

**MEMORANDUM OF AGREEMENT
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
ILLINOIS STATE HISTORIC PRESERVATION OFFICER,
ILLINOIS DEPARTMENT OF TRANSPORTATION,
AND
UNION PACIFIC RAILROAD
REGARDING
IMPROVEMENTS TO THE ROCKWELL STREET LINE,
CHICAGO, COOK COUNTY, ILLINOIS**

WHEREAS, the Illinois Department of Transportation (IDOT) in coordination with the Union Pacific Railroad (UPRR), as part of the Chicago Region Environmental and Transportation Efficiency (CREATE) Program, plan to make improvements to the Rockwell Street Line (WA-1) in Chicago, Cook County, Illinois (Project), IDOT Sequence #11755D; and

WHEREAS, the Federal Highway Administration (FHWA) may 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 and IDOT have defined the undertaking's area of potential effects (APE) as the area shown in Exhibit A; and

WHEREAS, the FHWA and IDOT in consultation with the State Historic Preservation Officer (SHPO) have identified fifteen (15) architectural resources that have been determined eligible for the National Register of Historic Places (NRHP) and that will be adversely affected by the Project, fourteen (14) structures and one (1) building (Exhibit B); and

WHEREAS, the FHWA and IDOT invited the Landmarks Illinois and Commission on Chicago Landmarks to be consulting parties, but neither responded; and

WHEREAS, the FHWA invited IDOT and UPRR to participate in consultation and to become a signatory to this MOA; and

WHEREAS, the FHWA and IDOT notified the Advisory Council on Historic Preservation (ACHP) of the preparation of this Memorandum of Agreement (MOA) in an email dated April 23, 2020, and the ACHP declined to participate in a letter dated May 11, 2020; and

WHEREAS, execution and implementation of this MOA evidences that the FHWA has satisfied its Section 106 responsibilities for the Project; and

NOW, THEREFORE, the FHWA, IDOT, UPRR, and SHPO agree that the Project shall be implemented in accordance with the following stipulations to ensure that potential adverse effects on historic properties are taken into account.

STIPULATIONS

The FHWA, IDOT, UPRR, and SHPO agree that the following steps will be undertaken for the Project:

I. MITIGATION MEASURES

- A. **Historic Illinois Engineering Record (HIER) Level III Recordation.** Prior to beginning of construction activities, IDOT and UPRR (collectively, the CREATE partners) will ensure that HIER level III recordation of the fourteen (14) structures is completed. The recordation of the structures will be reported in a single HIER document. IDOT will submit the draft HIER (95%) report to the SHPO, and IDOT must receive written approval from the SHPO that the draft HIER report is acceptable prior to IDOT approving demolition of the structures. The IDOT will ensure the final HIER (100%) report is submitted to the SHPO for review and approval.
- B. **Video Documentation and Dissemination.** The CREATE partners in consultation with the SHPO shall develop a video that highlights linkages between the development of industry, transportation, and public safety in the APE. The video will be 5-10 minutes in length and will be provided in a format easily accessible to the public, railroad enthusiast, and historic bridge enthusiasts. IDOT must receive written approval from the SHPO that the draft video is acceptable prior to the IDOT approving demolition of the structures.

II. PROFESSIONAL STANDARDS

For the purpose of implementing this MOA, the IDOT shall continue to employ departmental staff with qualifications that meet the requirements of 36 CFR Part 61, Appendix A. IDOT shall ensure that the professional staff responsible for the implementation of the mitigation measures meet the requirements of 36 CFR Part 61, Appendix A.

III. DURATION

This MOA will be null and void if its stipulations are not carried out within five (5) years from the date of its execution. In such an event, the FHWA shall so notify the parties to this MOA and, if it chooses to continue with the Project, then it shall reinitiate review of the Project in accordance with 36 CFR Part 800.

IV. POST REVIEW DISCOVERIES

If potential historic properties are discovered or unanticipated effects on historic properties found, the FHWA 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).

V. 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 the FHWA determines that such objection cannot be resolved, the FHWA will:

- A. Forward all documentation relevant to the dispute, including any timely advice or comments regarding the dispute from the signatories and the FHWA's proposed resolution, to the ACHP. The ACHP shall provide the FHWA with its advice on the resolution of the objections within thirty 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 thirty (30) days, the 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.

VI. 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.

VII. TERMINATION

If any signatory to this MOA determines that its terms cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment. If within thirty 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, the FHWA must 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, SHPO, IDOT, and UPRR and the implementation of its terms evidence that the FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

[Signature Pages Follow]

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(Signatory)

FEDERAL HIGHWAY ADMINISTRATION

By:  Date: February 5, 2021

Print Name: Michael Kowalczyk

Title: CREATE Program Manager

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(Signatory)

ILLINOIS STATE HISTORIC PRESERVATION OFFICER

By:  Date: October 14, 2020

Print Name: Robert F. Appleman

Title: Deputy State Historic Preservation Officer

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(Invited Signatory)

ILLINOIS DEPARTMENT OF TRANSPORTATION

By: John Oimoen Date: 2/4/21

Print Name: John Oimoen

Title: IDOT Deputy Director Railroads

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(Invited Signatory)

UNION PACIFIC RAILROAD

By:  Date: 2/01/2021

Print Name: Kenneth Freimuth

Title: Project Manager