

**MEMORANDUM OF AGREEMENT
AMONG THE FEDERAL HIGHWAY ADMINISTRATION,
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION,
AND
NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICER
FOR
REPLACEMENT OF TYRRELL COUNTY BRIDGE NO. 7 ON US 64
OVER THE ALLIGATOR RIVER IN TYRRELL AND DARE COUNTIES
NORTH CAROLINA
NCDOT TIP HB-0001
FEDERAL AID PROJECT No. NHPB-0001(156)**

WHEREAS, the Federal Highway Administration (FHWA) has determined that Transportation Improvement Project HB-0001 - the replacement of the structurally deficient, two-lane Tyrrell County Bridge No. 7/Lindsey C. Warren Bridge on US 64 over the Alligator River in Tyrrell and Dare Counties (the Undertaking) will have an adverse effect upon Bridge No. 7, a swing-span 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 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

WHEREAS, the U.S. Army Corps of Engineers (USACE) entered into a Memorandum of Agreement (MOA) with the SHPO and North Carolina Department of Transportation (NCDOT) on June 2, 2016, for the Proposed Widening of US 64 from 0.9 Miles East of Columbia to US 64 near Manns Harbor (R-2544/R-2545) and Replacement of Bridge No. 7 (HB-0001) in Tyrrell and Dare Counties; and

WHEREAS, since the signing of the 2016 MOA, NCDOT has decided to only proceed with HB-0001; and

WHEREAS, the funding for the Undertaking has changed from state to federal, making FHWA the lead federal agency; and

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

WHEREAS, 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, 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 Tyrrell County Bridge No. 7/Lindsey C. Warren Bridge in accordance with the attached Historic Structures and Landscape Recordation Plan (Appendix A). The SHPO will have ten (10) days in which to comment on the adequacy of the recordation. If the SHPO does not respond within the ten (10) days, the documentation will be considered acceptable. Copies of the documentation will be deposited in the files of the North Carolina Historic Preservation Office (NCHPO) and NCDOT's Historic Architecture Group.

II. Design of Replacement Structure and Decorative Panels

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

1. Two-bar metal rail.
2. Four stand-alone, decorative panels and their support structures, placed within the bridge approaches at the four corners of the bridge and behind the guardrail, the specifications for these are as follows:
 - a. Each panel shall be no smaller than the four feet by five feet.
 - b. The panels shall be made of stainless steel or other material that is easily maintained and durable.
 - c. The panels shall be traffic-facing.
 - d. Each panel shall feature a unique artistic rendering of the animals found in the Alligator River Wildlife Refuge or surrounding area for which NCDOT has taken or will take extra measures to protect them and/or their habitat.
 - e. The design, materials, and installation of the panels and support structures will be in keeping with NCDOT's current public art policy.
 - f. The NCDOT Project Manager will coordinate with HPO and the USFWS's Alligator River National Wildlife Refuge on the artwork for the panels.
 - g. Draft artwork, renderings, and plans shall be reviewed and agreed upon by the signatories prior to approval of the final panel artwork, manufacture, and installation of the panels.

III. Unanticipated Discoveries

- A. In accordance with 36 CFR 800.11(a), if NCDOT identifies additional cultural resource(s) 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 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/mitigation measures for the resource(s).

- B. Inadvertent or accidental discovery of human remains will be handled in accordance with North Carolina General Statutes 65 and 70.

IV. Dispute Resolution

Should any of the Parties to this Agreement object within (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. Within thirty (30) days after receipt of all pertinent documentation, the Council will either:

1. Provide the FHWA with recommendations, which the FHWA will take into account in reaching a final decision regarding the dispute, or
2. 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, that 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 IV will be followed.

VI. Termination

Any of the Signatories may terminate the MOA by providing notice to the other parties, provided that the parties consult during the period prior to termination 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 be terminated by the execution of a subsequent MOA that explicitly terminates or supersedes its terms.

VII. Duration

Unless terminated pursuant to Stipulation VI above, this MOA will be in effect until 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 FHWA, NCDOT, and the North Carolina SHPO, its subsequent filing with the Council and implementation of its terms is evidence that FHWA has afforded the Council an opportunity to comment on the Undertaking, and that FHWA has taken into account the effects of the Undertaking on the historic property.

AGREE:

Federal Highway Administration


By: Clarence W. Adams, Jr.

Date: 8/31/2021

for John F. Sullivan III, P.E.
Division Administrator

AGREE:

North Carolina State Historic Preservation Officer

By: 

Ramona Bartos
Deputy State Historic Preservation Officer

Date: 8/30/2021

AGREE:

North Carolina Department of Transportation

DocuSigned by:
By: Philip S. Harris III
314FEDB31996479...
Phillip S. Harris, P.E.
Environment Analysis Unit Head
North Carolina Department of Transportation

Date: 8/31/2021

FILED:

By: _____
Advisory Council on Historic Preservation

Date: _____

APPENDIX A

Historic Structures and Landscape Recordation Plan For The Replacement of Tyrrell County Bridge No. 7 Tyrrell County North Carolina NCDOT TIP HB-0001

Photographic Requirements

- Representative pictures of the Tyrrell County Bridge No. 7/ Lindsay Warren Bridge including elevation and oblique views of the swing span, mechanics of the wingspan, and the controller booth.
- Drone photographs showing the bridge within its setting and details of the swing span, its mechanics, and operator's booth seen from above the river, itself.

Photographic Format

- Color digital images (all views) shot with a 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 the State Historic Preservation Office 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 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/Historic Preservation Office 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.