

**MEMORANDUM OF AGREEMENT
BETWEEN
THE FEDERAL TRANSIT ADMINISTRATION AND
THE INDIANA STATE HISTORIC PRESERVATION OFFICER
REGARDING
THE WEST LAKE CORRIDOR PROJECT**

WHEREAS, the Federal Transit Administration (FTA) may provide federal funding to the Northern Indiana Commuter Transportation District (NICTD) for the West Lake Corridor Project (Project) in Lake County, Indiana, and Cook County, Illinois, and FTA has determined that the Project is an undertaking pursuant to 36 Code of Federal Regulations (CFR) Part 800; and

WHEREAS, the Project consists of constructing a rail-based service between the Munster/Dyer area and Metra's Millennium Station in Downtown Chicago using electric-powered trains on an approximately 9-mile southern extension of NICTD's existing South Shore Line, constructing four new stations and maintenance, parking, and layover facilities; and

WHEREAS, FTA has consulted with the State Historic Preservation Officer (SHPO) at the Indiana Department of Natural Resources, Division of Historic Preservation & Archaeology (DHPA) and the SHPO at the Illinois Department of Natural Resources, Illinois Historic Preservation Agency, in accordance with Section 106 of the National Historic Preservation Act (NHPA), as amended, (54 United States Code [USC] § 306108), and its implementing regulations (36 CFR Part 800); and

WHEREAS, NICTD has participated in consultation and has been invited to sign this Memorandum of Agreement (MOA) as an invited signatory; and

WHEREAS, FTA has defined the Project's Area of Potential Effects (APE) as depicted in Attachment A; and

WHEREAS, FTA examined several Project alternatives and design options as part of the Draft Environmental Impact Statement and has selected the Hammond Alternative Option 2 as the Preferred Alternative; and

WHEREAS, FTA has determined that the Project will have an adverse effect on the National Register of Historic Places (NRHP)-eligible O.K. Champion Building at 4714 Sheffield Avenue, Hammond, Indiana, as shown in a map in Attachment A, due to demolition of the building for the construction of new track and facilities; and

WHEREAS, FTA has determined that the Project will have no effect on any historic properties in Illinois or on any NRHP-eligible or listed archaeological resources as there are none within the Project's archaeological APE; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), FTA notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination and invited their participation in consultation on August 25, 2017, and ACHP declined on September 13, 2017; and

WHEREAS, FTA and NICTD have consulted with the consulting parties listed in Attachment B regarding effects of the Project on historic properties; and

WHEREAS, consideration was given to alternatives and refinements throughout the project development process that would avoid, minimize, or mitigate impacts to historic

properties in, or eligible for, the NRHP, while meeting the stated Project Purpose and Need; and

NOW, THEREFORE, FTA and Indiana SHPO, agree that, upon acceptance of this MOA, the Project shall be implemented in accordance with the following stipulations in order to take into account and mitigate the adverse effect of the Project on historic properties.

Stipulations

FTA shall ensure that the following stipulations of this MOA are carried out by NICTD and shall require, as a condition of any approval of federal funding for the undertaking, adherence to the stipulations set forth herein:

I. TREATMENT MEASURES

- A.** Prior to any demolition of the O.K. Champion Building, located at 4714 Sheffield Avenue, Hammond, Indiana, NICTD shall prepare Historic American Building Survey (HABS) documentation of the existing O.K. Champion Building. Secretary of the Interior-qualified professionals in history or architectural history (36 CFR Part 61) shall complete a HABS Short Form Report as specified in the Historic American Buildings Survey Guidelines for Historical Reports. Prior to any alteration to or demolition of the O.K. Champion Building, NICTD shall provide draft documentation to the National Park Service (NPS) to verify that it meets the specified standards and formats. Upon NPS approval, NICTD shall finalize the documentation for submittal to the HABS office. One paper copy and one electronic copy of the final HABS documentation shall be provided to the Indiana SHPO. Electronic copies shall be provided to the consulting parties and placed on file with the City of Hammond and the Hammond Public Library/Hammond Historical Society.
- B.** NICTD shall prepare a public exhibit discussing the history and context of the O.K. Champion Building, specifically highlighting the industrial development of Hammond. The display and/or interpretive materials for the exhibit shall be designed in consultation with a qualified historian or architectural historian who meets the Secretary of the Interior's Professional Qualification Standards (36 CFR Part 61) and who shall assess the content and presentation to ensure that the important history and associations that contribute to the significance of the property are incorporated into the exhibit. SHPO and the consulting parties shall be offered an opportunity to review and comment on the content and plan for the exhibit prior to its finalization. The exhibit shall be displayed in a publicly accessible space within the vicinity of the site of the O.K. Champion Building and the Project area. The exhibit shall be displayed within 10 years of the execution of this MOA, or prior to the completion of Project construction, whichever is sooner.
- C.** NICTD shall prepare an application for nomination to the NRHP (application) for the P.H. Mueller Sons Hardware building at 416-418 Sibley Street in Hammond.
 - 1.** A Secretary of the Interior-qualified professional in history or architectural history (under 36 CFR Part 61) shall prepare the application to be consistent with the NPS standards set forth in "National Register Bulletin 16A: How to Complete the National Register Registration Form" (1997).
 - 2.** Prior to drafting the application, the qualified professional shall confer with the survey and registration staff of the Indiana SHPO to verify the NRHP eligibility of the property and its boundaries.
 - 3.** NICTD or its qualified professional shall submit the application to the Indiana SHPO prior to the completion of Project construction. The qualified professional shall

cooperate in good faith with the Indiana SHPO staff in providing information or making revisions to the application, as requested.

4. If NICTD or its qualified professional demonstrates that it has become impossible for NICTD or its qualified professional to submit or complete the application for the P.H. Mueller Sons Hardware building because of: (1) a lack of property owner consent, inability to obtain access to the property or to essential information, or other unavoidable circumstances, or (2) if the Indiana SHPO concludes that the property is not eligible for the NRHP, then NICTD, following the same procedure specified in Stipulation I.C.1 through I.C.3, shall prepare an application for a second property, selected by FTA with input from the consulting parties, which shall be submitted to the Indiana SHPO within ten (10) years from the date of execution of this MOA.
5. NICTD's commitment under this stipulation shall be considered to have been satisfied when:
 - a. The Indiana SHPO advises NICTD or its qualified professional that the application for the P.H. Mueller Sons Hardware building is complete and suitable for presentation to the Indiana Historic Preservation Review Board (Review Board); or
 - b. The Indiana SHPO advises NICTD or its qualified professional that the application for the second property is complete and suitable for presentation to the Review Board; or
 - c. NICTD or its qualified professional demonstrates that it has become impossible for NICTD or its qualified professional to submit or complete the application for the second property because of a lack of property owner consent, inability to obtain access to the property or to essential information, or other, unavoidable circumstances, or if the Indiana SHPO concludes that the second property is not eligible for the NRHP.

II. DURATION

This MOA will expire if its terms are not carried out within ten (10) years from the date of its execution. Prior to such time, FTA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VII below.

III. MONITORING AND REPORTING

Each year on June 1 following the date of the execution of this MOA until it expires or is terminated, whichever comes first, NICTD will provide FTA, SHPO, and the consulting parties with a summary report detailing the work undertaken throughout the previous year pursuant to the stipulations of this MOA. The last report will be submitted within three (3) months of completion of construction of the Project or at completion of this MOA's terms, if later. The summary report will include any tasks undertaken relevant to stipulations within this MOA, scheduling changes, problems encountered, and any disputes regarding implementation of these stipulated measures.

IV. COORDINATION WITH OTHER FEDERAL REVIEWS

In the event any other federal agency provides funding, permits, licenses, or other assistance to NICTD for the Project as it was planned at the time of the execution of this MOA, such funding or approving agency may comply with Section 106 by agreeing in writing to the terms of this

MOA and so notifying and consulting the Indiana SHPO. Any necessary amendments will be coordinated pursuant to Stipulation VII.

V. POST-REVIEW DISCOVERIES

If NICTD and FTA determine after any future construction has commenced that Project activities will affect a previously unidentified archaeological or historical resource that may be eligible for the NRHP, or affect a known resource in an unanticipated manner, FTA will address the discovery or unanticipated effect in accordance with 36 CFR § 800.13(b)(3). FTA, at its discretion, may assume any unanticipated discovered property to be eligible for inclusion in the NRHP, pursuant to 36 CFR § 800.13(c). If human remains or archaeological sites are inadvertently discovered, or unanticipated effects on historic properties are found, then NICTD will implement the following procedures.

Regarding the discovery of human remains, in accordance with 36 CFR § 800.13(b)(3) and Indiana Code (IC) 14-21-1-27(a), if buried human remains or burial grounds are disturbed, NICTD will immediately cease all ground-disturbing activities within 100 feet of the discovery, and human remains or possible human remains will be left undisturbed. NICTD will notify FTA, the Indiana SHPO, the County Coroner, and Indiana Department of Natural Resources, Division of Law Enforcement within 48 hours from the time of the discovery. Human remains will be treated or reburied in an appropriate manner and place in compliance with IC 23-14-57, the Native American Graves Protection and Repatriation Act, or other applicable laws.

Regarding the discovery of archaeological resources, in accordance with 36 CFR § 800.13(b)(3) and IC 14-21-1-29(a), if an archaeological resource is inadvertently discovered, NICTD will immediately cease all ground-disturbing activities within 100 feet of the discovery. NICTD will notify FTA and the Indiana SHPO within 48 hours from the time of the discovery. NICTD, in consultation with FTA and the Indiana SHPO, will conduct an on-site evaluation of the discovery. A professional archaeologist will investigate the discovery and recommend a course of action to protect the site. FTA will consider eligibility and effects, consult with the Indiana SHPO, and determine actions to take to resolve adverse effects. FTA, in consultation with the Indiana SHPO, may authorize the continuation of ground-disturbing activities, with or without conditions; or, within 10 days from the date that FTA and the Indiana SHPO receive notice of the discovery, FTA, in consultation with the Indiana SHPO, may require that continued ground disturbance activities be conducted only in accordance with an approved plan. NICTD, FTA, and the Indiana SHPO will consult on the appropriate action. If requested by FTA or the Indiana SHPO, NICTD will develop a work plan to treat the discovery and resolve adverse effects to historic properties. If agreed upon by FTA and the Indiana SHPO, any necessary archaeological investigations will be conducted in accordance with the provisions of IC 14-21-1, 312 Indiana Administrative Code (IAC) 21, 312 IAC 22, the current *Guidebook for the Indiana Historic Sites and Structure Inventory—Archaeological Sites* (DHPA 2008), and other appropriate federal and state guidelines, statutes, rules, and regulations. The Indiana SHPO will review and provide concurrence on FTA's determination of eligibility, effects, and measures to avoid or reduce harm within 10 days of receipt of the work plan. NICTD will then implement these measures accordingly and resume work.

Regarding unanticipated effects on aboveground historic properties, if any adverse effects to a historic property occur during construction, NICTD will immediately cease construction activities that could affect the historic property. NICTD will notify FTA and the Indiana SHPO within 48 hours of the time of the discovery. NICTD, in consultation with FTA and the Indiana SHPO, will assess the extent of the adverse effect and propose repairs in a brief report. If any repairs to historic properties are necessary, they shall be consistent with the Secretary of the Interior's

Standards for Rehabilitation (36 CFR § 67.7). FTA will consider eligibility and effects and will determine actions to take to resolve adverse effects. The Indiana SHPO will have 15 days to review the report and provide comments on the proposed measures to resolve adverse effects. If no response is received from the Indiana SHPO, FTA may authorize NICTD to proceed with construction. NICTD shall implement these measures prior to resuming construction activities in the location of the historic property.

VI. DISPUTE RESOLUTION

Should any signatory to this MOA object in writing at any time to any actions proposed or the manner in which the terms of this MOA are implemented, FTA will consult with such signatory to resolve any objections. If FTA determines that such objection cannot be resolved, FTA will:

- A.** Forward all documentation relevant to the dispute, including FTA's proposed resolution, to the ACHP. The ACHP shall provide FTA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FTA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from ACHP and signatories, and provide them with a copy of this written response. FTA will then proceed according to its final decision.
- B.** If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, FTA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FTA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories to the MOA, and provide them to ACHP with a copy of such written response. The responsibility of FTA and NICTD to carry out all other actions under the terms of this MOA that are not the subject of the dispute remain unchanged.

VII. AMENDMENT

This MOA may be amended when such amendment is agreed to in writing by all signatories. The amendment will be effective on the date that a copy is signed by the last signatory.

VIII. TERMINATION

This MOA will terminate in ten (10) years or upon completion of its terms, whichever comes first. If FTA, the Indiana SHPO, or NICTD determines that the terms of this MOA will not or cannot be carried out, that party will immediately consult with the other signatories to attempt to develop an amendment per Stipulation VII above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, FTA or NICTD may terminate the MOA upon written notification to the other signatories.

IX. IMPLEMENTATION

- A.** This MOA may be implemented in counterparts, with a separate page for each signatory. This MOA will become effective on the date of the final signature by the signatories. FTA shall ensure each signatory is provided with a complete copy, and that the final MOA, any updates to attachments, and any amendments are filed with ACHP.
- B.** Execution of this MOA by FTA and the Indiana SHPO and implementation of its terms is evidence that FTA has taken into account the effects of its undertaking on historic properties and has afforded the ACHP an opportunity to comment pursuant to Section 106 of the NHPA.

SIGNATURE PAGE
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SIGNATORY

FEDERAL TRANSIT ADMINISTRATION

SIGNED BY:



Date:

11/7/2017

Marisol R. Simón
Regional Administrator

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SIGNATORY

INDIANA STATE HISTORIC PRESERVATION OFFICER

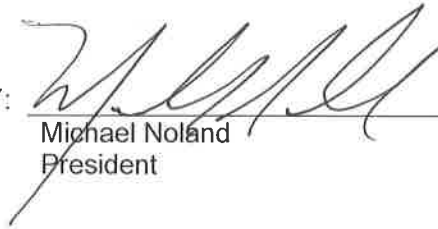
SIGNED BY:  Date: 12-11-2017
Mitchell K. Zoll
Deputy State Historic Preservation Officer

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INVITED SIGNATORY

NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT

SIGNED BY:

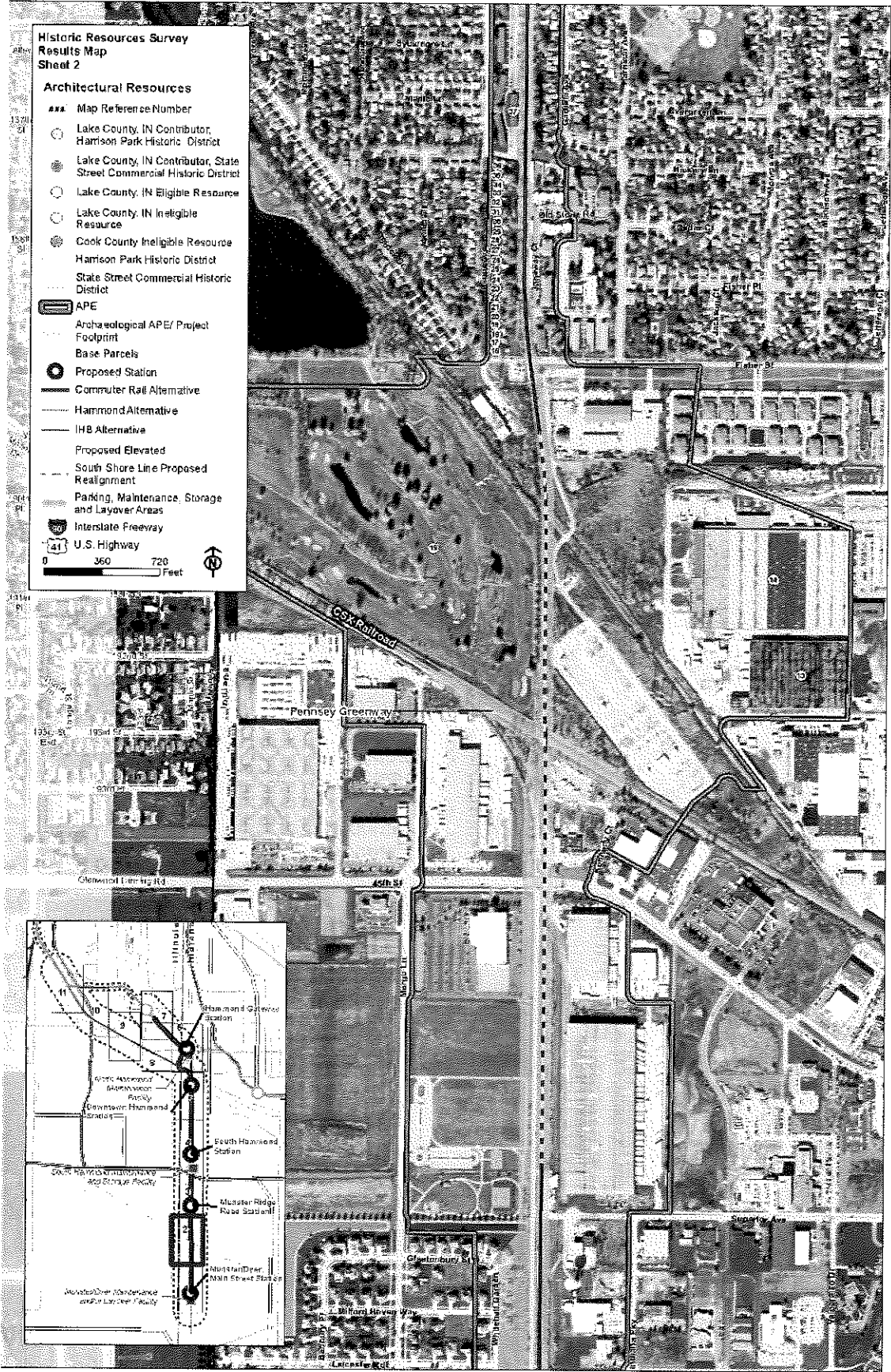

Michael Noland
President

Date:

12/11/17

**Attachment A:
APE Maps**



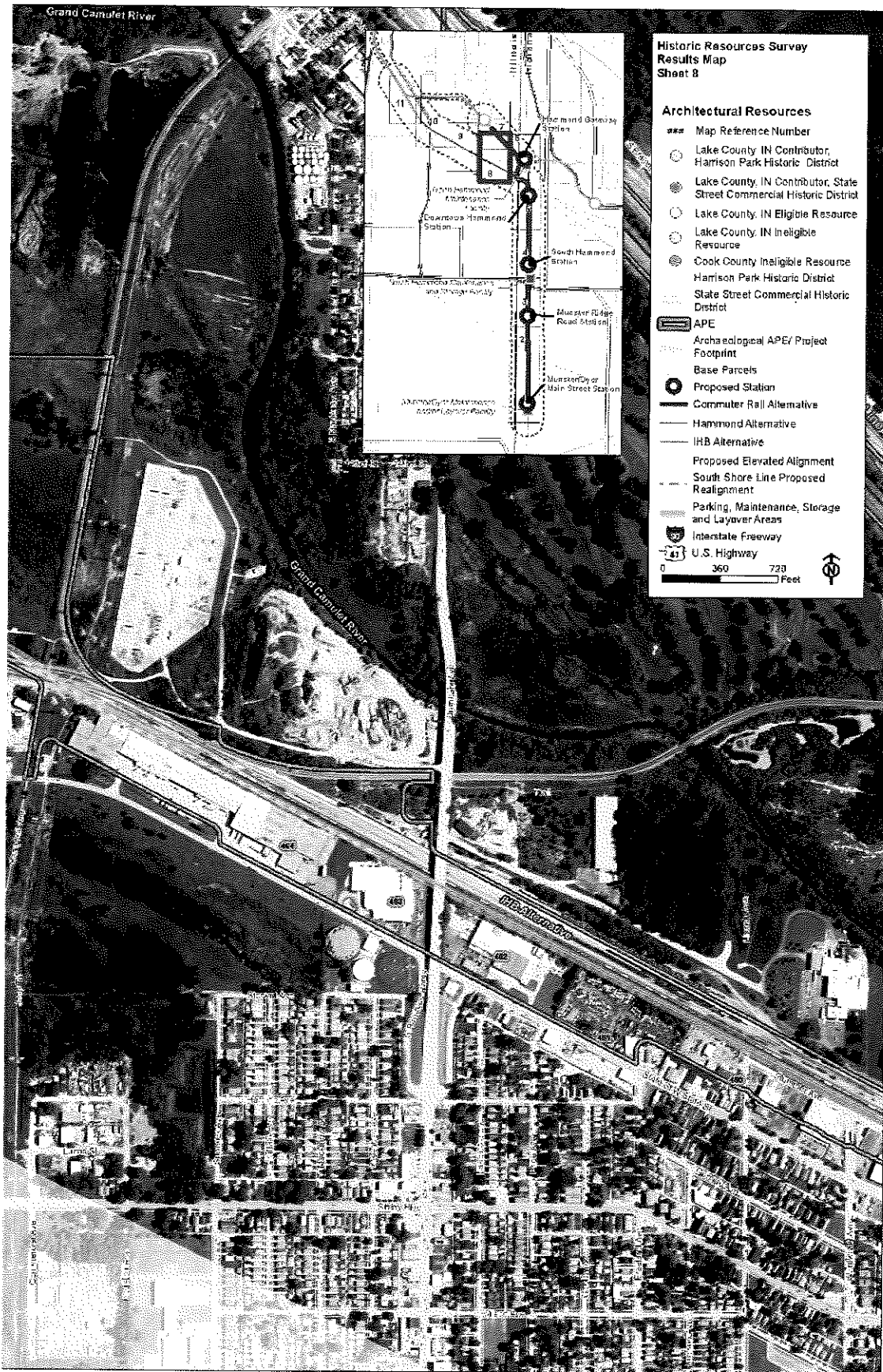




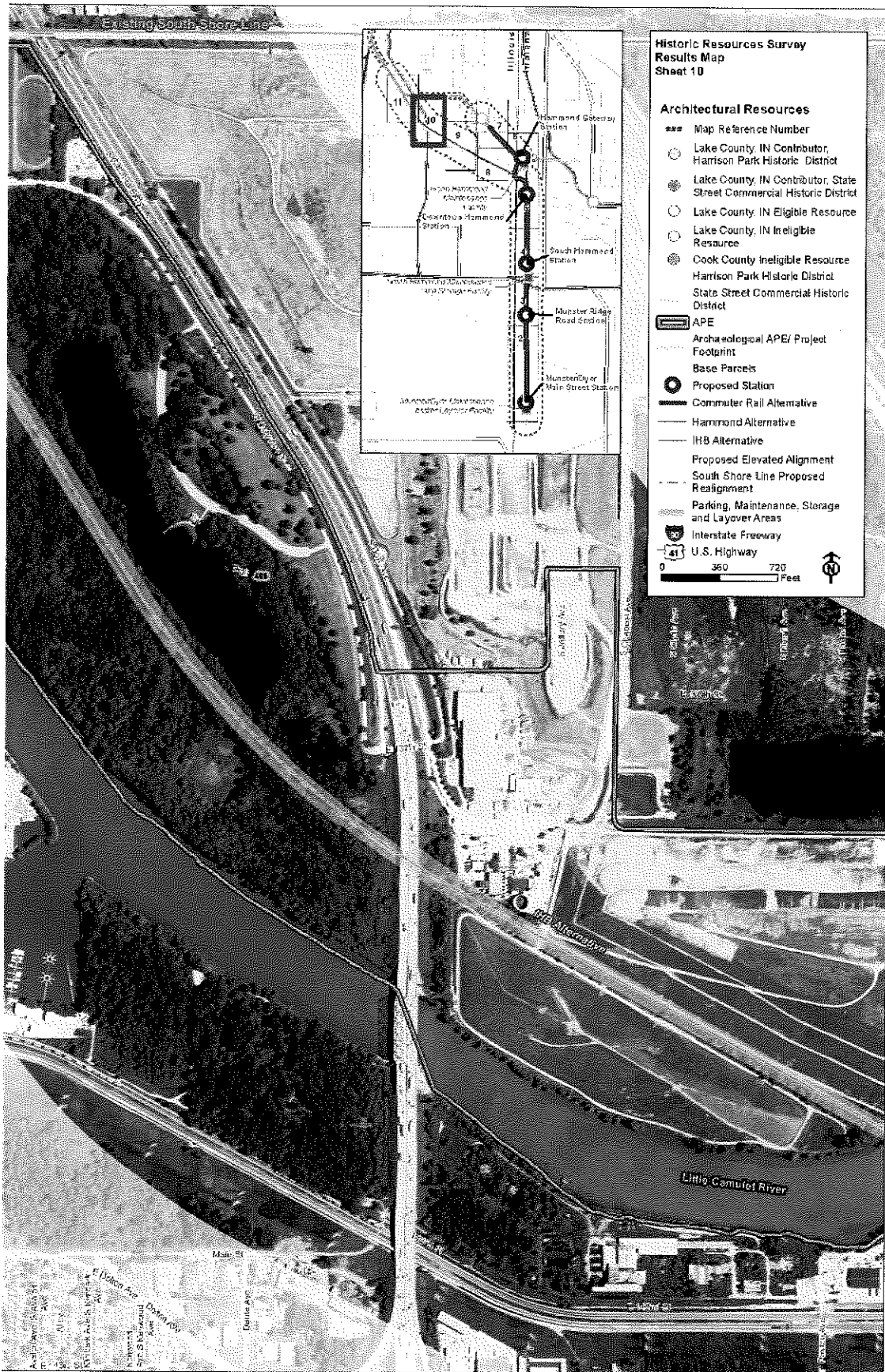


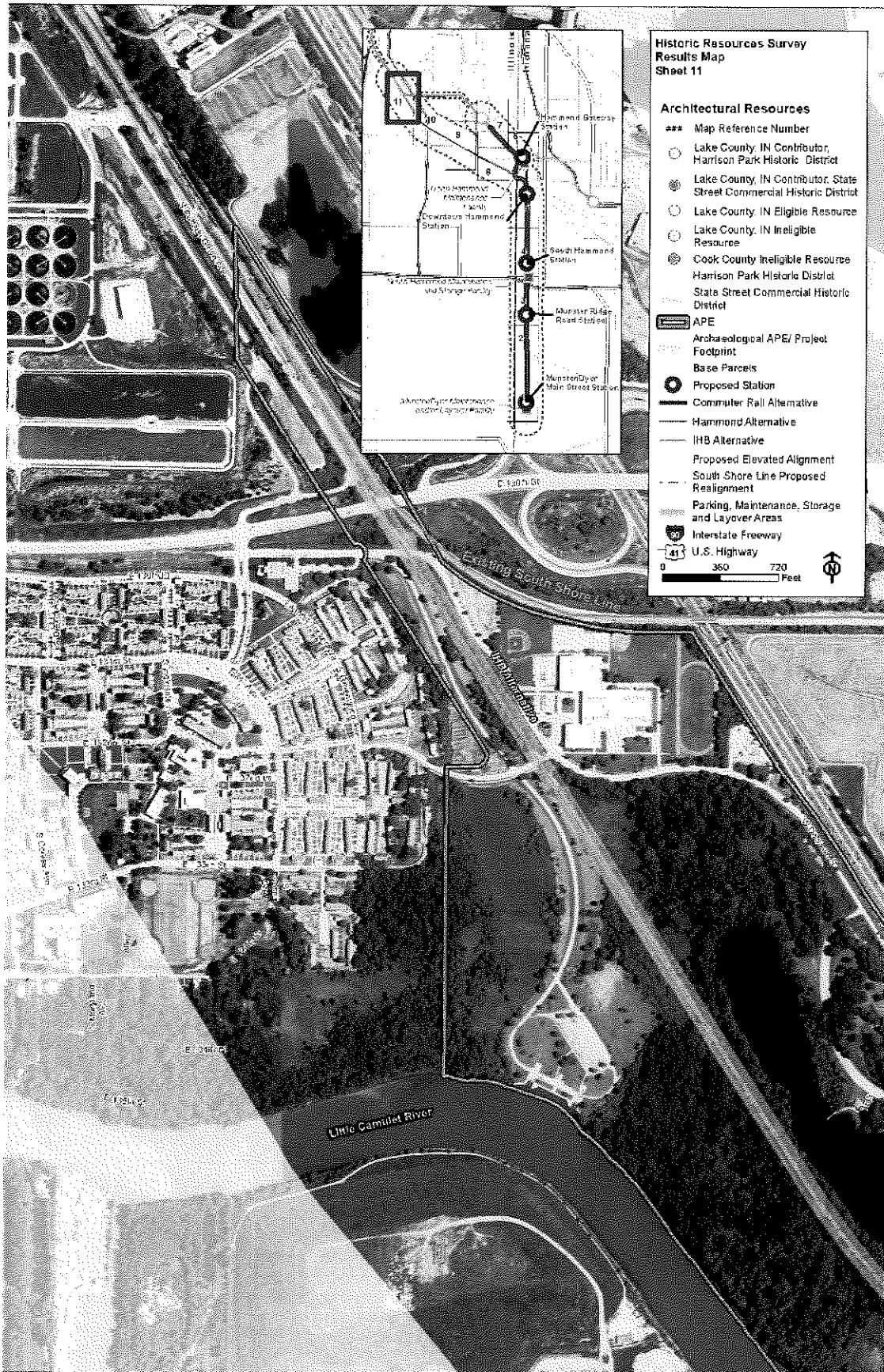












**Attachment B:
List of Consulting Parties**

West Lake Corridor Project Consulting Parties

Indiana State Historic Preservation Office

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Illinois State Historic Preservation Office

Rachel Leibowitz
Preservation Services Division
#1 Old State Capitol Plaza
Springfield, IL 62701-1507
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Peoria Tribe of Indians of Oklahoma

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Miami, OK 74355-1527
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Hammond Historical Society

Peg Evans
564 State Street
Hammond, IN 46320
pegevans@aol.com
219.931.5100

Hammond Historic Preservation Commission

Brian L. Poland, AICP
5925 Calumet Avenue Rm. G17
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219.853.6397 x3

Indiana Landmarks – Northwest Field Office

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Lake County Historical Society

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