

FIRST AMENDED MEMORANDUM OF AGREEMENT
BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION AND
THE INDIANA STATE HISTORIC PRESERVATION OFFICER
SUBMITTED TO THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
PURSUANT TO 36 C.F.R. SECTION 800.6(b)(iv)
REGARDING THE REPLACEMENT OF BRIDGE NO. 26
IN BARTHOLOMEW COUNTY, CLIFTY TOWNSHIP, INDIANA

WHEREAS the Federal Highway Administration (FHWA) proposes to fund the replacement of Bartholomew County Bridge No. 26 (Bridge No. 26) carrying CR 850E over Clifty Creek in Clifty Township, Bartholomew County, Indiana; and

WHEREAS the FHWA, in consultation with the Indiana State Historic Preservation Officer (Indiana SHPO), has defined this replacement of Bridge No. 26's area of potential effects, as the term defined in 36 C.F.R. Section 800.16(d), to be the area within the potential right-of-way and adjacent properties; and

WHEREAS the FHWA, in consultation with the Indiana SHPO, has found that Bridge No. 26 is within the area of potential effects; and

WHEREAS the FHWA, in consultation with the Indiana SHPO, has determined, pursuant to 36 C.F.R. Section 800.4(c), that Bridge No. 26 is eligible for inclusion in the National Register of Historic Places; and

WHEREAS the FHWA, in consultation with the Indiana SHPO, has determined pursuant to 36 C.F.R. Section 800.5(a) that the replacement of Bridge No. 26 will have an adverse effect on Bridge No. 26; and

WHEREAS the FHWA has consulted with the Indiana SHPO in accordance with Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and its implementing regulations (36 C.F.R. Section 800) to resolve the adverse effect on the Bridge No. 26 replacement project; and

WHEREAS the public was given an opportunity to comment on the undertaking's adverse effect in a notice published on March 15, 2007 in The Republic newspaper, Columbus, Indiana, and the Hope Star-Journal, Hope, Indiana; and

WHEREAS the FHWA has notified the Advisory Council on Historic Preservation (Council) of the adverse effect and invited the Council's participation in the project, pursuant to 36 CFR Section 800.6(a)(1), in a letter dated June 22, 2007; and

WHEREAS in a letter dated September 12, 2007, the Council declined to participate in consultation; and

WHEREAS the FHWA has consulted with the Indiana SHPO in accordance with Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and its implementing regulations (36 C.F.R. Part 800) concerning the scope of work as presented in the materials and plans dated March 9, 2007, and agreed to proceed with the project as proposed; and

WHEREAS the FHWA, Indiana SHPO, the Indiana Department of Transportation (INDOT), the Bartholomew County Commissioners, and the Bartholomew County Parks and Recreation Board executed a memorandum of agreement (Original MOA) in October 2007 (signed October 19, October 8, October 9, October 1, October 4) taking into account the adverse effects on Bridge No. 26; and

WHEREAS the Bartholomew County Parks and Recreation Board moving Bridge No. 26 to Anderson Falls Park, as outlined in the Original MOA, is no longer a viable option due to issues related to the site terrain; and

WHEREAS the City of Columbus Parks and Recreation Board is willing to accept ownership of Bridge No. 26 and is committed to finding a relocation site for Bridge No. 26; and

WHEREAS the Bartholomew County Commissioners have requested that Bridge No. 26 will be relocated to a location within the City of Columbus, Indiana, People Trail System and the City of Columbus Parks and Recreation Board has agreed to such a relocation; and

WHEREAS the signatories of this agreement have agreed that Bridge No. 26 may be dismantled and stored for up to a period of five years so that preparations can be made for the bridge's placement within the People Trail System; and

WHEREAS the same signatories and invited signatories that executed the Original MOA document have agreed that an amendment to the memorandum of agreement should be executed;

NOW, THEREFORE, the FHWA and the Indiana SHPO agree that, upon the submission of a copy of this executed amended memorandum of agreement, as well as the documentation specified in 36 C.F.R. Section 800.11(e) and (f) to the Advisory Council on Historic Preservation (Council pursuant to 36 C.F.R. Section 800.6[b][1][iv]) and upon the FHWA's approval of the replacement of Bridge No. 26, the FHWA shall ensure that the above-referenced memorandum of agreement of October 2007 is amended by deleting all of its stipulations and replacing them with the following in order to take into account the effect of the replacement of Bridge No. 26 on historic properties.

STIPULATIONS

I. MITIGATION STIPULATIONS

Mitigation for the replacement of Bartholomew County Bridge No. 26 will consist of the following measures.

- A. The County shall construct a replacement structure on existing alignment. Consideration will be given to reuse of the existing stone abutments in the relocation site design.
- B. The City of Columbus Parks and Recreation Board has agreed to accept ownership of Bridge No. 26.
- C. Bridge No. 26 will be relocated to one of three locations along the People Trail. The preferred relocation site is across Haw Creek in Lincoln Park, as illustrated in Attachment 1. Alternatives sites for the relocation are across Clifty Creek in Clifty Creek Park and across Haw Creek, on the section of trail that parallels Marr Road between Rocky Ford Road and E 300 N. If the second or third relocation alternative is selected, instead of the preferred site in Lincoln Park, consulting parties will be notified.

- D. Environmental review, including archaeological investigations, of the relocation site and trail approach modifications will be completed as part of the relocation project, which will be treated as a separate undertaking for Section 106 purposes.
- E. Relocation of the existing bridge to one of the three sites along the People Trail will be accomplished within 5 years, measured from the date the bridge is dismantled. The Bartholomew County Commissioners will store Bridge No. 26 in a secure location until it is relocated to the selected site. The larger components shall be placed on blocks or railroad ties and stored off the ground to discourage further deterioration of the bridge members. Smaller components (e.g., detached gusset plates, bearings, pins, bracing rods, and lower chord eye-bars, etc.) and other detached members shall be stored indoors or in an otherwise locked facility.
- F. The Bartholomew County Commissioners will have the bridge's components match-marked and mapped to facilitate its later reassembly. A draft disassembly plan for Bridge No. 26 shall be submitted to FHWA, INDOT, and the Indiana SHPO for a 30-day comment period before any construction activities related to the disassembly take place. If any of the agencies respond with recommendations, a good faith effort to accommodate the recommendations will be made. The County will inform the agencies of its response to such recommendations and the final disassembly plan will be provided to the agencies for their files.
- G. The Bartholomew County Commissioners shall apply previously awarded Transportation Enhancement Funds to costs associated with rehabilitation efforts for Bridge No. 26, including, but not limited to, painting, replacement of stringers and wooden decking, and relocation costs. Detailed rehabilitation and reassembly plans for Bridge No. 26 will be submitted to consulting parties as part of the environmental review for the relocation project.
- H. The City of Columbus Parks and Recreation Board hereby agrees to the following terms:
 - i. Leave the bridge open to the public.
 - ii. Maintain the features that give the bridge its historic significance for a minimum period of 25 years from the date on which the recipient(s) take title to the bridge.
 - iii. Assume future legal and financial responsibility for the bridge.
 - iv. Give consideration to reuse of the existing stone bridge abutments in the relocation site design.
 - v. Placement of signage at the relocation site that depicts the history of the bridge. A draft signage concept shall be submitted to the Indiana SHPO for a 30-day comment period. If the Indiana SHPO responds with recommendations, a good faith effort to accommodate the recommendations will be made. The Board will inform the Indiana SHPO of its response to such recommendations and the final signage concept will be provided to the Indiana SHPO for their files.

II. OBJECTION RESOLUTION PROVISION

Disagreement and misunderstanding about how this amended memorandum of agreement is or is not being implemented shall be resolved in the following manner:

- A. If the Indiana SHPO or any invited signatory to this amended memorandum of agreement should object in writing to the FHWA regarding any action carried out or

proposed with respect to the replacement of Bridge No. 26 or implementation of this amended memorandum of agreement, then the FHWA shall consult with the objecting party to resolve this objection. If after such consultation the FHWA determines that the objection cannot be resolved through consultation, then the FHWA shall forward all documentation relevant to the objection to the Council, including the FHWA's proposed response to the objection. Within 45 days after receipt of all pertinent documentation, the Council shall exercise one of the following options:

- i. Provide the FHWA with a staff-level recommendation, which the FHWA shall take into account in reaching a final decision regarding its response to the objection; or
- ii. Notify the FHWA that the objection will be referred for formal comment pursuant to 36 C.F.R. Section 800.7(c), and proceed to refer the objection and comment. The FHWA shall take into account the Council's comments in reaching a final decision regarding its response to the objection.

- B. If comments or recommendations from the Council are provided in accordance with this stipulation, then the FHWA shall take into account any Council comment or recommendations provided in accordance with this stipulation with reference only to the subject of the objection. The FHWA's responsibility to carry out all actions under the amended memorandum of agreement that are not the subjects of the objection shall remain unchanged.

III. POST REVIEW DISCOVERY

In the event that one or more historic properties, other than Bridge No. 26, are discovered or that unanticipated effects on historic properties are found during the implementation of this amended memorandum of agreement, the FHWA shall follow the procedure specified in 36 C.F.R. Section 800.13, as well as and IC 14-21-1-27 and IC 14-21-1-29, by stopping work in the immediate area and informing the Indiana SHPO and the INDOT Cultural Resources Section of such unanticipated discoveries or effects within two (2) business days. Any necessary archaeological investigations will be conducted according to the provisions of IC 14-21-1, 312 IAC 21, 312 IAC 22 and the most current *Guidebook for Indiana Historic Sites and Structures Inventory – Archaeological Sites*.

IV. AMENDMENT

Any signatory to this amended memorandum of agreement may request that it be amended again, whereupon the parties shall consult to consider the proposed amendment. 36 C.F.R. 800.6(c)(7) shall govern the execution of any such amendment.

V. TERMINATION

- A. If the terms of this amended memorandum of agreement have not been implemented within ten years of the completion of the removal of Bridge No. 26 from its original location, then this amended memorandum of agreement shall be considered null and void. In such an event, the FHWA shall so notify the parties to this amended memorandum of agreement and, if it chooses to continue with the replacement of Bridge No. 26, then it shall reinitiate review of the replacement of Bridge No. 26 in accordance with 36 C.F.R. Sections 800.3 through 800.7.

- B. Any signatory to the amended memorandum of agreement may terminate it by providing thirty (30) days notice to the other parties, provided that the parties shall consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the FHWA shall comply with 36 C.F.R. Sections 800.3 through 800.7 with regard to the review of the replacement of Bridge No. 26.
- C. In the event that the FHWA does not carry out the terms of this amended memorandum of agreement, the FHWA shall comply with 36 C.F.R. Sections 800.3 through 800.7 with regard to the review of the replacement of Bridge No. 26.

The execution of this amended memorandum of agreement by the FWHA, INDOT, Bartholomew County Commissioners, Bartholomew County Parks and Recreation Board, City of Columbus Parks and Recreation Board, and the Indiana SHPO, the submission of it to the Council with the appropriate documentation specified in 36 C.F.R. Section 800.11(e) and (f), and the implementation of its terms evidence that the FHWA has afforded the Council an opportunity to comment on the replacement of Bridge No. 26 and its effect on historic properties and that the FHWA has taken into account the effects of the replacement of Bridge No. 26 on historic properties.

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**PREFERRED BRIDGE NO. 26 RELOCATION SITE
LINCOLN PARK**

25TH STREET AND US 31



ATTACHMENT 1

4008.014

SIGNATORIES (required):

FEDERAL HIGHWAY ADMINISTRATION

Signed by: Michelle Allen

Date: 11.15.12

Name and Title: Michelle Allen Planning & Environmental Specialist

(Typed or printed)

SIGNATORIES (required):

INDIANA STATE HISTORIC PRESERVATION OFFICER

Signed by: 

Date: 11/9/2012

Name and Title: James A. Glass, Deputy SHPO

(Typed or printed)

INVITED SIGNATORIES

INDIANA DEPARTMENT OF TRANSPORTATION

Signed by: *[Signature]* Date: 10/19/2012

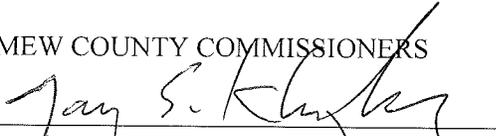
Name and Title: Director of Environmental Services

(Typed or printed)

INVITED SIGNATORIES

BARTHOLOMEW COUNTY COMMISSIONERS

Signed by:



Date: 10/25/2010

Name and Title:

Jay S. Kleinhans, Bartholomew County Commissioner Chairman

(Typed or printed)

INVITED SIGNATORIES

BARTHOLOMEW COUNTY PARKS AND RECREATION BOARD

Signed by: Mike Ferree Date: 11/14/12

Name and Title: Mike Ferree, Park Board Member

(Typed or printed)

INVITED SIGNATORIES

CITY OF COLUMBUS PARKS AND RECREATION BOARD

Signed by:



Date:

10/11/12

Name and Title:

Brian Russell; President

(Typed or printed)