

**MEMORANDUM OF AGREEMENT
BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION AND
THE FLORIDA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE PROPOSED ROADWAY IMPROVEMENTS TO
SR 70 FROM WEST OF STATE ROAD 31 TO
SE HIGHLANDS COUNTY LINE ROAD,
DESOTO COUNTY, FLORIDA**

WHEREAS, pursuant to 23 United States Code (U.S.C.) § 327 and the implementing Memorandum of Understanding (MOU) executed on May 26, 2022, the Florida Department of Transportation (FDOT) has assumed Federal Highway Administration's (FHWA) responsibilities under the National Environmental Policy Act (NEPA) for highway projects on the State Highway System (SHS) and Local Agency Program (LAP) projects off the SHS; and

WHEREAS, in accordance with the MOU, FDOT's assumption of FHWA's responsibilities under NEPA for highway projects includes assumption of responsibilities for compliance with 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108); and

WHEREAS, FDOT will provide federal financial assistance for the proposed widening of and shared use path construction along State Road (SR) 70 from west of SR 31 to SE Highlands County Line Road in DeSoto County, Florida, Financial Project Identification Number 451942-1-22-01, and which constitutes an undertaking in accordance with 36 CFR 800.3(a); and

WHEREAS, FDOT has defined the undertaking's area of potential effects (APE) for archaeology as consisting of the existing right-of-way (ROW) containing the improvements and the APE for historic resources as consisting of the existing ROW and adjacent parcels up to 200 feet (ft) (61 meters [m]) (Attachment 1); and

WHEREAS, FDOT has consulted with the Florida State Historic Preservation Officer (SHPO) pursuant to the requirements of 36 CFR Part 800 and has determined that the undertaking may have an adverse effect on Old SR 18/Mahon Avenue (8DE00828), which is eligible for listing in the National Register of Historic Places (NRHP) (Attachment 2); and

WHEREAS, FDOT has consulted with DeSoto County government and the DeSoto County Historical Society regarding the effects of the undertaking on historic properties; and

WHEREAS, FDOT has provided opportunities for public review and comment regarding the effects of the undertaking on historic properties, as appropriate; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1) FDOT has notified the Advisory Council on Historic Preservation (ACHP) of the adverse effect determination with specified documentation and has invited the ACHP to comment and participate in consultation, and, the ACHP has chosen not to participate pursuant to 36 CFR § 800.6(a)(1)(iii).

NOW, THEREFORE, FDOT and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations to take into account the effect of the undertaking on historic properties.

STIPULATIONS

FDOT shall ensure that the following measures are carried out:

I. DOCUMENTATION

- A. Prior to construction commencement, a drone fly-through will be completed to visually document the Old SR 18/Mahon Avenue (8DE00828) resource in its pre-demolition condition. Aerial photography and motion video with accompanying scripted text or narration will be used to compile an edited short video documenting Old SR 18/Mahon Avenue (8DE00828). Aerial photos and video files will be provided as electronic files to the FDOT Office of Environmental Management (OEM), FDOT District One, SHPO, DeSoto County Historical Society, and DeSoto County Library for curation and archival use.
- B. FDOT shall prepare a historical narrative detailing the history and significance of Old SR 18/Mahon Avenue (8DE00828). The narrative will be provided to the SHPO for review in accordance with Stipulation VIII, below. The final narrative will be provided to the SHPO, the DeSoto County Historical Society, and DeSoto County Library.

II. PUBLIC EDUCATION

- A. An ESRI GIS StoryMap will be produced showing the historic road's original alignment and document how it served as a transportation route connecting the community and the Dorr Airfield during its period of significance. This StoryMap content will be incorporated into the existing OEM-hosted StoryMap "Preservation and Progress" (<https://storymaps.arcgis.com/stories/e3238becd1bb47d1ae62c39884c26bc8>) and include edited drone footage produced for Stipulation I.A, historical maps, aerials, and/or images, and accompanying text drawn from Stipulation I.B.
- B. FDOT will assist with the development and funding of one State Historical Marker (Marker) that will highlight the developmental history of Old SR 18/Mahon Avenue (8DE00828) to be placed along the shared use path constructed near the preserved segment of the historic road. The draft Marker text and location will be coordinated with SHPO for review, as described in Stipulation VIII, and in accordance with the Historic Marker Program process. If an official Marker is not approved, educational/interpretive signage containing similar historic context, and undergoing the same review and comment process with SHPO, will be installed proximate to the preserved segment of the historic road.

III. PRESERVATION

- A. To commemorate the original location, form and function of the Old SR 18/Mahon Avenue (8DE00828), FDOT will preserve a portion of the original brick road in association with construction of the shared use path component of the undertaking. The size, location, methods, and processes for the historic road segment's preservation will be detailed in a Preservation Plan that will be prepared pursuant to Stipulation III.B. The preserved brick road segment will be interpreted with historic context provided by the Marker detailed in

Stipulation II.B, or similar educational signage for public education, and accessible via the proposed shared-use trail occupying the historic road alignment.

B. FDOT will prepare a Preservation Plan to outline the process for preserving a portion of the Old SR 18/Mahon Avenue's (8DE00828) original brick road. The Preservation Plan will be developed through continued coordination with SHPO and local interested parties, as applicable. The Preservation Plan will include provisions for a minimum of two preservation option including, but not limited to, the option of in-place preservation of an original brick road segment and the option to salvage of an appropriate volume of original brick to be utilized in a reconstructed segment of the road at a location within the original road alignment, as determined through affected party consultation. The Preservation Plan will:

- Address implementation methods for each proposed preservation option,
- Identify areas of the historic road considered for in-place preservation potential
- Identify areas optimal for brick salvage,
- Identify temporary storage locations for salvaged brick,
- Proposed reconstruction locations and methods,
- Protection measures for the in-situ preservation segment during construction,
- Standards and processes that will be utilized to assess which of the preservation plans is appropriate,
- Identify the personnel who are qualified to make historic preservation recommendations and decisions per Stipulation IV, and
- Time frames for completing the tasks.

C. FDOT will afford the SHPO 30 days to review and comment on the proposed Preservation Plan, per Stipulation VIII. Finalized Preservation Plan elements will be incorporated into construction plans, as appropriate.

IV. PROFESSIONAL STANDARDS

All archaeological and historic preservation work carried out pursuant to this Agreement shall be conducted by, or under the direct supervision of, a person or persons meeting the Secretary of the Interior's Professional Qualification Standards for Archaeology and Historic Preservation as set forth at 62 FR 33708-33723 (June 20, 1997).

V. DURATION

This Memorandum of Agreement (MOA) will expire if its terms are not carried out within ten (10) years from the date of execution or upon project acceptance, whichever comes first. Prior to expiration, the signatories may agree to extend the timeframe for fulfillment of the terms by letter agreement.

VI. MOA DOCUMENTATION

A. The FDOT shall provide a summary of actions carried out pursuant to this MOA to the signatories annually. The reporting period shall be the fiscal year from July 1st to June 30th and the summary shall describe the status of mitigation activities and, as applicable, any

issues that may affect the ability of the FDOT to continue to meet the terms of this MOA, any disputes and objections received, and how they were resolved.

- B. A Notice of Fulfillment will be prepared to summarize the implementation of the MOA after all stipulations have been fulfilled. This document will be submitted to the signatories for their files within six (6) months after completion of all MOA stipulations.

VII. POST-REVIEW DISCOVERIES

- A. If properties are discovered that may be historically significant, or if unanticipated effects on historic properties are found, FDOT shall implement the Post-Review Discovery Plan established in Stipulation IX of the September 27, 2023, Programmatic Agreement among the ACHP, SHPO, and FDOT (2023 PA).
- B. In the unlikely event that human skeletal remains or associated burial artifacts are uncovered within the undertaking area during construction, all work in that area must stop. The individual in charge of the activity that leads to the discovery must notify the Project Engineer and the FDOT District One Cultural Resources Coordinator per Stipulation X of the 2023 PA. The discovery must be reported to local law enforcement and the appropriate medical examiner. The medical examiner will determine whether the State Archaeologist should be contacted per the requirements of Section 872.05, Florida Statutes, and Rule 1A-44.004, Florida Administrative Code (FAC).

VIII. REVIEW STIPULATION

FDOT shall afford the SHPO and other consulting parties, a thirty (30)-day period for review and comment following the receipt of delivery of the submittals and reviews described above. If no comments are received by FDOT at the end of these thirty (30) days, FDOT will presume there are no objections. Any objections to the findings or plans proposed in these submittals will be addressed in accordance with Stipulation IX, below.

IX. DISPUTE RESOLUTION

Should any signatory to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, FDOT shall consult with such signatory to resolve the objection. If FDOT determines that such objection cannot be resolved, FDOT will:

- A. Forward all documentation relevant to the dispute, including FDOT's proposed resolution, to the ACHP. The ACHP shall provide FDOT with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FDOT shall prepare a written response that considers any timely advice or comments regarding the dispute from the ACHP, signatories, and concurring parties, and provide them with a copy of this written response. FDOT will then proceed according to its final decision.
- B. Make a final decision on the dispute and proceed accordingly if the ACHP does not provide its advice regarding the dispute within thirty (30) days. Prior to reaching such a final decision, FDOT shall prepare a written response that considers any timely comments regarding the dispute from the signatories to the MOA and provide them and the ACHP

with a copy of the written response.

- C. Fulfill its responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

X. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. All signatories must signify their acceptance of the proposed changes to the MOA in writing within 30 days of their receipt. The amendment will be effective on the date a copy signed by all signatories is filed with the ACHP. In accordance with 36 CFR § 800.6(c)(7), if the ACHP was not a signatory to the original agreement and the signatories execute an amended agreement, FDOT shall file the amended agreement with the ACHP.

XI. 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 in an effort to amend the MOA per Stipulation IX, above. If within thirty (30) days (or another time agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once this MOA is terminated, and prior to work continuing on the undertaking, FDOT must either (a) execute a new 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. FDOT shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by FDOT and SHPO and implementation of its terms is evidence that FDOT has taken into account the effects of this undertaking on historic properties per the requirements of Section 106 (Public Law 113-287 [Title 54 U.S.C. 306108]), and 36 CFR Part 800 (Protection of Historic Properties).

SIGNATORIES:

FLORIDA STATE HISTORIC PRESERVATION OFFICER

_____Date _____

Alissa Slade Lotane
Director, Division of Historical Resources
State Historic Preservation Officer

FLORIDA DEPARTMENT OF TRANSPORTATION

_____Date _____

Katasha Gruver
Director, Office of Environmental Management

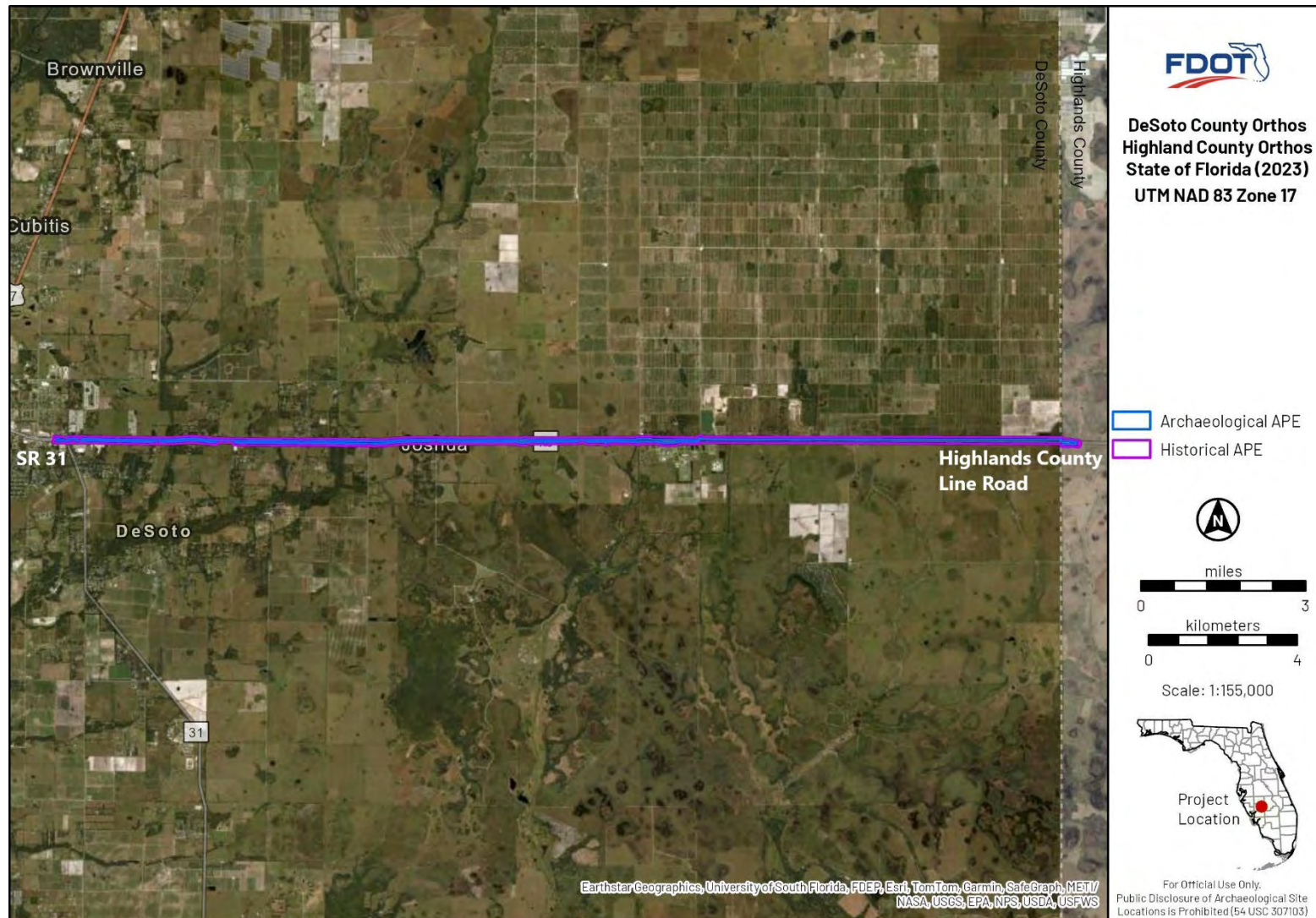
CONCURRING SIGNATORIES:

FLORIDA DEPARTMENT OF TRANSPORTATION, DISTRICT ONE

_____ Date _____
Nicole Mills, P.E.
Director, Transportation Development

**ATTACHMENT 1. STATE ROAD 70 MAINLINE ARCHAEOLOGICAL AND
HISTORICAL RESOURCES AREA OF POTENTIAL EFFECT (APE) MAPS FOR THE
451942-1-22-01 PD&E STUDY**

Figure 1. Archaeological and Historical APE.



SR 70 from W. of SR 31 to SE Highlands County Line Rd.

FPID 451942-1

**ATTACHMENT 2. MAP OF NATIONAL REGISTER OF HISTORIC PLACES
(NRHP)-ELIGIBLE LIMITS FOR OLD STATE ROAD 18/MAHON AVENUE (8DE00828)
WITHIN THE 451942-1-22-01 PD&E STUDY**

Figure 1. Historical APE and NRHP-eligible portion of 8DE00828 on a topographic map.

