

**MEMORANDUM OF AGREEMENT
AMONG THE
FEDERAL HIGHWAY ADMINISTRATION
ILLINOIS DEPARTMENT OF TRANSPORTATION
SCHUYLER COUNTY
AND
ILLINOIS STATE HISTORIC PRESERVATION OFFICER
REGARDING REPLACEMENT OF
COUNTY HIGHWAY 5, LA PRAIRIE ROAD BRIDGE
OVER SOUTH FORK OF CEDAR CREEK,
SCHUYLER COUNTY, ILLINOIS**

WHEREAS, Schuyler County in coordination with the Illinois Department of Transportation (IDOT) plans to replace the ridge (SN 085-3051) on County Highway 5, La Prairie Road, over the South Fork of Cedar Creek, Schuyler County, Illinois (“Bridge”)(Sequence #22024; SHPO Log #005101819); and

WHEREAS, the Federal Highway Administration (FHWA) may fund the project, thereby making the project an Undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C. § 306108, and its implementing regulations, 36 C.F.R. Part 800; and

WHEREAS, the FHWA has defined the Undertaking’s area of potential effect (APE) as the footprint of the existing Bridge; and

WHEREAS, the FHWA has determined that the Undertaking will have an adverse effect on the Bridge, which is eligible for the National Register of Historic Places (NRHP), and has consulted with the Illinois State Historic Preservation Officer (SHPO) pursuant to 36 C.F.R. Part 800; and

WHEREAS, the FHWA has determined that the Undertaking will not have an effect on historic properties other than the Bridge; and

WHEREAS, the FHWA has invited the IDOT and Schuyler County to participate in consultation and to become invited signatories to this Agreement;

WHEREAS, the public was given an opportunity to comment on the undertaking's adverse effect in notices published in the Rushville Times on April 17, 2019 and in the Breeze-Courier on April 15, 2019 and June 5, 2019, with no comments received; and

WHEREAS, pursuant to 23 USC 144(g), the Historic Property was made available for donation in notices published in the Rushville Times on April 17, 2019 and in the Breeze-Courier on April 15, 2019 and June 5, 2019 and there were no responsible parties who expressed an interest in taking ownership of the Bridge to maintain and preserve the bridge in perpetuity; and

WHEREAS, the IDOT has notified the Advisory Council on Historic Preservation (ACHP) of the adverse effect, November 20, 2019 pursuant to 36 CFR Section 800.6(a)(1), and ACHP declined to enter into consultation in a letter dated December 5, 2019; and

NOW, THEREFORE, the FHWA, IDOT, Schuyler County, and SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations in this Memorandum of Agreement (“Agreement”) in order to mitigate the adverse effects of this Undertaking on the Bridge.

STIPULATIONS

The FHWA, in coordination with the IDOT and Schuyler County, shall ensure that the following measures are carried out:

I. MITIGATION

- A. Prior to beginning of construction activities, the IDOT will complete Historic Illinois Engineering Record (HIER) level III recordation of the existing Bridge. The IDOT will submit the draft HIER (95%) to the SHPO, and the IDOT must receive written concurrence from the SHPO that the draft HIER documentation is acceptable prior to IDOT approving demolition of the existing Bridge.
- B. Schuyler County must ensure the existing Bridge is not subject to demolition prior to written approval from the IDOT.
- C. The IDOT will ensure the final HIER (100%) documentation is submitted to the SHPO for review and approval.
- D. Schuyler County in coordination with the IDOT will ensure the replacement bridge replicates the concrete balustrade of the existing Bridge. The plans for the replacement bridge will be submitted to the SHPO and the IDOT and will be approved by the SHPO in writing prior to the IDOT approving the beginning of construction activities.
- E. The Section 106 process will be concluded when the SHPO has approved the final HIER and has approved the plans for the new bridge.

II. DURATION

This Agreement will terminate if its stipulations are not carried out within five (5) years from the date of its execution. At such time, and prior to work continuing on the Undertaking, the FHWA shall either (a) execute an agreement pursuant to 36 C.F.R. § 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 C.F.R. § 800.7. Prior to such time, the FHWA may consult with the other signatories to reconsider the terms of the Agreement and amend it in accordance with Stipulation V below. The FHWA shall notify the signatories as to the course of action it will pursue.

III. POST-REVIEW DISCOVERIES

If potential historic properties are discovered or unanticipated effects on historic properties found, the FHWA 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).

IV. DISPUTE RESOLUTION

Should any signatory to this agreement object at any time to any actions proposed or the manner in which the terms of this agreement are implemented, the FHWA shall consult with such party to resolve the objection. If the FHWA determines that such objection cannot be resolved, the FHWA will:

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

B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period the FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the FHWA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories to the Agreement, and provide them and the ACHP with a copy of such written response.

C. The FHWA's responsibility to carry out all other actions subject to the terms of this Agreement that are not the subject of the dispute remain unchanged.

V. AMENDMENTS

This Agreement 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.

VI. TERMINATION

If any signatory to this Agreement 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 per Stipulation V, above. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the Agreement upon written notification to the other signatories.

Once the Agreement is terminated, and prior to work continuing on the Undertaking, the FHWA must either (a) execute an agreement pursuant to 36 CFR § 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. The FHWA shall notify the signatories as to the course of action it will pursue.

EXECUTION of this Agreement by the FHWA and SHPO and implementation of its terms evidence that the FHWA has taken into account the effects of this Undertaking on historic properties and afforded the ACHP an opportunity to comment.

[Signature Pages Follow]

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Signatory

FEDERAL HIGHWAY ADMINISTRATION

Signature:  Date: April 16, 2020

Name: Janis P. Piland

Title: Environmental Engineer

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Signatory

ILLINOIS STATE HISTORIC PRESERVATION OFFICER

By: Colleen Callahan Date: 4-9-20

Name: COLLEEN CALLAHAN

Title: STATE HISTORIC PRESERVATION OFFICER

APPROVED FOR EXECUTION

Date: 03/04/2020

Legal Counsel: [Signature]

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Invited Signatory

ILLINOIS DEPARTMENT OF TRANSPORTATION

Signature: Jeffrey P. Myers Date: April 14, 2020

Name: Jeffrey P. Myers

Title: Region 4 Engineer

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Invited Signatory

SCHUYLER COUNTY

Signature: David L. Schneider Date: 4-14-2020

Name: David L. Schneider

Title: Schuyler County Engineer