



U.S. Department
of Transportation
**Federal Highway
Administration**

Illinois Division

September 24, 2018

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Springfield, IL 62703
(217) 492-4640
www.fhwa.dot.gov/ildiv

In Reply Refer To:
HDA-IL

Reid J. Nelson, Director
Office of Federal Agency Programs
Advisory Council on Historic Preservation
401 F. Street NW, Suite 308
Washington, DC 20001-2637

SUBJECT: Federal Actions in and Adjacent to Jackson Park, Chicago, Cook County, Illinois
ACHP-Connect: #012213

Dear Mr. Nelson:

We are writing in response to your August 21, 2018 letter seeking (1) Federal Highway Administration (FHWA) review of our eligibility determinations made for archaeological materials in light of information provided by The Cultural Landscape Foundation and (2) clarification whether the recent removal of trees in Jackson Park are related to the two proposed Federal actions by FHWA and the National Park Service (NPS). We will provide a response to our determinations of eligibility in a separate letter.

The City of Chicago (“the City”) is an applicant for Federal assistance from the FHWA and the NPS for proposed actions in and adjacent to Jackson Park. The recent removal of trees in Jackson Park by the City is related to an effort to relocate an existing track and field facility in Jackson Park.

While the relocation of the track and field does not require a Federal approval from either FHWA or NPS, the relocation of the existing track and field facility is an indirect effect¹ of the proposed Federal actions in and adjacent to Jackson Park. In coordination with the City, all work to relocate the track and field facility has ceased until the Federal review process is completed. The City will complete work necessary to ensure site security and public safety at the site where the trees were cleared. Additional information is provided below.

BACKGROUND

The City was chosen as the location for the Obama Presidential Center (OPC) and Jackson Park was selected as the host site in July 2016. The City conducted public engagement to update the South Lakefront Framework Plan, a planning document that establishes a vision for the future of Jackson Park and the South Shore Cultural Center. Changes within Jackson Park, including the

¹ The Council on Environmental Quality defines “indirect effect” as being caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable.

construction of the OPC, proposed roadway closures, and potential roadway improvements were presented and approved by the Chicago Plan Commission in May 2018. The decisions to (1) locate the OPC in Jackson Park, (2) approve the site for OPC and (3) close roadways in Jackson Park are the responsibility of the City and do not require any Federal approvals.

FEDERAL ACTIONS

The City is seeking two Federal approvals resulting from its decision to locate the OPC in Jackson Park and close roadways in Jackson Park.

First, NPS has a proposed Federal action due to the construction of the OPC in Jackson Park. This construction activity would result in a conversion of parkland from recreational under the Urban Park and Recreation Recovery (UPARR) program, administered by NPS. The NPS review will evaluate the replacement of lost recreational uses due to the City's decision to locate the OPC within Jackson Park. The City has identified a portion of the Midway Plaisance, an area west of Jackson Park, that could serve as replacement recreation use.

Second, FHWA has a proposed Federal action because the City wants to remain eligible to use FHWA Federal-aid funds for roadway improvements necessary to address the traffic impacts from closing roadways in Jackson Park and to provide bicycle/pedestrian improvements in and around Jackson Park.

FEDERAL REVIEW

The Federal review is being conducted jointly by NPS and FHWA. In May 2018, the NPS agreed to be the lead Federal agency for the National Environmental Policy Act (NEPA) process and FHWA agreed to be the lead Federal agency for the Section 106 process. We notified the Advisory Council on Historic Preservation of our respective roles in a July 31, 2018 letter to you. The NPS and FHWA are working together, along with the City and the Illinois Department of Transportation, on completing the Federal review process in a coordinated approach.

TRACK AND FIELD

As proposed, construction of the OPC would result in the displacement of an existing track and field facility, which is nearing the end of its useful life according to the City. Through the City's planning process, the track and field facility was identified as a vital community resource and that Jackson Park was the optimal location for it, in the event the OPC is built. In the first week of August 2018, the City began site preparation in Jackson Park for the new track and field at a new location. The City's stated goal of relocating the track and field was to provide an improved recreational facility and to avoid disruption in the use of the existing track and field. The work completed to date includes removal of trees and grading the surface in preparation of construction.

The work on the new track and field did not require Federal approvals from either the NPS or the FHWA because (1) the work did not result in a conversion under UPARR; and (2) the work was not proposed for funding through the Federal-aid Highway Program.

The relocation of the track and field is an indirect effect from the proposed Federal action to convert a portion of Jackson Park from recreational to non-recreational use in order to construct the OPC. Therefore, as part of the Federal review process, the effects of relocating the track and field within Jackson Park will be taken into account as part of the Section 106 and NEPA processes. We have requested the City not complete their work on the new track and field facility until the Federal review process is completed.

SECTION 110(k) APPLICABILITY

The FHWA has determined that Section 110(k) of the National Historic Preservation Act **is not applicable** under these circumstances. Section 110(k) prohibits a Federal agency from granting assistance to an applicant who, with intent to avoid section 106, has intentionally adversely affected a historic property to which the assistance would relate, unless certain conditions have been satisfied.

In a letter dated September 14, 2018 to the FHWA, the City explained its rationale for beginning this work and for concluding it could proceed without Federal involvement. The FHWA accepts the City's explanation for the actions it took and we conclude the City did not take these actions with the intent to avoid the requirements of Section 106. Further, we commend the City for taking immediate action to discontinue work on the new track and field until after the Federal review processes have been completed.

Additionally, it is not evident that the actions taken by the City have resulted in an adverse effect to a historic property. The effects assessment report is under development and it has not been determined if tree clearing activities in this area of Jackson Park would result in an adverse effect. Even if the tree clearing activities do result in an adverse effect, the City has stopped further construction activity on the site and has therefore not foreclosed the opportunity to restore the site to a similar, pre-construction condition.

CONCLUSION

Thank you for informing FHWA of your concerns associated with the subject project. We look forward to working with you through the assessment of effects and if necessary, resolving adverse effects.

Should you have any questions regarding this response, please contact Matt Fuller by e-mail Matt.Fuller@dot.gov or by phone (217) 492-4625.

Sincerely,



Catherine A. Batey
Division Administrator

ecc: Ms. Justine Sydello, Deputy Secretary, IDOT
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