

**MEMORANDUM OF AGREEMENT BETWEEN
THE FEDERAL TRANSIT ADMINISTRATION
AND THE
ILLINOIS STATE HISTORIC PRESERVATION OFFICER
REGARDING THE LAKE LINE AUSTIN STATION PROJECT
351 NORTH AUSTIN BOULEVARD IN
CHICAGO, ILLINOIS
(SHPO LOG #020040121)**

WHEREAS, the Federal Transit Administration (“FTA”) may provide funding to the Chicago Transit Authority (“CTA”) for the Lake Line Austin Station Project at 351 North Austin Boulevard, Chicago, Cook County, IL (the “Project”), 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 replacing the existing Austin Station with a new ADA-compliant station and reopening the Mason Street Stationhouse for customer use; and

WHEREAS, the Project is an undertaking subject to review under Section 106 of the National Historic Preservation Act of 1966, as amended, 54 United States Code [U.S.C.] § 306108, and its implementing regulations (36 CFR Part 800) (the “Act”); and

WHEREAS, FTA has consulted with the Illinois State Historic Preservation Office (SHPO), a Division of the Illinois Department of Natural Resources (IDNR), in accordance with Section 106 of the National Historic Preservation Act (NHPA), as amended, (the Act), and its implementing regulations (36 CFR Part 800) and shall continue to consult with SHPO under the terms of this Memorandum of Agreement (MOA); and

WHEREAS, FTA and CTA have consulted with the Village of Oak Park, Illinois; the Chicago Mayor’s Office for People with Disabilities; and the Chicago Department of Planning and Development Landmark Division regarding the effects of the undertaking on historic properties and has invited them to sign this Memorandum of Agreement (MOA) as Concurring Parties; and

WHEREAS, FTA recognizes it has a unique legal relationship with Federally recognized Indian tribes (Tribes) set forth in the Constitution of the United States, treaties, statutes, and court decisions, and that consultation with Tribes must, therefore, recognize the government-to-government relationship between the Federal government and the Tribes; and

WHEREAS, pursuant to 36 CFR § 800.2(c)(2)(ii), upon initiation of the Section 106 consultation for the Project, FTA notified the following Tribes and invited their participation: Miami Tribe of Oklahoma, Forest County Potawatomi Community, Potawatomi Prairie Band, Potawatomi-Citizen Nation, Potawatomi-Hannahville Indian Community, Kickapoo Tribe of Oklahoma, Little Traverse Bay Bands of Odawa Indians, Michigan and Menominee Indian Tribe of Wisconsin; and

WHEREAS, pursuant to 36 CFR § 800.4(a)(1), FTA, in consultation with the SHPO and other

Consulting Parties, has defined the Area of Potential Effects (APE) for the Project as documented in Appendix A to this MOA; and

WHEREAS, on May 17, 2021, the FTA determined, and SHPO concurred, that the Lake Line Austin Station is eligible for the National Register of Historic Places (NRHP) pursuant to 36 CFR § 800.4(c); and FTA in consultation with SHPO and other Consulting Parties identified an additional eighteen individual resources and two historic districts, as indicated in Appendix A, that are either listed in or eligible for listing the NRHP pursuant to 36 CFR § 800.4(c); and

WHEREAS, the FTA has determined, in consultation with SHPO and other Consulting Parties, that the Project will have an adverse effect on the NRHP-eligible Lake Line Austin Station; and

WHEREAS, FTA, in consultation with SHPO and other Consulting Parties, have considered ways to avoid, minimize and/or mitigate adverse effects; and agreed upon measures for mitigating the identified adverse effects as outlined in this MOA; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1) and 36 CFR § 800.10(b), the FTA has notified the Advisory Council on Historic Preservation (ACHP) of the adverse effect determination, and on March 17, 2022, the ACHP declined to participate in consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, CTA, as Project sponsor, has participated in consultation and has been invited to sign this MOA as an invited signatory.

NOW, THEREFORE, FTA, SHPO, and CTA agree that the Project shall be implemented in accordance with the following stipulations in this MOA in order to mitigate the adverse effects of this Project to the NRHP-eligible property.

STIPULATIONS

FTA, with the assistance of CTA, shall ensure the following measures are carried out:

- I. Applicability
 - A. If CTA applies for additional federal funding or approvals for the Project from a federal agency that is not party to this MOA, the agency may remain individually responsible for their undertaking under 36 CFR Part 800. Alternatively, if the undertaking as described herein remains unchanged, such funding or approving agency may request in writing to FTA and SHPO of their desire to designate FTA as lead federal agency for the undertaking pursuant to 36 CFR §800.2(a)(2) and to become a Consulting Party to this MOA pursuant to Paragraph B of this Stipulation.
 - B. If, during the implementation of this MOA, FTA identifies other agencies, Tribes, individuals, and organizations with a demonstrated interest in the undertaking due to the nature of their legal or economic relationship to the Project or affected properties, or due to their concern with the Project's effects on historic properties, FTA may offer such entities Consulting Party status pursuant to 36 CFR §800.2(c) and/or invite them to become a Concurring Party to this MOA, with notification to the other Concurring

Parties.

1. If FTA invites an entity to become an Invited Signatory, the party may accept this status by agreeing in writing to the terms of this MOA and so notifying FTA. If the entity agrees to become an Invited Signatory, and SHPO and CTA have no objections, FTA shall follow Stipulation VIII to amend this MOA.
2. If FTA invites an entity to become a Concurring Party, the entity may accept this status by agreeing in writing to the terms of this MOA and so notifying FTA. Because Concurring Parties have no responsibility for implementation of this MOA, FTA may add such parties to the consultation process without formal amendment of this MOA. FTA shall notify the Concurring Parties of any entities who agree to become a Concurring Party after initial execution.

II. Hiring Standards

- A. FTA shall ensure all activities carried out pursuant to this MOA are performed by or under the direct supervision of historic preservation professional(s) who meet the Secretary of the Interior's (SOI) Professional Qualification Standards (48 FR §§ 44738-44739) in the appropriate field(s) for the activity regarding SOI-Qualified Professionals.
 1. CTA shall employ or contract with SOI-Qualified Professional(s) hereafter, referred to as the "Preservation Lead") to advise CTA in implementing this MOA and to assist FTA as required.
- B. FTA and CTA shall ensure that in the instance of other allied professions not covered by the SOI's Professional Qualification Standards, they shall meet other nationally recognized standards or licensure/certification requirements for the professional, as applicable. Whenever possible, individuals in allied professions should have a minimum of five (5) years of experience working with historic properties.
- C. FTA and CTA shall provide Appendix B (the most recent version of the "SHPO Archaeology Discovery Guide") to all entities and onsite personnel involved in the construction of this Project. Onsite personnel should review and refer to the guide before and during construction and initiate the procedures in Stipulation V when discoveries are made.

III. Historic American Building Survey (HABS)

The CTA will ensure that the following mitigation and Historic American Buildings Survey (HABS) recordation of the Austin Station is completed by the Preservation Lead. The recordation must follow the HABS/HAER/HALS guidelines established by the Heritage Documentation Programs (HDP) of the National Park Service (see: <https://www.nps.gov/hdp/standards/index.htm>) ("HABS/HAER/HALS Guidelines"). The Preservation Lead must consult with the FTA and SHPO prior to the initiation of the work to ensure that expectations are understood. The FTA will coordinate with the National Park Service regional office to determine the specific HABS documentation components.

- A. Recordation
 1. Fieldwork: Site Visit and Photography

- a. The Preservation Lead shall take site, interior, exterior, and detail digital images of the historic structure in conformance with the HABS/HAER/HALS Guidelines. These photos should be used for reference in developing the architectural description outlined in Sec. I.A.2.d. These images will include the Lake Line Elevated and Austin Lake Line Station.
 - b. The Preservation Lead shall submit draft digital images of the same or very similar views in conformance with the HABS/HAER/HALS Guidelines that are proposed for HABS photography to the SHPO for comment. Selection of view and quantity of images shall be done in consultation with the SHPO. Images must include site, views of the Austin Station, distinctive exterior and interior architectural features, primary interior spaces, and representative non-primary interior spaces. SHPO shall have up to thirty (30) days to comment and concur, and the Preservation Lead and CTA shall incorporate such comments or concurrence into the Project. Upon written SHPO concurrence of the selected draft views or if it has been in excess of thirty (30) days, the Preservation Lead may proceed with taking the final HABS photography as outlined in Sec. I.A.1.c.
 - c. Final HABS photographs must be taken by a professional photographer and must include all the views agreed to in Sec. I.A.1.b. Photographs must be taken with a large-format digital camera using 4" x 5" or larger black-and-white negatives, processed according to HABS/HAER/HALS Guidelines, with in-camera perspective correction (as needed).
 - d. Upon completion of Sec. I.A.1.a, b, and c, the Preservation Lead shall digitally submit the images to the SHPO for review and comment. SHPO shall have up to thirty (30) days to comment and concur. The Preservation Lead and CTA shall incorporate SHPO's comments or concurrence into the Project. Upon written SHPO confirmation that all of the information necessary to complete HABS recordation has been collected, or if it has been in excess of thirty (30) days, the selective demolition of the historic property may commence.
2. Recordation components shall consist of the following items.
 - a. HABS photographs. Prints from the negatives taken in Sec. I.A.1.c must be either wet processed on regular (not resin-coated) photo paper or inkjet-printed, according to HABS/HAER/HALS guidelines. The size of the final prints shall be the size of the

negatives, and their mounting and labeling shall be done in accordance with guidance provided by HDP staff. The final recordation package must contain the photo prints, original negatives, and a contact sheet, per HABS/HAER/HALS standards.

- b. Archival digital photography. This set of labeled photos are those taken as a part of the reconnaissance and agreed to as stated in Sec. I.A.1.a. They should be printed as directed by HDP staff.
- c. Narrative and description. A written historic narrative and an architectural description of the historic property using the HABS-designated outline format printed single sided on regular-weight, archival (non-recycled, with 25% cotton fiber content) bond paper. This text will include a historic context statement for the Lake Line Elevated, significance and description of the Austin Lake Line Station, and a detailed bibliography. This historic context statement would be the framework for the evaluation of additional stations on this line that are not currently ADA-compliant and will be included as part of the CTA All Stations Accessibility Program (ASAP) in future projects.
- d. Original and/or historic drawings. Any original and/or historic drawings of the historic property scanned at a minimum of 400 ppi and dropped full-size onto HABS title blocks. Verify that the original/historic plans can be reproduced in accordance with the U.S. Copyright Act, as amended (see: <https://www.nps.gov/hdp/standards/copyright.htm>). The finished sheets will be printed on vellum in accordance with HDP's Transmittal Guidelines. The Preservation Lead must consult with the SHPO to determine which extant plans warrant scanning and inclusion in the recordation package. SHPO shall have up to thirty (30) days to comment and concur. Recordation components of this Section I.A.2. shall not impact the CTA's demolition, construction activities at the Project.
- e. Original field notes, if applicable (i.e., field sketches, laser-scan info, photogrammetric data info.)
- f. Historic images and maps. Photographic copies of illustrative historic images and maps must be scanned, and printed, and labeled according to HABS/HAER/HALS guidelines. The Preservation Lead must consult with the SHPO to determine which historic images and maps warrant inclusion in the recordation package. SHPO shall have up to forty-five (45) days to comment and concur. Recordation components of this Section I.A.2. shall not impact the CTA's demolition, construction activities at the Project.

- g. Copyright release form. Photographic copies and images that appear as figures within a historical report must be copyright free and a release form provided as part of the documentation package. A fillable copyright release form can be found at https://www.nps.gov/hdp/standards/Copyright_fill.pdf
 - h. CD/DVD. Digital versions of items in Secs. I.A.2.a through I.A.2.h must be saved onto an archival CD/DVD.
3. Draft submission. The Preservation Lead shall email the 95% draft of the items in Sec. I.A.2.a through h in .pdf format to the SHPO for review and comment. SHPO shall have up to thirty (30) days to comment and concur. When the SHPO accepts in writing the 95% draft submission, the Preservation Lead shall incorporate into the recordation any comments that the SHPO provides and complete the final documentation as directed in Sec. I.A.4. The Preservation Lead shall also email the 95% draft of the items in Sec. I.A.2.a through h in Microsoft Word format to the NPS regional office for review and comment. Recordation components of this Section I.A.2. shall not impact the CTA's demolition or construction activities at the Project site.
4. Final submission. Upon completion of the final documentation, the Preservation Lead shall submit the following to the FTA, NPS HDP, and SHPO:
- a. One (1) HABS recordation package containing items in Secs. I.A.2.a, b, c, d, e, f, g, and h.
 - b. One (1) recordation package containing items in Secs. I.A.2.a, c, d, e, g, and h in an archival clamshell.
 - c. Digital versions of items in Secs. I.A.2.a, b, c, d, e, g, and h uploaded to the State of Illinois file transfer site: <https://filet.illinois.gov/filet/pimupload.asp> with "SHPO.review@illinois.gov" as the recipient.

Upon final approval, the Preservation Lead will submit the HABS recordation package to the NPS HDP for eventual transmittal to the Library of Congress, and the SHPO will deposit the recordation package with the Abraham Lincoln Presidential Library in Springfield, Illinois.

IV. DURATION

- A. 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 other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VIII

below.

V. POST-REVIEW DISCOVERIES

If FTA and CTA determine after 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(a)(2). 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 CTA will implement the following procedures:

- A. Regarding the unanticipated discovery of human remains or burials during demolition or construction activities, CTA will comply with the Illinois Human Skeletal Remains Protection Act (20 ILCS 3440) as administered by the SHPO and will follow the following procedures:
 - i. Upon encountering human remains or an unmarked human burial during ground disturbing construction activities, CTA will ensure that the construction contractor immediately stops work within a 150-foot radius from the point of discovery. CTA will ensure that the construction contractor implements interim measures to protect the discovery from vandalism and looting but must not remove or otherwise disturb and human remains or other items in the immediate vicinity of the discovery.
 - ii. CTA will notify the County Coroner, FTA, SHPO, the Tribes, and their interested parties within 48 hours of the discovery. CTA/FTA will contact, by phone, the point of contact for each interested Tribe of the discovery.
 - iii. The County Coroner will determine jurisdiction. If the remains are older than 100 years, the County Coroner will transfer jurisdiction to SHPO.
 - iv. In coordination with SHPO, CTA will determine if the skeletal remains are human, the degree to which they were disturbed, and if possible, assess their potential age and cultural affiliation without any further disturbance.
 - v. CTA/FTA is responsible for notifying the Tribes within 24 hours of SHPO's findings.
 - vi. If it is determined by SHPO that intact or fragmented human remains are present and they are Native American, CTA will consult with SHPO, FTA, the Tribes, and other interested parties regarding additional measures to avoid, and protect or mitigate, the adverse effect of the project on the human remains and burial site. These measures may include:
 - a. Formal archaeological evaluation of the site;
 - b. If the remains are determined to be Native American, consultation with the Tribes will be required;
 - c. Visits to the site by the SHPO, the Tribes, and other interested parties; exploration of potential alternatives to avoid the human remains or burial;

- d. Implementation of a mitigation plan by CTA including procedures for disinterment and re-interment; and
 - f. SHPO and FTA approval to resume construction following completion of the fieldwork component of the mitigation plan.

- B. Regarding the discovery of archaeological resources, in accordance with 36 CFR § 800.13(b)(3) and the Illinois Archaeological and Paleontological Resources Protection Act (20 ILCS 3435), if an archaeological resource is inadvertently discovered, CTA will immediately cease all ground-disturbing activities within 150 feet of the discovery. CTA will notify FTA and SHPO within 48 hours from the time of the discovery. CTA, in consultation with FTA and SHPO, will conduct an on-site evaluation of the discovery. An SOI qualified archaeologist will investigate the discovery and recommend a course of action to protect the site. FTA will consider eligibility and effects, consult with SHPO, and determine actions to be taken to resolve adverse effects. FTA, in consultation with SHPO, may authorize the continuation of ground-disturbing activities, with or without conditions; or, within 15 days from the date that FTA and SHPO receive notice of the discovery, FTA, in consultation with SHPO, may require that continued ground disturbance activities be conducted only in accordance with an approved work plan. If requested by FTA or SHPO, CTA will develop a work plan for the treatment of the discovery and to resolve adverse effects to historic properties. SHPO will review and provide concurrence on FTA's determination of eligibility, effects, and measures to avoid or reduce harm within 15 days of receipt of the work plan. CTA will then implement these measures accordingly and resume work. Any necessary archaeological investigations will be conducted in accordance with the provisions of the Illinois Archaeological and Paleontological Resources Protection Act (20 ILCS 3435) and all other appropriate federal and state guidelines, statutes, rules, and regulations.

- C. Regarding unanticipated effects on aboveground historic properties, if any adverse effects to a historic property occur during construction, CTA will immediately cease construction activities affecting the historic property. CTA will notify FTA and SHPO within 48 hours of the time of the discovery. CTA, in consultation with FTA and 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 determine the actions to take to resolve adverse effects, which will be documented in a report. SHPO will have 15 days to review the report and concur with the proposed measures to resolve adverse effects. If no response is received from SHPO, FTA may authorize CTA to proceed with construction. CTA shall implement these measures prior to resuming construction activities in the location of the historic property.

VI. MONITORING AND REPORTING

- A. Following the execution of this MOA, each year (until it expires or is terminated) CTA shall provide FTA, SHPO, and all Concurring Parties to this MOA a summary

report detailing work undertaken pursuant to its terms. Such report may include details on one or more of the following: status of the project, any problems encountered, disputes, objections received in CTA's efforts to carry out the terms of the MOA.

VII. DISPUTE RESOLUTION

- A. 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 FTA shall consult with the signatories to resolve the objection.
 - 1. FTA will forward all documentation relevant to the dispute to the ACHP. Documents may include timely advice or comments regarding the dispute from the signatories and Concurring Parties as well as FTA's proposed resolution. 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 from the ACHP, signatories and Concurring Parties. FTA will then provide the parties with a copy of its written response. CTA will then proceed according to FTA's final decision.
 - 2. If the ACHP does not provide advice regarding the dispute within the thirty (30) day time period, FTA may make a final decision 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 and Concurring Parties and provide them and the ACHP with a copy of its written response.
 - 3. FTA and CTA's responsibility to carry out all other actions subject to the MOA that are not the subject of the dispute remain unchanged.

VIII. AMENDMENTS

- A. 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 is signed by all signatories and will be filed with the ACHP. 36 CFR § 800.6(c)(7) shall govern the execution of any such amendment.

IX. TERMINATION

- A. If any signatory to this MOA determines that its terms become impossible to carry out, that party shall immediately consult with the other signatories to attempt to develop an amendment per Stipulations VII and VIII above. Within thirty (30) days, if an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

- B. Once this MOA is terminated, and prior to work continuing on the undertaking, FTA must either (a) execute a new 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. FTA shall notify the signatories as to the course of action it will pursue.

X. EXECUTION

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

[Signature Pages to follow]

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REQUIRED SIGNATORY

Federal Transit Administration (FTA)

By: **KELLEY
BROOKINS** Digitally signed by
KELLEY BROOKINS
Date: 2022.08.08 15:52:20
-05'00' Date: August 8, 2022

Kelley Brookins
FTA Region V
Regional Administrator

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REQUIRED SIGNATORY

ILLINOIS DEPUTY STATE HISTORIC PRESERVATION OFFICER (SHPO)

By: Carey L. Mayer Date: 08/16/2022
Carey L. Mayer, AIA
Deputy State Historic Preservation Officer
Illinois Department of Natural Resources

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INVITED SIGNATORY

Chicago Transit Authority (CTA)

By:  Date: Aug 12, 2022
Dorval Carter, President
Chicago Transit Authority

Appendix A: APE

