

**MEMORANDUM OF AGREEMENT AMONG
THE UNITED STATES ARMY CORPS OF ENGINEERS,
THE COUNTY OF WILL, WILMINGTON TOWNSHIP, AND
THE ILLINOIS STATE HISTORIC PRESERVATION OFFICER
REGARDING STABILIZATION AND REBUILDING OF A CULVERT
UNDER WEST KANKAKEE DRIVE ON A BRANCH OF THE KANKAKEE RIVER IN
WILMINGTON TOWNSHIP, ILLINOIS
(SHPO LOG #028050521)**

WHEREAS, Wilmington Township (Township) will utilize Motor Fuel Tax and Rebuild Illinois funds to stabilize and rebuild a culvert (Culvert) under West Kankakee Drive on a branch of the Kankakee River in Wilmington Township, Will County, IL; and

WHEREAS, the project will be broken into Phase I, stabilization, and Phase II, rebuilding; and

WHEREAS, Phase I will require a Department of the Army Permit under Application Number LRC-2018-00514, and Phase II will require a separate Department of the Army permit under the same application number from the United States Army Corps of Engineers (USACE), which constitutes an Undertaking subject to review under Section 106 of the National Historic Preservation Act of 1966, 54 U.S.C. § 306108, as amended, and its implementing regulations (36 CFR Part 800) (Act); and

WHEREAS, the USACE has consulted with the Illinois State Historic Preservation Office (Office), a Division of the Illinois Department of Natural Resources (IDNR), pursuant to the Act; and

WHEREAS, on July 16, 2021 the SHPO concurred with the USACE that the Culvert is eligible to be listed on the National Register of Historic Places (NRHP) under Criterion C for its construction method at the local level of significance; and

WHEREAS, on April 20, 2021, the SHPO concurred with the Township that the Culvert is too deteriorated to be repaired and presents a public safety hazard that must be structurally stabilized and rebuilt; and

WHEREAS, on April 14, 2021, in accordance with 36 CFR § 800.2(c)(3), the USACE notified Will County (County) to participate in consultation as an entitled consulting party and signatory to this Memorandum of Agreement (Agreement), and the County accepted; and

WHEREAS, on April 20, 2021, the USACE invited the Township to consult and to sign this Agreement as an invited signatory to this Agreement, and the Township accepted; and

WHEREAS, the USACE, Township, County, and SHPO agree that this single Undertaking is comprised of both USACE permits; and

WHEREAS, the SHPO has determined that the Undertaking will have an adverse effect on the

Culvert that is eligible for the NRHP; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1) and 36 CFR § 800.10(b), on August 4, 2021, the USACE has notified the Advisory Council on Historic Preservation (ACHP) of the adverse effect determination, and on August 18, 2021 the ACHP has chosen not to participate in the consultation pursuant to 36 CFR§ 800.6(a)(1)(iii);

NOW, THEREFORE, the USACE, Township, County, and the SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations in this Agreement in order to mitigate the adverse effects of this Undertaking to the Culvert.

STIPULATIONS

I. The USACE will withhold the Phase I Section 404 Permit LRC-2018-00514 until such time as the MOA has been signed by all signatories. In addition, the USACE will make compliance with the MOA a Special Condition of the permits for Phases I and II.

II. MITIGATION

The Township shall retain a historical contractor(s) of its choice (Contractor) who meets the Secretary of the Interior's Qualifications (36 CFR Part 61, https://www.nps.gov/history/local-law/arch_stnds_9.htm) to complete the measures described below. The USACE will ensure that the following mitigation and Historic American Engineering Survey (HAER) recordation (see: <https://www.nps.gov/hdp/standards/index.htm>) is completed by the Contractor. The recordation must follow the HABS/HAER/HALS guidelines established by the Heritage Documents Programs division (HPD) of the National Park Service (see: <https://www.nps.gov/hdp/standards/index.htm>). The Contractor must consult with the SHPO prior to the initiation of the work to ensure that expectations are understood.

A. Recordation

1. Fieldwork: Site Visit, Photography, Measurements

- a. The Contractor shall take site, interior, exterior, and detailed digital images of the Culvert. These photos should be used for reference in developing the architectural description outlined in II.A.2.d. Field notes/sketches should be used to create the digital sketch plans outlined in II.A.2.a.
- b. The Contractor shall submit draft digital images of the same or very similar views that are proposed for HAER 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, elevations, and distinctive architectural features. Upon SHPO

concurrence in writing of the selected draft views, the Contractor may proceed with taking the final HAER photography as outlined in II.A.1.c.

- c. Final HAER photographs must be taken by a professional photographer and must include all the views agreed to in II.A.1.b. Photographs must be taken with a large-format film 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 II.A.1.a, b, and c, the Contractor shall digitally submit the images and copies of field notes to the SHPO for review and comment. Upon SHPO confirmation in writing that all of the information necessary to complete HAER recordation has been collected, the Contractor shall prepare the 95% draft HAER recordation.

2. Recordation components shall consist of the following items.

- a. Sketch plans, as defined by HABS/HAER/HALS guidelines. The sketch plans will be included as figures at the end of the relevant report(s) and printed in accordance with HDP Transmittal Guidelines.
- b. HAER photographs. Prints from the negatives taken in II.A.1.c must be either wet processed on regular (not resin-coated) photo paper or inkjet-printed, according to HAER 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 the HDP staff. Final recordation package must contain the photo prints, original negatives, and a contact sheet, per HABS/HAER/HALS standards.
- c. Archival digital photography. This set of labeled photos are those taken as a part of the reconnaissance and agreed to as stated in II.A.1.a. They should be printed as directed by HDP staff.
- d. Narrative and description. A written historic narrative and an architectural description of the Culvert using HAER-designated outline format printed single sided on regular-weight, archival (non-recycled, with 25% cotton fiber content) bond paper.
- e. Original and/or historic drawings. Any original and/or historic drawings of the Culvert scanned at a minimum of 400 dpi, dropped full-size onto HAER title blocks. The Contractor must 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 Contractor must consult with the SHPO to determine which extant plans warrant scanning and inclusion in the recordation package.

- f. Original field notes, if applicable (i.e., field sketches, laser-scan info, photogrammetric data info.)
 - g. 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 Contractor must consult with the SHPO to determine which historic images and maps warrant inclusion in the recordation package.
 - h. CD/DVD. Digital versions of items II.A.2.a through II.A.2.g must be saved onto an archival CD/DVD.
3. Draft submission. The Contractor shall email the 95% draft of the items in II.A.2.a through g in pdf format to the SHPO and the USACE for review and comment. When the SHPO accepts in writing the 95% draft submission, the Contractor shall incorporate into the recordation any comments that the SHPO provides and complete the final documentation as directed in II.A.4.
4. Final submission. Upon completion of the final documentation, the Contractor shall submit the following to the SHPO:
- a. One (1) HAER recordation package containing items II.A.2.a, b, c, d, e, f, g, and h.
 - b. One (1) recordation package containing items II.A.2.a, c, d, e, g, and h in an archival clamshell.
 - c. Digital versions of items II.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 SHPO will notify in writing the USACE and submit the HAER recordation package to the Heritage Documentation Programs in the National Park Service for eventual deposit in the Library

of Congress, and the SHPO will deposit the recordation package with the Abraham Lincoln Presidential Library in Springfield, Illinois.

B. Design Review

1. Prior to Phase II construction, the Township shall consult with the SHPO in the planning and design of the replacement culvert.
2. The existing Culvert will be rebuilt using concrete tinted the approximate color of the existing historic stone.
3. The new culvert shall use concrete form-liners that approximate the stone coursing and overall visual texture of the existing historic stone.
4. The tinted concrete of the new culvert shall approximate the Culvert's round-headed arch and voussoirs.
5. Upon its concurrence that the proposed Phase II design meets II.B.2 through II.B.4 of this Agreement, the SHPO shall notify the USACE and the Township in writing.
6. The USACE shall ensure that verification of Phase II Section 404 Permit (Permit number LRC-2018-00514) to the Applicant is withheld until the USACE receives written approval from the SHPO pursuant to II.B.5 of this Agreement.

III. DURATION

This Agreement shall be effective until such time as all of its terms are satisfied, or it is amended or terminated and replaced. Prior to such time, the USACE may consult with the other signatories to reconsider the terms of the Agreement and amend it in accordance with Stipulation VII AMENDMENTS below. The USACE shall notify the signatories as to the course of action it will pursue.

IV. POST-REVIEW DISCOVERIES

If potential historic properties are discovered or unanticipated effects on historic properties found, the USACE shall consult with the SHPO immediately and make reasonable efforts to avoid, minimize, or mitigate adverse effects to such properties. In the event of an unanticipated discovery of human remains or burials, the USACE understands and agrees that it must immediately stop work within the area of discovery, and consult with the SHPO.

V. MONITORING AND REPORTING

Each six (6) months following the execution of this Agreement until it expires or is terminated, the Township shall provide all parties to this Agreement a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in USACE's efforts to carry out the terms of this Agreement.

VI. DISPUTE RESOLUTION

Should any signatory to this Agreement object at any time to any actions proposed or the manner in which the terms of this Agreement are implemented, the USACE shall consult with the signatories to resolve the objection. If the signatories cannot agree regarding a dispute, the signatories shall:

- A. Forward all documentation relevant to the dispute including any timely advice or comments regarding the dispute from the signatories and concurring parties and the USACE's proposed resolution, to the ACHP. The ACHP shall provide USACE 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, USACE shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. USACE 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, USACE may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, USACE shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the Agreement, and provide them and the ACHP with a copy of such written response.
- C. USACE's responsibility to carry out all other actions subject to the terms of this Agreement that are not the subject of the dispute remain unchanged.

VII. AMENDMENTS

This Agreement 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 of the signatories.

VIII. TERMINATION

If any signatory to this Agreement 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 VI and VII above. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the Agreement upon written notification to the other signatories.

Once this Agreement is terminated, and prior to work continuing on the Undertaking, USACE must either (a) execute a Memorandum of Agreement 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. USACE shall notify the signatories as to the course of action it will pursue.

IX. COUNTERPARTS; FACSIMILE OR .PDF SIGNATURES

This Agreement may be executed in counterparts, each of which shall be considered an original and together shall be one and the same Agreement. A facsimile or .pdf copy of this Agreement and any signatures thereon will be considered for all purposes as an original.

X. DISTRIBUTION OF AGREEMENT

In order to meet the requirements of Section 106. 36 CFR § 800.6(b)(1)(iv), upon the execution of this Agreement and prior to approving the Undertaking, the USACE must transmit to the ACHP the executed Agreement along with the documentation specified in Section 800.11(f).

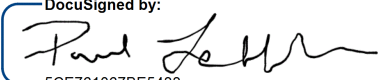
EXECUTION of this Agreement by USACE, Township, County, and SHPO and the implementation of its terms evidence that the USACE, Township, and County have afforded the ACHP an opportunity to comment on the effects of the Undertaking in compliance with the Act.

[Signature Pages to follow]

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WILMINGTON TOWNSHIP, ILLINOIS
(SHPO LOG #028050521)**

SIGNATORY

THE UNITED STATES ARMY CORPS OF ENGINEERS (USACE)

DocuSigned by:

Signature: _____
5CE761067BE5433

Date: 08 September 2021 | 11:07:20 CDT


Name: Paul Leffler

Title: Interim Regulatory Branch Chief

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SIGNATORY

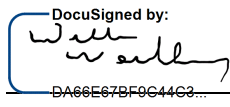
WILL COUNTY (County)

DocuSigned by:
Signature:  Date: 29 September 2021 | 09:07:16 CDT
10926319AACF454...
Name: Jennifer Bertino-Tarrant
Title: Will County Executive

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INVITED SIGNATORY

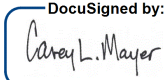
WILMINGTON TOWNSHIP (Township)

Signature:  _____ Date: 16 September 2021 | 09:16:14 CDT _____
Name: william weidling _____
Title: Road Commissioner _____

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(SHPO LOG #028050521)**

SIGNATORY

ILLINOIS DEPUTY STATE HISTORIC PRESERVATION OFFICER (SHPO)

By:  DocuSigned by:
48CA26CF8ADD48C... _____ Date: 15 September 2021 | 13:06:33 CDT
Carey L. Mayer, AIA
Deputy State Historic Preservation Officer
Illinois Department of Natural Resources