

Appendix C: Memorandum of Agreement

MEMORANDUM OF AGREEMENT

among

THE FEDERAL HIGHWAY ADMINISTRATION

and

THE TENNESSEE STATE HISTORIC PRESERVATION OFFICER

regarding

THE PROPOSED CENTRAL AVENUE EXTENSION

FROM 3RD STREET TO RIVERSIDE DRIVE, HAMILTON COUNTY, TENNESSEE

PURSUANT TO 36 CFR PART 800.6(b)(1)(iv)

WHEREAS, the city of Chattanooga proposes to extend Central Avenue from 3rd Street to Riverside Drive in Hamilton County, Tennessee (UNDERTAKING) using Federal-Aid Highway Program funds administered by the Federal Highway Administration (FHWA) through the Tennessee Department of Transportation (TDOT) to the City of Chattanooga and

WHEREAS, the UNDERTAKING is a federal undertaking and thus subject to compliance with Section 106 of the National Historic Preservation Act of 1966, as amended; and

WHEREAS, The FHWA has defined the UNDERTAKING'S area of potential effects (APE) in accordance with 36 CFR 800.16(d); and

WHEREAS, the APE for archaeological resources is defined as the extent of all proposed right-of-way and easements, as well as undisturbed areas within the existing right-of-way; and

WHEREAS, on 17 October 2016, the TN-SHPO stated that there are no archaeological resources eligible for listing in the National Register of Historic Places that will be affected by this undertaking; and

WHEREAS, at the request of the Muscogee (Creek) Nation, the city of Chattanooga has agreed to have a qualified archaeologist on site during the construction of the UNDERTAKING; and

WHEREAS, the APE for the built environment is defined as the extent of all proposed right-of-way and easements, as well as contiguous or adjacent areas that might be affected by changes in the air quality, noise levels, setting, and land use; and

WHEREAS, FHWA determined that the Area of Potential Effects (APE) for the Project contains one historic resource that is eligible for listing in the National Register of Historic Places: Lincoln Park; and

WHEREAS, TDOT on behalf of the FHWA filed a Documentation of Effect Report pursuant to 36 CFR 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) with the TN- SHPO; and

WHEREAS, the Documentation of Effect Report stated that the Project constitutes an adverse effect to one National Register-eligible resource: Lincoln Park; and

WHEREAS, on 6 January 2020, the TN-SHPO agreed with the adverse effect determination to Lincoln Park pursuant to 36 CFR 800.5; and

WHEREAS, on 28 February 2020, all public comments on the Documentation of Effect Report were compiled and provided to the TN-SHPO; and

WHEREAS, on 12 March 2020, the TN-SHPO reviewed all public comments and agreed with the adverse effect determination to Lincoln Park pursuant to 36 CFR 800.5; and

WHEREAS, the Section 106 Documentation of Adverse Effect Report was completed by a Historic Preservation Consultant for the city of Chattanooga that meets the Secretary of the Interior's Professional Qualification Standards in History and Architectural History; and

WHEREAS, the TDOT and the city of Chattanooga have participated in the consultation and have been invited to sign this MOA as "invited signatories"; and

WHEREAS, TDOT, on behalf of FHWA, has consulted with the Coalition to Preserve Lincoln Park and Citico regarding the adverse effects of the undertaking on the historic Lincoln Park and has invited them to sign this MOA as a "concurring party;" and

WHEREAS, the FHWA has consulted with Native American Tribes regarding the UNDERTAKING and has invited the Tribes to sign this MOA as Concurring Parties; and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), FHWA has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination providing the specified documentation, and on 7 April 2020, the ACHP chose not to participate in the consultation pursuant to 36 C.F.R. § 800.6(a)(1)(iii); and

NOW THEREFORE, the consulting parties agree that the following stipulations shall be implemented to resolve the adverse effects of the UNDERTAKING on the National Register eligible Lincoln Park. These stipulations shall constitute full, complete, and adequate mitigation measures under the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) with implementing regulations of the ACHP.

STIPULATIONS

FHWA will ensure that the following measures are carried out:

I. Acquisition of Lincoln Park Property:

As part of the proposed UNDERTAKING and in addition to right-of-way required for the construction of Central Avenue, the city of Chattanooga will purchase another tract of property south of the proposed Central Avenue. Within the purchased property is the designated National Register boundary for Lincoln Park (refer to red dashed line in Figure One in Appendix A). Approximately 14,716 square feet of property within the historic boundary of Lincoln Park will be contained within the roadway right-of-way, at the intersection of Central Avenue and Lincoln Park Lane (refer to the yellow shaded area in, Figure One in Appendix A). Approximately 185,635 square feet of the National Register eligible Lincoln Park will be incorporated into a city park (refer to the blue shaded area in Figure One in Appendix A). The remainder of the purchased property will be designated as a public park at the conclusion of the

UNDERTAKING (refer to the blue line labeled “future park boundary” in Figure One in Appendix A).

II. Lincoln Park Covenant

After completion of the UNDERTAKING, the city of Chattanooga will place a covenant on the deed of the public park stating that Lincoln Park will remain public property in order to preserve the park in perpetuity.

1. The covenant will be between the city of Chattanooga and the State of Tennessee acting through the SHPO.
2. The covenant will be recorded with the owner’s deed to the property and shall run with the land and be binding on the city of Chattanooga, its successors, and assigns in perpetuity.
3. The covenant will be drafted and filed with the Hamilton County Register of Deeds Office on the day that the city of Chattanooga becomes the owner of the land on which Lincoln Park is located.

III. Rehabilitation/Restoration of Lincoln Park Features

In consultation with the TN-SHPO and consulting parties, the city of Chattanooga will perform the following steps to the tennis courts, baseball field, concession stand, entry pillar at the northwest corner of Blackford and Central Avenue, stone arch at the intersection of Blackford and Central Avenue, and the pillar on the north side of Cleveland Avenue.

1. Each of the following will be completed in accordance with *The Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, & Reconstructing Historic Buildings*. These Standards are codified in 36 CFR Part 68.
2. Document the current conditions of the Lincoln Park features listed above. The City of Chattanooga will complete this documentation and provide it to the TN-SHPO and consulting parties no later than two (2) years from the date of the Notice to Proceed to the Right-of-Way Phase of project development.
3. Develop a rehabilitation/restoration plan for the Lincoln Park features listed above according to *The Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, & Reconstructing Historic Buildings* as codified in 36 CFR Part 68. The rehabilitation and/or restoration plan for Lincoln Park will be provided to the TN-SHPO and consulting parties for review and comment no later than two (2) years from the date of the Notice to Proceed to the Right-of-Way Phase of project development.
4. Solicit input from TN-SHPO and consulting parties on the rehabilitation plan. The TN-SHPO and consulting parties will provide feedback on the documentation of current conditions and rehabilitation/restoration plan no more than forty-five (45) days from receipt of documentation from the City of Chattanooga.
5. The City of Chattanooga will take into account TN-SHPO and consulting party comments and will rehabilitate or restore the Lincoln Park features listed above according to the final Rehabilitation/Restoration Plan.

IV. Historic Interpretation within Lincoln Park

In consultation with the TN-SHPO and consulting parties, the city of Chattanooga will provide wayside exhibits throughout Lincoln Park as deemed appropriate in the Rehabilitation/Restoration Plan.

1. The city of Chattanooga will provide wayside panels located at appropriate locations that are identified in the Rehabilitation/Restoration Plan of Lincoln Park.

2. The panels will be 36" x 24" single-face, 1/8" panels with 12-color high definition printing on National Park Service (NPS)-style double cantilever pedestals with powder coated aluminum frame and posts with in-ground mounts.
3. The city of Chattanooga will develop the interpretive plan, as part of the Rehabilitation/Restoration Plan, in consultation with the TN-SHPO and consulting parties to describe the topic of each panel. The interpretive plan will be completed no later than two (2) years after the execution of the MOA.
4. Content, including text and images, for the panels will be developed by a historian meeting the Secretary of the Interior's Professional Standards. The city of Chattanooga will provide a draft image of all panels to the TN-SHPO and consulting parties for a period of thirty (30) days. The city of Chattanooga will consider all timely comments in developing final designs and text for the panels.
5. The city of Chattanooga will install the panels prior to the completion of construction on the Central Avenue Extension Project. The city of Chattanooga shall ensure maintenance of the panels in perpetuity.

V. Oral History of Lincoln Park

The city of Chattanooga will conduct Historical Research and Oral Interviews and Collect Photographs of Lincoln Park that will be compiled into a book upon execution of this MOA. The book will be completed within two (2) years of the Notice to Proceed to the Right-of-Way Phase of Project development.

1. These materials will be used to develop fifty (50) copies of a book.
2. The focus of the research and interviews will be on the history of Lincoln Park.
3. Materials used in the research will include, but are not limited to city records, newspapers, historic photographs, and oral histories to tell the history of Lincoln Park.
4. The city of Chattanooga will engage an appropriate professional whom the FHWA and the TN-SHPO agree has the necessary experience and qualifications. The appropriate professional will have the following responsibilities:
 - a. Conduct and compile all research materials
 - b. Identify relevant interview opportunities; develop interview questions; and conduct the interviews
 - c. Identify and obtain relevant historical photographs
 - d. Authenticate the historical materials
 - e. Develop a compatible overall theme for products
 - f. Compile all research materials, historical references and photographs, audio and video tapes of interviews
5. The target audience for the Historical Research and Oral Interviews and Collection of Photographs is the general public with an interest in the African American history of Chattanooga.
6. Once collected and compiled, all research materials, oral interview transcripts and oral interview video tapes shall be housed as a permanent collection in a public repository such as the Chattanooga-Hamilton County Library—Local History Section.
7. Copies of the book will be provided to each branch of the public library in Hamilton County, the library of all Universities in Chattanooga, and the Tennessee State Library and Archives.
8. Twenty (20) books will be given to the Coalition to Preserve Lincoln Park and Citico to distribute for free to Lincoln Park Residents as the organization's leadership determines is

appropriate. The Coalition will provide the City with a list of people or organizations that receive a copy of the book.

9. A pdf file of the book will remain on file with the City of Chattanooga and TDOT for electronic distribution if requested.

VI. National Register Nomination of Lincoln Park

The city of Chattanooga will develop a National Register nomination for Lincoln Park that will include the features of Lincoln Park that the Keeper of the National Register determined were National Register eligible.

1. The National Register nomination will be written by a historian who meets the Secretary of the Interior's Standards for Historians.
2. The National Register nomination will be presented to the State Review Board no later than one (1) year from the Notice to Proceed to the Right-of-Way Phase of Project Development.

VII. Notification of an Inadvertent Post-Review Discovery

1. The city of Chattanooga shall notify the TDOT and FHWA immediately of the initial inadvertent discovery of CULTURAL ITEMS at the SITE. The FHWA shall then notify the tribal representatives and other consulting parties within 24 hours. The FHWA shall report subsequent discoveries to the tribal representative(s) and other consulting parties via telephone, fax, email, or written notification on a weekly basis. This schedule notwithstanding, the FHWA or designated representative of the TDOT shall keep the consulting parties informed and answer questions regarding the progress and findings of the excavations.
2. A tribal representative shall be entitled to be present during fieldwork at the SITE if CULTURAL ITEMS, as defined below, are encountered. A tribal representative is also entitled to be present for any subsequent analysis, whether in the field at the SITE or at a laboratory facility.
3. The tribal representative shall be reimbursed by the Project for travel, meals, or lodging in the amount of actual costs, subject to maximum amounts and limitations specified in the *Tennessee State Comprehensive Travel Regulations* which shall be provided as needed, as they are amended from time to time. These expenses will result from inspection visits to the SITE and/or to the archaeological laboratory facilities. In order to be reimbursed, each Native American consulting party must have a State of Tennessee vendor number, obtainable by filing a Vendor Request Form with the TDOT, which form shall be provided upon request. Invoices must be supported by appropriate documentation in order to be reimbursed.
4. In the event that non-Native American human remains are discovered, the city of Chattanooga will comply with applicable Tennessee state statutes concerning the treatment of human remains.
5. Post-review discovery of non-Native American non-mortuary features or deposits and non-mortuary Native American features or deposits will be governed pursuant to 36 CFR 800.13.

VIII. Monitoring and Reporting

Twice yearly, by April 15 and October 15, following the execution of this MOA until it expires or is terminated, FHWA, in partnership with TDOT, shall provide all parties to this MOA and consulting parties 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.

IX. Duration of the Agreement Document:

This MOA will remain in effect for five (5) years from the date of its execution. FHWA, the TDOT, and the Tennessee SHPO shall review the MOA before the end of the fifth (5th) year for possible modifications, termination, or extension. At the request of any signatory, this MOA may be reviewed for possible modifications, termination, or extension at any time. At such time, and prior to work continuing on the undertaking, FHWA shall either (a) execute a MOA pursuant to 36 C.F.R. § 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 C.F.R. § 800.7. 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 XI below. FHWA shall notify the signatories as to the course of action it will pursue. The MOA must be extended should a commitment contained herein not be completed by the end of the fifth year.

X. Dispute Resolution

Each article stipulated will be provided to the TN-SHPO for his review and comments. Should the TN-SHPO object within thirty days to any plans or specifications provided pursuant to this Agreement, FHWA will consult with the TN-SHPO to resolve the objection. If FHWA determines that the objections cannot be resolved, FHWA will forward all documentation relevant to the dispute to the Advisory Council on Historic Preservation (Council) and request the further comments of the Council pursuant to 36 CFR 800.6(b).

XI. Amendments:

This MOA may be amended when such an amendment is agreed to in writing by all signatories. Amendments to the MOA will be provided to consulting parties for a thirty (30) day review and comment period. The amendment will be effective on the date a copy signed by all the signatories is filed with the ACHP.

XII. 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 parties 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.

Once the MOA is terminated, and prior to work continuing on the undertaking, FHWA must either (a) execute an MOA pursuant to 36 CFR § 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. FHWA shall notify the signatories as to the course of action it will pursue.

XIII. Copies

The Agency Official shall provide each signatory and consulting party with a copy of any Memorandum of Agreement executed for this project.

EXECUTION of this MOA by the FHWA and TN-SHPO and implementation of its terms evidence that FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

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among
THE FEDERAL HIGHWAY ADMINISTRATION
and
THE TENNESSEE STATE HISTORIC PRESERVATION OFFICER
regarding
THE PROPOSED CENTRAL AVENUE EXTENSION
FROM 3RD STREET TO RIVERSIDE DRIVE, HAMILTON COUNTY, TENNESSEE

SIGNATORIES:

FEDERAL HIGHWAY ADMINISTRATION

By *Pamela M. Kordenbrock*
Pamela M. Kordenbrock
Division Administrator
Federal Highway Administration, TN Division

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SIGNATORIES:

TENNESSEE STATE HISTORIC PRESERVATION OFFICER

By *E. Patrick McIntyre, Jr.*
E. Patrick McIntyre, Jr. (Jan 27, 2021 16:03 CST)
E. Patrick McIntyre
State Historic Preservation Officer, Tennessee

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INVITED SIGNATORIES:

TENNESSEE DEPARTMENT OF TRANSPORTATION

By *Clay Bright*
Clay Bright (Jan 14, 2021 08:37 CST)
Clay Bright, Commissioner

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INVITED SIGNATORIES:

CITY OF CHATTANOOGA

By 

Mayor of Chattanooga

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CONCURRENCE BY OTHERS:

COALITION TO PRESERVE LINCOLN PARK & CITICO

By _____
Coalition to Preserve Lincoln Park &
Citico

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CONCURRENCE BY OTHERS:

Eastern Band of Cherokee Indians

By _____

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CONCURRENCE BY OTHERS:

The Muscogee (Creek) Nation

By _____

APPENDIX A

**DESIGN LAYOUT SHOWING NATIONAL REGISTER BOUNDARY AND UNDERTAKING
AND
PROPOSED PUBLIC PARK IN RELATION TO THE NATIONAL REGISTER BOUNDARY FOR
LINCOLN PARK**

