

April 4, 2014

Mr. Reid Nelson
Advisory Council on Historic Preservation
1100 Pennsylvania Avenue NW, Suite 803
Old Post Office Building
Washington, DC 20004

Re: Invitation to Participate in a Memorandum of Agreement for Compliance with
Section 106 of the National Historic Preservation Act (36 CFR. 800 et. seq.).
Springfield, IL, Springfield Rail Improvements Project,
Carpenter Street Underpass

Dear Mr. Nelson:

The Carpenter Street Underpass Project is a component of the Springfield Rail Improvements Project ("Original Project") approved by the Federal Railroad Administration (FRA) and under the Tier 2 Final Environmental Impact Statement (FEIS) dated November 2012 and the Record of Decision (ROD) dated December 18, 2012. This project is a component of the larger Chicago to St. Louis High Speed Rail Corridor development in Illinois.

The City of Springfield submitted a Transportation Investment Generating Economic Recovery (TIGER) Discretionary Grant application for construction of the Carpenter Street underpass in June 2012. In September 2013, they were selected to receive TIGER V funding. The improvements identified within the grant include the design and construction of the Carpenter Street underpass.

The Illinois SHPO issued a *No Effect* determination for historic resources in the 2012 ROD, which includes the Carpenter Street underpass. However, a commitment to the ROD includes continued coordination with the Illinois Historic Preservation Agency for the evaluation of potential impacts to unknown archaeological resources within the Springfield Rail Improvements Project area. As a result of this ongoing coordination, various construction segments of the Springfield Rail Improvements Project (including the Carpenter Street underpass) may adversely affect archaeological resources.

To facilitate compliance with Section 106 of the National Historic Preservation Act, the FRA and City are working closely with the Illinois SHPO to develop a Memorandum of Agreement (MOA) for this project. The MOA will establish procedures for the evaluation, assessment of effects and potentially affected by the proposed undertaking.

FRA respectfully requests the Council consider FRA's invitation to participate in this process. If you have any questions, or wish to be a party of the MOA, please contact me at (202) 493-6201 or by email at andrea.martin@dot.gov.

Sincerely,

Andréa E. Martin
Environmental Protection Specialist
U.S. DOT Federal Railroad Administration

cc: Anne Haaker, Illinois Historic Preservation Agency
Brad Koldehoff, Illinois Department of Transportation
Tim Selover, PB Americas

Enclosures

Memorandum of Agreement among The Federal Railroad Administration, The Illinois Historic Preservation Officer, and the City of Springfield, regarding compliance with Section 106 of the National Historic Preservation Act, as it pertains to the proposed Carpenter Street Underpass, Springfield, Sangamon County, Illinois.

Plan and Schedule for Phase II Archaeological Investigations for the Carpenter Street Underpass, Springfield Rail Improvements Project, Springfield, Illinois.

Phase III Data Recovery Plan (DRP) for National Register Eligible Archaeological Sites Located within the Carpenter Street Underpass Project Area, Springfield, Sangamon County, Illinois.

**MEMORANDUM OF AGREEMENT
AMONG
THE FEDERAL RAILROAD ADMINISTRATION,
THE ILLINOIS STATE HISTORIC PRESERVATION OFFICER,
AND THE CITY OF SPRINGFIELD,
REGARDING
COMPLIANCE WITH SECTION 106
OF THE NATIONAL HISTORIC PRESERVATION ACT,
AS IT PERTAINS TO THE PROPOSED
CARPENTER STREET UNDERPASS,
SPRINGFIELD, SANGAMON COUNTY, ILLINOIS**

Whereas, the Federal Railroad Administration (FRA) has entered into a Transportation Investment Generating Economic Recovery (TIGER) grant agreement with the City of Springfield (CITY), to assist with the construction of an vehicular underpass for the Norfolk-Southern Railroad (NSRR) tracks at their crossing with Carpenter Street (otherwise known as the Carpenter Street Underpass Project) (Project);

Whereas, this undertaking is subject to the provisions of Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA), 16 U.S.C. §470f, and its implementing regulations, 36 C.F.R. part 800; and

Whereas, CITY, in consultation with the FRA, has defined the undertaking's area of potential effect (APE) as the proposed Project area (as shown in Exhibit A); and

Whereas, the FRA, in consultation with the SHPO, have conducted a Phase I archaeological survey within the Project area, and have identified several archaeological sites that warrant Phase II archaeological testing to determine potential National Register of Historic Places eligibility (see attached letter from SHPO dated 21 February 2014); and

Whereas, the Project area is in an urban environment, the majority of which is a paved surface parking lot, making Phase II archaeological testing (and a National Register of Historic Places determination of the archaeological sites) impractical to conduct prior until property acquisition has been completed and the removal of the surface parking lot can be accomplished; and

Whereas, no human remains are expected to be found during archaeological site investigations covered by this MOA; however, if encountered, the provisions of the Illinois Human Remains Protection Act (20 ILCS 3440, 17 IAC 4170) would be followed; and

Whereas, the FRA has made every reasonable effort to avoid and minimize impacts to the archaeological properties in the Project, and potential adverse effects cannot be avoided; and

Whereas, the FRA notified the Advisory Council on Historic Preservation (ACHP) of the preparation of the Memorandum of Agreement (MOA), and **in a letter dated, xxxx the ACHP declined to participate in the consultation for the Project;** and

NOW, THEREFORE, the FRA shall ensure that the Project shall be implemented in accordance with the following stipulations to ensure that potential effects on historic properties are taken into account.

STIPULATIONS

The FRA shall ensure that the following steps will be undertaken for the Project:

1. ARCHAEOLOGICAL MITIGATION MEASURES

- A. In consultation with the SHPO, the appropriate THPO(s), and the other consulting parties, the CITY will evaluate for eligibility all significant historic properties by applying the National Register criteria (36 CFR Part 60.4). The CITY will use its archival documentation as a context in which to make National Register evaluations of historic properties.
 - 1. For those properties that the CITY, the SHPO/THPO(s), and the other consulting parties agree are not eligible for inclusion on the National Register, no further historic properties investigations will be required, and the project may proceed in those areas.
 - 2. If the survey results in the identification of properties that the CITY, the SHPO/ THPO(s), and the other consulting parties agree are eligible for inclusion on the National Register, the CITY shall treat such properties in accordance with Part II below.
 - 3. If the CITY, the SHPO/THPO(s), and the other consulting parties do not agree on National Register eligibility, or if the Council or the National Park Service so request, the CITY will request a formal determination of eligibility from the Keeper of the National Register, National Park Service, whose determination shall be final.
- B. CITY shall conduct Phase II archaeological investigations, as outlined in the attached *Plan And Schedule For Phase II Archaeological Investigations For The Carpenter Street Underpass, Springfield Rail Improvements Project, Springfield, Illinois* (Plan and Schedule).
- C. Should significant archaeological sites be encountered, the FRA and CITY will ensure that data-recovery excavations are completed prior to construction, as outlined in the attached Plan and Schedule. Excavations will be conducted by Fever River Research, Inc., and will follow the data-recovery plan presented in Plan and Schedule.
- D. The CITY will ensure that all reconnaissance surveys and subsurface testing are conducted in a manner consistent with the Secretary of the Interior's *Standards and Guidelines for Identification and Evaluation* (48 FR 44720-23) and take into account

the National Park Service publication *The Archaeological Survey: Methods and Uses* (1978) and any extant or most recent version of appropriate SHPO(s)/THPO(s) guidelines for historic properties reconnaissance surveys/reports, related guidance, etc. The reconnaissance surveys and subsurface testing will be implemented by the CITY and monitored by the SHPO/THPO(s).

2. PROFESSIONAL STANDARDS

The City shall ensure that all historic preservation work carried out pursuant to this MOA is completed by or under the supervision of a person or persons meeting, at a minimum, the *Secretary of the Interior's Professional Qualification Standards* in the fields of archaeology and architectural history, as published in 36 CFR Part 61.

3. DURATION

This MOA will be null and void if its stipulations are not carried out within five years from the date of its execution. In such an event, the FRA shall so notify the parties to this MOA and, if it chooses to continue with the Project, then it shall reinitiate review of the Project in accordance with 36 CFR Part 800 or the parties may extend the MOA by mutual written consent.

4. POST REVIEW DISCOVERIES

A. Human Remains. In the case of an unanticipated discovery of human remains or burials during Project construction activities, City shall halt construction, secure the area, and follow the provisions of the Illinois Human Skeletal Remains Protection Act (20 ILCS 3440, 17 IAC 4170).

B. Historic Properties. In the event of an unanticipated discovery of historic properties during Project construction activities, City shall halt construction, secure the area, and consult with the FRA and SHPO for the purposes of Section 106 pursuant to 36 CFR § 800.13(c).

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

A. Forward all documentation relevant to the dispute, including the FRA's proposed resolution, to the ACHP. The ACHP shall provide the FRA with its advice on the resolution of the objection within thirty days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the FRA 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 FRA will then proceed according to its final decision.

- B. If the ACHP does not provide its advice regarding the dispute within the thirty day time period the FRA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the FRA shall prepare a written response that takes into account 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. The parties' responsibilities to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

6. 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.

7. 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, the FRA must request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. The FRA shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by the FRA, SHPO, and CITY and the implementation of its terms evidence that FRA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

FEDERAL RAILROAD ADMINISTRATION

By: _____ Date: _____

ILLINOIS STATE HISTORIC PRESERVATION OFFICER

By: _____ Date: _____

CITY OF SPRINGFIELD

By: _____ Date: _____