

**FIRST AMENDED (APPENDIX A REVISED 8/09)  
PROGRAMMATIC AGREEMENT**

Among the Federal Highway Administration,  
The Idaho Transportation Department,  
The Advisory Council on Historic Preservation,  
And the Idaho State Historic Preservation Office  
Regarding Minor Highway Improvement Projects

WHEREAS, the Federal Highway Administration (FHWA) provides funding for various transportation projects under the Federal-Aid Highway Program, administered throughout the State of Idaho by the Idaho Transportation Department (ITD), as authorized by 23 USC 101, et seq.; and

WHEREAS, in order to streamline consultation under Section 106 of the National Historic Preservation Act (NHPA) (16 USC 470f), a Programmatic Agreement (PA) for minor highway improvement projects was executed among the FHWA, ITD, Idaho State Historic Preservation Officer (SHPO), and the Advisory Council on Historic Preservation (ACHP) on December 22, 2000; and

WHEREAS, the parties to the PA have agreed to amend the minor projects PA to clarify its procedural requirements and to revise the list of minor transportation projects that will be exempt from review by the Idaho SHPO, FHWA, and the ACHP; and

WHEREAS, to execute this amendment, the FHWA and ITD have consulted with the Idaho SHPO and the ACHP pursuant to Section 800.14(b) of the regulations (36 CFR Part 800) implementing Section 106 of the NHPA; and

WHEREAS, the parties agree that undertakings covered by this PA have no potential to affect properties of traditional religious and cultural significance to Indian tribes, and in the unlikely event that such properties are identified or discovered in the area of potential effects for an undertaking, FHWA shall consult with Indian tribes and other parties in accordance with 36 CFR Part 800;

NOW THEREFORE, the FHWA, ITD, the ACHP, and the Idaho SHPO agree that minor transportation improvement projects shall be administered in accordance with the following stipulations to satisfy the FHWA's Section 106 responsibility for all individual projects of the program.

**Stipulations**

The FHWA shall ensure that the following measures are carried out:

- I. For all Federal-Aid projects, ITD will initiate the section 106 process by determining whether the undertaking has the potential to cause effects to historic properties, and carry out the requirements of 36 CFR 800.4 to identify historic properties that might be affected by the undertaking.
- II. Certain minor highway improvement projects, as defined in Appendix A, Section III, have been determined unlikely to effect to historic properties.

Those undertakings identified in Appendix A, Section III will not require review by FHWA, the Idaho SHPO, or the ACHP, except as noted in Section I of Appendix A.

- III. The ITD Headquarters (HQ) Cultural Resources staff will review all projects to determine whether they meet the requirements in Appendix A for exemption from review. If ITD HQ determines that the undertaking does not meet the requirements for exemption, it will so notify FHWA and FHWA shall carry out the requirements of 36 CFR Part 800 for that undertaking.
- IV. All other federally-funded projects not listed in Appendix A attached to this Agreement shall be subject to Section 106 and its implementing regulations, 36 CFR Part 800.
- V. The ITD will prepare an annual summary report of cultural resource projects completed during the previous calendar year. Those projects considered under this Agreement, but handled through 36 CFR Part 800 as exceptions under Section III of the Appendix A, will also be included. ITD shall submit the report to FHWA and SHPO no later than the close of each calendar year, and this report may be contained with ITD's Annual Report presently submitted to SHPO. The report shall include for each project a brief project description, location including county, highway district and map position, and a description of any cultural resources inventory completed, historic properties identified, and National Register evaluations completed.
- VI. The ITD will monitor a minimum of 10% of the projects carried out under this Agreement to ensure that actual construction was the same as that proposed under the project description. If monitoring indicates that certain types of projects may not warrant inclusion in this Agreement, their status may be reviewed by the parties to this Agreement.
- VII. The Council and the SHPO may monitor activities carried out pursuant to this Agreement, and the Council will review such activities if so requested. The FHWA will cooperate with the Council and the SHPO in carrying out their monitoring and review responsibilities.
- VIII. Any party to this Agreement may request in writing that it be amended, whereupon the parties will consult to consider such amendment.
- IX. Any party to this Agreement may request a revision to Appendix A. Revisions to Appendix A may be made and will go into effect upon the written agreement of the signatories to this PA. Such revisions do not require that this PA be formally amended; however, ITD shall provide a clean copy of the revised Appendix A, clearly identifying the date it became effective, to the signatories for their files.
- X. Should the SHPO or Council object to any actions proposed pursuant to this Agreement, the FHWA shall consult with the objecting party to resolve the objection. If the FHWA determines that the objection cannot be resolved, the FHWA shall request the views of the Council pursuant to 36 CFR 800.2(b)(2) or 800.9(a). Any Council comment provided in response to such a request

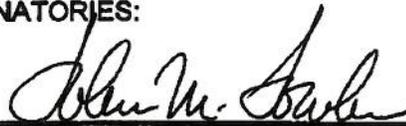
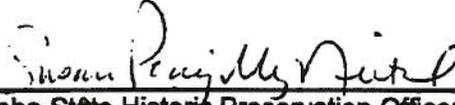
will be taken into account by the FHWA with reference only to the subject of the dispute; the FHWA's responsibility to carry out all actions under this Agreement that are not the subjects of the dispute will remain unchanged.

- XI. Any party to this Agreement may terminate it by providing thirty (30) days written notice to the other parties, provided that the parties will consult during the period prior to termination to seek agreements or other actions that would avoid termination. In the event of termination, the FHWA will comply with 36 CFR Part 800 with regard to individual undertakings covered by this Agreement.
- XII. In the event the FHWA does not carry out the terms of this Agreement, the FHWA will comply with 36 CFR Part 800 with regard to individual undertakings covered by this Agreement.

This amended PA encompasses the entire agreement among the parties and replaces the PA regarding minor transportation projects executed among the FHWA, ITD, SHPO and ACHP on December 22, 2002.

EXECUTION AND IMPLEMENTATION of this amended PA evidences that the FHWA has afforded the ACHP a reasonable opportunity to comment on the undertakings subject to this PA and that the FHWA has taken into account the effects of its subject undertakings on historic properties.

SIGNATORIES:

 _____ Advisory Council on Historic Preservation John M. Fowler, Executive Director	8/4/06 _____ Date
 _____ Federal Highway Administration	8/2/06 _____ Date
 _____ Idaho State Historic Preservation Officer	7/28/06 _____ Date
 _____ Idaho Transportation Department	7-21-06 _____ Date

## APPENDIX A

### I. **Project Review – Minor Transportation Projects**

The majority of ITD Minor Transportation Projects are unlikely to affect historic properties. In general, these projects have a limited Area of Potential Effects (APE), are unlikely to contain historic properties, occur largely at-grade within the existing roadway prism, do not introduce new structural or visual elements, or require only nominal ground disturbance.

Minor Transportation Projects will be reviewed for Section 106 purposes by qualified ITD HQ Cultural Resources staff, without further review by the Council, the SHPO, or FHWA, provided that:

- A. Proposed projects meet criteria outlined in Section IV below; and
- B. ITD bases its review upon information adequate to identify historic properties and assess project effects on historic properties consistent with 36 CFR Part 800; and
- C. ITD consults with the SHPO pursuant to 36 CFR 800.4(c) on all properties which are considered potentially eligible for inclusion to the National Register of Historic Places; and
- D. ITD finds that there are no properties that may be affected by the undertaking or that the undertaking by its nature will have no effect on historic properties.

### II. **Project Description**

A project description, map(s), and photo(s) of the APE are provided by the District to the ITD HQ Cultural Resources staff for review prior to their determination whether the project is exempt from review in accordance with this PA.

### III. **Minor Transportation Projects requiring standard review pursuant to 36 CFR 800**

- A. FHWA, with the assistance of ITD, shall carry out the requirements of 36 CFR Part 800 for all Federally funded or approved minor transportation projects not listed in Section IV below.
- B. FHWA, with the assistance of ITD, shall carry out the requirements of 36 CFR Part 800 for all Federally funded or approved minor transportation projects included in Section IV that do not meet the requirements of Section I: A., B., C., and D.
- C. If at any time, ITD determines that an undertaking reviewed under this PA may affect a historic property, it will so notify FHWA and FHWA will initiate appropriate actions consistent with the requirements of 36 CFR 800.

#### **IV. Projects exempted from standard review**

The following Minor Transportation Projects will be reviewed by qualified HQ ITD Cultural Resources staff.

##### **A. Curb, Gutter, and Sidewalk Improvements**

Project actions include installation, replacement/reconstruction (with similar design), and/or rehabilitation of curbs, gutters, and sidewalks, or installation of ADA compliant ramps where sidewalks already exist, insofar as such activities cause only minimal ground disturbance and historic properties are not located within the APE.

##### **B. Roadway Guardrail Replacement and Upgrades**

Project actions include replacement and upgrades of safety barriers and non-historic guardrail, including guardrail posts, within existing roadway prism or previously surveyed segments of right-of-way. Guardrail installation or replacement involving a National Register eligible bridge or crossing structure is not exempt from standard review.

##### **C. Improvement of Existing Railroad Crossings**

Project actions include minor improvements to approaches, signals, signage, and railroad crossing reconstruction where the highway alignment crosses an at-grade railroad alignment. All ground disturbing activities are confined to the existing railroad or railroad bed prism.

##### **D. Intersection Improvement**

Project actions include intersection improvement, maintenance, and installation of traffic signals, signs, pavement markings, interconnection devices, railroad warning devices, improved crossing surfaces, and landscaping maintenance, insofar as such activities cause only minimal ground disturbance and historic properties are not located within the APE.

##### **E. Roadway Signage Installation**

Project actions include improvement, maintenance, and installation of roadway signage insofar as such activities occur within existing roadway prism or previously surveyed segments of right-of-way, insofar as such activities cause only minimal ground disturbance and historic properties are not located within the APE.

##### **F. Bridge Deck Rehabilitation and Stabilization**

Project actions include minor bridge rehabilitation (replacement of bridge decking and expansion joints), bridge rail repair or replacement, scour protection, or substructure alterations for bridges less than 50 years old, insofar as the bridge is not considered potentially eligible for the National Register, determined eligible for, or listed in the National Register.

**G. Pavement Rehabilitation**

Project actions include pavement rehabilitation such as overlay, sealcoats, milling, grooving, or resurfacing, including Cement Recycled Asphalt Base Stabilization (CRABS), of ramp, roadway, or parking lot surfaces within existing roadway prism. In addition, brooming or other mechanical road cleaning may occur. Some rehabilitation projects may include shoulder flattening and minor safety work within existing roadway prism.

**H. Paving or Minor Widening of Gravel Shoulders**

Project actions include laying road surface over sub-base gravel within the existing roadway prism and shoulders where less than 1.5m (5 feet) of right-of-way on either side is required to widen the existing road surface. These projects may involve slight shoulder widening or flattening for safety purposes.

**I. Bike / Pedestrian Pathways**

Project actions include construction of bicycle and pedestrian lanes, paths, and facilities within existing rights-of-way, insofar as such activities cause only minimal ground disturbance and historic properties are not located within the APE.

**J. Landscaping**

Project actions include installation and maintenance of minor landscaping, insofar as such activities cause only minimal ground disturbance and historic properties are not located within the APE.

**K. Improvement to Interstate Rest Area and Weigh Stations**

Project actions include improvements to existing rest areas and truck weigh stations located along both the Interstate Highway System and the State Highway System insofar as such activities cause only minimal ground disturbance and historic properties are not located within the APE.

**L. Minor Drainage Improvements**

Project actions include minor safety related drainage improvements adjacent to roadways, such as:

- a. installation, replacement, or removal of non-historic culverts and headwalls that do not require the addition of fill material or surface grading outside of the existing roadway prism;
- b. installation, replacement, and extension of pipes;
- c. addition of pipe end section or traversable grates;
- d. rip-rap in drainages associated with non-historic culverts and features;
- e. mechanical and manual ditch cleaning for maintenance purposes;
- f. stream bank stabilization and restoration.

**M. Roadway Lighting**

Project actions include installation of roadway lighting on roadways, insofar as such activities cause only minimal ground disturbance and historic properties are not located within the APE.

**N. Equipment Staging and Material Stockpiling in Disturbed Areas**

Project actions include staging of equipment and/or machinery, temporary or long-term stockpiling of gravels and waste materials, and disposal of waste materials in areas where extensive ground disturbance has occurred, including but not limited to previously disturbed material source locations, graveled or paved parking areas, or other previously disturbed locations.

Staging area or temporary waste locations may be approved insofar as such activities cause only minimal ground disturbance and historic properties are not located within the APE.

**O. Use of Previously Reviewed Material Sources**

Project actions include the use of previously reviewed material sources for the same use insofar as no new expansion will occur laterally outside the previously reviewed areas.

**P. Fence Improvements**

Project actions include installation, replacement, and/or upgrading of fencing within the existing transportation right-of-way insofar as such activities cause only minimal ground disturbance and historic properties are not located within the APE.

**Q. Installation of Utilities**

Project actions include installation of underground utilities (i.e. fiber optic cables, gas lines, etc), Highway Advisory Radio systems, etc., in previously disturbed right-of-way locations insofar as such activities cause only minimal ground disturbance and historic properties are not located within the APE.

**R. Rock Scaling & Slope Work**

Project actions include rock scaling (the manual and mechanical removal of rocks, vegetation, and other debris on steep slopes adjacent to roadways) and blast scaling (using small charges of explosives to dislodge or reduce the size of larger rocks that cannot be dislodged manually). These actions can take place insofar as such activities cause only minimal ground disturbance, are not located on natural, previously undisturbed slope faces, and historic properties are not located within the APE.

**S. Maintenance Facility Operations**

Project actions include various continuing activities that occur at ITD maintenance facilities. These include, but are not limited to material stockpiling activities, vehicle and equipment washing, vehicle and equipment fueling, and liquid tank storage. These actions can take place insofar as such activities cause only minimal ground disturbance and historic properties are not located within the APE.

**T. Geotechnical Investigation**

Project actions include minimally disruptive subsurface exploration methods to obtain information on the physical properties of soil and rock in a specific location such as auger, rotary, or core drilling methods of nominal 8-inch diameter or less. These actions can take place insofar as such activities cause only minimal ground disturbance and historic properties are not located within the APE.