

**MEMORANDUM OF AGREEMENT
AMONG
FEDERAL TRANSIT ADMINISTRATION
GEORGIA DEPARTMENT OF TRANSPORTATION
THE CITY OF ALBANY, GA
AND
GEORGIA STATE HISTORIC PRESRVATION OFFICER
REGARDING
THE ALBANY FREEDOM DISTRICT AND
ARCHAEOLOGICAL SITE 9DU286
HP #140619-001**

WHEREAS, the Federal Transit Administration (FTA) plans to fund the Albany Multimodal Transportation Center (an undertaking by the City of Albany) pursuant to its authority (49 U.S.C 53), and the *Fixing America's Surface Transportation (FAST) Act* (PL 114-94, December 4, 2015) and pursuant to the *Protection of Historic Properties* (36 CFR Part 800); and

WHEREAS, the undertaking consists of the development of a new multi-modal transportation center at the site of the current Albany bus station; and

WHEREAS, FTA has defined the undertaking's area of potential effect (APE) as the 2.99-acre tract upon which the multi-modal transportation center would be constructed and the immediate viewshed; and

WHEREAS, FTA has determined that the undertaking will have an adverse effect on the National Register of Historic Places (NRHP)-eligible archaeological site 9DU286 and no adverse effect on the NRHP-eligible Albany Freedom District, provided certain conditions are met, and has consulted with the Georgia State Historic Preservation Officer (SHPO); and

WHEREAS, the Georgia Department of Transportation (GDOT) would apply to use FTA funding for the construction of the proposed projects, FTA has invited GDOT to sign this Memorandum of Agreement (MOA) as an invited signatory pursuant to 36 CFR §800.2(c)(4); and

WHEREAS, the City of Albany would use FTA funding for the construction of the proposed projects, FTA has invited the City of Albany to sign this MOA as an invited signatory pursuant to 36 CFR §800.2(c)(4); and

WHEREAS, FTA engaged and consulted with the public pursuant to 36 CFR 800.2(d) regarding the effects of the undertaking on historic properties and received no public comments on this undertaking; and

WHEREAS, FTA has consulted with the following federally listed tribes – Absentee-Shawnee Tribe of Oklahoma, Alabama-Coushatta Tribe of Texas, Eastern Band of Cherokee Indians, Jena Band of Choctaw Indians, Mississippi Band of Choctaw Indians, Muscogee (Creek) Nation, Poarch Band of Creek Indians, Shawnee Tribe, Thlopthlocco Tribal Town, and the United Keetoowah Band of Cherokee Indians - for which the Albany Multi-modal Center property may have religious and cultural significance; and

WHEREAS, the Muscogee (Creek) Nation and United Keetowah Band of Cherokee Indians have requested status as a consulting party; and

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

NOW, THEREFORE, the FTA, the SHPO, the GDOT, and City of Albany 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 the historic properties.

STIPULATIONS

The FTA shall ensure that the following measures will be carried out by professionals meeting the applicable Secretary of Interior's Qualifications Standards in History, Archaeology, and Historic Architecture.

I. PLAN REVIEW

A. Ritz Theater

- i. GDOT will submit 75% complete demolition and rehabilitation plans and specifications to SHPO for review and comment, in advance of any construction activities, to ensure the demolition and rehabilitation is being done in accordance with the Secretary of the Interior's *Standards for the Treatment of Historic Properties (Secretary's Standards)*.
- ii. If substantial revisions are necessary, GDOT will submit revised 90% complete demolition and rehabilitation plans and specifications to SHPO for review and comment, in advance of any construction activities, to ensure the demolition and rehabilitation is in accordance with the Secretary's *Standards*.
- iii. The City of Albany will carry out demolition and rehabilitation in accordance with SHPO-approved plans and specifications.
- iv. FTA and GDOT will coordinate with SHPO if site visits are found to be necessary.

B. Albany Multimodal Transportation Center

- i. GDOT will submit 75% complete new construction plans and specifications to SHPO for review and comment, in advance of any construction activities, to ensure the new construction is compatible with the historic properties in the viewshed.
- ii. If substantial revisions are necessary, GDOT will submit revised 90% complete new construction plans and specifications to SHPO for review and comment, in advance of any construction activities, to ensure the new construction is compatible with the historic properties in the viewshed.
- iii. The City of Albany will carry out new construction in accordance with SHPO-approved plans and specifications.

II. DATA RECOVERY

A. Archaeological Site 9DU286

- i. FTA will submit a draft data recovery plan for archaeological site 9DU286 to SHPO for review and comment. The data recovery will focus on residential and industrial/workplace activities that occurred at archaeological site 9DU286, with a concentration on Albany's African American community during the late nineteenth and early twentieth centuries. Fieldwork will focus on the most productive areas and would involve machine-removal of topsoil and overburden with a backhoe or grade-all to expose the tops of cultural features; then hand clearing to identify and delineate cultural features or artifact deposits; mapping; and excavation, as outlined in the approved data recovery plan.
- ii. The City of Albany will provide an archaeological monitor during demolition activities.
- iii. The results of the data recovery and field monitoring will be presented in draft technical reports submitted to FTA, GDOT, SHPO, and consulting parties for review and comment.
- iv. Final data recovery and field monitoring reports will be submitted to SHPO.
- v. Results will be presented for public outreach pursuant to the approved Data Recovery Plan and subject to FTA, GDOT, SHPO, City of Albany, and consulting parties review.

III. DURATION

This MOA will expire if its terms are not carried out within seven (7) years from the date of its execution. Prior to such time, FTA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VIII below.

IV. POST-REVIEW DISCOVERIES

If potential historic properties are discovered or unanticipated effects on historic properties found during project construction, and specifically, if the inadvertent discovery of historic, non-American Indian human burials, including burial features with no identifiable human remains, occurs, all work shall stop immediately and The City of Albany shall contact local authorities, GDOT, FTA, and the Office of the State Archaeologist through SHPO. Work will not commence until FTA provides clearance, in consultation with GDOT and SHPO.

V. TREATMENT OF HUMAN REMAINS

No evidence has been found that human remains, associated or unassociated funerary objects, sacred objects, or objects of cultural patrimony are present at archaeological site 9DU286. Should human remains be found during data recovery or construction, all work shall stop immediately and FTA shall contact GDOT, the Office of the State Archaeologist through SHPO, and federally-

recognized Tribal Historic Preservation Officers (THPOs), if the remains are potentially American Indian. The City of Albany will implement a discovery plan in accordance with applicable state and federal laws (36 CFR Part 800.13; 43 CFR Part 10, Subpart B; Official Code of Georgia (OCGA) 36-72; OCGA 44-12-260, OCGA 31-21-6) in consultation with GDOT, the Office of the State Archaeologist through SHPO, and THPOs, as applicable. Work will not commence until FTA provides clearance, in consultation with GDOT, and SHPO, and THPOs, as applicable.

VI. MONITORING AND REPORTING

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

VII. 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, FTA shall consult with such party to resolve the objection. If FTA determines that such objection cannot be resolved, FTA will do the following:

- A. Forward all documentation relevant to the dispute, including FTA's proposed resolution, to the Council. The Council shall provide FTA 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, FTA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the Council, signatories, and concurring parties, and provide them with a copy of this written response. FTA will then proceed according to its final decision.
- B. If the Council does not provide its advice regarding the dispute within the thirty (30) day time period, FTA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FTA 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 Council with a copy of such written response.
- C. All other actions not subject to the dispute will continue pursuant to the terms of this MOA.

VIII. 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 Council.

IX. TERMINATION

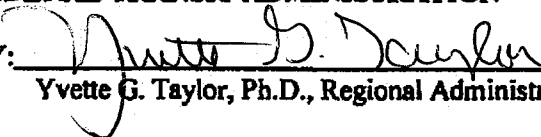
If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatories to attempt to develop an amendment per Stipulation VIII above. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, FTA must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the Council under 36 CFR § 800.7. FTA shall notify the signatories as to the course of action it will pursue.


Execution of this MOA by the FTA, City of Albany, GDOT, and SHPO, its submission to the Council, and implementation of its terms, is evidence that the FTA has taken into account the effects of the undertaking on historic properties and afforded the Council an opportunity to comment.

SIGNATORIES:

FEDERAL TRANSIT ADMINISTRATION

BY:  DATE: 12-10-18
Yvette G. Taylor, Ph.D., Regional Administrator

GEORGIA STATE HISTORIC PRESERVATION OFFICER


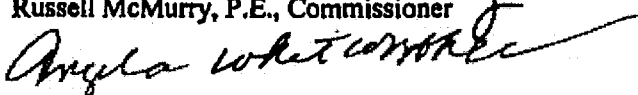
BY:  DATE: 3 DEC 2018
David Crass, Ph.D., Division Director, Deputy SHPO

INVITED SIGNATORIES:

CITY OF ALBANY GOVERNMENT

BY:  DATE: Oct. 19, 2018
Dorothy Hubbard, Mayor, City of Albany, GA

GEORGIA DEPARTMENT OF TRANSPORTATION

BY:  DATE: 11/9/18
Russell McMurry, P.E., Commissioner
 11/8/18