

**MEMORANDUM OF AGREEMENT
SUBMITTED TO THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
PURSUANT TO 36 CFR PART 800.6(a)**

WHEREAS, the City of Concord, NH (Concord), in conjunction with the NH Department of Transportation (NHDOT), and the NH Division of the Federal Highway Administration (NHFHWA) proposes the replacement of the Sewalls Falls Bridge that carries Sewalls Falls Road over the Merrimack River; and

WHEREAS, Concord, NHDOT, and NHFHWA, in consultation with the NH State Historic Preservation Officer (NHSPO) and pursuant to regulations (36 CFR Part 800) implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) have determined that the proposed undertaking will have an adverse effect on the following properties that are eligible for listing in the National Register of Historic Places:

- Sewalls Falls Bridge (High Pratt Truss Bridge)

WHEREAS, Concord, NHDOT, NHFHWA, and NHSPO previously committed to relocating the old signal box at the eastern railroad crossing of the Boston, Concord, Montreal Railroad, to a location near the existing location but out of the area impacted by this project; and

WHEREAS, Concord, NHDOT, NHFHWA, and NHSPO previously committed to installing and maintaining protective construction fencing around a potential historic and pre-historic resource area, although outside of the project work area, throughout construction; and

WHEREAS, Concord, NHDOT, and NHFHWA participated in consultation with the NHSPO to find ways to mitigate the effects to the above property through their respective standard consultation process; and

WHEREAS, Concord has solicited public comment through the public involvement process and the consulting party procedures with NHDOT, NHFHWA, and NHSPO as stated in 36 CFR 800 (2); and

WHEREAS, Concord has consulted with identified Consulting Parties, James Garvin, Nathan Holth, Audra Klumb, and Roy Schweiker, regarding the effects of the undertaking on historic properties; and

WHEREAS, in accordance with 36 CFR 800.6(a)(1), NHFHWA has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation and the ACHP has chosen not to participate in the consultation process pursuant to 36 CFR 800.6(a)(1)(iii).

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

Stipulations:

NHFWA, with the assistance of Concord and NHDOT will ensure that the following measures are carried out:

Marketing Plan

1. The City of Concord will ensure that the Sewalls Falls Bridge is marketed for re-use in compliance with 23 USC Section 144 for relocation. Marketing for full re-use, partial re-use, and/or experimental study or testing will occur from April 1, 2014 to September 30, 2014 (183 days) and will include advertising within a New Hampshire state and local newspaper, the City's website, the project website, and to private parties, recreational clubs, trail clubs, schools and universities, and other agencies that may have interest in the bridge. Ownership transfer for the full re-use of the bridge will require the use of preservation covenants or other instruments to ensure the long-term protection of the character-defining features of the Sewalls Falls Bridge.
2. If there are no offers or proposals for use of the Sewalls Falls Bridge by the date outline above, final bid and construction documents will be completed by October 1, 2014 to specify demolition and disposal of the bridge in its entirety.

Historical Resources

3. Project funds will be used for the completion of New Hampshire Property Documentation by a 36 CFR 61-qualified Architectural Historian. The Documentation will include a narrative physical description of the truss super and sub-structure, the approach spans, and the bridge's setting; and a history/significance narrative of topics including, but not limited to, engineering of the truss and the approaches, John Storrs and the Berlin Construction Company, the river crossing in this location, and flooding and WPA involvement in this area.

During demolition activities, the architectural historian will be granted access to observe and record the careful deconstruction of the center pier. Access to the original footing construction will be determined in the field, but will be based upon the Wetland Permit conditions (unknown at the time of signature) and current construction needs. The information gathered from the deconstruction observation of the pier and archival (if feasible) photographs from this effort will be incorporated into the final report. If large-format archival photographs are not physically feasible, then digital photographs of the center pier (following National Register digital photo policy guidelines) will be acceptable.

The Documentation will include archival large-format black-and-white 4x5 photographs of the full superstructure, substructure, approaches, relationship of the bridge to its setting, and engineering details. Original and historic construction plans from major alteration periods will be included as archival copies or photographed as archival large-format black-and-white 4x5 or 8x10 photographs. A photo key will be included. The Documentation will also include a site plan, USGS map, photo location map, and historic maps and photographs. All photographs (with the exception of the center pier), negatives, and a photo location map will be submitted to NHDOT to be reviewed and then forwarded to NESHPO for review.

NHSHPO approval of these photographs must be received prior to demolition of the superstructure. One digital draft copy of the Documentation will be submitted to NHDOT for review. NHDOT will have 30 days for review. An archival hard copy will subsequently be submitted in an archival folder to NHSHPO. NHSHPO will have 45 days for review. Subsequent to final NHSHPO approval, a digital .PDF copy of the final Documentation will be submitted to NHSHPO on CD or flash drive. Eight (8) hard copies of the final Documentation will be submitted to NHSHPO (1), NHDOT (1), Concord Engineering Services Division (3), Concord City Clerk (1), Concord Library (1), and the Concord Heritage Commission (1).

4. Project funds will be used for the development of a historic monograph featuring John Williams Storrs, an influential bridge design engineer in the State of New Hampshire responsible for the design of the Sewalls Falls Pratt truss bridge. The monograph will be prepared by a 36 CFR 61- qualified architectural (or bridge structure) historian, outlining the significance of the bridge designer and his influence on the Concord community. One (1) digital copy will be provided to NHDOT and one (1) digital copy will be provided to the Concord Heritage Commission for review (concurrent 30-day review period). A hard copy will subsequently be submitted to the NHSHPO for review (45-day review period).
5. Project funds will be used for the development of a so-called “Heritage Park”, an area adjacent to the Sewalls Falls Bridge where elements of the existing bridge structure, seating benches, and interpretive panel signs are introduced along pathways and trails. The heritage park area will be designed by a qualified landscape architect experienced in designing facilities within the context of an open space passive recreational area with the intent of incorporating historic interpretation to the site while enhancing the uses at the existing Fish & Game multi-use recreational site.

The heritage park area will include a static monument of a repurposed use of the existing truss bridge, and interpretive panel signs. The panels are to be designed by a 36 CFR 61-qualified architectural historian, that would include, but may not be limited to, the history of the Sewalls Falls Bridge, the engineering significance of the bridge, the significance of transportation and this crossing within the context of the history of the Sewalls Falls area, as well as the background of the designer, John William Storrs, a former five-term Mayor of the City of Concord. The panels will be placed at a location mutually agreed upon, contingent upon continued consultation and agreement by the property owner(s).

Concord will ensure that the heritage park area and interpretive panel signs are constructed, manufactured and erected with appropriate Americans with Disabilities Act (ADA) access as part of this project. The design of the heritage park and content of the interpretive panel signs will be subject to design review by the Concord Heritage Commission, NHSHPO, NHDOT, and the Concord City Council, and will be subject to approval by the property owner on which the improvements are placed. The content, format, and timing of review will be coordinated with NHDOT during project development. The heritage park area will be constructed as part of the bridge replacement contract.

6. The granite blocks salvaged from the abutments and center pier will be reused as a gravity retaining wall and seating blocks, where appropriate, to support the relocated trail in the vicinity of the west abutment and as enhancements in the heritage park.

7. Project funds will be used to provide the Concord Heritage Commission, through the Heritage Commission Trust Fund, an amount not to exceed \$20,000 for historic evaluation, documentation, and/or preservation project(s) related to transportation and industry within the Concord community. Although the Heritage Commission will establish a specific project purpose and need, and develop a scope of work to complete the project(s), the City Manager is ultimately responsible for the completion of this work which must be completed by July 2016. Final report(s) will be provided to NHDOT and NESHPO for review. Appropriation of funds is subject to City Council approval.

NHFHWA, with the assistance of NHDOT and Concord will also ensure that the following terms and conditions are implemented:

1. Duration

This MOA will expire if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, FHWA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation No. 5 below.

2. Monitoring and Reporting

Each year following the execution of this MOA until it expires, is terminated or stipulations completed, Concord shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in FHWA's efforts to carry out the terms of this MOA.

3. Dispute Resolution

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

- a. Forward all documentation relevant to the dispute, including NHFHWA's proposed resolution, to the ACHP. The ACHP shall provide NHFHWA 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, NHFHWA 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. NHFHWA will then proceed according to its final decision.
- b. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, NHFHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, NHFHWA 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. NHFHWA's responsibilities to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

4. Termination of Agreement

If any signatory determines that the terms of the MOA cannot be executed, the signatories shall consult to seek amendment of the agreement. If the agreement is not amended, any signatory may terminate the agreement. If the terms of this agreement have not been implemented by October 30, 2016, this agreement shall be considered null and void. In such event, the agency shall notify the parties to this agreement, and if it chooses to continue with the undertakings, shall reinstate review of the undertaking in accordance with 36 CFR Part 800.

5. Amendment


Any party to this agreement may propose to other parties that the agreement be amended, whereupon the agency will consult with the other parties to this agreement to consider the amendment. 36 CFR 800.6(c)(1) shall govern the execution of this amendment.

Execution of this MOA by Concord, NHFHWA, and NESHPO, its subsequent acceptance by the ACHP, and implementation of its terms are evidence that NHFHWA has afforded the ACHP an opportunity to comment on this project, and that NHFHWA has taken into account the effects of the undertaking on historic properties.

Sewalls Falls Bridge Replacement Project
Concord, NH
BRF-X-5099 (021)
12004

Signatories:

FEDERAL HIGHWAY ADMINISTRATION – NH DIVISION

By: 
for Patrick Bauer
Administrator


Date: 4/7, 2014

NEW HAMPSHIRE STATE HISTORIC PRESERVATION OFFICE

By: 
Elizabeth H. Muzzey
State Historic Preservation Officer


Date: 3/26, 2014

CITY OF CONCORD, NH

By: 
Thomas J. Aspell, Jr.
City Manager

Date: March 25, 2014

NH DEPARTMENT OF TRANSPORTATION

By: 
William J. Cass
Director of Project Development

Date: 4/4/14, 2014