

Tuesday, June 28, 2005

**AMENDED MEMORANDUM OF AGREEMENT
BETWEEN
THE FEDERAL HIGHWAY ADMINISTRATION,
THE U.S. ARMY CORPS OF ENGINEERS,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AND THE
MINNESOTA AND WISCONSIN STATE HISTORIC PRESERVATION
OFFICERS
REGARDING
THE ST. CROIX RIVER CROSSING PROJECT**

WHEREAS, the Minnesota Department of Transportation (Mn/DOT) and Wisconsin Department of Transportation (Wis/DOT) plan to construct a new crossing of the St. Croix River between Oak Park Heights, Minnesota and Houlton, Wisconsin on Alignment B-1, the Preferred Alternative (Project), as described in the 2005 St. Croix River Crossing Supplemental Final Environmental Impact Statement; and

WHEREAS, the Federal Highway Administration (FHWA) plans to provide assistance to the Project pursuant to the Federal Aid Highway Program, 23 U.S.C., thereby making the Project an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, and its implementing regulations, 36 C.F.R. Part 800; and

WHEREAS, the U.S. Army Corps of Engineers (Corps) has determined that this Project, due to its authorization under Section 10 and Section 404 permits, is an undertaking that requires review in accordance with 36 CFR Part 800; and

WHEREAS, the U.S. Coast Guard (USCG) has determined that this Project, due to its authorization under Section 9 of the Rivers and Harbors Act of 1899 and the General Bridge Act of 1946 permits, is an undertaking that requires review in accordance with 36 CFR Part 800; and

WHEREAS, in accordance with 36 CFR § 800.2(a)(2), FHWA, the Corps and the USCG have agreed that FHWA is the lead Federal agency for the purposes of Section 106 review; and

WHEREAS, on December 8, 1994, FHWA, the Advisory Council on Historic Preservation (ACHP), the Minnesota and Wisconsin State Historic Preservation Offices (SHPO), Mn/DOT and Wis/DOT executed a Memorandum of Agreement (MOA) for a new crossing of the St. Croix River; and

WHEREAS, in compliance with Stipulation I of the 1994 MOA, FHWA completed an historical documentation study of the Bergstein House and Shoddy Mill

prior to demolishing the Bergstein House; and

WHEREAS, FHWA and the Minnesota SHPO agree that the Shoddy Mill is individually eligible for listing in the National Register of Historic Places (NRHP); and

WHEREAS, in 1996 consideration of a new crossing of the St. Croix River did not proceed because the National Park Service (NPS) determined, pursuant to Section 7(a) of the Wild and Scenic Rivers Act, that the proposed new crossing would have a direct and adverse effect on the scenic and recreational values for which the Lower St. Croix River was designated a Wild and Scenic River; and

WHEREAS, FHWA suspended the proposed new crossing of the St. Croix River and implemented none of the remaining stipulations of the 1994 MOA; and

WHEREAS, in February 1999, FHWA resumed consideration of a new crossing of the St. Croix River when it began development of a Supplemental Draft Environmental Impact Statement (SDEIS); and

WHEREAS, in January 2001, FHWA again suspended consideration of a new crossing of the St. Croix River because the consulting parties could not agree on the future of the Stillwater Lift Bridge, a property that is listed on the NRHP, and on appropriate and fundable mitigation; and

WHEREAS, in June 2003, FHWA initiated a facilitated stakeholder process to identify and analyze a new set of alternatives for a new crossing of the St. Croix River; and

WHEREAS, changes in the nature and scope of the proposed new crossing of the St. Croix River and its effects, and the passage of time dictate amendment of the 1994 MOA; and

WHEREAS, execution and implementation of this Amended MOA satisfies the responsibilities of FHWA, the Corps and USCG under Section 106 of NHPA and 36 CFR Part 800; and

WHEREAS, FHWA has determined that the Project may have an adverse effect on the Log Cabin, the Shoddy Mill, the St. Croix Overlook, Stillwater Lift Bridge, Stillwater Cultural Landscape District, the Hersey and Bean Archaeological Site, and the Stillwater Commercial Historic District, properties included in or eligible for listing on the NRHP, and has consulted with the ACHP and the Minnesota and Wisconsin SHPOs, pursuant to 36 CFR Part 800, the regulations implementing Section 106 of the NHPA, 16 U.S.C. 470f; and

WHEREAS, the Project's area of potential effects (APE), as determined by FHWA pursuant to 36 CFR § 800.4(a)(1), is described in Attachment A; and

WHEREAS, FHWA has consulted with Mn/DOT and Wis/DOT, and has invited those State agencies to execute this Amended MOA as invited signatories; and

WHEREAS, in accordance with 36 CFR § 800.6(c)(7) and § 800.6(c)(8), only signatories and invited signatories may amend or terminate a MOA; and

WHEREAS, FHWA has consulted with the Environmental Protection Agency, the U.S. Fish and Wildlife Service, the NPS, the Minnesota and Wisconsin Departments of Natural Resources (DNR), the City of Stillwater, City of Oak Park Heights, Town of St. Joseph, Preservation Alliance of Minnesota, Stillwater Heritage Preservation Commission (HPC), Friends of the St. Croix, New St. Croix Bridge Coalition, Stillwater Area Chamber of Commerce, Sierra Club, St. Croix Alliance for an Interstate Bridge, St. Croix County, St. Croix River Association, Stillwater Lift Bridge Association, Western Wisconsin Realtors Association, Minnesota Center for Environmental Advocacy, and the National Trust for Historic Preservation, and has invited them to concur in this Amended MOA; and

WHEREAS, the terms used in this Amended MOA are defined in 36 CFR § 800.16; and

NOW, THEREFORE, FHWA, the Corps, the USCG, the ACHP, the Minnesota and Wisconsin DOTs, and the Minnesota and Wisconsin SHPOs agree that the Project shall be implemented in accordance with the following stipulations in order to take into account the effect of this Project on historic properties.

STIPULATIONS

FHWA shall ensure that the following measures are carried out.

I. OVERSIGHT AND COORDINATION

- A. FHWA authorizes Mn/DOT and Wis/DOT to carry out the terms of this Amended MOA on its behalf.
- B. FHWA shall ensure that all historic preservation work carried out pursuant to the terms of this Amended MOA is conducted by or under the direct supervision of a person or persons meeting the *Secretary of the Interior's Professional Qualification Standards* (48 FR 44738-39).
- C. Mn/DOT and Wis/DOT will maintain the professional staff (as defined in Stipulation I.B) needed to implement the terms of this Amended MOA.
- D. In carrying out the terms of this MOA, FHWA shall utilize the comprehensive educational and interpretive information on the Lower St. Croix Riverway's natural, cultural and historic resources as recommended in the *Lower St. Croix Cooperative Management Plan* (NPS 2000) and coordinate with the NPS in implementing mutual interpretive goals.

- E. FHWA shall implement the terms of this Amended MOA in a manner that is consistent with the principles established by the *ACHP's Policy Statement on Balancing Cultural and Natural Values on Federal Land* (2001), a document that has been endorsed by the Chairman of the ACHP and the Director of the NPS.

II. PROJECT DESIGN DEVELOPMENT

A. FHWA recognizes the significance and inter-relatedness of natural resources and historic properties to the outstanding scenic and recreational qualities of the Lower St. Croix Riverway. The importance of these resources is affirmed in the *Lower St. Croix Cooperative Management Plan* (NPS, 2000). In developing the Project design, FHWA shall apply context sensitive design principles in order to protect these defining natural and historic qualities.

B. Design Principles: FHWA will develop the overall project design - including the new bridge structure, approach roadways, and aesthetic treatments to surfaces, structures, portals, appurtenances, and land contours and landscaping - and a Visual Quality Manual (VQM) consistent with the following principles:

1. A controlling vision, developed as part of the VQM process (Stipulation II.B), that identifies and reinforces the links between the historic properties and natural resources that make up the landscape of the Lower St. Croix Scenic Riverway will guide the project design development and implementation.
2. The Project design will effectively meet the Project purpose and need, as defined in the Supplemental Final Environmental Impact Statement (SFEIS), while avoiding, minimizing, and/or mitigating adverse impacts to the environment, including adverse effects to historic properties. Avoidance of adverse effects is preferable.
3. The Project design will minimize the impact of the new bridge on the Lower St. Croix Scenic Riverway and, in particular, on vistas from the St. Croix Overlook-South and the Stillwater Cultural Landscape District. The overall scale of the new bridge structure and the number of its piers in the river will be minimized to the maximum extent possible. Where appropriate, the new bridge design will incorporate opportunities to enhance scenic and historic vistas for pedestrians, bicyclists, and river and vehicle travelers.
4. The Project design will minimize the impact of Project lighting on the St. Croix Valley and on historic properties. Roadway and navigational lighting will be designed and constructed to minimize the dispersion of light ("spillover") beyond the roadway right-of-way and the riverway. In selecting lighting, state-of-the-art techniques and systems, such as Full Cutoff Optics or other similar systems, will be considered.

5. The Project design will minimize the visual impact of signage on the Lower St. Croix Valley and on historic properties. Roadway signage in the riverway area will be minimized and will preserve important vistas.
6. The Project design will incorporate opportunities to provide comprehensive educational and interpretive information about the Lower St. Croix National Scenic Riverway's natural resources and historic properties, consistent with the *Lower St. Croix Cooperative Management Plan* (NPS, 2000, and subsequent revisions).

C. Visual Quality Manual

1. Prior to commencing Project design, Mn/DOT and Wis/DOT shall develop a VQM to provide for corridor continuity in all aspects of the Project design, while enhancing the diverse environments within the limits of the overall Project. The Final VQM shall be consistent with the design principles identified in Stipulations II.A and II.B.
2. The VQM Project consultant team will include a professional who meets the *Secretary of the Interior's Professional Qualification Standards* (48 FR 44738-39) for architectural historian, historical architect, or historian.
3. Mn/DOT shall establish a Design Review Committee to work with the consultant team throughout the development of the VQM. The Design Review Committee shall include the Minnesota and Wisconsin SHPOs, and Mn/DOT and Wis/DOT historic preservation professionals. Mn/DOT shall invite the SHPOs, City of Stillwater, City of Oak Park Heights, the Stillwater Historic Preservation Commission and other consulting parties to become members of the Design Review Committee.
4. All Project design elements presented in the VQM - including, but not limited to, bridge and ramp design, loop trail (including the Lift Bridge), landscape alteration, landscape design, surface treatments, lighting, signage, corridor enhancements, and permanent erosion control - shall be
 - a. consistent with FHWA's Context Sensitive Design principles, the *Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties* (SOI Standards) and the *Lower St. Croix Cooperative Management Plan* (NPS, 2000), and
 - b. compatible with the historic qualities of the Log Cabin Restaurant, St. Croix Overlook-South, Slab Alley Archaeological Site, Hersey and Bean Archaeological Site, Stillwater Commercial Historic District, Stillwater Cultural Landscape District, Stillwater Lift Bridge, the Thelen Farmstead, and the Kreisel Farmstead.

5. Mn/DOT shall submit a copy of the draft VQM to the Minnesota and Wisconsin SHPOs and Visual Quality Review Committee members for review. The SHPOs and Visual Quality Review Committee members shall have thirty (30) days from receipt of the draft to submit their respective reviews. Mn/DOT shall take into account the SHPOs' and Visual Quality Review Committee members' review comments in the preparation of the final draft VQM.

In addition, Mn/DOT will hold public informational meetings in both Minnesota and Wisconsin to gather public comments on the draft VQM.

6. Mn/DOT shall submit a copy of the final draft VQM to the Minnesota and Wisconsin SHPOs for review and concurrence. The SHPOs shall have thirty (30) days from receipt of the final draft VQM to provide their review and concurrence. Mn/DOT shall take into account the review comments in the preparation of the final draft VQM.

In addition, Mn/DOT will hold public open houses in both Minnesota and Wisconsin to disseminate the information contained in the final VQM to the general public. If Mn/DOT and the SHPOs cannot reach concurrence on the final draft VQM, Mn/DOT shall submit the matter to FHWA for resolution in accordance with Stipulation XII.

D. Design Review: Mn/DOT and Wis/DOT shall submit all final design plans to the SHPO for review and concurrence before construction begins.

E. Construction Review

1. Before Project construction begins, Mn/DOT and Wis/DOT shall meet with the construction contractor to ensure that construction plans are consistent with the approved Project design.
2. During construction, Mn/DOT and Wis/DOT shall monitor Project construction and shall provide a record of those monitoring activities in the Annual Report prepared pursuant to Stipulation IX.
3. Mn/DOT shall identify a point of contact to be responsible for responding to inquiries and complaints from the public regarding historic preservation issues that arise during the implementation of the terms of this Amended MOA.

III. STILLWATER LIFT BRIDGE

A. Interim Vehicular Use of the Stillwater Lift Bridge – The historic Lift Bridge will be used for Trunk Highway purposes in accordance with Federal, State and local law, and safety standards until a new river crossing has been constructed and opened to vehicular traffic. Mn/DOT will continue to own and operate the Stillwater Lift Bridge with the

intent to preserve and protect it beyond the opening of the new bridge for conversion to pedestrian/bicycle use.

1. Mn/DOT will continue to conduct annual structural inspections, perform routine maintenance, perform necessary repairs, and perform appropriate emergency measures, as it has done in the past, in a manner that will minimize the structural deterioration of the historic bridge to the extent practicable until such time as the new bridge is open for vehicular use.
2. During the interim, Mn/DOT shall maintain the Stillwater Lift Bridge with the intent to preserve and protect the Lift Bridge beyond the opening of the new bridge for conversion to pedestrian/bicycle use.

B. Stillwater Lift Bridge Advisory Committee - Immediately following approval of the Record of Decision (ROD) for the SFEIS, FHWA shall invite the Minnesota and Wisconsin SHPOs, the NPS, MnDNR, WisDNR, the City of Stillwater, the Stillwater HPC, the Stillwater Lift Bridge Association, the Minnesota Historical Society, St. Croix County, and the Town of St. Joseph and others who seek to participate, to serve on the Stillwater Lift Bridge Advisory Committee (SLBAC).

1. The SLBAC shall provide Mn/DOT with advice and recommendations regarding the maintenance, repair, rehabilitation, treatment and management of the Lift Bridge during its interim vehicular use and shall oversee development of the Stillwater Lift Bridge Management Plan prepared in accordance with Stipulation III.C.
2. The recommendations of the advisory committee will support Mn/DOT's efforts to incorporate riverway, historic/cultural, and local perspectives in its decision-making process regarding planning and repair decisions for the Lift Bridge.
3. Mn/DOT shall seek the advice of the SLBAC until the final Stillwater Lift Bridge Management Plan has been approved by the SHPOs in accordance with Stipulation III.C.
4. Mn/DOT shall be responsible for convening meetings of the committee, including the first meeting and providing staff support to the SLBAC, as appropriate. The SLBAC shall establish the procedures through which it will operate and develop its recommendations for Mn/DOT.
5. If Mn/DOT, the SHPOs and the SLBAC agree that proposed maintenance, repair, and rehabilitation treatment meets the Secretary of Interior's (SOI's) *Standards* then no further review is required under Section 106, and Mn/DOT may implement the proposed work.

C. Stillwater Lift Bridge Management Plan - The Stillwater Lift Bridge management plan, which shall be consistent with Mn/DOT's Statewide Historic Bridge Management

Plan, shall identify those actions needed to preserve the structural and historical integrity of the Lift Bridge for continued safe use. All actions identified shall be consistent with the Secretary of Interior's (SOI's) *Standards*.

1. **At the completion of the Stillwater Lift Bridge Repair Project** (S.P. 8214-141)¹, Mn/DOT and Wis/DOT, in consultation with the SLBAC, will update the condition assessment of the bridge as presented in the HNTB reports listed in Attachment B. In consultation with the SHPOs and SLBAC, Mn/DOT will use this information as the basis for developing an operations and maintenance manual for the Lift Bridge that includes estimated funding needs. Mn/DOT will submit the manual to the SLBAC for review. Mn/DOT shall submit the final manual to the SHPOs for their concurrence. Mn/DOT shall then use the approved operations and maintenance manual to develop the Lift Bridge management plan.
2. The plan will describe how the Lift Bridge is to be managed during its interim vehicular use and after its conversion to a pedestrian/bicycle use, but the latter use will receive primary emphasis.
3. In consultation with the MnSHPO, Mn/DOT plans to develop a Statewide Historic Bridge Management Plan for twenty-four (24) historic bridges, including the Stillwater Lift Bridge. The long-term preservation of the Lift bridge is critical to the successful implementation of this statewide plan. In accepting statewide planning for historic bridges, Mn/DOT committed to preserving the structural integrity of the twenty-four (24) historic bridges beyond its normal practice. The Statewide Historic Bridge Management Plan will provide the framework for consistent format and content of the Stillwater Lift Bridge Management Plan.
4. The Lift Bridge management plan shall include but is not limited to, components that establish a process and procedures:
 - (a) to update and analyze the condition of the lift bridge;
 - (b) to establish maintenance and improvement needs and priorities;
 - (c) to identify criteria for decision-making and priority setting;
 - (d) to use and expand the endowment fund;
 - (e) to acquire capital improvement funding predictably and when needed;
 - (f) to respond to emergencies;
 - (g) to involve other parties in an advisory capacity in decision-making;
 - (h) to revise and update the management plan, as appropriate;
 - (i) to integrate with the development, ownership and operation of the Riverway Loop Trail; and
 - (j) for ownership and long-term maintenance of the Lift Bridge.
5. Mn/DOT shall submit a draft of the Lift Bridge management plan to the SHPOs and the SLBAC who shall have thirty (30) days from receipt of the draft plan to submit their review comments. Mn/DOT shall take into account comments

¹ Letting Date – November 2004; Start Date – May 2005; Completion Date – May 2006

received before the deadline in preparing the final draft of the management plan. Mn/DOT shall submit the final draft to the SHPOs for their review and concurrence.

6. When the SHPOs have concurred pursuant to Stipulation III.C.5, Mn/DOT shall implement the plan. Mn/DOT shall provide a copy of the final Stillwater Lift Bridge Management Plan to FHWA, the SHPOs and the SLBAC. **FHWA will not obligate funding for the Project until it is in receipt of the final Stillwater Lift Bridge Management Plan from Mn/DOT.**

D. Endowment Fund - The establishment of an endowment fund account by Mn/DOT would generate revenue to support the operation and routine maintenance of the Lift Bridge after it is converted to pedestrian/bicycle use.

1. **Upon approval of the ROD by FHWA** and the appropriation of funding for the Project, Mn/DOT, in cooperation with the State of Minnesota, Department of Administration, shall take steps to establish an endowment account for the Lift Bridge.
2. In setting up this fund, Mn/DOT shall support any enabling legislation that may be determined by the State of Minnesota to be necessary for the establishment of such an account, and develop and execute agreements, as needed, with other elements of the State, including the MnSHPO, **prior to the opening of the new river crossing.**
3. Mn/DOT shall establish the endowment fund in order to receive funds and disperse revenues sufficient to support the operation and routine maintenance of the Lift Bridge. Mn/DOT shall ensure that adequate legal controls are in place to ensure that the endowment, and operations and maintenance funds are managed effectively, in the public interest and to support the protection and preservation of the Lift Bridge.
4. **Prior to the opening of the new river crossing,** Mn/DOT and Wis/DOT shall deposit no less than \$3 million in the endowment fund.
5. Mn/DOT will set up an operations and maintenance account that will be funded from the investment revenues derived from the endowment fund. This account may be used only to support Lift Bridge operation and routine maintenance from abutment to abutment because these activities are usually predictable, repetitive, and conducive to the establishment of reasonable and accurate annual budget projections. Revenues from the operations and maintenance account are not eligible for use in major repairs/ rehabilitation or other capital improvements to the Lift Bridge.

E. Capital Improvement Upon Conversion - Upon approval of the ROD and appropriation of funding for the Project, Mn/DOT will convene the Stillwater Lift Bridge

Advisory Committee to advise Mn/DOT regarding the proper scope of the Lift Bridge capital improvement/repair work that should be pursued by Mn/DOT when the Lift Bridge is to be converted to a pedestrian/bicycle use in conjunction with the new riverway Loop Trail.

1. Mn/DOT, under the auspices of the Statewide Historic Bridge Management Plan, commits to funding a rehabilitation project for the Lift Bridge, not to exceed \$7 million, **within one year after opening of the new bridge**. Funding is expected to be secured from a combination of eligible state and federal funding sources.
2. Mn/DOT shall submit the design plan to the MnSHPO for review and concurrence.

F. Conversion of the Lift Bridge to Pedestrian/Bicycle Use - When the Project has been constructed and opened to traffic in the new corridor, Mn/DOT will remove the Lift Bridge from the Trunk Highway system and close it to vehicular traffic.

1. The State of Minnesota, through Mn/DOT, shall retain ownership and maintenance for the Lift Bridge.
2. If the State of Minnesota proposes to transfer ownership of the Lift Bridge, Mn/DOT shall initiate consultation with the SHPOs, the ACHP, the City of Stillwater, Town of St. Joseph, Preservation Alliance of Minnesota, Stillwater HPC, NPS, Stillwater Area Chamber of Commerce, Stillwater Lift Bridge Association, and the National Trust for Historic Preservation and other consulting parties. The State of Minnesota shall take into account the recommendations of these consulting parties in reaching a final decision about the proposed transfer. The State of Minnesota shall ensure that the Lift Bridge is transferred with legal restrictions sufficient to ensure its continued protection and preservation.
3. Mn/DOT may, at its discretion and in consultation with the SHPOs, the City of Stillwater and the Stillwater HPC, enter into an agreement with a federal, state or local agency for management of the operation and routine maintenance of the Lift Bridge. Mn/DOT shall ensure that management of the Lift Bridge by the other agency adheres to the final management plan developed pursuant to Stipulation III.C.

IV. SITE SPECIFIC MITIGATION MEASURES

A. Log Cabin Restaurant (Club Tara)

1. Design: In consultation with the MnSHPO and the owner of this historic property, Mn/DOT shall design Project elements, including the frontage road, access, landscaping, and other site improvements in the vicinity of this historic property, to be compatible with the qualifying characteristics and setting of the

Log Cabin Restaurant. The design shall be consistent with the design principles listed in Stipulation II.A and B and the VQM. Mn/DOT shall submit design plans to the MnSHPO for review and concurrence prior to FHWA authorization to obligate funds for the Project.

2. Parking: In consultation with the MnSHPO and the owner of this historic property, Mn/DOT shall develop a design plan to ensure adequate parking for the Log Cabin Restaurant. In the plan, Mn/DOT shall specify whether the existing lot shall be paved and/or whether an additional lot shall be constructed, and the configuration and capacity of the area(s) to be used for parking. The design plan shall comply with municipal standards and shall not diminish the qualifying characteristics of the historic property. Mn/DOT will implement the design plan in cooperation with the City of Oak Park Heights and Xcel Energy. Mn/DOT shall submit the design plan to the MnSHPO for review and concurrence prior to FHWA authorization to obligate funds for the project.
3. Construction: Mn/DOT will ensure access and temporary directional signage to the Log Cabin Restaurant during construction.
4. Oak Park Heights Memorandum of Understanding (MOU): The terms of this Agreement will be consistent with the MOU executed between Mn/DOT and the City of Oak Park Heights.

B. Bergstein Shoddy Mill and the Warehouse

1. Prior to letting the Project for construction, Mn/DOT shall complete photo documentation of the Shoddy Mill and Warehouse in accordance with the standards and guidelines of the MnSHPO. Mn/DOT shall submit two (2) copies of the completed documentation to the MnSHPO and one copy each to the City of Stillwater and City of Oak Park Heights.
2. In consultation with the MnSHPO, Mn/DOT shall determine if the Shoddy Mill and the Warehouse can be moved and stabilized, and if it is cost effective to do so.
3. If Mn/DOT determines that the Shoddy Mill and the Warehouse can be moved, and it is cost effective to do so, Mn/DOT shall consult with the MnSHPO, Oak Park Heights, Stillwater, Bayport, Washington County Historical Society, Stillwater Heritage Preservation Commission and the Jewish Historical Society of the Upper Midwest and other parties to identify a new owner, a new site and a suitable use for this historic property. The new site for the buildings must maintain, and not detract from, the association between the historic property and its community.
4. Mn/DOT shall market the historic property for two (2) months, and shall review any and all offers received during that period in consultation with the MnSHPO

prior to acceptance. The City of Stillwater has proposed the Municipal Barge Facility Property as a site to relocate the Shoddy Mill and the Warehouse.

5. If Mn/DOT and the MnSHPO agree on an acceptable offer, Mn/DOT shall move the historic property to its new site and then transfer it with a legal restriction that ensures it will be maintained in accordance with the SOI's *Standards*.
6. If Mn/DOT determines, in consultation with MnSHPO, that there is no acceptable offer (that is, the Shoddy Mill and the Warehouse cannot be moved, or it is not cost effective to move, or a new owner, new site, and a suitable use for the historic property have not been identified and approved by agencies with jurisdiction over the new site), Mn/DOT may authorize its demolition. In the event that Mn/DOT determines that it should proceed with demolition, Mn/DOT shall consult with the MnSHPO to determine if any further mitigation is needed prior to demolition. If Mn/DOT and the MnSHPO cannot agree, Mn/DOT will submit the matter to FHWA for resolution in accordance with Stipulation XIII.
7. Oak Park Heights Memorandum of Understanding (MOU): The terms of this Agreement will be consistent with the MOU executed between Mn/DOT and the City of Oak Park Heights.

C. **St. Croix Overlook**

1. Design: Mn/DOT shall design the Project within the viewshed of the St. Croix Overlook, including the new bridge and other improvements, in accordance with the design principles found in Stipulation II A and B, and the VQM. The Project design shall take into account the setting and feeling of the Overlook
2. Restoration: Mn/DOT shall restore the St. Croix Overlook in accordance with the *MnDOT Historic Roadside Development Structures Preservation and Restoration Report (2005)* during construction of the proposed Project.
3. Management: Mn/DOT shall develop a management plan for the Overlook that addresses the maintenance and rehabilitation of structural and landscape elements of the historic property. Mn/DOT shall submit the plan to the MnSHPO for review and acceptance. Mn/DOT shall continue ownership of the Overlook, unless Mn/DOT elects to transfer ownership to a federal, state or local agency.
4. Construction: Mn/DOT will ensure access to the St. Croix Overlook during construction.
5. Oak Park Heights Memorandum of Understanding (MOU): The terms of this Agreement will be consistent with the MOU executed between Mn/DOT and the City of Oak Park Heights.

D. Stillwater Commercial Historic District

1. a. According to standard practice, primary guide signs for STILLWATER will be installed in both westbound and eastbound directions on TH 36 approaching the TH 36/TH 95 interchange.
 - b. Provided that adequate signing space is available, a supplemental guide sign for “Downtown Stillwater” will be installed on both eastbound and westbound approaches to the TH 36/TH 95 interchange.
 - c. Provided that adequate space is available, the City may install a municipal identification entrance sign for the City of Stillwater on northbound TH 95 at the Stillwater city limit. The municipal identification entrance sign may include reference to the Stillwater Commercial Historic District. Because municipal entrance signs typically include landscaping and non-breakaway support structures and therefore pose a hazard to motorists if located too near the highway, the sign must be located outside of the designated clear zone. Mn/DOT will determine if sufficient property is available outside the clear zone for installation and maintenance of the municipal identification entrance sign by the City.
2. Construction Communication Plan: As part of its overall Project design process, Mn/DOT shall develop a plan to ensure access to the Stillwater Commercial Historic District during project construction.
 - a. The plan shall be developed in consultation with MnSHPO, the City of Stillwater, and the Stillwater Area Chamber of Commerce.
 - b. The plan shall consider the sequencing of project construction, the location of construction staging areas, street closures, parking changes and the traffic flow during construction. Mn/DOT and Wis/DOT will provide signage and public notice for efficient access to the Historic District during construction.
3. Mn/DOT will work with the City of Stillwater to give full consideration to maximizing parking on Chestnut Street from Main Street to the Lift Bridge during the design phase.
 4. Wis/DOT will provide parking in the immediate vicinity of the Loop Trail in Wisconsin at the connection of the Loop Trail and existing STH 64 with a direct pedestrian access to the Lift Bridge and the Commercial Historic District. A trailhead parking area will also be provided at the new interchange of STH 64 and CTH E in Wisconsin.

E. Stillwater Cultural Landscape District (SCLD)

1. Design: In consultation with the MnSHPO, Mn/DOT shall design the Project elements within the viewshed of the SCLD, including the new bridge structure,

the Loop Trail, Chestnut St. from Main St. to the Lift Bridge, landscaping (Note: landscaping plans will be developed approximately two years after the roadway plans), and other improvements, in accordance with Stipulation II.A and B and the VQM, taking into account the historic property's qualifying characteristics, setting and feeling. Mn/DOT shall submit the design plans to the MnSHPO for review and concurrence prior to FHWA authorization to obligate funds for the Project.

2. Study: Mn/DOT will complete a study of the SCLD, in consultation with MnSHPO, Wis SHPO, Stillwater HPC and NPS (St. Croix Office) to illustrate the significant features and essential characteristics of the district and its setting, as described in *Cultural Resource Investigation St. Croix River Bridge* (by Barbara Henning FOR Rivercrest Associates, Inc., August 1999). The study is intended to reinforce an understanding of the historic relationship between the natural and built features in the SCLD, identify and illustrate important views to, from and within the district, and promote understanding of the SCLD and its significant features to a wide audience.
 - a. The study will utilize historic and contemporary images, maps, and text to illustrate the defining characteristics and features of the landscape, their interrelationships, and the associated viewsheds. This product will include existing pre-construction views of the riverway from the SCLD and views from the riverway to the district prior to construction.
 - b. Mn/DOT will submit a draft study to the MnSHPO, WisSHPO, NPS and Stillwater HPC for review and comment. The parties shall have thirty (30) days from the date of receipt of the draft to provide any comments. Mn/DOT shall take into account the comments received in developing the final study.
 - c. Mn/DOT will submit the final study to the MnSHPO and WisSHPO for review and concurrence. Mn/DOT shall ensure that the approved final study is completed **prior to opening of the new bridge**.
 - d. The final study documentation shall be formatted for easy reference and use, and for Web application. Mn/DOT will present the completed final study to the public at a meeting of the Stillwater HPC.

F. Hersey and Bean Archaeological Site

1. In consultation with MnSHPO and the City of Stillwater, prior to initiating Project construction, Mn/DOT shall identify appropriate protective measures to stabilize and protect the Hersey and Bean Archaeological Site. Mn/DOT shall ensure that the protective measures that have been identified are implemented by inclusion in the Project special provisions and plans.

2. In consultation with the MnSHPO, the HPC, and the City of Stillwater, Mn/DOT shall design the Loop Trail through the Hersey and Bean Archeological Site in such a way as to avoid adversely affecting the historic property's above and below-ground qualifying characteristics. If Mn/DOT determines that an adverse effect to this historic property cannot be avoided, then Mn/DOT shall consult with the MnSHPO, HPC and City of Stillwater to develop appropriate mitigation measures. If the parties can reach agreement on mitigation, Mn/DOT shall implement those measures. If the parties cannot agree, Mn/DOT shall submit the matter to FHWA for resolution in accordance with Stipulation XIII.

G. Thelen Farmstead

[Information to be added. Discussions are on-going.]

H. Kriesel Farmstead

[Information to be added. Discussions are on-going]

V. NATIONAL REGISTER NOMINATIONS

A. In consultation with the MnSHPO, Mn/DOT shall prepare a National Register nomination form for the Log Cabin Restaurant, the Bergstein Shoddy Mill and Warehouse, if it is not demolished pursuant to Stipulation IV.B.8, the St. Croix Overlook and the Hersey and Bean Archaeological Site **following construction of the new river crossing.**

B. In consultation with the WisSHPO, Wis/DOT shall prepare National Register nomination forms for the Thelen Farmstead and the Kriesel Framstead **following construction of the new river crossing.**

VI. INTERPRETATION AND PUBLIC EDUCATION

A. Lift Bridge Publication: Mn/DOT shall contract with the Washington County Historical Society (WCHS), in consultation with the MnSHPO and WisSHPO, to publish an illustrated book tracing the history of the Stillwater Lift Bridge in narrative and photographs. The narrative will include the complete story of the Lift Bridge, and its relationship to the community and the cultural landscape. Mn/DOT and Wis/DOT will provide \$50,000 to the WCHS for publication of the book. The book will be completed **prior to the opening of the new bridge.**

B. Field Guide: Mn/DOT shall develop an educational field guide to direct visitors, students and others to locations where they may experience and understand the relationships between the cultural, natural and physical features in and adjacent to the SCLD.

1. The guide will be based on the SCLD study, produced pursuant to Stipulation IV.E.3, and the views from the Boom Site and St. Croix Overlook. The guide will highlight the role of the St. Croix Overlook in the development of the nearby roadways.
2. The guide will include a map showing the boundaries and significant features of the SCLD, the St. Croix Overlook, and the Boom Site.
3. The guide also will include a map that clearly shows how to access the St. Croix Overlook and other affected historic properties identified in the Amended MOA.
4. Mn/DOT will make the field guide widely available in rest areas, tourism distribution centers and local businesses along the St. Croix River, and through the St. Croix Area Chamber of Commerce.
5. Mn/DOT shall complete the field guide **prior to the opening of the new bridge.**
6. Mn/DOT will submit the draft and final version of the guide to the SHPOs and Stillwater Heritage Preservation Commission for review. The completed guide will be presented to the Stillwater HPC.

C. Riverway Research and Interpretation: In developing riverway interpretation, NPS shall consult with the MnSHPO and WisSHPO to ensure that pertinent information about historic properties and their relationship to the riverway is incorporated into interpretative efforts, including signage, kiosks and mobile outreach. These agencies should also consult on the broad riverway research carried out by NPS on archaeological sites and National Register preparation.

VII. PLANNING ASSISTANCE

1. Mn/DOT and Wis/DOT will provide land use planning support and regional infrastructure planning support to local land use decision-making agencies on an on-going basis.
2. Wis/DOT will hold a growth management conference **during construction of the new river crossing.**

VIII. ADDITIONAL HISTORIC PROPERTIES AND EFFECTS TO BE CONSIDERED

A. Before sites for construction staging, wetland mitigation, borrow or waste, dredge disposal, or other construction activities associated with the Project or bluffland restoration are approved by Mn/DOT or Wis/DOT; Mn/DOT or Wis/DOT shall consult with FHWA, the Minnesota and Wisconsin SHPOs, and other consulting parties, including Indian tribes as appropriate, in accordance with 36 CFR §§ 800.3 - 800.5 to determine if historic properties in addition to those identified in Stipulation II.C.4 will be affected by the Project.

B. Pursuant to § 800.5(a), if FHWA determines that there will be an adverse effect to a historic property, then FHWA shall consult with Mn/DOT, and/or Wis/DOT, the respective SHPO, and other consulting parties, including Indian tribes, to seek ways to avoid, minimize or mitigate the adverse effect.

C. If the parties can agree on measures to mitigate the adverse effect, FHWA will ensure that those measures are implemented. If the parties cannot agree, the dispute will be resolved in accordance with Stipulation XIII.

IX. MONITORING AND REPORTING

A. On March 1 of every year beginning March 1, 2006, FHWA shall submit a summary annual report to the signatories detailing the measures carried out pursuant to its terms. FHWA shall submit an annual report every year until this Amended MOA expires pursuant to Stipulation XV or is terminated pursuant to Stipulation XIV.

B. The annual report will describe all actions taken by FHWA, Mn/DOT and Wis/DOT during the preceding year to implement the terms of this Amended MOA, identify any problems or unexpected issues encountered during the year, any disputes and objections submitted or resolved, and any changes recommended in implementation of the agreement, and any scheduling changes. The annual report shall also include a timetable of activities proposed for implementation within the following year or two.

C. The signatories shall review the annual report and provide their comments to FHWA.

D. FHWA shall notify concurring parties and the public about the publication of the annual report and make that report available for their inspection and review. FHWA shall share any comments received from concurring parties and the public with the signatories.

E. At its own discretion or at the request of any signatory to this MOA, FHWA shall convene a meeting to facilitate review and comment on the annual report, and to resolve any questions about its content and/or to resolve adverse comments.

F. The signatories may use the annual report as a basis for recommendations prepared pursuant to Stipulations XII, XIII, XIV and XV.

X. POST-REVIEW DISCOVERIES

If during implementation of the terms of this Amended MOA or Project construction, potential historic properties are discovered or unanticipated effects on historic properties found, FHWA shall implement the discovery plan included as Attachment 3 of this MOA.

XI. EMERGENCIES

Stillwater Lift Bridge: If an emergency or catastrophic event occurs that ultimately requires the demolition and removal of the lift bridge due to a threat to public safety, all expenses of demolition and removal shall be charged to the lift bridge endowment fund and any remaining funds in the account shall be deposited in the trunk highway fund.

XII. AMENDMENT

A. If any signatory to this Amended MOA, including any invited signatory, determines that its terms will not or cannot be carried out or that an amendment to its terms must be made, that party shall immediately consult with the signatories and concurring parties to develop an amendment. The amendment will be effective on the date a copy signed by all of the original signatories is filed with the ACHP.

B. If the signatories cannot agree to appropriate terms to amend the Amended MOA, any signatory may terminate the agreement in accordance with Stipulation XIV, below.

XIII. DISPUTE RESOLUTION

A. Should any party to this Amended MOA object at any time to any actions proposed or the manner in which the terms of this Amended MOA are implemented, FHWA shall consult with the objecting party(ies) to resolve the objection. If FHWA determines that such objection(s) cannot be resolved, FHWA will:

1. Forward all documentation, including the FHWA's proposed resolution, relevant to the dispute to the ACHP in accordance with 36 CFR § 800.2(b)(2). Upon receipt of adequate documentation, the ACHP shall review and advise FHWA on the resolution of the objection within thirty (30) days. Prior to reaching a final decision on the dispute, FHWA shall prepare a written response that takes into account 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. FHWA will then proceed according to its final decision.
2. If the ACHP does not provide comments regarding the dispute within thirty (30) days after receipt of adequate documentation, FHWA may implement its proposed resolution or render a decision regarding the dispute. In reaching its decision, FHWA will take into account all comments regarding the dispute from the parties to the Amended MOA.

B. FHWA's responsibility to carry out all other actions subject to the terms of this Amended MOA that are not the subject of the dispute remain unchanged.

C. FHWA will notify all parties of its decision in writing before implementing that

portion of the Project subject to dispute under this stipulation. FHWA's decision shall be final.

XIV. TERMINATION

A. If the Amended MOA is not amended following the consultation set out in Stipulation XII, it may be terminated by any signatory or invited signatory. The ACHP may be asked by any signatory to the Amended MOA to review the terms of the agreement and its implementation by the FHWA. If the ACHP determines that the terms of the Amended MOA are not being carried out, the Amended MOA will be terminated.

B. If the Amended MOA is terminated for any reason, FHWA shall either develop a new agreement in accordance with 36 CFR § 800.6 or seek the comments of the ACHP in accordance with 36 CFR § 800.7.

XV. DURATION

This MOA will terminate **twenty (20) years** from the date of its execution or upon mutual agreement of the signatories. Prior to such time, FHWA may consult with the other signatories to reconsider the terms of the MOA and revise or amend it in accordance with Stipulation XII

EXECUTION of this Amended Memorandum of Agreement by FHWA, the ACHP, the Corps, the USCG, the Minnesota and Wisconsin DOTs, and the Minnesota and Wisconsin SHPOs and implementation of its terms evidence that FHWA has taken into account the effects of the undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORIES:

Federal Highway Administration

_____ Date
Thomas K. Sorel, Division Administrator

U.S. Army Corps of Engineers

_____ Date
Col. Michael F. Pfenning

U.S. Coast Guard

_____ Date
Roger Wiebusch

Advisory Council on Historic Preservation

_____ Date
John M. Fowler, Executive Director

Minnesota State Historic Preservation Officer

_____ Date
Dr. Nina Archabal, State Historic Preservation Officer

Wisconsin State Historic Preservation Officer

_____ Date
Dr. Michael Stevens, State Historic Preservation Officer

INVITED SIGNATORIES:

Minnesota Department of Transportation

_____ Date
The Honorable Carol Molnau, Lt. Governor/Commissioner of Transportation

Wisconsin Department of Transportation

_____ Date
Frank Busalacchi, Secretary of Transportation

CONCURRING PARTIES:

National Park Service

_____ **Date**
[insert name and title]

City of Stillwater

_____ **Date**
[insert name and title]

Environmental Protection Agency

_____ **Date**
[insert name and title]

U.S. Fish and Wildlife Service

_____ **Date**
[insert name and title]

Minnesota Department of Natural Resources

_____ **Date**
[insert name and title]

Wisconsin Department of Natural Resources

_____ **Date**
[insert name and title]

City of Oak Park Heights

_____ **Date**
[insert name and title]

Town of St. Joseph

_____ **Date**
[insert name and title]

Preservation Alliance of Minnesota

_____ **Date**
[insert name and title]

Stillwater Heritage Preservation Commission

_____ **Date**
[insert name and title]

Friends of the St. Croix

_____ **Date**
[insert name and title]

New St. Croix Bridge Coalition

Stillwater Area Chamber of Commerce
_____ **Date**
[insert name and title]

Sierra Club

_____ **Date**
[insert name and title]

St. Croix Alliance for an Interstate Bridge

_____ **Date**
[insert name and title]

St. Croix County

_____ **Date**
[insert name and title]

St. Croix River Association

_____ **Date**
[insert name and title]

Stillwater Lift Bridge Association

_____ **Date**
[insert name and title]

Western Wisconsin Realtors Association

_____ **Date**
[insert name and title]

Minnesota Center for Environmental Advocacy

_____ **Date**
[insert name and title]

National Trust for Historic Preservation

_____ **Date**
[insert name and title]