

**MEMORANDUM OF AGREEMENT
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
THE TENNESSEE STATE HISTORIC PRESERVATION OFFICER
AND THE
TENNESSEE DEPARTMENT OF TRANSPORTATION
REGARDING THE
I-24 SOUTHEAST CHOICE LANES PROJECT (PIN 134727.01)
DAVIDSON AND RUTHERFORD COUNTIES, TENNESSEE**

EXECUTED PURSUANT TO 36 CFR § 800.6(b)(1)(iv)

WHEREAS, the Tennessee Department of Transportation (TDOT) proposes to construct Choice Lanes on Interstate 40 (I-40) from the Browns Creek overpass to State Route (SR)155/Briley Parkway and I-24 from I-40 to I-840 (I-24 Southeast Choice Lanes project) (see Attachment A to this Memorandum of Agreement [MOA]) using funding from the Tennessee Transportation Modernization Act¹; and

WHEREAS, the Federal Highway Administration (FHWA) Tennessee Division must approve changes in access to the Interstate Highway System including changes in access and capacity, as part of the Interstate Access Policy (23 CFR § 624), and is therefore the federal agency responsible for ensuring the undertaking complies with Section 106 of the National Historic Preservation Act (NHPA) (54 USC § 306108), codified in its implementing regulations 36 CFR § 800, *Protection of Historic Properties*; and

WHEREAS, the TDOT has been authorized to conduct certain FHWA responsibilities under Section 106 by the Programmatic Agreement among the Federal Highway Administration, the Tennessee Department of Transportation, the Tennessee State Historic Preservation Officer and the Advisory Council on Historic Preservation regarding implementation of transportation projects, executed on July 30, 2021, including the identification of the area of potential effects and conducting consultation with the State Historic Preservation Officer and other consulting parties, the identification of historic properties and the determination of effects on those historic properties, and is an invited signatory to this MOA, to resolve adverse effects caused by the subject undertaking; and

WHEREAS, the I-24 Southeast Choice Lanes project would add newly constructed lanes to manage traffic demand along the corridor and would include bridge replacements and interchange improvements at various locations; and

WHEREAS, the I-24 Southeast Choice Lanes project will be a Design-Build-Finance-Operate-Maintain project, utilizing a Public-Private Partnership; and

¹ Tennessee Department of Transportation, Build with Us: <https://www.tn.gov/tdot/build-with-us.html>.

WHEREAS, TDOT, acting on behalf of the FHWA, has determined that the undertaking's Area of Potential Effects (APE), as defined at 36 CFR § 800.16(d), includes the project footprint, including existing right of way (ROW), any new ROW, including permanent and temporary easement, for the consideration of direct effects due to construction-related and ground disturbing activities. For the consideration of direct effects due to auditory, vibration, visual or atmospheric effects caused by the project the adjacent parcels, or parcels that would become adjacent to the interstate highway, are included within the APE. The APE was expanded in 2025, and additional resource identification and evaluation was completed (see Attachment B); and

WHEREAS, the FHWA has determined that the APE for the I-24 Southeast Choice Lanes project contains one resource listed in the National Register of Historic Places (NRHP), the Mount Olivet Cemetery and seventeen (17) resources eligible for listing in the NRHP: Ebenezer AME Church, Mill Creek Baptist Church Cemetery/Whitsett Cemetery, Historic Mount Ararat/Greenwood West Cemetery, Greenwood Cemetery, Calvary Cemetery, Titan Logistics, American Bread Company, Printing Industry Association of the South, Glenclyff United Methodist Church, Hill-Roulhac Cemetery, Lions Club of Tennessee State Headquarters, Rogers Manufacturing Company, the Kenworth Building, Shoney's Headquarters, Saint Luke Primitive Baptist Church, the Holloway-Moore Farm Historic District, and archaeological site 40DV750 (see Attachment C); and

WHEREAS, the FHWA has applied the criteria of adverse effects (36 CFR § 800.5) and determined that the I-24 Southeast Choice Lanes project will have an adverse visual effect on character defining features of the Mill Creek Baptist Church Cemetery/Whitsett Cemetery and Rogers Manufacturing Company (see Attachment D); and has consulted with the Tennessee State Historic Preservation Office (TN-SHPO) pursuant to 36 CFR § 800, *Protection of Historic Properties*; and

WHEREAS, on March 3, 2025, the TN-SHPO concurred with the adverse effect determination to the Mill Creek Baptist Church Cemetery/Whitsett Cemetery and Rogers Manufacturing Company, and the no adverse effect findings to Ebenezer AME Church, Historic Mount Ararat/Greenwood West Cemetery, Greenwood Cemetery, Calvary Cemetery, Titan Logistics, American Bread Company, Printing Industry Association of the South, Glenclyff United Methodist Church, Hill-Roulhac Cemetery, Lions Club of Tennessee State Headquarters, the Kenworth Building, Shoney's Headquarters; and

WHEREAS, on March 3, 2025, the TN-SHPO concurred with the no adverse effect determination to archaeological site 40DV750, as long as the site is avoided during construction; and

FHWA

Tennessee: Davidson and Rutherford Counties

I-24 Southeast Choice Lanes, TDOT PIN 134727.01

WHEREAS, on November 7, 2025, the TN-SHPO concurred that resources in the expanded APE included two additional historic properties, the Holloway-Moore Farm Historic District and the St. Luke's Primitive Baptist Church (see Attachment C); and

WHEREAS, on December 8, 2025, the TN-SHPO concurred with a revised assessment of effects on the project, that the previous effects assessments remained valid and that the project would have no adverse effect on the Holloway-Moore Farm Historic District or St. Luke's Primitive Baptist Church (see Attachment D); and

WHEREAS, the FHWA has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination, and the Council has chosen not to participate in this MOA (February 2, 2026); and

WHEREAS, TDOT has participated in the consultation and has been invited to be a signatory to this MOA; and

WHEREAS, the FHWA has consulted with the following Federally recognized Tribes with ancestral lands in Tennessee about this MOA; and

WHEREAS, the FHWA recognizes that the Absentee-Shawnee Tribe of Indians in Oklahoma, Cherokee Nation, the Chickasaw Nation, Eastern Band of Cherokee Indians, Eastern Shawnee Tribe of Oklahoma, Jena Band of Choctaw Indians, Kialegee Tribal Town, Shawnee Tribe, the Muscogee (Creek) Nation, Thlopthlocco Tribal Town, and the United Keetoowah Band of Cherokee Indians in Oklahoma, have an interest in the undertaking area, and has consulted with them on a government-to-government basis (August 21, 2024); and,

WHEREAS, the Muscogee (Creek) Nation and the Shawnee Tribe both responded and accepted the invitation to participate in consultation; and

WHEREAS, the Eastern Shawnee Tribe of Oklahoma responded that the project would have no adverse effect or endangerment to known sites of interest to the Eastern Shawnee Tribe of Oklahoma and the project could proceed as planned; and

WHEREAS, the Chickasaw Nation responded that the project was outside their area of interest and had no objection to the project as planned, and respectfully deferred to the Federally recognized Tribes with an interest in the project; and

WHEREAS, the American Association for State and Local History, Association for the Preservation of Tennessee Antiquities, the Davidson County Historian, Greater Nashville Regional Council, Historic Nashville, Inc., the Metro Nashville and Davidson County Mayor, and the Metropolitan Historical Commission have been notified of the undertaking and have been invited to participate in consultation (October 18, 2024); and

WHEREAS, the Metropolitan Historical Commission, Historic Nashville, Inc., and the Preservation Society of Nashville have accepted the invitation to participate in consultation; and

WHEREAS, a consultation meeting was held on February 6, 2026, among TDOT, the TN-SHPO, the Metro Historical Commission, and Historic Nashville to discuss the project, historic properties in the APE, project effects and appropriate mitigation to resolve adverse effects, and results of that consultation have been incorporated into this MOA (see Attachment E); and

WHEREAS, public involvement for this undertaking is being fulfilled through the National Environmental Policy Act process and a TDOT-hosted webpage, which provides information on the project, including project alternatives, historic properties and project effects and proposed mitigation measures, and includes directions for the public to provide feedback on concerns²; and

WHEREAS, FHWA and TDOT have held public meetings at various locations along the project corridor with information on environmental and historic preservation concerns, including information about historic properties, project effects and proposed mitigation measures, available at the meetings, and with meeting materials available online for the public to view³; and

WHEREAS, to date, no concerns about the effects of the I-24 Southeast Choice Lanes project on historic properties have been raised by the public. Public involvement will continue throughout the project development process; and

WHEREAS, to the best of the FHWA's knowledge and belief, no human remains, associated or unassociated funerary object or sacred objects, or objects of cultural patrimony have been identified in the project APE; and

NOW THEREFORE, the FHWA, TN-SHPO and TDOT agree that the undertaking shall be implemented in accordance with the following stipulations in order to consider the effects of the undertaking on historic properties.

² Tennessee Department of Transportation, I-24 Southeast Choice Lanes: <https://www.tn.gov/tdot/projects/region-3/interstate-24-choice-lanes-.html>

³ Meeting dates and information can be found on the I-24 Southeast Choice Lanes website: <https://www.tn.gov/tdot/projects/region-3/interstate-24-choice-lanes-.html>

STIPULATIONS

FHWA will ensure that the following measures are carried out:

I. Documentation of Rogers Manufacturing Company

- A. Photographic documentation of Rogers Manufacturing Company will be completed by TDOT to capture the exterior of primary buildings, existing site conditions and setting of the northeast side of the NRHP-eligible property, views that will be obscured by the elevated Choice Lanes. A minimum of 20 photographs will be taken to provide overlapping views between Elm Hill Pike and Arlington Avenue. Photographs will be taken after trees have been removed, but before construction of the substructure of the Choice Lanes has begun or additional ground disturbing activities have begun, from angles to capture the views that will be affected by the project.
 - 1. These photographs will follow the guidelines as laid out in the “National Register of Historic Places and National Historic Landmarks Program Consolidated and Updated Photograph Policy 2024” unless stated otherwise below, in which case these stipulations take precedent.
 - i. All photographs will be captured in RAW and Fine-High Quality with a minimum resolution of 24 megapixels.
 - ii. Aerial drone photography may be used to supplement documentation but shall not be used in place of digital photography with a DSLR camera.
 - 2. TDOT will consult with the TN-SHPO to determine if selected photographic views and angles are sufficient to capture views that will be affected.
 - i. This will be agreed before the construction of any substructure in the vicinity of Rogers Manufacturing Company.
 - ii. JPEG images of each photo selection will be submitted to TN-SHPO no later than two weeks after field work is completed.
 - iii. Final photography fieldwork will be completed within 60 days of TN-SHPO approval.
 - 3. Copies of the NRHP quality archival photographs will be provided to the TN-SHPO in digital format on an archival disc. Upon request, the photographs will be provided to property owners and other stakeholders.

- i. All photographs captured will be formatted as both TIFF and JPEG file types.
 - ii. All TIFFs will be converted to black and white images in post-processing at a minimum size of 2000x3000 pixels.
 - iii. All JPEGs will be color images at a minimum size of 1200x1600 pixels.
 - iv. All photographs will be labeled and keyed onto a map indicating the direction in which it was taken and a photo log consistent with NRHP standards will be presented.
 - v. Final deliverables will be delivered by hand or sent by U.S. Postal Service, or a parcel delivery service, within 60 days of completed fieldwork.
4. TDOT will consult with the TN-SHPO upon final submission no later than two weeks after receiving the final photographs to confirm that this stipulation has been carried out.

II. Documentation for Mill Creek Baptist Church Cemetery/Whitsett Cemetery (DV-20703/40DV491)

- A. TDOT will prepare a National Register nomination for the Mill Creek Baptist Church Cemetery/Whitsett Cemetery, which will be submitted to TN-SHPO for review no later than 18 months from the execution of this MOA.
 1. Completion of the NRHP nomination will follow the NPS and NRHP guidelines as written in the most recent version of the "National Register Bulletin: How to Complete the National Register Registration Form" and TN-SHPO processes as outlined in the Listing Process section of the Tennessee Historical Commission website.⁴
 2. A draft of the NRHP nomination will be submitted to TN-SHPO within one year of the decision to pursue the nomination.
 - i. The initial review will be completed by TN-SHPO within 60 days of submittal, with each subsequent review and draft preparation to be completed in 60 days for each draft.

⁴ Tennessee Historical Commission, Listing Process: <https://www.tn.gov/content/tn/historicalcommission/federal-programs/national-register/listing-process.html>, accessed February 9, 2026.

- ii. Following TN-SHPO concurrence, TDOT will be responsible for addressing all comments, edits, revisions, or conditions requested by the State Review Board (SRB) and/or the NPS, as necessary.
 - iii. This stipulation would then be considered “carried out” when the NRHP nomination form has been submitted and approved by TN-SHPO, the SRB, and the NPS.
3. If the Friends do not agree to NRHP listing, TN-SHPO and TDOT will process the nomination as a formal Determination of Eligibility (DOE).

III. **Documentation for American Bread Company/Lane Motor Museum**

- A. TDOT will prepare a National Register nomination for the American Bread Company/Lane Motor Museum which will be submitted to TN-SHPO for review no later than 18 months from the execution of this MOA.
- 1. Completion of the NRHP nomination will follow the NPS and NRHP guidelines as written in the most recent version of the “National Register Bulletin: How to Complete the National Register Registration Form” and TN-SHPO processes as outlined in the Listing Process section of the Tennessee Historical Commission website.⁵
 - 2. A draft of the NRHP nomination will be submitted to TN-SHPO within one year of the decision to pursue the nomination.
 - i. The initial review will be completed by TN-SHPO within 60 days of submittal, with each subsequent review and draft preparation to be completed in 60 days for each draft.
 - ii. Following TN-SHPO concurrence, TDOT will be responsible for addressing all comments, edits, revisions, or conditions requested by the SRB and/or the NPS, as necessary.
 - iii. This stipulation would then be considered “carried out” when the NRHP nomination form has been submitted and approved by the TN-SHPO, the SRB, and the NPS.
 - 3. If the Lane Motor Museum does not agree to NRHP listing, TN-SHPO and TDOT will process the nomination as a formal DOE.

⁵ Tennessee Historical Commission, Listing Process: <https://www.tn.gov/content/tn/historicalcommission/federal-programs/national-register/listing-process.html>, accessed February 9, 2026.

IV. Vibration Monitoring

A. TDOT will require the contractor to develop a vibration monitoring plan for all work near Ebenezer AME Church, Mill Creek Baptist Church Cemetery/Whitsett Cemetery, Historic Mount Ararat/Greenwood West Cemetery, Greenwood Cemetery, Calvary Cemetery, Titan Logistics, American Bread Company, Printing Industry Association of the South, Glencliff United Methodist Church, Hill-Roulhac Cemetery, Lions Club of Tennessee State Headquarters, Rogers Manufacturing Company, the Kenworth Building, Shoney's Headquarters, Saint Luke Primitive Baptist Church and the Holloway-Moore Farm Historic District. The plan will include inspection and photographic documentation of the condition of foundations and masonry before construction begins. Vibration monitoring during construction activities will be conducted in accordance with that plan. Following construction, the foundations and masonry will be inspected again for vibration damage.

1. Any damage will be repaired to the prior condition.
2. TDOT would immediately notify the TN-SHPO of any impacts or cumulative effects that may become evident during vibration monitoring.
3. The contractor will be required to repair any damage to historic properties, to its prior condition, in compliance with the Secretary of the Interior's Rehabilitation Standards. Plans for repairs will be submitted to TDOT and the TN-SHPO for review prior to work commencing. If an emergency situation occurs, the contractor will coordinate an on-site visit with TDOT and TN-SHPO to discuss needed repairs.

V. Historic Resource Avoidance

High visibility fencing will be installed near all NRHP-eligible or listed properties to avoid any ground disturbing activities within the NRHP boundary.

VI. Archaeological and Cemetery Avoidance & Monitoring

High visibility fencing will be placed around the following archaeological sites and cemeteries, for avoidance during project construction:

- A. Archaeological site 40DV750 – High visibility fencing will be installed within 10' of the present and proposed right of way (ROW) to avoid any ground disturbing activities within the eligible portion of the site. If project plans change, Section 106 effects on this site must be reopened with the TN-SHPO.
- B. Mill Creek Baptist Church Cemetery/Whitsett Cemetery (40DV491) – High visibility fencing will be installed from the edge of pavement plus 85' along the northern boundary and within 50' of the northern boundary of the present and any proposed

ROW to avoid any ground disturbing activities within the site boundary. High visibility fencing shall also be installed from edge of pavement along the eastern boundary to Old Glenrose Avenue and within 50' of the eastern boundary and present and any proposed ROW to avoid any ground disturbing activities within the site boundary. Additionally, the northeast corner of the parcel that falls within the right-of-way and directly adjacent to I-24 will be avoided.

- C. Mount Ararat Cemetery (DV-26444)/Greenwood Cemetery West – These cemeteries have been determined NRHP eligible. If project plans change, Section 106 will need to be reopened for each cemetery and ground disturbing activities will need to follow the chancery court process outlined in TCA 46-4-103.

VII. **Treatment of Human Remains**

- A. Tennessee state law protects all human remains, regardless of age or cultural affiliation. If human remains are encountered during construction, the contractor is required to stop all work within a fifty (50)-meter (approximately 165-foot) radius of the remains, and notify the medical examiner and local law enforcement per TCA § 11-6-107d. The State Archaeologist must also be notified. Work shall not resume without specific authorization from the medical examiner, local law enforcement, or the State Archaeologist.
- B. FHWA will notify any Tribe that might attach cultural affiliation to the identified remains, or any cultural items (as defined in the Native American Graves Repatriation Act) as soon as possible after their identification.
 - 1. TDOT, shall notify FHWA immediately of the initial inadvertent discovery of CULTURAL ITEMS at the SITE, as defined in Native American Graves Protection and Repatriation Act (25 USC 32 § 3001). The FHWA shall then notify the invited signatories, the representatives of federally recognized tribes who have expressed interest in Davidson County, Tennessee and Rutherford County, Tennessee, and other consulting parties within 24 hours. The FHWA shall report subsequent discoveries to the tribal representative(s), invited signatories, and other consulting parties via telephone, fax, email, or written notification on a weekly basis. This schedule notwithstanding, the FHWA or designated representative of the TDOT shall keep the consulting parties informed and answer questions regarding the progress and findings of the excavations.
 - 2. A representative of federally recognized Native American Tribes who have expressed interest in Davidson County, Tennessee, and Rutherford County, Tennessee, will be entitled to be present during all phases of the archaeological survey at the SITE if CULTURAL ITEMS are encountered. A tribal representative is

also entitled to be present for any subsequent analysis, whether in the field at the SITE or at a laboratory facility.

3. The tribal representative will be reimbursed by the Project for travel, meals, or lodging in the amount of actual costs, subject to maximum amounts and limitations specified in the Tennessee State Comprehensive Travel Regulations which will be provided as needed, as they are amended from time to time. These expenses will result from inspection visits to the site and/or to the archaeological laboratory facilities. In order to be reimbursed, each Native American consulting party must have a State of Tennessee vendor number, obtainable by filing a Vendor Request Form with the TDOT, which form will be provided upon request. Invoices must be supported by appropriate documentation in order to be reimbursed.

VIII. Post-Review Discovery

If non-mortuary archaeological resources that may be historically significant are discovered or unanticipated effects on historic properties found, the FHWA shall ensure the following steps are implemented:

- A. All activities that may affect the newly identified resources will cease and the resources will be protected from additional disturbance until the requirements of Stipulation VII have been satisfied.
- B. TDOT will notify the FHWA immediately and the FHWA shall then notify Signatories within 24 hours.
- C. FHWA will notify Native American Tribes with interest in Davidson County, Tennessee, and Rutherford County, Tennessee, within 24 hours of the discoveries and will consult with Tribes that may attach traditional cultural and religious significance to the resources. If non-Native American resources are discovered or found to be otherwise affected, TDOT, on behalf of FHWA, will consult with the TN-SHPO as in Part VIII.D. below.
- D. TDOT, on behalf of FHWA, will consult with the TN-SHPO to evaluate the NRHP eligibility of the previously unidentified archaeological resources.
- E. FHWA, in consultation with the TN-SHPO, shall make reasonable and good faith efforts to avoid or minimize adverse effects on NRHP-eligible archaeological resources. If adverse effects to previously unidentified NRHP-eligible archaeological resources cannot be avoided, the FHWA shall consult with the TN-SHPO and the TDOT to resolve these effects through the execution of an amendment to this MOA.

IX. Duration of the Agreement Document

This MOA will remain in effect for ten (10) years from the date of its execution or until all stipulations have been carried out and construction is completed. The MOA must be amended by the signatories should a commitment contained herein not be completed by the end of the tenth year or if construction has not been completed.

X. 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, FHWA shall consult with such party to resolve the objection. If FHWA determines that such objection cannot be resolved, FHWA will:

- A. Forward all documentation relevant to the dispute, including the FHWA proposed resolution, to the ACHP. The ACHP shall provide FHWA 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, FHWA 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. FHWA will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) days, FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching a final decision, FHWA shall prepare a written response that takes in 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 the written response.
- C. FHWA's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

XI. Amendments

This MOA may be amended at any time 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.

XII. Termination

Pursuant to 36 CFR § 800.6(c)(8), any signatory may terminate this MOA by providing thirty (30) days' notice to the other signatories, provided that the parties shall consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination.

FHWA

Tennessee: Davidson and Rutherford Counties

I-24 Southeast Choice Lanes, TDOT PIN 134727.01

Prior to work continuing on the undertaking, if the MOA is terminated by FHWA, FHWA shall request, take into account, and respond to the comments of the ACHP pursuant to 36 CFR §§ 800.7(a)(1) and (c). If the MOA is terminated by the TN-SHPO, FHWA may execute an MOA with the ACHP without the TN-SHPO (36 CFR § 800.67(a)(2)). FHWA shall notify the TN-SHPO as to the course of action it will pursue.

XIII. Copies

The Agency Official shall provide each signatory and consulting party with a copy of any Memorandum of Agreement executed for this project.

EXECUTION of this MOA by the FHWA, TN-SHPO and TDOT, and implementation of its terms, evidence that FHWA has considered the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

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Signed:

FEDERAL HIGHWAY ADMINISTRATION:

By: *Jacinda Russell* Jacinda Russell (May 5, 2026 15:58:44 CDT) **Date:** 05/05/2026
Jacinda Russell, FHWA Tennessee Division

FHWA
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Signed:

TENNESSEE STATE HISTORIC PRESERVATION OFFICER

By:  **Date:** 05/04/2026
Miranda Montgomery, State Historic Preservation Officer

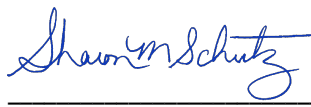
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Signed:

TENNESSEE DEPARTMENT OF TRANSPORTATION:

By:  **Date:** 04/28/2026

Sharon Schutz, TDOT Environmental Division Director

Appendices deleted during review at request of SHPO