PROGRAMMATIC AGREEMENT (PA)
AMONG THE
FEDERAL HIGHWAY ADMINISTRATION,
ILLINOIS DEPARTMENT OF TRANSPORTATION,
ADVISORY COUNCIL ON HISTORIC PRESERVATION
AND
ILLINOIS STATE HISTORIC PRESERVATION OFFICER
FOR THE MITIGATION OFADVERSE EFFECTS TO
EURO-AMERICAN TRADITION ARCHAEOLOGICAL SITES

WHEREAS, the Federal Highway Administration (FHWA) administers its Transportation Program in Illinois authorized by 23 U.S.C. 101 et seq. through the Illinois Department of Transportation (IDOT) (23 U.S.C. 315); and

WHEREAS, FHWA: (1) has determined that its undertakings may have adverse effects upon archaeological habitation sites included in or eligible for inclusion in the National Register of Historic Places; and (2) intends to integrate its historic and archaeological preservation planning and management decisions with other policy and program requirements to the maximum extent possible consistent with Section 110 of the National Historic Preservation Act (NHPA); and

WHEREAS, FHWA has consulted with the Advisory Council on Historic Preservation (ACHP), and the Illinois Historic Preservation Officer (IL SHPO) pursuant to Section 800.14(b) of the regulations (36 CFR Part 800 Subpart C) implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

WHEREAS, 36 CFR Part 800.14(b) allows Federal Agencies to efficiently fulfill their obligations under Section 106 of the NHPA through the development and implementation of programmatic agreements with the ACHP and SHPO; and

WHEREAS, FHWA executed a Statewide Programmatic Agreement with IDOT, the IL SHPO, and the ACHP for the Delegation of Authority for Minor Projects of the Federal-Aid Highway Program in the State of Illinois on September 21, 2010 (Statewide PA); and

WHEREAS, this PA is designed to supplement the Statewide PA by streamlining the consideration and treatment of effects of minor projects on Euro-American Tradition archaeological sites that cannot be avoided; and

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

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

WHEREAS, the FHWA, IDOT, and the IL SHPO agree that recovery of significant information from Euro-American Tradition archaeological sites shall be done in accordance with the published guidance; and

WHEREAS, the FHWA, IDOT, and the IL SHPO agree that it is in the public interest to expend funds to implement such projects and to streamline the process for the recovery of significant information from Euro-American Tradition archaeological sites that cannot be avoided; and

NOW, THEREFORE, the FHWA, IDOT, ACHP, and IL SHPO agree that the treatment of Euro-American Tradition archaeological properties in accordance with the terms of this PA shall satisfy FHWA's Section 106 responsibility for individual undertakings affecting such properties.

STIPULATIONS

FHWA shall ensure that the following measures are carried out in a timely manner and with adequate resources in compliance with the NHPA of 1966 (16 U.S.C. 470):

I. APPLICABILITY

IDOT may use the streamlined approach in this PA to comply with Section 106 of the NHPA for FHWA-funded minor highway projects that affect Euro-American Tradition archaeological sites when all of the following conditions are met:

A. IDOT determines the following, with written concurrence from the IL SHPO:

   i. The only historic properties potentially affected by the undertaking are archaeological sites;

   ii. The sites are examples of the Euro-American Tradition, which mean they display patterns of technology and material culture that separate historic period archaeological sites generated primarily by European immigrant and descendent populations from sites generated by indigenous North American populations following traditional cultural practices; and

   iii. The sites are determined to be significant and are of value chiefly for the information on history that they are likely to yield through archaeological, historical and scientific methods of information recovery and have little value for preservation in place.

B. The sites are being impacted by a project that is categorically excluded from having to prepare an Environmental Impact Statement.

C. Indian Tribes have been notified of the project, have had the opportunity to express concerns about the undertaking, and no Tribe has expressed concern about potential impacts to indigenous Traditional Cultural Properties.

D. The IL SHPO has been notified of the project, has had the opportunity to express concerns about the undertaking, and when appropriate, has notified IDOT of groups with a potential interest in the affected site (or sites) so that IDOT can inform the group (or groups) of the undertaking's potential adverse effect.

E. The archaeological sites are unlikely to contain human burials or remains.

II. General Requirements

In compliance with its responsibilities under the NHPA and as a condition of its award of any assistance under the Federal-Aid Highway Program to IDOT, FHWA shall require that IDOT carry out the requirements of 36 CFR Part 800 inclusive, all applicable Council policies and guidelines, or the requirements set forth in this PA for all FHWA undertakings. FHWA will ensure that IDOT observes the following requirements.

A. Employment of Qualified Personnel. For the purpose of implementing this PA, IDOT shall continue to employee qualified staff that meet the requirements of 36 CFR Part 61, Appendix A. At a minimum, the professional staff required to carry out the terms of this PA shall consist of one permanent, full time, archaeologist. In the event of a prolonged absence (6 months) of the IDOT archaeologist, IDOT will, in consultation with IL SHPO, appoint an archaeologist that meets the requirements of 36 CFR Part 61, Appendix A.

B. Annual Evaluation. IDOT, FHWA and the IL SHPO shall complete annual evaluations of this agreement, by December 15th. At least 30-days prior to the annual evaluation, IDOT shall submit a report to the FHWA, IL SHPO, and ACHP. This report shall include, but is not limited to, summaries in table form identifying all undertakings processed under this PA and specifying project names, towns, and all findings pursuant to 36 CFR 800. The report should also include a narrative description of accomplishments, concerns, and recommendations regarding any changes to this PA.

C. IDOT is responsible for any finding regarding: (i) the undertaking's Area of Potential Effect (APE); (ii) the eligibility of archaeological properties to the National Register of Historic Places within the project's APE; (iii) whether sites warrant preservation in place, (iv) whether sites belong to the Euro-American Tradition, (v) determination of effect; (iv) interpretation of the Secretary of the Interior's Standards for Historic Preservation Projects. These responsibilities may not be delegated to project sponsors or consultants.

D. IDOT is responsible for ensuring all archaeological work is completed consistent with the approaches of the Secretary of the Interior's Standards and Guidelines for Identification (48 FR 44720-23) and take into account the National Park Service publication *The Archaeological Survey: Methods and Uses* (1978), the ACHP's Section 106 Archaeological Guidance (http://www.achp.gov/archguide), and the IL SHPO's guidelines for archaeological investigations.

III. IDENTIFICATION, EVALUATION, AND MITIGATION (PHASE I, II, AND III)

A. To evaluate National Register eligibility and to facilitate IDOT construction scheduling, subsurface Phase II testing shall be performed as soon as feasible at those Euro-American Tradition archaeological sites determined potentially eligible for the National Register by IDOT's Cultural Resources staff.

B. The Cultural Resources staff at IDOT shall evaluate properties indentified through Phase II testing and documented in preliminary field reports against the

National Register criteria (36 CFR 60.4) and shall seek the concurrence of the IL SHPO in these determinations. In cases where IDOT's Cultural Resources staff and the IL SHPO concur that archaeological properties are not National Register eligible, no further investigation is required.

C. For those Euro-American Tradition archaeological sites determined eligible for the National Register by IDOT's Cultural Resources staff, and when IL SHPO concurs that preservation in place is not the preferred option, IDOT will complete Phase III mitigation. In consultation with the IL SHPO, IDOT will inform interested groups of the undertaking's potential adverse effect and will take into consideration their comments regarding the treatment of the affected resource. A generalized Data Recovery Plan (DRP) shall be followed in the treatment of these resources (see Appendix A), or if warranted, a specific DRP may be developed. The Cultural Resources staff at IDOT will make the determination of the applicability of the generalized DRP in consultation with the IL SHPO. Factors in this determination will include, but not be limited to, site type, site chronology, site location, project type, and project schedule.

D. In some situations, it is in the best interest of the resource to complete Phase III mitigation immediately after Phase II resource identification. IDOT will inform IL SHPO and FHWA of the planned Phase III mitigation, and IDOT will proceed when IL SHPO and FHWA provide approval or after 10 business days, if IL SHPO and FHWA have not provided a response.

E. Human remains are not expected to be discovered during the investigations conducted under this PA. If human remains are discovered the provisions of the Illinois Human Skeletal Remains Protection Act (20 ILCS 3440) will be followed.

F. All archaeological reports resulting from investigations conducted under this PA will comply with contemporary standards including the Secretary of the Interior's *Standards for Final Reports of Data Recovery Programs* (42-FR-5377-79) and the IL SHPO's guidelines for report preparation. These reports will be submitted by IDOT to the IL SHPO in a timely manner after the completion of all field and laboratory investigations.

G. IDOT will ensure that all artifacts, analytical samples, records, photographs, and other data associated with sites investigated under this PA will be curated at the University of Illinois Urbana-Champaign and managed by Illinois State Archaeological Survey (ISAS) in accordance with federal standards as outlined in 36 CFR, Part 79.

H. IDOT will ensure that information recovered from Euro-American Tradition archaeological site investigated under this PA will be made available to the general public and interested professionals: (1) by posting site investigation results on the ISAS website, (2) by ISAS personnel presenting lectures to public and professional audiences, when feasible, (3) by ISAS preparing and distributing an annual report of site investigations and related research and public outreach activities, and (4) by ISAS periodically preparing and publishing studies that synthesize the data recovered under this PA (e.g., overview studies cited in Appendix A).

IV. OTHER STIPULATIONS

A. Unanticipated Discoveries During Construction

If unanticipated discoveries of historic properties are encountered during the implementation of any project under this PA, IDOT and FHWA shall comply with 36 CFR 800.13 by stopping work in the immediate area and informing the IL SHPO of such unanticipated discoveries or effects within two (2) business days.

If unanticipated effects on historic properties are found to be occurring during the implementation of any project under this PA, IDOT and FHWA shall consult with the IL SHPO and develop an appropriate treatment plan.

In the case of an unanticipated discovery of human remains or burials during the implementation of any project under this PA, IDOT and FHWA shall comply with the Illinois Human Skeletal Remains Protection Act (20 IL CS 3440) as administered by the Illinois Historic Preservation Agency (IHPA).

B. Monitoring Provisions of PA

i. IDOT and FHWA will consult as needed to review the terms of this PA.

ii. FHWA and IDOT may review activities carried out pursuant with this agreement and the IL SHPO and ACHP may be invited to participate, as appropriate. IDOT shall cooperate in carrying out the review effort. Should monitoring or other activities result in evidence that the requirements of the PA need modification or are not being met, FHWA will consult with IL SHPO, ACHP and IDOT to develop and implement corrective measures.

C. Dispute Resolution. If the IL SHPO, IDOT, the ACHP or a consulting party for an individual undertaking carried out under the terms of this PA objects in writing to the FHWA regarding any action carried out or proposed with respect to the implementation of this PA, 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 ACHP, including FHWA's proposed response to the objection. Within thirty (30) days after receipt of all pertinent documentation, the ACHP shall exercise one of the following options:

i. Advise FHWA that the ACHP concurs in FHWA's proposed response to the objection, whereupon FHWA will respond to the objection accordingly; or

ii. Provide FHWA with recommendations, which FHWA shall take into account in reaching a final decision regarding its response to the objection.

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

D. Terminate, Modify and Amend

i. Any party to this PA may terminate it by providing thirty (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 Part 800.

ii. In consultation with the IDOT, IL SHPO and the ACHP, FHWA will review the effectiveness of this PA every ten (10) years from the date of execution for modifications or termination. If no changes are proposed and no party objects, the term of the PA may be extended for another ten years with the written agreement of the parties.

iii. 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.

iv. If the PA expires or is terminated, IDOT shall consult with FHWA, IL SHPO, and ACHP regarding projects that were initiated under this PA but not yet completed to determine how to best conclude the Section 106 process for those projects.

Execution and implementation of this PA evidences that the FHWA has satisfied its Section 106 responsibilities for all sites covered by this PA.

Signatories

FEDERAL HIGHWAY ADMINISTRATION

BY: Norman R. Stoner ***DATE*** 7/28/2011

Norman R. Stoner, Division Administrator

ADVISORY COUNCIL ON HISTORIC PRESERVATION

BY: John M. Fowler ***DATE*** 8/30/11

John M. Fowler, Executive Director

ILLINOIS STATE HISTORIC PRESERVATION OFFICER

BY: Anne E. Haaker ***DATE*** 8/2/11

Anne Haaker, Deputy State Historic Preservation Officer

INVITED SIGNATORY:

ILLINOIS DEPARTMENT OF TRANSPORTATION

BY: Scott E. Stitt ***DATE*** 7/25/11

Scott Stitt, Bureau Chief of Design and Environment

APPENDIX A

STANDARD DATA-RECOVERY PLAN FOR EURO-AMERICAN TRADITION ARCHAEOLOGICAL SITES

Introduction

The Illinois State Archaeological Survey (ISAS), a joint program of the Prairie Research Institute at the University of Illinois at Urbana-Champaign (UIUC) and the Illinois Department of Transportation (IDOT), prepared this data-recovery plan for the archaeological mitigation of historic period Euro-American Tradition habitation sites.

The Euro-American Tradition refers to those patterns of technology and material culture that separate historic period archaeological sites generated primarily by European immigrant and descendent populations from sites generated by indigenous North American populations following traditional cultural practices. Euro-American archaeological sites include habitation sites with residential zones and associated activity areas, as well as commercial, manufacturing, civic, and transportation related sites and facilities. This data-recovery plan does not cover formal cemeteries.

Given that IDOT projects commonly occur in rural or once-rural settings, specific methodologies have been developed for the standard treatment of farmsteads. The following plan outlines the so-called *farmstead methodology*. Adjustments to this methodology may be required when other types of historic period Euro-American resources are investigated, such as urban residential areas or other, more specialized non-domestic sites.

The central goal of this standardized data-recovery plan is to generate consistent and comparable information that can be readily synthesized and utilized in the preparation of overview studies. Such overview studies weave data from individual site investigations into a meaningful framework not only for understanding the past but also for evaluating the significance of newly identified archaeological sites (e.g., Mazrim 2011, 2008, 2007, 2002).

This plan was developed in accordance with the Secretary of the Interior's *Standards and Guidelines for Archaeology and Historic Preservation* (48 FR 44716), and "The Treatment of Archaeological Properties" published in 1980 by the Advisory Council on Historic Preservation. All procedures outlined in this plan are implemented using standard ISAS techniques, which are outlined in *ISAS Field Manual 2005: Standard ISAS Field Procedures for Phase I, II, and III Archaeological Investigations*.

The IDOT and Illinois State Historic Preservation Officer have jointly determined that the historic sites to be investigated with this recovery plan are eligible for the National Register of Historic Places (NRHP) under Criterion D.

Natural and Cultural Setting

The first step in the assessment of a Euro-American agrarian site is a consideration of its environmental setting. Midwestern archaeological studies have noted a preference among early pioneers to build their first homes and settlements along timber-prairie borders. Reasons for these choices include protection from the elements, proximity to timber, water, and wild animal resources, and the presence of early transportation networks, such as Native American trails. Later settlement patterns altered to reflect a movement out onto the prairie, with improved roads and railroads often determining both settlement patterns and communication corridors. Relevant research materials include the original General Land Office survey notes and maps, which provide baseline information for presettlement vegetation, including the distribution of prairie and forest landscapes, and in some cases the location of very early cultural features, such as roads, trails, and even squatters fields. This early data is supplemented with modern soil surveys, topographic mapping, and aerial photography to further define presettlement and early settlement period environments.

Beyond the environmental setting, the General Land Office records often provide the earliest information relative to the cultural setting, typically recording the first owner of each parcel of land, and in the case of recorded preemption rights, giving clues as to when a property was actually settled. Early settlement history is also reflected in both public and private sector documents, including local and county-level deed, mortgage, and tax records, published biographies and histories, and perhaps most significantly, the various property ownership maps and atlases that were published throughout the nineteenth and early twentieth centuries. Alternate sources for property owner information include state and local censuses, including population, agricultural, and even manufacturing schedules.

Summaries of both natural and cultural/historical research are considered an integral part of the pre-field work research, and summaries will be provided in any reporting.

Summary of Previous Investigations

In general, sites to be investigated under this plan were located by ISAS personnel during the Phase I survey of the proposed project. When necessary, existing archaeological and historical property lists and documents will be consulted and oral histories conducted to fully develop a site's historical context, to aid in locating features, and to gain an understanding of a site's organization and stratigraphy. Test excavations at the site will have revealed the presence of intact subsurface features and cultural material; thus, documenting the site's potential to yield new and important information about the history of Illinois.

Research Design

The data generated by excavations at the historic site(s) will be used to address a broad range of topics, but the initial focus will include examine at least three broad topics: (1) settlement patterns and land distribution; (2) subsistence practices; and (3) architecture. Insights into changing patterns of community organization may also be gained, as may insights into changes in social organization and subscription to mass-produced goods. The data recovered will then be compared with that from other regional sites.

Settlement Patterns and Land Distribution. The mitigation of historic sites requires the study of patterns of settlement by the pioneers who came to Illinois. The types of sites, their

location, number and distribution, all provide important information on early settlement patterns and how they influenced later land development and settlement. In order to understand these settlement patterns, detailed archival and archaeological information is required to determine the age, type, and function of specific sites. In addition, data indicating when specific features originated and any transformations in function through time is also needed. Inter- and intra-spatial orientation of structures and features must also be studied.

Subsistence. Subsistence in early Euro-American farmsteads was based largely on foods produced directly for household consumption. With limited transportation systems and access to processed flour, wheat was an important crop. Water-powered gristmills were among the earliest important industries. Hogs were important sources of meat, cattle provided milk and butter, and chickens were commonly kept for eggs. Fruit trees and vegetable gardens were also important sources of food on many nineteenth century farms. In addition to these homegrown foods, wild plants and animals supplemented the diet. Deer, various small game mammals, fish, waterfowl, and wild turkey were common, along with wild nuts and fruits, which were seasonally available. Flotation samples taken from feature contexts should provide abundant evidence of subsistence. Identification of carbonized and uncarbonized plant remains will document the range of wild, domestic, and exotic plant species present. Wild, domesticated, and imported animal resources will be identified through the analysis of faunal remains recovered from flotation samples, as well as larger specimens recovered through standard excavation procedures.

Architecture. Building techniques and architectural forms can reflect ethnic identity, stylistic concerns, economic status, and the relative availability of local and imported construction materials. Intact structures dating from the era of earliest Euro-American settlement are comparatively scarce, as many buildings have been abandoned, dismantled, or otherwise destroyed and/or replaced by more recent construction. Early structures are generally poorly documented and specific details regarding their construction are not available. Intact subsurface remains provide information on dwelling size and shape and details of cellar and footing construction. The distribution of hardware, wood, glass, and other structural items within and around the foundation fill offers clues to the appearance of the superstructure. Exposure and detailed mapping of complete foundations is necessary to document the size, orientation, and shape of the dwelling. The construction materials employed need to be identified along with their likely places of origin. Measured plan views, profiles, and photographs of structural features will provide details on construction techniques. Horizontal and vertical provenience data on other structural remains will aid in the interpretation of aspects of the building superstructure.

Mitigation Plan

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

Standard ISAS methods (i.e., as outlined in the *ISAS Field Manual 2005*) will be employed in all aspects of the data recovery. A standard controlled surface collection grid (generally comprised of 10 x 10-m collection units) will also be used, where possible, as the basis for a

gridded metal detector survey to recover that class of artifacts. These individual grid cells will also form the parameters for subsequent machine-aided excavation units, which will be removed in an incremental fashion to increase the artifact sample from the site. Experience indicates that a significant percentage of the historic artifacts from a given site are located in the plow zone and this material, if collected systematically, can provide information about the location of activity loci that are generally not represented by subsurface features (i.e. barnyard activities).

Given this type of systematic plow zone sampling approach, hand-excavated units will be used more sparingly on nineteenth century historic period sites, because intact subsurface deposits are generally rare outside the limits of subterranean facilities. Thus, adequate artifact samples can typically be derived from surface collection, metal surveys, systematically collected, standard-sized machine excavation blocks, and feature excavations. However, more rigorous plow zone and A-horizon sampling methods, including dry or water screening, and bulk flotation sample collection, will be undertaken on sites believed to be attributable to historic Indian, French, and very early British/American period components to amass adequate samples and recover micro-artifacts, such as glass beads.

Due to the large size of many historic cellars and the extremely deep nature of some water collection facilities, standard ISAS excavation protocols allow these features to be sampled, as opposed to completely excavated. Large features, such as cellars, will be excavated in quarters or halves (similar to prehistoric structures), so that both the long and short axis profiles can be mapped and documented. Deeper features, such as wells and cisterns, will typically only be sampled to a reasonable depth (ca. one to two meters) because their absolute limits often cannot be established through hand-excavation, given personal safety considerations. The overall depths of these features may be assessed through additional hand probing and/or machine-trenching, once the hand-excavated samples have been removed. Such sampling strategies, however, must obtain an adequate artifact assemblage and other forms of information to determine the feature's temporal placement and construction techniques. In addition, historic posts will be mapped in plan view, but only a subset may be formally excavated depending upon the number encountered and their relationship to other site features. Any posts that are not excavated will be hand-probed to assess their overall depth.

While not expected, should historic mortuary sites or features be encountered, the remains will be mapped and removed in accordance with all procedures and guidelines associated with the Illinois Human Skeletal Remains Protection Act (HSRPA, 20 ILCS 3440, 17 IAC 4170) and detailed in the ISAS excavation manual (ISAS 2005). Disposition of the human remains and any burial artifacts will be accomplished under the provisions of the Act.

In the laboratory, all artifacts will be washed, cleaned, labeled, and sorted by ISAS personnel at the appropriate Survey Division office, following standard ISAS procedures (ISAS 2005). Botanical, zoological, and historical materials will then be analyzed by ISAS specialists at the University of Illinois or by qualified consultants.

All archaeological reports resulting from the project will comply with contemporary standards, including the Secretary of the Interior's *Standards for Final Reports of Data Recovery Programs* (42-FR-5377-79). The ISAS will also ensure that all final archeological reports are presented in a format acceptable to the Illinois State Historic Preservation Officer

(SHPO), following Illinois SHPO guidelines on report preparation, and that all such reports are presented in a format acceptable to the National Park Service for possible peer review and submission to the National Technical Information Service (NTIS). These reports will be submitted to the Illinois DOT and the IHPA in a timely manner after the completion of all field and laboratory investigations.

Curation

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

References Cited

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2007 The Sangamo Frontier: History and Archaeology in the Shadow of Lincoln. University of Chicago Press, Chicago.

2002 "Now Quite Out of Society": Archaeology and Frontier Illinois. Transportation Archaeology Bulletin No. 1, Illinois Transportation Archaeological Research Program, University of Illinois, Urbana-Champaign.