

THE *Crane Road Bridge* PROJECT



Bronx River Parkway Over the Bronx River – Metro-North Railroad at Crane Bridge – Village of Scarsdale and Town of Greenburgh

Final Design Report

APPENDICES

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February 9, 2010

APPENDIX Q

Memorandum of Agreement



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U.S. Department
of Transportation
**Federal Highway
Administration**

New York Division

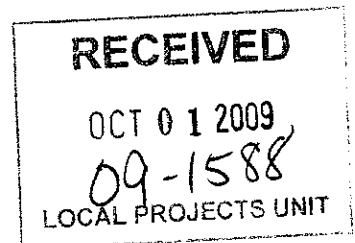
September 25, 2009

Leo W. O'Brien Federal Bldg.
Suite 719
Albany, NY 12207
518-431-4127
518-431-4121 (fax)
NewYork@fhwa@dot.gov

Ms. Carolyn M. Ryan, P.E.
Local Program Manager
New York State Department of Transportation
4 Burnett Boulevard
Poughkeepsie, NY 12063-2594

Subject: PIN 8110.13, Bronx River Pkwy. Over Bronx River and MNR
Village of Scarsdale, Westchester County
Section 106 Adverse Effect, 07PR05557

In Reply Refer To:
HDO-NY



Dear Ms. Ryan:

The Sponsor; Westchester County, NY has prepared a July 2009 Final Design Report and associated plans, and recommended the undertaking will have an **Adverse Effect** on properties on or eligible for listing on the National Register of Historic Places (NR). The SHPO was consulted, provided background information, and notified of the recommendation by letters of January 23, 2008, and June 18, 2008. Consequently SHPO issued an opinion by letter of June 26, 2008, that the project will have an Adverse Effect to these resources.

In accordance with 36 CFR 800.6 the Advisory Council of Historic Preservation (ACHP) was invited to participate by FHWA letter of August 28, 2009. ACHP responded on September 24, 2009, they did not believe ACHP participation in the consultation to resolve Adverse Effects is needed at this time.

We have reviewed supporting documentation and concur with the sponsor's recommendation and the SHPO's opinion that this action will have an **Adverse Effect** on properties listed or eligible for listing on the National Register of Historic Places.

A Memorandum of Agreement (MOA) has been prepared stipulating a HABS LEVEL II documentation will be undertaken, specifies treatment of cultural resources and historic landscapes, and includes protocol for addressing archaeological resources if unexpectedly discovered during construction. The MOA has been signed by Westchester County, NYS Historic Preservation Office, and NYSDOT. FHWA signed the MOA on September 25, 2009. Copies of the signed signature pages are attached for your use. Please process the MOA for filing with ACHP pursuant to 36 CFR §800.6(b)(1)(iv).



Ms. Carolyn M. Ryan, P.E.
September 25, 2009
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Once the MOA is filed with ACHP the requirements of 36 CFR Part 800 will have been satisfactorily met for this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Willet R. Schraft". The signature is fluid and cursive, with the first name "Willet" and last name "Schraft" clearly distinguishable.

Willet R. Schraft, PE
Senior Operations Engineer

Attachments

cc: T. Kligerman, NYSDOT DQAB, POD23
T. Dewey, R8 Cultural Resource Coordinator
M. Santangelo, NYSDOT Office of Environment, POD41
K. Markunas, NYSOPRHP, Peebles Island, PO Box 189, Waterford, NY 12188-0189

MEMORANDUM OF AGREEMENT

**PURSUANT TO 36 CFR SECTION 800
REGARDING THE REPLACEMENT OF THE BRIDGES
OF THE CRANE ROAD VIADUCT
(BIN 3348779 AND BIN 3348789)
ON THE BRONX RIVER PARKWAY OVER THE BRONX RIVER
AND THE METRO-NORTH RAILROAD
VILLAGE OF SCARSDALE and TOWN OF GREENBURGH
WESTCHESTER COUNTY, NEW YORK**

WHEREAS, the County of Westchester (“Westchester County” or “County”), New York, proposes to replace the Crane Road Viaduct on the Bronx River Parkway in the Village of Scarsdale and the Town of Greenburgh, Westchester County (the Project), which is comprised of two bridges: 1) a reinforced concrete bridge over the Bronx River (BIN 3348779, a/k/a the “Mushroom Bridge”); and 2) a steel girder bridge over the Metro North Railroad (BIN 3348789, a/k/a the “Railroad Bridge” or “MNRR Bridge”); and

WHEREAS, the Mushroom Bridge is in a state of advanced deterioration and is becoming unsafe for the traveling public and the MNRR Bridge, although in fair condition overall, contains non-redundant elements so that the failure of a major element will lead to a complete collapse of the entire bridge, resulting in the County’s need to demolish and replace both bridges; and

WHEREAS, both of these bridges are contributing resources within the Bronx River Parkway Reservation (“BRPR”), which is listed on the National Register of Historic Places (“National Register” or “NR”); and

WHEREAS, the National Register documentation notes that the BRPR is culturally significant under Criteria A and C of the National Register evaluation criteria in the areas of conservation, recreation, transportation, landscape architecture, architecture and engineering; and

WHEREAS, the County has identified other historic properties that are listed on or eligible for the National Register as per the U.S. Secretary of the Interior’s National Register evaluation criteria and are located within the Project’s Area of Potential Effects (“APE”) and has submitted a report about those properties to the **New York State Historic Preservation Office** (“NYSHPO”). The NYSHPO has concurred with the findings of the *Survey of Historic Resources*,¹ exclusive of the recommendation that the Mushroom Bridge is individually eligible for listing on the National Register; and

WHEREAS, the involvement of the Federal Highway Administration (“FHWA”) constitutes an action under Section 106 of the National Historic Preservation Act, and will also include the involvement of the New York State Department of Transportation (“NYSDOT”); and

WHEREAS, Westchester County has consulted with the **New York State Historic Preservation Office** (NYSHPO) pursuant to 36 CFR Part 800 – Protection of Historic Properties, regulations implementing Section 106 of the National Historic Preservation Act (16 U. S. C. 470f); and

¹ Mary Delaney Krugman, JD, MSHP, *The Reconstruction/Replacement of the Crane Road Viaduct Bronx River Parkway Bridge over the Bronx River (BIN 3348779) and Bridge over Metro-North Railroad (BIN 3348789) at Crane Road in the Village of Scarsdale and Town of Greenburgh, Westchester County, New York (PIN 8110.13), Survey of Historic Resources*, prepared for Westchester County, New York (Montclair NJ: Mary Delaney Krugman Associates, Inc.. December 10, 2007 (Draft)).

**MEMORANDUM OF AGREEMENT
CRANE ROAD VIADUCT PROJECT
VILLAGE OF SCARSDALE AND TOWN OF GREENBURGH, WESTCHESTER COUNTY, NY**

WHEREAS, the FHWA, the NYSDOT, the NYSHPO, and the County have agreed that replacement of the Mushroom Bridge and MNRR Bridge is necessary, and that the alternative proposed by the County and set forth in the Design Report and its appendices is the preferred alternative; and

WHEREAS, the FHWA, the NYSDOT, the NYSHPO, and the County acknowledge and have agreed that the Project will result in adverse effects to the Mushroom Bridge and MNRR Bridge of the Crane Road Viaduct as well as the Bronx River Parkway Reservation Historic District, but that it will not adversely affect other historic resources identified in the APE.

NOW, THEREFORE, FHWA, NYSHPO, NYSDOT, and Westchester County agree that the following stipulations will be implemented in order to take into account the effect of the Project on historic properties and to mitigate the Project's adverse effects:

STIPULATIONS

Westchester County shall ensure that the following measures are carried out:

I. DOCUMENTATION; RECORDATION:

The two bridges that comprise the Crane Road Viaduct shall be recorded equivalent to Level II Documentation Standards of the Historic American Buildings Survey and the Historic American Engineering Record (HABS/HAER), including drawings (select existing drawings, where available, photographed with large-format negative or photographically reproduced on Mylar); photographs (photographs with large-format negatives of exterior or historic views, where available); and written data (history and description) in the form of a report. Two (2) copies of the documentation shall be prepared in report form and they shall be distributed as follows: one copy to the NYSHPO (to be forwarded to the State Archives) and one copy to the Westchester County Archives ("WCA").

II. TREATMENT OF CULTURAL RESOURCES:

- A. The bridge(s) shown in Preferred Alternative C shall be differentiated from the existing, in terms of scale and modest shift in alignment. Architectural treatments for each new bridge shall be compatible with the corresponding historic bridge in terms of elements, features, proportion, and massing. Each new bridge shall replicate the corresponding old bridge in terms of their respective materials, texture, and color. During the design process, the County and the NYSHPO shall continue to consult on the development and incorporation of appropriate architectural treatments for the new bridge(s) into the construction documents.
- B. Interpretive signage shall be placed near the Mushroom Bridge over the Bronx River, which shall include a narrative history of the original bridge, its architect, and its cultural significance, and one or more moisture weather- and UV-resistant and/or otherwise protected photographs of the historic bridge and diagram(s) of its original alignment.

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CRANE ROAD VIADUCT PROJECT
VILLAGE OF SCARSDALE AND TOWN OF GREENBURGH, WESTCHESTER COUNTY, NY

- C. The County shall provide the WCA the Project's final draft of the *Survey of Historic Resources*,² including both narrative text as well as photographs and illustrations, which shall be uploaded to the Internet site currently maintained by the WCA about the history of the Bronx River Parkway at URL <http://westchesterarchives.com/BRPR/BRPRHome.html> and/or other appropriate web site(s) to contribute to the County's efforts to educate the public about topics of local history.
- D. The NYSDOT and the County agree to have the Principal Investigator for the previously conducted archaeological investigations of the project area complete the NYSHPO archaeological site form for the Native American artifact previously recovered there, which shall be submitted to NYSHPO for inclusion in its archaeological site files.

III. TREATMENT OF HISTORIC LANDSCAPES:

The County shall develop a landscape plan that will avoid, minimize, or compensate for impacts to identified historic BRPR landscapes within the APE and, following the completion of construction activities, shall restore the landscape areas affected by the Project in accordance with that plan, which may include such things as the use and placement of plant materials, alignment and profile of pathways, historic lighting, and other elements of the historic landscape.

IV. ARCHAEOLOGICAL SITES:

Previously completed archaeological investigations of the area of potential effect for the project did not encounter archaeological resources. Accordingly, Westchester County and NYSHPO officials agree that it is unlikely that such resources will be impacted by the Project. However, the County in consultation with NYSHPO will establish a protocol for addressing archaeological resources in the event that unexpected archaeological resources are encountered during construction activities. The protocol, prepared during final design will ensure that the potential significance of any such resource is evaluated. It also will ensure that project related impacts to a significant resource are mitigated.

V. COORDINATION OF REVIEWS FOR PROJECT ACTIVITIES:

Due to the need to expedite the project in the interests of public health and safety, the NYSHPO will have 30 days to review and comment on all plans, documents, reports, and materials submitted to the NYSHPO by the County or its representative unless otherwise stipulated. If the NYSHPO fails to comment within the specified time, the County may assume concurrence with the findings or conclusions contained in the documents submitted. If interested parties are participating in any reviews conducted hereunder, the County shall ensure that all interested parties are provided documentation at the time it is forwarded to the NYSHPO and are also afforded a 30 day review

² Mary Delaney Krugman, JD, MSHP, *The Reconstruction/Replacement of the Crane Road Viaduct Bronx River Parkway Bridge over the Bronx River (BIN 3348779) and Bridge over Metro-North Railroad (BIN 3348789) at Crane Road in the Village of Scarsdale and Town of Greenburgh, Westchester County, New York (PIN 8119.13), Survey of Historic Resources*, prepared for Westchester County, New York (Montclair NJ: Mary Delaney Krugman Associates, Inc.. December 10, 2007 (Draft)).

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CRANE ROAD VIADUCT PROJECT
VILLAGE OF SCARSDALE AND TOWN OF GREENBURGH, WESTCHESTER COUNTY, NY**

period. As appropriate, the County shall provide to the NYSHPO copies of interested party comments to facilitate the project.

VI. DISPUTE RESOLUTION

A. The NYSHPO shall have 30 days to object to project documents submitted by the County. The County and NYSHPO shall attempt to resolve any disagreement arising from implementation of this Memorandum Of Agreement ("MOA").

VII. PUBLIC INVOLVEMENT

A. The County shall inform the interested public of the existence of this MOA and the steps it is taking to satisfy its provisions. Copies of this MOA will be available for public inspection. Any comments received from the public under this MOA shall be taken into account by the County.

B. The County shall review and resolve timely substantive public objections to the project. The County shall consult with the NYSHPO to resolve objections. Project actions which are not the subject of the objection may proceed while the consultation is conducted.

VIII. AMENDMENTS

Any signatory to this MOA may request that it be amended, whereupon all the parties will consult in accordance with 36 CFR Part 800.13 to consider such amendment. Any amendment will be subject to approval of the Westchester County Board of Acquisition and Contract.

IX. TERM AND TERMINATION

This MOA shall commence upon execution and continue in full force and effect until terminated. Any signatory to this MOA may terminate it by providing thirty (30) days notice by certified mail, return receipt requested, to the other parties, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination.

X. EXECUTION AND IMPLEMENTATION

Execution and implementation of this MOA, and the implementation of these stipulations provide evidence that the County has taken into account the effects of this undertaking on historic properties and afforded the Council an opportunity to comment.

XI. SUNSET CLAUSE.

This MOA will continue in full force and effect until the construction of the Project is complete and all terms of this MOA are met, unless the Project is terminated or authorization is rescinded.

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VILLAGE OF SCARSDALE AND TOWN OF GREENBURGH, WESTCHESTER COUNTY, NY**

Execution and implementation of this MOA satisfies the need for other involved (funding, licensing, permitting or approving) federal agencies to consult with the NYSHPO under the Section 106 Regulations with regard to the Project, and the need for other involved state agencies to consult with the NYSHPO under Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law.

XII. MISCELLANEOUS.

This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

This Agreement shall not be enforceable until signed by both parties and approved by the Office of the County Attorney.

MEMORANDUM OF AGREEMENT
CRANE ROAD VIADUCT PROJECT
VILLAGE OF SCARSDALE AND TOWN OF GREENBURGH, WESTCHESTER COUNTY, NY

AGREEING:
NEW YORK STATE HISTORIC PRESERVATION OFFICE

Ruth Peupont DSHPO

Date: 6/12/09

FEDERAL HIGHWAY ADMINISTRATION

Cl. Hatchell, Dist Eng

Date: 9/25/09

NEW YORK STATE DEPARTMENT OF TRANSPORTATION

Joan Dupont

Date: 8.28.09

CONCURRING:
COUNTY OF WESTCHESTER

Rosh Butta

Date: 6/23/09

Approved as to form

Jana Althoff 7/2/09

Sr. Assistant County Attorney
County of Westchester

NEW YORK STATE HISTORIC PRESERVATION OFFICE

ACKNOWLEDGMENT

STATE OF NEW YORK)
) ss.:
COUNTY OF Albany)

On the 12th day of June in the year 2009 before me, the undersigned, personally appeared Ruth L. Prescott, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Date: 6/12/09

Linda C. Christopher
Notary Public

LINDA C. CHRISTOPHER
Notary Public, State of New York
No. 01CH4513171
Qualified in Albany County
Commission Expires Jan. 31, 2010

FEDERAL HIGHWAY ADMINISTRATION

ACKNOWLEDGMENT

STATE OF NEW YORK)
) ss.:
COUNTY OF)

On the _____ day of _____ in the year 2009 before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Date: _____

Notary Public

NEW YORK STATE DEPARTMENT OF TRANSPORTATION

ACKNOWLEDGMENT

STATE OF NEW YORK)
) ss.:
COUNTY OF Dutchess)

On the 28th day of August in the year 2009 before me, the undersigned, personally appeared Joan Dupont, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Date: 8/28/09

Wendy S. Cobb

Notary Public

WENDY S. COBB
Notary Public, State of New York
Qualified in Dutchess Co. No. 01005038797
Commission Expires February 6, 2011

COUNTY OF WESTCHESTER

ACKNOWLEDGMENT

STATE OF NEW YORK)
) ss.:
COUNTY OF)

On the 23rd day of June in the year 2009 before me, the undersigned, personally appeared Ralph Butler, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Date: 6/23/09

Kathleen A. Wright
Notary Public

KATHLEEN A. WRIGHT
Notary Public State of New York
License # 01WR6195608
Qualified in Westchester County
Commission Expires October 27, 2012