June 1, 2015

The Honorable James Inhofe  The Honorable Barbara Boxer
Chairman                  Ranking Member
Committee on Environment and Public Works  Committee on Environment and Public Works
United States Senate      United States Senate
410 Dirksen Senate Office Building  456 Dirksen Senate Office Building
Washington, DC 20510      Washington, DC 20510

Re: MAP-21 Reauthorization

Dear Chairman Inhofe and Ranking Member Boxer,

Our organizations share a commitment to preserving the nation’s rich heritage of protected historic areas. We have collaborated on many efforts over the years to protect historic resources from poorly planned transportation projects that have threatened, and sometimes destroyed, important historic places.

We also share a deep respect and appreciation for section 4(f) of the Department of Transportation Act of 1966. Section 4(f) is the nation’s strongest preservation law, providing substantive protection for our nation’s historic sites. Under section 4(f), the Secretary of Transportation is prohibited from approving any project that would “use” historic resources unless there is “no feasible and prudent alternative” to doing so. Furthermore, in cases where such harm is unavoidable, section 4(f) requires “all possible planning to minimize harm.”

Last year, immediately following the introduction of the MAP-21 Reauthorization Act (S.2322), several of our organizations wrote to the Committee outlining concerns with section 1303 of the bill, which would severely undercut the long-standing protective mandates of section 4(f). The provision, which originated as section 1005 of the Obama Administration’s proposed GROW AMERICA Act, would replace the long-standing substantive commitment to avoid harm to historic resources with a set of bureaucratic procedures that would depart sharply from long-standing practice and leave important historic sites vulnerable to unnecessary harm.

Furthermore, experts with a working knowledge of section 4(f) and the transportation project review process have stated clearly that section 1005 of the GROW AMERICA Act would have the opposite effect of its stated objective, which is to streamline the transportation project review process. Of note, the Advisory Council on Historic Preservation (ACHP), the independent Federal agency that advises the President and Congress on national historic preservation policy,
recently expressed in a letter to the Committee “that section 1005 will not resolve the operational issues that the [Department of Transportation] agencies have identified.”

The ACHP also expressed in its letter to the Committee that it has begun working with Federal transportation agencies to identify several areas where process improvements would be helpful and to craft specific solutions that can be achieved in a reasonable amount of time.

As you work to draft a new MAP-21 reauthorization bill, we request that section 1005 of the GROW AMERICA Act, or a substantially similar provision, not be included in the Committee’s bill. The provision has received no legislative review in Congressional hearings, yet its impact on historic resources could be devastating while its objective to streamline the transportation project review process would not be achieved.

We appreciate your long-standing leadership in protecting the nation’s historic resources. We are deeply concerned, however, that the inclusion of section 1005 of the GROW AMERICA Act in the Committee’s MAP-21 reauthorization bill would needlessly threaten the protection of historic resources. We look forward to working with you and the Committee to fashion legislation that addresses both the nation’s transportation needs and our tradition of protecting important historic places.

If you have any questions, please contact Tom Cassidy with the National Trust at tcassidy@savingplaces.org or (202) 588-6078.