**MOA Template Instructions \*\*\*DELETE THIS PAGE WHEN FINISHED\*\*\***

Use the following template to create your Memorandum of Agreement. Fields that need to be updated with project specifics are highlighted in yellow. Use appendices as necessary; supplemental information, guidance, and requirements may be provided as an appendix rather than at an exhaustive level of detail in each stipulation. Contact WisDOT CRT with any questions related to completing the MOA.

Important formatting requirements to remember when submitting the MOA:

1. Each page after the first should have a header that includes the WisDOT ID, Road, Termini, and County
2. Each signature line should be on a separate page.
3. Add a draft watermark to draft submittals.

(Revised May 2025)

**Memorandum of Agreement**

BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION AND

THE WISCONSIN STATE HISTORIC PRESERVATION OFFICER

Prepared pursuant to 36 CFR § 800.6(c)

Regarding

WISCONSIN DEPARTMENT OF TRANSPORTATION PROJECT I.D. XXXX-XX-XX

WHS#: XX-XXXX

[Name of road, corridor, or bridge proposed for replacement]

[Termini]

[Municipality and County]

**WHEREAS,** the Federal Highway Administration (FHWA) has been requested to participate in the [project type, e.g. replacement, reconstruction, corridor preservation plan] of the [resource name or corridor] in the [municipality], [county name], Wisconsin; and

**WHEREAS,** the FHWA is the lead agency on this project with responsibility for completing the requirements of Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended, 54 U.S.C. § 300101 (Section 106); and

**WHEREAS,** the FHWA has established the Project’s Area of Potential Effects (APE), as defined in 36 CFR § 800.16(d), to be the [brief description of APE]; and

**WHEREAS,** the FHWA, pursuant to 36 CFR § 800.4(c), has determined that the [name of NRHP-listed or eligible resource(s)] is listed and/or eligible for inclusion in the National Register of Historic Places; and

**WHEREAS,** the FHWA has determined that the project will have an adverse effect upon the [name of NRHP-listed or eligible resource(s)]; and

**WHEREAS**, the FHWA has determined that the project will have no adverse effect on the [name(s) of historic property(ies) within the APE that will not be adversely affected by the project]; and

**WHEREAS**, the FHWA, in consultation with the State Historic Preservation Office (SHPO), has executed the Programmatic Agreement (PA) for the [name of PA] but the [historic property(s)] is not included in the PA; and

**WHEREAS,** the FHWA has consulted with the Wisconsin State Historic Preservation Office (WI SHPO) in accordance with Section 106 and its implementing regulations (36 CFR § 800) to resolve the adverse effect of the project on historic properties; and

**WHEREAS,** the FHWA intends to use the provisions of this Memorandum of Agreement (MOA) to address applicable requirements of Section 110(b) of NHPA, 54 U.S.C. 306103; and

**WHEREAS,** the U.S. Army Corps of Engineers (USACE) may be requested to issue a Section 404 permit for the Project, participated in the consultation and has elected to [be/not be] a consulting party to this MOA; and

WHEREAS, the Advisory Council for Historic Preservation (ACHP) was invited to participate in consultation and declined/accepted; and

**WHEREAS,** the Wisconsin Department of Transportation (WisDOT) participated in the consultation and has been invited to concur in this MOA; and

**WHEREAS**, the [project sponsor – IF LOCAL PROGRAM PROJECT], [name of invited signatory 1] participated in the consultation and has been invited to concur in this MOA; and

**WHEREAS**, the [name of invited signatory ] participated in the consultation and has been invited to concur in this MOA; and

**WHEREAS;** this project is not on Federal or Tribal land as defined by the NHPA; therefore, all inadvertent human remain and/or burial site related discoveries will be addressed in accordance with Wisconsin §157.70; and

**WHEREAS**; post-review discoveries not applicable under Wisconsin 157.70 will be treated in accordance with 36 CFR § 800.13(b)-(d);

**NOW, THEREFORE,** the FHWA, [other required Signatories in applicable], and the Wisconsin SHPO agree that, upon execution of this MOA, and upon the FHWA’s decision to proceed with the Project, the FHWA shall ensure that the following stipulations are implemented in order to take into account the effect of the project on historic properties.

**STIPULATIONS**

**#. Dispute Resolution**

Should any signatory of this MOA (including invited signatories), per 36 CFR 800.6(c)(1) and (2), object in writing at any time prior to termination of any actions proposed or the manner in which the terms of this MOA are implemented, WisDOT and the FHWA shall consult with such party to resolve the objection. The objection must specify how the actions or manner of the implementation is counter to the goals, objectives, or specific stipulations of this MOA. If the FHWA determines that such objection cannot be resolved FHWA will:

1. Forward all documentation relevant to the dispute, including the FHWA’s proposed resolution, to the ACHP. The ACHP shall provide the FHWA with its advice on the resolution of the objection within 30 calendar days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from ACHP and signatories and provide them with a copy of this written response. The FHWA will then proceed according to its final decision.
2. If the ACHP does not provide its advice regarding the dispute within the 30-day period, the FHWA may make a final decision on the dispute and proceed accordingly. Prior to proceeding, the FHWA shall notify the parties to this MOA of its decision regarding the dispute.
3. It is the FHWA’s responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute.

**#. Amendment**

Any signatory or invited signatory to this agreement may propose to the FHWA that the agreement be amended. Whereupon FHWA shall consult with other signatory parties [including invited signatures] to this agreement to consider such an amendment. 36 CFR 800.6(c)(7) shall govern the execution of any such amendment.

**#. Professional Qualification**

The project sponsor shall ensure all historic preservation work carried out pursuant to the agreement is carried our by or under the supervision of a person or persons meeting at a minimum the Professional Qualifications required in the WisDOT Facilities Development Manual (FDM) Chapter 26-30 and the Secretary of the Interior’s Standards.

**#. Termination**

If any signatory, as defined by 36 CFR 800.6(c)(1), to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatories to attempt to develop an amendment as stated in 36 CFR 800.6(c)(8). If within 30 calendar days an amendment cannot be reached, a signatory may terminate the MOA upon written notification to the other signatories, invited signatories, and concurring signatories.

**#. Sunset Clause**

This agreement shall be null and void if all terms are not carried out within [number (#)] years from the date of its execution, unless the signatories agree in writing to an extension or amendment for carrying out its terms as stated in 36 CFR 800.6(c)(5) and 36 CFR 800.6(c)(7).

Execution of this MOA by the FHWA and the WI SHPO, and implementation of its terms, evidences that FHWA has complied with Section 106 on the subject Project, and its effects on historic properties and the FHWA has taken into account the effects of the subject Project on historic properties.

**SIGNATORY**

**FEDERAL HIGHWAY ADMINISTRATION**

BY:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ DATE:\_\_\_\_\_\_\_\_\_\_\_\_\_

Wisconsin Division Federal Highway Administration

**SIGNATORY**

**WISCONSIN STATE HISTORIC PRESERVATION OFFICE**

BY:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ DATE:\_\_\_\_\_\_\_\_\_\_\_\_\_

Wisconsin State Historic Preservation Officer

**INVITED SIGNATORIES**

**Wisconsin Department of Transportation**

BY:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ DATE:\_\_\_\_\_\_\_\_\_\_\_\_\_

Wisconsin Department of Transportation Preservation Officer

**CONCURRING SIGNATORIES**

**ORGANIZATION NAME, ETC**

BY:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ DATE:\_\_\_\_\_\_\_\_\_\_\_\_\_

Executive Director/Director/Commissioner