



# APPENDIX N: CULTURAL RESOURCES MEMORANDUM OF AGREEMENT

Prepared for:



Prepared by:



**MEMORANDUM OF AGREEMENT BETWEEN  
THE FEDERAL HIGHWAY ADMINISTRATION,  
THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION,  
AND THE SOUTH CAROLINA STATE HISTORIC PRESERVATION OFFICE**

**REGARDING THE I-526 AND LONG POINT ROAD INTERCHANGE IMPROVEMENT  
PROJECT IN CHARLESTON COUNTY, SOUTH CAROLINA**

WHEREAS, the Federal Highway Administration (FHWA), in cooperation with the South Carolina Department of Transportation (SCDOT), proposes to improve the I-526 and Long Point Road Interchange in Charleston County; and

WHEREAS, the Area of Potential Effect (APE) for the entire project, extends 1.5 miles along Long Point Road from the South Carolina Ports Authority Wando Welch Terminal to Egypt Road and 2.17 miles along I-526 between the marshes of Horlbeck and Rathall Creeks (see attachment), and

WHEREAS, The Snowden Historic District, an African American freedman community established in 1865, is eligible for the National Register of Historic Places (NRHP) but it lies outside of the proposed project footprint and will therefore not be adversely affected by the proposed improvements, and

WHEREAS, the Federal Highway Administration (FHWA) has determined that proposed Long Point Road Improvement Project in Charleston County, South Carolina, will have an adverse effect upon Archaeological Site 38CH2683, a property determined eligible for inclusion in the National Register of Historic Places, and

WHEREAS, the FHWA and the SCDOT has consulted with the South Carolina (State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act (16 U.S.C. Sec. 470f) and its implementing regulations (36 CFR Part 800) to resolve adverse effects, and

WHEREAS, the SCDOT has consulted with the Catawba Nation, Muscogee (Creek) Nation, and Eastern Shawnee in accordance with our consultation agreements about the undertaking's anticipated impacts on historic properties, as required by 36 CFR § 800.6, and received no requests to participate in the undertaking, and

WHEREAS, the SCDOT has consulted with the Snowden Community Civic Association (SCCA) and the African American Settlement Community Historic Commission (AASCHC), for which Archaeological Site 38CH2683 has cultural and historical significance, and has invited SCCA and AASCHC to review and contribute to the MOA; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), the FHWA has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination providing the specified documentation, and the ACHP has chosen not to participate, and

NOW, THEREFORE, the FHWA, the SCDOT, and the South Carolina SHPO agree that the undertaking will be implemented according to the following stipulations in order to take into account the effects of the undertaking on Archaeological Site 38CH2683.

## **I. STIPULATIONS**

The FHWA and the SCDOT will ensure that the following stipulations are implemented:

- A. SCDOT's archaeological consultant, or staff, will develop a treatment plan for data recovery investigations at Archaeological Site 38CH2683. The treatment plan will include a description of the project's research design and sampling strategy. The treatment plan will be submitted to the South Carolina SHPO for review and approval prior to any fieldwork. The South Carolina SHPO will make a reasonable effort to review the treatment plan(s) no later than thirty days after receipt. All archaeological and historical investigation will be carried out by professionals who meet Secretary of the Interior's qualifications.
- B. All plans and reports developed for the treatment of Archaeological Site 38CH2683 shall incorporate guidance from the Secretary of the Interior's "Standards and Guidelines for Archaeological Documentation" (48 FR 44734-37) and the President's Advisory Council on Historic Preservation publication, Treatment of Archaeological Properties (ACHP 1980). In addition, these materials will be consistent with South Carolina Standards and Guidelines for Archaeological Investigations (2013).
- C. At least one on-site (or virtual) meeting between the SCDOT, the FHWA, and the South Carolina SHPO will take place during field investigations in order to discuss any necessary revisions to the original scope of work. Any revisions made to the original scope of work will be attached to the approved treatment plan and this agreement.
- D. A draft technical report of data recovery investigations will be submitted to the South Carolina SHPO for review and approval within twelve (12) months from the last day of fieldwork. The draft technical report will be consistent with the standards outlined in South Carolina Standards and Guidelines for Archaeological Investigations (2013). The South Carolina SHPO reserves the right to submit the draft technical report to qualified professional archaeologists for the purpose of peer review.
- E. Within three (3) months of the draft report approval, SCDOT will provide one bound copy and one Portable Document Format (PDF) for the SHPO and two bound copies and one PDF copy of the final technical report for the South Carolina Institute of Archaeology and Anthropology (SCIAA). The PDF file will be developed according to the specifications and requirements of the SHPO. A separate digital abstract from the report (in Word or html format) will also be provided to the SHPO. The abstract file can be provided on the same CD as the PDF file.
- F. The SCDOT will ensure that all artifacts recovered during archaeological investigations are stabilized and processed for curation at the SCIAA. SCDOT will notify the SHPO when artifacts have been given over to SCIAA for curation.
- G. The SCDOT shall develop a public education component related to the data recovery investigations at Archaeological Site 38CH2683. The SCDOT shall submit a plan for

the public education component to the South Carolina SHPO within six months of completing data recovery investigations at Archaeological Site 38CH2683. The SCDOT shall implement plan for developing public materials within two years of completing data recovery investigations at Archaeological Site 38CH2683.

**II. Duration**

This MOA shall be null and void if its terms are not carried out within five (5) years from the date of its execution, unless the signatories agree in writing to an extension for carrying out its terms.

**III. Late Discoveries**

If unanticipated cultural materials (e.g., large, intact artifacts or animal bones; large soils stains or patterns of soil stains; buried brick or stone structures; clusters of brick or stone) or human skeletal remains are discovered during construction activities, then the Resident Construction Engineer shall be immediately notified and all work in the vicinity of the discovered materials shall cease until an evaluation can be made by the SCDOT archaeologist in consultation with the South Carolina SHPO.

**IV. Monitoring and Reporting**

Each year following the execution of this MOA until it expires or is terminated, the SCDOT shall provide all parties to this MOA a summary report detailing work carried out pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in FHWA's and SCDOT's efforts to carry out the terms of this MOA.

**V. Dispute Resolution**

The FHWA, the SCDOT, and the South Carolina SHPO will attempt to resolve any disagreement arising from the implementation of the MOA. This will include any disputes that arise concerning the contents of the report(s), including but not limited to its merit as a cultural resource management document.

In the event that the terms of this agreement cannot be carried out, the FHWA and SCDOT will submit a new (or amended) MOA to the South Carolina SHPO, and the ACHP for review. If consultation to prepare a new MOA or amendments proves unproductive, the FHWA will seek ACHP comment in accordance with 36 CFR § 800.6(b)(2).

**VI. Amendment and Modification**

Any signatory to this MOA may request that it be amended or modified at any time, whereupon the parties will consult with each other to consider such amendment or modification.

**VII. 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 and amendment per Stipulation VI, above. If within (30) days 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, the FHWA and the SCDOT must either (a) execute an MOA pursuant to 36 CFR § 800.6, or (b) request comments from the ACHP under 36 CFR § 800.7. The FHWA and the SCDOT will notify the signatories as to the course of action it will pursue.

EXECUTION of this Memorandum of Agreement by the Federal Highway Administration, the South Carolina Department of Transportation, and the South Carolina State Historic Preservation Office and implementation of its terms, is evidence that the FHWA has taken into account the effects of the undertaking on Archaeological Sites 38CH2683 in accordance with Section 106 of the National Historic Preservation Act (16 U.S.C. Sec. 470f) and its implementing regulations (36 CFR Part 800).

**SIGNATORIES:**

Federal Highway Administration

By: J. Shane Belcher Date: 1/5/2023

South Carolina Department of Transportation

By: Chad Jones Date: 1/5/2023

South Carolina State Historic Preservation Office

By: Elyse M. Jones Date: 1/5/2023