

**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), and codified in its implementing regulations, 36 CFR 800, as amended (August 5, 2004); and

WHEREAS, the responsibilities of the Illinois State Historic Preservation Officer (SHPO) under Section 106 of the NHPA and 36 CFR 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, 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 the SHPO and the Advisory Council on Historic Preservation (Council) 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 a larger percentage of time and energy to identifying transportation-related concerns threatening historic properties; (2) create innovative programs to address those problems; (3) develop a comprehensive and efficient Section 106 process that simplifies procedural requirements; and

WHEREAS, 36 CFR 800 encourages Federal agencies to fulfill their obligations efficiently under Section 106 of the NHPA through the development and implementation of cooperative Programmatic Agreements; and

WHEREAS, in the spirit of stewardship, the FHWA and IDOT are committed to the design of transportation projects that 1) avoid, minimize, and mitigate adverse effects to historic properties, 2)

utilizes 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 responsibility to consult with Tribes, and will follow the stipulations contained in the Memorandum of Understanding Regarding Tribal Consultation Requirements for the Illinois Transportation Program (Tribal MOU) which shall remain in effect; 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 the Council a reasonable opportunity to comment on undertakings covered by this Agreement; and

WHEREAS, the Council 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 the Council'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, the FHWA and IDOT, in their compliance with the National Environmental Policy Act of 1969 (NEPA) (42 USC 4321 et seq.), seek to coordinate their NEPA and Section 106 activities pursuant to 36 CFR 800.3(b) and 800.8; and

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

WHEREAS, this Agreement shall supersede the Programmatic Agreement among the FHWA, the IDOT, the Council, and the SHPO "Regarding the Implementation of the Federal-aid Highway Program in the State of Illinois", executed on September 21, 2010; and

NOW, THEREFORE, FHWA, the Council, the 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 of the NHPA until this Agreement expires or is terminated.

STIPULATIONS

The FHWA, with the assistance of IDOT, shall ensure that the following measures 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 the FHWA, the SHPO, and the Council.

II. Responsibilities of IDOT, FHWA, and SHPO

A. IDOT

1. The IDOT Cultural Resources Unit Chief must meet the Secretary of Interior's Professional Qualification standards (36 CFR Part 61) and shall have the primary responsibility for ensuring IDOT complies with this Agreement.
2. The IDOT will ensure that all cultural resource work conducted under this Agreement is carried out by IDOT Qualified Staff and/or consultants that meet the qualifications set forth in the Secretary of the Interior's Professional Qualifications Standards.
3. Consistent with 36 CFR Part 800.2(a)(3), IDOT may use consultants to gather information, analyze data, and prepare documentation. The IDOT and FHWA remain responsible for all consultation, findings, and determinations made under this Agreement.
4. The IDOT will primarily utilize the services of the Illinois State Archaeological Survey (ISAS), through an intergovernmental agreement (updated on July 1, 2016) with the Prairie Research Institute at the University of Illinois, to gather information, analyze data, prepare documentation, make eligibility recommendations, and complete mitigation requirements.

5. IDOT policies and manuals shall include detailed procedures for implementing this Agreement, in coordination with the SHPO and FHWA.

B. FHWA

1. In compliance with its responsibilities under the NHPA, FHWA, as the Agency Official and lead agency, will ensure that IDOT carries out the requirements of this Agreement.
2. Consistent with the requirements of 36 CFR 800.2(a) and 800.2(c)(4), FHWA remains legally 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.
3. FHWA retains the responsibility for government-to-government consultation with Tribes, and will follow the stipulations contained in the Tribal MOU which shall remain in effect. FHWA may ask IDOT to assist in consultation if the individual Tribes agree to alternative procedures.
4. FHWA will carry out its Section 106 responsibilities in coordination with IDOT policies and procedures under NEPA (36 CFR 800.8), including consideration of historic properties under Section 4(f) of the Department of Transportation Act of 1966.
5. 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.
6. The Section 106 process will be completed, and documentation will be included in the approved NEPA documentation in accordance with 23 CFR 771 (Categorical Exclusion (CE), Environmental Assessment (EA)/Finding of No Significant Impact (FONSI), or Environmental Impact Statement (EIS)/Record of Decision (ROD)).

C. SHPO

1. The Illinois SHPO is responsible for responding to IDOT and FHWA requests for consultation according to the terms of this agreement.
2. The Illinois SHPO will participate in project site visits and project specific meetings upon request by IDOT or the FHWA, as staff time and resources permit.

3. The Illinois SHPO will continue to share information developed or generated by each agency 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 Illinois State Museum Illinois Inventory of Archaeological and Paleontological Sites (IIAPS), and shall integrate newly designated historic properties into the Historic and Architectural Resources Geographical Information Survey (HARGIS).

III. 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 the FHWA undertaking.

Other Federal Agencies may become invited signatories to this Agreement by signing a separate signature page and providing it to FHWA. FHWA will send a copy of the signature page to IDOT, SHPO, and the Council.

IV. Section 106 responsibilities delegated to IDOT

Through this Agreement, FHWA authorizes IDOT to initiate and, in most cases, conclude consultation with the SHPO, and other consulting parties as appropriate, for purposes of compliance with 36 CFR 800.3 to 800.5:

36 CFR 800.3 Initiation of the section 106 process

- (1) Establish undertaking
- (2) Coordinate with other reviews
- (3) Identify the appropriate SHPO
- (4) Plan to involve the public
- (5) Identify other consulting parties
- (6) Expediting consultation

36 CFR 800.4 Identification of historic properties

- (1) Determine scope of identification
- (2) Identify historic properties
- (3) Evaluate historic significance
- (4) Results of identification and evaluation

36 CFR 800.5 Assessment of adverse effects

- (1) Apply criteria of adverse effect
- (2) Finding of no adverse effect
- (3) Consulting party review
- (4) Results of assessment

V. Projects not requiring review by IDOT Qualified Staff

The undertakings listed in Appendix A are minor projects for which IDOT may utilize Federal-aid highway funds. Based on experience in Illinois, these minor projects normally do not affect historic properties. Provided the undertaking satisfies the following criteria below, the minor projects listed in Appendix A do not require review by IDOT Qualified Staff or the SHPO.

The project:

- is not located in or adjacent to a historic district or property,
- is limited to the activities specified,
- is not part of a larger project,
- is on an existing transportation facility,
- has no known public controversy based on historic preservation issues, and
- will not disturb previously undisturbed soils.

The project file shall contain documentation referencing and including the description of the specific minor project type from Appendix A that qualifies the project as exempt from further Section 106 review.

IDOT, FHWA and SHPO may identify other mutually agreed upon undertakings that do not require Section 106 review. Appendix A may be modified upon written approval by IDOT, FHWA, and SHPO, without formally amending this Agreement.

VI. IDOT cultural review process

A. Initiate the Section 106 process

1. IDOT will determine if a project is an undertaking (36 CFR 800.16(y)).

2. IDOT will use existing procedures to solicit public participation early in the project development process and consistent with 36 CFR Part 800.2 (d).
3. When IDOT or FHWA determines a project is a Categorical Exclusion (CE) in accordance with 23 CFR 771, then
 - a) IDOT establishes the Area of Potential Effect (APE). IDOT may, but is not required to consult with the SHPO on the APE for CEs.
 - b) IDOT will identify consulting parties (36 CFR 800.2(c) and 800.3(b)(c)(e) and (f)).
 - c) If an archaeological survey is required, notification of the undertaking will be sent to Tribes and the SHPO through the Project Notification System (PNS) (per the Tribal MOU).
4. When IDOT or FHWA determines a project requires an Environmental Assessment (EA) or an Environmental Impacts Statement (EIS) in accordance with 23 CFR 771, then
 - a) FHWA and IDOT will develop the APE in consultation with the SHPO. The SHPO will have 30 days to respond or concur with the APE. If SHPO does not respond within that time period, FHWA and IDOT may assume SHPO concurrence.
 - b) IDOT, in coordination with FHWA, will identify consulting parties (36 CFR 800.2(c) and 800.3(b)(c)(e) and (f)).
 - c) FHWA will initiate consultation with the Tribes. If an archaeological survey is required, notification of the undertaking will be sent to Tribes and the SHPO through the PNS (per the Tribal MOU).
5. For all undertakings, IDOT's consultation with consulting parties and the public will be appropriate to the scale and the scope of the undertaking, and will be coordinated with FHWA's and IDOT's policies and procedures under NEPA (36 CFR 800.3(b)). IDOT will seek and consider the views of the public in a manner that reflects the nature and complexity of the undertaking and its effects on historic properties, and the likely interest of the public in the effects on historic properties (36 CFR 800.2(d)).

B. Identify historic properties

1. IDOT shall determine the scope of identification efforts to identify historic properties within the project APE.
2. IDOT will make a reasonable and good faith effort to carry out appropriate identification efforts in accordance with 36 CFR 800.4(b). Where alternatives under consideration consist of corridors or large land areas, or where access to properties is restricted, the IDOT may use a phased process to conduct identification and evaluation efforts.
3. For CE projects
 - a) IDOT may, but is not required to, consult with the SHPO on the identification of historic properties
 - b) IDOT will involve consulting parties and the public in identification of historic properties, as appropriate (36 CFR 800.2(c) and 800.4(a)(3)).
 - c) The IDOT Qualified Staff will determine if the undertaking requires an archaeological field survey by applying his/her professional judgement based on a review of the IIAPS, soil maps, aerial photographs, and other resources as appropriate. If the undertaking is unlikely to cause an effect to archaeological properties, then an archaeological field survey will not be conducted.
 - d) The IDOT Qualified Staff will determine if the undertaking requires an architectural field survey by applying his/her professional judgement based on a review of photo logs, HARGIS, National Register databases, local landmark listings, local governmental databases, and other resources, as appropriate. If the undertaking is unlikely to cause effect to architectural properties, then an field survey will not be conducted.
4. For EA and EIS projects
 - a) IDOT will conduct archaeological and architectural surveys, as appropriate.
 - b) IDOT will submit to the SHPO for review the documentation of historic properties. The SHPO will have 30 days to respond or concur. If SHPO does not respond within that time period, IDOT may assume SHPO concurrence.

- c) IDOT, in consultation with FHWA, will involve consulting parties and the public in identification of historic properties, as appropriate (36 CFR 800.2(c) and 800.4(a)(3)).

C. Evaluate effects to historic properties

1. No Historic Properties Affected

a) For CEs

- (1) IDOT may, but is not required to, consult with the SHPO on “no historic properties affected” findings.
- (2) If IDOT Qualified Staff determines there are “no historic properties affected,” then they will prepare documentation pursuant to 36 CFR 800.11(d) and retain it in the project file. SHPO case-by-case review of this finding is not required.
- (3) Section 106 is concluded upon the IDOT Qualified Staff documenting the “no historic properties affected” finding.

b) For EAs and EISs

- (1) IDOT will submit the project effect finding documentation to SHPO for review. The SHPO will have 30 days to respond or concur. If SHPO does not respond within that time period, IDOT may assume SHPO concurrence.
- (2) Section 106 is concluded upon receiving concurrence from the SHPO or the end of the 30 day comment period.

2. No Adverse Effect

- a) IDOT will make efforts to avoid and minimize effects to historic properties.

- b) When IDOT Qualified Staff apply the Criteria of Adverse Effect (36 CFR 800.5(a)) and determines there is “no adverse effect,” then:

- (1) IDOT will prepare documentation pursuant to 36 CFR 800.11(e), including a list of all historic properties identified within the APE, and the finding of effect to each of those properties, including measures to be incorporated into the

project design to ensure adherence to the Secretary's Standards for the Treatment of Historic Properties (36 CFR part 68); and

- (2) IDOT will submit the effect documentation to the SHPO for review. The SHPO will have 30 days to concur, or respond to the finding. If SHPO does not respond within that time period, IDOT may assume SHPO concurrence; and
 - (3) Section 106 is concluded upon receiving concurrence from the SHPO or at the end of the 30 day comment period.
- c) IDOT must notify SHPO in writing of FHWA's intent to issue a Section 4(f) *de minimis* determination to a historic property pursuant to 23 CFR 774.5(b)(1), based upon SHPO's written concurrence with a "no adverse effect" finding. The notification shall be included in a project effect letter to the SHPO.

3. Adverse Effect

- a) When IDOT Qualified Staff apply the Criteria of Adverse Effect (36 CFR 800.5(a)) and determines there is an "adverse effect," IDOT will make efforts to avoid and minimize adverse effects.
- b) When efforts to avoid and minimize impacts result in the IDOT Qualified Staff making an "adverse effect" finding, then:
 - (1) IDOT will prepare documentation pursuant to 36 CFR 800.11(e), which will include a list of all historic properties identified within the APE, and the effect to each of those properties; and
 - (2) IDOT will submit the adverse effect documentation to FHWA in accordance with 36 CFR 800.11(e) and concurrently provide the SHPO with a copy of the documentation for their records; and

D. Resolve adverse effect to historic properties

1. FHWA and IDOT will consult with the SHPO, 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 Qualified Staff shall coordinate with FHWA to request the SHPO, the ACHP, and the Secretary of the Interior to participate in consultation to resolve any adverse effects, as outlined in 36 CFR 800.10.
3. For CE projects that will have an adverse effect upon Euro-American Tradition archaeological habitation sites included in or eligible for the NRHP, FHWA and IDOT will follow the Illinois Programmatic Agreement for the Mitigation of Adverse Effects to Euro-American Tradition Archaeological Sites.
4. When appropriate, a project Memorandum of Agreement or programmatic agreement will be executed to stipulate the agreed-upon mitigation measures. IDOT will ensure the undertaking will be carried out in accordance with the agreement document.
5. If there is a failure to resolve adverse effects or FHWA is unable to execute an MOA pursuant to 36 CFR 800.6(c), FHWA will request ACHP comment in accordance with 36 CFR 800.7.
6. IDOT, in consultation with the SHPO and FHWA, may develop Standard Treatment Plans for specific types of historic properties. Treatment plans may be added to this Agreement without a formal amendment, provided that IDOT, FHWA, and SHPO agree in writing with the treatment plan(s), the plan is appended to this Agreement, and all the signatories are notified. Section 106 is concluded upon IDOT completing the Standard Treatment Plan.

VII. Reporting to SHPO and FHWA

IDOT shall prepare and deliver a list to the SHPO every two months, which includes the undertakings reviewed under the terms of this Agreement that received a “no historic properties affected” finding by IDOT. Undertakings in Appendix A will not be included in the list.

The list shall include the following information:

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

- Description of undertaking
- Identified historic properties
- Effect finding

IDOT will deliver to the SHPO the documentation supporting the findings of “no historic properties affected” with the list. If the SHPO disagrees with IDOT’s finding for an undertaking, they will notify IDOT within 30 days of the receipt of the documentation supporting the findings, and the provisions of Stipulation XV(A) will be followed.

The list and documentation will be developed and distributed as follows:

If Section 106 completed between:	Then the list and documents will be submitted no later than:
Jul 1 – Aug 31	Sept 31
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

VIII. Curation of archaeological materials

All objects of historical or archaeological value or interest found on archaeological sites owned or controlled by the State and related records resulting from research, surveys and excavation under this Agreement shall be curated 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, and curated in accordance with 36 CFR Part 79.

IX. Monitoring by SHPO, the Council, and FHWA

- A. The FHWA, the Council and the SHPO may monitor activities carried out pursuant to this Agreement. The Council 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. IDOT shall cooperate in carrying out any monitoring efforts.

- B. The FHWA, the SHPO, and IDOT shall meet annually, on or before August 31, to review the effectiveness of this Agreement during the previous year. FHWA shall notify the Council in advance of these meetings and invite its participation.

X. Emergency undertakings

As defined in 36 CFR Part 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 the IDOT from taking such actions as it deems necessary to stabilize the situation to protect the safety of the travelling 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 Programmatic Agreement, in accordance with 36 CFR Part 800.12(d).

XI. Training

- A. IDOT Qualified Staff, ISAS supervisory staff conducting work under this Agreement, and consultants under contract with IDOT to conduct work under this Agreement will complete the following training requirements:
 - 1. Section 106 course(s) provided by FHWA, the Council, or an equivalent qualified entity, with refresher course every five years or as necessary.
 - 2. Annual meeting to review this Agreement and its application.

- B. IDOT Qualified Staff shall ensure appropriate IDOT staff receives training on the Section 106 process and the implementation of this Agreement.
- C. FHWA and IDOT will invite SHPO staff to attend Section 106 courses and refresher training.
- D. Whenever major changes to 36 CFR 800 become effective, IDOT Qualified Staff will participate in training on the new regulations within one year of the new regulations going into effect. FHWA and IDOT will invite SHPO staff to attend the training.

XII. Future efforts to preserve historic properties and streamline Section 106 activities

The IDOT, FHWA, and SHPO have a mutual interest in working together to find ways to preserve historic properties that often are impacted by transportation projects and to streamline Section 106 activities for routine transportation projects. The parties agree to continue working together on standard treatment plans and additional programmatic agreements which will result in better outcomes for historic preservation and more efficient processes that allow all agencies to focus on undertakings that are most likely to adversely effect historic properties. The parties will meet bi-annually, or more often if appropriate, to identify opportunities for streamlining and for improving the Section 106 process including, but not limited to, development of the following:

Standard Treatment Plans:

- Data recovery for archaeological sites
- Documentation of historic buildings prior to demolition
- Letters of Agreement to replace MOAs for routine mitigation

Programmatic Agreements:

- Historic Bridges
- Historic Route 66

XIII. Discovery of human remains

If human remains are discovered during cultural resource investigations covered by this Agreement, the provisions of the Illinois Human Skeletal Remains Protection Act (20 ILCS 3440) and its rules will be followed. If the remains are determined to be Native American, FHWA will follow the provisions of the Tribal MOU.

XIV. Unanticipated discovery

If unanticipated discoveries of historic properties are encountered during the implementation of any project under this Agreement, IDOT and FHWA shall comply with 36 CFR 800.13 by stopping work in the immediate area, and will take measures to protect the historic property(ies), as appropriate, and informing the SHPO of such unanticipated discoveries or effects within two (2) business days.

If unanticipated effects on historic properties occur during the implementation of any project under this Agreement, IDOT and FHWA shall comply with 36 CFR 800.13 and inform the SHPO immediately.

If human remains are encountered during the implementation of any project under this Agreement, work shall cease immediately in the area of discovery and IDOT and FHWA will take measures to protect the human remains, as appropriate, and the human remains will be left undisturbed. In the event of an unanticipated discovery of human remains or burials on federal lands, IDOT and FHWA will follow the Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001). In the event of an unanticipated discovery of human remains or burials on non-federal lands, IDOT will comply with the Illinois Human Skeletal Remains Protection Act (20 ILCS 3440). If the remains are determined to be Native American, FHWA will follow the provisions of the Tribal MOU.

Work on the portion of the site where human remains are found shall not resume until a plan for the treatment of the human remains is developed and approved in consultation with the SHPO and any appropriate consulting parties. The plan will comply with Illinois Human Skeletal Remains Protection Act (20 ILCS 3440).

XV. Administrative stipulations

- A. **DISPUTE RESOLUTION:** If the SHPO, IDOT, the Council, or a consulting party for an individual undertaking carried out under the terms of this Agreement objects in writing to the 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 this 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 the Council, including FHWA's proposed

response to the objection. Within 30 days after receipt of all pertinent documentation, the Council shall exercise one of the following options:

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

- B. AMENDMENT - Any party 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. The lists of minor projects in Appendix A, and Standard Treatment Plans, may be modified or added by the mutual written agreement of FHWA, IDOT, and the SHPO, and shall not require a formal amendment to this Agreement.
- C. TERMINATION - Any party 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 project review pursuant to 36 CFR 800.
- D. TERM OF THIS AGREEMENT - This Agreement remains in force for a period of five (5) years from the date of its execution by the Council. Six months prior to the conclusion of the five (5) year period, IDOT will notify all parties in writing. If there are no objections from consulting parties, the term of the Agreement will automatically be extended for an additional five (5) years. If any party objects to extending the Agreement or proposes amendments, FHWA will consult with the parties to consider amendments or other actions to avoid termination.

SIGNATORIES

FEDERAL HIGHWAY ADMINISTRATION

Catherine A. Batey, Division Administrator

ADVISORY COUNCIL ON HISTORIC PRESERVATION

John M. Fowler, Executive Director

ILLINOIS STATE HISTORIC PRESERVATION OFFICER

Heidi Brown-McCreery, SHPO

ILLINOIS DEPARTMENT OF TRANSPORTATION

Randall S. Blankenhorn, Secretary, IDOT

APPENDIX A

(Projects Requiring No Review by IDOT Cultural Resources Staff)

Appendix A consists of projects that, by their nature, have little to no potential to cause effect to historic properties and do not require review by IDOT Cultural Resources Staff, *provided they are not in or adjacent to a historic district or property.*

1. All work to be done on bridges less than 40 years of age and not listed or determined to be eligible for inclusion in the National Register of Historic Places.
2. All work within existing roadbeds, interchanges and within medians of divided highways in previously disturbed soils.
3. Replacement, repair, lining, or extension of culverts and other drainage structures which do not extend beyond or deeper than previous construction limits, and do not exhibit stone or brick structures or parts therein.
4. Roadway surface replacement, rehabilitation, resurfacing, or reconstruction, overlays, shoulder treatments, pavement repair, seal coating, pavement grinding, and pavement marking within areas previously disturbed by construction where replacement, repair, or installation of curbs or sidewalks will not be required.
5. Repair or replacement of existing lighting, signals, signing and other traffic control devices in previously disturbed soils.
6. Repair or replacement of existing safety appurtenances such as guardrails, barriers, glare screens, and crash attenuators in previously disturbed soils.
7. Fencing and landscaping in previously disturbed soils.
8. Railway crossing signs and signal installation or modification and surface improvement in previously disturbed areas.
9. Erosion control within previously disturbed soils to prevent erosion of roadways, waterways and bridge piers.
10. Routine roadside maintenance activities necessary to preserve existing infrastructure and maintain roadway safety in previously disturbed areas.
11. Rehabilitation of existing rest areas and truck weigh stations within previously disturbed soils.

12. Hazardous waste removal and disposal constituting a public hazard and which require immediate removal.
13. Installation of parking lanes, bi-directional lanes, turning lanes or climbing lanes within existing right-of-way limits.
14. Storm sewer installation within existing right-of-way limits.
15. Approval of utility installations along a transportation facility within the state right-of-way.

DRAFT