

APPENDIX D: SECTION 106 MEMORANDUM OF AGREEMENT

**MEMORANDUM OF AGREEMENT
BETWEEN
FORT PULASKI NATIONAL MONUMENT OF THE NATIONAL PARK SERVICE
EASTERN FEDERAL LANDS HIGHWAY DIVISION OF THE FEDERAL HIGHWAY ADMINISTRATION
AND
THE GEORGIA STATE HISTORIC PRESERVATION OFFICE
REGARDING THE REPLACEMENT OF THE FORT PULASKI BRIDGE
CHATHAM COUNTY, GEORGIA**

WHEREAS, Fort Pulaski National Monument (PARK) of the National Park Service and the Eastern Federal Lands Highway Division of the Federal Highway Administration (FHWA) plan to carry out the Fort Pulaski Bridge Project PRA-FOPU 10(3), Chatham County, Georgia, (undertaking) pursuant to the 2008 Programmatic Agreement (PA) among the National Park Service (NPS), the Advisory Council on Historic Preservation (ACHP), and the National Conference of State Historic Preservation Officers (NCSHPO) and 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act of 1966 (NHPA) (16 U.S.C. Part 470f); and

WHEREAS, the undertaking consists of the demolition and replacement of the existing structurally deficient Fort Pulaski Bridge, located at Fort Pulaski National Monument, to meet current safety and design standards; and

WHEREAS, the PARK and FHWA have defined the undertaking's area of potential effect as the existing Fort Pulaski Bridge and the area within which all construction and ground-disturbing activity would be confined; and

WHEREAS, the PARK and FHWA have determined that the undertaking will have an adverse effect on the Fort Pulaski Bridge, which is eligible for listing in the National Register of Historic Places as a contributing resource to Fort Pulaski National Monument's cultural landscape, and has consulted with the Georgia State Historic Preservation Officer (SHPO) pursuant to the 2008 PA among the NPS, the ACHP, and the NCSHPO and 36 CFR Part 800, regulations implementing Section 106 of the NHPA (16 U.S.C. Part 470f); and

WHEREAS, in accordance with 36 CFR Part 800.6(a)(1), the PARK and FHWA have notified the ACHP of the adverse effect determination, providing the specified documentation, and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR Part 800.6(a)(1)(iii); and

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

STIPULATIONS

The Park and FHWA will ensure the following measures are carried out in order to mitigate the adverse effect on the Fort Pulaski Bridge:

- I. Design
 - a. The 70 percent, 95 percent and 100 percent construction drawings for the undertaking will be submitted to the SHPO for review and comment. Comments provided by the SHPO will be incorporated into the bridge design.
- II. Archival Documentation
 - a. Prior to the demolition of the Fort Pulaski Bridge and any construction activities, Historic American Engineering Record (HAER) Level II documentation of the bridge will be completed.
 - b. All documentation activities will be performed or directly supervised by architects, historians, photographers, and/or other professionals meeting the qualification standards in the Secretary of Interior's Professional Qualification Standards (36 CFR 61, Appendix A).
 - c. HAER documentation will be submitted to the National Park Service Southeast Regional Office for review and acceptance to the Heritage Documentation Program Collection of the Library of Congress. Upon acceptance of the HAER documentation by the National Park Service, copies of all documents resulting from the HAER documentation, including pertinent field records, notes, site sketches, superintendent reports, and construction reports will be provided to the SHPO, the Library of Congress and the permanent collection of Fort Pulaski National Monument.

III. Duration

This MOA will be null and void if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, the Park may consult with the other signatories to reconsider the terms on the MOA and amend it in accordance with Stipulation VI.

IV. Post-Review Discoveries

If during construction previously unknown archeological resources are discovered, all work in the immediate vicinity of the discovery will be halted, signatories to the MOA will be notified, and the procedures of 36 CFR § 800.13[c] followed. In the event that human remains, funerary objects, sacred objects, or objects of cultural patrimony are discovered during construction, the regulations implementing the Native American Graves Protection and Repatriation Act (43 CFR Part 10) will be followed.

V. Dispute Resolution

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

- a. Forward all documentation relevant to the dispute, including the Park's proposed resolution, to the ACHP. The ACHP shall provide the Park 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, the Park 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. The Park will then proceed according to its final decision.
- b. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the Park may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Park shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.
- c. The Park's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of dispute will remain unchanged.

VI. Amendments

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

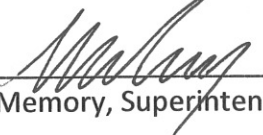
VII. Termination

If any signatory to this MOA determines that its terms will not or cannot be carried out, that signatory shall immediately consult with the other signatories to attempt to develop an amendment. If within thirty (30) days (or another time period agreed to by all signatories) 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 Park must either (a) execute a new MOA pursuant to 36 C.F.R. § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 C.F.R. §800.7. The Park shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by the Park, FHWA and SHPO and implementation of its terms is evidence that the Park has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

Fort Pulaski National Monument

BY: 
Melissa Memory, Superintendent

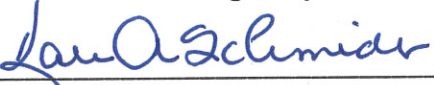
DATE: 8-14-2014

Georgia State Historic Preservation Office

BY: 
David Crass, Division Director, Deputy State Historic Preservation Officer

DATE: 8 SEPT. 2014

Eastern Federal Lands Highway Division

BY: 
Karen A. Schmidt, Director, Program Administration

DATE: 7 AUG 2014