MEMORANDUM OF AGREEMENT
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
ILLINOIS STATE HISTORIC PRESERVATION OFFICER,
ILLINOIS DEPARTMENT OF TRANSPORTATION,
AND VILLAGE OF CARPENTERSVILLE
REGARDING THE CONSTRUCTION OF A ROUNDABOUT
AT MAIN STREET AND WASHINGTON STREET
IN THE VILLAGE OF CARPENTERSVILLE, KANE COUNTY, ILLINOIS

WHEREAS, the Village of Carpentersville, in coordination with Illinois Department of Transportation (IDOT) plans to construct a roundabout at the intersection of Main and Washington Streets, Sequence #19231 (Project) in the Village of Carpentersville, Kane County, Illinois; and

WHEREAS, the Federal Highway Administration (FHWA) plans to fund the Project, thereby making the Project an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. Section 470f, and its implementing regulations, 36 CFR Part 800; and

WHEREAS, the FHWA has defined the undertaking's area of potential effect (APE) as the parcels surrounding Main Street from the Fox River to Grove Street, Washington Street from roughly 300 feet north of Main Street to the Fox River, Spring Street from Wisconsin Street to Green Street, and Wisconsin Street from 300 feet north of Main Street to Washington Street (see maps in Appendix A); and

WHEREAS, the FHWA has determined that the undertaking will have an adverse effect on the Dundee Township Historic District, which is listed on the National Register of Historic Places, but no other historic properties will be adversely affected, and FHWA has consulted with the Illinois State Historic Preservation Officer (SHPO) pursuant to 36 C.F.R. Part 800; and

WHEREAS, the FHWA has invited the IDOT to participate in consultation and to become signatory to this memorandum of agreement (MOA); and

WHEREAS, the FHWA has invited the Village of Carpentersville, Illinois, to participate in consultation and to become signatory to this memorandum of agreement (MOA); and

WHEREAS, the FHWA has notified the Advisory Council on Historic Preservation (ACHP) of the adverse effect, pursuant to 36 CFR Section 800.6(a)(1), in a letter dated April 16, 2016; and

WHEREAS, the ACHP declined to enter into consultation in a letter dated April 22, 2016; and

WHEREAS, the FHWA has invited consultation of the following Tribes: the Ho-Chunk Nation, the Iowa Tribe, the Miami Tribe of Oklahoma, the Peoria Tribe of Indians in Oklahoma, the Potawatomi Nation, and the Sac and Fox Nation; the Iowa Tribe of Kansas and Nebraska and the Miami Tribe of Oklahoma expressed an interest in the project and are invited to be a concurring parties to this MOA; and

NOW, THEREFORE, the FHWA, IDOT, Village of Carpentersville, and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The FHWA, in coordination with the IDOT and the Village of Carpentersville, shall ensure that the following measures are carried out:

1. Prior to the beginning of construction activities, the Village of Carpentersville shall: (a) hire an architectural historian who meets the Secretary of the Interior's Professional Qualification Standards (36 CFR Part 61), (b) provide IDOT and SHPO with a copy of the signed contract, (c) have the architectural historian re-evaluate the limits of the Dundee Township Historic District and the existing condition of the buildings and structures within the Dundee Township Historic District by submitting a report for IDOT and SHPO approval, and (d) have the architectural historian record the stone arch culvert over Carpenter Creek at the Illinois Historic American Engineering Record (HAER) Level III standards. At a minimum, the Dundee Township Historic District re-evaluation report must photo document the current exterior condition of each building within the District, evaluate each buildings historic character in terms of the District's period of significance, reassess the current boundaries of the District, and provide updated suggested boundaries for the District. The re-evaluation report and the HAER report must be reviewed and approved by IDOT and SHPO in writing before construction can begin.

2. DURATION

   This MOA will be null and void if its stipulations are not carried out within ten (10) years from the date of its execution. At such time, and prior to work continuing on the undertaking, the FHWA shall either (a) execute a MOA pursuant to 36 C.F.R. § 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 C.F.R. § 800.7. Prior to such time, the FHWA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation 6 below. The FHWA shall notify the signatories as to the course of action it will pursue.

3. POST-REVIEW DISCOVERIES

   If potential historic properties are discovered or unanticipated effects on historic properties found, the FHWA, in coordination with the SHPO, shall make reasonable efforts to avoid, minimize, or mitigate adverse effects to such properties and follow the requirements of 36 CFR Section 800.13(b).

4. DISPUTE RESOLUTION

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

   A. Forward all documentation relevant to the dispute, including the FHWA's proposed resolution, to the ACHP. The ACHP shall provide FHWA 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, the 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. The FHWA 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 FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the FHWA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories to the MOA, and provide them and the ACHP with a copy of such written response.

C. The FHWA's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

5. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

6. 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 parties to attempt to develop an amendment per Stipulation 6 above. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, FHWA must either (a) execute an MOA pursuant to 36 CFR § 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. The FHWA shall notify the signatories as to the course of action it will pursue.

EXECUTION of this MOA by the FHWA and Illinois SHPO and implementation of its terms are evidence that FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORIES

FEDERAL HIGHWAY ADMINISTRATION

By: _____ Date: 8/9/16

ILLINOIS STATE HISTORIC PRESERVATION OFFICER

By: _____ Date: 9/2/16

INVITED SIGNATORIES

ILLINOIS DEPARTMENT OF TRANSPORTATION

By: John Fortmann ASC Date: 7-18-16

VILLAGE OF CARPENTERSVILLE

By: Ed Ritter Date: 6/7/16

CONCURRING PARTIES

IOWA TRIBE OF KANSAS AND NEBRASKA

By: _____ Date: _____

MIAMI TRIBE OF OKLAHOMA

By: _____ Date: _____

Appendix A: Area of Potential Effect