

File



State of New Jersey

DEPARTMENT OF TRANSPORTATION
P.O. BOX 600
TRENTON, NJ 08625-0600

JON S. CORZINE
Governor

STEPHEN DILTS
Commissioner

September 17, 2009

The Honorable Chris Parrott
Mayor, Sussex Borough
2 Main Street
Sussex, NJ 07461-2397

Route 23 Sussex Borough Bypass
Sussex Borough
Wantage Township
Sussex County
Federal No.: STP-54(176)

Attn: Catherine Gleason, Municipal Clerk

Dear Mayor Parrott:

The New Jersey Department of Transportation (NJDOT) is transmitting an original fully signed Memorandum of Agreement for your files.

Enclosed, please find this Memorandum of Agreement outlining measures agreed upon to mitigate the adverse effects caused by this project.

Should you have any questions, please call me at (609) 530-3813 or Suzanne Sczepakowski at (609) 530-3765.

Very Truly Yours,

Bob Lee
Project Manager,
Division Capital Program Support

enclosure

cc: David C. Mudge

**MEMORANDUM OF AGREEMENT
BETWEEN THE
NEW JERSEY DIVISION, FEDERAL HIGHWAY ADMINISTRATION,
NEW JERSEY STATE HISTORIC PRESERVATION OFFICE AND
SUSSEX BOROUGH
REGARDING
THE ROUTE 23 SUSSEX BOROUGH BYPASS
SUSSEX BOROUGH AND WANTAGE TOWNSHIP
SUSSEX COUNTY, NEW JERSEY**

WHEREAS, the New Jersey Department of Transportation (NJDOT) proposes to realign Route 23 through Sussex Borough and Wantage Township, Sussex County using funds provided by the Federal Highway Administration (FHWA); and

WHEREAS, the FHWA, the New Jersey State Historic Preservation Office (SHPO), the Advisory Council on Historic Preservation (Council) and the NJDOT executed a Programmatic Agreement in November of 1996 which stipulates how FHWA's Section 106 responsibilities for NJDOT-administered federal aid projects will be satisfied; and

WHEREAS, in accordance with that agreement, the NJDOT has consulted with the SHPO in order to determine the area of potential effects (APE), to identify significant National Register eligible and listed properties, and to assess the effects of the project on historic properties; and

WHEREAS, the FHWA has determined that the Route 23 realignment project will have an adverse effect upon the Sussex Borough Central Business Historic District and the Hamburg Avenue Streetscape, properties eligible for inclusion in the National Register of Historic Places, and has consulted with the SHPO pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

WHEREAS, the NJDOT and FHWA have considered alternatives to avoid or minimize the adverse effects and found they are not feasible; and

WHEREAS, the Advisory Council was notified of the adverse effect and on November 14, 2001 and declined to participate in the consultation process; and

WHEREAS, the FHWA, SHPO, NJDOT and Sussex Borough have consulted to develop a plan to mitigate the adverse effects; and

WHEREAS, the NJDOT has invited to participate in the Section 106 process, and solicited comments from Sussex Borough, Wantage Township, Sussex County Arts & Heritage Council, Sussex County Historical Society, and Howard Case; and received acceptance from Sussex Borough and comments only from Howard Case; and

WHEREAS, the New Jersey Department of Transportation (NJDOT) has participated in the consultation process and has been invited to concur; and

WHEREAS, construction of this project has not been initiated within five years from the date of execution and the signatories have been asked to agree to and sign a revised Memorandum of Agreement containing revised stipulations that reflect changes in the project scope.

NOW, THEREFORE the FHWA and the New Jersey SHPO 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

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

1. National Register Nomination

NJDOT shall complete a technically and professionally complete nomination for the combined Sussex Borough Central Business Historic District and the Hamburg Avenue Streetscape to the New Jersey and National Registers of Historic Places, renaming the combined district as the **Sussex Borough Historic District**. The nomination shall provide all the required documentation including, but not limited to: keyed, archivally stable black and white photographs, a statement of significance, a period of significance, a boundary description and justification, a district boundary map and narrative description delineating and differentiating the contributing and non-contributing resources, and a list of current property owners.

Within a six-month period, a draft document will be submitted to the Historic Preservation Office's Registration staff for review and comment; a draft final will be supplied which incorporates all comments from the initial review. An electronic copy of that document will be furnished to the Registration staff for their use in advancing the nomination through the State Review Board. The HPO will be responsible for the notification to property owners and county and local officials who are given an opportunity to comment, for scheduling of and holding of a public meeting, and for changes that may be required of the document as a result of review by the State Review Board.

The following is the submission schedule:

- 0-2 months NJDOT prepares and submits draft National Register nomination.
- 2-4 months HPO Registration staff reviews, comments, and returns draft National Register nomination to the NJDOT
- 4-6 months NJDOT addresses comments, prepares draft final, and submits draft final and electronic file of the National Register nomination to the HPO Registration staff for HPO's future use

The final submission must be substantive and technically complete pursuant to the National Historic Preservation act and the New Jersey Register of Historic Places Act.

2. Archaeological Data Recovery

NJDOT shall initiate a data recovery effort prior to the demolition of the Cooper/Mann House, 37 Mill Street in Sussex Borough, to investigate the property archaeologically for further evidence of the occupation of the Mann family and prepare a report. Special attention will be paid to document and recover any evidence of 19th century African-American ritual practices along with any features or deposits related to the Mann household or other site occupants. The draft report shall be submitted to Historic Preservation Office for review and comment. Copies of the final report shall be distributed to HPO and the appropriate local and county repositories as determined in consultation with the HPO.

3. Architectural Recording

NJDOT will record any of the contributing structures which will be demolished within the Historic District and the viewsheds that will be altered by the project. Recordation will be conducted to the standards of the Historic American Building Survey/Historic American Engineering Record (HABS/HAER). NJDOT shall provide the HPO with the opportunity to review any written recordation prior to the completion of the architectural recording. Archival copies of the architectural recording shall be distributed to HPO and the appropriate local and county repositories as determined in consultation with the HPO.

4. Community Enhancements

A. NJDOT shall incorporate into the project design, features compatible with the beautification program undertaken by Sussex Borough, within the Central Business District. Items shall include, but not be limited to, brick sidewalks, ornamental lighting, and landscaping. Prior to the completion of final design, NJDOT shall identify areas, locations, and resources proposed for community enhancements and consult with the HPO and Sussex Borough regarding specific treatments.

B. NJDOT shall replace the existing retaining wall on the property of the Sussex Inn. This wall shall exhibit an ashlar stone pattern. Local stone types and patterns will be examined to refine the design.

C. NJDOT shall prepare and install an interpretive sign at the Sussex Borough parking lot at the corner of Mill Street and Newton Avenue describing the history of the former Deckertown Mill and creamery. The sign will be prepared in cooperation with the HPO and Sussex Borough.

Administrative Conditions

A. Professional Qualifications: NJDOT, on behalf of FHWA, will ensure that all work is carried out by/under the supervision of a person or persons meeting at a minimum the Secretary of the Interior's Professional Qualifications Standards [48 FR 44738-44739].

B. Dispute Resolutions

1. At any time during the implementation of the measures stipulated in this MOA, should an objection to any such measure or its manner of implementation be raised, FHWA will notify all signatories to the agreement, take the objection into account, and consult as needed to resolve the objection.
2. Disputes regarding the completion of the terms of this agreement as necessary shall be resolved by the signatories. If the signatories cannot agree regarding a dispute, the FHWA shall then initiate appropriate actions in accordance with the provisions of 36 CFR §800.6(b) and §800.7 as appropriate.
3. Modification, amendment, or termination of this agreement as necessary shall be accomplished by the signatories in the same manner as the original agreement.

C. Design Changes

If any major changes to the proposed Route 23 Sussex Bypass project design occur, the FHWA shall consult with the New Jersey SHPO in accordance with the provisions of 36 CFR Part 800.

D. Project Completion

1. Work required by Stipulations 1, 2 and 3 will be completed following the acquisition of the aforementioned properties and prior to the commencement of demolition and construction.
2. Design work required by Stipulation 4 will be completed prior to seeking federal authorization to advertise the project. Associated construction will be completed prior to final acceptance from the contractor.
3. NJDOT shall submit a short narrative report with appropriate illustrations demonstrating satisfaction of all of the requirements of this agreement to FHWA, SHPO and Sussex Borough within 180 days of completion of construction.


E. Review of Implementation

This agreement shall become null and void if construction is not initiated within ten years from the date of execution unless the signatories agree in writing to an extension. If after ten years without action, the FHWA

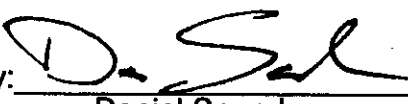
chooses to continue with the undertaking, it shall re-initiate its review in accordance with the provisions of 36 CFR Part 800.

Execution of this Memorandum of Agreement by the FHWA, the New Jersey SHPO, Sussex Borough and the NJDOT, and the subsequent filing of the document with the Council, and the implementation of its terms, evidence that the FHWA has afforded the Council an opportunity to comment on the Route 23 Sussex Borough Bypass project and its effects on historic properties, and that the FHWA has taken into account the effects of the undertaking on historic properties.

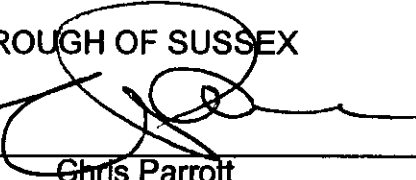
FEDERAL HIGHWAY ADMINISTRATION

By:  Date: 9/9/09
FOR Division Administrator
Dennis Merida

NEW JERSEY STATE HISTORIC PRESERVATION OFFICER


By:  Date: 8/18/09
Deputy State Historic Preservation Officer
Daniel Saunders

BOROUGH OF SUSSEX

By:  Date: 8/11/09
Mayor of Sussex Borough
Chris Parrott

Concur:

NEW JERSEY DEPARTMENT OF TRANSPORTATION

By:  Date: 8.20.09
Walter McGrosky
Division Director
Capital Program Support

August 6, 2009

The Honorable Chris Parrott
Mayor, Sussex Borough
2 Main Street
Sussex, NJ 07461-2397

Route 23 Sussex Borough Bypass
Sussex Borough
Wantage Township
Sussex County
Federal No.: STP-54(176)

Attn: Catherine Gleason, Municipal Clerk

Dear Mayor Parrott:

The New Jersey Department of Transportation (NJDOT) is planning to use Federal funds for the realignment of Route 23 through Sussex Borough and Wantage Township, Sussex County. In consultation with the New Jersey State Historic Preservation Office (SHPO), the Federal Highway Administration (FHWA) has determined that the project will have an adverse effect on the Sussex Borough Central Business Historic District and the Hamburg Avenue Streetscape. Both resources are eligible for inclusion in the National Register of Historic Places. The SHPO has concurred with these findings.

Enclosed please find a final copy of a Memorandum of Agreement outlining measures to mitigate the adverse effects caused by this project. As the Borough of Sussex has no further comments, please sign the four original documents and return them to our office.

Should you have any questions, please call me at (609) 530-3813 or Suzanne Sczepkowski at (609) 530-3765.

Very Truly Yours,

Bob Lee
Project Manager,
Division Capital Program Support

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