

**Appendix A**

**MEMORANDUM OF AGREEMENT, DECEMBER 2009**



Final

**AMENDED  
MEMORANDUM OF AGREEMENT  
BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION AND  
THE NEW JERSEY STATE HISTORIC PRESERVATION OFFICER  
REGARDING THE INTERMODAL FERRY TRANSPORTATION CENTER  
CITY OF SOUTH AMBOY, MIDDLESEX COUNTY, NEW JERSEY**

**WHEREAS**, the City of South Amboy proposes to construct a ferry facility [including access roadway, parking, terminal and in-water improvements] to accommodate up to three ferry vessels in South Amboy, Middlesex County using funds provided by the Federal Highway Administration (FHWA) via the New Jersey Department of Transportation (NJDOT); and

**WHEREAS**, the FHWA, the New Jersey State Historic Preservation Office (SHPO), the Advisory Council on Historic Preservation (Council), and the NJDOT executed a Programmatic Agreement in November of 1996 which stipulates how FHWA's Section 106 responsibilities for NJDOT-administered federal aid projects will be satisfied; and

**WHEREAS**, in accordance with that agreement, the NJDOT has consulted with the SHPO in order to determine the area of potential effect (APE), to identify significant National Register eligible and listed properties, and to assess the effects of the project on both eligible and listed properties within the APE pursuant to the requirements of 36 CFR Part 800, the regulations implementing Section 106 of the National Historic Preservation Act of 1966 as amended (16 U.S.C.470f); and

**WHEREAS**, background and field research have indicated that physical remains of the Camden and Amboy [ca. 1831 - 1871] and Pennsylvania [ca. 1871- 1965] Railroads persist within and beyond the APE, but the integrity of the physical remains in the APE is low; and

**WHEREAS**, the historic significance of the property within the APE relates primarily to it being the location of nationally significant events, the feeling or sense of place conveyed by the few physical remains, and the setting of the former rail yard and piers; and

**WHEREAS**, previous consultation on other projects resulted in an initial June 26, 1975 opinion (and several reiterations of that opinion in the context of federally funded

roadway and other projects) that the Camden and Amboy Railroad (Main Line) Historic District is eligible for listing in the National Register of Historic Places; and

**WHEREAS**, previous consultation has also indicated that the period of significance for the Camden & Amboy Railroad (Main Line) Historic District spans the tenures of both railroad companies, and that understanding the relationships between the various archeological remains and evaluating their significance is a complex process requiring extensive background research; and

**WHEREAS**, consultation for other projects affecting the Camden & Amboy Railroad (Main Line) Historic District has focused on identifying and protecting contributing resources and features of the historic district; introducing historically compatible new bridges, stations, and structures; and adequately mitigating the adverse effects resulting from new construction or removal of original features; and

**WHEREAS**, Hunter Research has compiled an inventory of visible railroad remains within the APE [*The Catenary Structures at the Intermodal Ferry Transportation Center, South Amboy, Middlesex County, New Jersey with a note on Camden and Amboy Railroad Stone Sleepers, Historic Context, Description and Recommendations*; Ian Burrow, December 2002] documenting the overall integrity of the Camden and Amboy Railroad yards at this location is low, as only catenary structures and displaced stone sleepers, and two coal thawing sheds and associated infrastructure remain intact within the APE of the project; and

**WHEREAS**, the FHWA has determined in consultation with the SHPO and others that the construction of this project as proposed will have an adverse effect on the Camden & Amboy Railroad (Main Line) Historic District due to the alteration and/or removal of the catenary structures and stone sleepers; and

**WHEREAS**, the NJDOT and FHWA have considered alternatives to avoid or minimize the adverse effects and have found that they are not feasible; and

**WHEREAS**, a Camden and Amboy corridor management study entitled *Camden and Amboy Railroad Historic Districts Study, Volume 1 and Volume 2* identified appropriate mitigation strategies and additional opportunities which were considered by the project sponsors in developing a mitigation program to offset the adverse effects of the proposed construction; and

**WHEREAS**, consultation for the Southern New Jersey Light Rail Transit System (SNJLRTS) has involved extensively researched consideration of appropriate standard design features for new construction within the Camden and Amboy Railroad (Main Line) Historic District; and

**WHEREAS;** it is desirable to utilize a single design vocabulary for all projects within the historic district; and

**WHEREAS,** two public meetings were held on February 8, 2001 and June 27, 2001 in the City of South Amboy to describe the project and the environmental studies which had been conducted to the public, and to allow the public to ask questions and provide comments on the work conducted to date; and

**WHEREAS,** questions and comments at that meeting related primarily to traffic engineering issues; and

**WHEREAS,** the FHWA, SHPO, NJDOT and City of South Amboy, have consulted to develop a plan to mitigate the adverse effects; and

**WHEREAS,** NJDOT on behalf of the FHWA invited the City of South Amboy to concur in the MOA and they have agreed; and

**WHEREAS,** the NJDOT has participated in the consultation, has been invited to concur in the MOA, and has agreed; and

**WHEREAS,** the Advisory Council was notified of the adverse effect and invited to participate in the consultation process via letter dated March 21, 2002 and has declined to participate in the consultation process; and

**WHEREAS,** for the purposes of construction the project was broken into four project phases: the Main Street Bridge, Radford Ferry Road Phase I, Radford Ferry Road Phase II and the Intermodal Facility; and

**WHEREAS,** the Main Street Bridge project was completed in Spring of 2007, and the construction of the Radford Ferry Road Phase I project [initiated in April of 2007] was completed in May 2009; and

**WHEREAS,** the design for the remaining phases of the project was subsequently revised as the result of the NJDEP Waterfront Development Permitting process –the location of the waterfront walkway was moved landward of the wetland transition area and the ferry dock and access locations were changed, thus both the dredging of material and the containment area for the dredged materials were eliminated from the project; and

**WHEREAS**, the effect of the revised design continues to be adverse; and

**WHEREAS**, this agreement supersedes the previous Memorandum of Agreement [executed on 7/25/03];

**NOW, THEREFORE**, the FHWA and the 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 FHWA will ensure that the following measures are carried out:

The City of South Amboy, using the services of a consultant and prior to the initiation of construction, shall implement the following stipulations.

#### **I. Archeological Monitoring**

- A. Preconstruction Notice – The City of South Amboy shall ensure that all construction inspectors and contractors are informed about the need for identification, evaluation and protection of historic properties pursuant to Section 106 of the National Historic Preservation Act; and that they are informed of all stipulations in this MOA which may restrict or constrain construction activities. The City shall develop an archeological monitoring/data recovery procedure, which provides for notification and coordination with NJDOT, SHPO and FHWA should historic resources and/or features be uncovered during construction. The procedure shall provide for immediate cessation of construction activities in any areas where undocumented remains are uncovered, notification of qualified archeologists to collect initial information about the resources identified and convene a consultation meeting; and implementation of any data collection/mitigation procedures which might, through consultation, be determined appropriate. FHWA, NJDOT and SHPO staff shall be available for on-site consultation in no more than two days of notification of the need for consultation. The procedure shall be submitted to the SHPO, NJDOT and FHWA for review and comment prior to advertising the construction contract; the revised procedure shall be included in the construction bid package and shall be an item of discussion during the preconstruction conference. SHPO staff will be invited to participate in the preconstruction conference.
- B. Monitoring – A professionally qualified archeological monitor shall be present on-site and shall inspect all excavations/earthmoving operations that may result in subsurface disturbance. Two types of monitoring may be anticipated, and



provisions for both types shall be included in the procedures developed as Task A above.

1. Observational monitoring - which entails visual examination of work in progress and the rapid documentation of features or artifacts through photography, survey, and written notes.
2. Documentary monitoring – requires discontinuation of construction related work for a longer period of time to investigate and document [sufficiently to meet any requirements for archeological mitigation] archeological features which are significant or potentially significant.

## **II. Photographic Documentation**

Documentary photos of the overall rail site and specific perspectives that illustrate the surviving catenary system, remaining pier/wharf pilings, and former locomotive shop area in relation to the surviving coal thawing sheds will be taken for inclusion in the final report. Any railroad artifacts that will not be used in the gateway or as landscape features will be photographically documented in their original setting prior to removal.

## **III. Field Verification of Pier/Wharf Locations**

The City of South Amboy will ensure that field verification of the locations of the various piers and wharves in the area of direct impact, as documented in historic maps, will be undertaken. The locations of key pilings will be recorded using global positioning system (GPS) technology, and ancillary pilings will be mapped using relational techniques. Archival photographs of the pilings will be taken to supplement the mapping effort. Visible hardware will be photographed only if it has the ability to assist in the dating or other interpretation of the pier/wharf features. No artifacts will be retained. The goal of this effort is to verify the locations and construction sequences of the various pier/wharf features that appear on historic maps. Such information will contribute to an understanding of how the rail facility developed and functioned.

## **IV. Design Considerations - Site Design**

A Landscape Architect with a demonstrated interest in historic preservation will be added to the project design team to assist with the development of the site. The goal of this individual's involvement will be to ensure that, to the degree possible, all pertinent features, of the facility will be compatible with the historic architecture and engineering characteristics, features, and setting of the Camden and Amboy Railroad (Main Line) Historic District. The design shall be responsive to the standards, guidelines, and recommended approaches for new construction affecting historic properties as set forth in the *Secretary of the Interior's Standards for the Treatment of Historic Properties*. Historic compatibility considerations shall include design, location, size, scale, materials, color, workmanship, and visual impacts. Design

features such as fencing, lighting, handrails, signage, etc. selected for the SNJLRTS shall be considered for use in the current project. Specific tasks to be accomplished with the involvement of the Landscape Architect include

- A. Developing a site plan and on-site interpretive materials or displays that utilize and interpret in situ historic railroad artifacts and landscape features. The plan should minimize the visual impacts of the new construction on the remaining landscape features of the historic rail facility and propose interpretive elements that are consistent with similar materials being developed by NJ Transit and NJDOT for use within the Camden & Amboy Railroad (Main Line) Historic District. When removal of artifacts is unavoidable, the materials will be offered for relocation as described in Section V.
- B. Developing a "gateway" to the intermodal transportation facility that preserves in place two types of catenary structures--a Portal Bridge [C15a/b] and one or more Bracket Arm Bridge Structures [C20 or C21].

The overall site plan and design details for the gateway; and specifications [including plans as needed] for the removal of the railroad features will be submitted to the SHPO for review as soon as possible, but at least prior to advertisement of Phase III of the project, to determine if proposed designs are compatible with historic properties. Any design compatibility issues raised by the SHPO will be addressed and resolved through consultation among the City, SHPO, NJDOT, and FHWA prior to the advertisement of the job and/or prior to the initiation of any actions which may compromise the integrity of the railroad features.

## **V. Artifacts**

The City shall ensure that all artifacts recovered during fieldwork and not used for on-site interpretation are offered to the NJ State Museum, NJ Transportation Museum and other appropriate local or railroad focused facilities as identified in consultation with the SHPO. Potential recipients will be provided with a notice of the availability of any artifacts [for 30 days]. The City will work with interested recipients to reasonably accommodate any requests for artifacts, and will distribute those artifacts which it is feasible to move. All artifacts may be disposed of after 60 days if no bona fide recipients have been identified.

## **VI. Reporting**

The City shall ensure that appropriate reporting of the research conducted for the project is completed. The following will be accomplished:

- A. Additional Research – Historical research completed to date has been sufficient to satisfy the identification and assessment components of the Section 106 process. Additional research will be conducted as partial mitigation for the adverse effects to the Camden and Amboy Railroad (Main Line) Historic District. This research will address materials in the collections



of the Pennsylvania State Archives, Hagley Museum, New Jersey State Library/Archives, New Jersey Historical Society and other repositories that may be identified as the result of the review of *The Camden and Amboy Railroad and Transportation Company, A Bibliography [1947]*. Research will be undertaken in order to collect information from primary and secondary sources pertinent to the understanding of the development of the South Amboy rail facility in the years between 1831 and 1911. This research will place the facility within regional economic and transportation contexts. The region is roughly defined as the area between the Ports of New York and New Jersey to the north and Philadelphia to the south. No more than 20 person-days shall be expended on this effort.

- B. Technical Report - The results of all historical and archeological research conducted for this project will be presented in an analytical and narrative report, which conforms to professional reporting standards as described in the New Jersey Register of Historic Places Act Rules [N.J.A.C. 7:4]. The narrative section of the report will place the facility in the overall context of the Camden and Amboy and Pennsylvania Railroad operations, and also present the specific history and development of the South Amboy facilities. The report shall specifically address the development and functioning of the rail-maritime connection, and the evolution of the physical configuration and operations of the South Amboy facility. Photographic documentation of the various site elements as compiled for interim survey/management reports and as described in Task II above will also be included in the technical report. Copies of the report will be provided to no more than five institutions, that will be identified in consultation with the SHPO. Institutions my request either a CD or hard copy.
- C. Non-technical Report – A non-technical, descriptive summary of information about the history of the rail facility within the context of the Camden and Amboy and Pennsylvania rail systems compiled during the current investigations will be prepared in a format suitable for posting on a web site. The information will be initially posted on the City of South Amboy's Web site and maintained on the web site for a minimum of one year after its posting. If any other organization shows an interest in hosting the information on their web site, the City will supply a digital copy of the report for posting. The technical report prepared in response to Task VI.B may also be posted as a companion document to the non-technical report.

## ADMINISTRATIVE CONDITIONS

### I. Professional Qualifications

The City and NJDOT, on behalf of FHWA, will ensure that all work is carried out by/under the direct supervision of a person or persons meeting at a minimum the *Secretary of the Interior's Professional Qualifications Standards for Archaeology, History and/or Architectural History [48 FR 44738-44739]* as appropriate.

## II. Dispute Resolutions

At any time during the implementation of the measures stipulated in this MOA, should an objection to any such measure or its manner of implementation be raised, FHWA will notify all signatories to the agreement, take the objection into account, and consult as needed to resolve the objection.

Disputes regarding the completion of the terms of this agreement as necessary shall be resolved by the signatories. If the signatories cannot agree regarding a dispute, the FHWA shall then initiate appropriate actions in accordance with the provisions of 36 CFR 800.6(b) and 800.7 as appropriate.

Modification, amendment, or termination of this agreement as necessary shall be accomplished by the signatories in the same manner as the original agreement.

## III. Design Changes

If any changes to the Intermodal Ferry Transportation Center project design occur which have the potential to affect historic properties, the City of South Amboy shall notify the NJDOT. NJDOT, with the assistance of the FHWA, shall consult with the SHPO in accordance with the provisions of 36 CFR Part 800. For any such changes, the City shall submit a plan sheet or design sketch showing the proposed change; a written description of why the change is needed; and a description of alternatives considered to achieve the same goals. If formal consultation is initiated the SHPO shall provide written comments to the City, FHWA, NJDOT [Bureau of Environmental Services and Local Aid] within five working days of receipt of documents. Review comments shall evaluate the change for its potential to affect historic properties and its conformance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties*.

## IV. Project Completion


- A. **Project Completion** - All work required to complete the tasks enumerated in Stipulations I through IV will be completed within two years of the receipt of the NJDEP permit(s) for the construction of Phase III. Should an alternate schedule be required, that schedule will be established and provided to all consulting parties prior to the initiation of construction of Phase III. Work required as part of Stipulation VI will be accomplished according to a schedule developed during negotiations for the cultural resources work.
- B. **Documentation of Satisfaction of Stipulations** - The City shall submit a short narrative report with appropriate illustrations to all consulting parties demonstrating satisfaction of any mitigation requirements which will not be included in the archeological reports within 90 days of completion of construction or according to an alternate schedule negotiated immediately after the pre-construction meeting.

**V. Review of Implementation**

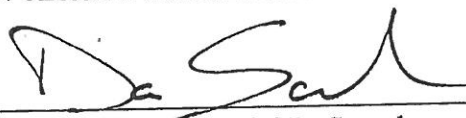
This agreement shall become null and void if construction is not initiated within ten years from the date of execution unless the signatories agree in writing to an extension. If, after ten years without action the FHWA chooses to continue with the undertaking, it shall re-initiate its review in accordance with the provisions of 36 CFR Part 800.

Execution of this Memorandum of Agreement and implementation of its terms evidence that FHWA has afforded the Council an opportunity to comment on the Intermodal Ferry Transportation Center project and its effects on historic properties, and that the FHWA has taken in to account the effects of the project on historic properties.

FEDERAL HIGHWAY ADMINISTRATION

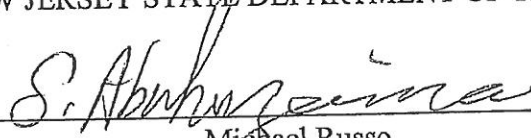
By:  Date: 12/22/2009  
for Dennis L. Merida, P.E.  
Division Administrator, NJ Division Office

NEW JERSEY STATE HISTORIC PRESERVATION OFFICE

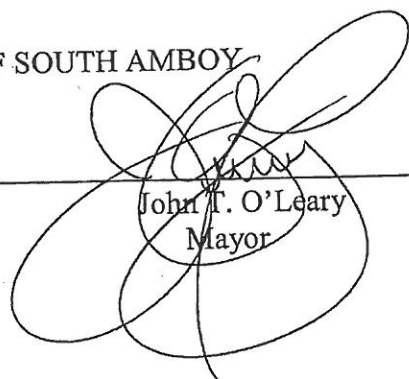
By:  Date: 12/15/2009  
Daniel D. Saunders  
Deputy State Historic Preservation Officer

**Concur:**

NEW JERSEY STATE DEPARTMENT OF TRANSPORTATION

By:  Date: 12/14/09  
Michael Russo.  
Director, Local Aid and Economic Development

CITY OF SOUTH AMBOY

By:  Date: 12/10/09  
John T. O'Leary  
Mayor