

**PROGRAMMATIC AGREEMENT AMONG
THE CITY OF BLOOMINGTON AND
THE ILLINOIS STATE HISTORIC PRESERVATION OFFICER
FOR THE ADMINISTRATION OF SECTION 106
FOR CERTAIN PROGRAMS FUNDED BY
THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND ILLINOIS HOUSING
DEVELOPMENT AUTHORITY
May 19, 2023, TO OCTOBER 31, 2027**

THIS PROGRAMMATIC AGREEMENT (“Agreement”) is entered into as of May 19, 2023, between the City of Bloomington (City) and the Illinois State Historic Preservation Officer (SHPO).

WHEREAS, the City is a direct recipient of funds from the U.S. Department of Housing and Urban Development (HUD) and Illinois Housing Development Authority (IHDA) and

WHEREAS, in accordance with 24 CFR Part 58.4, HUD recognizes the City as a Responsible Entity (“RE”) for programs and activities within the City of Bloomington that are identified in 24 CFR Part 58.1(b); and

WHEREAS, collectively, these programs as enumerated in Appendix A are administered by the City’s Economic and Community Development Department (Department), and provide financial support for a wide variety of activities, including rehabilitation, new construction, demolition, infrastructure improvements, and other eligible activities; and

WHEREAS, projects that receive such funds constitute “Undertakings,” as defined in 36 CFR 800.16(y), subject to the National Historic Preservation Act of 1966, as amended, 54 U.S.C. § 306108, and its implementing regulations (36 CFR Part 800) (Act); and

WHEREAS, as used herein, “SHPO” means the Illinois governmental official appointed or designated pursuant to section §306104 of the Act to administer the State Historic Preservation Program or a representative designated to act for the SHPO (see 36 CFR 800.2(c)(1)); and

WHEREAS, the Illinois State Historic Preservation Office currently resides within the Illinois Department of Natural Resources (IDNR), and the Director of IDNR is the duly designated SHPO; and

WHEREAS, the Department has consulted with the SHPO pursuant to the Act; and

WHEREAS, the Department has consulted with the SHPO pursuant to the Lead-Based Paint Poisoning Prevention Act, as amended (42 U.S.C. § 4821) and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. § 4851) and their implementing regulations, “General Lead-Based Paint Requirements and Definitions for All Programs” (24 CFR Part 35); and

WHEREAS, the Department and the SHPO have determined that the Department can more effectively fulfill responsibilities under the Act for the specified HUD-funded activities if a programmatic approach is used to delegate Section 106 and other compliance responsibilities to the Department, pursuant to 36 CFR Part 800.14(b); and

WHEREAS, the City is a Certified Local Government in good standing with a Historic Preservation Commission (Commission) and Qualified Personnel (as defined and further described in Stipulation II.A. below) who will carry out the duties enumerated below; and

WHEREAS, on 9/13/22, in accordance with 36 CFR 800.14(b)(2), the Department invited the ACHP to

participate in the consultation to establish this Agreement, and the ACHP chose not to participate in the consultation;

WHEREAS, the Native American tribes that have claimed all or part of McLean County as ancestral lands are enumerated in Appendix C; and

WHEREAS, recognizing the government-to-government relationship with federally recognized Indian tribes, the City invited the tribes enumerated in Appendix C to participate in consultation pursuant to 36 CFR § 800.2(c)(2)(ii); and

WHEREAS, the Miami Tribe of Oklahoma and the Peoria Tribe of Indians of Oklahoma chose to participate in consultation, and the City has invited Miami Tribe of Oklahoma and the Peoria Tribe of Indians of Oklahoma to sign this Agreement as Concurring Parties; and

NOW, THEREFORE, the Department and the SHPO agree that the programs shall be implemented in accordance with the following stipulations in this Agreement in order to take into account the effect of Undertakings on historic and potentially historic properties.

STIPULATIONS

I. Incorporation of Whereas Clauses

The Department, and the SHPO hereby incorporate by reference the WHEREAS clauses set forth above as if fully set forth herein.

II. Qualified Personnel

- A. The Department shall ensure that it maintains staff, whether employed or contracted, hereafter referred to as “Qualified Personnel,” that meets the following enumerated qualifications. Qualified Personnel’s curriculum vitae and, if applicable, proof of successful completion of “The Section 106 Essentials” course shall be submitted to the SHPO for review and concurrence.
1. The Secretary of the Interior’s Professional Qualification Standards for History or Architectural History, as authorized by 36 CFR 61.1(c); and
 2. One of the following:
 - a. Successful completion of “The Section 106 Essentials” course given by the ACHP (see: www.achp.gov/training/classroom). To be considered as Qualified Personnel, Contractors must have successfully completed the course at the time of hiring, and City employees must successfully complete the course within 12 months of hiring or within 12 months of the acceptance of this Agreement and provide proof of that completion to the SHPO; or
 - b. One year of direct experience with the implementation of the Section 106 process; and
 3. Successful completion of at least one ACHP webinar (see: <https://www.achp.gov/training/webinars>) per year on a Section 106 topic. Proof of completion must be submitted to the SHPO with the Certified Local Government Annual Report pursuant to Stipulation XII.F.
- B. The Department shall ensure that all historic preservation work carried out pursuant to this Agreement is carried out by or under the direct supervision of Qualified Personnel.

- C. The Department shall notify the SHPO of Qualified Personnel changes or vacancies. During periods of Qualified Personnel vacancy, the Department must submit all Undertakings to the SHPO for review under the Act.
- D. If the Department does not have Qualified Personnel in place for a period longer than 6 months, then this Agreement will terminate, and the Department will comply with 36 CFR §§ 800.4 through 800.6 with regard to Undertakings covered by this Agreement.

III. Activities that constitute an Undertaking and are governed by this Agreement

- A. A project, activity, or program that is partially or wholly funded, licensed, or permitted by the federal programs listed in Appendix A constitutes an “Undertaking” subject in its entirety to this Agreement.
- B. Undertakings that contain ground-disturbing activities must be submitted to the SHPO for archaeological review pursuant to Section 106. The Department’s submission to the SHPO must contain a cover letter that includes the paragraph in Appendix B. If the SHPO determines that there are no significant archaeological resources present in the project area, the SHPO shall return the Undertaking to the Department for continued review pursuant to Stipulation V et seq. of this Agreement. Prior to the initiation of construction activities for all Undertakings that contain ground-disturbing activities, Qualified Personnel shall distribute Appendix D to all workers implementing the Undertaking. If the SHPO determines that the project area contains significant archaeological resources, the Undertaking will not be subject to this Agreement, and the SHPO will complete the Section 106 review of the Undertaking in consultation with the Department.
- C. For the purposes of this Agreement, ground-disturbing activities include but are not limited to the following:
 - 1. Excavation for entirely new footings and new foundations.
 - 2. Installation of entirely new utilities, such as sewer, water, electrical, gas, and leach lines; wells; storm drains; and septic tanks.
- D. For the purposes of this Agreement, ground-disturbing activities do not include the following:
 - 1. Repair, removal, or replacement in kind of existing utilities in the same locations. Utilities include sewer, water, electrical, gas, and leach lines; storm drains; septic tanks; and wells.
 - 2. Installation of new utilities when those new utilities are replacing existing utilities that must be relocated to meet City code requirements.
 - 3. Repair, removal, or replacement in kind of existing, non-historic infrastructure, such as foundations, sidewalks, curbs, driveways.
 - 4. Replacement of existing porch footings in their current locations.

IV. Tribal Consultation

The following Tribes have expressed interest in participating in consultations on undertakings covered

under this Agreement. Miami Tribe of Oklahoma and the Peoria Tribe of Indians of Oklahoma.

V. Determining a Historic Property and an Area of Potential Effects (APE)

A. When an Undertaking is proposed for a resource, the resource must undergo a determination as set forth in Stipulation V.C, regardless of previous evaluations. Notwithstanding the foregoing, the Qualified Personnel may consider previous evaluations in its determination.

B. Determining the Area of Potential Effects (APE)

For each Undertaking, Qualified Personnel shall determine an APE, as defined in 36 CFR 800.16(d) and described in 36 CFR 800.4(a).

C. Determination of a "Historic Property"

1. Qualified Personnel shall review existing information on resources within the APE. For resources not individually listed on the National Register of Historic Places (NRHP), Qualified Personnel shall apply the NRHP criteria. Existing information consulted must include but is not limited to:
 - a. The current list of NRHP properties in the City
 - b. The current designated local landmarks and districts in the City
 - c. Historic structures surveys of the City
 - d. The Illinois Historic Sites survey (1972)
 - e. Designations of significant buildings or buildings of merit cataloged as part of the land use and building condition surveys for official neighborhood plans in the City and/or other comprehensive building surveys
2. Additional surveys shall be conducted in a manner responsive to the nature of the Undertaking if Qualified Personnel determine additional information is required to adequately assess the presence of historic properties. As appropriate, the focus of identification surveys shall not be property-by-property but may focus on select resources in proportion to, and depending on the location of, the Undertaking.
3. In the case that Qualified Personnel has questions concerning NRHP eligibility of a certain property or resource, he or she may forward documentation to the Commission for evaluation and recommendation.
4. In the case that the Commission has questions concerning the NRHP eligibility of a certain property or resource, the Commission may forward documentation to the SHPO for evaluation and recommendation. If the Commission chooses not to accept the recommendation of the SHPO, Qualified Personnel may forward adequate documentation, including the recommendation of the SHPO, to the Keeper of the NRHP for the formal determination of NRHP eligibility, in accordance with 36 CFR 800.4(c)(2). Qualified Personnel shall notify the SHPO of the Commission's decision.
5. Qualified Personnel may submit NRHP eligibility determinations for properties to the Commission and SHPO concurrently to expedite the Section 106 review.
6. Properties not listed in the NRHP and reviewed by Qualified Personnel for eligibility in the NRHP

will be documented as such by Qualified Personnel, and a copy of the determination will be included in the individual project files and submitted to the SHPO.

- D. A property shall be considered a "Historic Property" when one or more of the following applies:
1. A property is individually listed in the NRHP;
 2. A property is located within the boundaries of an existing NRHP-listed historic district and has been determined by Qualified Personnel to be contributing to that district;
 3. A property has been determined by Qualified Personnel to be eligible for individual listing in the NRHP;
 4. A property that Qualified Personnel has determined to be contributing to an area that Qualified Personnel has determined eligible for listing in the NRHP as a historic district, as defined in 36 CFR 67.5;
 5. A property is a National Historic Landmark;
 6. A property is a locally designated landmark, either individually or as part of a landmark district.
- E. If Qualified Personnel determines that there are no Historic Properties present in an Undertaking's APE, Section 106 requirements are satisfied, and the Undertaking can proceed in accordance with 24 CFR Part 58.
- F. Undertakings for which Qualified Personnel determined that no Historic Properties were involved must be re-evaluated under this Agreement if the Undertaking does not proceed within two (2) years of the date of the determination.
- G. Qualified Personnel may elect to submit a Historic Property to SHPO for further review and determination.

VI. Exempt Activities

For Undertakings that involve Historic Properties or are within APEs that contain Historic Properties, as determined by Qualified Personnel, review of the following specific activities is not required because there is limited potential for the activity to result in an adverse effect.

- A. Repair or replacement of electrical, plumbing, heating, and ventilation systems or their components, when no structural alteration is involved. This includes repair or replacement of electrical panels, breakers, circuits, switches, receptacles, plumbing and water lines, drains, sewers, fixtures, water heaters, heating vents, floor furnaces, wall heaters, central heat systems, and gas lines.
- B. Repair or replacement of existing asphalt roofing shingles with new asphalt roofing shingles.
- C. Non-structural, non-permanent interior modifications for handicapped accessibility in kitchens and bathrooms, including grab bars, walk-in/roll-in tubs/showers, etc.
- D. Non-structural interior modifications such as installing smoke/carbon monoxide detectors, weatherstripping, caulking, wall/trim repairing, painting previously painted surfaces, and installing new hardware where no historic hardware is present.

- E. Painting of any exterior component that has previously been painted.
- F. Repair, removal, or replacement in kind of existing utilities in the same locations. Utilities include sewer, water, electrical, gas, and leach lines; storm drains; septic tanks; and wells. Installation of new utilities when those new utilities are replacing existing utilities that must be relocated to meet City code requirements.
- G. Repair, removal, or replacement in kind of existing, non-historic infrastructure, such as foundations, sidewalks, curbs, driveways.
- H. Replacement of existing porch footings in their existing locations.
- I. Activities involving historic infrastructure, such as but not limited to stone and brick sidewalks, curbs, and roads, and historic street furniture, such as but not limited to street lighting, benches, and water fountains, are NOT exempt from review.
- J. Acquisition, refinance, or acquisition assistance.

VII. Reviewing Undertakings that Affect “Historic Properties”

- A. Undertakings that Involve Interior and/or Exterior Rehabilitation of Historic Properties
 1. Prior to the initiation of the Undertaking, Qualified Personnel shall review work write-ups, plans and/or specifications for all activities not listed as exempt under Stipulation VI to determine whether they meet the Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (Standards).
 2. Should Qualified Personnel recommend modifications to the plans and specifications to ensure that the project meets the Standards, program recipients shall make the appropriate modifications and submit revised work reports or plans to Qualified Personnel. Should program recipients determine that they cannot make the modifications recommended by Qualified Personnel in order to meet the Standards, the Undertaking will constitute an Adverse Effect, and Qualified Personnel will consult with the SHPO and initiate the consultation process set forth in 36 CFR Part 800.6.
 3. If Qualified Personnel determine that an Undertaking will have No Adverse Effect on a Historic Property, the Undertaking may proceed in accordance with 24 CFR Part 58. Documentation shall be placed in individual project files by Qualified Personnel or the Department.

B. Undertakings that Involve the Demolition or Relocation of Historic Properties

For Undertakings that involve the demolition or relocation of a Historic Property, prior to the initiation of the Undertaking, if Qualified Personnel determines that demolition or relocation cannot be avoided, the Undertaking will constitute an Adverse Effect, and the Department will consult with the SHPO and initiate the consultation process set forth in 36 CFR 800.6.

C. Undertakings that Involve “New Construction”

For purposes of this Section C., “New Construction” refers to site preparation for, and construction of,

entirely new structures and/or significant extensions to existing, non-historic structures whether or not the site was previously developed.

For Undertakings that involve New Construction within existing or potential NRHP historic districts or within APEs that contain Historic Properties, Qualified Personnel will follow Stipulation III.B and review the portion of the Undertaking concerning the design of the New Construction prior to initiation to ensure that it meets the Standards. If Qualified Personnel determines that the design of the New Construction cannot be made to meet the Standards, the Undertaking will constitute an Adverse Effect, and the Department shall consult with the SHPO and initiate the consultation process set forth in 36 CFR 800.6.

D. Undertakings that Involve Handicapped Accessibility Compliance

For Undertakings on Historic Properties that seek to comply with the American Disabilities Act and other related local and federal requirements, and that are not exempt under Stipulation V, the Department will explore all alternative methods to provide handicapped accessibility consistent with the Standards. Undertakings that do not meet the Standards will constitute an Adverse Effect, and the Department shall consult with the SHPO and initiate the consultation process set forth in 36 CFR 800.6.

E. Undertakings that Involve Site Improvements and Public Improvements

For Undertakings that involve site and public improvements within existing and potential NHRP historic districts and that are not exempt under Stipulation VI, including, but not limited to, sidewalk and streetscape improvements, repaving of streets with materials different than existing, installation of landscaping, street lighting and street furniture and other infrastructure improvements, will be reviewed by Qualified Personnel prior to initiation to ensure that the Undertaking meets the Standards. If the Undertaking cannot be made to meet the Standards, it will constitute an Adverse Effect, and the Department shall consult with the SHPO and initiate the consultation process set forth in 36 CFR 800.6.

F. Emergency Undertakings

1. When an Undertaking on a Historic Property involves an emergency, Qualified Personnel will conduct an immediate review. The existence of an emergency situation shall be based upon the need to eliminate an imminent threat of the health and safety of residents, as identified by City or local building inspectors or fire department officials. If Qualified Personnel determines that an Undertaking involves an emergency situation, the Undertaking shall be considered an Emergency Undertaking.
2. The City shall forward documentation to Qualified Personnel to review immediately upon notification that an emergency exists. Documentation shall include:
 - a. Nature of the emergency;
 - b. Historic Property involved;
 - c. Current condition of the Historic Property, including photographs; and
 - d. Time frame allowed by local officials to respond to, or correct, the emergency situation.

3. In the event of an Emergency Undertaking, the Department shall consult with the SHPO to the greatest extent possible given the particular circumstances. The SHPO shall provide comment within seven days of notification.
 4. If the Emergency Undertaking cannot be made to meet the Standards, it will constitute an Adverse Effect, and the Department shall consult with the SHPO and initiate the consultation process set forth in 36 CFR 800.6., each to the greatest extent possible given the particular circumstances.
- G. If an Undertaking's scope of work has been determined by Qualified Personnel to have No Adverse Effect upon Historic Properties and that scope of work is later modified, Qualified Personnel must review the modified scope of work as set forth in Stipulation VII.

VIII. Resolution of Adverse Effects

When an Undertaking constitutes an Adverse Effect, the Department shall initiate the consultation process set forth in 36 CFR 800.6 and shall submit to the SHPO the Undertaking, including an analysis of alternatives, recent structural reports or assessments of conditions, cost estimates for rehabilitation, programmatic and economic considerations, and marketing studies, as applicable.

IX. Post-Review Discoveries

Pursuant to 36 CFR 800.13(a)(1), if previously unidentified archaeological or historic properties or unanticipated effects are discovered after completion of the reviews described in this Agreement, the City shall ensure that the procedures below are followed:

- A. The discovering party shall immediately stop all construction activity within a 100-foot radius of the discovery and cease further disturbance. If the discovering party is unaware of the size and scope of the discovery or if the discovery suggests the possible presence of other undiscovered artifacts, potential historic properties, or human remains within the work site, the discovering party shall also immediately stop all construction activity beyond a 100-foot radius of the discovery to the extent appropriate.
- B. The discovering party shall immediately notify Qualified Personnel of the discovery. Qualified Personnel shall photographically document and prepare a description of the discovery and submit the material to the SHPO. Within two business days of receipt, the SHPO will review the material and determine whether the discovery is Native American in origin and eligible for the listing to the NRHP.
- C. If the SHPO determines that the discovery is not of Native American origin and is not eligible for listing to the NRHP, the SHPO shall notify Qualified Personnel that construction may resume in the area of the discovery.
- D. If the SHPO determines that the discovery is not of Native American origin and is eligible for listing to the NRHP, the SHPO shall make a finding of effect.
 1. If the effect is not adverse, the SHPO shall notify Qualified Personnel that construction may resume in the area of the discovery.
 2. If the effect is adverse, SHPO and Qualified Personnel shall consult to resolve the adverse effects by altering project plans so that the discovery is avoided and preserved in place. If adverse effects cannot be avoided, Stipulation IX.H must be followed.

- E. If the SHPO determines the discovery is of Native American origin, the SHPO will immediately initiate consultation with Qualified Personnel and the Tribes in Appendix C to help determine the scientific or cultural significance of items found and assist in determinations of NRHP eligibility. If a site visit is warranted, the Tribes in Appendix C shall be invited to attend. The SHPO will have two business days following the site visit and/or Tribal input to determine, in consultation with the Tribes in Appendix C, the NRHP eligibility of the discovery.
- F. If the SHPO determines that the Native American discovery is not eligible for listing on the NRHP, the SHPO will consult Qualified Personnel and the Tribes in Appendix C that construction may resume in the area of the discovery.
- G. If the SHPO determines that the Native American discovery is eligible for listing on the NRHP, the SHPO shall make a finding of effect.
 - 1. If the effect is not adverse, the SHPO will inform Qualified Personnel that construction may resume in the area of the discovery.
 - 2. If the effect is adverse, the SHPO, Qualified Personnel, and the Tribes shall consult to resolve the adverse effects by altering project plans so that the discovery is avoided and preserved in place. If the adverse effects cannot be avoided, Stipulation IX.H must be followed.
- H. When adverse effects to NRHP-eligible discoveries cannot be avoided, they shall be mitigated through consultation among the SHPO, Qualified Personnel, and the Tribes in Appendix C, as appropriate. The SHPO shall take into account the views of the Tribes in Appendix C, if provided, prior to approving measures to mitigate adverse effects to Native American discoveries. Mitigation measures must be directed by an archaeologist who meets the Secretary of the Interior's Professional Qualification Standards for Archaeology (Archaeologist). Once the SHPO accepts in writing the fieldwork component of the mitigation plan, the SHPO may approve the resumption of construction in the area of the discovery. Mitigation measures may include but are not limited to:
 - 1. Preparation and implementation of a mitigation plan in consultation with the SHPO, Qualified Personnel, and (for Native American discoveries) the Tribes in Appendix C
 - 2. Mitigation of the adverse effect to the discovery through archaeological data-recovery excavation
 - 3. Photographic documentation and/or scaled mapping of the discovery
 - 4. Visits to the discovery by Qualified Personnel, the SHPO, and (for Native American discoveries) Tribes in Appendix C
 - 5. Submission to the SHPO of an approved Phase III data-recovery report
- I. If there is disagreement among the parties regarding the eligibility of a discovery for listing to the NRHP after following the guidelines outlined in National Park Service Bulletins 15 and 38, Qualified Personnel may forward adequate documentation, including the recommendation of the SHPO, to the Keeper of the NRHP for the formal determination of NRHP eligibility, in accordance with 36 CFR 800.4(c)(2).

X. Unanticipated Discoveries of Skeletal Remains

Avoidance and preservation in place is the preferred option for treating human remains. Project construction work shall not resume until the human remains and any associated objects are left in place or removed, and resumption is authorized by the SHPO. If skeletal remains are discovered during construction, the City shall ensure that the following steps occur:

- A. All activities with a potential to disturb the remains shall immediately cease within a 100-foot radius of the discovery. If the discovering party is unaware of the size and scope of the discovery or if the discovery suggests the possible presence of other skeletal remains within the work site, the party shall also immediately stop all construction activity beyond a 100-foot radius of the discovery to the extent appropriate.
- B. The discovering party shall take all appropriate steps to secure the site and protect the remains. The remains will be covered and/or protected in place in such a way as to minimize further exposure of or damage to the remains.
- C. The discovering party will immediately contact Qualified Personnel and the SHPO, whose contact information is in Appendix D. Qualified Personnel, or the City shall immediately notify local law enforcement and the County Coroner. The Coroner will determine if the skeletal remains are human. If the skeletal remains are not human, then follow Stipulation IX.
- D. If the Coroner assumes jurisdiction, the discovery is not eligible for the NRHP, and the SHPO shall notify Qualified Personnel that work may resume at the discretion of the Coroner.
- E. If the Coroner does not assume jurisdiction and the remains are determined to be human, the SHPO shall assume jurisdiction and determine, if possible and without further disturbance to the discovery, whether the remains are Native American in origin.
- F. If the human remains are not Native American in origin, the SHPO shall follow procedures outlined in 17 IAC 4170 Parts 210, 400, and 410. Once completed, the SHPO shall inform Qualified Personnel that construction may resume in the area of the discovery.
- G. If the human remains are Native American in origin, the SHPO shall consult with the Tribes in Appendix C, determine whether the remains are eligible for listing on the NRHP, and assess the possible cultural affiliation of the remains.
 1. If the remains are not eligible, the SHPO shall defer to the Tribes in Appendix C Tribes as to the treatment and disposition of the remains. Mitigation under Section 106 is not necessary. Upon completion of treatment and disposition, the SHPO will inform Qualified Personnel and the Tribes that construction may resume in the area of the discovery.
 2. If the remains are eligible, the SHPO shall, in consultation with the Tribes in Appendix C, make a finding of effect.
- H. If the SHPO determines that NRHP-eligible, Native American remains will not be adversely affected, the SHPO will inform Qualified Personnel and the Tribes in Appendix C that construction may resume in the area of the discovery.
- I. If the SHPO determines that NRHP-eligible, Native American remains will be adversely affected, the

SHPO, Qualified Personnel, and the Tribes shall explore measures to avoid the adverse effect by altering project plans so that the human remains and/or burial feature (including funerary objects) are avoided, protected, and preserved in place.

- J. If the NRHP-eligible, Native American human remains and/or burial feature cannot be avoided, the adverse effect to the remains must be mitigated. The SHPO shall arrive at mitigation measures through consultation with Qualified Personnel and the and Tribes in Appendix C. Mitigation measures must be directed by an Archaeologist as defined in Stipulation IX.H. Once the SHPO accepts in writing the fieldwork component of the mitigation plan, the SHPO may approve the resumption of construction in the area of discovery. Mitigation measures may include but are not limited to:
1. Preparation of a treatment plan that includes protocols for disinterment and reinternment of the human remains. SHPO will defer to Tribal recommendations regarding cultural affiliations, disinterment, and reburial of Native American human remains and/or burial feature (including funerary objects, sacred objects, and objects of cultural patrimony)
 2. Recovery of the human remains and/or burial feature (including funerary objects, sacred objects, and objects of cultural patrimony) through standard archaeological methods consistent with the treatment plan. The excavation of human remains must be conducted by a Certified Skeletal Analyst, as defined in 17 IAC 4170.300.f
 3. Additional archaeological data-recovery excavation
 4. Visits to the discovery by Tribes in Appendix C, SHPO, and Qualified Personnel
 5. Submission to the SHPO of an approved Phase III data-recovery report
- K. Nothing in this Agreement shall alter responsibilities for compliance with the requirements of the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC § 3001 et seq.) and its implementing regulations (43 CFR Part 10) regarding disposition of human remains by entities that have control and/or custody of such remains.

XI. Public Involvement

- A. Annually, the Department will notify the public of the programs covered under this Agreement and make available for public inspection documentation of those programs. Included in this documentation will be general information on the types of activities undertaken, information on identified Historic Properties in the community that might be affected by these activities, the amount of program funds available in the current program year, and how interested persons can receive further information on the programs.
- B. At any time during the implementation of this Agreement, should the public raise an objection pertaining to an Undertaking on a Historic Property, Qualified Personnel shall notify the Commission and take the objection into consideration. Program recipients, the Department, the Commission, the SHPO, or the ACHP, when requested by the objector, shall consult to resolve the objection. Program recipients are not required to cease work on the Undertaking while objections are being reviewed, but the Department reserves the right to halt work in light of arguments from the public the Department deems valid.

XII. Administration, Monitoring, and Reporting

- A. The SHPO shall provide comments within 30 days for reviews or comments requested by Qualified Personnel or the Commission, with the exception of Emergency Undertakings. In the event that the SHPO fails to comment within the 30-day time period, the Department can assume that the SHPO concurs.
- B. The SHPO shall conduct periodic training workshops for Qualified Personnel to review the requirements of this Agreement. The SHPO shall also provide guidance related to implementation of the terms of the Agreement.
- C. Documentation shall be available for review by the SHPO following reasonable notice.
- D. The SHPO shall conduct periodic monitoring visits of the Department's project sites and files to ensure compliance this Agreement.
- E. Nothing in this Agreement shall be construed as meaning that the Department cannot request the advice or assistance of the SHPO at any time.
- F. As a component of the Certified Local Government Annual Report, the Department shall summarize activities carried out under the terms of this Agreement. The report will be submitted no later than June 1 of each year this Agreement is in effect. The Annual Report shall include:
 - 1. List of property addresses submitted for review
 - 2. Program in which the Undertaking took place
 - 3. Assertion of NRHP eligibility for evaluated properties
 - 4. The finding of effect for Undertakings involving Historic Properties

XIII. Effective Date and Extension

- A. This Agreement shall be in effect from MAY 19, 2023, to OCTOBER 31, 2027, unless terminated earlier due to failure to comply with the terms of the Agreement.
- B. The signatories may collectively agree to extend this Agreement to cover additional calendar years or portions thereof, through an amendment per Stipulation XIV, provided that the original Agreement has not expired.

XIV. Amendments

- A. Any party to this Agreement may request it be amended or modified, whereupon the Department and the SHPO will consult in accordance with 36 CFR 800.14(b) to consider such amendments or modifications.
- B. Any resulting amendments or modifications shall be developed and executed between the Department and the SHPO in the same manner as the original Agreement.

XV. Termination

Any party to the Agreement may terminate the Agreement by providing 30-calendar-days' notice to the other party, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination.

XVI. Compliance with Agreement

Execution and implementation of this Agreement and carrying out its provisions evidences that the Department has satisfied its responsibilities under Section 106 of the Act for all individual Undertakings of the programs.

XVII. Counterparts; Facsimile or PDF Signatures

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

XVIII. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, without regard to its choice of laws principles.

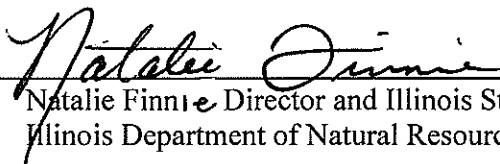
XIX. Severability

If any provision in this Agreement, or any paragraph, sentence, clause, phrase, word or the application thereof, in any circumstance, is held invalid, this Agreement shall be construed as if such invalid part were never included herein, and the remainder of this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

[Signature pages to follow]

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FOR THE ADMINISTRATION OF SECTION 106
FOR CERTAIN PROGRAMS FUNDED BY
THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND ILLINOIS HOUSING
DEVELOPMENT AUTHORITY
MAY 19, 2023, TO OCTOBER 31, 2027**

ILLINOIS STATE HISTORIC PRESERVATION OFFICER (SHPO)

By:  Date: 6/21/23
Natalie Finnie, Director and Illinois State Historic Preservation Officer
Illinois Department of Natural Resources

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FOR THE ADMINISTRATION OF SECTION 106
FOR CERTAIN PROGRAMS FUNDED BY
THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND ILLINOIS HOUSING
DEVELOPMENT AUTHORITY
MAY 19, 2023, TO OCTOBER 31, 2027**

CITY OF BLOOMINGTON (City)

By: *Mboka Mwilambwe* Date: 7/1/2023 | 1:38 PM CDT
Mboka Mwilambwe, Mayor
City of Bloomington

ATTEST:

By: *Leslie Smith-Yocum* Date: 7/2/2023 | 11:52 AM CDT
Leslie Smith-Yocum, City Clerk



Appendix A

Programs Administered by the City of Bloomington

U.S. Department of Housing and Urban Development (HUD) and Illinois Housing Development Authority (IHDA)

1. HUD Community Development Block Grants (CDBG)
 - a. Housing Rehabilitation Program
 - b. Demolition
 - c. New Construction/Infrastructure
 - d. Any other approved City of Bloomington CDBG projects/activities
2. HUD Continuum of Care Program
3. HUD Lead Hazard Control and Healthy Homes Program
4. Illinois Housing Development Authority Programs

Appendix B

For Undertakings that involve ground disturbance as described in Stipulation III.B, the Department shall submit the Undertaking to the SHPO as directed on the SHPO website (<https://www2.illinois.gov/dnrhistoric/Preserve/Pages/resource-protection-submittal.aspx>). The Undertaking must be accompanied by a letter that contains the following wording in bold type as the first paragraph of the cover letter:

Pursuant to the 2023-2027 Programmatic Agreement (Agreement) between the City of Bloomington Economic and Community Development Department (Department) and the SHPO, the Department is submitting this Undertaking that involves ground disturbance to the SHPO for an archaeological review. The project is receiving the following HUD funds: [provide list]. If the SHPO determines that the Undertaking poses no adverse effect to significant archaeology, the SHPO will inform the Department, and the Department will complete the review of the Undertaking as per the Agreement. If the SHPO determines that the Undertaking adversely affects significant archaeology, the SHPO will complete the 106 review of the Undertaking in consultation with the Department.

Appendix C

Federally Recognized Tribes with Interests in McLean County, Illinois as of 24 May 2023

We suggest emailed correspondence, when possible, followed with a hard copy via post.

Delaware Nation

President Deborah Dotson
Post Office Box 825
Andarko, OK 73005
ddotson@delawarenation-nsn.gov
405-247-2448

CC: Ms. Carissa Speck
Historic Preservation Director
Post Office Box 825
Andarko, OK 73005
cspeck@delawarenation-nsn.gov
405-247-2448 Ext. 1403

Delaware Tribe of Indians

Ms. Susan Bachor
Historic Preservation Officer
Post Office Box 64
Pocono Lake, PA 18347
sbachor@delawaretribe.org
610-761-7452

Iowa Tribe of Kansas and Nebraska

Chairman Timothy Rhodd
3345 Thrasher Road #8
White Cloud, KS 66094

CC: Mr. Alan Kelley
Tribal Historic Preservation Officer
White Cloud, KS 66094
akelley@iowas.org
785-595-3258

Iowa Tribe of Oklahoma

Executive Director Amy Scott
335588 E. 750 Road
Perkins, OK 74059
ascott@iowanation.org
405-547-2402

CC: Cultural Preservation Department
335588 E. 750 Road
Perkins, OK 74059

Kansas Kickapoo Tribe

Chairman Lester Randall
824 111th Drive
Horton, KS 66439
Lester.Randall@ktik-nsn.gov
785-486-2131

Kickapoo Traditional Tribe of Texas

Chairman Estavio Elizondo
2212 Rosita Valley Road
Eagle Pass, TX 78852
estavio.m.elizando@kttribe.org
830-773-2105

Kickapoo Tribe of Oklahoma

Chairperson Darwin Kaskaske
P.O. Box 70
McLoud, OK 74851
darwin.kaskaske@okkt.net
405-964-7053

Menominee Indian Tribe of Wisconsin

Chairman Ron Corn, Sr.
Post Office Box 910
Keshena, WI 54135
chairman@mitw.org
715-799-5100

CC: Mr. David Grignon
Tribal Historic Preservation Officer
Post Office Box 54135-0910
Keshena, WI 54135
dgrignon@mitw.org
715-799-5258

Miami Tribe of Oklahoma

Chief Douglas Lankford
Post Office Box 1326
Miami, OK 74355
dlankford@miamination.com
918-542-1445

CC: Ms. Diane Hunter
Tribal Historic Preservation Officer
Post Office Box 1326
Miami, OK 74355
dhunter@miamination.com
260-639-0600

Osage Nation

Principal Chief Geoffrey Standing Bear
Post Office Box 779
Pawhuska, OK 74056
gstandingbear@osagenation-nsn.gov
918-542-7260

CC: Dr. Andrea Hunter
Tribal Historic Preservation Officer
627 Grandview Avenue
Pawhuska, OK 74056
ahunter@osagenation-nsn.gov
918-287-5328

Peoria Tribe of Indians of Oklahoma

Chief Craig Harper
Post Office Box 1527
Miami, OK 74355
Chiefharper@peoriatribe.com
918-540-2535

CC: Ms. Charla Echohawk
Director of Cultural Preservation
Post Office Box 1527
Miami, OK 74355
cechohawk@peoriatribe.com
918-540-2535