

AMENDMENT TO THE MEMORANDUM OF AGREEMENT
BETWEEN THE CITY OF WASHINGTON 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 CITY OF WASHINGTON CITY HALL ADA PROJECT
IN WASHINGTON, WASHINGTON TOWNSHIP, DAVIESS COUNTY, INDIANA

WHEREAS the City of Washington as the delegatee of the U.S Department of Housing and Urban Development (“City of Washington”), and the Indiana State Historic Preservation Officer (“Indiana SHPO”) executed a memorandum of agreement (“MOA”) on September 2, 2003, for the City of Washington City Hall ADA Project (“City Hall ADA Project”) in Washington, Washington Township, Daviess County, Indiana; and

WHEREAS the City of Washington has approved modifications to the original scope of work for the City Hall ADA Project; and

WHEREAS the City of Washington, in consultation with the Indiana State Historic Preservation Officer (Indiana SHPO), has defined this City Hall ADA Project’s area of potential effects, as the term is defined in 36 C.F.R. § 800.16(d), to be the Washington Commercial Historic District, Washington, IN 47501; and

WHEREAS the City of Washington, in consultation with the Indiana SHPO, has determined, pursuant to 36 C.F.R. § 800.4(c), that the City Hall is within the area of potential effects; and

WHEREAS the City of Washington and the Indiana SHPO both recognize that the City Hall is a contributing resource within the Washington Commercial Historic District, which is listed in the National Register of Historic Places; and

WHEREAS the City of Washington, in consultation with the Indiana SHPO, has determined, pursuant to 36 C.F.R. § 800.5(a), that the City Hall ADA Project will have an adverse effect on

the City Hall.

WHEREAS the City of Washington, has consulted with the Indiana SHPO in accordance with Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f) and it implementing regulations (36 C.F.R. Part 800) to resolve the adverse effect on the City Hall; and

WHEREAS the City of Washington has consulted with the Indiana SHPO in accordance with Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f) and it implementing regulations (36 C.F.R. Part 800) concerning the scope of work as presented in the materials and plans dated March 11, 2003, June 16, 2003, May 7, 2004 and June 23, 2004 and agreed to proceed with the project as proposed, with recommendations provided by the Indiana SHPO by letter dated March 26, 2003, August 8, 2003, February 5, 2004 and March 23, 2004, June 11, 2004; and

NOW THEREFORE, the City of Washington 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 of Washington's approval of the City Hall ADA Project, the City of Washington shall ensure that the following stipulations are implemented in order to take into account the effect of the City Hall ADA Project on historic properties.

Stipulations

Stipulations 1-3 in the MOA executed on September 2, 2003, for the City Hall ADA Project remain unchanged and are as follows:

1. The metal covered windows on the lower floor will remain in place and will not be covered over with limestone panels.
2. The night drop box will be installed in place of one of the metal panels in the windows.
3. All doors to be removed or altered will be made to resemble the original doors. Detailed plans and specifications regarding the new doors will be provided to the Indiana SHPO for review and approval prior to construction work. Locations will be identified on a site plan and photographs of the doors and openings will also be provided.

Stipulations 4 have been added and are as follows:

4. All doors and transoms that are to be removed or altered will be documented prior to commencement of renovation activities in the following manner:

- A. Photographs of the doors and transoms will be taken in their existing state and displayed in the area where they were originally;
- B. Measured drawings in their current state will be created, and;
- C. All material documenting the doors and transoms will be archived;

Stipulation 4 in the MOA executed on September 2, 2003, is hereby amended to read as follows:

5*. 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 the memorandum of agreement executed on September 2, 2003, should object in writing to the City of Washington regarding any action carried out or proposed with respect to the City Hall ADA Project or implementation of this memorandum of agreement, then the City of Washington shall consult with the objecting party to resolve the objection. If after initiating such consultation the City of Washington determines that the objection cannot be resolved through consultation, then the City of Washington shall forward all documentation relevant to the objection to the Council, including the City of Washington'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 of Washington with a recommendation, which the City of Washington shall take into account in reaching a final decision regarding its response to the objection; or
 - ii. Notify the City of Washington that the objection will be referred for comment pursuant to 36 C.F.R. § 800.7(b), and proceed to refer the object and comment.
- B. The City of Washington 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 City of Washington's responsibility to carry out all actions under this memorandum of agreement that are not the subjects of the objection shall remain unchanged.

Stipulation 5 in the MOA executed on September 2, 2003, is hereby amended to read as follows:

#.6. POST REVIEW DISCOVERY

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

Stipulation 6 in the MOA executed on September 2, 2003, is hereby amended to read as follows:

#.7. 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 (c)(7) shall govern the execution of any such amendment.

Stipulation 7 in the MOA executed on September 2, 2003, is hereby amended to read as follows:

#.8. TERMINATION

- A. If the terms of amendment and the memorandum of agreement executed on September 2, 2003, have not been implemented by December, 31, 2006, then this memorandum of agreement shall be considered null and void. In such an event, the City of Washington shall so notify the parties to this memorandum of agreement and, if it chooses to continue with the City Hall ADA Project, then it shall reinitiate review of the City Hall ADA Project 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 of Washington shall comply with 36 C.F.R. §§ 800.3 through 800.7 with regard to the review of the City Hall ADA Project.
- C. In the event that the City of Washington does not carry out the terms of this memorandum of agreement, the City of Washington shall comply with 36 C.F.R. §§ 800.3 through 800.7 with regard to the review of the City Hall ADA Project.

The execution of this memorandum of agreement by the City of Washington 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, and the implementation of its terms evidence that the City of Washington has afforded the Council an opportunity to comment on the City Hall ADA Project

and its effects on historic properties and that the City of Washington has taken into account the effects of the City Hall ADA Project on historic properties.

SIGNATORIES (Required):

City of Washington as the delegatee of the U.S. Department of Housing and Urban Development

Signed by: David W. Abel Date: 7/12/04

Name & Title: David W. Abel, Mayor
(Typed or Printed)

INDIANA STATE HISTORIC PRESERVATION OFFICER

Signed by: Jon C. Smith Date: 7.23.04

Jon C. Smith, Deputy State Historic Preservation Officer