

**MEMORANDUM OF AGREEMENT  
AMONG THE UNITED STATES ARMY CORPS OF ENGINEERS,  
THE ILLINOIS STATE HISTORIC PRESERVATION OFFICE,  
THE ILLINOIS DEPARTMENT OF TRANSPORTATION, AND  
THE CHAMPAIGN COUNTY HIGHWAY DEPARTMENT  
REGARDING REPLACEMENT OF THE BRIDGE OVER TWOMILE SLOUGH  
LOCATED ON TOWNSHIP ROAD 297B, CHAMPAIGN COUNTY, ILLINOIS  
(STRUCTURE #010-0144; SECTION #21-18110-00-BR;  
IDOT SEQUENCE #23889; SHPO LOG #007012122)**

**WHEREAS**, the U.S. Army Corps of Engineers, St. Louis District (USACE) is evaluating an application submitted by the Champaign County Highway Department (CCHD – the Applicant) requesting a Department of the Army permit under Section 404 of the Clean Water Act (33 USC 1344) authorizing the discharge of fill material into waters of the United States (WOTUS) in connection with the replacement of the bridge (Structure #010-0144) over Twomile Slough, located on Township Road 297B, near Pesotum, Champaign County, Illinois (Project); and

**WHEREAS**, the issuance of a Department of Army Permit for the project (MVS-2022-312) is considered to be a federal undertaking (Undertaking) subject to Section 106 of the National Historic Preservation Act of 1966 (Act) as amended (54 USC 306108) and review under the Advisory Council on Historic Preservation's (ACHP) implementing regulations found at 36 CFR § 800, with the Illinois Department of Transportation (IDOT) initially coordinating this action; and

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

**WHEREAS**, the Office currently resides within IDNR, and the Director of IDNR is the duly designated State Historic Preservation Officer (SHPO); and

**WHEREAS**, IDOT, with concurrence from USACE, has consulted with the SHPO and the parties have defined the undertaking's permit area and area of potential effects (APE) as the as the corridor shown in Exhibit A; and

**WHEREAS**, Structure #010-0144, the bridge (the historic property) that carries Township Road 297B over Twomile Slough near Pesotum in Champaign County, Illinois, is eligible for listing in the National Register of Historic Places, and no other properties of historic, architectural, or archaeological significance are known to exist within the APE, nor are human remains likely to be encountered; and,

**WHEREAS**, Structure #010-0144 is eligible for the National Register of Historic Places (NRHP), and its replacement will cause an adverse effect to this historic property pursuant to 36 CFR 800 (Exhibit B), and the SHPO concurred with this effect determination on March 9, 2022; and,

**WHEREAS**, this Memorandum of Agreement (MOA) addresses the adverse effect to the historic property (Structure #010-0144) and related improvements; and,

**WHEREAS**, all parties mutually agree that there is no prudent or feasible alternative to the undertaking as originally proposed; and,

**WHEREAS**, CCHD, as an applicant for the permit, are a consulting party with responsibilities under this MOA and have therefore been invited by USACE to sign this MOA; and

**WHEREAS**, USACE has invited twenty-two (22) federally recognized Indian tribes (Tribes) to consult on the Undertaking including the Absentee-Shawnee Tribe of Indians of Oklahoma, Caddo Nation of Oklahoma, Citizen Potawatomi Nation of Oklahoma, Eastern Shawnee Tribe of Oklahoma, Forest County Potawatomi Community of Wisconsin, Hannahville Indian Community of Michigan, Ho-Chunk Nation of Wisconsin, Iowa Tribe of Oklahoma, Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas, Kickapoo Tribe of Oklahoma, Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians, Miami Tribe of Oklahoma, Nottawaseppi Huron Band of Potawatomi of Michigan, Peoria Tribe of Indians of Oklahoma, Pokagon Band of Potawatomi Indians of Michigan and Indiana, Prairie Band Potawatomi Nation, Sac & Fox Nation of Missouri in Kansas and Nebraska, Sac & Fox Nation of Oklahoma, Sac & Fox Tribe of the Mississippi in Iowa, Shawnee Tribe, The Osage Nation, and the United Keetoowah Band of Cherokee of Oklahoma, and none of the Tribes requested to consult on the Undertaking; and

**WHEREAS**, requirements for public involvement were completed pursuant to 36 CFR § 800.2(d) by USACE and IDOT by providing the public opportunities to comment on the undertaking and to become consulting parties. Public engagement letters were sent out in March 2022 to four parties: Central Illinois Landmarks Foundation, Champaign County History Museum, Historic Bridge Foundation, and Illinois Heritage Association. Comments were received from the Historic Bridge Foundation, who chose not to participate as a consulting party; and

**WHEREAS**, while bridges are often offered for donation pursuant to 23 USC 144(g), no notices were placed for the TR297B Bridge over Twomile Slough as the ACHP has indicated that concrete bridges need not be marketed as they cannot be moved and/or relocated; and

**WHEREAS**, IDOT, on behalf of the USACE, in accordance with 36 CFR § 800.6(a)(1), notified the ACHP of adverse effect and the preparation of this MOA in an email dated April 29, 2022, and the ACHP has chosen not to participate in a letter dated May 12, 2022, pursuant to 36 CR § 800 6(a)(1)(iii); and

**NOW, THEREFORE**, USACE, SHPO, IDOT, and CCHD agree that the undertaking shall be implemented in accordance with the following stipulations. The stipulations are appropriate mitigation and take into account the effect of the undertaking on the historic property.

## STIPULATIONS

USACE, SHPO, IDOT, and CCHD agree that the following steps will be undertaken for the Project:

### **I. ARCHITECTURAL AND HISTORICAL RESOURCE INVESTIGATIONS**

- A.** Prior to beginning of construction activities, IDOT, on behalf of CCHD, shall complete Historic Illinois Engineering Record (HIER) Level III recordation of the existing Bridge. IDOT will submit the draft HIER (95%) to the SHPO, and IDOT and CCHD must receive written concurrence from the SHPO that the draft HIER documentation is acceptable prior to initiating demolition of the Bridge. IDOT will ensure the final HIER (100%) documentation is submitted to the SHPO for review and approval.
- B.** In an effort to emulate the appearance of the existing historic structure, CCHD shall construct the new bridge with TL4 crash tested concrete bridge railing. This new railing will closely mirror the existing railing with its rectangular openings.

### **II. PROFESSIONAL STANDARDS**

For the purpose of implementing this MOA, IDOT shall continue to employ departmental staff with qualifications that meet the requirements of 36 CFR Part 61, Appendix A. IDOT shall ensure that the professional staff responsible for the implementation of the mitigation measures meet the requirements of 36 CFR Part 61, Appendix A.

### **III. DURATION**

This MOA will expire if its stipulations are not carried out within five (5) years from the date of its execution. In such an event, USACE shall notify the signatories to this MOA and, if it chooses to continue with the undertaking, then it shall reinitiate review of the undertaking in accordance with 36 CFR Part 800.

### **IV. POST-REVIEW DISCOVERIES**

If potential historic properties are discovered or unanticipated effects on historic properties found, USACE and IDOT shall make reasonable efforts to avoid, minimize, or mitigate adverse effects to such properties and follow the requirements of 36 CFR Section 800.13(b).

## **V. DISPUTE RESOLUTION**

Should any signatory to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, USACE shall consult with such party to resolve the objection. If USACE determines that the objection cannot be resolved, USACE shall request the further comments from the ACHP pursuant to 36 CFR § 800.7 by:

- A. Forwarding all documentation relevant to the dispute, including any timely advice or comments regarding the dispute from the signatures, and USACE's proposed resolution to the ACHP. The ACHP shall provide USACE with its advice on the resolution of the objections within thirty days of receiving adequate documentation. Prior to reaching a final decision on the dispute, USACE shall prepare a written response that considers any timely advice or comments regarding the dispute from the ACHP and signatories and provide them with a copy of this written response. USACE will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day review period, USACE may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, USACE shall prepare a written response that considers any timely comments regarding the dispute from the signatories to the MOA and provide them and the ACHP with a copy of such written response.
- C. Any ACHP comment provided in response to such a request will be considered by USACE in accordance with 36 CFR § 800.7(c)(4) with reference only to the subject of the dispute; the responsibility of the parties to this MOA to carry out all actions under this MOA that are not the subjects of the dispute will remain unchanged.

## **VI. REVIEW OF PUBLIC OBJECTIONS**

At any time during the implementation of the measures stipulated in this MOA, should an objection to any such measure or its manner of implementation be raised by a member of the public, USACE shall take the objection into account and consult as needed with the objecting party, Signatories, or the ACHP, to resolve the objection.

## **VII. AMENDMENTS**

This MOA 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.

## **VIII. USACE FUNDING**

Any obligations on the part of USACE shall be subject to the availability, allocation, and allotment of funds for such purposes. No appropriated funds shall be expended by USACE for the purposes of this project or associated MOA.

## **IX. TERMINATION**

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment. If within thirty days an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories. Once the MOA is terminated and prior to work continuing on the undertaking, USACE must request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. USACE shall notify the signatories as to the course of action it will pursue.

## **X. IMPLEMENTATION**

- A. This MOA may be implemented in counterparts, with a separate page for each signatory. This MOA shall be considered executed on the date of the final signature. USACE shall ensure each party is provided with a complete copy of the final MOA, updates to appendices, and any amendments filed with the ACHP.
- B. Execution of this MOA by USACE, SHPO, IDOT, and the CCHD and implementation of its terms is evidence that USACE has considered the effects of its Undertaking on historic properties and has afforded the ACHP opportunity to comment pursuant to Section 106 of the National Historic Preservation Act.
- C. The Applicants compliance with the Stipulations contained in this MOA will be a special condition of a Department of Army permit pursuant to Section 404 of the Clean Water Act.

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**SIGNATORY**

U.S. ARMY CORPS OF ENGINEERS, ST. LOUIS DISTRICT

By:  Digitally signed by  
GOLINGHORST, KEVIN, RICHARD.  
1140283980  
Date: 2023.06.30 16:58:17 -05'00' Date: 30 June 2023  
Colonel Kevin Golinghorst  
District Commander

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**SIGNATORY**

ILLINOIS STATE HISTORIC PRESERVATION OFFICE

By: Carey L. Mayer  
 Carey L. Mayer, AIA  
 Deputy State Historic Preservation Officer  
 Illinois Department of Natural Resources  
 Date: 06/29/2023

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**SIGNATORY**

ILLINOIS DEPARTMENT OF TRANSPORTATION


By:  Date: 071323  
Name: Harold Garnett  
Title: Region 3 Engineer



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**SIGNATORY**

CHAMPAIGN COUNTY HIGHWAY DEPARTMENT

By:  \_\_\_\_\_ Date: 7/12/23  
Name: Jeff Blue  
Title: Champaign County Engineer