

**MEMORANDUM OF AGREEMENT
AMONG THE U.S. ARMY CORPS OF ENGINEERS, LOUISVILLE DISTRICT,
THE ILLINOIS STATE HISTORIC PRESERVATION OFFICER,
AND THE MASSAC COUNTY HIGHWAY DEPARTMENT**

**REGARDING
PROPOSED BRIDGE SN-064-3046 REPLACEMENT
MASSAC COUNTY, ILLINOIS
LRL-2024-00259-JWR**

WHEREAS, Massac County Highway Department (Applicant) proposes to remove and replace Bridge SN 064-3046 (Bridge), a one-span concrete girder bridge, which carries Mt. Sterling Road over an unnamed tributary (UNT) to the Ohio River, with a new, cast-in-place box culvert with concrete wingwalls.; and

WHEREAS, the Applicant has submitted a request to the U.S. Army Corps of Engineers, Louisville District (Corps) for a Department of the Army (DA) Nationwide Permit (NWP) verification pursuant to Section 404 of the Clean Water Act for the temporary discharge of fill into 0.0089 acre of wetland and the permanent discharge of fill (undertaking) (LRL-2024-259-jwr) into 0.018 acre of the UNT to facilitate Bridge removal and replacement; and

WHEREAS, the Corps has defined the undertaking's Permit Area pursuant to 33 C.F.R. § 325, Appendix C as the impacts to jurisdictional waters and associated work in the uplands; and

WHEREAS, the Bridge is located within the Corps' Permit Area and was previously determined to be eligible for listing in the National Register of Historic Places (NRHP)-listed; and

WHEREAS, the Corps has coordinated the cultural resources review pursuant to Section 106 of the National Historic Preservation Act of 1966 (NHPA), as amended (54 USC 300101 et seq.: Historic Preservation; (formerly 16 U.S.C. 470f); and

WHEREAS, the Corps has consulted with the Illinois Historic Preservation Division/State Historic Preservation Office (SHPO) and the Applicant, pursuant to 36 C.F.R. § 800.2(c), regulations implementing the NHPA and the Corps and SHPO concur that the proposed undertaking would result in an adverse effect to an historic property; and

WHEREAS, the Corps invited the following federally recognized Native American Tribes (Tribes) to consult on the proposed undertaking: Miami Tribe, Eastern Shawnee, Shawnee, Absentee Shawnee, Delaware Tribe, Delaware Nation, Wyandotte Nation, Pokagon Band of Potawatomi, Forest County Potawatomi, Hannahville Indian Community, Gun Lake Potawatomi, Nottawaseppi Huron Band of Potawatomi, the Prairie Band of Potawatomi, Peoria, Osage Nation, Chickasaw, Quapaw, Kickapoo Traditional Tribe of Texas, Kickapoo Tribe of Oklahoma, Kickapoo Tribe in Kansas, Eastern Band of Cherokee Indians, Cherokee Nation, and the United Keetoowah Band of Cherokee, and no tribes accepted the invitation to consult; and

WHEREAS, the Applicant has participated in the development of the MOA and has been invited to sign the MOA; and

WHEREAS, Landmarks Illinois have participated in the development of the MOA and have been invited to concur in the MOA; and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), the Corps has notified the Advisory Council on Historic Preservation (ACHP) of its Adverse Effect determination, provided the specified documentation, and the ACHP has chosen not to participate in the consultation pursuant to 36 C.F.R. § 800.6(a)(1)(iii); and

NOW, THEREFORE, the Corps, the SHPO, and the Applicant agree that the undertaking will be accomplished in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

Stipulations

The Corps shall condition the DA Permit, if issued, to ensure that the below stipulations are implemented. Applicant compliance with the stipulations will be a condition of the DA Permit, if issued. The Applicant will bear all costs associated with the stipulations, and must fully complete all stipulations prior to the MOA expiration date as outlined below in Stipulation VII.

I. DOCUMENTATION OF BRIDGE SN 064-3046

- A. Prior to removing the Bridge, the Applicant will contract with a SHPO-approved historian, architect, or architectural historian that meets or exceeds the Secretary of the Interior Professional Qualification Standards (SOI) to document the Bridge in accordance with Historic Illinois Engineering Records guidelines. Documentation will include:
 1. Digital photographic documentation of the Bridge that shows its architectural and structural elements, surrounding environmental settings, views from each approach, and any other significant character-defining details. The consultant will produce 5” x 7” prints from the digital photographs. Photographs should be printed on archival quality, acid-free paper, and mounted on archival board labeled with the date, direction, site number, and subject in pencil.
 2. If available, a copy of the original construction plans and details and/or any other field plans or records regarding the Bridge will be included in the documentation. If original plans are not available, measured drawings of the structure will be prepared by an SOI-qualified architect or architectural historian experienced in producing measured drawings.

3. Archival research to gather specific historic information from appropriate data sources, a brief report describing the history and architectural significance of the Bridge along with a brief history of area.
- B. Within six months of completion of fieldwork, the Applicant will submit a digital draft of the completed documentation to the Corps for distribution to the SHPO and Consulting Parties for review and comment.
1. The Corps, SHPO, and Consulting Parties will provide comments within 30 calendar days of receipt.
 2. The Corps will compile the comments from the SHPO and Consulting Parties, along with the Corps' comments, and provide them to the Applicant.
 3. The Applicant will ensure that its consultant incorporates the comments, as appropriate, into the final revised documentation packet and will provide one digital copy to the Corps. The Corps will distribute digital copies of the final documentation to the SHPO and Consulting Parties.
 - a. Upon notification by the Corps of acceptance of the documentation, the Applicant will provide a copy to the SHPO for their records. The Applicant may also offer the documentation to any local repository deemed appropriate such as a local library, or a local historical society.

II. ADDITIONAL MITIGATION

- A. Within six months of permit issuance, the Applicant will contract with a SOI- qualified cultural resources consultant to develop a short digital history of the Bridge that can be placed on the Applicant's website and/or any other website the Applicant and SHPO deem appropriate.
1. The digital history should discuss the bridge's architecture and its engineering and cultural significance.
 2. The Applicant's SOI-qualified consultant will submit a draft of the text and layout of the digital history to the Corps. The Corps will distribute the draft to the SHPO and Consulting Parties for review and comment:
 - a. The Corps, SHPO and other Consulting Parties shall provide comments on the draft within thirty (30) days of receipt of the final proposal. The Corps will compile the comments and submit them to the Applicant.
 - b. The Applicant will ensure that their consultant incorporates the comments as appropriate.
 - c. Upon notification by the Corps of approval of the digital history, the history may be uploaded to the Applicant's website. Once the digital history has been

uploaded, the Applicant should provide a link(s) to the website(s) to the Corps, SHPO, and Consulting Parties for their records.

III. POST-REVIEW DISCOVERY

- A. If, during the implementation of the undertaking, a previously unidentified cultural resource is encountered, the Applicant will ensure that the construction contractor stops work within thirty (30) feet of the newly identified cultural resource and immediately notify the Corps.
- B. Upon notification of a previously unknown resource, the Corps will notify the SHPO and Consulting Parties and consult with SHPO, Consulting Parties, and the Applicant to evaluate the newly identified resource and/or develop an appropriate treatment plan, as necessary, pursuant to 36 C.F.R. Part 800, the Secretary of the Interior's *Standards and Guidelines for Archeology and Historic Preservation*. Any necessary archaeological investigations will be conducted according to SOI standards and any applicable state laws.

IV. DISPUTE RESOLUTION

- A. Should any Signatory, Invited Signatory, or Concurring Party object at any time in writing to the Corps regarding any action carried out or proposed with respect to the undertaking or to the manner in which the terms of this MOA are implemented, the Corps will consult with such party to resolve the objection. The Corps will also notify the other Signatory, Invited Signatory, and Concurring Parties to this MOA of such objection, and provide them the opportunity to participate in any consultations to resolve the objection. If the Corps determines that such objection cannot be resolved, the Corps will forward all documentation relevant to the dispute, including any comments from the other Signatory, Invited Signatory, and Concurring parties and the Corps' proposed resolution, to the ACHP. Within thirty (30) business days after receipt of all pertinent documentation, the ACHP shall exercise one of the following options:
 - 1. Advise the Corps that the ACHP concurs in the Corps' proposed response to the objection, whereupon the Corps will respond to the objection accordingly; or
 - 2. Provide the Corps with recommendations, which the Corps shall take into account in reaching a final decision regarding its response to the objection. Prior to reaching a final decision on the dispute, the Corps shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, Signatories, Invited Signatories, and Concurring Parties, and provide them with a copy of this written response.
 - 3. Should the ACHP not exercise one of the above options within thirty (30) business days after receipt of all pertinent documentation, the Corps may assume the ACHP's concurrence with the Corps' proposed response to the objection. The Corps shall prepare a written response that takes into account any timely comments regarding the dispute from the Signatories, Invited Signatories, and Concurring Parties to the MOA, and provide them with a response.
- B. The Corps shall then proceed with its final decision.

- C. The Applicant's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remains unchanged.

V. TERMINATION

- A. If the Corps determines that it cannot implement the terms of this MOA, or if a Signatory or Invited Signatory determines that the MOA is not being properly implemented, such party may propose to the other signatories to this MOA that it be terminated, in accordance with 36 C.F.R. §800.6(c)(1) and (8).
- B. The Corps shall so notify all parties to this MOA, including the Concurring Parties, of the proposal to terminate, explain the reasons for termination and afford the parties at least thirty (30) business days to consult and seek alternatives to termination. The parties shall then consult.
- C. If after the expiration of thirty (30) business days (or such greater time period as may be agreed upon by all Signatories and Invited Signatories) an agreement to avoid termination cannot be reached, the Corps or other Signatory or Invited Signatory may terminate this MOA by so notifying all parties in writing.
- D. Should this MOA be terminated, the Corps shall either:
 - 1. Consult in accordance with 36 C.F.R. §800.6 to develop a new MOA; or
 - 2. Request the comments of the ACHP pursuant to 36 C.F.R. §800.7.

VI. AMENDMENTS

- A. Any Signatory or Invited Signatory to this MOA may propose to the Corps that the MOA be amended, whereupon the Corps shall consult with the other parties to this MOA to consider such an amendment. 36 C.F.R. §800.6(c)(1) shall govern the execution of any such amendment. The signatures of all of the Signatories and Invited Signatories shall be required for any amendment hereto to be effective.

VII. DURATION


- A. If the DA Permit is not issued or the proposed project is not constructed, this MOA shall be considered null and void. If the terms of this MOA have not been implemented within seventy-two (72) months of the date the DA Permit was issued, if such permit is issued, the Corps, prior to the expiration of the 72- month term, may consult with the other Signatory and Invited Signatories to reconsider the terms of the MOA, including the time limit, and amend it in accordance with Stipulation VI above.
- B. This MOA shall be effective upon signature of all Signatories and Invited Signatories and filing with ACHP and shall remain in effect until the earliest of the following occurs: all of its terms are satisfied, the 72-month implementation period has expired, or it is amended or terminated and replaced.
- C. Execution of this MOA and implementation of its terms shall evidence that the Corps has afforded the ACHP an opportunity to comment on the proposed undertaking and its

effects on historic properties, and that the Corps has taken into account the effects of the undertaking on historic properties.

SIGNATORY:

US ARMY CORPS OF ENGINEERS, LOUISVILLE DISTRICT

Signed by hand-written signature or electronically:

BY: 

Eric Reusch
Chief, Regulatory Division

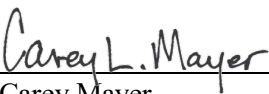
DATE IF SIGNED BY HAND-WRITTEN SIGNATURE:

18 FEBRUARY , 2025

SIGNATORY:

ILLINOIS STATE HISTORIC PRESERVATION OFFICER

Signed by hand-written signature or electronically:

BY: 

Carey Mayer
Deputy State Historic Preservation Officer

DATE IF SIGNED BY HAND-WRITTEN SIGNATURE:

2/18/2025 , 2025

Memorandum of Agreement
Bridge SN-06-3046 Replacement
Massac County, Illinois
LRL-2024-00259-jwr

INVITED SIGNATORY:

MASSAC COUNTY HIGHWAY DEPARTMENT

Signed by hand-written signature or electronically:

Brend Waters
Designated Signatory

County Engineer
Title

DATE IF SIGNED BY HAND-WRITTEN SIGNATURE:

Feb 25, 2025

CONCURRING PARTY:

LANDMARKS ILLINOIS

Signed by hand-written signature or electronically:

Designated Signatory

Title

DATE IF SIGNED BY HAND-WRITTEN SIGNATURE:

_____, 2025