

**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 NOBLE COUNTY BRIDGE NO. 136
CARRYING NORTH COUNTY ROAD 400 EAST OVER THE CSX RAILROAD
IN JEFFERSON TOWNSHIP, NOBLE COUNTY, INDIANA
DES. NO. 1600678**

WHEREAS the Noble County Board of Commissioners proposes to replace Bridge No. 136 in Jefferson Township, Noble County, Indiana and proposes to use funds administered by the Federal Highway Administration (FHWA); and

WHEREAS the FHWA, in consultation with the Indiana State Historic Preservation Officer ("Indiana SHPO"), has defined this bridge replacement project's area of potential effects ("APE"), as the term is defined in 36 C.F.R. Section 800.16(d), to be a 2,000 foot radius around the elevated bridge (see attached map); and

WHEREAS the FHWA, in consultation with the Indiana SHPO, has found that Bridge No. 136 is within the APE; 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.136 is eligible for inclusion in the National Register of Historic Places ("National Register");

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. 136 will have an adverse effect on Bridge No. 136; and

WHEREAS the FHWA has consulted with the Indiana SHPO in accordance with Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108) and its implementing regulations (36 C.F.R. Section 800) to resolve the adverse effect on Bridge No. 136; and

WHEREAS the public was given an opportunity to comment on the undertaking's adverse effect in a notice published on September 18, 2020 in the News Sun (Kendallville, IN); 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 September 22, 2020; and

WHEREAS the Council declined to participate in consultation in a letter dated November 16, 2020;

WHEREAS the FHWA, in consultation with the Indiana SHPO, has invited the Indiana Department of Transportation (“INDOT”) and the Noble County Board of Commissioners to participate in the consultation and to become a signatory to this memorandum of agreement; 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 Historic Bridge Alternatives Analysis dated April 10, 2020, and has agreed with the recommendations provided by the Indiana SHPO in a letter dated June 8, 2020; and

NOW, THEREFORE, the FHWA and the Indiana SHPO agree that, upon the submission of a copy of this executed memorandum of agreement, as well as the documentation specified in 36 C.F.R. Section 800.11(e) and (f) to the Council pursuant to 36 C.F.R. Section 800.6[b][1][iv] and upon the FHWA's approval of the Bridge No. 136 replacement project, the FHWA shall ensure that the following stipulations are implemented in order to take into account the effect of the Bridge No. 136 replacement project on historic properties.

1. MITIGATION STIPULATIONS

- A. Noble County shall make available Bridge No. 136 to any eligible entity, defined as an Indiana State or Local Government, or a non-profit group within the State of Indiana by placing the bridge on INDOT’s Historic Bridge Marketing Website.
- B. Noble County shall send letters describing the availability and condition of the bridge directly to local and surrounding county governments at least once every three years, for as long as the bridge remains available under this agreement.
- C. Noble County shall publish a legal notice describing the availability and condition of the bridge in the Indianapolis Star newspapers and the News Sun (Kendallville, IN) newspaper, which covers that portion of the State, at least once every three years for as long as the bridge remains available under this agreement.
- D. If no entity is found that will accept ownership of any of the trusses before construction begins, then Noble County will match-mark and map components, disassemble and store the metal bridge components at a county owned facility, until an eligible entity steps forward to accept the bridge, or for 15 years after its disassembly, whichever comes first. Additionally, Bridge No. 136 shall remain on INDOT’s historic bridge marketing website until an eligible entity accepts ownership of the metal bridge components, or for 15 years after its disassembly, whichever comes first.
- E. Noble County, or its contractor, shall submit a disassembly plan per Stipulation D for the bridge to the Indiana SHPO for a 30-day review and comment period prior to beginning dismantling. Noble County, or its contractor, shall provide a written response to Indiana SHPO comments before proceeding. If comments are not received within thirty (30) days, Noble County, or its contractor, may assume agreement from the Indiana SHPO on the plan submitted.

- F. Noble Trails, Inc. has expressed its desire to acquire and move Bridge No. 136 and is pursuing funding for the relocation and rehabilitation of the bridge. In the event that another interested and qualified party requests the bridge prior to December 31, 2038, then Noble Trails, Inc. shall have the right of first refusal of the bridge.
- G. Eligible entities interested in Bridge No. 136 shall be required to submit detailed rehabilitation and reassembly plans to the Indiana SHPO and INDOT Cultural Resources Section Office for a 30-day review before beginning construction activities. Preferably such an entity should first submit their overall plan for reusing the bridge indicating proposed bridge placement and use, but they may also submit this along with rehabilitation plans. The submitted plans will include photographs of the potential location.
- H. Eligible entities with approved proposals for relocating Bridge No. 136 shall perform archaeology, as needed, for the proposed relocation site. The archaeological investigations shall be conducted in consultation with the Indiana SHPO.
- I. Eligible entities shall be permitted to change relocation sites should archaeological findings block the possibility of relocating Bridge No. 136 to the originally chosen site.
- J. Eligible entities with proposals that involve keeping the three trusses together will be favored over those entities that have proposals that involve separating and relocating the trusses to different locations.
- K. Larger components of the disassembled bridge shall be placed on blocks or railroad ties and stored off the ground to discourage further deterioration of the bridge members. Smaller components, such as detached gusset plates, bearings, pins, bracing rods and floor beam support bars, and other detached members shall be stored indoors or in an otherwise locked facility.
- L. Prior to the commencement of demolition and construction activities, Noble County shall document Noble County Bridge No. 136, including at a minimum, the following elements:
 - 1. The following historic documentation information shall be saved as a Microsoft Word document on a compact disk (CD) or a digital video disk (DVD).
 - a. A cover page with the historic name or names (i.e. Noble County Bridge No. 136), most recent name (if any), and street address of the historic property.
 - b. A typed or printed description of the historic property, including at least the following:

- i. A verbal description of the structure's design, which shall include building materials, architectural/engineering style, plan, organization of major elevations, notable architectural/engineering features, and a statement of the overall dimensions of the structure (length, height, and width).
 - ii. A copy of the application 1:24K/25K USGS topographic map, at a scale of 1:50,000, with the location of the historic property marked.
 - iii. A map of Jefferson Township with the location of the historic property clearly marked.
 - c. A brief, typed or printed history of the property and a written statement of the property's significance to Noble County and its engineering significance, focusing, in particular, on its history up to and including the year that is 50 years before the year in which this documentation is prepared. Documentation must include the date or era of construction, as well as the engineer and builder (if known), dates and descriptions of any major alterations, association with any historic events, movements, and/or association with historically significant people. A list of bibliographic sources, including author, title, place of publication and publisher, and date of publication must be included in this section.
2. Digital photographic documentation either on a CD or DVD. Depending upon the size and complexity of the structure to be recorded, ten (10) or more views may be necessary. Views must include all elevations or sides and engineering details.
 - a. For digital images the following procedures shall be followed:
 - i. A camera of at least 3.0 megapixel quality, with a .TIF (Tagged Image File format) setting capability, shall be used. PLEASE NOTE: .TIF is not an option on many digital cameras, so please check your owner's manual. If .TIF is not available, images may be taken in another format, but they must be capable of conversion to the following size and resolution: size of each .TIF image must be 1600x1200 pixels at 300 ppi (pixels per inch) or larger. It is recommended that digital images be saved in 8-bit (or larger) color format, which provides maximum detail even when printed in black and white.

- ii. A CD or DVD containing a digital photo log and the electronic image files shall be provided to the Indiana SHPO.
 - iii. The CD or DVD must be labeled with the name of the property, the township, and the county in which the property is located.
 - iv. There must be a photo log for all photos, and the photo numbers of the saved digital images must correspond to the photo log.
 - v. The photo log must contain the following:
 1. Property name
 2. Address
 3. Township and County
 4. Location, cardinal direction of camera, and description of the view
 5. Date of photograph
 - vi. The individual image files must be labeled so that they reference the state and county in which the property is located. For example, the image files for Union Station in Marion County, Indiana, would be saved as “IN_MarionCounty_UnionStation1.tif, IN_MarionCounty_UnionStation2.tif,” and so on.
 - vii. The electronic image files must be saved as uncompressed .TIF in keeping with the guidance on digital photographic records issues by the U.S. National Archives and Records Administration.
3. If available, copies or high resolution scans of historic photographs should be included with information on the source of the original photographs.
4. If available, existing engineering drawings should be scanned into a readily available viewing program (such as PDF) and saved to the CD or DVD. Drawings should include, if available, a site plan, structure elevations, and structure sections and details. If the drawings cannot be scanned, they should be sized so that they are no smaller than 11” x 17” and no longer than 24” by 36”.

- M. Prior to the commencement of demolition and construction activities, Noble County shall submit drafts of all of the documentation specified in Stipulation L to the Indiana SHPO for preliminary review, with at least a thirty (30) day comment period, prior to submitting the final duplicate originals of the documentation the Indiana State Archives.
- N. Prior to the commencement of demolition and construction activities, Noble County shall request that Noble County Historical Society ensure that the documentation specified in Stipulation L shall be permanently retained and made available for examination by the public. Upon Noble County Historical Society's acceptance of the responsibility, Noble County Historical Society shall be given a CD or DVD containing the information specified in Stipulation L and a printed copy of the information specified in Stipulation L.1.

2. OBJECTION RESOLUTION PROVISION

Disagreement and misunderstanding about how this 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 memorandum of agreement should object in writing to the FHWA regarding any action carried out or proposed with respect to the Bridge No. 136 replacement project or implementation of this 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:
 - 1. 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
 - 2. 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.
 - 3. 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 memorandum of agreement that are not the subjects of the objection shall remain unchanged.

3. POST-REVIEW DISCOVERY

In the event that one or more historic properties--other than Bridge No. 136 are discovered or that unanticipated effects on historic properties are found during the implementation of this memorandum of agreement, the FHWA shall follow the procedure specified in 36 C.F.R. Section 800.13, as well as 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 Office 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*.

4. AMENDMENT

Any signatory to this memorandum of agreement may request that it be amended, 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.

5. TERMINATION

- A. If the undertaking for the disassembly of Bridge No. 136 has not been implemented by December 31, 2038 then this memorandum of agreement shall be considered null and void. In such an event, the FHWA shall so notify the parties to this memorandum of agreement and, if it chooses to continue with the Bridge No. 136 project, then it shall reinitiate review of the Bridge No. 136 project in accordance with 36 C.F.R. Sections 800.3 through 800.7.
- B. Any signatory to this 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 Bridge No. 136 project.
- C. In the event that the FHWA does not carry out the terms of this 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 Bridge No. 136 project.

The execution of this memorandum of agreement by the FWHA, the Indiana SHPO, and 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 bridge replacement and its effect on historic properties and that the FHWA has taken into account the effects of the bridge replacement on historic properties.

SIGNATORIES (required):

FEDERAL HIGHWAY ADMINISTRATION
INDIANA STATE HISTORIC PRESERVATION OFFICER

INVITED SIGNATORIES:

INDIANA DEPARTMENT OF TRANSPORTATION
NOBLE COUNTY COMMISSIONERS

REQUIRED SIGNATORY
FEDERAL HIGHWAY ADMINISTRATION

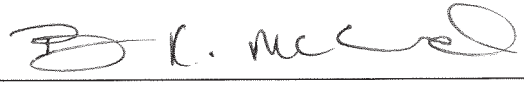
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Date: 2020.12.17 08:34:40
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By: _____
Jermaine Hannon, Acting Division Administrator

Date: 12/17/20

REQUIRED SIGNATORY

INDIANA STATE HISTORIC PRESERVATION OFFICER

By: 
Beth McCord, Deputy State Historic Preservation Officer

Date: 12/12/20

INVITED SIGNATORY

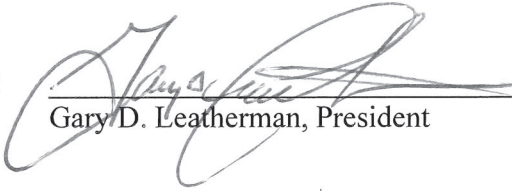
INDIANA DEPARTMENT OF TRANSPORTATION

By: LSA:
Laura Hilden, Environmental Services Director

Date: 12/2/2020

INVITED SIGNATORY

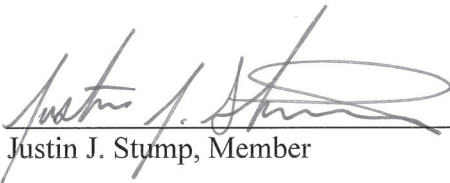
Noble County Board of Commissioners

By:  _____
Gary D. Leatherman, President

Date: Dec 14 2020

By:  _____
Anita F. Hess, Vice President

Date: 12/14/2020

By:  _____
Justin J. Stump, Member

Date: 12/14/2020



APE (Scale: 1 inch = 450 feet)

2017 Aerial images courtesy of Noble County Beacon GIS:

<https://beacon.schneidercorp.com/Application.aspx?AppID=127&LayerID=1479&PageTypeID=1&PageID=952>