PROGRAMMATIC AGREEMENT
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
THE ILLINOIS DEPARTMENT OF TRANSPORTATION,
AND THE ILLINOIS HISTORIC PRESERVATION OFFICER,
REGARDING THE
DANVILLE BELTLINE
VERMILION COUNTY, ILLINOIS

WHEREAS, the Illinois Department of Transportation (IDOT), plans construct a roadway around the eastern side of Danville, Vermilion County, Illinois known as the Danville Beltline (Section 98-00203-00-EG);

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 C.F.R. Part 800; and

WHEREAS, the FHWA has defined the undertaking's area of potential effect (APE) as the roadway (Exhibit A); and

WHEREAS, FHWA in consultation with the Illinois State Historic Preservation Officer (SHPO) has determined that no standing structures that are eligible for listing on the National Register of Historic Places are within the project's APE;

WHEREAS, FHWA and IDOT, in consultation with SHPO, have identified areas within the APE with the potential to contain archaeologically sensitive areas that could be affected by the Project and the approximate locations and description of these resources are identified in Exhibit B. Archaeologically sensitive areas are those areas that have the potential to contain significant Archaeological Resources;

WHEREAS, IDOT cannot complete archaeological surveys at his time because some archaeologically sensitive areas are on private property to which IDOT cannot obtain access:

WHEREAS, given the lack of access at this time, this Programmatic Agreement sets forth measures that will be implemented to identify and resolve potential adverse effects to archaeological properties within the Project's APE;

WHEREAS, in accordance with 36 CFR Part 800, the FHWA acknowledges and accepts the advice and conditions outlined in the Council's "Recommended Approach for Consultation on the Recovery of Significant Information from Archaeological Sites," published in the Federal Register on June 17, 1999; and

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

WHEREAS, FHWA notified the Advisory Council on Historic Preservation (ACHP) of the preparation of this Programmatic Agreement and in a letter dated November 13, 2008, the Advisory Council declined to participate in the consultation for the Danville Beltline project;

WHEREAS, FHWA invited the following Tribes to enter consultation; the Kickapoo Tribe of Oklahoma, the Kickapoo Tribe of Kansas, and the Kickapoo Traditional Tribe of Texas, and

WHEREAS, the Tribes did not express interest in consulting on this undertaking; and

WHEREAS, IDOT and FHWA have determined, based on IDOT's field surveys and analysis, that archaeological resources in the project's APE are significant and are of value chiefly for the information on prehistory or history which they are likely to yield through archaeological, historical, and scientific methods of information recovery (Criterion D), and do not have long-term preservation value, are not known to possess special significance to another ethnic group or community and do not have value for potential permanent in-situ display or public interpretation; and

WHEREAS, execution and implementation of this Programmatic Agreement evidences that FHWA has satisfied its Section 106 responsibilities for the Danville Beltline project; and

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

STIPULATIONS

FHWA, IDOT, AND SHPO agree that the following steps will be undertaken for the Project:

I. SURVEY AND EVALUATION

A. The SHPO and IDOT shall consult throughout the cultural resource investigation process outlined in these stipulations to ensure that all archaeological investigations are performed to adequately take into account IDOT's project construction phasing.

B. As early as practical in the project planning process, IDOT shall complete a Phase I archaeological survey within the Area of Potential Effect.

C. IDOT will conduct the Phase I survey in consultation with the SHPO and a report of the survey shall be submitted to the SHPO for review and comment.

D. Archaeological subsurface testing (Phase II) will be performed at all archaeological properties determined to be potentially eligible by the IDOT and the SHPO to evaluate their National Register eligibility. A report of the Phase II findings shall be submitted to the SHPO for review and comment.

E. IDOT will ensure the Phase I survey and Phase II testing will be conducted in a manner consistent with the approaches of the Secretary of the Interior's Standards and Guidelines for Identification (48 Federal Register 44720-23) and taking into account the National Park Service publication "The Archaeological Survey: Methods and Uses" (1978) and the Illinois State Historic Preservation Office Guidelines for Archaeological Reconnaissance Surveys/Reports. IDOT will coordinate the Phase I survey and Phase II testing with the SHPO.

F. IDOT shall evaluate properties identified through Phase II testing against the National Register criteria (36 CFR part 60.4) and shall obtain the SHPO's concurrence in those findings.

G. For those properties which IDOT and the SHPO agree are not eligible for inclusion in the National Register, no further archaeological investigations will be required in those areas. For those properties identified in the survey and agreed upon by IDOT and the SHPO to be eligible for the National Register shall be treated in accordance with Stipulation II.

II. ARCHAEOLOGICAL MITIGATION (PHASE III)

A. For all sites identified as meeting the National Register criteria, IDOT, in consultation with the SHPO, shall consider measures, such as design modification, for avoidance of the National Register sites.

B. For those sites identified as meeting the National Register criteria where IDOT determines, in consultation with SHPO, that avoidance is not practicable, IDOT will prepare a data recovery plan with a research design for the affected properties in consultation with the SHPO that is consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties, the Secretary of the Interior's Standards and Guidelines for Archaeological and Historic Preservation, and the Advisory Council on Historic Preservation's Treatment of Archaeological Properties: A Handbook. A generalized data recovery plan (DRP) may be used and an example is attached in appendix A to this agreement. The generalized DRP will apply primarily to small archaeological habitation sites and IDOT's Cultural Resources Unit professional personnel will make the final determination on whether to use the generalized DRP or to develop a project specific DRP. Factors in the making of this determination will include, but not be limited to, site type, location, project type, and project schedule.

C. In the event of the discovery of unexpected prehistoric burials, IDOT will notify the SHPO and the FHWA. FHWA will be responsible for notifying the American Indian Tribe or Tribes of the discovery to begin coordinating the disposition of the remains and burial goods recovered.

D. To fully satisfy coordination under 17 IAC 4170.300(d)(3) concerning the encounter of unanticipated burials, the notification of the discovery will be made to the county coroner and the Illinois Historic Preservation Agency. If the burial is not a crime scene as determined by the coroner then it and any associated burial artifacts will be removed following procedures for recordation and reporting that are similar to those established under the Human Skeletal Remains Protection Act (20 ILCS 3440, 17 IAC 4170). Disposition of human remains and burial artifacts will be accomplished as determined under the provisions of the Act and the Native American Graves Protection and Repatriation Act, as applicable.

III. PROFESSIONAL STANDARDS

For the purpose of implementing this PA, IDOT shall continue to employ departmental staff with qualifications that meet the requirements of 36 CFR Part 61, Appendix A. At a minimum, the professional staff required to carry out the terms of this PA shall consist of one permanent, full time, archaeologist. In the event of a prolonged absence of the IDOT archaeologist, IDOT will, in consultation with SHPO, appoint an archaeologist that meets the requirements of 36 CFR Part 61, Appendix A.

IV. DURATION

This PA will be null and void if its stipulations are not carried out within ten years from the date of its execution. At such time, and prior to work continuing on the undertaking, FHWA shall either (a) execute a PA 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. Prior to such time, FHWA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with this PA. FHWA shall notify the signatories as to the course of action it will pursue.

V. POST REVIEW DISCOVERIES

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

VI. DISPUTE RESOLUTION

Should any signatory to this PA object at any time to any actions proposed or the manner in which the terms of this PA are implemented, FHWA shall consult with such party to resolve the objection. If FHWA determines that such objection cannot be resolved, 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 objections within thirty days of receiving adequate documentation. Prior to reaching a final decision on the dispute, 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. FHWA will then proceed according to its final decision.

B. If the ACHP does not provide its advice regarding the dispute within the thirty day time period FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FHWA shall prepare a written response that takes into a county any timely comments regarding the dispute from the signatories to the PA and provide them and the ACHP with a copy of such written response.

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

VII. AMENDMENTS

This PA 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.

VIII. TERMINATION

If any signatory to this PA 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. If within thirty days an amendment cannot be reached, any signatory may terminate the PA upon written notification to the other signatories. Once the PA 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. FHWA shall notify the signatories as to the course of action it will pursue.

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

FEDERAL HIGHWAY ADMINISTRATION

By: Max Tull Date: 10/23/09

ILLINOIS STATE HISTORIC PRESERVATION OFFICER

By: Anne E. Haaker Date: 10.21.09

INVITED SIGNATORY

ILLINOIS DEPARTMENT OF TRANSPORTATION

By: Darrell Lewis Date: 10/13/09

CITY OF DANVILLE

By: R. David Adkins Date: 9/30/2009

APPENDIX A: STANDARD DATA RECOVERY PLAN FOR PREHISTORIC SITES

Introduction

The Illinois Transportation Archaeological Research Program (ITARP), a joint program of the University of Illinois at Urbana-Champaign (UIUC) and the Illinois Department of Transportation (IDOT), prepared this data recovery plan for the archaeological mitigation of prehistoric habitation sites. This plan was developed in accordance with the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44716), and "The Treatment of Archaeological Properties" published in 1980 by the Advisory Council on Historic Preservation. All procedures outlined in this plan are implemented using standard ITARP techniques, which are outlined in ITARP Field Manual 2005: Standard ITARP Field Procedures for Phase I, II and III Archaeological Investigations.

The IDOT and the Illinois State Historic Preservation Officer have jointly determined that the prehistoric sites to be investigated with this recovery plan are eligible for the National Register of Historic Places under Criterion D and that these sites may not be avoided by the proposed project.

Natural Setting

The natural setting for archaeological sites excavated under this data recovery plan will be examined (prior to conducting further excavation) in the appropriate existing documentation (such as the Geological Survey Soil Survey) and in the field. A verbal description of the natural setting will accompany maps and photographs in the final reporting of the site.

Summary of Previous Investigations

In general, sites to be investigated under this data recovery plan were recorded by ITARP personnel during the Phase I survey of the proposed project area. When necessary, existing archaeological and historical property lists will be consulted and oral histories conducted to fully develop a site's history and aid in locating possible features and an understanding of a site's stratigraphy and distribution across the landscape. Phase I testing at the site will have revealed the presence of intact cultural material and the site's potential to significantly contribute to our understanding of the prehistory of this area in order to warrant additional investigation.

Research Design

The data generated by excavations at the prehistoric site(s) will be used to examine at least three topics: (1) chronology; (2) technology; and (3) subsistence practices. Insights into changing patterns of community organization may also be granted, as may insights into changes in social organization. The data recovered will then be compared to data from other regional sites.

1. Chronology. It is expected that the recovered artifact assemblage at the prehistoric site(s) will suggest the presence of at least one cultural component (such as the Oneota or Late Woodland). Insights into more precise time spans at both sites can be gained through analysis of point and ceramic styles, as well as the acquisition of charcoal samples for radiocarbon analysis.
2. Technology. The lithic artifacts recovered from the prehistoric site(s) are expected to reflect the inhabitant's use of this material for a variety of tasks involved in procuring and processing resources. Analysis of the lithic assemblage will identify raw materials, heating stage, overall

stages of tool manufacture, and lithic reduction strategies. Analysis of the ceramics, if ceramics are recovered, may also aid in the identification of pottery manufacturing processes.

3. Subsistence. If plant and animal remains are recovered at the prehistoric site(s), standardized flotation samples will be collected and analyzed from excavated feature fills to identify patterns of plant and animal use by the site inhabitants. These data will be used in the interpretation of seasonality and site function.

Mitigation Plan

Investigations will be conducted in compliance with the National Historic Preservation Act of 1966, as amended, and will be carried out by ITARP archaeologists who meet the Secretary of the Interior's professional qualification standards (48 FR 447838-9). In designing and carrying out the work, ITARP staff will also take into account the Advisory Council on Historic Preservation's publication on the "Treatment of Archaeological Properties."

Standard ITARP methods (as outlined in the ITARP Field Manual 2005) will be employed in all aspects of the data recovery. Portions of the plow zone at the site(s) will be removed; if warranted, a backhoe with a smooth-bladed bucket will likewise be utilized to carefully remove the plow zone at the site(s) in test trenches to recover artifacts, reveal features, and more fully investigate site stratigraphy.

If features are encountered, the archaeological studies will be conducted following the standard ITARP excavation techniques described in the ITARP Field Manual 2005. Any features encountered will be mapped by hand and tied into the site maps with an electronic transit. After plan mapping, features will be bisected along their long axis with hand tools (shovels and trowels). The subsequent profile will be mapped and photographed. Generally, the first half of each pit feature will be excavated as a single unit and screened with ¼-inch hardware cloth, with all artifacts bagged together; flotation samples generally will not be collected from the first halves of features. The second half of each pit will be excavated by fill zones identified in profile, with artifacts and flotation samples collected accordingly. At least one 10-liter flotation sample will be collected from each zone. Charcoal-rich zones will be more intensively sampled.

Human remains are not expected to be found during the excavations; however, if encountered, the remains will be mapped and removed in accordance with all procedures and guidelines associated with the Illinois Human Skeletal Remains Protection Act (20 ILCS 3440, 17 IAC 4170). Disposition of the human remains and any burial artifacts will be accomplished under the provisions of the Act.

In the laboratory, all lithic artifacts will be washed, labeled and analyzed by ITARP personnel at the appropriate Survey Division office. Botanical, zoological and human remains will be analyzed by specialists at ITARP's main office at the University of Illinois or by qualified consultants.

All archaeological reports resulting from the project will comply with contemporary standards, including the Secretary of the Interior's "Standards for Final Reports of Data Recovery Programs" (42 FR 5377-79). The ITARP will also insure that all final archaeological reports are presented in a format acceptable to the Illinois State historic Preservation Officer (SHPO) following Illinois SHPO guidelines on report preparation, and that all such reports are presented in a format acceptable to the National Park Service for possible peer review and submission to the National Technical Information Service (NTIS). This report will be submitted to the Illinois DOT and IHPA in a timely manner after the completion of all field and laboratory investigations.

Curation

All artifactual materials, records, photographs and other data associated with this project will be curated at the University of Illinois at Urbana-Champaign and managed by the Illinois Transportation Archaeological Research Program (ITARP) in accordance with federal standards as outlined in 36 CFR Part 79.