SECTION 106 MEMORANDUM OF AGREEMENT
SIGNATORIES

The Required and Invited signatories have the sole authority to execute, amend, or terminate the MOA. The term “signatory” does not include others who sign the agreement as concurring parties.

REQUIRED SIGNATORIES
The required signatories must sign for the MOA to take effect, and their approval also is needed for the agreement to be amended or terminated. Under Section 106 regulations, two signatories are required for every MOA:

- The Federal agency - FHWA
- The SHPO

Additional required signatories:

- The Advisory Council on Historic Preservation (ACHP) - if the ACHP has joined the consultation process
- For project on tribal lands - the Tribal Historic Preservation Officer (THPO) in place of the SHPO; if there is no THPO, the designated tribal representative in addition to the SHPO

INVITED SIGNATORIES
The refusal of an invited signatory to sign does not prevent the MOA from taking effect. If an invited signatory does sign the MOA, that party’s approval is needed to amend or terminate the MOA.

- The NYSDOT
- Other project applicant or sponsor
- Any party that assumes a responsibility in carrying out the terms of the MOA

CONCURRING PARTIES
The Federal agency may ask others that have participated in the Section 106 process to sign the document as concurring parties. Signing as a concurring party is primarily a way to express agreement with the contents of the MOA and acceptance of the outcome of the process. The approval of concurring parties is not needed to execute, amend or terminate the MOA.

- For projects located off tribal lands - consulting Tribal Nations if the Nation has no designated role or responsibility in carrying out the terms of the MOA
- Other approved Section 106 Consulting Parties
Order of Signatures for Section 106 MOA for FHWA Projects

1. **Required and invited signatories sign, with the exception of FHWA.**

   Prepare multiple signature pages for each copy of the final MOA to be circulated for signatures. There should be a separate signature page for each signatory and potential concurring party, to obtain an original signature on each page.

   a. For locally-administered, federal aid projects, the Local Sponsor signs first and sends all signed pages to the NYSDOT.

   b. The NYSDOT signs and sends the MOA with signed page(s) to the SHPO, providing multiple copies of the SHPO signature sheet, and one page for each signatory and concurring party.

   c. The SHPO signs and returns all original signature pages to the NYSDOT.

2. **The Concurring Parties sign next.**

   Assemble the MOA with the NYSDOT, Local Sponsor (if any), and SHPO signed pages. Prepare an appropriate number of documents for the concurrent distribution of the MOA to all Tribal Nations and other Concurring Parties. Track and confirm the package delivery to confirm that all Concurring Parties have received the MOA.

   a. Send separate signature sheets with a request to sign and return all pages.

   b. Give a definite time frame for the return of signed signature pages, or a response declining the opportunity to sign the MOA as a Concurring Party.

3. **FHWA signs after Concurring Parties.**

   FHWA may seek input from the ACHP before signing the MOA.

4. **ACHP – if participating in Section 106 process, and signature is needed on the MOA.**

   a. It is not necessary to have all the concurring parties sign before the document goes to the ACHP. The ACHP is going to be most concerned that any and all responsible/mandatory signatories have signed before they do.

5. **FHWA sends executed MOA to ACHP for filing.**

   a. If participating, the ACHP generally signs last when the MOA is submitted for filing.

6. **Distribute the executed MOA, with original signatures, to each Signatory and Concurring Party.**

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1 Procedures based on guidance from Mary Ann Naber, Federal Preservation Officer for the Federal Highway Administration (FHWA), and Carol Legard, FHWA Liaison, Advisory Council on Historic Preservation (ACHP)