

**MEMORANDUM OF AGREEMENT
AMONG THE FEDERAL HIGHWAY ADMINISTRATION,
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION,
AND
NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICER
FOR
REPLACEMENT OF GASTON COUNTY BRIDGE NO. 91 ON US 74
OVER THE CATAWBA RIVER IN GASTON COUNTY
NORTH CAROLINA
NCDOT TIP B-6051**

WHEREAS, the Federal Highway Administration (FHWA) has determined that Transportation Improvement Project B-6051 – the replacement of the structurally deficient, four-lane Gaston County Bridge No. 91 on US 74 over the Catawba River in Gaston County (the Undertaking) – will have an adverse effect upon Bridge No. 91, a steel stringer bridge determined eligible for listing in the National Register of Historic Places (NRHP) (historic property); and

WHEREAS, the FHWA has consulted with the North Carolina State Historic Preservation Officer (SHPO) pursuant to Section 106 of the National Historic Preservation Act (16 U.S.C. 470f), as amended by 54 USC §§ 300101, et seq., and its implementing regulations, 36 CFR Part 800; and

WHEREAS, NCDOT has participated in the consultation and has been invited by the FHWA and the SHPO to be a signatory to this MOA; and

WHEREAS, the FHWA has notified the Advisory Council on Historic Preservation (Council) of the adverse effect, and the Council has declined to comment or participate in the consultation,

NOW, THEREFORE, the FHWA, NCDOT, and the North Carolina SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations to take into account the effects of the Undertaking on the historic property.

STIPULATIONS

The FHWA and NCDOT will ensure that the following measures are carried out:

I. Photographic Recordation

Prior to the initiation of construction, NCDOT will record the existing conditions of the Gaston County Bridge No. 91 in accordance with the attached Historic Structures and Landscape Recordation Plan (**Appendix A**). Copies of the documentation will be deposited in the files of the North Carolina Historic Preservation Office (NC HPO) and NCDOT's Historic Architecture Group.

II. Design Replacement Structure

NCDOT will ensure the following elements are incorporated into the design and construction of the new bridge:

- A. Church Rail
- B. New End Rails will emulate the curve of existing end rails and include replica plaques

III. Unanticipated Discoveries

- A. In accordance with 36 CFR 800.13(a), if NCDOT identifies any one or more additional cultural resources during construction and determines them to be eligible for the NRHP, all work shall halt within the limits of the NRHP-eligible resource(s), and the FHWA and North Carolina SHPO will be contacted. If, after consultation with the Signatories additional mitigation is determined necessary, the NCDOT, in consultation with the Signatories, will develop and implement appropriate protection and/or mitigation measures for the resource(s).
- B. Inadvertent or accidental discovery of human remains will be handled in accordance with North Carolina General Statute Chapters 65 and 70.

IV. Dispute Resolution

Should any of the Parties to this Agreement object within thirty (30) days to any plans or documentation provided for review pursuant to this MOA, the FHWA shall consult with the objecting Party(ies) to resolve the objection. If the FHWA or the objecting Party(ies) determines that the objection cannot be resolved, the FHWA will forward all documentation relevant to the dispute to the Council.

~~(30) Within thirty~~ (30) days of the receipt of all pertinent documentation, the Council will either:

- A. Provide the FHWA with recommendations, which the FHWA will take into account in reaching a final decision regarding the dispute; or
- B. Notify the FHWA that it will comment pursuant to 36 CFR Section 800.7(c) and proceed to comment. Any Council comment provided in response to such a request will be taken into account by the FHWA in accordance with 36 CFR Section 800.7(c)(4), with reference to the subject of the dispute.

Any recommendations or comments provided by the Council will be understood to pertain only to the subject of the dispute; the FHWA's responsibility to carry out all the actions under this Agreement that are not the subject of the dispute will remain unchanged.

V. Amendments

Should any of the Signatories to this MOA believe that its terms cannot be carried out or that an amendment to the terms must be made, the Party(ies) shall immediately consult with the other Party(ies) to develop amendments in accordance with 36 CFR 800.6(c)(7). If an amendment cannot be agreed upon, the dispute resolution process set forth in Stipulation III will be followed.

VI. Termination

Any of the Signatories may terminate this MOA by providing notice to the other Parties, provided that the Parties consult during the period prior to termination to make a good faith effort to seek agreement on amendments or other actions that would avoid termination. Termination of this MOA will require compliance with 36 CFR 800. This MOA may also be terminated by the execution of a subsequent MOA that explicitly terminates or supersedes its terms.

VII. Duration

Unless terminated pursuant to Stipulation III above, this MOA will be in effect until the FHWA, in consultation with the other Signatories, determines that all its terms have satisfactorily been fulfilled or if NCDOT is unable or decides not to construct the Undertaking.

Execution of this MOA by the FHWA, NCDOT, and the North Carolina SHPO, its subsequent filing with the Council, and implementation of its terms is evidence that the FHWA has afforded the Council an opportunity to comment on the Undertaking, and that the FHWA has taken into account the effects of the Undertaking on the historic property.

AGREE:

Federal Highway Administration

By: *Clarence W. Adams, Jr.*
John F. Sullivan III, P.E.
Division Administrator

Date: 1/23/2023

North Carolina State Historic Preservation Officer

By: *Darin J. Waters*
Dr. Darin J. Waters
State Historic Preservation Officer

Date: 12/19/2022

North Carolina Department of Transportation

By: *Jamie Lancaster*
Jamie J. Lancaster, P.E.
Environment Analysis Unit Head

Date: 12/22/2022

FILED:

By: _____
[Name]
[Title]
Advisory Council on Historic Preservation

Date: _____

APPENDIX A

Historic Structures and Landscape Recordation Plan for the Replacement of Gaston County Bridge No. 91

Gaston County
North Carolina
NCDOT TIP B-6051

Photographic Requirements

- Representative pictures of the Gaston County Bridge No. 91, including elevation and oblique views of the bridge and its setting.

Photographic Format

- Color digital images (all views) shot with an SLR digital camera with a minimum resolution of 6 megabyte pixels, at a high quality (preferably RAW) setting, to be saved in TIF format as the archival masters and labeled according to NC HPO standards.
- Drone photographic standards if different from above
- File names for each image should follow the format:
SS#_ResourceName_DateofPhoto_InitialsofPhotog-FrameNo.tif.
- Printed inventory (photolog) of the images should be provided as a table with the file name and description for each image – including subject, location, date, and photographer information for each image.
- Contact sheets should be printed on premium quality, bright white paper (24lb) or photo paper with a maximum of nine images per sheet. The back of the contact sheet should have the following information written in archival black ink.

NCDOT TIP#

NCHPO ER#

NCDOT Photorecordation for MOA

Survey Site Number and Name of Property

Road Name

Vicinity or Town

County

Photographer's Name and Date of Photography

- A labeled map with a key to the shots and photographs should be included in the documentation.
- The individual images, photolog, and map should be saved electronically on a compact disc labeled similar to the contact sheets.

Copies and Curation

- One (1) set of all above mentioned photographic documentation, including the compact disc of labeled images, will be deposited with the North Carolina Office of Archives and History/NC HPO to be made a permanent part of the statewide survey and iconographic collection.
- One (1) set of contact sheets shall be deposited in the files of the NCDOT's Historic Architecture Group.

B-6051 Memorandum of Agreement
December 21, 2022

ATTACHMENT 4
5 OF 5