effects are adverse.

III. Site Specific Mitigation (pp. 12-25)

A. Train Depot – Indiana (pp. 12-13)

2.a. In Stipulation III.A.2.a. (p.12), we disagree with the proposed deletion of the

requirement to make the building available during construction to house project personnel and/or the Ombudsman.

B. Colgate-Palmolive Historic District (p.13)

3. Add a stipulation (III.B.3.) that requires preparation of a blasting/vibration plan for the Colgate Palmolive Historic District. Stipulation III.C.3. on p.14 should be used as a model (subject to modifications in response to our comments).

D. George Rogers Clark Memorial Bridge (p.14)

4. The MOA fails to include any measures to address adverse vibration effects, even though the transportation agencies have acknowledged that the bridge will be adversely affected by vibration. A provision needs to be added requiring the development of a blasting/vibration protection plan specifically for the Clark Bridge.
5. In addition, interpretive signage should be added as a mitigation measure for the adverse effects on the bridge.
6. The MOA also fails to address the fact that the Clark Bridge will be forced to operate beyond its capacity as a result of diversion traffic caused by the project. For example, the Draft SEIS stated that the Clark Bridge would be operating at an *average* of 117% over its capacity, which means that rush hour traffic would be even *more* over-capacity. DSEIS at p.3-22 (Table 3.3-2). This will adversely affect the historic bridge by reducing its life-span and increasing the pressure to widen or replace it in the future.

E. Old Jeffersonville Historic District (pp. 14-16)

1. The role of the HPAT in the process of updating the HPP needs to be clarified in Stipulation III.E.1. on p.14.
3. Add reference to Market Street in addition to Spring Street in Stipulation III.E.3. on p.15.
7. We were very concerned to hear at the January 27 consultation meeting that the transportation agencies are backing away from a commitment to move the five contributing structures targeted for demolition to make way for the project, as described in Stipulation III.E.7. on pp. 15-16. We strongly agree with the Historic Landmarks Foundation of Indiana that the transportation agencies should maintain this commitment, notwithstanding the deterioration of these properties, since the deterioration is the result of

years of being held in limbo. We urge you to work with HLF and the Indiana HPAT to identify appropriate vacant parcels for the relocation of these historic properties.

14. As discussed at the January 27 consultation meeting, we feel strongly that a "Marketing" stipulation should be added for the Old Jeffersonville Historic District, in an effort to address the adverse effects on the commercial portion of the historic district during the construction process. This is a newly identified category of adverse effects,¹ which does not yet have a corresponding mitigation measure. This should be analogous to the kinds of marketing measures developed for Madison, Indiana in the MOA for the Milton-Madison Bridge Replacement Project.

F. INAAP Igloo Storage Historic District (p.16)

As discussed at the January 27 consultation meeting, we support the concept of replacing the blasting/vibration mitigation with interpretation and documentation instead.

H. Lime Kilns within Utica Lime Industry Multiple Property Listing (pp. 17-18)

1. As referenced above, the National Trust has had a long-standing concern with the Lime Kilns and we would like to be added to the Indiana HPAT in order to have an opportunity to continue to participate in consultation to resolve the adverse effects on these resources, including the development of the HPP.
6. In our view, mitigation for the adverse effects to the Lime Kiln Multiple Property Listing should be expanded to include acquisition and permanent protection for all four of the Lime Kilns, and ideally, their associated quarries as well. This expanded mitigation is appropriate because the magnitude of the adverse effect on the Lime Kiln complex is actually much greater than we understood it to be a decade ago when the prior MOA was negotiated. These vulnerable resources are almost entirely unprotected from secondary and cumulative adverse effects, including the potential for destruction, as a result of this project.
7. We believe the interpretation component for the Lime Kiln Multiple Property Listing should be expanded beyond just a single interpretive marker along Utica Pike. The Indiana HPAT should be involved in developing recommendations for an expanded interpretation plan.

¹ Note that the "800.11(e) Report" needs to be corrected on p.9 to add adverse "construction" effects for the Old Jeffersonville Historic District.

I. Swartz Farm Rural Historic District (p.18)

In our view, the following commitments regarding the Swartz Farm should be addressed in the Amended MOA:

- The Central Passage House should be marketed for relocation; and
- The draft HPP that was begun should be made available to the public.

We believe that simply throwing out the prior mitigation measures altogether would send too strong a message to the public that anticipatory demolition will be rewarded, and that other owners may be encouraged to damage or destroy properties in order to subvert the Section 106 process.

It is intriguing that the 2003 MOA included specific mitigation for the James A. Smith Farmstead, when the Section 106 review resulted in a determination of “no effect” to this historic property. It might be useful to provide an explanation for this to the consulting parties.

K. Butchertown Historic District (pp.18-20)

1. The dispute regarding the Butchertown HPP needs to be resolved prior to the commencement of any further design work in this area.
- 4.-9. In Stipulations III.K.4. through III.K.9. on p.19, the proposed amendments would eliminate noise mitigation measures for the Edison House, Wesley House, St. Joseph’s Church, Franklin St. Baptist Church, and Grace Immanuel United Church of Christ, based on the assertion that existing and future noise levels would remain the same. In addition, noise mitigation is proposed for elimination from the Marcus Lindsay Methodist Church because the building is being converted to condominiums. However, these properties *will* be subject to noise from construction. (The effect findings for Butchertown continue to be “adverse” for both noise and construction impacts.) Therefore, we object to the removal of these mitigation measures from the MOA. Furthermore, the mitigation measures for the Edison House and Wesley House (III.K.4. and III.K.5.) were not limited to addressing noise effects, but included exterior rehabilitation as well. These mitigation measures should be retained. At the January 27 consultation meeting, it was implicitly acknowledged by the transportation agencies that current information was inadequate to substantiate final decisions about the mitigation package for Butchertown, and that more information is needed, especially information regarding adverse noise and visual effects.

10. We oppose the demolition of the Grocers Ice & Cold Storage Co. Building, and request that this language be deleted from the MOA. We disagree that this commitment is fulfilled.
13. We disagree with the proposal to remove traffic calming measures from Butchertown by revising the language of Stipulation III.K.13. on p.20. We urge the transportation agencies to retain this mitigation commitment.
17. The MOA fails to address construction impacts generally, which will be adverse for Butchertown. A new stipulation needs to be added to require development of a construction mitigation plan, which would address factors such as traffic management during construction, etc.

L. Phoenix Hill Historic District (pp. 20-21)

1. Add a commitment at the end of Stipulation III.L.1. (p.20) to update the HPP in order to address changes in the project design (comparable to the proposed amendment for the Old Jeffersonville Historic District, Stipulation III.E.1. at p.14).
2. There was discussion at the January 27 meeting about expanding the stipulation relating to the Baer Fabrics building in order to provide for additional interpretation and mitigation to address this historic property. We support the recommendations made at the meeting and would like to see this provision of the MOA expanded.

M. Country Estates of River Road (pp. 21-22)

1. Add a commitment at the end of Stipulation III.M.1. (p.22) to update the HPP in order to address changes in the project design (comparable to the proposed amendment for the Old Jeffersonville Historic District, Stipulation III.E.1. at p.14).
2. The proposed amendment to Stipulation III.M.2. (p.22) includes a cross-reference to Stipulation I.A.9. (p.4). However, the proposed amendments would completely eliminate the requirements of Stipulation I.A.9. This inconsistency illustrates the importance of retaining Stipulation I.A.9.

N. Drumanard (pp. 22-23)

5. A commitment to establishing a "no-work zone" needs to be added to the mitigation package for Drumanard.

O. Allison-Barrickman House (p.23)

3. As discussed at the January 27 consultation meeting, Stipulation III.O.3. needs to clarify that the 45-50 acre field parcel, which includes two cemeteries, is included within the “no-work zone.”

P. Rosewell (pp. 23-24)

1. In Stipulation III.P.1., delete the reference to “commitment fulfilled,” since implementation of the Treatment Plan is ongoing.

Q. Belleview (pp. 24-25)

1. In Stipulation III.Q.1., the first cross-reference to Stipulation II. needs to be more specific. Since Stipulation II. is seven pages long, it is difficult to interpret which provisions and requirements are being invoked through this cross-reference.
6. As discussed during the January 27 consultation meeting, we believe that acquisition of an easement should be added as a mitigation measure for Belleview. There was never any rational basis for omitting this mitigation measure from Belleview in the original MOA, and the owner made a number of public comments and inquiries at the time objecting to the omission.

R. Transylvania Beach Camps (p.25)

The MOA fails to provide any mitigation measures for the Transylvania Beach Camps, which would suffer severe adverse effects from noise, visual impacts, construction impacts, and vibration.

VI. Additional Historic Properties and Effects (pp. 32-33)

Stipulation VI.A. on p.32 provides that, in the event BSMT approval is required for the selection of staging areas, wetland mitigation areas, borrow or waste areas, dredge disposal areas, or other construction activity sites, then the BSMT will engage in Section 106 consultation prior to approving any such sites. What is missing, however, is any assurance at all that the BSMT will in fact have any approval authority over these sites. Accordingly, an explicit provision needs to be added to the MOA mandating that all contracts must contain a provision that prohibits the selection of any of these types of sites without prior approval by the BSMT.

VIII. Performance Standards (p.33)

A. Professional Qualifications (p.33)

Stipulation VIII.A. needs to be clarified to specify that the professional qualifications of the individual performing or reviewing the cultural resources work must correspond to the nature of the resource. In other words, work relating to archaeological sites must be carried out and/or reviewed by a Secretary-qualified professional archaeologist; work relating to architecture or historic structures must be carried out and/or reviewed by a Secretary-qualified historical architect or architectural historian.

XIV. Duration (p.36)

It was suggested at the January 27 consultation meeting that the proposed twenty year duration should be revised to require a reevaluation after ten years. We agree with this recommendation.

Comments on Effects Findings Report (dated Jan. 12, 2012)

Potential for Economic Effects.

The Effects Findings Report includes a new section on “Potential for Economic Effects.” (Effects Findings Report at 15-16.) However, the Report makes determinations about economic effects that are flatly contradicted by the Draft SEIS. For example, the Effects Findings Report states that the shift of 12,000 employees from Kentucky to Indiana in the next 18 years “represents a *reallocation* of future employment growth between states rather than a *loss*; all three of the alternatives considered result in a substantial increase in jobs compared to the existing conditions.” *Id.* at 15 (emphasis in original). On the contrary, the Draft SEIS documents that not a single job will be created long-term as a result of the project. In fact, the Draft SEIS projects a net *loss* of 78 jobs by 2030 as a result of the project being built (i.e., compared to the No Action alternative). See DSEIS at p.5-6 & Table 5.1-3; *Id.* at p.5-18 & Table 5.1-11. The only jobs created will be short-term construction jobs.

The Effects Findings Report continues to ignore the facts in the Draft SEIS when it states, “There is no evidence in the economic analysis in the EIS that suggests a decline in regional economic productivity . . . or employment attributed to the Project when compared to the No-Action Alternative.” Effects Findings Report at 16. Again, this statement is flatly contradicted by the Draft SEIS itself, which explicitly states that long-term employment *will decline* when compared to the No-Action Alternative: “[C]onstruction of the LSIORB Project would result in a shift in

permanent employment within the LMPA, and a *decrease of 78 in total employment over the No-Action Alternative.*” Draft SEIS at 5-18 (emphasis added). A decrease in total employment over a 20-year period clearly reflects a “decline in regional economic productivity,” contrary to the Effects Findings Report.

These blatant contradictions in the documents call into question the fundamental credibility of the studies. Efforts to reconcile these contradictions by simply declaring the report with the most embarrassing projections to be wrong, (which is the response we anticipate), would not salvage that shattered credibility.

Comments on “Response to Consulting Party Comments” on Effects Recommendations Document and Draft 800.11(e) Report

Traffic in the Extensions to the APE

5. The Response to Comments states that the diversion routes “have the capacity to accommodate the increased traffic without significant impacts on traffic operations.” Response to Consulting Party Comments, at p.2. According to the Draft SEIS, this is not true with respect to the Sherman-Minton and Clark Bridges, which would be operating at levels significantly over their capacity in 2030—an *average* of 113% and 117%, respectively—which means that they would be operating at levels much *more* over-capacity during rush hour. Draft SEIS at p.3-22 & Table 3.3-2.

Economic Impacts

11. As described above in our comments regarding the Effects Findings Report, the text that has been added to the Report does *not* in fact “summarize[e] what analysis has been developed in the SDEIS” regarding economic impacts; instead, it contradicts the SDEIS.

Misc. Other Concerns

13. **West Louisville.** The Environmental Protection Agency, in its comments on the Draft SEIS dated January 9, 2012, has expressed its views that the analysis of cumulative socioeconomic effects is inadequate.
14. **Second Street Bridge.** The transportation agencies have responded to concerns from the SHPO regarding potential effects on the Second Street Bridge (aka Clark Bridge) by stating that “[t]he addition of more traffic will not alter the characteristics that make the bridge eligible for listing on the NHRP [sic].” Response to Consulting Party Comments, at p.3 (Jan. 20, 2012). We disagree. As discussed above, the Clark Bridge would be operating

significantly over its capacity under the proposed alternative (an *average* of 117% over capacity every day). Draft SEIS at p.3-22 & Table 3.3-2. We are concerned that this kind of sustained over-capacity usage could shorten the lifespan of this historic bridge and could ultimately damage the bridge and/or require the bridge to be altered or replaced.

15. **Nuttall House & Belleview North Field.** We appreciate and commend the agencies for agreeing to refer these National Register-eligibility issues to the Keeper of the National Register.
18. **Utica Lime Kilns.** The Response to Comments states that “a historic preservation plan (HPP) has been developed for the Utica Lime Kilns as required in the 2003 MOA,” and that the effects on the Lime Kilns “were addressed by the mitigation included in the 2003 MOA.” Response to Consulting Party Comments, at p.4. We disagree with both of these statements. *First*, the draft Matrix outlining the “Current Status of Original MOA Stipulations” (dated Dec. 29, 2011), and the annotated “Draft First Amendment to the MOA,” both flatly contradict the assertion that an HPP has already been developed for the Lime Kilns. According to the Matrix (at p.2), the “HPP [will] be developed after SEIS completion.” *Second*, the magnitude of the adverse effects from the East End Bridge on the Lime Kilns would be substantially greater than was assumed at the time the 2003 MOA was developed and negotiated. Accordingly, the mitigation to resolve those adverse effects should be substantially greater. As discussed above, we believe that acquisition and protection of all four lime kilns and quarries should be included as mitigation.
19. **Theodore Mueller House/Shady Brook Farm.** The FHWA’s guidance for noise modeling and analysis cited in the response is applicable to noise from traffic, not noise from construction. Therefore, the 800-foot boundary for noise analysis should not be used to avoid consideration of construction noise. The FHWA has separate guidance that has been developed for evaluating construction noise. We remain concerned that this historic property, at a distance of 1200 feet, will be adversely affected by construction noise, which needs further evaluation, and we do not agree with the “No Effect” determination for construction impacts.
21. **Cedarbrook Farm.** The response to the National Trust’s December 12, 2011 comments regarding Cedarbrook Farm fails to address the finding in 2002 that noise levels at this historic property would increase by 8-9 dBA (almost doubling the perceived noise level). Nor do the comments address the fact that both the SHPO and ACHP objected to the “no effect” determination for noise effects on this property in 2002. As discussed above, the 800-foot threshold for noise effects under the FHWA guidance only applies to traffic

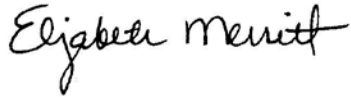
noise, not construction noise. We continue to disagree with the “no effect” determination for construction impacts, and we request further evaluation regarding construction noise in particular.

22. **Edward Strater House.** We continue to be mystified by the reluctance of the transportation agencies to develop specific adverse effect determinations relating to the Strater House. After all, this historic property is specifically mentioned in the 2003 MOA, in Stipulation III.M.5., relating to blasting and vibration impacts within the Country Estates of River Road Historic District. The Strater House is just 450 feet from the proposed alignment (the second-closest contributing property within the Country Estates district), and thus vulnerable to a higher risk of adverse effects.
24. **Nitta Yuma Historic District.** The response regarding noise impacts relies on the 800-foot limit for the traffic noise model, but fails to apply or address the model for evaluating construction noise. In addition, the Response to Comments states that “[a] figure is attached to clarify these distances.” (Response to Consulting Party Comments, at 6.) However, no figure is attached to or provided with the document.
25. **Harrods Creek Historic District.** As described above, the response regarding noise impacts relies exclusively on the traffic noise model, and fails to address the model for analyzing and evaluating construction noise. The response also fails to address the fact that the SHPO, the National Trust, and others raised objections to the inadequate noise analysis for this historic district in 2002, and the record shows no evidence that those objections were ever resolved. At a distance of 866 feet from the alignment, the Harrods Creek district is just barely beyond the 800-foot threshold for traffic noise. Therefore, a much more careful evaluation of construction noise is warranted. The “no effect” determination for construction noise is not substantiated.
26. **Harrods Creek Village Historic District.** As described above, the response regarding noise impacts relies exclusively on the traffic noise model, and fails to address the model for analyzing and evaluating construction noise. At a distance of just 850 feet from the alignment, the Harrods Creek Village district is just barely beyond the 800-foot threshold for traffic noise. Therefore, a much more careful evaluation of construction noise is warranted. The “no effect” determination for construction noise is not substantiated.

Ms. Janice Osadczuk
Mr. John Sacksteder, P.E.
February 24, 2012
Page 17

Thank you again for the opportunity to comment on the Draft First Amendment to the MOA for this project. We look forward to reviewing the responses to these and other comments.

Sincerely,

A handwritten signature in black ink, reading "Elizabeth Merritt". The signature is written in a cursive, flowing style.

Elizabeth S. Merritt
Deputy General Counsel

cc: Mary Ann Naber, Federal Preservation Officer, FHWA
Jose Sepulveda, KY-Division Administrator, FHWA
Robert Tally, IN-Division Administrator, FHWA
Carol Legard, ACHP
Charlene Vaughn, ACHP
Reid Nelson, ACHP
Craig Potts, Kentucky Heritage Council
John Carr, Indiana Div. of Hist. Preservation & Archaeology



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February 27, 2012

Janice Osadcuk
Federal Highway Administration, Indiana Division
575 North Pennsylvania Street, Room 254
Indianapolis, Indiana 46204

Federal Agency: Federal Highway Administration ("FHWA")

Re: "Summary of Consulting Party Comments on MOA, February 2012" and February 21, 2012 draft of "First Amended Memorandum of Agreement . . . Regarding the Louisville-Southern Indiana Ohio River Bridges Project in Clark County, Indiana and Jefferson County, Kentucky" (Project No. Item-5-118.00; HDA-IN; INDOT Des. Nos. 0300799, 0201294, 0300798, 0201296, and 0201297; DHPA No. 1774)

Dear Ms. Osadcuk:

Pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470f), and implementing regulations at 36 C.F.R. Part 800, the staff of the Indiana State Historic Preservation Officer ("reviewed the aforementioned documents, which we received by e-mail from you on February 23, 2012, for the aforementioned project in Clark County, Indiana and Jefferson County, Kentucky.

We realize that you had indicated someone would be calling John Carr of my staff shortly to discuss any concerns he may have. However, he is just one of a number of Indiana SHPO staff members who reviews and provides input into our comments under Section 106 of the National Historic Preservation Act, the National Environmental Policy Act, and Section 4(f) of the Department of Transportation Act, so we decided that commenting in a formal letter would allow us to comment more comprehensively.

We would recommend the following revisions that would not change what we believe to be the intent of the First Amended MOA but we think would help to clarify that intent:

- In stipulation I.A.4.j., Historic Landmarks Foundation of Indiana has adopted the new name of Indiana Landmarks since the Original MOA was signed in 2003. If you think it is important to leave a record that of the name of that organization *at the time it was invited to participate on the IHPAT*, then we would suggest that the reference to that organization be modified approximately as follows: "Historic Landmarks Foundation of Indiana (now named Indiana Landmarks)."
- Stipulation II.G.1. states that the "Clark County Interim Report and the Indiana Historic Sites and Structures Inventory of Clark County has been updated by the INSHPO." That is true as far as the IHSSI survey data for above-ground properties in Clark County is concerned, and the results of that updated survey are available in the State Historic Architecture and Archaeology Database, or SHAARD, which may be accessed through our website at <http://www.in.gov/dnr/historic/4505.htm>. However, since the 2003 MOA was signed for this project, our office changed its policy toward publishing paper copy interim reports for those counties for which at least one edition of an interim report has been published. Now, updated survey information will be made available to the public only through SHAARD. Consequently, we suggest that you revise I.G.1 to read approximately as follows: "The Indiana Historic Sites and Structures Inventory of Clark County has been updated by the INSHPO and made available to the public on the INSHPO's website."
- In stipulation II.Q.2., we sense that "post-constructing traffic monitoring" was intended to read as "post-construction traffic monitoring."

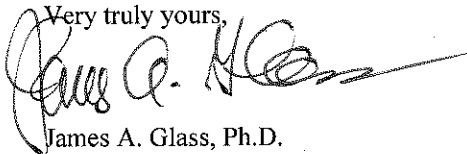
- We note that in IV.B.2.a. of Attachment G, the word evacuation in line four should be excavation.

Regarding substantive aspects of the First Amended MOA, we agree with the spirit of the post-construction traffic monitoring called for in stipulation II.Q.4. It is not obvious to us, however, why the monitoring should wait at least 12 months and as much as 24 months after the completion of construction. If traffic congestion in Jeffersonville, Clarksville, or New Albany turns out to be greater than the modeling has predicted, then the communities in question could have to endure the hardship for at least 24 months before there would be any basis for the BSMT, pursuant to stipulation II.Q.6., to decide on measures to alleviate the hardship. We believe that if such congestion were to occur, it would become evident within a few months of the completion of construction, assuming that the billing of vehicle owners for the use of the tolled bridges would begin within a month or so after the completion of construction. It probably would not take more than a few such rounds of billing for vehicle owners to decide whether they should seek alternative, non-tolled routes across the Ohio River. We would suggest that the post-construction traffic monitoring occur no sooner than 3 months and no later than 9 months after the completion of construction.

We will comment on the "Addendum to January 12, 2012 '800.11(e) Report' prepared February 22, 2012 . . . Louisville-Southern Indiana Ohio for Louisville-Southern Indiana Ohio River Bridges (LSIORB) Project," which we also received on February 23, by separate letter in the near future.

If you have questions about our comments here regarding above-ground properties, then you may contact John Carr of my staff at (317) 233-1949 or jcarr@dnr.in.gov. Questions about archaeological issues should be directed to Dr. Rick Jones at (317) 233-0953 or rjones@dnr.IN.gov. In all future correspondence regarding the Louisville-Southern Indiana Ohio River Bridges Project, please refer to DHPA No. 1774.

Very truly yours,



James A. Glass, Ph.D.
Deputy State Historic Preservation Officer

JAG:JLC:JRI:jj

emc: MaryAnn Naber, Federal Highway Administration, Washington, D.C.
Janice Osadczuk, Indiana Division, Federal Highway Administration
Duane Thomas, P.E., Kentucky Division, Federal Highway Administration
Carol Legard, Advisory Council on Historic Preservation
Laura Hilden, Indiana Department of Transportation
Staffan Peterson, Ph.D., Indiana Department of Transportation
Mary Kennedy, Indiana Department of Transportation
Shaun Miller, Indiana Department of Transportation
Patrick Carpenter, Indiana Department of Transportation
Melany Prather, Indiana Department of Transportation
Kevin Hetrick, Indiana Department of Transportation
Paul Boone, Indiana Department of Transportation
Lindy Casebier, Acting Kentucky State Historic Preservation Officer
Craig Potts, Kentucky Heritage Council
Vicki Birenberg, Kentucky Heritage Council
John Sacksteder, P.E., Community Transportation Solutions-General Engineering Consultant
Jeffrey Vlach, Beam, Longest & Neff, L.L.C.
Rebecca Thompson, P.E., CDM Smith
John Mettelle, CDM Smith
David Kroll, Ratio Architects, Inc.



STEVEN L. BESHEAR
GOVERNOR

**TOURISM, ARTS AND HERITAGE CABINET
KENTUCKY HERITAGE COUNCIL**

MARCHETA SPARROW
SECRETARY

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LINDY CASEBIER
ACTING EXECUTIVE DIRECTOR AND
STATE HISTORIC PRESERVATION OFFICER

March 5, 2012

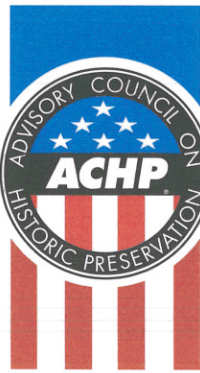
Ms. Janice Osadczuk
Engineering Services Team Leader
Federal Highway Administration – Indiana Division
Room 254, Federal Office Building
575 North Pennsylvania Street
Indianapolis, IN 46204

Re: Comments from the Kentucky State Historic Preservation Officer Regarding the Final Draft Amended Louisville-Southern Indiana Ohio River Bridges Project Memorandum of Agreement

Dear Ms. Osadczuk:

On March 2, 2012, the Kentucky Heritage Council, State Historic Preservation Office received the above referenced final draft amended Memorandum of Agreement (MOA) for review and comment. We appreciate the effort that has been made to respond to consulting party comments throughout the Section 106 process and to incorporate various recommendations into the final draft amended MOA.

In our February 7, 2012 letter regarding the initial draft amended MOA, this office expressed concern regarding the project team's heavy reliance on modeling to determine the potential for adverse effects from traffic diversion related to tolling. Historic properties of concern in Kentucky included (but were not limited to) the Clark Memorial Bridge and the numerous structures along the 2nd Street corridor in the downtown Louisville portion of the APE. Since our review of the initial draft amended MOA, we believe Section II.Q has been clarified and generally improved. Furthermore, we now better understand the rationale for extending the post-construction review period. Because fluctuations in traffic are anticipated as the community adjusts to the tolled facilities in relation to their range of options, we acknowledge that the most accurate portrayal of impacts from traffic diversion might not be clear until the project has been completed for a 12 to 15 month period. Assuming that the East End and Downtown sections of the project could be completed at different times, we request that the 12 to 15 month period be tied to the completion of each section rather than to the larger project as a whole. Also, please note that the BSHCT and the HPAT's will want to consider the full range of potential indirect effects from tolling and not rely solely on post-construction traffic modeling reports. Of concern will be any impact that has reduced the qualities for which a historic property is significant.



Preserving America's Heritage

March 15, 2012

Ms. Janice Osadczuk
Engineering Services Team Leader
Federal Highway Administration
Federal Office Building, Room 254
575 North Pennsylvania Street
Indianapolis, IN 46204

Ref: *Finding of Effects and the Proposed Memorandum of Agreement (MOA) Amendment regarding the Louisville-Southern Illinois Ohio River Bridge (LSIORB) Project.*

Dear Ms. Osadczuk:

On February 23, 2012, the Advisory Council on Historic Preservation (ACHP) received, via email, the Federal Highway Administration's (FHWA) revised Amended Memorandum of Agreement (MOA), the Addendum to the 800.11(e) Documentation Report for the project, a compilation of the comments received from consulting parties regarding the MOA, and FHWA's proposed response to the consulting parties' comments. Thank you for providing us an opportunity to review these documents and provide you with additional comments before the amended MOA is circulated for signature.

We have reviewed the documentation provided and the ACHP has no objection to FHWA's findings of eligibility and effect contained in the 800.11(e) documentation for this project. Given the scale of this project and the intense public interest in its effects on historic properties, FHWA and the project team have done an outstanding job in working with the consulting parties, the Kentucky and Indiana SHPOs, and the ACHP to evaluate and address the potential impacts to historic properties that will result from the Modified Selected Alternative in the draft Supplemental Environmental Impact Statement (draft SEIS).

The ACHP agrees that the measures included in this draft Amended MOA are generally sufficient to address the effects of the Modified Selected Alternative on historic properties. Carol Legard, the ACHP's Liaison to FHWA, noted in a telephone conference on March 8, 2012, that the revised Amended MOA largely addresses the comments and concerns expressed by consulting parties. As such, we would like to share with FHWA recommendations for revising the draft:

- Short-hand references to the Historic Preservation Advisory Teams should be consistent throughout the agreement. The draft MOA refers to both HPATs and Advisory Teams in different places.
- The highlighted statements ("Commitment ongoing," "Commitment fulfilled," etc.) should be removed from the agreement. They are useful in reviewing the documents, but will be confusing in a final, executed MOA. In most stipulations, the current draft accurately reflects

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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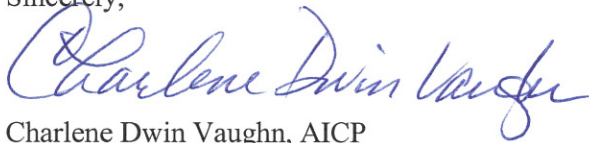
the current status of the commitment without these highlighted statements. Where FHWA feels clarification is needed, an additional sentence can be added to the stipulation (for example Stipulation II.F.2).

- Stipulation II.L.2. should clarify that the construction blasting/vibration plans will be subject to the approval of the BSMT.
- Stipulation II.M. should further clarify that the BSMT will coordinate with the BSHCT and HPATs prior to modifying the prohibition against blasting on Sunday mornings.

Please note that comments and concerns expressed by the Kentucky and Indiana SHPOs in the February 23, 2012 conference call should also be addressed in revising the MOA. In particular, FHWA should remove any unnecessary impediments to the successful marketing of the Groceries Ice and Cold Storage property.

Thank you for your consideration of these comments in finalizing the Amended MOA for this project. If you have questions or need clarification regarding the above points, please contact Carol Legard, our FHWA Liaison, at 202-606-8522 or via email at clegard@achp.gov.

Sincerely,



Charlene Dwin Vaughn, AICP
Assistant Director, FPLAS
Office of Federal Agency Programs

Comments Regarding Specific Stipulations:

Section I.A.5: Thank you for including Preservation Kentucky and Preservation Louisville on the Kentucky Historic Preservation Advisory Team (KHPAT).

Section I.B.2: We are satisfied that the BSHCT, in consultation with the HPAT's, will assist the BSMT in developing contract provisions related to this MOA. We assume this will be the process for considering Context Sensitive Solutions, particularly as they relate to recommendations outlined in HPP's.

Section I.D.3: Thank you for keeping the language traditionally used to describe the duties of Ombudsman in the agreement document. We believe their role as an "independent and unbiased mediator" will be particularly useful when construction related activities begin.

Section I.D.5: We do not believe it should be difficult to find appropriate office space in a historic property for each of the Ombudsmen. The Kentucky Heritage Council is willing to assist the project team in finding a suitable location if this proves to be problematic. Furthermore, new language has been inserted that we would like to have clarified. "The BSMT will reconsider where to house the Ombudsmen during the construction phase of work." Does this mean that a historic property will not necessarily be considered for office space once construction starts?

Section II.F: Considering that changes to HPP's completed prior to January 1, 2012 will be considering fewer impacts/changes under the current design, reliance on existing HPP's should be satisfactory in guiding CSS principles. As for the new commitment to complete an HPP for the Ohio River Camps Multiple Property Group, we request that it be completed prior to initiation of work by the design-build contractor.

Section II.L.2: Thank you for including the "fragile" and "extremely fragile" threshold levels for vibration as it relates to historic properties. We would like clarification that the maximum PPV threshold for any historic property will be at the "fragile" level. Historic properties in poor condition should be provided the "extremely fragile" threshold. We believe these decisions should be made in *consultation* with the BSHCT.

Section II.M: If modifications to the provisions are made by the BSMT after the construction contract is awarded, we would like to see noise impacts re-evaluated, particularly if the modifications are long-lasting.

Section II.Q: Please refer to our comments in the second paragraph of this letter.

Section III.K.10: Please provide additional opportunity for the KHPAT and BSHCT to support the marketing effort for the eastern portion of Grocer's Ice and Cold Storage. We believe the remaining portion of the building will be attractive for preservation and reuse, but we want to ensure that it is properly marketed. Additional time beyond the 30 days outlined in the final draft MOA is requested.

In Section III, Site Specific Mitigation: We believe the development of an HPP as mitigation for adverse indirect effects to the Ohio River Camps Multiple Property Group will be particularly beneficial to this unique group of resources.

Thank you for providing us the opportunity to review and comment on this final draft amended MOA. We look forward to resolving the outstanding issues identified above. If you have any questions, please contact Craig Potts of my staff at 502-564-7005 x 123 or Vicki Birenberg at 502-564-7005 x 127.

Sincerely,



Lindy Casebier
Acting Executive Director and
State Historic Preservation Officer

cc: Janice Osadczuk – FHWA, Indiana Division
John Ballantyne - FHWA
Duane Thomas –FHWA
Gary Valentine – KYTC
Amanda Abner – KYTC
John Mettillie – CDM Smith
David Kroll - Ratio Architects
John Sacksteder – CTS-GEC
Jeff Vlach – CTS-GEC

CP:vmb

Summary of Consulting Party Comments on the Draft MOA

March 19, 2012

1. The Amended MOA and review process should focus on the scaled down alternative, rather than the previous alternative. [Kentuckians for Progress, point 1]
→ Because this is a supplemental environmental review process under NEPA and Section 106, the analysis examined changes between the 2003 Preferred Alternative documented in the FEIS, the FEIS Selected Alternative (which includes minor revisions since that time), and the Modified Selected Alternative, which incorporates the design changes proposed by the Governors in January 2011. The Original MOA was developed based on the 2003 Preferred Alternative. The Amended MOA will identify measures to avoid, minimize, and mitigate adverse effects on historic resources resulting from the Modified Selected Alternative, which has been identified by the lead agencies as the Preferred Alternative.
2. Add language to clarify that the Amended MOA entirely replaces the Original MOA. [Kentuckians for Progress, point 2]
→ Language has been added to the Amended MOA to clarify that the Amended MOA supersedes the Original MOA (Preamble paragraph 3).
3. The Response to Effects summary is an accurate, professional, objective, neutral response. [Kentuckians for Progress, point 3]
→ To the best of our ability, the project team has relied on facts, state-of-the-practice tools, and input from technical experts to accurately and objectively analyze environmental impacts, both under the NEPA and Section 106 processes.
4. Consideration of additional historic resources/areas that could be impacted by the Project under Section 106 is an unnecessary expense. The majority of the community shares this opinion. [Kentuckians for Progress, point 4-6]
→ The Section 106 consultation process is a legal requirement FHWA must meet in order to approve funding for the Project. Compliance with Section 106 helps FHWA and the State Sponsors to understand and address the potential effects of the Project on historic properties. The project team is fully committed to fulfilling the Section 106 requirements and considering input from all Section 106 consulting parties.
5. Site numbers associated with the Utica Lime Kilns should be updated in state archaeological records. Updated site forms should be submitted. [IN SHPO 2/10/12, page 1, paragraph 2]
→ The CTS team will provide updated site forms to the IN SHPO. References in the SEIS and 800.11(e) Report will be updated to clarify the correct site numbers.
6. In the Amended MOA, update the citation for the Indiana guidebook. [IN SHPO 2/10/12, page 1, paragraph 3]

→ This reference has been clarified in the Amended MOA (Stipulation VIII.3).

7. The Butchertown Historic Preservation Plan should be revised and amended. [Butchertown Neighborhood Association, point 1]

→ Language has been added to the Amended MOA to clarify that a new HPP for Butchertown shall be developed (Stipulation III.K.1).

8. We object to removing Edison House from the Amended MOA. [Butchertown Neighborhood Association, paragraph 2]

→ The figures at the end of this document illustrate the relationship among the existing conditions, impacts under the FEIS Selected Alternative, and impacts under the Modified Selected Alternative. Edison House is located approximately 1000 feet from the nearest point on the existing I-65 alignment. In the FEIS Selected Alternative, the nearest distance to the Project is 660 feet because the Kennedy Interchange shifts to the south. The Project is 830 feet away in the Modified Selected Alternative, measuring to I-65; the Kennedy Interchange returns to its existing location in this alternative. The 830-foot distance is beyond the threshold within which a property might experience impacts from noise (500-800 feet) or from vibration (up to 500 feet).

The inclusion of this historic property in the mitigation commitments in the 2003 MOA was based on the potential proximity effects of the relocated Kennedy Interchange. Because the Kennedy Interchange would be reconstructed in place under the Modified Selected Alternative, those impacts are no longer relevant. Thus, the relevant consideration becomes whether the improvements along I-65 would be close enough to have an effect on this resource. Based on the foregoing, no effect is anticipated for this historic property as a result of construction of the Modified Selected Alternative.

The height of the interchange at this location would increase by 3 feet between the existing elevation and the Modified Selected Alternative, which is a *de minimis* visual change at a distance of 830 feet, and would lead to no visual impacts. Overall, the Modified Selected Alternative is about 30 feet lower than the FEIS Selected Alternative at its highest point. Therefore, the commitment to rehabilitate the exterior of Edison House and conduct a noise study has been eliminated.

9. We do not object to eliminating Wesley House from the Amended MOA but disagree with the reason presented for its elimination. [Butchertown Neighborhood Association, paragraph 3]

→ The figures at the end of this document illustrate the relationship among the existing conditions, impacts under the FEIS Selected Alternative, and impacts under the Modified Selected Alternative. Wesley House is located approximately 1,250 feet from I-65 today. In the FEIS Selected Alternative, the nearest distance to the Project is approximately 655 feet because the Kennedy Interchange shifts to the south. The Project is approximately 1,025 feet away in the Modified Selected Alternative, measuring from the nearest point along I-65. This distance is beyond the threshold within which a property might experience impacts from noise (500-800 feet) or from vibration (up to 500 feet). Therefore, the commitment to conduct a noise study at Wesley House has been eliminated.

The inclusion of this historic property in the mitigation commitments in the 2003 MOA was based on the potential proximity effects of the relocated Kennedy Interchange. Because the Kennedy Interchange would be reconstructed in place under the Modified Selected Alternative, those impacts are no longer relevant. Thus, the relevant consideration becomes whether the improvements along I-65 would be close enough to have an effect on this resource. Based on the foregoing, no effect is anticipated for this historic property as a result of construction of the Modified Selected Alternative.

The height of the interchange at this location would increase by 4 feet between the existing elevation and the Modified Selected Alternative, which is a *de minimis* visual change at a distance of 1,025 feet, and would lead to no visual impacts. Overall, the Modified Selected Alternative is about 30 feet lower than the FEIS Selected Alternative at its highest point.

10. We object to removing St. Joseph Church from the Amended MOA. [Butchertown Neighborhood Association, paragraph 4]

→ The figures at the end of this document illustrate the relationship among the existing conditions, impacts under the FEIS Selected Alternative, and impacts under the Modified Selected Alternative. St. Joseph Church is located approximately 850 feet from the nearest point on the I-64 alignment in the Modified Selected Alternative, which is the same distance as the current alignment of I-64. The FEIS Selected Alternative moved the Project 23 feet closer. This 850-foot distance is beyond the threshold within which a property might experience impacts from noise (500-800 feet) or from vibration (up to 500 feet). The distance between St. Joseph Church and I-64 is the same today as in the Modified Selected Alternative; therefore, there will be no impacts from traffic noise in the Modified Selected Alternative when compared to conditions today.

The height of the interchange at this location would increase by 1 foot between the existing elevation and the Modified Selected Alternative, which is a *de minimis* visual change at a distance of 850 feet, and would lead to no visual impacts. Overall, the Modified Selected Alternative is about 30 feet lower than the FEIS Selected Alternative at its highest point.

11. We object to removing Franklin Street Baptist Church from the Amended MOA. [Butchertown Neighborhood Association, paragraph 5]

→ The figures at the end of this document illustrate the relationship among the existing conditions, impacts under the FEIS Selected Alternative, and impacts under the Modified Selected Alternative. Franklin Street Baptist Church is located approximately 1,820 feet from the nearest point on the existing Kennedy Interchange today. In the FEIS Selected Alternative, the nearest distance to the Project is 985 feet because the Kennedy Interchange shifts to the south. The Project is 1,680 feet away in the Modified Selected Alternative, measuring to the southernmost Kennedy Interchange ramp; the interchange returns to its existing location in this alternative. This distance is beyond the threshold within which a property might experience impacts from noise (500-800 feet) or from vibration (up to 500 feet). Therefore, the commitment to conduct a noise study at Franklin Street Baptist Church has been eliminated.

The inclusion of this historic property in the mitigation commitments in the 2003 MOA was based on the potential proximity effects of the relocated Kennedy Interchange. Because the Kennedy Interchange would be reconstructed in place under the Modified Selected Alternative, those impacts are no longer relevant. Based on the foregoing, no effect is anticipated for this historic property as a result of construction of the Modified Selected Alternative.

The height of the interchange at this location would decrease by 2 feet between the existing elevation and the Modified Selected Alternative, which is a *de minimis* visual change at a distance of 1,680 feet, and would lead to no visual impacts. Overall, the Modified Selected Alternative is about 30 feet lower than the FEIS Selected Alternative at its highest point.

12. We do not object to eliminating Marcus Lindsay Methodist Church from the Amended MOA but disagree with the reason presented for its elimination. [Butchertown Neighborhood Association, paragraph 6]

→ Ownership of the Marcus Lindsay Methodist Church has changed so that the property no longer functions as a church. This property is no longer a noise-sensitive use; therefore, a noise study at this location is not appropriate.

13. We object to removing Grace Immanuel United Church of Christ. [Butchertown Neighborhood Association, paragraph 7]

→ The figure at the end of this document illustrates the relationship among the existing conditions, impacts under the FEIS Selected Alternative, and impacts under the Modified Selected Alternative. Grace Immanuel Church falls approximately 600 feet from the Project, within the 800-foot threshold for potential noise impacts. Language has been added to the Amended MOA to reinsert this commitment as included in the Original MOA (Stipulation III.K.9).

14. We do not object to modifying Grocers Ice and Cold Storage if the stipulation states “the BSMT identify parties interested in reusing the buildings in consultation with the BNA.” [Butchertown Neighborhood Association, paragraph 8]

→ Language has been added to the Amended MOA to require that the property be publicly advertised to identify parties that may be interested in this building (Stipulation III.K.10).

15. We object to modifications to the streetscape stipulation. [Butchertown Neighborhood Association, paragraph 9]

→ The modifications to the project designs significantly reduce impacts to Butchertown. In the FEIS Selected Alternative, a swath of industrial development between the Kennedy Interchange and the historic district would have been eliminated, bringing the interstate to the doorstep of the district and creating intrusive visual effects. In the Modified Selected Alternative, the interchange remains within its existing footprint. Existing industrial developments to the north of Butchertown would shield much of the historic district from project elements. Also, planned local street connectors (such as the Witherspoon connector) in the FEIS Selected Alternative have been removed in the

Modified Selected Alternative, further reducing impacts to Butchertown. Because of the change in project scope, streetscape improvements are being limited to the East Main Street corridor because this is the only corridor that would experience impacts from the project.

16. The project limits development potential of the minority-owned Colgate-Palmolive HD and Ohio Falls Car & Locomotive Company, which will adversely affect tax revenues. [RW Moore Consulting Engineering, page 1, paragraph 1]

→ Circulation and access patterns at the Colgate-Palmolive property and the Ohio Falls Car & Locomotive Company under the Modified Selected Alternative would represent an improvement compared to the existing conditions and FEIS Selected Alternative. Access to/from I-65 and the US 31 Bridge would be preserved at Court Street, plus additional local access would be provided at 6th Street to/from areas to the east and I-65. Missouri Street is proposed to operate as a two-way street.

17. Development of the Colgate-Palmolive HD and Ohio Falls Car & Locomotive Company will generate higher traffic volumes than those used for the Project. [RW Moore Consulting Engineering, page 1, paragraph 2]

→ The travel demand model is a regional model, intended to identify travel patterns for the five county metropolitan area. It was not developed to identify impacts at the individual street level. Future volumes are built upon socioeconomic projections developed by KIPDA. If improvements to the property would generate excess traffic, the town of Clarksville may require additional coordination before issuing any development approvals. Street-level improvements to accommodate future development are beyond the scope of the Project.

18. To address adverse effects, language should be added to the Amended MOA that a blasting and vibration plan is required for Colgate-Palmolive, Ohio Falls Car & Locomotive Co, and the US 31 Bridge. The plan should be forwarded to the Town of Clarksville Planning Dept prior to implementation. [RW Moore Consulting Engineering, point 1]

→ As documented in the *Effects Findings Report*, no effects from blasting are anticipated to occur at the Colgate-Palmolive property. Therefore, mitigation for blasting is not warranted. The Amended MOA requires the contractor to develop a blasting/vibration plan for Ohio Falls Car & Locomotive Company (Stipulation III.C.3). Language has been added to the Amended MOA to require development of a construction vibration plan for the US 31 Bridge and administration building, which is projected to experience an adverse effect from construction vibration.

19. To address adverse effects, language should be added to the Amended MOA that the BSMT and Town of Clarksville will develop pedestrian-friendly underpasses. [RW Moore Consulting Engineering, point 2]

→ Pedestrian accessibility is not related to the characteristics which make either the district or the bridge eligible for the National Register of Historic Places. Sidewalks run along the south side of Court Avenue today.

20. To address adverse effects, language should be added to the Amended MOA that the BSMT and Town of Clarksville will incorporate noise abatement measures for Colgate-Palmolive, Ohio Falls Car & Locomotive Co, & the US 31 Bridge. [RW Moore Consulting Engineering, point 3]
→ As described in Section 5.5 of the SEIS, noise impacts were evaluated to determine the feasibility of noise mitigation measures. Ohio Falls Car & Locomotive Company and Colgate-Palmolive fell within Noise Sensitive Areas 4 and 7 respectively, neither of which exceeded FHWA noise abatement criteria or experienced substantially increased impacts in either alternative. Therefore, noise barrier analyses were not warranted. As part of the transportation infrastructure system, the significance of the US 31 Bridge is not affected by noise levels; noise abatement measures for this property are not appropriate.
21. To address adverse effects, language should be added to the Amended MOA that the BSMT will design and construct roadway lighting in accordance with Stipulation II.D for Colgate Palmolive, Ohio Falls Car & Locomotive Co, and the US 31 Bridge. [RW Moore Consulting Engineering, point 4]
→ Impacts from the Modified Selected Alternative have been reduced compared to the FEIS Selected Alternative since the Modified Selected Alternative more closely follows the existing roadway configuration. Lighting mitigation was not included in the Original MOA; because of the reduction in impacts, it is not appropriate to include additional lighting mitigation for these properties.
22. To address adverse effects, language should be added to the Amended MOA that the BSMT will delineate no-work zones within Colgate-Palmolive and the Ohio Falls Car & Locomotive Co. [RW Moore Consulting Engineering, point 5]
→ Stipulation II.N in the Amended MOA addresses this concern. Language has been modified to clarify that no-work zones shall be established within the National Register boundaries for all listed/eligible properties identified during the Section 106 process for this Project.
23. To address adverse effects, language should be added to the Amended MOA that the BSMT will include streetscape improvements and site grading. [RW Moore Consulting Engineering, point 6-7]
→ Stipulation II.J in the Amended MOA specifies that streetscape improvements shall be constructed within the right-of-way for the project, rather than incorporated as enhancements for specific properties. Impacts from the Modified Selected Alternative have been reduced compared to the FEIS Selected Alternative since the Modified Selected Alternative would more closely follow the existing configuration. Streetscaping was not included in the Original MOA; because of the reduction in impacts, it is not appropriate to include it as additional mitigation.
24. To address adverse effects, language should be added to the Amended MOA that the BSMT will design and construct the elevated roadway entrance to the historic area with aesthetic, graffiti-proof treatments. [RW Moore Consulting Engineering, point 8]
→ The application of context sensitive solutions will be addressed as part of the upcoming design and construction processes, as required by Stipulation II.C of the Amended MOA.

25. To address adverse effects, language should be added to the Amended MOA that the BSMT and Town of Clarksville will reassess traffic projections for the South Clark's Landing Area to determine if additional project improvements are needed to adequately address traffic needs of Colgate-Palmolive and Ohio Falls Car & Locomotive Co. [RW Moore Consulting Engineering, point 9]
→ Per Stipulation II.Q, the BSMT will develop a Traffic Monitoring Plan with input from the BSHCT and HPATs to assess the extent to which the project has caused changes in traffic patterns that may affect historic properties.
26. To address adverse effects, language should be added to the Amended MOA that the BSMT will continue to work with the Town of Clarksville throughout project design and construction. [RW Moore Consulting Engineering, point 10]
→ The Town of Clarksville is included on the Indiana Historic Preservation Advisory Team, which will meet quarterly throughout the life of the project.
27. Because the traffic data hinges largely on models and presumptions, subsequent monitoring, evaluation and continued consultation on indirect effects should be included in the MOA. [KY SHPO 2/7/12, page 1, paragraph 2]
→ Per Stipulation II.Q, the BSMT will develop a Traffic Monitoring Plan with input from the BSHCT and HPATs to assess the extent to which the project has caused changes in traffic patterns that may affect historic properties.
28. We have concerns that economic issues resulting from construction impacts have not been adequately addressed. [KY SHPO 2/7/12, page 1, paragraph 3]
→ It is recognized that there will be impacts during construction. To address potential economic issues, traffic flow to/through Butchertown and Phoenix Hill will be maintained on the local street network during construction phases. Per Stipulation II.R, the BSMT will coordinate with local authorities and the BSHCT to identify and implement maintenance of traffic strategies during construction.
29. Additional discussion about impacts to the Clark Memorial Bridge – deterioration and pedestrian safety concerns from increased traffic – is needed, including a post-review process to monitor traffic. [KY SHPO 2/7/12, page 2, paragraph 1]
→ Both KYTC and INDOT have a regularly scheduled inspection program for all bridges in their state. To maintain the structural integrity of the Clark Memorial Bridge, this structure is visually inspected by the KYTC annually, with an in-depth inspection and structural fatigue analysis completed every two years. Any necessary repairs to the structure or other appropriate actions (i.e., reduction in the weight limit) identified as a result of these inspections will be undertaken by KYTC and INDOT so that the Clark Memorial Bridge will continue to be safe and open to traffic.

In light of pedestrian safety concerns, the "Big Four" Bridge, located approximately one mile upstream from the Clark Memorial Bridge, is being rehabilitated to accommodate cross river travel by pedestrians and bicycles. When this project is completed (anticipated to occur in 2013), many of

the pedestrians and bicyclists currently using the Clark Memorial Bridge are expected to shift to the Big Four Bridge. This will result in increased safety for pedestrians and bicyclists using the Big Four Bridge since there will not be a conflicts with automobiles. The reduced number of bicyclists and pedestrians remaining on the Clark Memorial Bridge will experience less congestion and improved safety as a result of decreased conflicts with vehicles.

30. Add Preservation Kentucky to the KHPAT in Stipulation I.A.5. [KY SHPO 2/7/12, page 2, paragraph 3]
→ This group has been added to the KHPAT. Stipulation I.A.6 allows the HPAT co-chairs to invite additional agencies and organizations to participate.
31. Better understanding of the design-build process is needed to facilitate HPAT, BSHCT, and BSMT coordination. What will review/comment periods be? [KY SHPO 2/7/12, page 2, paragraph 4]
→ Language has been modified in the Amended MOA to clarify the role of the HPATs. One potential alternative project delivery contracting approach being considered is design build contracting, which allows a single contractor to perform both design and construction phases of work, providing greater opportunities for innovation and accelerated project delivery timelines. Due to the accelerated schedule associated with the design-build process, some coordination items may not be able to occur on the 30-day cycle previously established for HPAT reviews. Comment periods will have to be established individually for any documents circulated for review.
32. Describing the ombudsmen as community “liaisons” does not imply an unbiased, independent mediator. [KY SHPO 2/7/12, page 2, paragraph 5]
→ This language has been eliminated. The intended role of the Ombudsmen has not changed since the Original MOA.
33. Reasonable effort has not been made to house the Kentucky Ombudsman in a historic property. [KY SHPO 2/7/12, page 2, paragraph 6]
→ This will be revisited by the BSMT during the construction phase.
34. Language should be reinserted in Stipulation II.L.2 that gives the BSHCT input on the blasting/vibration plan. [KY SHPO 2/7/12, page 2, paragraph 7]
→ Language in the Original MOA has been modified due to the alternative project delivery contract approaches being pursued for the Project. The Amended MOA now provides HPAT and BSHCT review of the Contract Provisions rather than the blasting/vibration plan. The Contract Provisions define the specific requirements that will be placed on the contractor, including development and implementation of a blasting/vibration plan.
35. Noise attenuation measures in Butchertown should be reaffirmed in the MOA if construction will occur on weekends. [KY SHPO 2/7/12, page 2, paragraph 8]
→ See Responses #10-13 above.

36. Stipulation II.Q should be developed further. [KY SHPO 2/7/12, page 2, paragraph 9]
→ Language has been added to the Amended MOA to require that the BSMT will develop a Traffic Monitoring Plan with input from the BSHCT and HPATs to assess the extent to which the project has caused changes in traffic patterns that may affect historic properties.
37. Ohio River Camps MPDF should be addressed in Section III. [KY SHPO 2/7/12, page 2, paragraph 10]
→ Language has been added to the Amended MOA to create a new Stipulation III.R, requiring development of a historic context and treatment plan for the camps group.
38. Include language to require monitoring on the Clark Memorial Bridge. [KY SHPO 2/7/12, page 2, paragraph 11]
→ See Response #29 above.
39. Historic Preservation Plans should be updated to reflect changes in the project. [KY SHPO 2/7/12, page 2, paragraph 12]
→ Language has been added to the Amended MOA to clarify this intent.
40. Stipulation I.A.1 should be moved to the preamble. [NTHP, page 1, IA1]
→ The order of commitments in the Original MOA has been preserved in an attempt to facilitate reviews by consulting parties. Notes have been added to highlight commitments which have been fulfilled or are ongoing.
41. Stipulation I.A.6 should be updated to require additional participants. NTHP should be added to the IN HPAT. [NTHP, page 1 IA6 and page 9 IIH1]
→ This group has been added to the IHPAT. Stipulation I.A.6 allows the HPAT co-chairs to invite additional agencies and organizations to participate. Organizations not specifically identified in the MOA list may request membership by contacting either co-chair.
42. Stipulation I.A.9 should not be removed; consulting parties should be able to provide input during the design-build process. [NTHP, page 1, IA9]
→ Language has been modified in the Amended MOA to clarify the role of the HPATs.
43. Additional detail is needed in Stipulation I.B.2 to ensure ongoing input from the BSHCT. [NTHP, page 2, Ib2]
→ Language has been modified in the Amended MOA. The BSHCT will assist the BSMT in developing contract provisions and will meet quarterly with the HPATs to discuss issues.
44. Stipulation C seems inconsistent with reports that construction of each bridge will be managed separately. [NTHP, page 2, IC]
→ Although each state DOT will hold separate contracts for the design and construction of each Ohio River bridge, the BSMT will coordinate project-wide and oversee elements associated with

both bridges.

45. Stipulation I.C.1 should not indicate it has been fulfilled. [NTHP, page 2, IC1]
→ The commitment is to form a BSMT, which has occurred. As discussed at the January 27, 2012 meeting, members include Gary Valentine for KYTC, Paul Boone for INDOT and Duane Thomas for FHWA Kentucky Division.
46. Additional details are needed in Stipulation I.C.4 to identify specific input points for the BSMT. [NTHP, page 2, IC4]
→ The MOA is specific to Section 106 resources. The BSMT has a much broader role in the design and construction phases, providing project input on a daily basis. Contract provisions developed for the next phases of work will detail specific points at which the contractor must coordinate with the BSMT.
47. The “liaison” reference in Stipulation I.D.3 should be removed. [NTHP, page 2, ID3]
→ See Response to Comment #32. This language has been removed.
48. The phrase “every reasonable effort shall be made” should be removed from Stipulation I.D.5. [NTHP, page 3, ID5]
→ The BSMT will reconsider where to house the Ombudsmen during the construction phase.
49. The reference that implementation shall be completed prior to completion should be removed from the introductory paragraph in Section II. [NTHP, page 3, II]
→ This language has been corrected to indicate that all measures shall be initiated prior to completion of the Project.
50. Public involvement efforts should continue. [NTHP, page 3, IIB]
→ Language has been added to the Amended MOA to require the Contractor to develop and implement a *Community Outreach Plan* that will describe specific measures to involve the public and historic preservation interest groups.
51. To clarify, reference to the HPPs should be added to Stipulation II.C. [NTHP, page 3, IIC]
→ The language has been modified in the Amended MOA to clarify.
52. Stipulation II.E should specify who is responsible and include HPAT and BSHCT review/approvals. [NTHP, page 3, IIE]
→ Language has been added to the Amended MOA to clarify that the BSMT is responsible for incorporating noise abatement measures in the project designs.
53. HPP updates should be linked to a specific milestone, such as prior to initiation of work in area. [NTHP, page 4, IIF]
→ Language has been added to the Amended MOA to require the HPPs be completed within three

years of the execution of the Amended MOA.

54. References that commitments have been fulfilled should be removed for Old Jeffersonville HD, Phoenix Hill HD, and Country Estates of River Road HD. [NTHP, page 4, IIF2]

→ These notes have been eliminated.

55. INDOT should make the draft HPP for Swartz Farm/James Smith Farm available to the public. [NTHP, page 4, IIF2]

→ The draft HPP was circulated through the IHPAT during 2006-2007. Copies of the materials will be provided to any interested parties.

56. The Clark County survey update should be made available to the public in an accessible format. [NTHP, page 4, IIG1]

→ The survey is available to the public through the IN SHPO's website. The database format is used for survey updates statewide.

57. The MOA should include a historic preservation easement around Belleview. [NTHP, page 4, IIH]

→ The changes incorporated in the Modified Selected Alternative are not substantial enough to create impacts different from those identified and evaluated in the 2003 Section 106 process and MOA.

58. The contractor should not have sole responsibility for identifying blasting measures. [NTHP, page 4, IIL1]

→ DOT geotechnical experts will review the contractor's blasting/vibration plans to ensure adequate protective measures are incorporated prior to the plan's approval. Technical requirements for the plan will be defined in the contract provisions. The BSMT will advise the BSHCT of measures to be implemented by the contractor to protect historic resources from vibration damage.

59. Quantitative blasting standards are needed, such as the vibration monitoring language for the Memorial Bridge between Portsmouth, NH and Kittery, ME. [NTHP, page 5-6]

→ A similar requirement is addressed by Stipulation II.L.2 in the Amended MOA. Technical requirements related to blasting/vibration will be addressed further in the contract provisions for the next phases of work. The BSMT will consult with the SHPO to identify appropriate historic structure(s) to monitor, the pre-monitoring survey technique, appropriate vibration threshold levels for the project, and post-construction survey.

60. Stipulation II.M should prohibit construction on Sundays. This restriction should be enforced. [NTHP, page 6, IIM]

→ Language has been added to the Amended MOA requiring that noisy construction activities shall not be conducted between 6:00 a.m. and noon on Sundays without the prior approval of the BSMT.

61. The contractor should not have the sole responsibility for identifying protective measures around no-work zones. BSHCT consultation should be retained. [NTHP, page 7, IIN]
→ The BSMT will review the contractor's plans to ensure adequate protective measures are incorporated prior to the plan's approval. The BSMT will consult with the BSHCT regarding measures to be implemented by the contractor to protect historic resources.
62. Additional details for traffic diversion monitoring are needed. HPATs should be involved in reviews. Measures for economic monitoring should be included. [NTHP, page 7, IIQ]
→ Stipulation II.Q has been revised to provide additional details.
63. Stipulation III.A2.a should require the Train Depot be made available to house project personnel. [NTHP, page 7, IIIA2a]
→ The BSMT will reconsider where to house the Ombudsmen during the construction phase.
64. A blasting/vibration plan should be required for Colgate-Palmolive & the US 31 Bridge. [NTHP, page 8, IIIB3 & IIID4]
→ See Response to Comment #18.
65. Interpretive signage should be added for the US 31 Bridge. [NTHP, page 8, IIID5]
→ Impacts to the bridge under the Modified Selected Alternative are not substantially different than in the FEIS Selected Alternative. Therefore, additional interpretive signage has not been included.
66. The MOA should acknowledge that the US 31 Bridge will operate over capacity, adversely affecting the structure. [NTHP, page 8, IIID6]
→ The capacity calculations presented in Table 3.3-2 of the SDEIS were based on the 2003 travel demand model rather than the updated time-of-day travel demand model that was prepared for this supplemental NEPA analysis. The SFEIS will present volume/capacity calculations based on the updated model. Based on these calculations, the US 31 Bridge traffic does not exceed capacity.
- In addition, both KYTC and INDOT have a regularly scheduled inspection program for all bridges in their state. To maintain the structural integrity of the Clark Memorial Bridge, this structure is visually inspected by the KYTC annually, with an in-depth inspection and structural fatigue analysis completed every two years. Any necessary repairs to the structure or other appropriate actions (i.e., reduction in the weight limit) identified as a result of these inspections will be undertaken by KYTC and INDOT so that the Clark Memorial Bridge will continue to be safe and open to traffic.
67. The role of the HPAT in updating the Old Jeffersonville HPP should be clarified in Stipulation III.E.1. [NTHP, page 8, IIIE1]
→ Language has been added to Stipulation II.F.1 in the Amended MOA to clarify that the role of the HPATs in updating the HPPs is the same as their role in the initial HPP development process.

68. Market Street should be added in Stipulation III.E.3. [NTHP, page 8, IIIE3]
→ The language in the Amended MOA has been updated to include Market Street.
69. The commitment to relocate the five structures in Old Jeffersonville HD should be maintained. [NTHP, page 8, IIIE7]
→ The commitment to relocate these structures has been retained. As discussed at the January 27, 2012 meeting, the houses were reevaluated in 2012 to verify that their structural condition does not preclude relocation. Based on field visits, all five were determined to be in the same condition or better than when they were evaluated previously and appear feasible for relocation in accordance with Stipulation III.E.
70. A marketing campaign for Old Jeffersonville HD should be added to address effects during construction. [NTHP, page 9, IIIE14]
→ Construction activities are not expected to limit traffic movements or access within Old Jeffersonville. Per Stipulation II.R, the BSMT will coordinate with local authorities and the BSHCT to identify and implement traffic strategies during construction.
71. The blasting/vibration measures in the Original MOA should be replaced with interpretation and documentation of the INAAP igloos. [NTHP, page 9, IIIF]
→ Language has been added in Stipulation III.F that the BSMT will make a reasonable effort to develop and place a roadside historical marker for the district.
72. All four kilns should be acquired and protected. [NTHP, page 9, IIIH6]
→ Per Stipulation III.H.8, the BSMT will seek to list the kilns and quarries in the NRHP rather than acquiring these sites.
73. An expanded interpretation plan should be developed for the kilns. [NTHP, page 9, IIIH7]
→ Three of the four kilns are located on private property, not accessible to the general public. Per Stipulation III.H, the BSMT will publish a pamphlet describing the lime industry, develop documentation for the kilns/quarries, and seek to list the kilns/quarries in the NRHP.
74. The Central Passage House should be marketed for relocation. [NTHP, page 10, IIII]
→ Language has been added to the Amended MOA to incorporate marketing for relocation of the Central Passage House.
75. Dispute regarding the Butchertown HPP should be resolved before work begins nearby. [NTHP, page 10, IIIK1]
→ The BSMT will work with the BSHCT to finalize and update the Butchertown HPP before related work begins in the vicinity.
76. Properties in Butchertown will be subject to construction noise; mitigation measures should be retained. Additional information about effects is needed. [NTHP, page 10, IIIK4-9]

→ See Responses to Comments 8-15.

77. Grocers Ice & Cold Storage should not be demolished. The commitment has not been fulfilled.

[NTHP, page 11, IIK10]

→ Language has been added to the Amended MOA to require that the property be publicly advertised to identify parties that may be interested in this building (Stipulation III.K.10).

78. Traffic calming measures in Butchertown should be retained. [NTHP, page 11, IIK13]

→ The modifications to the project designs significantly reduce impacts to Butchertown. Planned local street connectors (such as the Witherspoon connector) in the FEIS Selected Alternative have been removed in the Modified Selected Alternative, further reducing impacts to Butchertown. Per Stipulation II.R, the BSMT will coordinate with local authorities and the BSHCT to identify and implement traffic strategies during construction.

79. A stipulation should be added requiring a construction mitigation plan to address impacts on Butchertown. [NTHP, page 11, IIK17]

→ As with all projects, the contractor will be required to comply with standard construction specifications, which identify best management practices to minimize impacts during construction. Per Stipulation II.R, the BSMT will coordinate with local authorities and the BSHCT to identify and implement traffic strategies during construction.

80. The Phoenix Hill HPP should be updated. [NTHP, page 11, IIIL1]

→ Language has been added to the Amended MOA to clarify that an update to the Phoenix Hill HPP is required.

81. Measures for additional interpretation/mitigation at Baer Fabrics should be included. [NTHP, page 11, IIIL2]

→ Language has been added to the Amended MOA to clarify that full documentation of the building has been completed. In addition, KYTC shall offer salvageable materials from the site to museums.

82. The Country Estates HPP should be updated. [NTHP, page 11, IIIM1]

→ Language has been added to the Amended MOA to clarify that an update to the Country Estates HPP is required.

83. A no-work zone should be established for Drumanard and for the field around Allison-Barrickman. [NTHP, page 11 IIIN5 and page 12 IIIO3]

→ Stipulation II.N in the Amended MOA addresses this concern. Language has been modified to clarify that no-work zones shall be established within the National Register boundaries for all listed/eligible properties identified during the Section 106 process for this Project.

84. The reference that Stipulation III.P.1 has been fulfilled should be removed. [NTHP, page 12, IIIP1]

→ Language has been added to the Amended MOA to clarify that the commitment to develop a

plan has been fulfilled but that implementation is ongoing.

85. The reference to Stipulation II in Stipulation III.Q.1 should be more specific. [NTHP, page 12, IIIQ1]

→ The reference is intended to incorporate all of the subpoints within Stipulation II.

86. The MOA does not provide mitigation for the properties at Transylvania Beach. [NTHP, page 12, IIIR]

→ Language has been added to the Amended MOA to create a new Stipulation III.R, requiring development of a historic context and treatment plan for the camps group.

87. Stipulation VI.A does not specify that the BSMT has approval authority over waste, borrow, and/or staging areas. [NTHP, page 12, VI]

→ Language in the Amended MOA states that “Before the approval by the BSMT of sites for staging, wetland mitigation, borrow or waste, dredge disposal, or other construction activities requiring BSMT approval associated with the Project, INDOT or KYTC shall...”

88. Stipulation VIII.A should be clarified to specify that professional qualifications should correspond to the nature of the resource. [NTHP, page 13, VIIIA]

→ This is covered by the states’ standard specifications.

89. Duration in Stipulation XIV should be changed to ten years. [NTHP, page 13, XIV]

→ Language has been added to the Amended MOA to reduce the duration to 15 years.

90. Economic impacts added to the Effects Findings Report contradict the SDEIS, calling into question the studies’ credibility. [NTHP, pages 13-14]

→ Economic summary data presented in the Effects Findings Report is consistent with information contained in Section 5.1 of the SDEIS. Tables 5.1-1 through 5.1-3 (SDEIS page 5-6) present data on total employment in both 2009 and 2030. As shown, the number of jobs within 10 miles of downtown Louisville and beyond 10 miles of downtown Louisville increases by over 30% in 2030 when compared to 2009 levels. The geographic distribution of these jobs varies but, as shown in Table 5.1-3, the total employment in the 5-county metropolitan area is identical between the No-Action and Build Alternatives.

Table 5.1-11 in the SDEIS (page 5-18) did not contain the correct quantity for 2030 Build jobs in Floyd County. The value should have read 43,766; this will be corrected in the SFEIS. This correction eliminates the referenced 78 jobs and rectifies the previous contradiction. Summary economic information presented in the Effects Findings Report is accurate.

91. The previous Response to Comments #5 stated diversion routes have the capacity to accommodate increased traffic without significant impacts on traffic operations; however, the SDEIS shows the US 31 and I-64 Bridges would operate over capacity. [NTHP, page 14, point 5]

→ The capacity calculations presented in Table 3.3-2 of the SDEIS were based on the 2003 travel demand model rather than the updated time-of-day travel demand model that was prepared for

this supplemental NEPA analysis. The SFEIS will present volume/capacity calculations based on the updated model. Based on these calculations, the neither I-64 nor US 31 bridge traffic will exceed capacity.

92. The EPA commented on the SDEIS that the cumulative socioeconomic analysis is inadequate. [NTHP, page 14, point 13]
→ Comments on the SDEIS will be addressed in the SFEIS.
93. A HPP for the lime kilns has not been prepared. [NTHP, page 15, point 18]
→ Drafts of the Lime Kilns HPP were presented to the IHPAT during the December 2008 and June 2009 meetings. Completion of the document was delayed to complete the MPDF/nomination form and then again as the supplemental NEPA/Section 106 process was initiated.
94. Effects on the lime kilns are not addressed by the 2003 MOA measures because the impacts are substantially greater than originally assumed. [NTHP, page 15, point 18]
→ While the quarries have been added to the Utica Lime Kilns MPDF since 2003, the impacts to the kilns themselves have not changed. Documentation of the quarries has been included in the Amended MOA; this adequately addresses adverse effects for these resources.
95. Theodore Mueller House/Shady Brook Farm, Cedarbrook Farm, Nitta Yuma, Harrods Creek HD, and Harrods Creek Village HD would experience noise impacts during construction. [NTHP, page 15-16]
→ The Contractor must comply with local noise ordinances. Language has been added to the Amended MOA requiring that noisy construction activities shall not be conducted between 6:00 a.m. and noon on Sundays without the prior approval of the BSMT.
96. Noise levels at Cedarbrook Farm were projected to increase by 8-9 dBA in 2002. The SHPO and ACHP objected to the No Effect finding at that time. [NTHP, page 15, point 21]
→ The SHPO concurred in the findings at that time and signed the Original MOA.
97. Strater House should be examined individually. [NTHP, page 16, point 22]
→ Impacts on the Strater House were considered as part of the Country Estates of River Road Historic District. Mitigation measures specific to the Strater House have been incorporated into the MOA.
98. The figure referenced in the previous Response to Comments #24 was not included. [NTHP, page 16, point 24]
→ The figure was attached to the PDF document. Another copy of the Nitta Yuma figure is also attached at the end of this document.
99. Historic Landmarks Foundation of Indiana has changed its name to Indiana Landmarks since the Original MOA was signed. [IN SHPO 2/27/12, page 1, bullet 1]

→ Language has been updated in the Amended MOA to reference the organization's new name.

100. Language in Stipulation II.G.1 should be updated to indicate that the IHSSI Clark County update has been updated and is available through the IN SHPO website. [IN SHPO, 2/27/12, page 1, bullet 2]

→ Language has been updated in the Amended MOA to clarify.

101. Reference to "post-constructing traffic monitoring" in Stipulation II.Q.2 should read "post-construction traffic monitoring" instead. [IN SHPO 2/27/12, page 1, bullet 3]

→ Language has been updated in the Amended MOA to clarify.

102. "Evacuation" reference in Attachment G should read "excavation" instead. [IN SHPO 2/27/12, page 2, bullet 1]

→ Language has been updated in the Amended MOA attachment to clarify.

103. It is not clear why post-construction traffic monitoring should begin 12 months after construction. This timeline should be reduced to be completed within 3 to 9 months after construction is completed. [IN SHPO 2/27/12, page 2, paragraph 1]

→ Once construction is complete and toll collection systems are in place, traffic will take some time to balance over the regional transportation network. In tolling cases, this trend is known as "ramp up" and can take months or years before traffic patterns stabilize, depending on the complexity of the project. Collecting data too soon after completion of construction will not provide as accurate a representation of long-term traffic patterns. However, language in the Amended MOA has been changed to reduce the end date for monitoring from 24 months to 15 months. The Traffic Monitoring Plan described in Stipulation II.Q will define specific elements of the data collection effort and will be developed in consultation with the BSHCT and HPATs.

104. The 12-15 month period in Stipulation II.Q should be tied to the completion of each section rather than the project as a whole. [KY SHPO 3/5/12, page 1, paragraph 2]

→ See Response to Comment #103. Because the regional transportation system operates as an integrated unit, travel patterns will continue to adjust for months or years after the full project is open to traffic. Collecting traffic data for one section before the entire project is open will not provide an accurate representation of the long-term traffic patterns.

105. The BSHCT and HPATs will want to consider the full range of potential indirect effects from tolling, not rely solely on post-construction traffic modeling reports. [KY SHPO 3/5/12, page 1, paragraph 2]

→ The supplemental Section 106 process included consultation with consulting parties to identify indirect effects on historic properties in the Extensions to the APE. Because of concerns regarding modeled traffic diversion due to tolling, a provision has been included in the Amended MOA (Stipulation II.Q) to collect traffic data to assess the extent to which the Project has caused changes in traffic patterns within the Extensions to the APE.

The Construction Monitoring Plan and consultation with the HPATs/BSHCT defined in Stipulation II.Q will compare actual traffic volumes in the Extensions to the APE before and after implementation of the Project. Actual traffic volumes will not be compared to the results of the travel demand model; the travel demand model results are for the 2030 analysis year, which is beyond the analysis period described in Stipulation II.Q. As defined in the Amended MOA, the members of the BSHCT and HPATs will be given the opportunity to discuss their views regarding the effects of any changes in traffic patterns on historic properties, including the effects upon the qualities that make properties eligible for the NRHP.

106. Does the commitment to reconsider the office location of the Ombudsmen during the construction phase mean that a historic property will be considered? [KY SHPO 3/5/12, page 2, paragraph 4]

→ Language has been added to the Amended MOA to clarify that The BSMT will reconsider office locations in historic properties when determining where to house the Ombudsmen during the construction phase of work.

107. The Ohio River Camps HPP should be completed prior to the initiation of construction work. [KY SHPO 5/5/12, page 2, paragraph 5]

→ Language has been added to Stipulation III.M.1 of the Amended MOA to require the HPP be completed before construction work begins in the vicinity of the Ohio River Camps multiple property group.

108. Please clarify the maximum PPV threshold considered “fragile.” Historic properties in poor condition should be considered “extremely fragile.” These decisions should be made in consultation with the BSHCT. [KY SHPO 3/5/12, page 2, paragraph 6]

→ Language in the Amended MOA has been modified to require the BSMT to discuss with the BSHCT the protective measures to be used by the Contractor to protect historic resources from vibration damage. The BSMT will also seek the recommendations of the BSHCT regarding any additional properties not identified by the Contractor that should be considered Extremely Fragile.

109. If provisions in Stipulation II.M are modified after construction is awarded, noise impacts should be re-evaluated. [KY SHPO 3/5/12, page 2, paragraph 7]

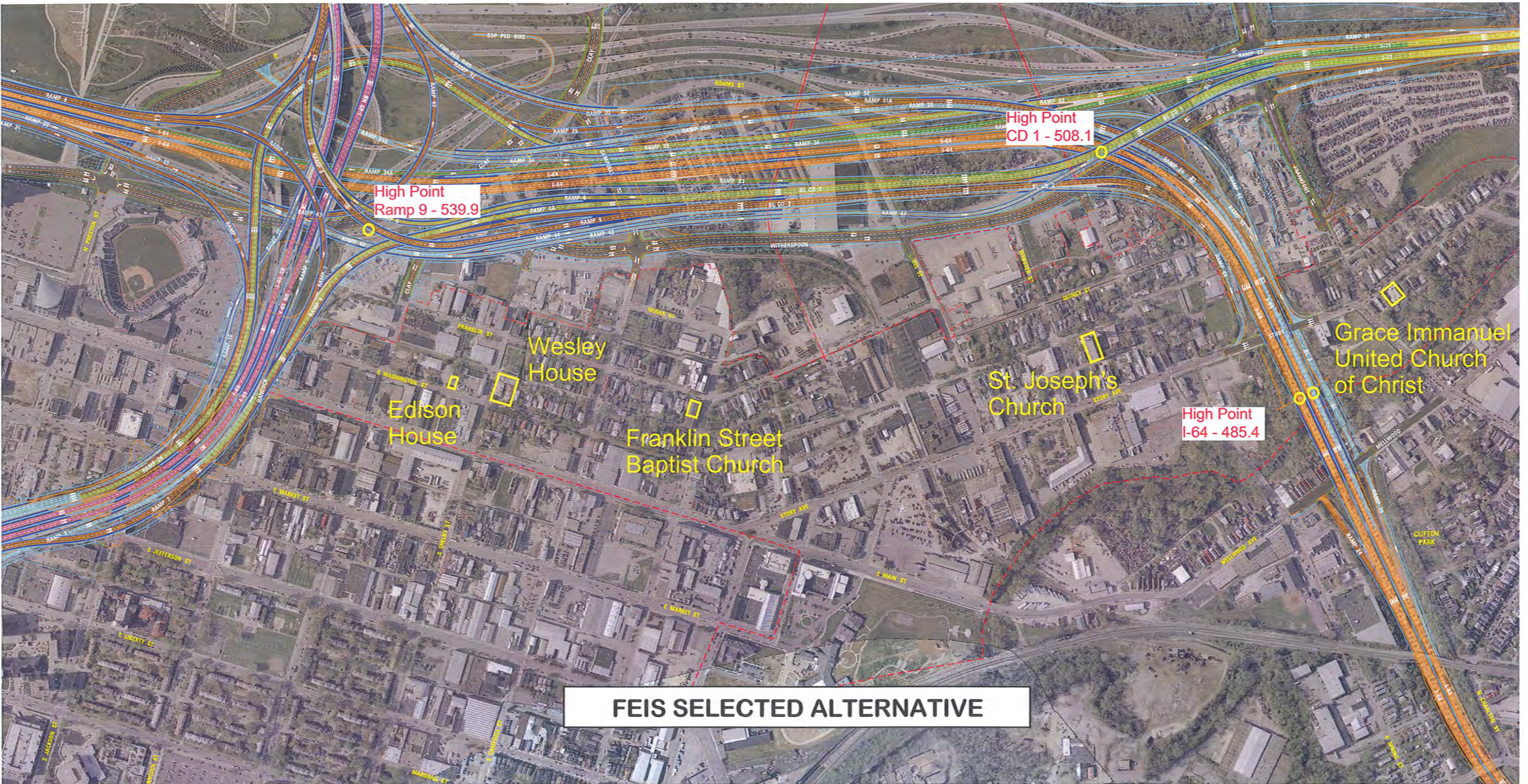
→ Language has been clarified in the Amended MOA that if any modification to the II.M provisions are made after the construction contract is awarded, the BSMT shall discuss the modifications with the BSHCT and the HPATs. The intention of this clause is to grant the Contractor additional flexibility (upon approval from the BSMT) but is only intended to apply under exceptional circumstances.

110. Additional opportunities should be provided for the KHPAT and BSHCT to support the marketing effort for the eastern portion of Grocer’s Ice and Cold Storage. Additional time should be allowed beyond 30 days. [KY SHPO 3/5/12, page 2, paragraph 9]

→ Language in the Amended MOA has been revised to include coordination with Louisville Metro, the KY SHPO, and the BSHCT to help identify parties who may be interested in reusing the property.

An additional 12 months following advertisement of availability has been afforded for this effort.

111. References to the HPATs should be consistent throughout the document. [ACHP, page 1, bullet 1]
→ The language in the Amended MOA has been revised to make references to the HPATs, BSHCT, and BSMT consistent.
112. Green highlighted statements should be removed from the final version of the MOA. [ACHP, page 1, bullet 2]
→ The language in the Amended MOA has been revised to eliminate these notes.
113. Stipulation II.L.2 should clarify that the blasting/vibration plans will be subject to approval by the BSMT. [ACHP, page 2, bullet 1]
→ Language in the Amended MOA has been revised to clarify that the BSMT is responsible for overseeing the development of these plans.
114. Stipulation II.M should clarify that the BSMT will coordinate further with the BSHCT and HPATs before modifying the Sunday morning noise limitation. [ACHP, page 2, bullet 2]
→ Language in the Amended MOA has been revised to indicate that if any modifications are made, the BSMT will discuss the modifications with the BSHCT and the HPATs.



APPROXIMATE DISTANCES FROM STRUCTURES TO CLOSEST EDGE OF PAVEMENT

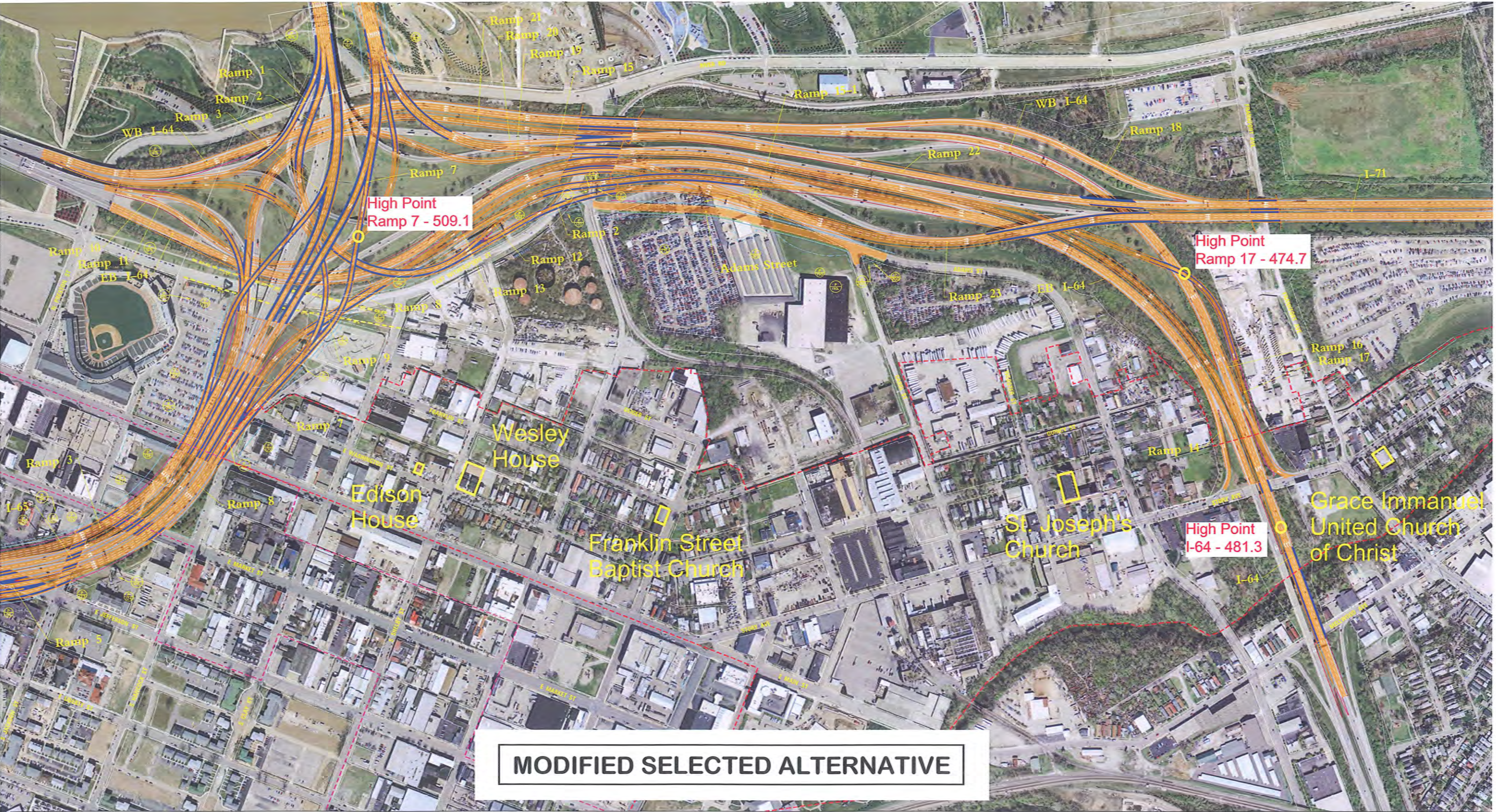
EDISON HOUSE			
Alternative	Distance	Height	Roadway
Existing	1000 feet	493 feet	I-65
FEIS Selected	660 feet	489 feet	EB I-64 to NB I-71 Ramp
Modified Selected	830 feet	496 feet	Muhammad Ali Ramp to NB I-65

WESLEY HOUSE			
Alternative	Distance	Height	Roadway
Existing	1200 feet	476 feet	NB I-65 to EB I-64 Ramp
FEIS Selected	655 feet	494 feet	EB I-64 to NB I-71 Ramp
Modified Selected	1025 feet	497 feet	Muhammad Ali Ramp to NB I-65

FRANKLIN STREET BAPTIST CHURCH			
Alternative	Distance	Height	Roadway
Existing	1820 feet	459 feet	EB I-64 to NB I-71 Ramp
FEIS Selected	985 feet	468 feet	EB I-64 to NB I-71 Ramp
Modified Selected	1680 feet	457 feet	SB I-65 to NB I-71 Ramp

ST. JOSEPH'S CHURCH			
Alternative	Distance	Height	Roadway
Existing	850 feet	466 feet	I-64
FEIS Selected	827 feet	473 feet	I-64
Modified Selected	850 feet	467 feet	I-64

GRACE IMMANUEL UNITED CHURCH OF CHRIST			
Alternative	Distance	Height	Roadway
Existing	595 feet	480 feet	I-64
FEIS Selected	570 feet	485 feet	I-64
Modified Selected	595 feet	480 feet	I-64



APPROXIMATE DISTANCES FROM STRUCTURES TO CLOSEST EDGE OF PAVEMENT

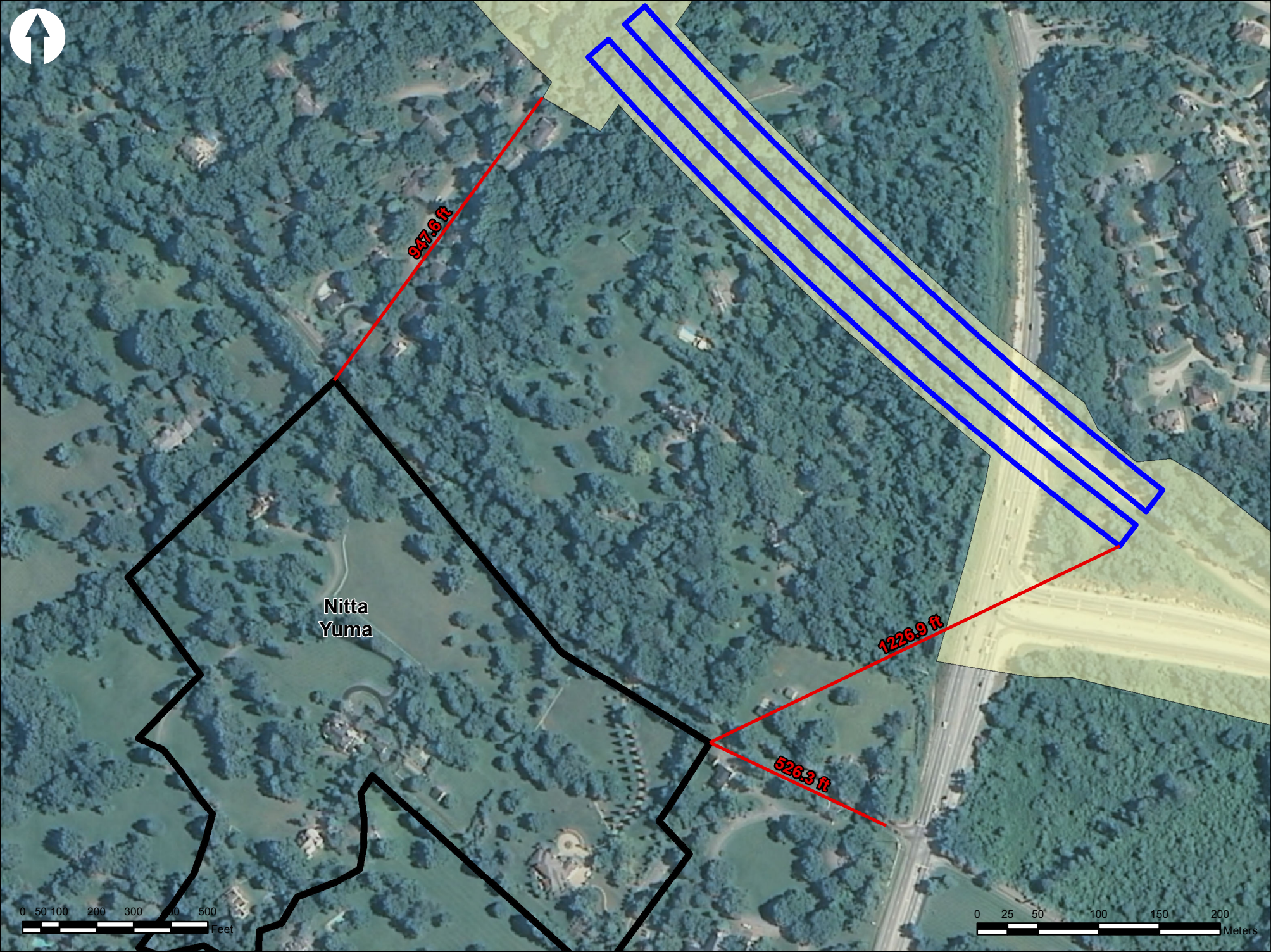
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Nitta
Yuma

947.6 ft

1226.9 ft

526.3 ft

0 50 100 200 300 400 500
Feet

0 25 50 100 150 200
Meters