

**PROGRAMMATIC AGREEMENT
AMONG
THE FEDERAL RAILROAD ADMINISTRATION,
ILLINOIS STATE HISTORIC PRESERVATION OFFICER,
ILLINOIS DEPARTMENT OF TRANSPORTATION,
AND
ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING
COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT,
FOR THE PROPOSED CHICAGO TO ST. LOUIS HIGH-SPEED RAIL PROJECT,
COOK, WILL, GRUNDY, LIVINGSTON, MCLEAN, LOGAN, SANGAMON, MACOUPIN, JERSEY, MADISON,
AND ST. CLAIR COUNTIES, ILLINOIS**

WHEREAS, the Federal Railroad Administration (FRA) has entered into certain grant agreements (Grant/Cooperative Agreement Nos. FR-HSR-0015-11-01-00, FR-HSR-0015-11-01-01, FR-HSR-0015-11-01-02, and FR-HSR-0113-12-01-00) with the Illinois Department of Transportation (IDOT) to fund railway improvements between Chicago, Illinois and St. Louis, Missouri (Project) through the High-Speed Intercity Passenger Rail Program and funded in part through the American Recovery and Reinvestment Act (ARRA); and

WHEREAS, the Project is subject to Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA), 16 USC Section 470f, and its implementing regulations, 36 CFR Part 800; and

WHEREAS, the Project requires construction within a long-established surface transportation corridor with important links to the transportation history of Illinois and the nation; therefore, the Project has the potential to cause adverse effects to historic properties within the corridor; and

WHEREAS, the FRA in coordination with IDOT and Illinois State Historic Preservation Officer (SHPO) proposes to develop this Programmatic Agreement (PA) pursuant to 36 CFR § 800.14(b) to provide for the ongoing review of the Project and the resolution of adverse effects where appropriate; and

WHEREAS, the FRA, as the federal agency responsible for Section 106, has partnered with the IDOT for the implementation of the Section 106 process for the Project and proposes to delegate to the IDOT certain tasks pertaining to consultation, identification of historic properties, assessing effects to historic properties, and mitigating adverse effects to historic properties through this PA; and

WHEREAS, the FRA and IDOT, in consultation with the SHPO, have defined the Project's Area of Potential Effect (APE) as the proposed Project corridor from Union Station in Chicago to the Mississippi River in East St. Louis (see Exhibit A); and

WHEREAS, the APE in large part falls within and adjacent to the alignments of Route 66, and in 1995 the IDOT completed a survey of Route 66 and contributing properties resulting in seven roadway sections being listed on the National Register of Historic Places (NRHP) (see Exhibit B); and

WHEREAS, the IDOT, in coordination with the FRA and SHPO, is concurrently conducting two levels of cultural resource survey: (1) resource-specific surveys along the entire APE focused on identifying and evaluating railroad resources, highway resources, rural and urban architectural resources, and archaeological resources, and (2) surveys of individual constructible elements of the Project in a staged manner in coordination with proposed stages of construction; and

WHEREAS, the Project will be constructed within the alignment of existing and earlier rail lines, and the FRA and IDOT, in consultation with the SHPO, have determined that the existing and earlier railroad beds and alignments are not eligible for listing on the NRHP (see Exhibit C); and

WHEREAS, the FRA and IDOT, in consultation with the SHPO, have determined that the Project will have an adverse effect on two sections of Route 66 that are listed on the NRHP: Cayuga to Chenoa and Girard to Nilwood (see Exhibit D); and

WHEREAS, the FRA and IDOT, in consultation with the SHPO, have determined that the Project is likely to cause adverse effects to additional NRHP-listed sections of Route 66 within the APE; and

WHEREAS, the FRA and IDOT, in consultation with the SHPO, have determined that the Project may cause an adverse effect to the Dana-Thomas House, a National Historic Landmark and NRHP-listed property, in addition to yet to be identified architectural properties within the APE; and

WHEREAS, the FRA and IDOT, in consultation with the SHPO, have determined that the Project may cause adverse effects to yet to be identified archaeological properties within the APE; and

WHEREAS, the FRA and IDOT have incorporated Section 106 consultation into public outreach activities undertaken for the National Environmental Policy Act (NEPA) for the Project; and

WHEREAS, the FRA and IDOT have, in addition to NEPA coordination, incorporated Section 106 tribal consultation for the Project into the existing web-based Project Notification System developed and implemented by the IDOT and Federal Highway Administration (FHWA) in coordination with federally recognized tribes and the SHPO as part of a tribal consultation memorandum of understanding ratified September 19, 2011; and

WHEREAS, the Project is likely to cause impacts to multiple Route 66 properties, the IDOT, in coordination with FRA and SHPO, undertook early consultation with the Route 66 Association of Illinois, Illinois Route 66 Scenic Byways, and Landmarks Illinois; FRA and IDOT have considered their comments in developing measures for the identification and evaluation of Route 66 resources and the mitigation of adverse effects to those resources; and

WHEREAS, the FRA and IDOT have invited fifty-nine (59) different agencies, tribes, organizations, and communities to enter consultation (see Exhibit E) and nineteen (19) have expressed an interest in the Project: Osage Nation, Miami Tribe of Oklahoma, Iowa Tribe of Kansas and Nebraska, National Park Service, National Trust for Historic Preservation, Illinois Historic Preservation Agency, Landmarks Illinois, Illinois Route 66 Scenic Byways, Route 66 Association of Illinois, Dana Thomas House Foundation, City of Akon, Alton Historical Commission, Alton Area Landmarks Association, Village of Chatham, Village of Sherman, Village of Williamsville, Williamsville Historical Society and Museum, Main Street Lincoln, Village of Dwight; and

WHEREAS, the Union Pacific Railroad (UPRR) is the host railroad, the FRA has notified and invited the UPRR to participate in the consultation for the Project; and

WHEREAS, on January 12, 2012 the FRA notified the Advisory Council on Historic Preservation (ACHP) and invited them to participate in the consultation for the Project, and they agreed on February 9, 2012; and

NOW, THEREFORE, the FRA, IDOT, SHPO, and ACHP 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

The FRA and IDOT shall ensure that the following measures are undertaken for the Project:

I. IDENTIFICATION AND EVALUATION OF HISTORIC PROPERTIES

The IDOT, in coordination with the FRA, shall ensure surveys are undertaken that adequately identify cultural resources. Surveys are currently being conducted within the limits of individual constructible elements of the Project in a staged manner in advance of proposed construction stages. The results of these surveys are being used by the IDOT, in coordination with the FRA, to make determinations of eligibility and effect, and the survey results are submitted to the SHPO by the IDOT with requests for concurrence in these determinations. In addition to these surveys, the IDOT is conducting resource-specific surveys that develop historical context and inventory resources within the entire APE. The resource-specific surveys are outlined below and will be utilized to evaluate the NRHP eligibility of individual properties, and upon completion, will be submitted by the IDOT to the SHPO for approval.

- A. Route 66 Resources.** The IDOT shall ensure that the 1995 survey of Route 66 resources is updated and used to identify and evaluate Route 66 properties potentially impacted by the Project. The survey is underway and will be completed by December 31, 2013.

- B. **Railroad Architectural Resources.** The IDOT shall ensure that a survey of architectural properties directly associated with earlier rail lines (for example, stations, freight buildings, and bridges) within the APE is completed and used to identify and evaluate properties potentially impacted by the Project. The survey is currently underway and will be completed by December 31, 2014.
- C. **Rural and Urban Architectural Resources.** The IDOT shall ensure that a survey of both rural and urban architectural properties within the APE is completed and used to identify and evaluate properties potentially impacted by the Project. The survey is currently underway and will be completed by December 31, 2014.
- D. **Archaeological Resources.** The IDOT shall ensure that a review of archaeological databases and archival sources is completed for the APE and is used to identify and evaluate archaeological properties (prehistoric and historic) potentially impacted by the Project. The review is underway and will be completed by December 31, 2013.

II. ASSESSING EFFECTS TO HISTORIC PROPERTIES

The IDOT, in coordination with the FRA and SHPO, shall make every reasonable effort to avoid or minimize adverse effects to historic properties when proposing each constructible element of the Project.

- A. As each individual constructible element of the Project is identified, the IDOT, in coordination with the FRA, shall utilize survey results to review the construction proposal, identify historic properties, and make a finding of "No Historic Properties Affected" and "No Adverse Effect."
 - 1. The IDOT will provide a description of historic properties and an effect finding to the SHPO for a thirty (30) day review. Upon SHPO concurrence with the identification of historic properties and either a "No Historic Properties Affected" or "No Adverse Effect" finding, no further consultation for that construction proposal is required and the project may move forward.
 - 2. Where the IDOT proposes a finding of "Conditional No Adverse Effect," the IDOT shall include in its submittal to SHPO those measures that would avoid adverse effects to historic properties. The SHPO shall have thirty (30) days to review the finding and proposed measures. Upon SHPO concurrence with this finding and the proposed measures, no further consultation for that construction proposal is required and the project may move forward with the proposed measures in place.
 - 3. Should the IDOT and SHPO not agree on the identification of historic properties, a proposed effect finding, or measures to avoid adverse effects to historic properties, they shall consult with the FRA. If the dispute cannot be resolved, the parties shall follow the Dispute Resolution process set forth in Stipulation VIII below.
 - 4. When the IDOT cannot avoid adverse effects to historic properties for a particular constructible element, they shall continue consultation as set forth in Stipulation III below.

III. MITIGATING ADVERSE EFFECTS TO HISTORIC PROPERTIES

When historic properties are identified and adverse impacts to those historic properties cannot be avoided, IDOT, in coordination with the FRA, shall apply the Criteria of Adverse Effect in accordance with 36 CFR § 800.5. The IDOT, in coordination with the FRA, will seek SHPO concurrence in the identification of historic properties, the finding of "Adverse Effect," and in the selection of treatment plans. The IDOT, in coordination with the FRA, shall submit to the SHPO descriptions of the historic properties affected, finding of effect, and proposed treatment plans. The SHPO will have thirty (30) days from time of receipt to review and respond to the request for concurrence, and concurrently, consulting parties (hereinafter meaning the signatories, invited signatories, and concurring parties to this PA) will have thirty (30) days to provide comments. The IDOT shall consider any comments provided by the SHPO and consulting parties in finalizing and implementing the treatment plans to resolve the adverse effects. The following resource-specific treatments were developed in consultation with the SHPO and consulting parties. The proposed treatments represent a menu of mitigation options to which additional treatments can be added or substituted in coordination the SHPO and consulting parties.

- A. Route 66 Mitigation Measures.** Route 66 properties include sections of the roadway, associated bridges, and facilities for travelers, such as gas stations, restaurants, and motels.
1. **Route 66 Roadway.** The roadway includes the pavement, shoulders, and alignment. Required safety improvements to railroad crossings will cause multiple adverse impacts to roadway elements.
 - a. **Removal of Pavement.** When pavement is removed, in-kind replacement is the preferred treatment. When the preferred treatment is not feasible, as determined by the IDOT in consultation with the SHPO, an alternative treatment will be agreed upon by the IDOT and SHPO. For the preferred treatment, the IDOT shall ensure that in-kind replacements match the width of the existing pavement, but in-kind replacements are not required to match the profile of the existing roadway. The in-kind replacement of historic concrete will follow IDOT specifications (Exhibit F) developed in collaboration with the Illinois Historic Preservation Agency (IHPA). The IDOT, in coordination with the SHPO, shall ensure that samples of historic (or existing) concrete and asphalt pavement are collected from impacted areas and made available for interpretive purposes (see below Section II.A.3).
 - b. **Shoulder Work.** Impacts to existing roadway shoulders shall be replaced with in-kind materials, but asphalt can be used to replace crushed stone or gravel when determined by the IDOT on a case by case basis.
 - c. **Realignment and Abandonment.** When the IDOT determines that realignment of the roadway is essential and an original lane is located nearby (for example, two-lane sections), a reasonable effort will be made by the IDOT in consultation with the SHPO to shift the alignment to the adjacent lane. The IDOT shall ensure that the

new pavement connecting the roadway sections will be installed following the previously referenced IDOT historic concrete specifications. When realignment involves the abandonment of historic concrete pavement, the IDOT shall make a reasonable effort in consultation with the SHPO to preserve the abandoned section, and when feasible, develop the abandoned section into an interpretative venue (see below Section II.A.3).

2. Route 66 Buildings and Bridges.

- a. The IDOT shall make every reasonable effort in consultation with the SHPO to construct improvements in accordance with the Secretary of the Interior's Standards (36 CFR Part 68), when the improvements affect historic properties. This includes but is not limited to rehabilitation of existing structures and adjacent new construction, such as fencing.
- b. The IDOT shall make every reasonable effort in consultation with the SHPO to rehabilitate historic properties in accordance with the Secretary of the Interior's Standards, when the historic properties are impacted by the project. In consultation with the SHPO, when demolition is required and feasible alternatives are not available, the IDOT shall ensure the building or bridge is recorded prior to its demolition. The IDOT shall ensure that the recordation of buildings will follow Illinois Historic American Building Survey (HABS) standards, and the recordation of bridges will follow Illinois Historic American Engineering Record (HAER) standards. The IDOT shall ensure that these documents are submitted to the SHPO for approval, and the SHPO will file the documents at the Abraham Lincoln Presidential Library.

- 3. Route 66 Corridor Interpretation.** Because the Project may cause disruptions to the public travelling along the Route 66 corridor and may hinder opportunities to experience and interpret Route 66, the IDOT and FRA, to the extent feasible, shall develop, in consultation with the SHPO and consulting parties, interpretative treatment plans. The following treatments represent a menu of options to which additional treatments can be added or substituted in coordination with the SHPO and consulting parties: (1) increased signage to enhance travel and interpretation, (2) coordinate construction schedules with communities and organizations to avoid or minimize disruptions to tours and festivals, (3) develop a cell phone application for enhancing travel and interpretation, (4) nominate well-preserved sections of Route 66 to the NRHP, (5) develop new interpretative venues, such as informational kiosks and roadside pull-offs (for example, the proposed Cambridge Road crossing interpretative area near Girard, see Exhibit G), and (6) provide interpretative venues samples of historic (or existing) concrete and asphalt pavement collected from impacted sections of Route 66.

- B. Railroad Architecture Mitigation Measures.** The IDOT shall make every reasonable effort in consultation with the SHPO to construct improvements in accordance with the Secretary of Interior's Standards, when the improvements affect historic properties. This includes but is not limited to rehabilitation of existing structures and adjacent new construction, such as fencing. When historic properties cannot be reasonably rehabilitated in accordance with the Secretary of Interior's Standards, the IDOT shall ensure the historic properties are recorded prior to demolition. The IDOT shall ensure that the recordation of buildings will follow HABS standards, and the recordation of bridges will follow HAER standards. The IDOT shall ensure that these

documents are submitted to the SHPO for approval, and the SHPO will file the documents at the Abraham Lincoln Presidential Library.

- C. Rural and Urban Architecture Mitigation Measures.** The IDOT shall make every reasonable effort in consultation with the SHPO to construct improvements in accordance with the Secretary of Interior's Standards, when the improvements affect historic properties. This includes but is not limited to rehabilitation of existing structures and adjacent new construction, such as fencing. When historic properties cannot be reasonably rehabilitated in accordance with the Secretary of Interior's Standards, the IDOT shall ensure that the historic properties are recorded prior to demolition. The IDOT will ensure that the recordation of buildings will follow HABS standards, and the recordation of bridges will follow HAER standards. The IDOT shall ensure that these documents are submitted to the SHPO for approval, and the SHPO will file the documents at the Abraham Lincoln Presidential Library.
- D. Relocation of Architectural Resources.** The IDOT, in coordination with the FRA, shall consider the relocation of architectural historic properties (buildings and bridges) as a mitigation treatment on a case by case basis when requested by the SHPO and another consulting party. If relocation is feasible and agreed upon by all parties as the preferred treatment, the IDOT, in coordination with the FRA and SHPO, will develop a marketing plan and proposal.
- E. Archaeological Mitigation Measures.** The IDOT shall make every reasonable effort in consultation with the SHPO to avoid and minimize impacts to archaeological properties. If adverse impacts cannot be avoided, the IDOT, in consultation with the SHPO and consulting parties shall consider data-recovery excavations as the standard treatment. The IDOT shall ensure that data-recovery excavations are completed prior to construction. The excavations will be conducted by the Illinois State Archaeological Survey (ISAS) pursuant to an existing intergovernmental agreement with the IDOT and will follow standard IDOT/ISAS data-recovery plans (see Exhibit H). If the IDOT, in consultation with the SHPO and consulting parties, agrees that the nature of the resource requires the development and implementation of a specialized data-recovery plan, this plan shall follow state and federal guidelines and will be developed in consultation with the SHPO. While no human remains are expected to be found during archaeological site investigations covered by this PA; if encountered, the provisions of the Illinois Human Remains Protection Act (20ILCS 3440, 17 tAC 4170) will be followed.

IV. RESOLUTION OF ADVERSE EFFECTS TO HISTORIC PROPERTIES

When adverse effects to historic properties within individual constructible elements of the Project have been resolved through the implementation of a treatment plan, the IDOT, in coordination with the FRA, shall submit to the SHPO documentation that the treatment plan has been fully implemented. Along with this documentation, the IDOT, in coordination with the FRA, shall submit to the SHPO a request for concurrence that the adverse effects have been resolved. The SHPO's concurrence will signify that the adverse effect has been mitigated in accordance with the treatment plan and the Section 106 process has been completed for this particular constructible element of the Project.

V. PROFESSIONAL STANDARDS

The IDOT shall ensure that all historic preservation work carried out pursuant to this PA is completed by or under the supervision of a person or persons meeting, at a minimum, the *Secretary of the Interior's Professional Qualification Standards* in the fields of archaeology and architectural history, as published in 36 CFR Part 61.

VI. DURATION

This PA will expire if its stipulations are not implemented within ten (10) years from the date of its execution. In such an event, the FRA shall notify the signatories to this PA and, if it chooses to continue with the Project, will reinstate review of the Project in accordance with 36 CFR Part 800, or the signatories may extend this PA with an amendment prior to its expiration pursuant to Stipulation IX below.

VII. POST REVIEW DISCOVERIES

- A. **Human Remains.** In the case of an unanticipated discovery of human remains or burials during construction activities, the IDOT shall halt construction, secure the area, and follow the provisions of the Illinois Human Skeletal Remains Protection Act (20 ILCS 3440, 17 IAC 4170).
- B. **Historic Properties.** In the event of an unanticipated discovery of historic properties during construction activities, the IDOT shall halt construction, secure the area, and consult with the FRA, SHPO and ACHP for the purposes of Section 106 pursuant to 36 CFR § 800.13(b).

VIII. 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 being implemented, the FRA shall consult with such party to resolve the objection. If the FRA determines that such objection cannot be resolved, the FRA will:

- A. Forward all documentation relevant to the dispute, including the FRA's proposed resolution, to the ACHP. The ACHP shall provide the FRA with its advice on the resolution of the objections within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the FRA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and signatories and provide them with a copy of this written response. The FRA 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 the FRA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the FRA shall prepare a written

response that takes into account any timely comments regarding the dispute from the signatories to this PA and provide them and the ACHP with a copy of such written response.

- C. The FRA's responsibilities to carry out all other actions subject to the terms of this PA that are not the subject of the dispute remain unchanged.

IX. 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.

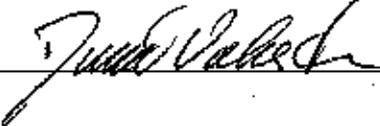
X. TERMINATION

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 signatories to attempt to develop an amendment. If within thirty (30) 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, the FRA must follow 36 CFR Part 800 for each individual undertaking, or initiate consultation to develop a new PA pursuant to 36 CFR § 800.14(b). The FRA shall notify the signatories as to the course of action it will pursue.

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

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FEDERAL RAILROAD ADMINISTRATION

By:  Date: Jan 24, 2014

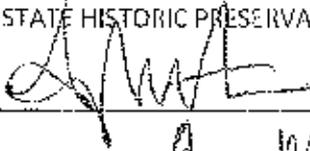
Printed Name: DAVID VALENSTEIN

SIGNATURES FOLLOW ON SEPARATE PAGES

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ILLINOIS STATE HISTORIC PRESERVATION OFFICER

By: _____



Date: _____

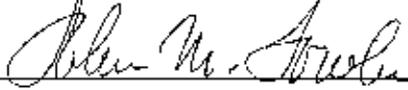
12/18/13

Printed Name: _____

Amy Martin

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ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:  Date: 1/24/14

Printed Name: JOHN M. FOWLER

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INVITED SIGNATORY

ILLINOIS DEPARTMENT OF TRANSPORTATION

By: Ann L. Schneider Date: 1/15/14

Printed Name: Ann L. Schneider

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CONCURRING PARTY

UNION PACIFIC RAILROAD

By: David Orrell Date: 1/20/14

Printed Name: David Orrell

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CONCURRING PARTY

Concurring Party Name: Landmarks Illinois

By: Bonnie McDonald Date: January 14, 2014

Printed Name: Bonnie McDonald

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CONCURRING PARTY

ILLINOIS ROUTE 66 SCENIC BYWAYS

By:

William D. Kelly

Date:

12/20/2013

Printed Name:

William D. Kelly

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CONCURRING PARTY

Concurring Party Name: City of Lincoln, IL

By: Keith Snyder Date: 12/19/13

Printed Name: Keith Snyder

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CONCURRING PARTY

Concurring Party Name: Village of Chatham

By: Thomas S. Gray Date: December 19, 2013

Printed Name: Thomas S. Gray