

MEMORANDUM OF AGREEMENT

AMONG THE U.S. ARMY CORPS OF ENGINEERS,

THE OHIO STATE HISTORIC PRESERVATION OFFICER,

THE CLEVELAND-CUYAHOGA COUNTY PORT AUTHORITY

CITIZENS’S VISION / COMMITTEE TO SAVE CLEVELAND’S HULETTS

AND THE

ADVISORY COUNCIL ON HISTORIC PRESERVATION

REGARDING THE CLEVELAND-CUYAHOGA COUNTY PORT
AUTHORITY APPLICATION FOR PERMIT TO CONDUCT MAINTENANCE
DREDGING

DRAFT March 17, 2017

As modified by CITIZENS’ VISION on May 11, 2017

WHEREAS the U.S. Army Corps of Engineers (“USACE”) is considering issuing a permit (under the authority of Section 10 of the Rivers and Harbors Act of 1899) to the Cleveland-Cuyahoga County Port Authority (the “Port Authority”) or maintenance dredging in Cleveland Harbor, Lake Erie at the Cleveland Bulk Terminal, located at 5400 Whiskey Island, in the City of Cleveland, Cuyahoga County, Ohio 44102 (the Project), described as the proposed action in the Public Notice published by the USACE on March 3, 2006; and

WHEREAS the USACE has determined the Undertaking’s area of potential effects (APE), as defined at 36 CFR 800.16(d) and the permit area under 33 CFR 325 Appendix C, to be the area encompassed by the expansion plan for the Cleveland Bulk Terminal, a property listed on the National Register of Historic Places as the Pennsylvania Railway Ore Dock, as shown on Sheet 2 of 4 in the Public Notice, and any locations determined to be subject to direct or indirect effects from the relocation and public display of the Hulett, as set forth in the Stipulations; and

WHEREAS the USACE has determined that the past removal of historically contributing resources (including four Hulett ore loaders, four shunt railroad engines, and five buildings) from the Pennsylvania Railway Ore Dock (PROD) as described in the Ohio State Historic Properties Inventory, is part of the overall expansion of the Cleveland Bulk Terminal which includes and requires the proposed dredging activity, constitutes an adverse affect under 36 CFR 800.5; and

WHEREAS, in accordance with 36 CFR 800.6(a)(1), USACE has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination providing the specified documentation, and ACHP has chosen to participate in the consultation pursuant to 36 CFR 800.6(a)(1)(iii); and

WHEREAS the USACE has consulted with the Ohio History Connection(OHC), the Cleveland-Cuyahoga County Port Authority (Port Authority), Oglebay Carmeuse Lime, Inc., National Trust for Historic Preservation, **Citizens Vision’s Committee to Save Cleveland’s Hulett’s**, Cleveland Landmarks Commission, Cleveland Restoration Society, Canalway Partners (former Ohio Canal Corridor), , Mr. Marty Gelfand, Councilman Matt Zone (Ward 17), and the ACHP in accordance with Section 106 of the National Historic Preservation Act, 16 U.S.C. § 407f (NHPA), and its implementing regulations (36 CFR Part 800.6(b)(2)) to resolve the adverse effects of the Project on historic properties; and

WHEREAS pursuant to 36 CFR 800.6(c) (2) the USACE has invited the Port Authority (permit applicant), **Citizens Vision’s Committee to Save Cleveland’s Hulett’s** and Canalway Partners to sign this Memorandum of Agreement (MOA); and

WHEREAS the USACE has notified the ACHP that the USACE finds that, based on the actions of the applicant, the Port Authority, Section 110(k) of the NHPA [36 CFR 800.9(c)(1)] is applicable but that circumstances may justify granting a permit after execution of this Memorandum of Agreement which sets forth the steps to resolve the adverse effects to historic properties; and

WHEREAS failure to abide by the terms of this Memorandum of Agreement on the part of the Cleveland-Cuyahoga County Port Authority will justify the denial and/or revocation of one or more permits and

NOW, THEREFORE, the USACE, the OHC, and the ACHP agree that upon the USACE's permit decision for the dredging associated with expansion of Cleveland Bulk Terminal, the USACE, shall ensure that the following stipulations are implemented in order to take into account the effects of the Undertaking on historic properties, and that these stipulations shall govern the Project and all of its parts until this MOA expires or is terminated.

Stipulations

The USACE shall ensure that the following measures are carried out:

STIPULATION I. CONTEXT; HULETT'S HISTORIC REVIEW

A. The Port Authority will prepare a proposal that provides for the creation of a single document (hereinafter, the “Pennsylvania Railway Ore Dock and Hulett’s Historical Review” or “HHR”) that combines previously published scholarly work relevant to the PROD and Hulett’s history into a single resource. Relevant original resources that are already held within other repositories may be included

by reference. New photographs or drawings may be proposed if existing resources do not adequately provide sufficient information to clearly convey the physical characteristics of the Hulett. The HRR shall not exceed the cost of \$15,000.

1. New narrative content will be included in order to provide a context for the document's organization and content. This narrative shall also include a description of the historic relationship and importance of the Hulett to the Cleveland waterfront area.
2. The narrative shall provide a summary of previous efforts undertaken on this project by the Port Authority and local and state preservation advocates, the current and proposed **restoration and re-erection** ~~dispensation~~ of **two Hulett Ore Unloaders (Two Hulett) PRO** ~~elements~~ ~~to museums~~ and a public display on ~~a the waterlakefront~~ ~~or~~ **location in the Cleveland area**, and the current status and location of disassembled elements **and three shunt engines** that were part of the listed historic property.

B. Within 6 months of execution of this Agreement, the Port Authority will submit the proposal to the OHC **and Citizens Vision** for review and approval before the Port Authority's consultant proceeds with the new document.

C. Within 12 months of the execution of this Agreement, the Port Authority will submit a draft version of the HHR to the OHC for review and comment. After responding to such comments and any reasonable requests for revision, the Port Authority shall submit the revised draft of the HHR to OHC **and Citizens Vision** for final review and approval within 18 months of the execution of this Agreement.

D. The final HHR and any available referenced source documents will be posted in readable PDF or similar format at a ~~website~~ **hosted by Citizens Vision, Cleveland State University Digital Library, and the Port Authority.** ~~An~~ **Additional** archival-quality ~~copies~~ of the final document shall also be provided to City of Cleveland Landmarks Commission and **Western Reserve Historical Society.**

E. The Port Authority shall submit ~~eight three~~ **eight** archival copies of the final documentation package – **one bound copy each to Citizens Vision, Western Reserve Historical Society, and Cleveland State University Digital Library,** two bound copies **to the State Library of Ohio** ~~and a third unbound copy~~ **and sixth seventh and eighth** unbound copies containing any new photographic negatives **one each Western Reserve Historical Society, Cleveland State University Digital Library and** to the State Library of Ohio at the following address:

Ms. Audrey L. Hall
Government Information Services
The State Library of Ohio
274 E. First Avenue

Columbus, OH 43201

The phrase “Submitted to the Ohio Historic Preservation Office” must appear on the title page of the documentation package to allow library staff to identify OHC as the state agency from which the document originated and process it for entry into the collections.

The State Library will catalog the documentation package on the Online Computer Library Center (OCLC) system. This will make the documentation package available to anyone using WorldCat, FirstSearch, or the State Library’s catalog. The copy of the documentation package containing the photographic negatives will be placed in the State Library’s rare book room. Of the two bound copies, one may be circulated through OhioLink or according to the State Library’s policy while the other will be non-circulating.

STIPULATION II: DONATION OF **THREE SHUNT ENGINES**

Since shunt engines were essential to the process of unloading iron ore into rail cars, every effort shall be made to keep them with the Hulettts at their permanent location and further disposition requires approval of Citizens Vision and entity acquiring the Two Hulettts.

- A. All shunt engines shall be donated to the entity that will take ownership of the Two Hulett Ore Unloaders and will partake in their restoration and re-erection. The transfer of ownership agreement shall state that recipient will maintain and/or rehabilitate the shunt engine(s) in accordance with The Secretary of the Interior’s Standards for Treatment of Historic Properties to the maximum extent possible.
- B. The right of second refusal shall be given to the Midwest Railway Museum. The transfer of ownership agreement shall state that recipient will maintain and/or rehabilitate the shunt engine(s) in accordance with The Secretary of the Interior’s Standards for Treatment of Historic Properties to the maximum extent possible.
- ~~C. The right of third refusal shall be given to the Ohio Vintage Coal Co. Mining Museum for display and interpretation. The transfer of ownership agreement shall state that the Ohio Vintage Coal Co. Mining Museum will maintain and/or rehabilitate the shunt engine in accordance with The Secretary of the Interior’s Standards for Treatment of Historic Properties to the maximum extent possible. The Ohio Vintage Coal Co. Mining Museum may seek technical advice from OHC when developing plans for the shunt engine and provide the OHC an opportunity to submit comments.~~
- C. Should all of the above mentioned recipients not accept the shunt engines, then the Port Authority with the concurrence of Citizens Vision shall use reasonable efforts to donate the shunt engines to a museum capable of

maintaining and/or rehabilitating the shunt engines in accordance with The Secretary of the Interior’s Standards for Treatment of Historic Properties to the maximum extent possible.

- D. Should the Port Authority **with the concurrence of Citizens Vision** fail to locate a museum willing to accept a donation of a shunt engine, as described herein, within **five (5)** ~~three (3)~~ years of execution of this MOA, or by extension approved by the USACE **with the concurrence of Citizens Vision**, then the Port Authority shall proceed with Contingency Mitigation in accordance with Stipulation VII of this MOA.

STIPULATION III. MITIGATION AND PUBLIC DISPLAY GOALS

A. PREPARATION WORK

1. Before any move takes place, The Port Authority shall remove all vegetation that has grown up in the midst of and around the Two Huletts Components in a safe and eco-friendly manner and not dangerous to human beings or animal life no later than June 15, 2017 and to clear the area to allow evaluation of and preparation for work on the Two Huletts Components to begin.
2. Some additional space is to be provided by the Port Authority immediately adjacent to the current storage location to separate the components to facilitate for safe and economically viable restoration work.
3. The Port Authority shall allow cleaning, other preparation, and painting of the Components *in situ*, before the move.

- B. **LOCATING A WATERFRONT SITE:** The Port Authority in cooperation with Citizens Vision shall support efforts to locate a suitable Waterfront site in the Cleveland area for the relocation and re-erection of two complete Hulett Ore Unloaders. ~~continue to use reasonable efforts to locate a suitable site near the Cleveland waterfront (the “Waterfront Location”), for the relocation of a bucket and bucket leg (as illustrated in HAER OH-18) hereinafter “Two Huletts Hulett Elements”)~~ **in** for a public display.

1. The two restored and relocated Huletts are intended to be displayed publicly, to convey their historic and engineering significance as well as the magnitude of these artifacts and the technical advances that made them a reality. ~~Elements are intended for use in a public display that will convey the historic significance and engineering features of the industrial resource through the use of creative interpretation and passive recreational access. It is not the objective~~ of this MOA to seek the re-erection of the two Hulett[s] ~~alongside each other~~ into a complete vertical installation.

~~2. Subject to the terms of this MOA, the Port Authority agrees to allow the Hulett Elements (and one Shunt Engine, for which the Port Authority will use best efforts to relocate to a suitable museum or other location) to remain stored on its property for a period of no more than three years (along with any additional time extension authorized by the USACE to allow the terms of this Stipulation to be adequately met) from the execution of this agreement.~~

~~3. It is agreed that the Port Authority shall use reasonable efforts to proceed simultaneously with Stipulations II through VI.~~

C. PUBLICITY: Citizens' Vision / Committee to Save Cleveland's Hulett's, The Port Authority, in consultation with the Canalway Partners and those Concurring Parties who have signed this MOA (the "Working Group" as defined below), shall be solely responsible for all publicity (press releases, etc.) describing the project and its progress to local news media at pertinent points such as: execution of a plan that satisfies mitigation, transfer of documentation to the State Library of Ohio, restoration progress of the two Hulett's, and any other activity that will generate continued public interest in the achievement of goals and obligations of this MOA. ~~dismantling of the existing Hulett's, and installation and interpretation of the Hulett Elements and other interpretive panels at the new location(s).~~

STIPULATION IV. MITIGATION AND PUBLIC DISPLAY AT WATERFRONT LOCATION

A. The Port Authority, Canalway Partners, **Citizens' Vision / Committee to Save Cleveland's Hulett's** and those Concurring Parties who have signed this MOA (the "Working Group"), shall develop and finalize a plan that would allow the public display ("Public Display") to proceed at a Waterfront Location within **five (5)** ~~three (3)~~ years of execution of this MOA, or by extension approved by the USACE **with the concurrence of Citizens Vision,** ~~three years of the execution of this agreement.~~ This plan will provide for the relocation of the **two re-erected Hulett's Elements** for the Public Display from their current location at the Ore Dock to the new site. The Plan will also outline an integrated interpretive storyline of the history of Cleveland's Port, including that of the role of the Hulett's.

1. The Working Group shall be responsible for determining the budget and potential funding of the Public Display and seeking the commitment of sufficient funding to support it. Potential funding may include, but is not limited to, the proceeds received by the Port Authority from the Relocation Contract, as defined in Stipulation IV.C and Stipulation VI of this Agreement and grants or donations of services and funds from other sources.
2. The Working Group shall be led by ~~two~~ **three** representatives (the "Working Group Leaders") consisting of one representative each from

~~the Port Authority,~~ Citizens' Vision / Committee to Save Cleveland's Hulett's, the organization taking ownership of the Two Hulett's for complete re-erection and Canalway Partners. These representatives shall be designated within 30 days of the execution of this Agreement. They will provide contact information and a draft schedule of activities to all consulting parties within 60 days of the execution of this Agreement.

3. The Port Authority will participate as a concurring party and executing its obligations under this MOA but will have no leadership role in this group since it is the charge of this group to assure compliance by the Port Authority and the USACE with this MOA and support the attainment/completion of the MOA goals. Other Concurring Parties who have signed Memorandum of Agreement may also designate a representative to participate in the Working Group. Those consulting parties who wish to participate in the Working Group should provide written notice to the leaders of the Working Group regarding their decision to participate within 90 days of the execution of this Agreement.
 4. Representatives from other local organizations or agencies can be added to the Working Group at the discretion of the Working Group leaders, should their participation be determined as likely to facilitate the group's activities.
 5. Routine activities of the Working Group shall be managed by the ~~three~~ ~~two~~ Working Group Leaders ~~designated by the Port Authority,~~ and consisting of one representative each from Citizens' Vision / Committee to Save Cleveland's Hulett's, the organization taking ownership of the Two Hulett's for complete re-erection and Canalway Partners.
- B. When the Working Group successfully develops a plan for the Public Display, then they shall notify USACE, ACHP and the OHC with details of their proposal and a proposed work schedule for completion of the Public Display.
1. The Port Authority ~~with the concurrence of Citizens Vision~~ shall ensure that any new site for the ~~two complete~~ Hulett's Elements is appropriate to the character of the Hulett's and that the ~~Two Hulett's Elements~~ are visually and otherwise compatible with the surroundings of the new site. It is the goal of this consultation that the installation of the Public Display will not adversely affect any additional historic property.
 2. The Port Authority will complete, at its sole expense, any studies or surveys reasonably necessary to take into account effects to historic properties that are in the Area of Potential Effects for the Public Display site. USACE, in consultation with OHC, will determine the level of data

preparation that will be necessary in order to support its determination of effect.

3. If other historic properties may be adversely effected by the installation of the Public Display, this Agreement may be amended to provide for data recovery or other appropriate mitigation as agreed upon by USACE and OHC, along with any consulting parties with a demonstrated interest in that consultation.

C. In order to implement the Public Display plan, the Port Authority **with the concurrence of Citizens Vision and the organization taking ownership of the Two Hulettts for complete re-erection** will identify and contract with a reputable contractor to ~~dismantle transport~~ the **Two Hulettts Elements Components** and ~~transport them~~ to the Public Display site **and re-assemble them into two complete Hulettts** (the “Relocation Contract”).

1. The Port Authority will submit the plans for this ~~partial~~ relocation to the USACE, ACHP, and OHC **as well as Citizens Vision and the organization taking ownership of the Two Hulettts for complete re-erection** for review and comment before authorizing the move to proceed with the Public Display.

~~2. Consistent with Stipulation VI A 1, the Port Authority may identify and contract with a reputable contractor(s) to scrap the remaining portions of the Hulettts pursuant to Stipulation VI of this agreement to help fund the dismantling and relocation of the Hulett Elements to the Lakefront Location and/or the Museum Location described in Stipulation V.~~

D. If the Port Authority **fails to relocate the two Hulettts Components Elements** to the Waterfront Location within **five (5) three (3)** years (along with any additional authorized time extension), then the Port Authority shall **be liable for payment of the move as directed by Citizens Vision and the organization taking ownership of the Two Hulettts for complete re-erection.**

~~proceed in accordance with Stipulations VI and VII of this agreement.~~

STIPULATION V – MITIGATION AND DISPLAY OF FULLY RESTORED AND ERECTED TWO HULETTTS AT PERMANENT MUSEUM LOCATION

A. The Port Authority shall provide a plan to OHC to relocate the **Two Hulettts Components Elements** to the **site agreed upon by the Working Group, National Great Lakes Museum for public interpretation and display at their new facility in Toledo, Ohio (the “Museum Location”).**

1. The Port Authority will identify and contract with a reputable contractor(s) **agreed to by Citizens Vision and the organization taking ownership of the Two Hulettts for complete re-erection** to ~~dismantle one Hulett,~~ transport the **Two Hulettts Components Elements** in a manner which **allows**

complete re-erection of the Two Hulett Elements and does them no harm to the agreed-upon Museum Location. Relocation of the Two Hulett Components Elements shall occur within five three years of the execution of this agreement, or within an additional period of time that is authorized by USACE

2. The organization taking ownership of the Two Hulett Elements for complete re-erection at the permanent Museum Location shall be responsible for the museum display, interpretation and context of the re-erected Two Hulett Elements.
- B. The organization taking ownership of the Two Hulett Elements for complete re-erection at the permanent Museum Location shall ensure the complete static re-erection installation of the Two Hulett Elements, and that their museum display is accomplished in accordance with The Secretary of the Interior’s Standards for Historic Vessel Preservation Projects to the maximum extent practicable. The organization taking ownership of the Two Hulett Elements for complete re-erection at the permanent Museum Location may seek technical advice from OHC when developing proposed installation plans and provide the OHC and Citizens Vision an opportunity to submit comments.
- C. The Working Group with the participation of the organization taking ownership of the Two Hulett Elements Port Authority shall be solely responsible for all publicity (press releases, etc.) describing the project and its progress to local news media at pertinent points such as: transfer of documentation to the State Library of Ohio, dismantling of the existing Hulett restoration of the existing Two Hulett components, re-erection of the Two Hulett Elements and installation and interpretation of the Hulett Elements at the permanent locations(s).

STIPULATION VI – REMOVAL OF REMAINING PORTIONS OF HULETT; RELOCATION CONTRACT

- A. Until such time as USACE deems the obligations of Stipulation IV or V of this Agreement as being substantially fulfilled, the Two Hulett Components Elements shall be preserved at the CBT. The Hulett Elements (and three one Shunt Engines) may be moved about the CBT at the discretion of the Port Authority with the consent of Citizens Vision and the organization taking ownership of the Two Hulett Elements for complete re-erection so long as such movement does not cause harm to the restoration of the Two Hulett components nor interrupt or obstruct their restoration work or affect its transportation for the eventual erection as two complete Hulett Elements.
1. Contemporaneously with the execution of this Agreement, the Port Authority may identify and contract with a reputable contractor(s) to dismantle the Hulett, store the Hulett Elements at the CBT, and scrap the

~~remaining portions of the Hulettts either independently or through the Relocation Contract. The Port Authority shall hold in a separate account all proceeds received by it from the Contractor representing the scrap value for further use in accordance with this Agreement.~~

2. Expenses incurred by the Port Authority in fulfillment of the requirements of Stipulations I – V shall be limited to **\$500,000**. ~~the scrap value of the Hulettts or \$250,000, whichever is greater.~~ Additional funding may also include grants or donations of services and funds raised by any of the Consulting Parties. In the event the direct project costs incurred are **more than the Port Authority Contribution of \$500,000.00 but less than the amount raised/contributed by all parties, the balance will be retained by the the organization taking ownership of the Two Hulettts for complete re-erection for their future maintenance in a distinct account.** ~~less than the scrap value of the Hulettts, the Port Authority will retain any remaining funds.~~

B. In the event that the **Two Hulettts Components Elements** within five (5) years of execution of this MOA, or by extension approved by the USACE with the concurrence of **Citizens Vision** of execution of this Agreement, are unable to be relocated to the Public Display at the Waterfront Location and/or the Museum Location, as the case may be, then the Port Authority **with the concurrence of Citizens Vision** shall proceed with Contingency Mitigation in accordance with stipulation VII of this MOA.

STIPULATION VII. CONTINGENCY MITIGATION

A. In the event any of the mitigation required by Stipulations II – VI are not accomplished within **five (5)** ~~three (3)~~ years of execution of this MOA, or by extension approved by the USACE **with the concurrence of Citizens Vision**, then the Port Authority shall make donation(s) to the Ohio History Connection Foundation. Any donations shall be made by the Port Authority from the funds held in a separate account from the **recovered scrap value in the disposition of these historical artifacts and being** ~~of~~ the remaining **Two Hulettts Components elements of the Hulettts** and/or the Shunt Engines but shall be no less than **\$250,000**. The funds in this endowment will be utilized as a permanent fund to achieve positive historic preservation outcomes **exclusively in Cuyahoga County, throughout the state of Ohio and for industrial artifacts preservation.**

STIPULATION VIII. PROFESSIONAL QUALIFICATIONS

All physical dismantling, moving, reassembly, and interpretation of the Hulettts carried out pursuant to this agreement shall be conducted under the supervision of a person or persons meeting at a minimum the Secretary of the Interior's Personnel Qualifications, found at 36 CFR 61.2(d) and in the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (NPS 1983:44738-9) **and with the concurrence of Citizens Vision .**

STIPULATION IX . EFFECTIVE DATE AND DURATION

This agreement shall become effective on the date the Permit is validated by the USACE (the “Effective Date”) and will be null and void if its terms are not carried out within five (5) years from the date of its execution. At such time, and prior to work continuing on the undertaking, the USACE shall either (a) execute a MOA pursuant to 36 CFR 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR 800.7. Prior to such time, the USACE may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation XII below. The USACE shall notify the signatories as to the course of action it will provide **but will not issue a permit without 45 days notice of its intent to Citizens Vision/Committee to Save Cleveland’s Huletts.**

STIPULATION X. POST-REVIEW DISCOVERIES

In the event of discovery of archeological artifacts, the Port Authority shall immediately stop work in the area of discovery and notify the USACE and OHC. The Port Authority, under direction of the USACE and OHC shall comply with 36 CFR 800.13(b) and 33 CFR 325 Appendix C, as well as any other legal requirements to include consultation in accordance with Section 106 of the National Historic Preservation Act. The Port Authority will provide site information and a recommendation regarding National Register eligibility for the location to the USACE and OHC.

STIPULATION XI. MONITORING AND REPORTING

A. Each year following the execution of this agreement or until Stipulations I – VII are complete or the MOA is terminated, the Port Authority shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall be provided to **Citizens Vision/Committee to Save Cleveland’s Huletts 45 days prior to any action that contemplates deviation from obligations of this MOA** and include any scheduling changes proposed, any problems encountered, and any disputes and objections received in the USACE’s efforts to carry out the terms of this agreement.

B. Monitoring and reporting requirements shall not exceed five years from the date of MOA implementation unless specifically extended **under previous stipulations** by amendment under Stipulation XII, below.

STIPULATION XII. DISPUTE RESOLUTION

Should any party to this agreement object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the USACE shall **notify Citizens Vision/Committee to Save Cleveland’s Huletts and all parties of the objection and share all communication with any consultation activity** ~~consult~~

with the objecting party(ies) to resolve the objection **and any subsequent actions**. If the USACE determines, within 30 days, that such objection(s) cannot be resolved, the USACE will:

1. Forward all documentation relevant to the dispute to the ACHP in accordance with 36 CFR Section 800.2(b)(2). Upon receipt of adequate documentation, the ACHP shall review and advise the USACE on the resolution of the objection within 30 days. Any timely comment provided by the ACHP, and all timely comments from the parties to the MOA, will be taken into account by the USACE in reaching a final decision regarding the dispute.
2. If the ACHP does not provide comments regarding the dispute within 30 days after receipt of adequate documentation, the USACE **is to immediately notify all parties and give at least 30 days notice for comments and before it** may render a decision regarding the dispute. In reaching its decision, the USACE will take into account all timely comments regarding the dispute from the parties to the MOA.
3. The USACE’ responsibilities to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged. The USACE will notify all parties of its decision in writing before implementing that portion of the Undertaking subject to dispute under this stipulation. The USACE’ decision will be final **after 30 days of intended decision notification to all parties**.

STIPULATION XIII. AMENDMENTS

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

STIPULATION XIV. TERMINATION

If any Signatory or Invited Signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation XIII, above. 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 continuing on the undertaking, the USACE must either (a) execute an MOA pursuant to 36 CFR 800.6, or (b) request, take into account and respond to comments of the ACHP under 36 CFR 800.7. Within 30 days following termination, the Corps shall notify the signatories as to the course of action it will pursue.

EXECUTION of this Memorandum of Agreement by the USACE, OHC, and ACHP, the submission of documentation and filing of this Memorandum of Agreement with the ACHP pursuant to 36 CFR Section 800.6(b)(1)(iv) prior to the USACE’s approval of this undertaking, and implementation of its terms evidence that the USACE has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORIES

U.S.ARMY CORPS OF ENGINEERS

Name and Title:_____ Date:_____

OHIO STATE HISTORY CONNECTION

Name and Title:_____ Date:_____

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Name and Title:_____ Date:_____

CITIZENS’ VISION / COMMITTEE TO SAVE CLEVELAND’S HULETTTS

Name and Title:_____ Date:_____

INVITED SIGNATORIES

The refusal of any invited signatory to sign the memorandum of agreement does not invalidate the memorandum of agreement [36 CFR 800.6 (c)(2)(iv)].

CLEVELAND-CUYAHOGA COUNTY PORT AUTHORITY

Name and Title:_____ Date:_____

The Cleveland-Cuyahoga County Port Authority agrees to participate in and implement this MOA. By participating in this MOA the Cleveland-Cuyahoga County Port Authority does not waive any rights it may have (including rights to any administrative appeals) or concede any legal conclusions or factual findings or determinations as set forth in this MOA.

CANALWAY PARTNERS

Name and Title:_____ Date:_____

Cleveland Landmarks Commission

Name and Title:_____ Date:_____

Cleveland Restoration Society

Name and Title: _____ Date: _____

~~Committee to Save Cleveland's Hulett~~

~~Name and Title: _____ Date: _____~~

National Trust for Historic Preservation

Name and Title: _____ Date: _____

Councilman Matt Zone (Ward 17)

Name and Title: _____ Date: _____