

MEMORANDUM OF AGREEMENT

BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION AND WISCONSIN STATE
HISTORIC PRESERVATION OFFICER,

Prepared pursuant to 36 CFR § 800.6(c)

Regarding
WisDOT PROJECT ID 6996-05-27
WHS #16-0698/CO
Portage Canal Segments 1 and 2
Wisconsin River – Center Street
City of Portage
Columbia County

WHEREAS, the Federal Highway Administration (FHWA) has been requested to participate in the construction of a multi-use trail on the south side of Segment 2 of the Portage Canal and shared-use bridges at the Wisconsin River Locks (Segment 1) and Hamilton Street (Segment 2) in the city of Portage, Columbia County, Wisconsin (Project); and

WHEREAS, the FHWA is the lead agency for the Project with the responsibility for completing the requirements of Section 106 of the National Historic Preservation Act (Section 106) and its implementing regulations (36 CFR Part 800); and

WHEREAS, the FHWA has established the Project's Area of Potential Effects (APE), as defined in 36 CFR § 800.16(d), to be the Portage Canal and adjacent properties along each side of the canal that may be directly or indirectly affected by the Project; and

WHEREAS, the FHWA has determined that the Project will have an adverse effect on the Portage Canal, a structure listed on the National Register of Historic Places; and

WHEREAS, the FHWA has consulted with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470 (NHPA) and its implementing regulations (36 CFR § 800) to resolve the adverse effect of the Project on a historic property; and

WHEREAS, the FHWA intends to use the provisions of this Memorandum of Agreement (MOA) to address applicable requirements of Section 110(b) of the NHPA, 16 U.S.C. §470h-2(b); and

WHEREAS, the Wisconsin Department of Transportation (WisDOT) participated in the consultation and concurs with this MOA; and

WHEREAS, the City of Portage, administers the canal, participated in consultation, and concurs with this MOA; and

WHEREAS, the National Park Service (NPS) administers the Ice Age National Scenic Trail (NST) adjacent to portions of the Portage Canal and participated in consultation and concurs with this MOA; and

WHEREAS, the Wisconsin Department of Natural Resources (WDNR) owns the Portage Canal, participated in consultation, and concurs with this MOA; and

WHEREAS, the U.S. Army Corps of Engineers (USACE) may be requested to issue a 404 permit for the Project and participated in the consultation and concurs with this MOA; and

WHEREAS, this undertaking is not on federal or tribal land as defined by the National Historic Preservation Act; therefore, all inadvertent human remains discoveries will be addressed in accordance with Wisconsin Statute § 157.70; and

WHEREAS, post-review discoveries of non-human remain historic resources will be treated in accordance with 36 CFR 800.13(b); and

NOW, THEREFORE, the FHWA, and the Wisconsin SHPO agree that, upon execution of this MOA, and upon the FHWA's decision to proceed with the Project, the FHWA shall ensure that the following stipulations are implemented in order to take into account the effect of the undertaking on a historic property.

STIPULATIONS

The FHWA will ensure that the following stipulations are carried out within one year of the MOA execution and prior to any construction activities:

1. Public Interpretation – See Appendix for details

Interpretive signage, lighting and aesthetics

- Coordination/consultation with the Department of Natural Resources, the City of Portage Canal Ad Hoc Committee, the SHPO and National Park Service Ice Age Trail will continue through the design to include new interpretive signs as well as replace older/outdated signs along the canal and the ice age trail.

City of Portage – Pocket Park at Segment 1

- Coordination with the City of Portage Canal Ad Hoc Committee regarding aesthetics and interpretive signing to be installed at the Portage Canal pocket park that is being funded and built by the City of Portage as part of the US 51/Wisconsin Street/DeWitt Street Reconstruction Project located within the historic boundaries of the Portage Canal – WisDOT ID 6918-01-02; WHS Compliance number (17-1557).

2. Design Review - See Appendix for details

Bridge Design

- Coordination/consultation with the City of Portage Canal Ad Hoc Committee, the SHPO and National Park Service Ice Age Trail will continue through design regarding the proposed prefabricated truss bridges at the Wisconsin River Locks and Hamilton Street.
- Canal and Trail aesthetic treatments. In addition, comments will be requested for the lighting design and any aesthetic treatments along the canal and trail.

3. Update Canal Nomination – See Appendix for details

- Coordinate with Cultural Resource Team (CRT) and SHPO to update 1977 Canal nomination following project completion

4. Dispute Resolution

Should any signatory to this MOA (including any invited signatory), per 36 CFR § 800.6(c)(1) and (2), object in writing at any time prior to termination to any actions proposed or the manner in which the terms of this MOA are implemented, WisDOT and the FHWA shall consult with such party to resolve the objection. The objection must specify how the actions or manner of implementation is counter to the goals, objectives, or specific stipulation of this MOA. If the FHWA determines that such objection cannot be resolved, the FHWA will:

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

5. Amendment

Any signatory to this MOA may propose to the FHWA that the agreement be amended, whereupon the FHWA shall consult with the other signatories to this MOA (including invited signatories) to consider such an amendment. 36 CFR § 800.6(c) shall govern the execution of any such amendment.

6. Professional Qualifications

WisDOT shall ensure that all historic preservation work carried out pursuant to agreement is carried out by or under the supervision of a person or persons meeting at a minimum the *Secretary of the Interior's Professional Qualifications Standards* in the field of architectural history, as published in 36 CFR Part 61.

7. Termination

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatories to attempt to develop an amendment. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

7. Sunset Provision

This agreement shall be null and void if all terms are not carried out within five 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, and implementation of its terms, evidences that the FHWA has complied with Section 106 with regard to taking into account the Project's effects on a historic property.

SIGNATORIES

FEDERAL HIGHWAY ADMINISTRATION

BY: B. Bacher-Gresock Date: 3/2/2020
Bethaney Bacher-Gresock, Environmental Protection Specialist, Wisconsin Division FHWA
For Glenn Fulkerson, Division Administrator, Wisconsin Division FHWA

WISCONSIN STATE HISTORIC PRESERVATION OFFICER

BY: 
State Historic Preservation Officer

Date: 2/25/2020

INVITED SIGNATORIES


WISCONSIN DEPARTMENT OF TRANSPORTATION

BY: 

WisDOT Historic Preservation Officer

Date: 2-18-2020

WISCONSIN DEPARTMENT OF NATURAL RESOURCES

BY: 

Date: 1/6/2020

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U.S. ARMY CORPS OF ENGINEERS St. Paul District

BY: 
Chad Konickson Chief, Regulatory

Date: February 13, 2020

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NATIONAL PARK SERVICE – ICE AGE NATIONAL SCENIC TRAIL

BY: 

Date: 12-20-19

CITY OF PORTAGE

BY: *Rut Dodd*

Date: 23 Jan 2020

APPENDIX

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1. Public Interpretation

Four interpretive panels will be incorporated for the project. One at the City of Portage – Pocket Park within Segment 1 and three more panels within Segment 2 adjacent to the shared-use path that will run parallel to the Canal. One of the three panels for Segment 2 could be used to replace current weathered Ice Age Trail signs.

Working in conjunction with the Department of Natural Resources, the City of Portage Ad Hoc Committee and the National Park Service – Ice Age Trail, each panel will highlight the history, significance and general pre-contact history of the area.

The panels will include narrative text and available historic and current photographs and follow current best practices for interpretive displays, including reading level, font color/size, overall number of images, and length of narrative text.

The City or its agent will proceed as follows:

A. Within one year of MOA execution, the City or its agent will provide WisDOT CRT with preliminary panel details, including:

- a. Number of panels that will be developed.
- b. Content focus for each panel, including preliminary outline and description of graphics.
- c. Panel size and materials.
- d. Method for installing the panels.
- e. Panel fabricator and general timeframe for installation.

B. WisDOT CRT will review the preliminary panel details within thirty (30) days and forward on to SHPO for a thirty (30)-day review period. WisDOT CRT will provide combined written comments to the City or its agent.

C. Within six (6) months of receipt of preliminary panel comments, the City or its agent will provide WisDOT CRT with draft content for each panel that includes the following:

- a. Narrative text and captioned images that have been reviewed by a technical editor.
- b. Source information, credits, and/or use permission for all graphics, including historic and current images.
- c. Layout depicting placement of text and images.

D. WisDOT CRT will review the draft content within thirty (30) days and forward on to SHPO for a thirty (30)-day review period. WisDOT CRT will provide combined written comments to the City

APPENDIX

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or its agent.

E. Within three (3) months of receipt of draft content comments, the City or its agent will submit revised draft content to WisDOT CRT. WisDOT CRT will review the revised content within thirty (30) days and forward on to SHPO for a thirty (30)-day review period. WisDOT CRT will provide combined written comments to the City or its agent. Any comments will need to be addressed in consultation with WisDOT and SHPO before the content is finalized and panels are fabricated.

F. The City or its agent will install the final panels within six (6) months of construction completion. Digital, color photographs depicting the installed panels will be provided to WisDOT within three (3) months of installation.

2. Design Review

Two (2) bike pedestrian bridges, one at the Wisconsin River Locks and the second at Hamilton Street will be constructed for this project as well as era style lighting will be installed at the City of Portage – Pocket Park along Segment 2 of the Canal along the shared-used path. Design plans will include working in conjunction with the City of Portage Ad Hoc Committee and the National Park Service – Ice Age Trail.

The City or its agent will proceed as follows:

A. Within one year of MOA execution, the City or its agent will provide WisDOT CRT with preliminary bridge and lighting details, including:

- a. Number of era style lights to be installed
- b. Illustrations of the style of lighting
- c. Plan Set depicting the location of the lighting
- d. Method for installing the lighting

B. WisDOT CRT will review the bridge and lighting details within thirty (30) days and forward on to SHPO for a thirty (30)-day review period. WisDOT CRT will provide combined written comments to the City or its agent.

C. Within six (6) months of receipt of bridge and lighting comments, the City or its agent will provide WisDOT CRT with detailed bridge and lighting plan sets that includes the following:

- a. Number of era style lights to be installed
- b. Illustrations of the style of lighting
- c. Plan Set depicting the location of the lighting
- d. Method for installing the lighting

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Memorandum of Agreement
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D. WisDOT CRT will review the plan sets within thirty (30) days and forward on to SHPO for a thirty (30)-day review period. WisDOT CRT will provide combined written comments to the City or its agent.

E. The City or its agent will provide digital, color photographs depicting the constructed bridges and installed lighting to WisDOT CRT within three (3) months of installation.

3. Update Canal Nomination

The City or its agent will proceed as follows:

A. The City or its agent will retain a qualified nomination preparer from the SHPO's approved list: <https://www.wisconsinhistory.org/pdfs/hp/HPR-Architecture-History-Consultants-Apr-2019.pdf>.

B. Within one (1) year of MOA execution and prior to commencing work on the Nomination update, the Nomination preparer will contact the Wisconsin National Register Coordinator to develop an appropriate approach for research, content, research, schedule, and review process. A summary detailing the results will be provided to the City and WisDOT CRT.

C. The nomination preparer will submit the Nomination Update on the National Park Service (NPS) Form 10-900 to the WisDOT CR) and SHPO for review and comment within the agreed-upon schedule. The Nomination will follow current NPS and SHPO guidelines and requirements. The following deliverables will be processed and labeled in accordance with NPS and SHPO standards.

1. Completed NPS Form 10-900
2. USGS map
3. Historic boundary map
4. Labeled photographs and archival disk containing image files
5. Summary paragraph
6. National Register checklist

- The Nomination preparer will be required to make any revisions to the nomination or supplemental materials requested by SHPO.
- The Nomination preparer will present the Nomination to the State Review Board at a regularly scheduled meeting.
- The Nomination preparer will be required to make any final changes to the nomination or supplemental materials requested by SHPO, the State Review Board, or NPS.