

**MEMORANDUM OF AGREEMENT
BETWEEN THE CITY OF CANNELTON 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 FIRE STATION ADDITION AND GAZEBO RELOCATION
IN CANNELTON, TROY TOWNSHIP, PERRY COUNTY, INDIANA**

WHEREAS the City of Cannelton ("City") proposes to relocate the gazebo adjacent to the existing fire station to the corner of Washington Street and Fifth Street in order to provide a four-bay addition to the existing fire station in Cannelton, Troy Township, Perry County, Indiana; and

WHEREAS the City, in consultation with the Indiana State Historic Preservation Officer ("Indiana SHPO"), has defined this fire station addition and gazebo relocation's area of potential effects, as the term is defined in 36 C.F.R. § 800.16(d), to be the area within the Cannelton Historic District; and

WHEREAS the City, in consultation with the Indiana SHPO, has found that the Cannelton Historic District is within the area of potential effects; and

WHEREAS the City and the Indiana SHPO both recognize that the Cannelton Historic District is listed in the National Register of Historic Places; and

WHEREAS the City, in consultation with the Indiana SHPO, has determined, pursuant to 36 C.F.R. § 800.5(a), that the four-bay addition and relocation of the gazebo will have an adverse effect on the Cannelton Historic District; and

WHEREAS 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 Cannelton Historic District; and

WHEREAS 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 April 28, 2003, and agreed to proceed with the recommendations provided by the Indiana SHPO by letter dated May 27, 2003; and

NOW, THEREFORE, 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 City's approval of the four-bay fire station addition and relocation of the gazebo, the City shall ensure that the following stipulations are implemented in order to take into account the effect of the four-bay fire station addition and relocation of the gazebo on historic properties.

Stipulations

1. The gazebo will be moved in accordance with *Moving Historic Buildings* by John Oben Curtis.
2. A marker or plaque will be installed on or near the gazebo at its new location indicating where it used to be, when it was built, when it was moved, and why it was moved.
3. OBJECTION RESOLUTION PROVISION

Disagreements and misunderstandings 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 City regarding any action carried out or proposed with respect to the four-bay fire station addition and relocation of the gazebo or implementation of this memorandum of agreement, then the City shall consult with the objecting party to resolve the objection. If after initiating such consultation the City determines that the objection cannot be resolved through consultation, then the City shall forward all documentation relevant to the objection to the Council, including the City'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 City with a staff-level recommendation, which the City shall take into account in reaching a final decision regarding its response to the objection; or
 - ii. Notify 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 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 (A) of this memorandum of agreement, then the City shall take into account the Council comment provided in accordance with 36 C.F.R. § 800.7(a)(4) with reference only to the subject of the objection. 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 the gazebo—are discovered or that unanticipated effects on historic properties are found during the implementation of this memorandum of agreement, 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 July 30, 2004, then this memorandum of agreement shall be considered null and void. In such an event, the City shall so notify the parties to this memorandum of agreement and, if it chooses to continue with the four-bay fire station addition and relocation of the gazebo, then it shall reinitiate review of the four-bay fire station addition and relocation of the gazebo 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 City shall comply with 36 C.F.R. §§ 800.3 through 800.7 with regard to the review of the four-bay fire station addition and relocation of the gazebo.
- C. In the event that the City does not carry out the terms of this memorandum of agreement, the City shall comply with 36 C.F.R. §§ 800.3 through 800.7 with regard to the review of the four-bay fire station addition and relocation of the gazebo.

The execution of this memorandum of agreement by the City 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 City has afforded the Council an opportunity to comment on the four-bay fire station addition and relocation of the gazebo and its effects on historic properties and that the City has taken into account the effects of the four-bay fire station addition and relocation of the gazebo on historic properties.

SIGNATORIES:

CITY OF CANNELTON

Signed by: D. Mark Heilich

Date: August 4, 2003

Name and title: Mayor of Cannelton

INDIANA STATE HISTORIC PRESERVATION OFFICER

Signed by: J.C. Smith

Date: 8-11-03

Name and title: Jon C. Smith, Deputy State Historic Preservation Office