

MEMORANDUM OF AGREEMENT

**BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION AND CITY OF GARY, INDIANA
AND**

THE INDIANA STATE HISTORIC PRESERVATION OFFICER

SUBMITTED TO THE ADVISORY COUNCIL ON HISTORIC PRESERVATION

PURSUANT TO 36 C.F.R. § 800.6(b)(iv)

**REGARDING THE Structural Stabilization of Union Station at 251 North Broadway using
transportation enhancement funds and community development block grant funds**

IN Gary, Calumet TOWNSHIP, Lake COUNTY, INDIANA

WHEREAS the City of Gary (“City”) proposes to structurally stabilize Union Station in Gary, Calumet Township, Lake County, Indiana; and

WHEREAS the Federal Highway Administration (“FHWA”) proposes to partially fund the stabilization of Union Station; and

WHEREAS the City is receiving Department of Housing and Urban Development Community Development Block Grant (“CDBG”) Funds to partially fund the stabilization of Union Station; and

WHEREAS the Department of Housing and Urban Development has previously delegated its Section 106 responsibilities to its applicants receiving CDBG Funds; and

WHEREAS the FHWA and the City, in consultation with the Indiana State Historic Preservation Officer (“Indiana SHPO”), has defined the undertaking to stabilize Union Station’s area of potential effects, as the term is defined in 36 C.F.R. § 800. 16(d), to be the area within the Gary Union Station; and

WHEREAS the FHWA and the City, in consultation with the Indiana SHPO, has found that the Gary Union Station is within the area of potential effects; and

WHEREAS the FHWA and the City, in consultation with the Indiana SHPO, has determined, pursuant to 36 C.F.R. § 800.4(c), that Gary Union Station is eligible for inclusion in the National Register of Historic Places;

WHEREAS the FHWA and the City, in consultation with the Indiana SHPO, has determined, pursuant to 36 C.F.R. § 800.5(a), that the Structural Stabilization of Union Station will have an adverse effect on Gary Union Station; and

WHEREAS the FHWA and the City, 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) to resolve the adverse effect on the Gary Union Station; and

WHEREAS the FHWA and the City, in consultation with the Indiana SHPO, has invited the Indiana Department of Transportation to participate in the consultation and to become a signatory to this memorandum of agreement; and

WHEREAS the FHWA and the City 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 October 24, 2002, and agreed to proceed with the project as proposed; and

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NOW, THEREFORE, the FHWA, the City 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. § 800.11(e) and (f), to the Advisory Council on Historic Preservation (“Council” pursuant to 36 C.F.R. § 800.6[b][1][iv]) and upon the FHWA and the City’s approval of the Structural Stabilization of Union Station, the FHWA and the City of Gary shall ensure that the following stipulations are implemented in order to take into account the effect of the Structural Stabilization of Union Station on historic properties.

Stipulations

1. The City of Gary will replace the existing concrete slab roof on Union Station with a galvanized metal roof deck.
2. The City of Gary will provide the Indiana SHPO a copy of plans and specifications for review and comment prior to the shoring of the second floor of Union Station.

3. **OBJECTION RESOLUTION PROVISION**

Disagreements 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 or the City regarding any action carried out or proposed with respect to the Structural Stabilization of Union Station or implementation of this memorandum of agreement, then the FHWA and the City shall consult with the objecting party to resolve the objection. If after initiating such consultation the FHWA and the City determines that the objection cannot be resolved through consultation, then the FHWA or the City 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 or the City with a staff-level recommendation, which the FHWA or the City shall take into account in reaching a final decision regarding its response to the objection; or
 - ii. Notify the FHWA or the City that the objection will be referred for formal comment pursuant to 36 C.F.R. § 800.7(c), and proceed to refer the object and comment. The FHWA or the City 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 3 (A) of this memorandum of agreement, then the FHWA or the City shall take into account any Council comment provided in accordance with 36 C.F.R. § 800.7(a)(4) with reference only to the subject of the objection. The FHWA or the City’s responsibility to carry out all actions under this memorandum of agreement that are not the subjects of the objection shall remain unchanged.

4. POST REVIEW DISCOVERY

In the event that one or more historic properties--other than Gary Union Station--are discovered or that unanticipated effects on historic properties are found during the implementation of this memorandum of agreement, the FHWA and the City shall follow the procedure specified in 36 C.F.R. § 800.13.

5. 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.

6. TERMINATION

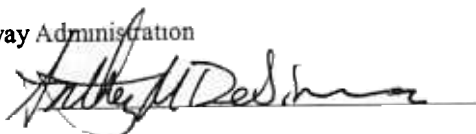
- A. If the terms of this memorandum of agreement have not been implemented by June 30, 2008, then this memorandum of agreement shall be considered null and void. In such an event, the FHWA and the City shall so notify the parties to this memorandum of agreement and, if it chooses to continue with the Structural Stabilization of Union Station, then it shall reinitiate review of the Structural Stabilization of Union Station in accordance with 36 C.F.R. §§ 800.3 through 800.7.
- 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 and the City shall comply with 36 C.F.R. §§ 800.3 through 800.7 with regard to the review of the Structural Stabilization of Union Station.
- C. In the event that the FHWA and the City does not carry out the terms of this memorandum of agreement, the FHWA and the City shall comply with 36 C.F.R. §§ 800.3 through 800.7 with regard to the review of the Structural Stabilization of Union Station.

The execution of this memorandum of agreement by the FHWA, the City, the Indiana Department of Transportation, and the Indiana SHPO, the submission of a copy of it to the Council with the appropriate documentation specified in 36 C.F.R. § 800.11(e) and (f), and the implementation of its terms evidence that the FHWA and the City has afforded the Council an opportunity to comment on the Structural Stabilization of Union Station and its effects on historic properties and that the FHWA and the City of Gary has taken into account the effects of the Structural Stabilization of Union Station on historic properties.

SIGNATORIES (Required) :

Federal Highway Administration

Signed by:



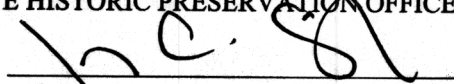
Date:

Feb 24, 2004

Name and title: Kate H. Quinn
Acting Division Administrator

INDIANA STATE HISTORIC PRESERVATION OFFICER

Signed by:



Date:

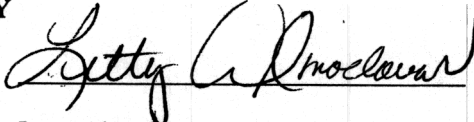
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Name and title:

Jon C. Smith
Deputy State Historic Preservation Officer

CITY OF GARY

Signed by:



Date:

9/9/03

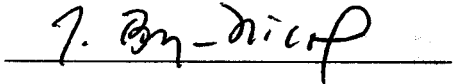
Name and title:

Letty Almodovar
Director, Department of Community Development

INVITED SIGNATORIES:

INDIANA DEPARTMENT OF TRANSPORTATION

Signed by:



Date:

2/16/04

Name and title:

J. Bryan Nicol
Commissioner