

**MEMORANDUM OF AGREEMENT  
BETWEEN FEDERAL HIGHWAY ADMINISTRATION AND  
THE INDIANA STATE HISTORIC PRESERVATION OFFICER  
SUBMITTED TO THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
PURSUANT TO 36 C.F.R. SEC. 800.6(b)(iv)  
REGARDING THE REPLACEMENT OF BRIDGE #8  
OVER SUGAR CREEK IN MORAL TOWNSHIP,  
SHELBY COUNTY, INDIANA**

**WHEREAS** the Federal Highway Administration (FHWA) proposes to fund the replacement of bridge #8 carrying CR 600 West over Sugar Creek in Moral Township, Shelby County, Indiana; and

**WHEREAS** the FHWA, in consultation with the Indiana State Historic Preservation Officer (“SHPO”), has defined the area of potential effects, as the term defined in 36 C.F.R. Part 800, to be the area within a circle with a radius of 400 meters centered on the bridge; and

**WHEREAS** the FHWA, in consultation with the SHPO, pursuant to 36 C.F.R. Part 800 consider the Shelby County Bridge 8 to be eligible for inclusion in the National Register of Historic Places and is within the Area of Potential Effect; and

**WHEREAS** the FHWA, in consultation with the Indiana SHPO has determined that the replacement of Shelby County Bridge #8 will have an adverse effect on Bridge #8 carrying CR 600 West over Sugar Creek in Moral Township, Shelby County, Indiana; 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. Sec. 470f) and its implementing regulations (36 C.F.R. Part 800) to resolve the adverse effect of the bridge replacement project on Bridge #8; and

**WHEREAS** the FHWA, in consultation with the Indiana SHPO, has invited the Board of Commissioners of Shelby County (Commissioners), the Shelby County Board of Parks and Tourism, and the Indiana Department of Transportation (INDOT) to participate in the consultation and to become signatories in this memorandum of agreement;

**NOW, THEREFORE**, the FHWA and the Indiana SHPO agree that, upon the submission of this executed memorandum of agreement, as well as the documentation specified in 36 C.F.R. Part 800 to the Advisory Council on Historic Preservation (“Council” pursuant to 36 C.F.R. Part 800) and upon the FHWA’s authorizing funds for the construction of a replacement bridge of Shelby County Bridge #8, the FHWA shall ensure that the following stipulations are implemented in order to take into account the effects of the replacement of Bridge #8 on historic properties.

### Stipulations

If federal-aid funds are provided for the replacement of Bridge #8, the FHWA shall ensure that the following stipulations are implemented:

- A. The County shall construct the replacement bridge on an alignment east of the existing bridge.
- B. The County shall offer the existing Bridge #8 and adjacent approaches for sale, or be given to an approved entity or person. Shelby Bridge #8 availability will be posted on the Indiana Department of Transportation's web site for its Historic Bridges Marketing Program for a minimum of five years, which shall be measured beginning from the date on which this memorandum of agreement is executed.
- C. The County, INDOT, FHWA, and the SHPO shall review any proposed offers for the bridge structure and its approaches. The suitable applicant shall have sufficient funding to encompass the cost of the local funding portion (20 percent match) of the acquisition / maintenance / liability such that no additional costs shall be borne by the County.
- D. If it is decided by the County, INDOT, FHWA, and the SHPO that the offer and the applicant is suitable and satisfactory to all parties, the transfer of Shelby Bridge #8 will be approved.
- E. Qualified recipient(s) of the spans will receive Federal Transportation Enhancement Funds, which reimburse recipients for 80% of eligible costs related to rehabilitating the structure. The provision of the funds will be consistent with INDOT policy and any changes in Federal law regarding the Transportation Enhancement program. Qualified recipients are recognized as any:
  1. Indiana Public Agency
  2. Indiana Non-Profit Organization
- F. Recipients of the bridge must agree to the following terms before accepting ownership of the structure:
  1. Leave the bridge open to the public
  2. 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) takes title to the bridge.
  3. Assume future legal and financial responsibility for the bridge.
- G. If, in the opinion of the owner of Bridge #8, the condition of the historic Bridge #8 becomes unsafe, then the owner shall consult with FHWA, the Indiana SHPO, and INDOT to identify any feasible courses of action. Any of those parties or the Council may propose that this memorandum of agreement be amended to take into account the change in the bridge's condition.
- H. If no suitable applicant comes forward or is approved for ownership within five years from the date this memorandum of agreement is executed, the existing bridge and its approaches will be transferred

over to the Shelby County Board of Parks and Tourism. The Board will follow the stipulations as outlined in items E and F.

### **Objection Resolution**

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 of 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 replacement of Shelby Bridge #8 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. 800, and to proceed to refer the object 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 from the Council are provided in accordance with stipulation A of this memorandum of agreement, then the FHWA shall take into account any Council comment provided in accordance with 36 C.F.R.800 with reference only to the subject of the objection. The FHWA's responsibility to carry out all actions under this memorandum of agreement that are not the subjects of the objection shall remain unchanged.

### **Amendment Provisions**

Any signatory to the memorandum of agreement may request that it be amended, whereupon the parties shall consult to consider the proposed amendment. 36 C.F.R. 800 shall govern the execution of any such amendment.

### **Post Review (accidental discovery clause)**

In the event that one or more historic properties, other than the bridge structure of Shelby 8, are discovered or that unanticipated effects on historic properties are found during the implementation of the

memorandum of agreement, the Federal Highway Administration shall follow the procedure specified in 36 C.F.R. 800

**Termination**

- A. If the terms of this memorandum of agreement have not been implemented by December 31, 2013, 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 replacement of Shelby Bridge #8, then it shall reinitiate review of the Shelby Bridge #8 in accordance with 36 C.F.R. 800.
- B. Any signatory to the 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. 800 with regard to the review of the replacement of Shelby Bridge #8.
- 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. 800 with regard to the review of the replacement of Shelby Bridge #8.

The execution of this memorandum of agreement by the FHWA and the Indiana SHPO, the submission of it to the Council with the appropriate documentation specified in 36 C.F.R. 800, and the implementation of its terms evidence that the FHWA has afforded the Council an opportunity to comment on the replacement of Shelby Bridge #8 and its effect on historic properties and that the FHWA has taken into account the effects of the replacement of Shelby Bridge #8 on historic properties.

**SIGNATORIES**

**FEDERAL HIGHWAY ADMINISTRATION**

Division Administrator: Matt Tully Date: 6/2/04  
for Robert F. Tully, Jr., P.E.

**INDIANA STATE HISTORIC PRESERVATION OFFICER**

Deputy State Historic Preservation Officer: J.C. S. Date: 6-9-04

**INVITED SIGNATORIES:**

**INDIANA DEPARTMENT OF TRANSPORTATION**

Commissioner: 7. By - 2100P Date: 5/21/04

**BOARD OF COMMISSIONERS OF SHELBY COUNTY**

President: Robert H Wade Date: 4-19-04

Member: Kevin R. Neff Date: 4/19/04

Member: Orlando W. [Signature] Date: 19 APR 04

**SHELBY COUNTY BOARD OF PARKS AND TOURISM**

President: [Signature] Date: May 7, 2004