

**MEMORANDUM OF AGREEMENT  
AMONG THE FEDERAL HIGHWAY ADMINISTRATION,  
THE DISTRICT DEPARTMENT OF TRANSPORTATION,  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, AND  
THE DISTRICT OF COLUMBIA HISTORIC PRESERVATION OFFICE  
REGARDING THE REHABILITATION OF O AND P STREETS FROM  
WISCONSIN AVENUE TO 37<sup>TH</sup> STREET, NW, WASHINGTON, D.C.**

**WHEREAS**, the District Department of Transportation (DDOT) proposes to rehabilitate O and P Streets from Wisconsin Avenue to 37<sup>th</sup> Street, NW in Washington, D.C. (“the Undertaking”) with Federal funds approved by the Federal Highway Administration (FHWA); and

**WHEREAS**, DDOT and the FHWA have defined the purpose of the rehabilitation project as: to repair the structural integrity of the roadways on both O and P Streets and enhance pedestrian and motorist safety while facilitating the repair and/or replacement of District of Columbia Water and Sewer Authority (WASA) infrastructure (water mains) and preserving the historic character of the project area by minimizing the effects on resources listed on or eligible for the National Register of Historic Places (NRHP) ; and

**WHEREAS**, one of the underlying causes of the failure of the roadway on O and P Streets from Wisconsin Avenue to 37<sup>th</sup> Street, NW are sinkholes created by leaking water mains, and new water and sewer utilities cannot be constructed without removing the historic granite pavers; and

**WHEREAS**, DDOT, in conjunction with WASA will coordinate the rehabilitation project with the replacement of two (2) 100-year-old water mains on P Street, and the replacement of one (1) 100-year-old water main on O Street; and

**WHEREAS**, as required in 36 CFR Section 800.4(a)(1), DDOT, in conjunction with the FHWA, the Advisory Council on Historic Preservation, hereafter referred to as the “ACHP”, and the District of Columbia Historic Preservation Office (DCHPO), established the Undertaking’s Area of Potential Effects (APE) to be the right-of-way on O and P Streets from Wisconsin Avenue to 37<sup>th</sup> Street, NW within which ground disturbance will take place and adjacent properties from which elements of the Undertaking may be visible or audible (Attachment A); and

**WHEREAS**, after detailed study of various alternatives and consideration of efforts to avoid and minimize the Undertaking’s impacts, DDOT and the FHWA, in close consultation with the DCHPO pursuant to 36 CFR Part 800, the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470s), have determined that the Undertaking will cause or have the potential to cause adverse effects upon contributing elements of the Georgetown National Historic Landmark District, including the streetcar infrastructure itself and a number of buildings and smaller districts,

including several properties listed in the National Register of Historic Places (see Attachment B); and

**WHEREAS**, there is potential for archaeological resources to exist within the right of way, and some of these resources may be considered NRHP-eligible and may be affected by the proposed project; and

**WHEREAS**, DDOT and the FHWA have identified that effects to potential archaeological resources as a result of activities related to the implementation of the Undertaking, including, but not limited to, street rehabilitation, utility corridor excavation, and use of staging areas, cannot fully be determined at this time; and

**WHEREAS**, DDOT, the FHWA, the ACHP, and the DCHPO are hereafter referred to as “the Signatories”; and

**WHEREAS**, the “Consulting Parties” to this MOA have been identified by request through the Section 106 consultation process and consist of eleven (11) organizations and forty-nine (49) individuals (Attachment C); and

**WHEREAS**, DDOT and the FHWA have consulted with the DCHPO, the ACHP and the Consulting Parties in Attachment C pursuant to 36 CFR Part 800.6 to seek ways to avoid, minimize or mitigate adverse effects; and

**NOW, THEREFORE**, the Signatories to this MOA agree as follows: that upon DDOT and the FHWA’s decision to proceed with the Undertaking, DDOT and the FHWA shall ensure that the following stipulations are implemented in order to take into account the effects of the Undertaking on historic properties, and that these stipulations shall govern the Undertaking and all of its parts until this MOA expires or is terminated.

## **STIPULATIONS**

DDOT and the FHWA shall ensure that the following stipulations are implemented:

### **I. TREATMENT OF O AND P STREETS**

DDOT shall carryout the reconstruction of O and P Streets following Alternative 7 (Redesign Water Option 2), as described in the *Draft Section 4(f) Evaluation, O & P Streets Rehabilitation, Georgetown, Washington, D.C.* (September 2009) . In order to minimize the potential adverse effects of the undertaking to the Georgetown National Historic Landmark District, DDOT shall implement the following measures:

#### **A. Rehabilitation of O and P Streets**

1. O and P Streets shall be reconstructed between Wisconsin Avenue and 35<sup>th</sup> Street, NW to retain their historic appearance, including retaining and reinstalling the components of the streetcar tracks and the surrounding pavers

and curbs, while restoring the original, even street surface and making the top of the rails flush with it.

2. Granite pavers in the street and bluestone curbing on O and P Streets shall be removed in a manner to minimize harm to these historic artifacts in preparation for reuse.
3. The two (2) wheel rails and the slot rail of the streetcar tracks on O and P Streets shall be removed from the subsurface iron yokes by cutting through the fastening bolts. The access hatch covers shall also be removed. These components shall be removed in a manner to minimize harm to them.
4. The rails and access hatch covers removed from O and P Streets shall be re-installed in the street after being straightened, cleaned, and refinished as necessary or appropriate. The two wheel rails and the slot rails shall be re-fastened to the yokes. The yoke cavities shall be filled with a lightweight flowable material for stability before the roadway base for the granite pavers is placed.
5. Once the water mains are replaced and the road bed is stabilized, the granite pavers and bluestone curbing shall be re-set on O and P Streets from Wisconsin Avenue to 35<sup>th</sup> Street.
6. P Street from 35<sup>th</sup> Street to 37<sup>th</sup> Street will be rebuilt in full-depth asphalt. Any granite pavers, wheel rails and slot rails (historic elements) that may be currently covered with asphalt between 35<sup>th</sup> Street and 36<sup>th</sup> Street shall be removed in a manner to minimize harm to these elements in preparation for their reuse on O and P Streets, if they are in suitable condition and if there is a need for more historic replacement components.

#### B. Rehabilitation of 36<sup>th</sup> Street between O and P Streets

1. Any granite pavers, wheel rails and slot rails that may be currently covered by asphalt on 36<sup>th</sup> Street, NW between O and P Streets shall be removed in a manner to minimize harm to these elements in preparation for their reuse on O and P Streets, if they are in suitable condition and if there is a need for more historic replacement components.
2. Any extant yoke cavities shall be filled with a lightweight flowable material for stability before the street is rebuilt.
3. The roadway on 36<sup>th</sup> Street, between O and P Streets, shall be rebuilt with full-depth asphalt.
4. Any bluestone curbing on 36<sup>th</sup> Street shall be removed in a manner to minimize harm to these historic elements in preparation for reuse.

### C. Rehabilitation of Sidewalks along O and P Streets

1. Rehabilitation of the sidewalks along O and P Streets shall be conducted in accordance with Chapter 31 (Sidewalks, Curb and Gutter, Medians, Driveways, and Alleys) of the DC Department of Transportation *Design and Engineering Manual*.
2. Existing historic Georgetown brick shall be used to rehabilitate the sidewalks, to the extent possible. New matching brick shall be used to fill in if a sufficient number of historic brick cannot be obtained.
3. The brick pattern in the rehabilitated areas of the sidewalks shall match the predominant existing brick pattern on each block or streetface.

### D. General Conditions

1. To the extent possible, existing granite pavers, bluestone curbs and brick sidewalks shall be reused for the reconstruction of O and P Streets from Wisconsin Avenue to 35<sup>th</sup> Street, NW. New matching granite pavers shall be used along O and P Streets from Wisconsin Avenue to 35<sup>th</sup> Street, NW to fill in where there are insufficient numbers of existing granite pavers salvaged from O, P, and 36<sup>th</sup> Streets because of breakage or unsoundness.
2. All historic bluestone curbing, granite pavers, and sidewalk brick removed from the O and P Streets project area shall be stored at a secure location until re-setting of the reusable materials.
3. A masonry contractor with historic preservation expertise shall oversee all removal and re-setting of the historic bluestone curbing, granite pavers, and sidewalk brick during the project.
4. A specialist in streetcar rail restoration shall oversee all removal and re-setting of the wheel and slot rails during the project.

### E. Preservation of Historic Elements of the Streetscape and Streetcar Tracks

1. Once a sufficient number of historic components have been salvaged for reuse, sections or examples of the removed streetcar rail assembly that cannot be reused because of condition or original location in an intersection or under 36<sup>th</sup> Street shall be made available to a museum or other appropriate repository. The DDOT and the DCHPO shall confer to agree upon a museum or other repository to receive any historic artifacts.
2. Granite pavers and bluestone curbing that are not suitable for street use but could be used for other rehabilitation projects in the Georgetown National

Historic Landmark District shall be removed from the project area and stored in a secure facility approved by the DCHPO.

- F. Historic elements that are removed and cannot be re-used for this project shall no longer be considered contributing features of the historic properties and the Georgetown National Historic Landmark District. DDOT shall determine if such elements should be curated or preserved for use.
- G. The DDOT shall restore police call and fire alarm boxes along O and P Streets from Wisconsin Avenue to 35<sup>th</sup> Street, NW.

## **II. TREATMENT OF HISTORIC BUILDINGS**

- A. DDOT and FHWA will work with WASA to ensure that dust abatement measures shall be implemented by all construction contractors to reduce airborne particulate matter.
- B. DDOT and FHWA will work with WASA to ensure that vibration studies for the historic buildings shall be conducted including, but not limited to: a pre-construction survey to establish baseline conditions; real-time vibration monitoring during construction with web-based access for project homeowners; and a post-construction survey to identify any damage caused by construction activities. To the maximum extent possible, DDOT and FHWA will plan construction activities to ensure that historic buildings and features are not damaged by vibration impacts. Construction vibrations will not exceed the maximum velocity of 0.1 in/sec recommended by the Association of State Highway and Transportation Officials (AASHTO 1990) for historic sites.
- C. Historic property owners may contact DDOT or the construction contractor to express concerns about impacts to their property and FHWA and DDOT will consult to resolve their concerns per Stipulation VI.A.

## **III. TREATMENT OF ARCHAEOLOGICAL RESOURCES**

The archaeological monitoring and any data recovery investigations shall be implemented during all construction activities. DDOT and the FHWA shall ensure that the archaeological investigations are carried out by or under the direct supervision of an archaeologist(s), and/or other appropriate cultural resource specialists that meets, at a minimum, the NPS *Qualifications Standards* (36 CFR Part 61) and *Guidelines for Archaeological Investigations in the District of Columbia* (1998).

### **A. Archaeological Monitoring**

Archaeological monitoring of all ground disturbing activities shall occur, with particular emphasis on the trenching for the installation of the new water lines.

1. If archaeological deposits are encountered, all construction activity in that area shall briefly cease until the type, extent, and potential NRHP eligibility status can be ascertained.
2. Archaeologists shall be allowed into the construction excavations as needed and within established health and safety standards, to identify and assess archaeological deposits.
3. Isolated artifacts and small archaeological deposits (less than two meters in diameter) shall be recorded, and removed in an expedient manner to minimize the disruption to the construction schedule.
4. All temporally diagnostic artifacts and a representative sample of all other artifact types shall be collected to aid in the identification of the age and/or function of particular deposits.
5. Complete field records shall be maintained throughout the monitoring, and include daily field notes and both black and white, and color photographs.
6. Larger archaeological deposits demonstrating more complexity and diversity of artifact types may require additional consultation with the DCHPO and the ACHP resulting in a more formal data recovery approach as identified in Stipulation III.B.

#### B. Data Recovery

Traditionally, data recovery of archaeological sites through professional techniques such as surface collection, mapping, photography, subsurface excavation, technical report preparation and dissemination, has been the standard mitigation measure. Data recovery of archaeological information is now considered, in and of itself, an adverse effect under the revised Section 106 regulations (36 CFR 800.5).

1. If archaeological deposits are encountered which demonstrate more complexity and diversity of artifact types, all construction activities shall cease in the immediate area, and the archaeological deposits shall be secured. DDOT shall be notified immediately, and DDOT shall contact the DCHPO and the ACHP to initiate formal consultation.
2. If formal data recovery is the agreed upon treatment, a data recovery plan may be prepared within 3 days and address substantive research questions developed in consultation with the DCHPO. The data recovery plan shall be consistent with the standards set forth in the Secretary of the Interior's *Standards and Guidelines for Identification and Evaluation* (48 FR 44720-23) and the *Guidelines for Archaeological Investigations in the District of*

*Columbia* (1998), and take into account the ACHP's publication *Treatment of Archaeological Properties*.

3. DDOT and the FHWA shall submit the data recovery plan to the DCHPO and the ACHP for 7 days review and comment to determine whether the measures are sufficient to reduce or mitigate adverse effects to archaeological resources. DDOT and the FHWA shall take into account the DCHPO and ACHP comments, and shall ensure that the data recovery plan is implemented prior to the commencement of further construction activities.
4. DDOT and the FHWA shall ensure that adequate provisions, including personnel, time, and laboratory space, are available for the analysis and curation of recovered materials from NRHP-eligible archaeological resources.
5. DDOT and the FHWA shall develop and implement an adequate program in consultation with the DCHPO to secure NRHP-eligible archaeological resources from vandalism during data recovery.

#### **IV. CONSTRUCTION CONTRACT REQUIREMENTS**

DDOT and FHWA will work with WASA to ensure that all construction contracts related to this project include the following appropriate language, as appropriate:

- A. A masonry contractor with historic preservation expertise shall oversee all removal and re-setting of the historic bluestone curbing, granite pavers, and sidewalk brick during the project.
- B. Removal of historic streetcar track components, granite pavers, curbs, and historic brick shall be conducted in a manner to minimize damage to these components and maximize reuse and/or preservation of the rails. They shall be stored in a secure location that protects the components from theft, vandalism, loss, damage or corrosion pending their reinstallation on O and P Streets and the reuse of any surplus materials elsewhere in the Georgetown National Historic Landmark District.
- C. A specialist in streetcar rail restoration shall oversee all removal and re-setting of the wheel and slot rails during the project.
- D. During construction, dust abatement measures must be implemented to reduce airborne particulate matter.
- E. During the project, contractors will conduct ongoing vibration monitoring for the historic buildings as prescribed in the monitoring plan. If at any time, maximum vibration levels are exceeded or damage observed, contractors will stop all construction, and notify DDOT. Additional measures shall be implemented to

decrease vibration oscillations below damage thresholds by the construction contractor(s).

- F. The construction contractor(s) shall carry sufficient insurance liability coverage for damage to historic buildings as a result of excavation and street reconstruction activities.
- G. Should any archaeological materials be encountered during construction activities either by the construction crew or the onsite archaeological monitor, the construction contractor(s) shall immediately cease work in that area, secure the location, and notify DDOT.
- H. The construction contractor(s) shall coordinate with the archaeological monitoring effort including, but not limited to, determining and following notification procedures, and securing the project location to protect archaeological resources in accordance with DCHPO protocols.

## **V. ONGOING COORDINATION**

- A. The FHWA and the DDOT shall establish an Advisory Committee and provide a point of contact to address any logistical concerns by the project area homeowners during the design and construction phase of the project.
- B. The FHWA and the DDOT shall make available for review design drawings to the Signatories, the Consulting Parties and other affected parties, and the general public during the design process.
- C. Once construction commences, and until it is completed, the FHWA and the DDOT shall provide project updates on a regular basis (monthly) to the Consulting Parties. These updates may consist of postal correspondence, email correspondence, or meetings.

## **VI. GENERAL PROVISIONS**

- A. Dispute Resolutions
  - 1. Should any of the Signatories object at any time to the manner in which the terms of this MOA related to historic preservation and archeological findings are implemented, or to any documentation prepared in accordance with and subject to the terms of this MOA related to historic preservation and archeological findings, the FHWA shall consult with the objecting party to resolve the objection. If FHWA and DDOT determines that the objection or disagreement cannot be resolved through such consultation, the FHWA and DDOT shall:

- (a) Forward all documentation relevant to the dispute, including the FHWA's and DDOT's proposed resolution, to the ACHP. The ACHP shall provide FHWA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. FHWA and DDOT will then proceed according to their final decision.
- (b) If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FHWA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.
- (c) FHWA's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

#### B. Amendments

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

#### C. Termination

Any Signatory to this MOA may terminate it by providing 30 days written notice to the other Signatories, provided that the Signatories consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. Termination of this MOA would require compliance with 36 CFR Part 800. This MOA may be terminated by the execution of a subsequent MOA that explicitly terminates or supersedes its terms.

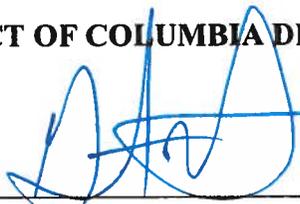
#### D. Duration of this MOA

Unless terminated pursuant to Stipulation VI.C, this MOA shall be in effect until the FHWA, in consultation with the Signatories and Consulting Parties, determines that all of its terms have been satisfactorily fulfilled. Upon this determination, the MOA shall have no further force or effect. The FHWA shall provide the Signatories and Consulting Parties with written notice of its determination that the terms of the MOA have been fulfilled. This MOA shall be null and void if its terms are not carried out within fifteen (15) years from the date of its execution, unless the Signatories agree in writing to an extension for carrying out its terms.

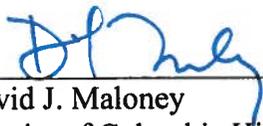
**EXECUTION** of this MOA by the **FHWA, DDOT, DCHPO, and ACHP** and implementation of its terms evidence that the **FHWA** has taken into account the effects of this undertaking on historic properties and afforded the **ACHP** an opportunity to comment. The **FHWA** has now satisfied its responsibilities under Section 106 of the Act and implementing regulation codified at 36 CFR Part 800.

**SIGNATORIES:**

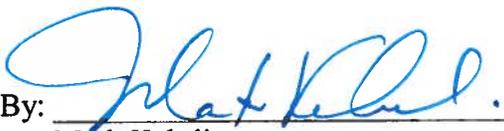
**DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION**

By:  \_\_\_\_\_ Date: 11/5/09  
Gabe Klein  
Director, District Department of Transportation

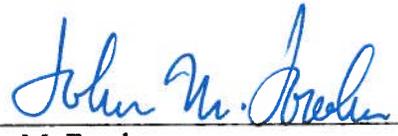
**DISTRICT OF COLUMBIA STATE HISTORIC PRESERVATION OFFICER**

By:  \_\_\_\_\_ Date: 11/6/09  
David J. Maloney  
District of Columbia Historic Preservation Officer

**FEDERAL HIGHWAY ADMINISTRATION**

By:  \_\_\_\_\_ Date: 11/9/09  
Mark Kehrl  
District of Columbia Division Administrator, Federal Highway Administration

**ADVISORY COUNCIL ON HISTORIC PRESERVATION**

By:  \_\_\_\_\_ Date: 11/23/09  
John M. Fowler  
Executive Director