

**PROGRAMMATIC AGREEMENT
AMONG
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
THE FEDERAL HIGHWAY ADMINISTRATION,
THE MISSOURI STATE HISTORIC PRESERVATION OFFICER
AND THE
MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
FOR PRE-1945 COMMON CONCRETE AND STEEL BRIDGES**

WHEREAS, the Federal Highway Administration (FHWA) Missouri Division is the federal agency responsible for ensuring the undertaking complies with Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. § 306108) codified in its implementing regulations 36 CFR Part 800, *Protection of Historic Properties*; and

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

WHEREAS, the Missouri Highways and Transportation Commission (MHTC) is the board that governs the Missouri Department of Transportation (MoDOT), appoints the Director and authorizes the Statewide Transportation Improvement Program, and acting by and through MoDOT, has participated in the consultation and has been invited to be a signatory to this Agreement; and

WHEREAS, the MHTC acts through the MoDOT to ensure compliance with federal environmental and historic preservation laws; and

WHEREAS, the Advisory Council on Historic Preservation (Council) issued a Program Comment for Streamlining Section 106 Review for Actions Affecting Post-1945 Concrete and Steel Bridges on November 16, 2012 (Program Comment)¹; and

WHEREAS, the FHWA, MoDOT and SHPO desire to evaluate and streamline Section 106 for Pre-1945 examples of the same bridge types that would have been subject to the Program Comment if built after 1945 on the State Highway System; and

WHEREAS, the purpose of this PA is to streamline Section 106 for Pre-1945 examples of the same bridge types subjected to the Council's Program Comment, it is not a waiver from Section 106 requirements for the consideration of other historic properties that may be affected by a bridge rehabilitation or replacement project or a waiver from applicable Federal requirements to

¹ Bridge types subject to the Program Comment are: A. Reinforced concrete slab bridges [i. cast-in-place slabs, ii. pre-cast slabs and iii. pre-stressed concrete slabs], B. Reinforced concrete beam and girder bridges [i. concrete tee beams, ii. Concrete channel beams, iii. Pre-stressed concrete I-beam and bulb tees, and iv. Pre-stressed concrete box beams], C. Steel multi-beam or multi-girder bridges [i. steel-rolled multi-beams, ii. Steel fabricated (built-up) girders], and D. culverts and reinforced concrete boxes [i. reinforced concrete boxes, ii. Concrete box culverts, iii. Concrete pipe culverts, and iv. Steel pipe culverts] (*77 Federal Register* 222, 16 November 2012, p. 68794).

consult with Indian tribes regarding undertakings that may affect historic properties to which a tribe ascribe traditional cultural and religious significance; and

WHEREAS, MoDOT will keep updated the map on the MoDOT Tribal Consultation webpage and will notify the Tribes of any project with ground-disturbing activities that can affect archaeological sites for any bridge/culvert covered by this PA within a county that they have expressed interest; and

WHEREAS, using 2015 National Bridge Inventory data, MoDOT identified 706 concrete or steel bridges and 895 culverts that were of bridge types that would be subject to the Program Comment if built after 1945, to be studied for National Register of Historic Places (NRHP) eligibility and subject to this PA; and

WHEREAS, a methodology for identifying examples of these bridge types eligible for listing on the NRHP was developed in consultation with the SHPO and the consulting parties, and was executed (see Attachment A); and

WHEREAS, thirty-two (32) Pre-1945 Common Concrete and Steel Bridges on the state highway system were determined eligible for listing on the NRHP, and projects associated with the Federal Aid Highway Program (FAHP) could have an adverse effect on these historic bridges as described in 36 CFR 800.5(a)(1); and

WHEREAS, the effects of these FAHP projects on these bridge types and the specific historic bridges are likely to be similar in nature; and

WHEREAS, the regulations implementing Section 106 of the NHPA allow for the development of Programmatic Agreements when project effects on historic properties are similar and repetitive in nature (36 CFR 800.14(b)(1)(i)); and

WHEREAS, the Council has been notified about the development of this Programmatic Agreement (PA) (on December 5, 2016 and April 11, 2017), and has chosen to participate in consultation (April 25, 2017); and

WHEREAS, the Historic Bridge Foundation, Historicbridges.org, Bridgehunter.com, and Missouri Preservation were invited to participate in consultation; and

WHEREAS, Bridgehunter.com accepted the invitation to participate in consultation; and

WHEREAS, the Historic Bridge Foundation, Historicbridges.org and Missouri Preservation did not accept the invitation to participate in consultation. FHWA and MoDOT will continue to communicate with these parties about the development of the PA until they request to not be kept informed; and

WHEREAS, MoDOT conducted a robust public involvement effort at the beginning of the development of this PA, including issuing a statewide press release asking the public to help identify significant bridges, and launched an interactive web-site² with the bridges that are subject to this PA; and

WHEREAS, as a result of the public involvement effort, the White River Valley Historical Society and the National Trust for Historic Preservation requested consulting party status in the development of this PA, which was granted, and

WHEREAS, the public and consulting parties identified twenty (20) bridges on the State Highway System for additional study, which were assessed for NRHP eligibility; and

WHEREAS, the MoDOT Historic Preservation Section, with the assistance of the Bridge Division and District Bridge Engineers, identified fourteen (14) bridges, in addition to the twenty (20) identified by the public and consulting parties, for additional study; and

WHEREAS, one of the bridges subject to this PA, Bridge L1003, is listed on the NRHP as a contributing element of Bagnell Dam; and

WHEREAS, Bridges K0663 and K0768, steel through girder-floorbeam type bridges subject to this PA, were determined eligible for listing on the NRHP in 2003 and included on the Missouri Historic Bridge List during consultation for the development of the Missouri Bridge Preservation Plan (expired); and

WHEREAS, during a series of consultation meetings the NRHP eligibility of these thirty-six (36) bridges were considered and thirty-one (31) were determined to be NRHP eligible in addition to the one NRHP listed bridge (historic Pre-1945 Common Concrete and Steel Bridges) (see Attachment B for list and Attachment C for location data); and

WHEREAS, Bridges F1057, G0801, H0407, H0574, K0768 and Y0160 were considered eligible and were identified as good candidates to have preventative maintenance plans developed and implemented due to their condition and their estimated years of service remaining; and

WHEREAS, the consulting parties provided substantial input into identifying and developing appropriate mitigation measures for these bridges, as a class and individually;

NOW, THEREFORE, the FHWA, MHTC, the SHPO and the Council agree that the following stipulations will be implemented for FHWA undertakings involving Pre-1945 Common Concrete and Steel Bridges:

STIPULATIONS

² <https://www.modot.org/pre-1945-common-concrete-and-steel-bridges-programmatic-agreement>

FHWA, with the assistance of MoDOT, shall ensure that the following measures are carried out by, or under the direction of, a professional who meets or exceeds the *Secretary of the Interior's Professional Qualification Standards* (SOI Qualification Standards) for History, Architectural History, and/or Archaeology (48 *Federal Register* 44738-44739) for their respective specialty:

I. PROJECTS WITH PRE-1945 COMMON CONCRETE & STEEL BRIDGES

- A. To complete the work listed below, MoDOT will employ professional best practices, as well as standards for the fields of archaeology, history and architectural history. In addition:
 1. For the built environment, MoDOT's *Built Environment Resource Methods* (2015, currently under revision) will be used.³
 2. For archaeological surveys, the SHPO *Guidelines for Phase I Archaeological Surveys and Reports* will be used.⁴
- B. MoDOT shall prepare tribal notification information, for FHWA to send to tribes with an interest in the project area. Tribes with interest in any given area can be found on the Tribal Consultation section of the MoDOT Historic Preservation web-site.⁵ MoDOT, on behalf of FHWA, shall initiate consultation with non-tribal consulting parties including local government with jurisdiction, local historical societies, local historic preservation organizations (if any), and other interested parties.
- C. Projects involving a Pre-1945 Common Concrete & Steel Bridge shall utilize an area of potential effects (APE) for the built environment consistent with the *Built Environment Resource Methods*; as a general rule the built environment APE for bridge projects encompasses the existing bridge, proposed right-of-way and permanent easements, and includes an offset from new right-of-way of 50-100' depending on the density of adjacent development. In some settings the APE might need to be adjusted to account for greater potential for visual effects, these adjustments are made in consultation between the FHWA, MoDOT and SHPO. For the archaeological survey an APE encompassing existing MoDOT right-of-way, plus proposed right-of-way including any permanent or temporary easements shall be utilized. If the scope of the project warrants reconsideration of the APE, MoDOT, on behalf of FHWA, shall consult with the SHPO and any other consulting parties, pursuant to 36 CFR 800.4(a).
- D. Public involvement for the undertaking shall be handled in accordance with the MoDOT *Engineering Policy Guide*, Chapter 129: Public Involvement.⁶
- E. MoDOT shall conduct background research and field investigations, following professional best practices and guidelines identified in Stipulation I.A to identify resources eligible for listing on the NRHP which are not subject to this PA (archaeological sites, buildings, other bridge types, etc.) within the project APE.

³ The Built Environment Resource Methods are currently being revised; a copy is available from the MoDOT Historic Preservation Section.

⁴ State Historic Preservation Office web-site: https://dnr.mo.gov/shpo/docs/MO_phase1_guide.pdf, accessed 27 July 2020.

⁵ <https://www.modot.org/tribal-consultation>

⁶ http://epg.modot.org/index.php/Category:129_Public_Involvement

1. Background research shall be conducted to identify previously recorded archaeological sites, previous surveys, properties listed on the NRHP, and determinations of eligibility for the NRHP. The area covered by the background research shall be consistent with the professional best practices and guidelines in Stipulation I.A.
 2. Fieldwork will be conducted, consistent with professional best practices and the guidelines in Stipulation I.A, as appropriate for the project, to identify previously unrecorded historic properties within the project APE.
 3. Results of investigations shall be recorded and reported to SHPO and consulting parties in accordance with the guidelines in Stipulation I.A.
- F. For the Pre-1945 Common Concrete and Steel Bridges, the determinations of eligibility made during the consultation process for the development of this PA shall be considered appropriate for the life of the PA. For all other resources, MoDOT shall apply the NRHP criteria for eligibility, and recommendations about eligibility will be made for FHWA and SHPO concurrence. Consulting parties shall be informed of survey results and eligibility recommendations. If there is a dispute about eligibility that cannot be resolved through consultation, the processes of 36 CFR 800.4(c)(2) shall be utilized.
- G. MoDOT, on behalf of FHWA, shall apply the criteria of adverse effect (36 CFR 800.5(a)) to all historic properties in the APE, including, but not limited to the bridge itself. The effect finding, with appropriate documentation for support, shall be sent to the SHPO and any consulting parties for review and comment. If there is disagreement about an effect finding that cannot be resolved through continued consultation, FHWA and MoDOT shall use the resolution process contained in 36 CFR 800.5(c)(2).
- H. For Pre-1945 Concrete & Steel Bridges that will be adversely affected by a MoDOT project, the measures in Stipulations II and III will serve to resolve adverse effects.
- I. For archaeological sites and other built environment resources, FHWA, MoDOT, SHPO and other consulting parties shall consult to identify ways to avoid, minimize or mitigate adverse effects per 36 CFR 800.6. The results of these efforts will be memorialized in the appropriate legal agreement (per 36 CFR 800.6).

II. GENERAL MITIGATION FOR PRE-1945 COMMON CONCRETE & STEEL BRIDGES

- A. MoDOT shall prepare a contextual history of the Missouri State Highway System (System) which includes how bridges developed as part of the System.
1. The history shall include information on:
 - a. the development of the Bridge Division within the Missouri State Highway Department (MSHD); and
 - b. the development and use of standardized bridge plans in Missouri, specifically for those bridge types subject to this PA; and
 - c. the use of the bridge types subject to this PA on the State Highway System.
 2. The consulting parties shall be provided an opportunity to review and comment on the contextual history.
 - a. The draft contextual history shall be distributed digitally to all consulting parties for review.

- b. Consulting parties shall have thirty (30) days to review and provide comments.
 - c. All substantive comments will be addressed. If there are questions about the nature of comments, a meeting to address comments may be requested.
 3. The SHPO will be provided a copy of the final contextual history in paper and digital format. Other consulting parties will be provided a copy of the contextual history in digital format.
 4. Information from the contextual history shall be integrated into the MoDOT Historic Preservation (MoDOT HP) website.
- B. MoDOT shall develop a section for their Historic Bridges website to include a typology of historic bridges, initially focused on the bridge types⁷ subject to this PA. The standardization of the plans for these bridges, and of their various components, will be discussed on the website.
 1. The unique features displayed by the historic Pre-1945 Common Concrete and Steel Bridges will be highlighted on the website and contrasted against the standard plans (e.g. unusual bridge railings).
 2. Consulting parties shall be provided an opportunity to provide feedback on the website before publication.
 - a. Consulting parties shall be provided a link to the beta site for purposes of reviewing the draft website.
 - b. Consulting parties shall have thirty (30) days to review and comment upon the beta site.
 - c. All substantive comments shall be addressed. If there are questions about the nature of a comment, a meeting to address comments may be requested.
- C. MoDOT shall take the following steps to complete the Stipulations II.A. and II.B on the following timeline:
 1. Within one (1) year of the execution of this PA, MoDOT shall develop a Scope of Work to complete the mitigation measures identified in Stipulations II.A.1 and II.B.1.
 2. Within three (3) years of the execution of this PA, MoDOT shall retain a consultant to execute the Scope of Work.
 3. Within five (5) years of the execution of this PA, Stipulations II.A and II.B shall be completed, unless an extension is agreed to by the consulting parties.

III. BRIDGE SPECIFIC MITIGATION MEASURES

- A. Preventative Maintenance Plan—MoDOT shall prepare and implement a Preventative Maintenance Plan for Bridges F1057, G0801, H0407, H0574, K0768 and Y0160. The Preventative Maintenance Plan shall be prepared jointly by the District Bridge Division and the MoDOT HP staff, and will include:
 1. A statement about the historic significance of the bridge
 2. Identify character defining features of the bridge
 3. Observations on the current condition of the bridge
 4. A recommended option for long-term preservation

⁷ See footnote 1, page 1 for a list of the bridge types.

5. Recommended treatments for stabilization, preservation and maintenance in keeping with the *Secretary of the Interior's Standards for Rehabilitation (SOI Rehabilitation Standards)*.
 6. MoDOT shall implement the preventative maintenance plan, carrying out recommended maintenance and treatments as recommended and as funding is available.
 7. MoDOT shall develop and implement the preventative maintenance plans within three (3) years of the execution of this PA.
 8. As the maintenance plans are implemented, MoDOT shall develop a list of best practices identified through their implementation, for use on bridges of the types that fall within the PA. MoDOT will share the best practices with Local Participating Agencies and other Departments of Transportation.
 9. If there is an unforeseen change in the condition of one of these bridges within the period of this PA (e.g. vehicle accident, flooding, etc.), MoDOT shall:
 - a. Notify the signatories of the change in condition and the reason why;
 - b. Consult with signatories to discuss the effects of the change in condition on the bridges NRHP eligibility;
 - c. If the bridge remains NRHP eligible, go through the process outlines in Stipulation III.B to minimize adverse effects on the bridge;
 - d. If the bridge has been adversely affected, by means outside of MoDOT's control (accident, flooding, etc.), but not including deferred maintenance, complete bridge specific mitigation measures, as provided for in Stipulation III.E.
- B. If a project is proposed which would have an adverse effect on one of the historic Pre-1945 Common Concrete and Steel Bridges listed in Attachment B, FHWA and MoDOT will develop and evaluate alternatives and project modifications to avoid and minimize that adverse effect. Alternatives considered will include, at a minimum:
1. Rehabilitation of the bridge in keeping with the guidelines of the *SOI Rehabilitation Standards* and not in keeping with the *SOI Rehabilitation Standards*.
 2. Making the bridge available for reuse by other parties in accordance with the *Missouri Bridge Marketing Plan (2017, as revised)*⁸. This reuse could be in place or relocation.
 3. Constructing the new bridge on a realignment to allow for the preservation of the historic bridge in place, either as part of a one-way pair, or as a non-vehicular bridge if another entity took over the historic bridge.
 4. MoDOT will provide a copy of the feasible and prudent alternatives analysis, in the form of the *Nationwide Programmatic Section 4(f) Evaluation for Projects that Necessitate the Use of Historic Bridges* form (see Attachment D for example) used in Missouri, to the SHPO and consulting parties for a thirty (30)-day opportunity to comment. All substantive comments shall be addressed. If there are questions about the nature of a comment, a meeting to address comments may be requested. MoDOT will take into account the comments in developing its plans for the project.

⁸ The *Bridge Marketing Plan* can be found on the MoDOT Free Bridges! web-page: <https://www.modot.org/media/17314>.

- C. If a proposed rehabilitation project, as modified by the process in Stipulation II.B, would have an adverse effect on character defining features of one of the historic Pre-1945 Common Concrete and Steel Bridges listed in Attachment B, but the bridge would remain eligible for the NRHP after the project, FHWA shall ensure that MoDOT:
1. Prepares historical documentation to Level 3 standards of the *Levels of Bridge Documentation (State Level) For Section 106 Mitigation of Adverse Effect (2015, as revised) (Bridge Documentation Standards)*⁹.
 2. Prior to letting the undertaking, MoDOT shall take archival photographs of the bridge.
 - a. Take archival photographs, consistent with the NRHP standards, with sufficient coverage to provide overall views of the bridge and significant details of the bridge.
 - b. Prior to project letting and the production of archival prints, consult with the SHPO regarding the adequacy of coverage for the bridge and the selection of images.
 - c. Print photographs in 8x10" format on paper consistent with NRHP standards.
 - d. Print and label photographs in a manner consistent with NRHP standards.
 - e. A photo log shall be prepared and included, consistent with NRHP standards.
 - f. Photographs shall be keyed to a site plan, map and/or bridge plans.
 - g. Provide original photographs and digital images (black and white .tiff images and color .jpeg images) on archival discs to the SHPO and MoDOT; each agency will maintain original photographs and digital images.
 3. A report consisting of the Level 3 inventory form, photo log, photo key map, and photo plates of the archival photographs shall be provided to the SHPO and to a repository in the county where the bridge is located (a local historical society or public library) in paper and digital (.pdf) formats. The report will be made available on MoDOT's website.
- D. If there is a subsequent project that would remove all the character defining features of the bridge, so that it will no longer be eligible for listing on the NRHP, historical documentation as described in Stipulation III.E below will be prepared. The prior documentation should be incorporated into the final documentation to show the evolution of the bridge.
- E. Historical Documentation—If a proposed project, as modified by the process in Stipulation III.B, will have an adverse effect on character defining features of one of the historic Pre-1945 Common Concrete and Steel Bridges listed in Attachment B, to the point where the bridge is no longer NRHP eligible or is destroyed, FHWA shall ensure that MoDOT:
1. Prepares historical documentation to Level 2 standards of the *Bridge Documentation Standards* if the adversely affected historic bridge is one of the following: Bridges H0574, K0392, K0393, K0394, K0663, L1003 and W0404.

⁹ Bridge Documentation Standards can be found in the *Engineering Policy Guide*:
http://sharepoint/sites/de/epg/Lists/EPGResponse/Attachments/243/Bridge%20Documentation%20Standards_28_May_2015.pdf.

2. Prepares historical documentation to Level 3 standards of the *Bridge Documentation Standards* if the adversely affected historic bridge is one of the following: F0058, F1057, F1104, G0742, G0770, G0801, G0881, H0407, H0446, J0219, K0354, K0415, K0768, K0789, K0930, K0936, L0267, T0889, W0059, W0251, Y0024, Y0160, Y0225, Y0332 and Y0457.
3. Prior to letting the undertaking, MoDOT shall take archival photographs of the bridge.
 - a. Take archival photographs, consistent with the NRHP standards, with sufficient coverage to provide overall views of the bridge and significant details of the bridge.
 - b. Prior to project letting and the production of archival prints, consult with the SHPO regarding the adequacy of coverage for the bridge and the selection of images.
 - c. Print photographs in 8x10" format on paper consistent with NRHP standards.
 - d. Print and label photographs in a manner consistent with NRHP standards.
 - e. A photo log shall be prepared and included, consistent with NRHP standards.
 - f. Photographs shall be keyed to a site plan, map and/or bridge plans.
 - g. Provide original photographs and digital images (black and white .tiff images and color .jpeg images) on archival discs to the SHPO and MoDOT; each agency will maintain original photographs and digital images.
4. Original construction plans, including applicable bridge standards, shall be provided as part of the documentation in paper and digital format (.pdf), if available.
5. A report consisting of the historical documentation, photo log, photo key map, photo plates of the archival photographs and construction plans shall be provided to the SHPO and to a repository in the county where the bridge is located (a local historical society or public library) in paper and digital (.pdf) formats. The report will be made available on MoDOT's website.

IV. POST-REVIEW DISCOVERIES

- A. If cultural resources are encountered during construction:
 1. The contractor shall immediately stop all work within a 50-foot buffer around the limits of the resource and shall not resume without specific authorization from a MoDOT HP Specialist.
 2. The contractor shall notify the MoDOT Resident Engineer or Construction Inspector, who shall contact the MoDOT HP within 24 hours of the discovery.
 3. MoDOT HP shall contact FHWA and SHPO within 48 hours of learning of the discovery and provide an evaluation of the resource and reasonable efforts to assess whether avoidance is possible.
 4. FHWA shall make an eligibility and effects determination based upon the preliminary evaluation and consult with MoDOT and SHPO to minimize or mitigate any adverse effect.
 5. FHWA will notify the Council and any Tribes that might attach religious and/or cultural significance to the property within 48 hours of this determination.

6. FHWA shall take into account Council and Tribal recommendations regarding the eligibility of the property and proposed actions, and direct MoDOT to carry out the appropriate actions.
 7. MoDOT will provide FHWA and SHPO with a report of the actions when they are completed.
 8. FHWA shall provide this report to the Council and the Tribes.
 9. MoDOT, on behalf of FHWA shall make this report available to the public and other consulting parties, if it is not limited by the requirements for confidentiality, as identified in Stipulation VI. Confidentiality.
- B. If the discovery is not limited by the Confidentiality requirements of Section 304 of the NHPA and Stipulation VI of this PA, the public shall be notified of the late discovery, in the following manner:
1. Information on the discovery shall be posted to the MoDOT website associated with the project, if one exists. This information will include the nature of the discovery, how it is being treated and the evaluation of it. The website will include information on how to contact the project manager or the MoDOT Historic Preservation Section with comments or concerns about the discovery.
 2. MoDOT will issue a press release about the discovery. The press release will include the nature of the discovery, how it is being treated and the evaluation. The press release will include a way for the public to contact the project manager or the MoDOT Historic Preservation Section if they have comments or concerns about the discovery.

V. TREATMENT OF HUMAN REMAINS

- A. The FHWA recognizes that any human remains (other than from a crime scene or covered under Missouri's Cemeteries Law, §§ 214. RSMo) that may be discovered during project activities and are located on non-federal land are subject to the immediate jurisdiction of the SHPO, albeit FHWA or its delegate is responsible to have a professional archeologist analyze the remains and advise SHPO of the physical location and cultural and biological characteristics, and if SHPO determines, as per the consultation conducted under Section 106, excavation is warranted such remains will be handled pursuant to the Missouri Unmarked Human Burial Sites Act, §§ 194.400 – 194.410, RSMo. All discoveries of human remains shall be treated as sensitive information and shall not be made available to the public.
- B. If human remains are encountered during construction:
1. The contractor shall immediately stop all work within a 50-foot radius of the remains and shall not resume without specific authorization from either the SHPO or the local law enforcement officer, whichever party has jurisdiction over and responsibility for such remains.
 2. The contractor shall notify the MoDOT Construction Inspector and/or Resident Engineer who will contact the MoDOT HP staff within 24 hours of the discovery.
 3. MoDOT HP staff will immediately notify the local law enforcement (to ensure that it is not a crime scene) and the SHPO as per RSMo §§ 194, or to notify SHPO what has occurred and that it is covered by Missouri's Cemeteries Law, §§ 214. RSMo.

4. MoDOT HP staff will notify FHWA that human remains have been encountered within 24 hours of being notified of the find.
5. If, within 24 hours, the contractor is unable to contact appropriate MoDOT staff, the contractor shall initiate the involvement by local law enforcement and the SHPO. A description of the contractor's actions will be promptly made to MoDOT.
6. FHWA will notify any Tribe that might attach cultural affiliation to the identified remains as soon as possible after their identification.
7. FHWA shall take into account Tribal recommendations regarding treatment of the remains and proposed actions, and then direct MoDOT HP to carry-out the appropriate actions in consultation with the SHPO.
8. MoDOT shall monitor the handling of any such human remains and associated funerary objects, sacred objects or objects of cultural patrimony in accordance with the Missouri Unmarked Human Burial Sites Act, §§ 194.400 – 194.410, RSMo.

VI. CONFIDENTIALITY

The signatories acknowledge that information about historic properties may be subject to the provisions of Section 304 of the NHPA or would otherwise be exempt from disclosure pursuant to Freedom of Information regulations (5 USC 552 and Section 610.021.14 RSMo). Section 304 allows the applicable Lead Federal Agency to withhold from disclosure to the public, information about the location, character, or ownership of a historic property if the applicable Lead Federal Agency determines that disclosures may: 1) cause a significant invasion of privacy and 2) risk harm to the historic property. All actions stipulated in the PA, where necessary, will be consistent with the requirements of Section 304 of the NHPA.

VII. DURATION

This agreement shall commence upon having been signed by the Council, FHWA, MHTC and SHPO and shall expire ten (10) years from the date of its execution by the last of the four signatories, unless otherwise terminated or amended pursuant to Stipulation X or XI. The PA can be extended for two (2) five-year (5-year) terms if the signatories all agree in writing to an extension. If the PA expires, all undertakings involving any of the bridges subject to this PA must comply with the full traditional Section 106 review process under 36 CFR Part 800, prior to approval of the undertaking.

VIII. MONITORING AND REPORTING

MoDOT shall report annually, within thirty (30) days of the end of the state fiscal year (June 30), to the Council, FHWA, SHPO and other consulting parties, about the survival of the historic Pre-1945 Common Concrete and Steel Bridges on the State Highway System. The report shall identify:

- A. Current National Bridge Inventory condition ratings for each of the 32 historic bridges identified on Attachment B, and if the bridge is inspected biennially or annually;
- B. Historic bridges proposed for rehabilitation or replacement;
- C. Historic bridges that have been removed from the State Highway System by:
 1. adaptive reuse by another party; or
 2. demolition;

- D. Status of preventative maintenance plans and preventative maintenance that has been performed in accordance with preventative maintenance plans;
- E. Best practices for preventative maintenance identified through execution of the preventative maintenance plan;
- F. Status of compliance with Stipulation II.A and II.B; and
- G. A list of bridges for which alternative analysis was prepared during the fiscal year, pursuant to Stipulation III.B, and what modifications were made to the project as a result of the analysis.

IX. DISPUTE RESOLUTION

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

- A. Forward all documentation relevant to the dispute, including the FHWA's proposed resolution to the Council. The Council 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 Council or signatories and provide them with a copy of this written response. FHWA will then proceed with its final decision.
- B. If the Council 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 to the PA and provide them and the Council with a copy of the written response.
- C. FHWA's responsibility to carry out all other actions subject to the terms of the PA that are not the subject of the dispute remain unchanged.

X. AMENDMENTS

This PA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date signed by the last of the signatories.

XI. TERMINATION

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

Once the PA is terminated, and prior to work on any undertaking that would otherwise have been subject to the PA, FHWA must either (a) assess and resolve any adverse effects pursuant to 36 CFR 800.5-800.6 or (b) request, take into account, and respond to the comment of the Council under 36 CFR 800.7. FHWA shall notify the other signatories as to the course of action it will pursue.

EXECUTION

Execution of this PA by the Council, FHWA, the SHPO and the MHTC and the implementation of its terms evidence that FHWA has taken into account the effects of its undertakings on the 706 concrete and steel bridges and 895 culverts subject to this PA, specifically the thirty-two (32) historic Pre-1945 Common Concrete and Steel Bridges, and has afforded the Council an opportunity to comment.

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MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
FOR PRE-1945 COMMON CONCRETE AND STEEL BRIDGES**

Signed:

ADVISORY COUNCIL ON HISTORIC PRESERVATION:


By:  _____ Date: 4/13/2021

**Title: Rick Gonzalez, AIA
Vice Chairman**

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THE FEDERAL HIGHWAY ADMINISTRATION,
THE MISSOURI STATE HISTORIC PRESERVATION OFFICER
AND THE
MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
FOR PRE-1945 COMMON CONCRETE AND STEEL BRIDGES**

Signed:

FEDERAL HIGHWAY ADMINISTRATION:

By:  Date: 3-30-21
Title: Environmental protection specialist

FHWA
Missouri, Statewide
Pre-1945 Common Concrete and Steel Bridges PA

**PROGRAMMATIC AGREEMENT
AMONG
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
THE FEDERAL HIGHWAY ADMINISTRATION,
THE MISSOURI STATE HISTORIC PRESERVATION OFFICER
AND THE
MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
FOR PRE-1945 COMMON CONCRETE AND STEEL BRIDGES**

Signed:

THE MISSOURI STATE HISTORIC PRESERVATION OFFICER:

By: Joni M. Drawe Date: MAR 11 2021

Title: Deputy SHPO

**PROGRAMMATIC AGREEMENT
AMONG
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
THE FEDERAL HIGHWAY ADMINISTRATION,
THE MISSOURI STATE HISTORIC PRESERVATION OFFICER
AND THE
MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
FOR PRE-1945 COMMON CONCRETE AND STEEL BRIDGES**

Signed:

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION:

By: Ed [Signature] **Date:** 3/22/21

Title: Chief Engineer

Attest: [Signature]
Commission Secretary

Approved as to form: [Signature]
Commission Counsel

