MEMORANDUM OF AGREEMENT
AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
ILLINOIS DEPARTMENT OF TRANSPORTATION,
AND ILLINOIS STATE HISTORIC PRESERVATION OFFICER
REGARDING THE REPLACEMENT OF THE
FAU 1394 / DIVISION STREET BRIDGE
OVER THE NORTH BRANCH CANAL OF THE CHICAGO RIVER
(STRUCTURE NO. 016-6015)
IN THE CITY OF CHICAGO, COOK COUNTY, ILLINOIS

WHEREAS, the City of Chicago (City) in coordination with the Illinois Department of Transportation (IDOT) plans to replace the Division Street Bridge over the North Branch Canal of the Chicago River, Sequence #12687B (Project) in the City of Chicago, Cook County, Illinois; and

WHEREAS, the Federal Highway Administration (FHWA) may fund the permanent replacement of the bridge, thereby making the Project an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. Section 470f, and its implementing regulations, 36 CFR Part 800; and

WHEREAS, the FHWA has defined the undertaking's area of potential effect (APE) as the superstructure of the existing bridge; and

WHEREAS, the FHWA has determined that the undertaking will have an adverse effect on the Division Street Bridge over the North Branch Canal of the Chicago River (Structure Number 016-6015), which is eligible for listing on 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, FHWA has invited the IDOT and the City to participate in consultation and to become signatories to this memorandum of agreement; and

WHEREAS, the public was given an opportunity to comment on the undertaking's adverse effect in a notice published on April 1, 2014, and April 8, 2014 in the Chicago Sun Times and on the City of Chicago's website from April 7, 2014 to April 28, 2014.

WHEREAS, pursuant to 23 USC 144(o)(4), 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 FHWA has notified the Advisory Council on Historic Preservation (ACHP) of the adverse effect, pursuant to 36 CFR Section 800.6(a)(1), in a letter dated April 10, 2014 and the ACHP did not respond within 15 days of the date of the letter; and

NOW, THEREFORE, FHWA, IDOT, the City and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations to take into account the effect of the undertaking on historic properties.

STIPULATIONS

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

1. To alleviate safety concerns stemming from the deterioration of the existing bridge, the City will as soon as feasible replace the superstructure of the Division Street Bridge with a temporary structure as developed in the plans prepared by the City, which will be reviewed and approved by the IDOT and the SHPO.

2. Prior to the initiation of demolition activities for replacing the bridge superstructure, the City, in coordination with IDOT, shall prepare documentation concerning the Division Street Bridge to the Level III standards of the Illinois Historic American Engineering Record (HAER) and to supplement HAER documents as required by the National Park Service. The IDOT shall coordinate the recordation with the SHPO and the NPS. The SHPO and NPS must approve the draft HAER documentation in writing prior to the replacement of the existing superstructure.

3. A bascule bridge preservation plan will be developed by the City, in coordination with IDOT, FHWA, and SHPO. This plan will evaluate the NRHP eligibility of each bascule bridge maintained by the City or IDOT within the Chicago area, and develop a plan as to which bascule bridges are worthy of preservation, which ones need replacement and detail the requirements for continued maintenance of the bridges to be preserved. Before the Division Street Bridge can be permanently replaced, the bascule bridge preservation plan must be reviewed and approved by the SHPO in writing.

4. DURATION

   This MOA will be null and void if its stipulations are not carried out within ten (10) years from the date of its execution. At such time, and prior to work continuing on the undertaking, FHWA shall either (a) execute a MOA 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, FHWA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation 7 below. The FHWA shall notify the signatories as to the course of action it will pursue.

5. 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).

6. 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, 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 MOA, 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 MOA that are not the subject of the dispute remain unchanged.

7. 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.

8. 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 per Stipulation 7, above. If within thirty (30) 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, FHWA must either (a) execute an MOA 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 MOA 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.

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Signatory:

FEDERAL HIGHWAY ADMINISTRATION

By: _____ Date: _____

Printed Name: _____

Signatures follow on separate pages

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Signatory:

ILLINOIS STATE HISTORIC PRESERVATION OFFICER

By: _____ Date: May 8, 2014

Printed Name: Anne E. Haaker

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Concurring Party:

CITY OF CHICAGO

By: Luis D. Benitez Date: 5/7/14

Printed Name: Luis D. Benitez

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Concurring Party:

ILLINOIS DEPARTMENT OF TRANSPORTATION

By: _____ Date: _____

Printed Name: _____