

MEMORANDUM OF AGREEMENT
BETWEEN

THE FEDERAL HIGHWAY ADMINISTRATION
AND

THE IOWA STATE HISTORIC PRESERVATION OFFICE
REGARDING THE

MISSISSIPPI DRIVE CORRIDOR RECONSTRUCTION PROJECT
CITY OF MUSCATINE, MUSCATINE COUNTY [STP-U-5330(614)--70-70];
IOWA SHPO REVIEW AND COMPLIANCE #20080170073

WHEREAS, the Federal Highway Administration (FHWA) plans to fund the City of Muscatine's (the City) Mississippi Drive Corridor Reconstruction Project (undertaking) pursuant to Section 106 of the National Historic Preservation Act, 54 U.S.C. § 306108 (the Act), and its implementing regulations (36 CFR § 800); and

WHEREAS, this undertaking consists of the reconfiguration of the intersection of Green Street and Hershey Avenue, raising of the road grade from Sycamore Street to Mulberry Avenue, improvements to Hershey Avenue, Mississippi Drive, and associated utilities through the downtown area from south of Main Street to the Norbert F. Beckey Bridge; and

WHEREAS, the FHWA has defined the undertaking's area of potential effects (APE) as described in Attachment A; and

WHEREAS, the FHWA has determined that this undertaking may have an adverse effect on the Puritan Ice Company Building [70-01194], which is eligible for listing in the National Register of Historic Places, and has consulted with the Iowa State Historic Preservation Office (SHPO) pursuant to 36 CFR § 800, the regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108); and

WHEREAS, the FHWA has determined that this undertaking should not have an adverse effect on the Papoose Creek Sewer, which is eligible for listing in the National Register of Historic Places, and has consulted with the Iowa State Historic Preservation Office (SHPO) pursuant to 36 CFR § 800, the regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108); and

WHEREAS, the FHWA has determined that this undertaking should not have an adverse effect on sites 13MC297, 13MC323, 13MC324, and the 1833 Russell Farnham Cabin area, which are potentially eligible for listing in the National Register of Historic Places, and has consulted with the Iowa State Historic Preservation Office (SHPO) pursuant to 36 CFR § 800, the regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108); and

WHEREAS, the FHWA has determined that this undertaking should not have an adverse effect on the sixty-eight structures identified in Appendix B, which are listed in, eligible or potentially eligible for listing in the National Register of Historic Places, and has consulted with the Iowa State Historic Preservation Office (SHPO) pursuant to 36 CFR § 800, the regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108); and

WHEREAS, the FHWA has consulted with the Ho-Chunk Nation, Iowa Tribe of Kansas and Nebraska, Iowa Tribe of Oklahoma, Miami Nation of Oklahoma, Omaha Tribe of Nebraska, Otoe-Missouria Tribe, Peoria Tribe of Oklahoma, Ponca Tribe of Nebraska, Prairie Band Potawatomi Nation, Sac and Fox Tribe of the Mississippi in Iowa, Sac and Fox Tribe of Oklahoma, Sac and Fox Nation of Missouri, Winnebago Tribe of Nebraska, and Yankton Sioux Tribe, for which no specific historic properties within the APE have been expressed as having religious and cultural significance; and

WHEREAS, the FHWA has consulted with the City and the Iowa Department of Transportation (Iowa DOT) regarding the effects of the undertaking on historic properties and has invited them to sign this MOA as invited signatories; and

WHEREAS, the FHWA has consulted with the Muscatine Historic Preservation Commission and Preservation Iowa regarding the effects of the undertaking on historic properties and has invited them to sign this MOA as concurring parties; and

WHEREAS, this undertaking has continued to be developed with appropriate public involvement pursuant to 36 CFR 800.2(d) and 800.6(a), having been coordinated with the scoping, public review and comment, and public hearings conducted to also comply with National Environmental Policy Act and its implementing regulations; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), the FHWA 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 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 shall ensure that the following measures are carried out:

All official correspondences from the City will be circulated through the Iowa DOT.

I. MITIGATION OF ADVERSE EFFECTS

- A. The City shall document the Puritan Ice Company Building in accordance with the recordation plan *Iowa Historic Property Study Booklet* as outlined in Appendix C.
- B. The City shall carry out this documentation plan, as approved by the SHPO, in a manner consistent with applicable criteria for meeting the Secretary of the Interior's four standards for architectural and engineering documentation (48 FR 4431) and by a person or firm whose education and professional experience meets or exceeds the Secretary of the Interior's Professional Qualification Standards (48 FR 44738-9) for historians.

- C. The City may proceed with demolition of the Puritan Ice Company Building only after the SHPO has approved the photographic and other field documentation information gathered at the property, as outlined in Appendix C, Part VI.3 and Part VI.4(i).
- D. The City shall submit the draft version of the documentation, as outlined in Appendix C, to the SHPO for review within 12 months of the SHPO's approval of the photographs and field information. If the SHPO does not provide comments within 45 days of receipt, the author may proceed to finalize the document.
- E. The City shall provide twenty-five (25) copies of the final documentation in paper form and as a PDF on CD to all signatories of this MOA, as well as the Muscatine Historic Preservation Commission, and the Muscatine Public Library.
- F. The City shall ensure the development of the document as outlined in Appendix C may be hosted on and printed from the Iowa DOT website.

II. AVOIDANCE OF ADVERSE EFFECTS

A. CONSTRUCTION MONITORING: Papoose Creek Sewer

- i. All construction activities within fifty (50) feet of the Papoose Creek Sewer shall be monitored.
- ii. The City shall contract the services of a person whose education and professional experience meets or exceeds the Secretary of the Interior's Professional Qualification Standards (48 FR 44738-9) for historians for this monitoring.
- iii. The City shall provide a report documenting the results of monitoring to the SHPO sixty (60) days after completion of monitoring.

B. CONSTRUCTION MONITORING: Archaeological Sites

- i. All construction ground disturbing activities within fifty (50) feet of sites 13MC297, 13MC323, 13MC324, and the 1833 Russell Farnham Cabin shall be monitored.
- ii. The City shall contract the services of a qualified archaeologist that meets or exceeds the Secretary of the Interior's Standards for archaeology for this monitoring.
- iii. The qualified monitor will help identify any site components that may not have been uncovered previously; and should anything be identified, will proceed with the process outlined in Stipulation IV of this MOA.
- iv. The City shall provide a report documenting the results of monitoring to the SHPO sixty (60) days after completion of monitoring.

C. VIBRATION: Monitoring

- i. The City shall ensure a pre-construction survey of the twenty-one (21) historic properties identified in Appendix B Part I is completed to document their present condition. The preconstruction survey will also establish a peak particle velocity (PPV) threshold for vibration.
- ii. The City shall ensure sensors (crack and/or seismic) are installed and tested daily. If eighty (80) percent of the PPV threshold is reached sensors will alert the contractor and in turn the construction engineer.
- iii. If the PPV is reached, a meeting with the contractor and the construction engineer will identify alternative demolition/ construction methods and/or equipment to be used to minimize project vibration.
- iv. If damage to these properties occurs during construction or demolition, all activities will cease until approval from the construction engineer occurs. The SHPO and Iowa DOT will be immediately notified if this occurs.
- v. The City shall ensure a post-construction survey is performed and distributed to the SHPO sixty (60) days after construction completion.
- vi. Items under Stipulation II.C will be captured in a Special Provision of the construction documents.

D. VIBRATION: Plans

- i. The City shall ensure the construction plans contain a plan note identifying the forty-seven (47) properties listed in Appendix B Part II are listed or considered eligible for listing in the National Register of Historic Places.
- ii. The City shall ensure the construction plans contain a plan note identifying that all demolition and construction methods and equipment used shall achieve low project vibration levels when working near these properties.
- iii. If damage to these properties occurs during construction or demolition, all activities will cease until approval from the construction engineer occurs. The SHPO and Iowa DOT will be immediately notified if this occurs.
- iv. The City shall provide check plans to the SHPO for their review and comment.
- v. The City shall provide final plans to the SHPO for their information.

III. DURATION

This MOA will expire if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, the FHWA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VII below.

IV. POST-REVIEW DISCOVERIES

If properties are discovered that may be historically significant or unanticipated effects on historic properties found, the FHWA shall implement the discovery plan of this stipulation.

A. DISCOVERY PLAN: Archaeology

If construction work should uncover previously undetected archaeological materials, the City will cease construction activities involving subsurface disturbances in the area of the resource and notify the SHPO of the discovery and proceed with the following stipulation. If the discovery includes human remains, Stipulation IV.B will be followed.

- i. The SHPO, or an archaeologist retained by the City that meets or exceeds the Secretary of the Interior's Standards for archeology, will immediately inspect the work site and determine the extent of the affected archaeological resource. Construction work may then continue in the area outside the archaeological resource as it is defined by the the City's retained archaeologist in consultation with the SHPO.
- ii. Within fourteen (14) days of the original notification of discovery, the City, in consultation with the SHPO, will determine the National Register eligibility of the resource. The City may extend this 14-day calendar period one time by an additional seven (7) days by providing written notice to the SHPO prior to the expiration date of said 14-day calendar period.
- iii. If the resource is determined eligible for the National Register, the City via the Iowa DOT shall submit a plan for its avoidance, protection, recovery of information, or destruction without data recovery to the SHPO for review and comment. The Iowa DOT will notify all consulting parties including interested tribes of the unanticipated discovery and provide the proposed treatment plan for their consideration. The SHPO and consulting parties will have seven (7) days to provide comments on the proposed treatment plan to the FHWA and Iowa DOT upon receipt of the information.
- iv. Work in the affected area shall resume upon either:
 1. the development and implementation of an appropriate data recovery plan or other recommended mitigation procedures; or
 2. agreement by the SHPO that the newly located archaeological materials are not eligible for inclusion on the National Register.

B. DISCOVERY PLAN: *Human Graves*

The Iowa Code protects all human burials in the state of Iowa. Ancient remains are protected under Chapter 263B, 523I.316(6), and 716.5 of the Iowa Code and the provisions of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 through 3005).

In the event that human remains or burials are encountered during additional archaeological investigations or construction activities, the City shall proceed with the following process:

- i. Cease work in the area and take appropriate steps to secure the site.
- ii. Notify the Iowa DOT Office of Location and Environment, the Office of the State Archaeologist (OSA) and the SHPO.
- iii. If the remains appear to be ancient (i.e., older than 150 years), the OSA shall have jurisdiction to ensure Iowa law, NAGPRA and implementing regulations (43CFR10) are observed. In keeping with the policy and procedures of the OSA, the disposition of the remains will be arranged in consultation with the culturally affiliated tribe(s) or the Indian Advisory Council, following the procedures in the OSA/tribal NAGPRA agreement for culturally unidentifiable human remains if the affiliation is not known.
- iv. If the remains appear to be less than 150 years old, the remains may be legally protected under Chapters 113.34, 144.34, 523I.316, and 716.5 of the Iowa Code and the Iowa Department of Health will be notified.

V. MONITORING AND REPORTING

Each year following the execution of the MOA until it expires or is terminated, the City shall 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 FHWA's efforts to carry out the terms of this MOA.

VI. 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's proposed resolution, to the ACHP. The ACHP shall provide the 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, the 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. The 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) day time period, the FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the FHWA 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 ACHP with a copy of such written response.
- C. The 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.

VII. 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 ACHP.

VIII. 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 parties to attempt to develop an amendment per Stipulation VII 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 work continuing on the undertaking, the FHWA must 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. The FHWA shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by the FHWA and the SHPO, and implementation of its terms is evidence that the FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

This agreement is binding upon the signatories hereto not as individuals, but solely in their capacity as officials of their respective organizations, and acknowledges proper action of each organization to enter into the same.

SIGNATORIES:

FEDERAL HIGHWAY ADMINISTRATION – IOWA DIVISION

Date _____
Michael LaPietra, Environment and Realty Manager

IOWA STATE HISTORIC PRESERVATION OFFICER

Date _____
Steve King, Deputy State Historic Preservation Officer

INVITED SIGNATORIES:

IOWA DEPARTMENT OF TRANSPORTATION

Date _____
James Rost, Director Office of Location and Environment

THE CITY OF MUSCATINE

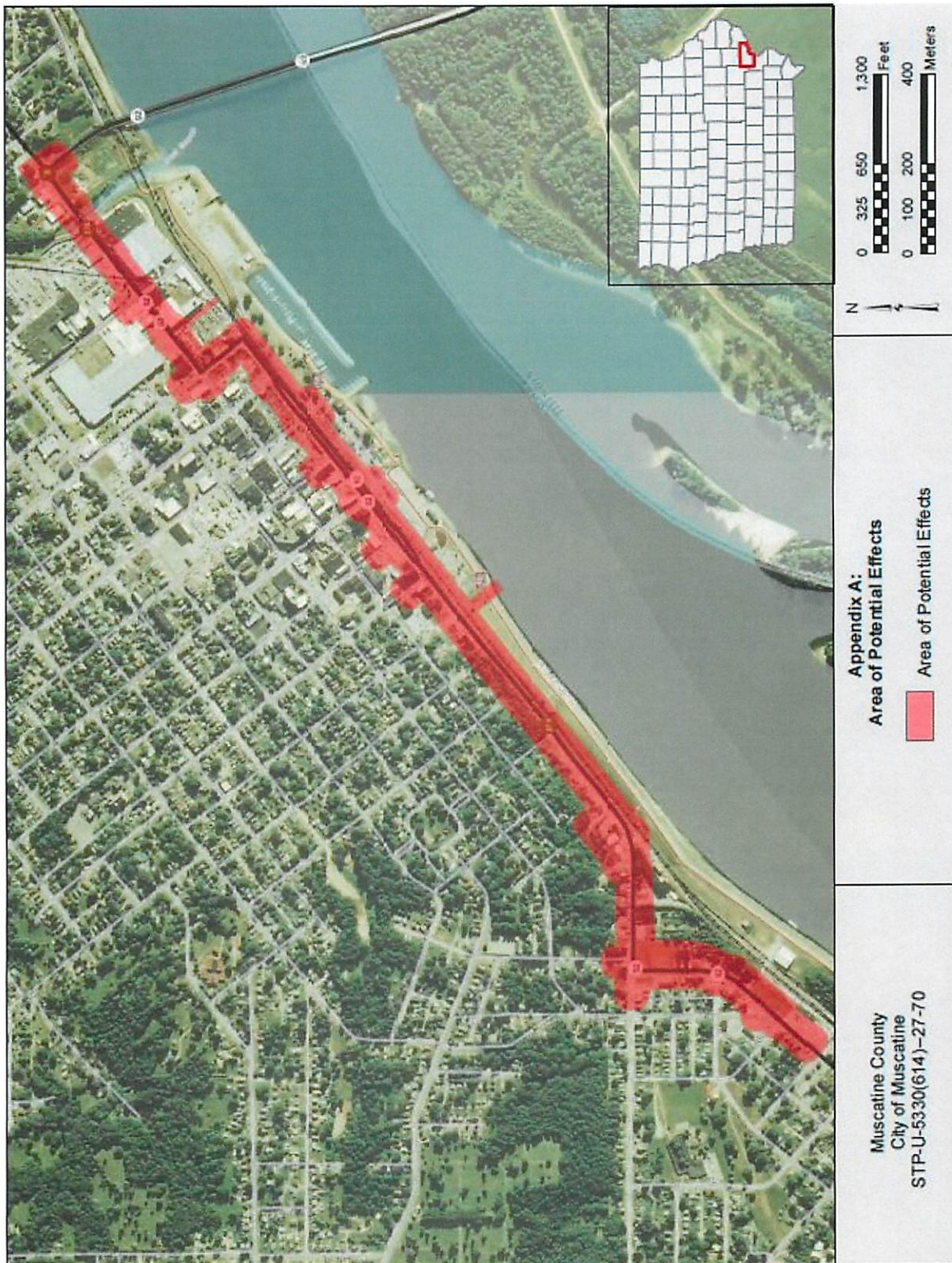
Date _____
Gregg Mandsager, City Administrator Muscatine

CONCURRING PARTIES:

MUSCATINE HISTORIC PRESERVATION COMMISSION

Date _____
Jane Reischauer, Chair Muscatine Historic Preservation Commission

Appendix A Area of Potential Effects



Appendix B

Part I - Historic Properties with Vibration Monitoring		Site Inventory Number	Address			
1	Commercial Building	70-00148	417	E	2nd	St
2	Commercial Building		515	E	2nd	St
3	Barry Manufacturing Office	70-00149	419	E	2nd	St
4	Mull Wholesale Grocery / Mull, Charles & Sons	70-00168	228	W	2nd	St
5	Fisher-Foley Tin Shop	70-00377	117		Chestnut	St
6	Hershey Lumber Building		107		Elm	St
7	McKee & Bliven Button Co.	70-00428	1000		Hershey	Ave
8	Hershey Lumber Co. Offices	70-00429	1001		Hershey	Ave
9	Hershey Hose Company/Fire Station No. 3		1029		Hershey	Ave
10	Kern Meat Market / Busch Drugstore		1045		Hershey	Ave
11	Appel Grocery and Sample Rooms; White Way Hotel		1203		Hershey	Ave
12	Commercial Building		1303		Hershey	Ave
13	Gaeta Fruit Store and Confectionary	70-00976	107		Iowa	Ave
14	Fitzgerald Block	70-00458	109-111-113		Iowa	Ave
15	Musser, Peter, House	70-00530	501	E	Mississippi River	Dr
16	Hotel Muscatine	70-00533	101	W	Mississippi River	Dr
17	Bennett Mill	70-00535	221-225	W	Mississippi River	Dr
18	Isett Warehouse / Green & Stone Pork House	70-00536	301	W	Mississippi River	Dr
19	Citizens Electric Light and Power Company	70-00527	315-317	W	Mississippi River	Dr
20	McKibben, S. M., House	70-00616	102-104		Walnut	St
21	Papoose Creek Sewer	70-01507				

Part II - Historic Properties with Vibration Plan Note		Site Inventory Number	Address			
1	Baker Hospital No. 2		408	E	2nd	St
2	Trinity Episcopal Church	70-00146	411	E	2nd	St
3	Garage		507-511	E	2nd	St
4	Danny's Service		700	E	2nd	St
5	Family Dollar		725	E	2nd	St
6	Commercial		1001	E	2nd	St
7	Commercial		1005	E	2nd	St
8	Pioneer Drug Store / Silverhorns	70-00119	124	E	2nd	St
9	German American Savings Bank Building	70-00120	200-202	E	2nd	St
10	Building	70-00123	204	E	2nd	St
11	Otto and Sons Grocery Block	70-00125	206	E	2nd	St
12	Bisesi Block	70-00147	413-415	E	2nd	St
13	Tappe Block	70-00160	200-202-204	W	2nd	St
14	Bridgman and Sons Insurance	70-00962	224	W	2nd	St
15	Brick Garage and Levee			E	3rd	St
16	Schmidt Shoe Factory	70-00375	115		Chestnut	St
17	Schroeder, H. Building	70-00376	116		Chestnut	St
18	Commercial Building	70-00378	118		Chestnut	St
19	Commercial Building	70-00972	119		Chestnut	St
20	Clarke's Standard Service Station		103		Grandview	Ave
21	Commercial Building / Universal Crushed Shell Co.		300		Grandview	Ave
22	House		301		Grandview	Ave
23	House		305		Grandview	Ave
24	House (Cedar Street Investments)		309		Grandview	Ave
25	House		311		Green	St
26	Maid Rite Sandwich Shop No. 2	70-01179	1033		Hershey	Ave
27	Building		1212		Hershey	Ave

Part II - Historic Properties with Vibration Plan Note (continued)		Site Inventory Number	Address		
28	Rosenmund Building		1216	Hershey	Ave
29	Modern Dairy		1309	Hershey	Ave
30	Fulliam, Jr., Edmond B. and Louise, House	70-01123	107	Locust	St
31	Escape Salon		403	W Mississippi River	Dr
32	Mississippi Marine Inc.		411	W Mississippi River	Dr
33	House		701	W Mississippi River	Dr
34	House		705	W Mississippi River	Dr
35	House		715	W Mississippi River	Dr
36	House		805	W Mississippi River	Dr
37	Garvin House	70-00532	505	E Mississippi River	Dr
38	Commercial Building	70-00979	101	E Mississippi River	Dr
39	Henderson Chevrolet-Oldsmobile Building	70-00980	117-119	E Mississippi River	Dr
40	Sieg Auto Parts Building	70-00981	305	W Mississippi River	Dr
41	Commercial Building		227	Mulberry	Ave
42	HON, Inc		200	Oak	St
43	Muscatine Municipal Electric Plant Substation & Service Building	70-00986	126	Pine	St
44	Bartlett-Kautz House	70-01135	107	Spruce	St
45	Brick Sidewalk				
46	West Hill Historic District	70-01005			
47	Downtown Commercial Historic District	70-01004			

Appendix C

Iowa Historic Property Study Booklet

The documentation identified below is for the commercial Puritan Ice Company Building [70-01194] that has been found eligible for listing in the National Register of Historic Places due to its state and local significance. This documentation is to be written for a broad public audience--kept simple, direct, and free of technical and academic jargon. The information is to be presented (i.e., edited, cataloged and packaged) in accordance with Historic Preservation Bureau guidelines. In its content, quality, materials, and presentation, the study will meet the Secretary of the Interior's four standards for architectural and engineering documentation (48 FR 44731).

The purpose of this documentation will be to place the commercial building in architectural and historical perspective, explaining how its story played out against the background of commercial use and design at related local, state, or national trends. The research emphasis will be placed on recovering information about the evolution of the building and its uses in relation to the context of the area's commercial history based on primary sources to the greatest extent possible.

The documentation shall be formatted as a for-public booklet. It shall be printed on archival bond paper, of approximately fifteen pages. Statements within the booklet shall use endnotes as to their sources, where appropriate. The required information and suggested format for presentation is stated below.

Cover Page

Includes report title, governmental entity or source of support for sponsoring the survey, author/authors, name of affiliated firm or research organization, date of report.

Acknowledgments (if applicable)

This might include acknowledgment of valuable oral informants, or recognition of those who provided useful research leads, tendered special library assistance or helped locate and access useful courthouse archives.

Table of Contents

Introduction

The introduction describes the purpose of project, time frame when research and field work occurred, and limitations of the project.

Part I

The Building Today takes the reader to the property, describing where it is situated, its general appearance and arrangement, and important physical characteristics of its setting, buildings, and landscape features that have influenced the way things developed.

Part II:

Historical Background steps back to explain how the building fits into the development of its surrounding neighborhood and section of the town. This would identify when and

why the building was erected with respect to the platted area's development, by whom, and its part in the shifting commercial/industrial patterns of the vicinity. Included here might be attention to if it was once in a commercial/industrial node of a now absorbed suburban area or in a main street commercial center, and its place in the evolution from joint residential and commercial use toward purely commercial/industrial operations.

Part III:

Construction history documents the specific physical evolution of this commercial property and its leading periods of construction activity, major changes in the property and associated structures, or when new elements were introduced. The discussion may also note specific features which the building or its associated facilities share with other known properties (e.g., similarities in plan, materials, construction techniques, and subsequent alterations).

Part IV:

Significance of the property explains ways that the commercial property has interpretive value to understanding local or state development, or of how the frequency, arrangement, construction dates, and type of building illustrates something important about the evolving commercial architecture of the area. Included here might be mention of past publicity given the property or of how its building(s) illustrate new, innovative, or typical design practices and uses of material. Photographs, illustrations, or site plan may be integrated into the narrative as needed to help convey the property's interpretive value.

In evaluating the life of the commercial property, attention might be paid to:

1. Changes in ownership, management, or internal organization;
2. The introduction of new retail or wholesale activities at the site and its effects;
 - a. on others (e.g., subsequent adoption by competitors)
 - b. on the internal operations of the firm, on productivity, on profitability
3. Site constraints and opportunities (e.g., obstacles that affected design or limited expansion, convenience to shoppers and markets);
4. Sequence of construction, alterations, additions, replacement, demolition, or losses due to fire at the site;
5. Individuals who designed, engineered, or built the commercial building;
6. Materials used in construction;
7. Form that the buildings took in relation to their functions and similarities in plan to others then in use;

8. The relative importance of individual buildings at the site to the commercial building's activities, with the least important meriting minimal study and documentation;

Part V: Reference Sources

A paragraph or two about the quality and quantity of information consulted, its location, noting any conflicts in source materials, their accuracy, biases or noteworthy historical perspectives. This would be followed by a bibliography of the reference source materials.

Part VI: Appendices

The information here--if not placed elsewhere in the report--would include, but not be limited to, the following:

1. The Iowa Site Inventory Number, Review and Compliance Number and the FHWA project number shall be referenced.
2. Map(s) showing location in county/town, changes in property size, etc.
3. Drawings: All drawing shall show elements in correct relation and proportion to one another, with label, north arrow, overall dimensions, and the date sketched. The drawings include:
 - i. A site plan drawing showing the commercial property's location and building footprint in relation to its immediate landscape configuration including but not limited to driveways and public roads.
 - ii. The building floor plan showing the organization and arrangement of spaces, including exterior dimensions.
4. Photographs: Any required photographic coverage may be in digital format.
 - i. Eight or more views showing the building, its setting, as well as shots that will adequately illustrate the building from all sides and various building details or elements, both interior and exterior.
 - ii. Available historic photographs or illustrations that reveal the building under construction, improvement, in later use or as shown in an advertisement or architectural plan will be selected and appropriately reproduced.