

Memorandum of Agreement

BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION AND
THE WISCONSIN STATE HISTORIC PRESERVATION OFFICER

Prepared pursuant to 36 CFR § 800.6(c)

Regarding
Wisconsin DOT Project IDs: 1500-37-00; 1500-47-00; 4570-12-00
WHS# 14-0876/MN
USH 10/WIS 42 Waldo Boulevard
City of Manitowoc, Manitowoc County

WHEREAS, the Federal Highway Administration (FHWA) has been requested to participate in the project to reconstruct USH 10/WIS 42 from County Road R to Maritime Drive in the City of Manitowoc, Manitowoc County, Wisconsin; and

WHEREAS, the FHWA is the lead agency on this project with responsibility for completing the requirements of Section 106; and

WHEREAS, the FHWA has established the Project's Area of Potential Effects (APE), as defined in 36 CFR § 800.16(d), to be all areas of proposed ground disturbance and all properties, inclusive of all buildings and structures, adjacent to the project corridor; and

WHEREAS, the FHWA, pursuant to 36 CFR § 800.4(c), has determined that the Lincoln Boulevard Historic District; the Holy Innocents Parish Complex; the Woodrow Wilson Junior High School; the Max Alpert House; and the Elks Clubhouse are eligible for inclusion in the National Register of Historic Places; and

WHEREAS, the FHWA has determined that the project will have an adverse effect on the Lincoln Boulevard Historic District; the Holy Innocents Parish Complex; the Woodrow Wilson Junior High School; and the Elks Clubhouse; and

WHEREAS, the FHWA has determined that the project will have no adverse effect on the Max Alpert House; and

WHEREAS, the FHWA has consulted with the SHPO in accordance with Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470 (NHPA), and its implementing regulations (36 CFR Part 800) to resolve the adverse effect of the project on historic properties; and

WHEREAS, the Wisconsin Department of Transportation (WisDOT) participated in the consultation and has been invited to concur in this MOA; and

WHEREAS, the City of Manitowoc participated in the consultation and has been invited to concur in this MOA; and

WHEREAS, the Manitowoc Public School District participated in the consultation and has been invited to concur in this MOA; and

WHEREAS, this undertaking is not on federal or tribal land as defined by the National Historic Preservation Act (NHPA); therefore, all inadvertent human remain discoveries will be addressed in accordance with Wisconsin s.s. 157.70; and

WHEREAS, post-review discoveries of non-human remain historic resources will be treated in accordance with 36 CFR 800.13(b); and

NOW, THEREFORE, the FHWA and the Wisconsin SHPO agree that, upon execution of this MOA, and upon the FHWA's decision to proceed with the Project, the FHWA shall ensure that the following stipulations are implemented in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The FHWA shall ensure that the following stipulations are carried out:

Lincoln Boulevard Historic District:

1. NATIONAL REGISTER OF HISTORIC PLACES NOMINATION

- a. WisDOT or its agent will complete a National Register Nomination for the Lincoln Boulevard Historic District. Details regarding the timeline, review process, and deliverables for this stipulation are included in Attachment A.
- b. The cost of this stipulation will be funded by WisDOT.

Holy Innocents Parish Complex:

1. DETERMINATION OF ELIGIBILITY – SISTER RESOURCE

- a. WisDOT or its agent will complete a Determination of Eligibility for St. Andrew's Church, a sister resource to Holy Innocents Church. Details regarding the timeline, review process, and deliverables for this stipulation are included in Attachment B.
- b. The cost of this stipulation will be funded by WisDOT.

Woodrow Wilson Junior High School:

1. SURVEY OF PUBLIC SCHOOLS

- a. WisDOT or its agent will complete a survey of all extant public schools and vocational schools in the City of Manitowoc. Details regarding the survey process and deliverables for this stipulation are included in Attachment C.
- b. The cost of this stipulation will be funded by WisDOT.

2. VEGETATIVE REPLACEMENT AND SCREENING

- a. Within sixty (60) days of the MOA execution and before project letting, WisDOT or its agent will contact the property owner to determine an appropriate tree replacement plan. If the property owner does not respond within thirty (30) days, the process will terminate.
- b. Either during or following meeting(s) with the property owner, WisDOT or its agent will formalize the tree replacement plan and request review and of the plan. The property owner will have fourteen (14) calendar days to accept, reject, or dispute the proposed replacement plan in writing. If an agreement between the property owner and WisDOT cannot be reached reasonably, the WisDOT project manager will inform FHWA, SHPO, and WisDOT who will then consult on how to proceed.
- c. The vegetative replacement and screening will be located entirely on the landowners' property and will not infringe on the existing or proposed right-of-way.
- d. The agreed-upon vegetative replacement and screening will be installed following construction completion. Within one (1) year of implementation, WisDOT or its agent will provide SHPO proof of completion, such as photos, receipts, or similar items.
- e. The cost of this stipulation will be funded by WisDOT.

Elks Clubhouse:

1. NATIONAL REGISTER OF HISTORIC PLACES NOMINATION

- a. WisDOT or its agent will complete a National Register Nomination for the Elks Clubhouse. Details regarding the timeline, review process, and deliverables for this stipulation are included in Attachment D.
- b. The cost of this stipulation will be funded by WisDOT.

DISPUTE RESOLUTION

Should any signatory to this MOA (including any invited signatory), per 36 CFR 800.6(c)(1) and (2), object in writing at any time prior to termination to any actions proposed or the manner in which the terms of this MOA are implemented, WisDOT and FHWA shall consult with such party to resolve the objection. The objection must specify how the actions or manner of implementation is counter to the goals, objectives or specific stipulation of this MOA. If FHWA determines that such objection cannot be resolved, FHWA will:

- a. Forward all documentation relevant to the dispute, including the FHWA's proposed resolution, to the Advisory Council on Historic Preservation (ACHP). The ACHP shall provide FHWA with its advice on the resolution of the objection within 30 days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and signatories, and provide them with a copy of this written response. FHWA will then proceed according to its final decision.
- b. If the ACHP does not provide its advice regarding the dispute within the 30 day period, FHWA may make a final decision on the dispute and proceed accordingly. Prior to proceeding, FHWA shall notify the parties to this MOA of its decision regarding the dispute.
- c. It is FHWA's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute.

AMENDMENT

Any signatory to this agreement may propose to the agency that the agreement be amended. Whereupon the agency shall consult with the other signatory parties [including invited signatories per 36 CFR 800.6(c)(1) and (2)] to this agreement to consider such an amendment. 36 CFR 800.6(c)(1) and (7) shall govern the execution of any such amendment.

PROFESSIONAL QUALIFICATIONS

WisDOT shall ensure that all historic preservation work carried out pursuant to agreement is carried out by or under the supervision of a person or persons meeting at a minimum the Secretary of the Interior's Professional Qualifications Standards in the field of architectural history, as published in 36 CFR Part 61.

TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatories to attempt to develop an amendment. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

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SUNSET CLAUSE

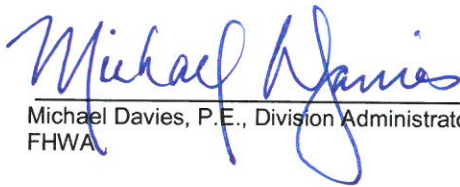
This agreement shall be null and void if its terms are not carried out within five (5) years from the date of the execution, unless the signatories agree in writing to an extension of carrying out its terms. Execution of this MOA by FHWA and the Wisconsin SHPO, and implementation of its terms, evidences that FHWA has complied with Section 106 on the USH 10/WIS 42 reconstruction project, and that FHWA has taken into account the effects of the Project on historic properties.

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SIGNATORY PARTIES:

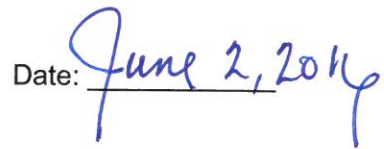
FEDERAL HIGHWAY ADMINISTRATION

BY:



Michael Davies, P.E., Division Administrator, Wisconsin Division
FHWA

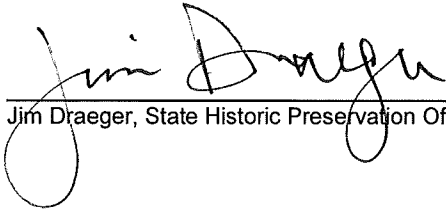
Date:



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WISCONSIN STATE HISTORIC PRESERVATION OFFICER

BY:



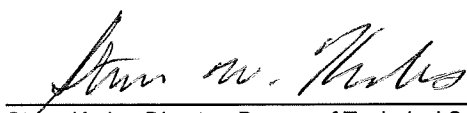
Jim Draeger, State Historic Preservation Officer

Date: 4/26/16

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INVITED SIGNATORIES:

WISCONSIN DEPARTMENT OF TRANSPORTATION

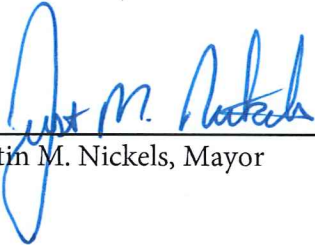
BY: 
Steve Krebs, Director, Bureau of Technical Services/
WisDOT Historic Preservation Officer

Date: 5/12/14

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USH 10/WIS 42 Waldo Boulevard
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City of Manitowoc, Manitowoc County

CITY OF MANITOWOC

BY:


Justin M. Nickels, Mayor

Date:

5/5/16

BY:


Jennifer Hudon, City Clerk

Date:

5/5/16

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MANITOWOC PUBLIC SCHOOL DISTRICT

BY:

Mark Hoffman

Date:

5/6/16

ATTACHMENT A

Lincoln Boulevard Historic District

National Register of Historic Places Nomination

- a. Within ninety (90) days of MOA execution, and prior to commencing work on the Nomination, WisDOT or its agent will draft a letter to property owners within the Lincoln Boulevard Historic District to gauge opposition to listing the district in the National Register. The letter will include a postage-paid response asking if they oppose the Nomination. Property owners will be provided forty-five (45) days to respond.
- b. If the majority of residents oppose the Nomination, WisDOT will not pursue listing the Historic District and this stipulation will be considered complete.
- c. If respondents are in favor of listing the Historic District, WisDOT or its agent and SHPO will host an informational meeting to introduce the residents to the Nomination process.
- d. Upon confirming that the majority of responses do not oppose listing, WisDOT or its agent will submit a draft Nomination on National Park Service (NPS) Form 10-900 to CRT and SHPO for review and comment within eighteen (18) months of MOA execution. The Nomination will follow current NPS and SHPO guidelines and requirements. CRT and SHPO will be provided an opportunity to review and comment.
- e. WisDOT or its agent will submit the final Nomination along with supplemental materials within thirty (30) days of receipt of CRT and SHPO comments. The supplemental materials will be processed and labeled in accordance with NPS and SHPO standards.
 - i. Completed NPS Form 10-900, hard copy and electronic version.
 - ii. U.S. Geological Survey map per NPS requirements.
 - iii. Sketch or other appropriate historic boundary map, per NPS requirements.
 - iv. Two sets of labeled 5" x 7" photographs, per NPS requirements.
 - v. Labeled digital images on CD, per NPS requirements.
 - vi. Review Board PowerPoint presentation on CD, per SHPO requirements.
 - vii. Summary paragraph, per SHPO requirements.
 - viii. National Register checklist, per SHPO requirements.
- f. WisDOT's agent will present the National Register Nomination of the Lincoln Boulevard Historic District at a State Review Board Meeting, as scheduled by the SHPO.

ATTACHMENT B

Holy Innocents Parish Complex

Determination of Eligibility for Sister Resource

- a. Within one (1) year of the MOA execution and before project letting, WisDOT or its agent will complete a Determination of Eligibility (DOE) for St. Andrew's Church (currently named St. Francis of Assisi Parish Grand Worship Site; 1416 Grand Avenue, City of Manitowoc), a sister resource to Holy Innocents Church.
- b. WisDOT or its agent will submit copies of the DOE to SHPO, along with supplemental materials and copies of the digital images on archival CD, formatted per SHPO standards. One set of commercially produced prints shall be provided to SHPO, labeled per SHPO standards. (Refer to Attachment E for standards for digital photography and prints.) CRT and SHPO will be provided an opportunity to review and comment.
- c. WisDOT or its agent will submit the final DOE to SHPO, along with supplemental materials and photographs, within thirty (30) days of receipt of CRT and SHPO comments.
- d. WisDOT or its agent will provide one hard copy of the DOE, a CD containing one set of digital images, and one set of commercially produced prints, labeled per SHPO standards, to the Manitowoc County Historical Society.

ATTACHMENT C

Woodrow Wilson Junior High School

Survey of Public Education Resources in Manitowoc

- a. Within one (1) year of the MOA execution and before project letting, WisDOT or its agent will survey all extant buildings that currently and/or formerly functioned as public schools and vocational schools in the City of Manitowoc.
- b. WisDOT or its agent will complete an Architecture/History Survey Form following typical survey procedures and documentation for the surveyed properties; along with three photos of each surveyed property. One of these photos will include the principal façade; other photos may include significant building or landscape elements.
- c. WisDOT or its agent will update the WHPD inventory for each of the surveyed properties, either by updating existing inventory records or by creating new inventory records.
- d. WisDOT or its agent will submit copies of the AHSF to SHPO, along with supplemental materials and copies of the digital images on archival CD, formatted per SHPO standards. One set of commercially produced prints shall be provided to SHPO, labeled per SHPO standards. (Refer to Attachment E for standards for digital photography and prints.)
- e. WisDOT or its agent will provide copies of the digital images on archival CD and one set of commercially produced prints, labeled per SHPO standards, to the Manitowoc County Historical Society.

ATTACHMENT D

Elks Clubhouse

National Register of Historic Places Nomination

- a. Within ninety (90) days of MOA execution, and prior to commencing work on the Nomination, WisDOT or its agent will contact the property owner to gauge opposition to listing the property in the National Register. The property owner will be provided forty-five (45) days to respond.
- b. If no response is received, or if the property owner does not consent to the NRHP listing, WisDOT or its agent will consult with SHPO and the property owner to determine an alternate mitigation measure. Within thirty (30) days of receiving notice of non-consent, WisDOT or its agent will propose alternate mitigation measure(s), including implementation timeframe(s) and method(s) for providing proof of implementation. CRT and SHPO will be provided thirty (30) days to review and comment on the alternate mitigation measure(s). Following review and comment, the alternate mitigation measure(s) will be implemented accordingly.
- c. Upon confirming that the property owner is not opposed to NRHP listing, WisDOT or its agent will submit a draft Nomination on National Park Service (NPS) Form 10-900 to CRT and SHPO for review and comment within one (1) year of MOA execution. The Nomination will follow current NPS and SHPO guidelines and requirements. CRT and SHPO will be provided an opportunity to review and comment.
- d. WisDOT or its agent will submit the final Nomination along with supplemental materials within thirty (30) days of receipt of CRT and SHPO comments. The supplemental materials will be processed and labeled in accordance with NPS and SHPO standards.
 - i. Completed NPS Form 10-900, hard copy and electronic version.
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 - vii. Summary paragraph, per SHPO requirements.
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- e. WisDOT's agent will present the National Register Nomination of the Elks Clubhouse at a State Review Board Meeting, as scheduled by the SHPO.

ATTACHMENT E

Requirements for Standard Color Photographic Documentation

- i) Digital photographs shall meet SHPO and National Park Service (NPS) requirements.
 - (a) Images will be taken with a digital SLR camera set to the highest quality.
 - (b) Each image will be at least 2,000 pixels on the longest side or at least 300 pixels per inch.
 - (c) Image file size will exceed 3MB (uncompressed).
 - (d) Images will be saved as uncompressed JPEGs and will not be cropped, compressed, up-sampled, or otherwise digitally altered.
 - (e) Image CDs will be “closed out” and readable on multiple computers.
 - (f) Photologs will be submitted that record the description of subject, location, date of photograph, photographer, and direction of photo.
 - (g) All color prints will be labeled on the back with the date, project name, description of subject, direction of the photograph, and image file name that corresponds with the digital images and photolog.