PROGRAMMATIC AGREEMENT
AMONG THE
FEDERAL HIGHWAY ADMINISTRATION
ILLINOIS DEPARTMENT OF TRANSPORTATION
CHICAGO DEPARTMENT OF TRANSPORTATION
AND
ILLINOIS STATE HISTORIC PRESERVATION OFFICER
REGARDING
THE PRESERVATION OF MOVABLE BRIDGES
IN THE CITY OF CHICAGO, COOK COUNTY, ILLINOIS

WHEREAS, the Federal Highway Administration (FHWA), under the authority of 23 USC 101 et seq., implements the Federal-aid Highway Program in the State of Illinois by funding and approving state and locally sponsored transportation projects that are administered by the Illinois Department of Transportation (IDOT); and

WHEREAS, FHWA may fund movable bridge improvement projects in the City of Chicago, thereby making such projects undertakings subject to review under Section 106 of the National Historic Preservation Act (NHPA) (Section 106), 54 U.S.C. § 306108, and its implementing regulations, 36 C.F.R. Part 800; and

WHEREAS, Section 4(f) of the Department of Transportation Act of 1966 (Section 4(f)) stipulated that FHWA cannot approve the use of historic properties unless there is no feasible and prudent alternative, and the action includes all possible planning to minimize harm to the property resulting from the use; and

WHEREAS, the 44 movable bridges in the City of Chicago were determined to be eligible for the National Register of Historic Places (NRHP) July 6, 2017; therefore, the FHWA and IDOT in coordination with the Chicago Department of Transportation (CDOT) have developed a draft preservation plan for all movable bridges in the City of Chicago. The draft “Chicago’s Movable Bridge Preservation Plan” (Plan), is attached as Appendix 1; and

WHEREAS, the Plan covers those movable bridges in the City of Chicago owned by the CDOT and those owned by the IDOT; and

WHEREAS, FHWA has determined that implementation of the Plan may have an effect upon movable bridges included in, or eligible for inclusion in, the National Register of Historic Places (NRHP); and
WHEREAS, FHWA has consulted with Illinois State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP) pursuant to 36 CFR 800.14(b) concerning this Programmatic Agreement (Agreement); and

WHEREAS, the responsibilities of the SHPO under Section 106 and 36 C.F.R. Part 800 are to advise, assist, review, and consult with federal agencies as they carry out their historic preservation responsibilities and to respond to federal agencies’ requests within a specified period of time; and

WHEREAS, as used herein, the term “SHPO” means the official appointed or designated pursuant to section 101(b)(1) of the NHPA, as amended (54 U.S. Code § 302301(1)), to administer the State historic preservation program or a representative designated to act for the State historic preservation officer (see 36 C.F.R. § 800.16(v)); and

WHEREAS, the Illinois State historic preservation program presently resides within the Illinois Department of Natural Resources (IDNR), and the Director of IDNR, Wayne A. Rosenthal, is the duly designated State historic preservation officer; and

WHEREAS, FHWA has invited the IDOT and CDOT to participate in consultation and to become an invited signatory to this agreement; and

WHEREAS, the Advisory Council on Historic Preservation (ACHP) was invited to participate in this agreement on [DATE], and in a letter dated [DATE] the ACHP [declined to participate]/[is a signatory to this Agreement]; and

WHEREAS, the public and interested parties were given an opportunity to comment on the Plan and this agreement with notices published on **** and **** in the Chicago Tribune, Chicago, Illinois and on **** and **** in the Southwest News-Herald, Summit, Illinois, and any comments received have been taken into account; and

NOW, THEREFORE, the FHWA, IDOT, CDOT, and SHPO agree that undertakings involving Chicago movable bridges shall be implemented in accordance with the following stipulations to take into account the effects to historic properties.

STIPULATIONS

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

1. In coordination with the FHWA, IDOT, and SHPO, the draft Plan shall be completed by the CDOT and made available for comment by consulting parties and the public. The Plan shall be finalized by the CDOT in coordination with the IDOT, FHWA, and SHPO by considering comments from the public and consulting parties.

2. The CDOT shall make available to the public by uploading to their website the Plan, Associated Bridge Documentation, and this ratified agreement.
3. In accordance with the Plan, the CDOT and IDOT shall make every effort practicable to maintain and rehabilitate movable bridges using methods that will not result in an adverse effect and that preserve their eligibility for the NRHP. Agreed upon guidelines for the maintenance and rehabilitation of movable bridges are provided in Section D of the Plan (Appendix 1).

4. If the CDOT or IDOT determines that a movable bridge can no longer be maintained or rehabilitated, then the CDOT or IDOT will prepare documentation of the adverse effect in accordance with Section 106 and Section 4(f), that will be reviewed and approved by the FHWA. The FHWA shall notify the Advisory Council on Historic Preservation (ACHP) inviting them to participate in consultation. The IDOT shall submit a finding of Adverse Effect to the SHPO for their concurrence along with proposed mitigation measures stipulated in a draft memorandum of agreement (MOA).

5. The CDOT shall solicit comments from the public and consulting parties on the Adverse Effect and proposed mitigation measures as described in Section F of the Plan and as outlined in Stipulation 7.

6. The CDOT shall, pursuant to 23 USC 144(g), make the bridge available for donation to a responsible party who shall take ownership of the bridge to maintain and preserve the bridge and its historical character in perpetuity; and

7. Individual bridge mitigation measures to be completed by the CDOT or IDOT shall include bridge documentation following the standards of the Historic American Engineering Record (HAER) to supplement the existing Historic Illinois Engineering Record (HIER) report with final HAER document posted on the CDOT website (see Stipulation 2 above), and mitigation shall include one or more of the following but are not limited to the following menu of options:
   a. Making parts of the bridge available for public display and interpretation and/or for education purposes.
   b. Installing and maintaining signage that interprets and memorializes the bridge.
   c. The one-time mitigation measure of nominating all NRHP-eligible bridges identified in the Plan to the NRHP as a Multiple Property Document.

8. DURATION

   This agreement will be in effect for five (5) years from the date of its execution. At such time, the signatories shall meet to review its effectiveness and discuss any revisions necessary. The FHWA shall notify ACHP in advance of these meetings and invite its participation. If no signatory objects in writing, the term of the agreement will automatically be extended for an additional five (5) years. If any signatory objects in writing to extending the agreement or proposes amendments, FHWA will consult with the signatories to consider amendments or other actions to avoid termination.
This agreement will remain in effect regardless of which individual is designated as the SHPO, or to which Illinois State Agency the SHPO may be assigned.

6. POST-REVIEW DISCOVERIES

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

7. 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, FHWA shall consult with such party to resolve the objection. If FHWA determines that such objection cannot be resolved, FHWA will:

A. Forward all documentation relevant to the dispute, including the FHWA’s proposed resolution, to the ACHP. The ACHP shall provide 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, 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. 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 FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, 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. 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.

8. 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.

9. 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 8, 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, 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. 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 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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ILLINOIS DEPARTMENT OF TRANSPORTATION
CHICAGO DEPARTMENT OF TRANSPORTATION
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ILLINOIS STATE HISTORIC PRESERVATION OFFICER
REGARDING
THE PRESERVATION OF MOVABLE BRIDGES
IN THE CITY OF CHICAGO, COOK COUNTY, ILLINOIS

Signatory

FEDERAL HIGHWAY ADMINISTRATION

By: ________________________________ Date: ____________________

Name: ___________________________________________________________________

Title: ___________________________________________________________________
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Signatory

ILLINOIS STATE HISTORIC PRESERVATION OFFICER

By: ________________________________ Date: ______________________

Name: ____________________________________________________________________

Title: ____________________________________________________________________
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Invited Signatory

ILLINOIS DEPARTMENT OF TRANSPORTATION

By: __________________________________ Date: _____________________

Name: ______________________________________________________________

Title: ________________________________________________________________
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Invited Signatory

CHICAGO DEPARTMENT OF TRANSPORTATION

By: _______________________________ Date: ______________________

Name: _______________________________

Title: _______________________________