

**PROGRAMMATIC AGREEMENT AMONG  
THE FEDERAL HIGHWAY ADMINISTRATION,  
THE ILLINOIS DEPARTMENT OF TRANSPORTATION,  
THE ILLINOIS STATE HISTORIC PRESERVATION OFFICER,  
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**

**REGARDING**

**SECTION 106 IMPLEMENTATION FOR FEDERAL-AID TRANSPORTATION  
PROJECTS IN THE STATE OF ILLINOIS**

**WHEREAS**, the Federal Highway Administration (FHWA), under the authority of 23 USC 101 et seq., implements the Federal-aid Highway Program (Program) in the State of Illinois by funding and approving state and locally sponsored transportation projects that are administered by the Illinois Department of Transportation (IDOT); and

**WHEREAS**, the Illinois FHWA Division Administrator is the “Agency Official” responsible for ensuring that the Program in the state of Illinois complies with Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended (54 USC 300101) (Section 106), and codified in its implementing regulations, 36 CFR Part 800, as amended (August 5, 2004); and

**WHEREAS**, federal Aid Highway projects are subject to the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 4321 et seq., and the Regulations for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500-1508), which require Federal agencies to consider one of three classes of action: 1) environmental impact statement (EIS), 2) environmental assessment (EA), or 3) categorical exclusion (CE); and

**WHEREAS**, as used herein, the term “SHPO” means the official appointed or designated pursuant to section 101(b)(1) of the NHPA, as amended (54 U.S. Code § 302301(1)), to administer the State historic preservation program or a representative designated to act for the State historic preservation officer (see 36 CFR § 800.16(v)); and

**WHEREAS**, the responsibilities of the Illinois State Historic Preservation Officer (SHPO) under Section 106 and 36 CFR Part 800 are to advise, assist, review, and consult with federal agencies as they carry out their historic preservation responsibilities and to respond to federal agencies’ requests within a specified period of time; and

**WHEREAS**, the Illinois State historic preservation program presently resides within the Illinois Department of Natural Resources (IDNR), and the current Director of IDNR, Wayne A. Rosenthal, is the duly designated SHPO; and

**WHEREAS**, FHWA has determined that implementation of the Program in Illinois may have an effect upon properties included in, or eligible for inclusion in, the National Register of Historic Places (NRHP), hereafter referred to as historic properties, and has consulted with SHPO and the Advisory

Council on Historic Preservation (ACHP) pursuant to 36 CFR 800.14(b) concerning this Programmatic Agreement (Agreement); and

**WHEREAS**, FHWA, SHPO, and IDOT cooperate in meaningful, long-term planning for the protection of historic properties and desire to (1) devote time and energy to identifying transportation-related concerns potentially affecting historic properties; (2) create innovative programs to address those concerns; and (3) develop a comprehensive and efficient Section 106 process that simplifies procedural requirements; and

**WHEREAS**, 36 CFR Part 800 encourages federal agencies to fulfill their obligations efficiently under Section 106 through the development and implementation of cooperative programmatic agreements; and

**WHEREAS**, in the spirit of stewardship, FHWA and IDOT are committed to designing transportation projects to 1) avoid, minimize, and mitigate adverse effects to historic properties, 2) utilize IDOT's "Context-Sensitive Solutions" approach, and 3) balance transportation needs with other needs of Illinois' communities; and

**WHEREAS**, FHWA has notified the public, federal and state agencies, Certified Local Governments (CLGs), and federally recognized Indian Tribes (Tribes) with an interest in Illinois lands about this Agreement, has requested their comments, and has taken any comments received into account; and

**WHEREAS**, FHWA retains the government-to-government responsibility to consult with federally recognized Tribes, and will follow the stipulations contained in the Memorandum of Understanding Regarding Tribal Consultation Requirements for the Illinois Transportation Program, as amended (Tribal MOU) which shall remain in effect, and is attached to this Agreement ; and

**WHEREAS**, pursuant to the consultation conducted under 36 CFR 800.14(b), the signatories have developed this Agreement in order to establish an efficient and effective program alternative for taking into account the effects of the Program on historic properties in Illinois and for affording ACHP a reasonable opportunity to comment on undertakings covered by this Agreement; and

**WHEREAS**, ACHP has approved an exemption on March 10, 2005 that relieves federal agencies from the requirement of taking into account the effects of their undertakings on the Interstate Highway System, with the only exception in Illinois being the Interstate 74 Iowa-Illinois Memorial Bridge connecting Bettendorf, Iowa, with Moline, Illinois; and

**WHEREAS**, IDOT will apply ACHP's November 16, 2012 "Program Comment Issued for Streamlining Section 106 Review for Actions Affecting Post-1945 Concrete and Steel Bridges" that eliminates historic review requirements under Section 106 of the NHPA for the repair or replacement of common types of post-1945 concrete and steel bridges; and

**WHEREAS**, FHWA and IDOT will align their compliance with Section 106 to the fullest extent possible in coordination with their policies and procedures under the National Environmental Policy

Act (NEPA) and Section 4(f) of the Department of Transportation Act of 1966, pursuant to Section 1301 of the Fixing America's Surface Transportation (FAST) Act.; and

**WHEREAS**, IDOT has participated in consultation and has been invited to be a signatory to this Agreement; and

**WHEREAS**, IDOT primarily utilizes the services of the Illinois State Archaeological Survey (ISAS) through an intergovernmental agreement with the Prairie Research Institute at the University of Illinois, to gather information, analyze data, prepare documentation, make eligibility recommendations, and complete mitigation requirements; and

**WHEREAS**, IDOT publishes and maintains a manual that establishes uniform policies and procedures for the location, design, and environmental evaluation of highway construction projects (the IDOT Manual); and

**WHEREAS**, the IDOT Manual describes the public involvement guidelines for involving the public in the project development process and the procedures followed to comply with Section 106; and

**WHEREAS**, this Agreement shall supersede the Programmatic Agreement among FHWA, IDOT, ACHP, and SHPO "Regarding the Implementation of Delegation of Authority for Minor Projects of the Federal-aid Highway Program in the State of Illinois", executed on September 21, 2010;

**NOW, THEREFORE**, FHWA, ACHP, SHPO, and IDOT agree that the Program in Illinois shall be carried out in accordance with the following stipulations in order to take into account the effects of the Program on historic properties in Illinois, and that these stipulations shall govern compliance of the Program with Section 106 until this Agreement expires or is terminated.

#### **STIPULATIONS**

The FHWA, with the assistance of IDOT, and SHPO shall ensure that the following stipulations are carried out.

##### **I. Purpose and applicability**

This Agreement sets forth the process by which FHWA, with the assistance of IDOT, will meet its responsibilities pursuant to Sections 106 and 110 of the NHPA for FHWA undertakings implemented by IDOT. This Agreement establishes the basis for considering the effects of FHWA undertakings on historic properties and establishes alternative procedures to implement Section 106 for the review of such undertakings by FHWA, SHPO, and ACHP.

## II. Responsibilities of FHWA, IDOT, and SHPO

### A. FHWA

1. The FHWA, as the Agency Official, will ensure that IDOT carries out the requirements of this Agreement, in compliance with its responsibilities under the NHPA.
2. The FHWA remains responsible for ensuring that the terms of this Agreement are carried out and for all findings and determinations made pursuant to this Agreement by IDOT under the authority of FHWA, consistent with the requirements of 36 CFR 800.2(a) and 800.2(c)(4).
3. The FHWA may intervene at any point in the Section 106 process, request documentation of any undertaking carried out under the authority of this Agreement, and may participate directly in any undertaking at its discretion.

### B. IDOT

1. The IDOT agrees that the Cultural Resources Unit Chief shall meet the Secretary of Interior's Professional Qualification standards (36 CFR Part 61) and shall have the primary responsibility for ensuring that IDOT complies with this Agreement.
2. The IDOT will ensure that their District staff who conduct initial assessments of undertakings (Trained Staff) will receive training on the Section 106 process and on the implementation of this Agreement. The FHWA and IDOT will develop the training in cooperation with SHPO and ACHP.
3. The IDOT will ensure that historic property identification and effect determinations conducted under this Agreement are carried out by IDOT staff and/or consultants that meet the qualifications set forth in the Secretary of the Interior's Professional Qualifications Standards (Qualified Staff).
4. The IDOT is authorized by FHWA to independently perform the work and consultation described in 36 CFR 800.3 through 800.6, except where noted in **"Stipulation VI – Review process for undertakings that may affect historic properties."**
5. Consistent with 36 CFR 800.2(a)(3), IDOT may use consultants who meet the Secretary of Interior's qualifications to gather information, analyze data, and prepare documentation. The FHWA and IDOT remain responsible for all consultation, findings, and determinations made under this Agreement.
6. The IDOT Manual shall be updated to detail the process for implementing this Agreement within one year of its execution. The IDOT will work with FHWA on the draft revisions to the Manual implementing the provisions of this Agreement. Once FHWA and IDOT

agree upon the draft revisions, the draft will be provided to SHPO for a 30-day review and comment opportunity.

### C. SHPO

1. The SHPO is responsible for responding to FHWA and IDOT requests according to the terms of this Agreement.
2. The SHPO will participate in site visits and meetings to discuss large or complex undertakings upon request by IDOT or FHWA, as staff time and resources permit.
3. The SHPO will continue to share information related to the identification, evaluation, management, and treatment of Illinois cultural resources. The SHPO shall integrate archeological survey data into the Illinois State Archaeological Survey Cultural Resources Management Archives (CRMA), the State Museum Illinois Inventory of Archaeological and Paleontological Sites (IIAPS), and SHPO shall integrate newly designated historic properties into the Historic and Architectural Resources Geographic Information System (HARGIS).
4. The SHPO may assist FHWA and IDOT in training staff in the implementation of this Agreement.

### III. Consultation with Tribes

The FHWA retains the responsibility for government-to-government consultation with federally recognized Tribes that have expressed an interest in Illinois lands. FHWA shall take the lead in identifying Tribes and establishing consultation with Tribes consistent with the requirements of 36 CFR 800.2(c)(2) and 36 CFR 800.3(c)-(f). Tribes that might attach religious and cultural significance to historic properties in the Area of Potential Effects (APE) for an undertaking shall be invited by FHWA to be consulting parties. To allow adequate time for consideration of Tribes' concerns or comments, the FHWA will ensure that opportunities for consultation with Tribes are initiated early and provided throughout the development of the undertaking. FHWA may ask IDOT to assist in consultation if an individual Tribe agrees.

The IDOT may provide notification of undertakings and participate in consultation with Tribes in accordance with the Tribal MOU. If a Tribe requests notification and consultation procedures other than those in the Tribal MOU, FHWA and IDOT will consult with the Tribe to develop potential alternative procedures.

### IV. Applicability to other federal agencies

Any federal agency may recognize FHWA as the lead federal agency for any undertaking covered by this Agreement and may adopt findings made pursuant to this Agreement, provided the federal

agency's undertaking does not have the potential to cause effects to historic properties beyond those considered in FHWA undertaking.

## **V. Review process for undertakings unlikely to affect historic properties**

- A. **“Appendix A – Exempt Activities”** lists activities that have no potential to affect historic properties, whether or not there may be historic properties in the area of the undertaking. The IDOT Trained Staff will evaluate an undertaking to determine if it is limited to the activities listed in **“Appendix A – Exempt Activities.”** If the undertaking is limited to these activities, then IDOT Trained Staff will document in the file that the undertaking does not require further obligation under Section 106, pursuant to 36 CFR 800.3(a).
- B. If an undertaking is not limited to activities in **“Appendix A – Exempt Activities,”** then IDOT Trained Staff will determine if the undertaking involves any of the following criteria:
1. new right-of-way,
  2. new temporary or permanent easement,
  3. in-stream work,
  4. a bridge or culvert 40 years or older,
  5. standing structures visible from the area of the undertaking that are greater than 40 years old,
  6. previously undisturbed soil (includes land that has agricultural use), or
  7. public controversy related to any historic property.

If none of these criteria applies, then IDOT Trained Staff will document in the file that the undertaking is unlikely to affect historic properties and that Section 106 has been completed. No additional review or consultation by the SHPO is required.

If any of these criteria do apply, then IDOT Trained Staff will coordinate with the IDOT Qualified Staff, and IDOT will initiate the review process for undertakings that may affect historic properties.

## **VI. Review process for undertakings that may affect historic properties**

- A. Initiate consultation
1. The IDOT will determine the Area of Potential Effects (APE). If the undertaking is either an EA or an EIS, then IDOT will consult with SHPO on the determination of the APE. When IDOT consults with SHPO on the APE, SHPO will have 30 days to respond. If

SHPO does not respond within that time period, FHWA and IDOT may proceed to the next step.

2. The IDOT in consultation with FHWA, and SHPO as appropriate, will identify consulting parties (36 CFR 800.2(c) and 800.3(b)(c)(e) and (f)).
3. In accordance with the Tribal MOU, Tribes and the SHPO will be notified of the undertaking through the Project Notification System (PNS) when IDOT Qualified Staff determines that an archaeological field survey is required. The FHWA will conduct government-to-government consultation with Tribes upon their request, in accordance with the Tribal MOU.
4. The IDOT will follow the IDOT Manual to solicit public participation early in project development consistent with 36 CFR 800.2(d). The IDOT's consultation with consulting parties and the public will be appropriate to the scale and the scope of the undertaking.

B. Identify historic properties

1. The IDOT Qualified Staff shall determine the scope of identification efforts within the APE, consistent with 36 CFR 800.4. The IDOT Qualified Staff will determine if the undertaking requires an archaeological or architectural field survey by applying his/her professional judgment based on a review of appropriate databases. For archaeological resources, the databases include, but are not limited to, IIAPS, soils maps, and aerial photographs. For architectural resources, the databases include, but are not limited to, HARGIS, NRHP databases, local landmark listings, and local government databases, in addition to photo logs.
2. The IDOT may use a phased process to conduct identification and evaluation efforts consistent with 36 CFR 800.4(b)(2) where alternatives under consideration consist of corridors or large land areas, or where access to properties is restricted.
3. The IDOT will involve consulting parties, the public, and Tribes in identification of historic properties, as appropriate (36 CFR 800.2(c) and 800.4(a)(3)). Consulting parties and the public will be offered opportunities through IDOT's public involvement process to participate in the identification of historic properties. Individuals and organizations not already so designated may become consulting parties upon request. The Tribes are provided opportunities to participate in the identification of historic properties through the procedures described in the Tribal MOU and may participate in consultation at any time during the process.
4. If IDOT Qualified Staff have determined that there are no historic properties present, then IDOT Qualified Staff will document in the file a finding of "no historic properties affected" pursuant to 36 CFR 800.11(d). The SHPO case-by-case review and concurrence

with these findings of “no historic properties affected” is not required. The Section 106 process is concluded upon the IDOT Qualified Staff documenting the “no historic properties affected” finding.

5. If IDOT Qualified Staff have determined that historic properties are present, then IDOT will submit documentation of eligibility to SHPO for review. The documentation will identify historic properties, including those archaeological properties that are important chiefly because of what can be learned by data recovery and have minimal value for preservation in place. If SHPO does not respond within 30 days, IDOT may assume that SHPO has no objection and IDOT may proceed to the next step of the process.

#### C. Assess effects to historic properties

##### 1. No historic properties affected

When historic properties have been identified, FHWA and IDOT will make efforts to avoid and minimize effects to those properties. If effects can be avoided, then IDOT Qualified Staff will document in the file a finding of “no historic properties affected” pursuant to 36 CFR 800.11(d). The SHPO case-by-case review and concurrence with these findings of “no historic properties affected” is not required. The Section 106 process is concluded upon the IDOT Qualified Staff documenting the “no historic properties affected” finding.

##### 2. Historic properties affected

- a) Consulting parties and the public will be offered opportunities through IDOT’s public involvement process to provide their views on effects to historic properties. Participating Tribes are provided opportunities to provide their views on effects to historic properties through the procedures described in the Tribal MOU.
- b) The IDOT Qualified Staff shall apply the criteria of adverse effect (36 CFR 800.5(a)), shall consider views provided by consulting parties, the public, and participating Tribes, and shall document either a finding of “no adverse effect” or “adverse effect.”

###### (1) Finding of no adverse effect

- i. The IDOT will prepare the “no adverse effect” documentation which will include:
  - information required by 36 CFR 800.11(e),
  - a list of all historic properties identified within the APE,
  - the finding of effect to each of those properties, and

- measures to be incorporated into the design to ensure adherence to the Secretary's Standards for the Treatment of Historic Properties (36 CFR part 68).
- ii. The IDOT will submit the finding of "no adverse effect" documentation to SHPO for a 30-day review. If the SHPO does not respond within 30 days, IDOT may assume that the SHPO has no objection and IDOT may proceed with the undertaking.
- (2) Finding of adverse effect
- i. The IDOT will prepare the "adverse effect" documentation which will include:
- information required by 36 CFR 800.11(e),
  - a list of all historic properties identified within the APE,
  - the finding of effect to each of those properties, and
  - when applicable, measures to be incorporated into the design to ensure adherence to the Secretary's Standards for the Treatment of Historic Properties (36 CFR part 68), or other conditions to minimize harm.
- ii. The IDOT will notify ACHP of the adverse effect and will copy FHWA and the SHPO on the submittal.

D. Resolve adverse effect to historic properties

1. The FHWA and IDOT will consult with the SHPO, participating Tribes, and other consulting parties as appropriate, and follow the requirements of 36 CFR 800.6 to resolve the adverse effect.
2. If IDOT Qualified Staff determines that an undertaking may adversely affect a National Historic Landmark, IDOT, in coordination with FHWA, shall request ACHP and the Secretary of the Interior to participate in consultation to resolve adverse effects, as outlined in 36 CFR 800.10.
3. If an undertaking has an adverse effect on only Euro-American Tradition archaeological habitation sites, FHWA and IDOT may follow the Illinois Programmatic Agreement for the Mitigation of Adverse Effects to Euro-American Tradition Archaeological Sites, and the Section 106 process is concluded. A memorandum of agreement is not required so long as all effects are limited to Euro-American Tradition archeological habitation sites.

4. The IDOT may, with the concurrence of SHPO and ACHP (if participating) develop an undertaking-specific “treatment plan” that describes how adverse effects will be resolved for the undertaking. The treatment plan will be coordinated with consulting parties, the public, the participating Tribes, and SHPO. If SHPO and ACHP (if participating) concur in writing with the treatment plan, then the Section 106 process is concluded and the preparation of a memorandum of agreement is not required. The IDOT will file the treatment plan with ACHP.
5. When appropriate, IDOT will prepare a memorandum of agreement or programmatic agreement that stipulates the mitigation measures agreed upon by IDOT, FHWA, SHPO, and ACHP (if participating). The IDOT will file the executed agreement with ACHP, which concludes the Section 106 process. The IDOT will ensure the undertaking will be implemented in accordance with the agreement.
6. If there is a failure to resolve adverse effects or FHWA is unable to execute an agreement pursuant to 36 CFR 800.6(c), FHWA will request ACHP comment in accordance with 36 CFR 800.7.

## **VII. Standard treatment plans**

The IDOT, in consultation with SHPO and FHWA, may develop standard treatment plans to address adverse effects for specific types of historic properties, such as archaeological habitation sites and historic buildings. For archaeological habitation sites, FHWA and IDOT will consult with the Tribes in the development of the treatment plan. A standard treatment plan may be added to this Agreement provided that IDOT, FHWA, and SHPO agree in writing with the standard treatment plan, the plan is appended to this Agreement, and all the signatories are notified.

When IDOT applies an approved standard treatment plan to an undertaking, the Section 106 process is concluded.

## **VIII. IDOT reporting to SHPO and FHWA**

Every two months, IDOT shall provide to SHPO and FHWA a list of undertakings that have received a finding of “no historic properties affected,” for which the Section 106 process has been concluded.

The list shall include the following information for each undertaking:

- The IDOT Sequence Number
- The IDOT District number
- County and municipality
- Location of undertaking

- Description of undertaking
- Identified historic properties

The IDOT will also provide to the SHPO the documentation supporting the findings.

The list and documentation will be provided per the following schedule:

<b>If Section 106 is completed between:</b>	<b>Then documentation will be submitted no later than:</b>
Jul 1 – Aug 31	Sept 30
Sept 1 – Oct 31	Nov 30
Nov 1 – Dec 31	Jan 31
Jan 1 – Feb 28	Mar 31
Mar 1 – Apr 30	May 31
May 1 – June 30	July 31

#### **IX. Curation of archaeological materials**

All archaeological materials collected on archaeological sites owned or controlled by the State and related records resulting from research, surveys and excavation under this Agreement shall be curated with the Illinois State Museum in compliance with 20 ILCS 3435 (Illinois Archaeological and Paleontological Resources Protection Act). The IDOT shall ensure that all records and materials resulting from the archaeological investigations will be processed, prepared for curation, and curated in accordance with 36 CFR Part 79.

#### **X. Monitoring implementation of this Agreement**

- A. The FHWA, ACHP and SHPO may review activities carried out pursuant to this Agreement. The ACHP may provide advice or assistance to FHWA, IDOT, or other parties, and it may review any findings made by IDOT or FHWA pursuant to 36 CFR 800.2(b) and 36 CFR 800.9. The SHPO may request from IDOT Section 106 documentation for any undertaking and review it for compliance with this Agreement. The IDOT shall cooperate in carrying out any review activities.
- B. The Tribes may submit comments to the FHWA at any time regarding the implementation of this Agreement.
- C. The FHWA, SHPO, and IDOT shall meet annually, on or before August 31, to review the effectiveness of this Agreement and to discuss any comments received by the Tribes during the previous year. The FHWA shall notify ACHP in advance of these meetings and invite its participation. The FHWA will prepare a meeting summary and provide it to SHPO, IDOT, ACHP, and the Tribes.

## **XI. Emergency undertakings**

As defined in 36 CFR 800.12, an emergency undertaking is an essential and immediate response to a disaster or emergency formally declared by the President or Governor; such undertakings that affect transportation infrastructure can be separated into two categories which shall be addressed as follows:

- A. Undertakings that will be implemented within 30 days after the formal declaration of the disaster or emergency: The DOT Qualified Staff shall immediately determine if the emergency response could affect the physical integrity, character and/or use of historic properties. If so, IDOT shall notify FHWA, SHPO and ACHP within 48 hours. The parties will then consult, review and comment on the emergency undertaking as soon as possible to determine how to, as fully as practicable under the circumstances, avoid, minimize and/or mitigate for any potential adverse effects to historic properties. Nothing in this Agreement shall be construed as prohibiting IDOT from taking such actions as it deems necessary to stabilize the situation to protect the safety of the traveling public.
- B. Immediate rescue and salvage operations conducted to preserve life or property such as necessitated by natural disaster or other catastrophic events are exempt from the provisions of Section 106 and this Agreement, in accordance with 36 CFR 800.12(d).

## **XII. Training**

- A. The IDOT Qualified Staff, IDOT Trained Staff, and supervisory staff of IDOT's contractor (currently ISAS) responsible for implementing the terms of this Agreement will complete the following training requirements:
  - 1. Section 106 course(s) provided by FHWA, ACHP, or an equivalent qualified entity, with refresher course every five years or as necessary.
  - 2. Annual meeting to review the implementation of this Agreement.
- B. The FHWA and IDOT will invite SHPO staff to attend Section 106 courses and refresher training.
- C. Whenever major changes to 36 CFR Part 800 become effective, IDOT Qualified and Trained Staff will participate in training on the new regulations within one year of the effective date of the new regulations. The FHWA and IDOT will invite SHPO staff to attend the training.

## **XIII. Human remains**

In the event that human remains are identified prior to (during archaeological investigations), during, or after project construction, IDOT will comply with the Illinois Human Skeletal Remains Protection Act (20 ILCS 3440) and the provisions of the Tribal MOU.

#### **XIV. Unanticipated discovery of or effects to historic properties**

If unanticipated discoveries of historic properties are identified by IDOT during the implementation of an undertaking, FHWA will follow the provisions of the Tribal MOU, FHWA and IDOT shall comply with 36 CFR 800.13 by stopping work in the immediate area, taking measures to protect the historic property, and informing the SHPO of such unanticipated discoveries or effects within two (2) business days.

If IDOT or FHWA determine that unanticipated effects on historic properties have occurred during the implementation of an undertaking, FHWA and IDOT shall comply with 36 CFR 800.13 and inform SHPO immediately.

#### **XV. Administrative stipulations**

A. Dispute resolution. If SHPO, IDOT, ACHP, Tribes, or other consulting party for an individual undertaking carried out under the terms of this Agreement objects in writing to FHWA regarding any action carried out or proposed with respect to the implementation of this Agreement, then FHWA shall consult with the objecting party to resolve the objection. If after such consultation FHWA determines that the objection cannot be resolved through consultation, then FHWA shall forward all documentation relevant to the objection to ACHP, including FHWA's proposed response to the objection. Within 30 days after receipt of all pertinent documentation, ACHP shall exercise one of the following options:

- Advise FHWA that ACHP concurs in FHWA's proposed response to the objection, whereupon FHWA will respond to the objection accordingly; or
- Provide FHWA with recommendations, which FHWA shall take into account in reaching a final decision regarding its response to the objection.

Should ACHP not exercise one of the above options within 30 days after receipt of all pertinent documentation, FHWA may assume ACHP's concurrence with the proposed response to the objection.

B. Amendment. Any signatory to this Agreement may request that it be amended, whereupon the parties shall consult to consider such amendment. The amendment will be effective on the date a copy is signed by all of the original signatories.

C. Modifications. Standard Treatment Plans may be added or modified by the mutual written agreement of FHWA, IDOT, and SHPO, and shall not require an amendment to this Agreement. The FHWA and IDOT may add or modify activities listed in "**Appendix A – Exempt Activities.**" The FHWA will provide the updated list to the signatory agencies and

provide a 30-day review and comment period before the updated list goes into effect. This modification does not require an amendment to this Agreement.

- D. Termination. Any signatory to this Agreement may terminate it by providing 30 days written notice to the other parties, provided that the parties shall consult during the period prior to termination to seek agreement on amendments or other action that would avoid termination. In the event of termination, FHWA shall conduct individual reviews of undertakings pursuant to 36 CFR Part 800.
  
- E. Term of this Agreement. This Agreement remains in force for a period of five (5) years from the date of its execution by ACHP, and will remain in effect regardless of which individual is designated as the SHPO, or to which Illinois State Agency the SHPO may be assigned. Six months prior to the conclusion of the five (5) year period, IDOT will notify all signatories in writing. If IDOT receives no written objections from the signatories, the term of the Agreement will automatically be extended for an additional five (5) years. If any signatory objects in writing to extending the Agreement or proposes amendments, FHWA will consult with the signatories to consider amendments or other actions to avoid termination.

Execution and implementation of this agreement evidence that FHWA has delegated certain Section 106 responsibilities to IDOT, and has afforded ACHP a reasonable opportunity to comment on the Program and its individual undertakings in Illinois; that FHWA has taken into account the effects of the program and its individual undertakings on historic properties, and that FHWA has complied with Section 106 of the NHPA and 36 CFR 800 for the Program and its individual undertakings.

**SIGNATORIES**

**FEDERAL HIGHWAY ADMINISTRATION**

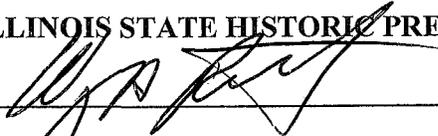
 02/15/2018

Catherine A. Batey, Division Administrator

**ADVISORY COUNCIL ON HISTORIC PRESERVATION**

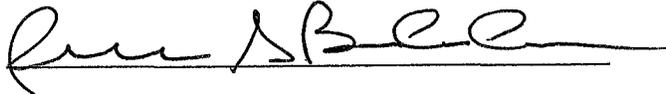
  
for John M. Fowler, Executive Director

**ILLINOIS STATE HISTORIC PRESERVATION OFFICER**



Wayne Rosenthal, Director, Illinois Department of Natural Resources, and Illinois State Historic Preservation Officer

**ILLINOIS DEPARTMENT OF TRANSPORTATION**



Randall S. Blankenhorn, Secretary, IDOT

**APPROVED FOR EXECUTION**  
Date: Feb. 13, 2018  
Legal Counsel:  (IDNR)

## APPENDIX A – Exempt Activities

The following activities have no potential to affect historic properties, whether or not there may be historic properties in the area of the undertaking.

- (1) Activities which do not involve or lead directly to construction, such as planning and research activities; grants for training; engineering to define the elements of a proposed action or alternatives so that social, economic, and environmental effects can be assessed.
- (2) General highway maintenance and repair, including but not limited to filling potholes, crack sealing, joint grinding, milling, resurfacing in kind, shoulder reconstruction, erosion control, ditch cleaning, storm sewer repair, and debris removal.
- (3) Removal and replacement of existing sidewalks and ADA ramps with in-kind materials.
- (4) Repair and replacement of highway signs or other traffic control devices.
- (5) General pavement marking activities that include, but are not limited to, installation of raised pavement markers, striping, or installation of sensors in existing pavements.
- (6) Repair and replacement of appurtenances such as glare screens, median barriers, fencing, guardrails, safety barriers, crash attenuators, safety cable, or lighting.
- (7) Repair, rehabilitation, or removal of railroad grade crossings, separations or grade crossing protection.
- (8) Roadway surface treatments such as pavement repair, median repair, seal coating, and pavement grinding.
- (9) Improvements and repairs to Interstate Highway System including bridges, weigh and inspection stations, toll facilities, and rest areas.
- (10) Establishment, replacement, or removal of landscaping or other vegetation on the interstate.
- (11) Installation of interstate surveillance, changeable message signs, ramp metering equipment, appurtenances such as glare screens, median barriers, fencing, guardrails, safety barriers, crash attenuators, safety cable, or lighting.