

PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL HIGHWAY ADMINISTRATION, WASHINGTON DIVISION and
WESTERN FEDERAL LANDS HIGHWAY DIVISION,
THE WASHINGTON STATE HISTORIC PRESERVATION OFFICER,
THE UNITED STATES FOREST SERVICE REGION 6,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, AND
THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION,
REGARDING THE FEDERAL AID HIGHWAY AND FEDERAL LANDS HIGHWAY
PROGRAMS IN WASHINGTON STATE

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

WHEREAS, the Federal Highway Administration Western Federal Lands Highway Division (WFLHD) administers the Federal Lands Highway Program authorized by 23 U.S.C. § 201, et seq.; and

WHEREAS, WSDOT administers Federal-aid Highway Program projects throughout the State of Washington as authorized by Title 23 U.S.C. 302 and has professional cultural resources staff to assist in the administration of Federal-aid Highway Program projects in the state; and

WHEREAS, WFLHD has professional cultural resources staff who serve in the same role for Federal Lands Highway Program projects as WSDOT's professional cultural resources staff do for Federal-aid Highway Program; and

WHEREAS, "Program" or "Programs" used in this agreement, either individually or collectively, refer to the Federal-aid Highway Program and the Federal Lands Highway Program; and

WHEREAS, Program-funded or approved transportation projects may cross lands managed by the U.S. Forest Service (USFS), Region 6; and

WHEREAS, FHWA, WFLHD and USFS, hereafter the Federal Agencies, have determined that Program funded or approved transportation projects are undertakings subject to Section 106 of the National Historic Preservation Act (NHPA)(54 U.S.C. § 306108), as amended, and codified in its implementing regulations, 36 CFR Part 800, as amended (August 5, 2004); and

WHEREAS, the Federal Agencies have determined these undertakings, as defined at 36 CFR §

800.16 (y), may have an effect upon properties included in or eligible for inclusion in, the National Register of Historic Places (NRHP) hereafter referred to as historic properties; and

WHEREAS, the Federal Agencies shall meet their individual Section 106 responsibilities to take into account the effects of their respective actions on historic properties for all Program funded or approved undertakings in Washington State through this Programmatic Agreement (Agreement) developed in accordance with 36 CFR § 800.14(b); and

WHEREAS, the Federal Agencies have notified the Advisory Council on Historic Preservation (ACHP) about the potential effects of Program funded or approved undertakings and have invited the ACHP to participate in developing this Agreement as a signatory and ACHP has accepted the invitation; and

WHEREAS, the Federal Agencies have consulted with the Washington State Historic Preservation Officer (SHPO) in developing this Agreement. SHPO will meet their responsibility to advise, assist, review and consult with the Federal Agencies pursuant to 36 CFR Part 800 for the duration of this Agreement; and

WHEREAS, the Federal Agencies have consulted with the Federally recognized Indian tribes, as defined in 36 CFR § 800.16(m) (Hereafter Tribe or Tribes), listed in Appendix A, and have requested their comments on the Agreement, and have taken any comments received into account in preparing this Agreement; and

WHEREAS, the Tribes listed in Appendix A have been invited to sign this Agreement as concurring parties. Attachment 1 lists the Tribes which have chosen to be concurring signatories to this Agreement; and

WHEREAS, Program funded or approved undertakings that occur on or affect tribal lands, as defined in 36 CFR § 800.16(x), are not covered by this Agreement. The Federal Agencies shall consult with the Tribes under the standard Section 106 regulations at 36 CFR Part 800; and

WHEREAS, the Federal Agencies have notified the public, other Federal and State agencies, and Certified Local Governments (CLGs) about this Agreement and have requested their comments; and

WHEREAS, WSDOT has participated in the consultation to develop this Agreement and has been invited to be a signatory; and

WHEREAS, WSDOT and the Federal Agencies agree that any Memorandum of Agreement (MOA) or project-level Programmatic Agreement (PA) signed under this Agreement stands in lieu of a state permit for all adverse effects to historic properties off federal lands, as per

RCW 27.53; and

WHEREAS, this Agreement supersedes the following previous Agreement among the FHWA, the Federal Transit Authority, SHPO, ACHP, WFLHD and WSDOT: *Programmatic Agreement Among the Federal Highway Administration, the Federal Transit Authority, the Washington State Historic Preservation Office, the Advisory Council on Historic Preservation, Federal Highway Administration Western Federal Lands Highway Division, and the Washington State Department of Transportation Regarding the Federal Aid Highway, Federal Lands Highway, and Federal Transit Program in Washington State dated 12-4-2018.*

NOW, THEREFORE, FHWA, WFLHD, USFS, SHPO, ACHP, WSDOT and the Tribes listed in Attachment 1 agree that the Programs in Washington State shall be carried out in accordance with the following stipulations to consider the effects of the Programs on historic properties in Washington State Washington and that these stipulations shall govern compliance of the Programs with Section 106 of the NHPA until this Agreement expires or is terminated.

Stipulations

The FHWA, WFLHD and USFS, with the assistance of WSDOT, shall ensure that the following measures are carried out:

I. Applicability and Scope

- A. This Agreement establishes the process by which FHWA and USFS with the assistance of WSDOT; and WFLHD without the assistance of WSDOT, shall meet their responsibilities pursuant to Sections 106 and 110 of the NHPA (54 U.S.C §§ 306102 and 306108).
- B. The objective of this Agreement is to make more efficient the methods by which the Federal Agencies and WSDOT review individual undertakings processed under Section 106 that may affect historic properties and to establish the process by which the Federal Agencies carry out their Section 106 responsibilities.
- C. The FHWA will be the Lead Federal Agency for all Federal-aid Highway Program undertakings in the state.
- D. The WFLHD will be the Lead Federal Agency for all Federal Lands Highway Program undertakings in the state unless these undertakings occur entirely on federal lands and the Federal agencies with jurisdiction over these lands choose to be the Lead Federal Agency for the undertakings. When a federal land-managing agency with jurisdiction chooses to be the Lead Federal Agency for an undertaking, the agency shall meet its

Section 106 responsibilities outside the terms of this Agreement.

- E. Through this Agreement, FHWA and USFS authorize WSDOT to initiate and, in many cases, conclude consultation with the SHPO, Tribes and other consulting parties for Federal-aid Highway Program undertakings.
- F. WFLHD will consult with the SHPO, Tribes and other consulting parties through its own consultation process for the Federal Lands Highway Program.
- G. The Federal Agencies retain the legal responsibility for government-to-government consultation with the Tribes as required under 36 CFR Part 800.
- H. For WFLHD undertakings that occur entirely on federal lands, and the federal agencies with jurisdiction over these lands choose to be the Lead Federal Agency for these undertakings, these agencies shall retain legal responsibility for government-to-government consultation with the Tribes for these undertakings and shall meet their Section 106 tribal consultation responsibilities outside the terms of this Agreement.
- I. Cooperating Federal agencies who recognize FHWA, WFLHD, or USFS as the Lead Federal Agency for an undertaking may fulfill their obligations under Section 106 of NHPA per 36 CFR § 800.2(a)(2), provided that FHWA, WFLHD, USFS, and WSDOT follow the requirements of this Agreement and the cooperating Federal Agency's undertaking does not have the potential to cause effects to historic properties beyond those considered by the appropriate Lead Federal Agency and WSDOT.
- J. The Federal Agencies agree that all documents, including but not limited to site forms and reports, shall be submitted to the Washington Information System for Architectural and Archaeological Records Data (WISAARD).
- K. The Federal Agencies agree that the ACHP has released guidance defining the parameters of using financial mitigation to support SHPOs' development and maintenance of electronic cultural resource information systems. If there is a reasonable relationship to the undertaking and there is not more appropriate targeted mitigation, then financial mitigation funds to develop and maintain electronic cultural resources information systems may be appropriate mitigation.
- L. All correspondence held by SHPO is subject to the State Public Records Act unless explicitly exempted under RCW 42.56.310.

II. Definitions

- A. *Ground Disturbance*: Any documented activity that moves, compacts, alters, displaces, or penetrates the ground surface of previously undisturbed soils. “Undisturbed soils” refers to soils that possess significant intact and distinct natural soil horizons. Previously undisturbed soils may occur below the depth of disturbed soils.
- B. *Screened Undertakings*: Screened undertakings are activities that are presumed to have minimal potential to cause effects to historic properties and can be exempted from further Section 106 review. Those activities identified in Appendix B are undertakings per 36 CFR § 800.16(y) and will not require review by FHWA, SHPO, or ACHP, so long as they are reviewed by a WSDOT or WFLHD Cultural Resources Specialist and all terms and conditions set forth in Stipulation VII.B and Appendix B, as applicable, are met.
- C. The definitions provided in 36 CFR § 800.16 (a) through (y) shall apply throughout this Agreement.

III. Professional Qualification Standards

- A. Undertakings screened per Stipulation VII.B and Appendix B of this Agreement must be reviewed by a WSDOT or WFLHD Cultural Resources Specialist who meets the Secretary of the Interior's (SOI) Professional Qualifications Standards (published in 48 FR 44738-44739).
- B. Actions performed in compliance with the terms of this Agreement involving the identification, evaluation, recording, treatment, monitoring, or disposition of historic properties, or that involve the reporting or documentation of such actions in the form of reports, forms, or other records, shall be carried out by, or under the direct supervision of, a person or persons who meets the SOI Professional Qualifications Standards.

IV. Responsibilities

A. FHWA

1. FHWA remains legally responsible for ensuring that the terms of this Agreement are carried out by WSDOT for all findings and determinations made pursuant to this Agreement for Federal-aid Highway Program undertakings, including screened undertakings.

2. At any point in the Section 106 process, FHWA may inquire as to the status of any undertaking carried out under the authority of this Agreement and may participate directly in any undertaking at its discretion.
3. FHWA retains the responsibility for government-to-government consultation with the Tribes but delegate to WSDOT to undertake consultation on its behalf unless a Tribe requests otherwise.
4. FHWA retains responsibility for government-to-government consultation regarding issues outside of NHPA Section 106 consultation, in particular, treaty right issues.
5. FHWA shall be responsible for resolving disputes and objections pursuant to Stipulation XIII.C of this Agreement.

B. WFLHD Responsibilities

1. Pursuant to 36 CFR § 800.2(a) and 800.2(a)(1-4) WFLHD is responsible for ensuring that the terms of this Agreement are carried out and for all findings and determinations made pursuant to this Agreement for Federal Lands Highway Program undertakings, including screened undertakings.
2. WFLHD retains the responsibility for government-to-government consultation with the Tribes for Federal Lands Highway Program undertakings, unless WFLHD undertakings occur entirely on federal lands and the federal agencies with jurisdiction over these lands choose to be the Lead Federal Agency for these undertakings. In these cases, these agencies shall retain legal responsibility for government-to-government consultation for these undertakings and shall meet their Section 106 tribal consultation responsibilities outside the terms of this Agreement.

C. US Forest Service Responsibilities

1. USFS will defer to FHWA for Section 106 compliance pursuant to this Agreement for Federal-aid Highway Program-funded or approved transportation undertakings that cross USFS managed lands, except when, on a case-by-case basis, FHWA and USFS agree in writing that for a specific undertaking USFS will take the lead.
2. USFS is responsible for ensuring that the terms of this Agreement are carried out, and for all findings and determinations made pursuant to this Agreement, for Federal-aid Highway Program funded or approved undertakings on USFS land when USFS is the lead.

3. USFS retains the responsibility for government-to-government consultation with the Tribes when USFS is the Lead Federal Agency.

D. WSDOT and WFLHD Cultural Resources Specialist Responsibilities

1. WSDOT shall employ staff who meet the professional qualifications cited in Stipulation III of this Agreement and who will independently perform the work and consultation described in 36 CFR §§ 800.3 – 36 CFR 800.5 (including any succeeding revisions to the regulations) on behalf of FHWA or USFS. Assignment of these responsibilities is based on adequate and appropriate performance by WSDOT as evaluated in monitoring by FHWA and USFS pursuant to Stipulation XIII.A of this Agreement.
2. WFLHD staff meeting the professional qualifications cited in Stipulation III of this Agreement shall perform the work and consultation described in 36 CFR §§ 800.3 – 36 CFR 800.5 for WFLHD undertakings. For WFLHD undertakings that occur entirely on federal lands, and the federal agencies with jurisdiction over these lands choose to be the Lead Federal Agency for these undertakings, these agencies shall meet their Section 106 responsibilities outside the terms of this Agreement.
3. These responsibilities to be carried out by WSDOT and WFLHD Cultural Resources Specialists include the following.
 - a. Determine whether the undertaking is a type of activity that has no potential to cause effects on historic properties pursuant to 36 CFR § 800.3(a).
 - b. Determine whether the undertaking may occur on or has the potential to affect historic properties on Tribal lands pursuant to 36 CFR § 800.3(c) and (d).
 - c. Solicit public comment and involvement pursuant to 36 CFR § 800.3(e).
 - d. Identify additional consulting parties who should be invited to participate in the undertakings covered by this Agreement pursuant to 36 CFR § 800.3(f).
 - e. Determine and document, in consultation with the SHPO, Tribes, and consulting parties the scope of identification efforts and level of effort, including the undertaking's area of potential effects (APE) pursuant to 36 CFR § 800.4(a) and (b).
 - f. In consultation with the SHPO, Tribes, and consulting parties identify properties

within the APE included in or eligible for listing in the NRHP pursuant to 36 CFR § 800.4.

- g. Determine whether historic properties may be affected by the undertaking by applying the criteria of adverse effect pursuant to 36 CFR § 800.5(a)(1).
- h. Resolve any adverse effects in consultation with the appropriate Lead Federal Agency or Agencies, the SHPO, the ACHP (if it has chosen to participate), Tribes, and any other consulting parties, through the development, circulation, and execution of a Memorandum of Agreement pursuant or a Programmatic Agreement pursuant to 36 CFR § 800.6.
- i. WSDOT shall provide FHWA or USFS copies of all correspondence sent out on its behalf (e.g., letter to SHPO, Tribes, or consulting parties).
- j. WFLHD will maintain its own separate mailing, files, and records.

E. SHPO Responsibilities

1. SHPO shall advise and assist the Federal Agencies and WSDOT in meeting their respective Section 106 responsibilities through the terms of this Agreement pursuant to 36 CFR § 800.2(c)(1).
2. SHPO shall respond to requests from the Federal Agencies and WSDOT, or their designee (such as consultants), for information held by SHPO regarding historic properties.
3. SHPO shall review activities carried out pursuant to this Agreement, which includes reviewing annual reports on undertakings exempted from Section 106 review in accordance with Stipulation XIII.A; and Project scope changes that did not require additional consultation with SHPO, in accordance with Stipulation IX.
4. SHPO shall participate in the annual meeting, if one is held, to evaluate implementation of this Agreement as provided for in Stipulation XIII.A.

F. ACHP Responsibilities

1. ACHP shall be notified of findings of adverse effect by the appropriate Lead Federal Agency in accordance with the notification requirements in 36 CFR § 800.6(a)(1). Upon notification of an adverse effect, the Lead Federal Agency will invite ACHP to participate in resolving the adverse effect of the undertaking.

2. The Lead Federal Agency shall invite ACHP to attend the annual meeting, if one is held, to evaluate implementation of this Agreement according to Stipulation XIII.A. ACHP participation in the annual meeting is optional.
3. In accordance with Stipulation XIII.C, ACHP shall participate in resolving disputes that may occur through the implementation of this Agreement when the applicable Federal Agency, in consultation with the objecting party, is unable to resolve the dispute.

V. Consultation with Tribes

- A. The Federal Agencies recognize that they have a unique legal relationship with the Tribes set forth in the Constitution of the United States, treaties, statutes, and court decisions; and that consultation with the Tribes must therefore recognize the government-to-government relationship between the federal government and the Tribes. Nothing in this Agreement affects or changes FHWA, USFS, or WFLHD trust responsibilities and obligations toward the Tribes.
- B. Consultation with the Tribes must also recognize and respect the government-to-government relationships that exist among Federal and State governments and the Tribes. The Section 106 review process is one of the consultations within the framework of those government-to-government relationships established by the NHPA, treaties, and other laws, agreements, and policies. This includes the Washington State *Centennial Accord between the Federally Recognized Indian Tribes in Washington State and the State of Washington*, dated August 4, 1989. The purpose of the accord between the Governor of Washington State and the 29 federally recognized Indian tribes is to better achieve mutual goals through an improved relationship between their sovereign governments and provides the framework for a government-to-government relationship.
- C. WSDOT and the Federal Agencies shall ensure that the Tribes are provided information regarding proposed undertakings early in project planning and are invited to participate in consultation in accordance with the requirements of Title 54 U.S.C § 306102 of the NHPA and 36 CFR Part 800. Nothing in this Agreement abrogates the FHWA, USFS, or WFLHD's responsibility for government-to-government consultation with the Tribes at their request. Upon receipt of a written request from any Tribe or officially designated representative of a Tribe to consult with FHWA or USFS in lieu of or in addition to WSDOT, FHWA or USFS shall consult with that Tribe for the particular undertaking or program.

- D. WSDOT shall document any consultation it conducts with the Tribes on behalf of FHWA or USFS, and provides FHWA or USFS, respectively, the opportunity to participate directly in such consultation on individual undertakings as the circumstances warrant. WSDOT shall keep FHWA or USFS informed of the status of such consultation, provide advance notice of meetings so that FHWA or USFS respectively will have the opportunity to attend if desired, and supply documents including meeting notes and correspondence to FHWA or USFS respectively to meet the needs of effective consultation. WSDOT, and the Federal Agencies shall abide by the confidentiality provisions of Stipulation XVI in determining what information may be provided to non-federal parties (54 U.S.C. § 307103).
- E. Before stipulations of this Agreement regarding tribal consultation may be implemented, the Federal Agencies shall send a joint letter to each Tribe in Washington State, as well as to Tribes outside the State with interests in historic properties in the State, notifying the Tribes of the execution of this Agreement. The letter shall transmit a copy of this Agreement to the Tribes, noting that WSDOT may initiate consultation with the Tribes for FHWA and USFS undertakings carried out under provisions of this Agreement. The Tribes shall be given the option of consulting directly with FHWA or USFS for individual undertakings or types of undertakings.
- F. The Federal Agencies shall provide SHPO with all copies of tribal correspondence unless a Tribe requests otherwise. Federal agencies will make it clear to Tribes that correspondence will be subject to the State Public Records Act unless explicitly exempted under RCW 42.56.310.
- G. Upon request, WSDOT shall accommodate any Tribe that wishes to monitor construction for a Program funded transportation project.

VI. Participation of Other Consulting Parties and the Public

A. Additional Consulting Parties

1. Consulting parties shall be identified by WSDOT, USFS, or by WFLHD's Cultural Resources Specialists, in consultation with the SHPO pursuant to 36 CFR § 800.3(c-f). The participation of consulting parties in undertakings covered under this Agreement shall be governed by 36 CFR § 800.3(f)(3).
2. Individuals and organizations with a demonstrated interest in an undertaking shall be

invited by WSDOT in consultation with the appropriate Lead Federal Agency to participate in the Section 106 process. Any landowner whose land may be affected by an undertaking shall be invited by WSDOT, USFS or WFLHD, to participate in the Section 106 process.

3. Written requests by individuals, organizations, and agencies to become consulting parties shall be evaluated on a case-by-case basis by WSDOT in consultation with FHWA or USFS, and by WFLHD, in consultation with the SHPO.

B. Public Involvement

1. Public involvement in planning and implementing undertakings covered by this Agreement shall be governed by the environmental compliance procedures of the Federal Agencies and WSDOT. Public involvement and the release of information shall be consistent with 36 CFR §§ 800.2(d), 800.3(e), and 800.11(c)(1 and 3).
2. WSDOT, USFS, or WFLHD shall continue to seek and consider the views of the public in a manner that reflects the nature and complexity of the undertaking and its effects on historic properties, and the likely interest of the public in the effects on historic properties, to remain consistent with the intent of 36 CFR Part 800.
3. WSDOT shall make FHWA, USFS and SHPO aware of any and all public controversies as it relates to the historic properties potentially affected by the proposed undertaking, including properties of religious and cultural significance to the Tribes.
4. WFLHD shall make SHPO aware of any and all public controversies as it relates to the historic properties potentially affected by the proposed undertaking, including properties of religious and cultural significance to the Tribes.

VII. Review of Section 106 Undertakings

A. Undertakings with No Potential to Cause Effects

1. Undertakings that have no potential to cause effects on historic properties, pursuant to 36 CFR § 800.3(a)(1), are defined as those actions that by their nature, will not result in effects to historic properties. FHWA and the ACHP define these actions as non-construction related activities. For example, purchasing equipment, planning, and design all fall under this portion of the regulation and do not require any further

obligations under Section 106. Questions about applicability of 36 CFR § 800.3(a)(1) should be referred to the FHWA Federal Preservation Officer (FPO).

2. WSDOT or WFLHD Cultural Resources Specialists shall determine if an undertaking has no potential to cause effects, based on the above definition, and any undertaking so determined will not require further Section 106 review.

B. Screened Undertakings

1. WSDOT or WFLHD Cultural Resources Specialists shall review Program funded or approved undertakings to determine if all terms and conditions set forth in this stipulation and Appendix B of this Agreement, as applicable, are satisfactorily met for Screened Undertakings. At a minimum, this determination will be based on a review of Washington Information System for Architectural and Archaeological Records Data (WISAARD) records, project files, and project plans and specifications. Where WSDOT or WFLHD determines an undertaking is exempt from further review, that determination shall be documented and placed in the project file. At the end of each month, WSDOT will send an e-mail to the cultural resources contact for each tribe listed in Appendix A with that month's exemptions for tribal review.
2. Field investigations will be performed at the discretion of the Cultural Resource Specialists for WSDOT or WFLHD in order to determine if an undertaking meets the conditions listed Appendix B. Provided an undertaking is limited to the activities and meets the conditions listed in Appendix B, and has no known public controversy related to historic properties, no further consultation pursuant to Section 106 will be required.
3. This Agreement does not apply to tribal lands as defined in 36 CFR § 800.16(x). In situations where undertakings meet the terms and conditions of this stipulation and meet the conditions listed in Appendix B, but portions of the undertaking are located on tribal lands, WSDOT or WFLHD will apply the screening per Appendix B to those portions of the undertaking that are not on Tribal lands. For portions of the undertaking that are on tribal lands, WSDOT or WFLHD shall conduct Section 106 review pursuant to 36 CFR Part 800 outside the terms of this Agreement.

C. Other Undertakings

1. WSDOT or WFLHD's Cultural Resources Specialists shall review any undertaking that does not meet the terms and conditions of Appendix B in accordance with their respective responsibilities under Stipulation IV.D of this Agreement and shall follow

D. Documenting Completion of Section 106 Commitments to Resolve Adverse Effects on Historic Properties

1. When a Memorandum of Agreement or Programmatic Agreement is prepared to resolve adverse effects pursuant to Stipulation IV.D.3.h of this Agreement, WSDOT or WFLHD will report on the progress of implementing the commitments to resolve adverse effects stipulated in the Memorandum of Agreement or Programmatic Agreement, in the annual report required under Stipulation XIII.A of this Agreement. When all commitments included in a Memorandum of Agreement or Programmatic Agreement are completed WSDOT or WFLHD will notify all signatories to that agreement and document the completion of the commitments in the annual report required under Stipulation XIII.A of this Agreement. Should any signatory to the Memorandum of Agreement or Programmatic Agreement dispute that all commitments to resolve adverse effects are complete they can invoke the dispute resolution stipulation of that Memorandum of Agreement or Programmatic Agreement.

VIII. Bridges and Culverts

A. Bridges and Culverts Covered by ACHP Program Comment on Post-1945 Concrete and Steel Bridges

1. WSDOT has identified post-1945 concrete and steel bridges and culverts having some exceptional quality, pursuant to the ACHP Program Comment on Post-1945 Concrete and Steel Bridges (Federal Register / Vol. 77, No. 222 / Friday, November 16, 2012). The list of post-1945 concrete and steel bridges and culverts with some exceptional quality is maintained by WSDOT and FHWA.
2. No further Section 106 review will be required for any post-1945 concrete and steel bridges and culverts that are not on the list of bridges and culverts recognized as having some exceptional quality, pursuant to the ACHP Program Comment. Undertakings involving bridges and culverts that are not recognized as having some exceptional quality, pursuant to the ACHP Program Comment, will still be reviewed for activities that may have an effect on other types of historic properties that are not exempted by the ACHP Program Comment, such as archaeological sites. WSDOT or WFLHD shall review undertakings involving post-1945 concrete and steel bridges and culverts having some exceptional quality, if they are not screened and exempted from review under Appendix B, as further discussed below.

B. Additional Review of Undertakings Affecting Bridges and Culverts

1. Undertakings that may affect bridges and culverts that are NRHP listed or eligible, including post-1945 concrete and steel bridges recognized for their exceptional quality under the ACHP Program Comment, shall be reviewed by WSDOT or by WFLHD under the procedures for screened and exempted actions in Appendix B. If the conditions in Appendix B are met, there will be no further review.
2. Undertakings that may affect bridges that are NRHP listed or eligible, that are not exempted from review under Appendix B, shall also be reviewed by WSDOT or WFLHD under Appendix B if the work involves a seismic retrofit. Should one or more of the seismic retrofits listed in Appendix B apply, there will be no further review.
3. Undertakings that may affect bridges and culverts that are not exempted from review under Appendix B, and do not involve seismic retrofits listed in Appendix B, shall be reviewed by WSDOT or WFLHD in accordance with their respective responsibilities under Stipulation IV.D.
4. Undertakings involving bridges and culverts that are not listed in the NRHP or are determined not eligible for listing in the NRHP, will require no further review by WSDOT or by WFLHD, unless the bridges are part of a larger historic property such as a historic road or district.
5. Where feasible, preservation/rehabilitation rather than replacement will be the preferred measure to resolve adverse effects to a NRHP listed or eligible bridge. WSDOT or WFLHD shall meet their responsibilities to resolve the adverse effects of the undertaking in accordance with Stipulation IV.D. h of this Agreement.
6. WSDOT or WFLHD will not document concrete and steel culverts that predate 1945 as part of the historic property identification process, unless the culvert is associated with a NRHP listed or eligible historic road, or the culvert was constructed during the Depression era by the Civilian Conservation Service, the Works Project Administration or other historic work programs.

IX. Changes in Project Scope

- A. When there is a project scope change, or a new project element is added to an undertaking after Section 106 review has concluded, or when a project undergoes an

environmental re-evaluation, then WSDOT in consultation with the appropriate Lead Federal Agency, or WFLHD shall assess the need for additional consultation with SHPO and other consulting parties as follows.

B. Additional consultation will not be required under the following conditions:

1. The APE has not changed beyond the limits of previous identification efforts; and
2. There is no change to the effects finding; and
3. Less than 5 years have passed since historic properties have been documented within the APE; or
4. The project scope change is an undertaking listed in Appendix B and will require no further review.
5. There has been no change to ground surface visibility due to natural or manmade causes.

C. If the above conditions are not met, WSDOT or WFLHD, in consultation with the appropriate Lead Federal Agency, SHPO and other consulting parties, shall review the project in accordance with their respective responsibilities under Stipulation IV.D.

X. Emergency Situations

- A. Emergencies are defined as occurrences that require emergency highway system and facility repairs that are necessary to protect the life, safety, or health of the public; minimize the extent of damage to highway or transit systems and facilities; protect remaining highway or transit facilities; and restore essential traffic and function.
- B. Repairs to address emergency situations as defined above can occur regardless of funding category, and regardless of declarations made by federal, state, or local agencies. WSDOT or WFLHD shall review the emergency repair project to determine if it is listed in Appendix B as an undertaking with minimal potential to cause effects to historic properties, as follows:
1. If the emergency repair project is listed, and the conditions for exemption for review are met, WSDOT or WFLHD shall note this determination for the project file and no further consultation will be required.

2. If the emergency repair is not listed, and the conditions for exemption for review are not met, and the emergency repair could affect historic properties, WSDOT shall notify SHPO, the Lead Federal Agency, and the Tribes within 72 hours following the repair project. If WFLHD is the Lead Federal Agency, WFLHD shall notify SHPO and the Tribes within 72 hours following the repair project.
- C. For repair undertakings that must be made within the first 30 days of the emergency declaration, the processing of environmental documentation will happen concurrently, when practicable, or after the fact. For repair undertakings taking longer than 30 days after the emergency declaration WSDOT, on behalf of the Lead Federal Agency; or WFLHD, shall review the project in accordance with their respective responsibilities under Stipulation IV.D.

XI. Post-Review Discoveries

A. Planning for Subsequent Discoveries

When identification efforts by WSDOT or WFLHD indicate that historic properties are likely to be discovered during implementation of an undertaking, WSDOT or WFLHD, in consultation with SHPO and the Tribes, shall include in any environmental document, contract, and specification an inadvertent discovery plan for such properties.

Implementation of the plan as originally proposed, or modified as necessary owing to the nature and extent of the properties discovered, will be in accordance with 36 CFR §§ 800.4 - 800.6.

B. Late Discoveries

1. If previously unidentified historic properties, or unanticipated effects, are discovered after WSDOT has completed its review under this Agreement, the contractor for the project shall immediately halt construction in that portion of the project in accordance with the WSDOT Standard Specification in 1-07.16(4) *Archaeological and Historical Objects* and Standard Specification 1-07.16(4)A *Inadvertent Discovery of Human Remains* Appendix D. WFLHD shall handle such occurrences in accordance with section 107.02 of their *Standard Specification for Construction of Roads and Bridges on Federal Highway Projects FP-14*.
2. WSDOT shall notify the appropriate Lead Federal Agency as soon as is practical, or within 24 hours. No further construction in the area of the discovery will proceed until the requirements of 36 CFR § 800.13 have been satisfied, including consultation with SHPO and the Tribes.

3. WSDOT or WFLHD shall notify the appropriate Lead Federal Agency and shall consult with SHPO and the Tribes to record, document, and evaluate NRHP eligibility of the property and the project's effect on the property, and design a plan for avoiding, minimizing, or mitigating adverse effects on the eligible property.
4. For WSDOT undertakings, if neither the SHPO nor a Tribe file an objection within 72 hours of the WSDOT's plan for addressing the discovery, WSDOT may carry out the requirements of 36 CFR § 800.13 on behalf of FHWA and the ACHP does not need to be notified.
5. For WFLHD undertakings, if neither SHPO nor a Tribe file an objection within 72 hours of WFLHD's plan for addressing the discovery, WFLHD may carry out the requirements of 36 CFR § 800.13 and the ACHP does not need to be notified.
6. For undertakings in which USFS is the lead federal agency, if neither the SHPO nor a Tribe file an objection within 72 hours of WSDOT's plan for addressing the discovery, WSDOT may carry out the requirements of 36 CFR § 800.13 on behalf of USFS, and the ACHP does not need to be notified.

XII. Identification and Treatment of Human Remains

- A. In the event that human remains are identified prior to, during, or after WSDOT project construction, WSDOT shall develop a treatment plan in consultation with the appropriate Lead Federal Agency and the SHPO. If it is determined that the human remains are Native American, WSDOT and the appropriate Lead Federal Agency shall consult with the Tribes prior to the development of a treatment plan.
- B. In the event that human remains are identified prior to, during, or after WFLHD project construction, WFLHD shall develop a treatment plan in consultation with the SHPO. If it is determined that the human remains are Native American, WFLHD shall consult with the Tribes prior to the development of a treatment plan.
- C. All work conducted on or involving human remains and abandoned cemeteries shall comply with Chapter 27.44 Revised Code of Washington, if on the public or private lands of the State of Washington.
- D. All work involving human remains and abandoned cemeteries on federal lands shall comply with the Native American Graves Protection and Repatriation Act (25 U.S.C. Ch. 32 § 3001 et seq).

XIII. Administrative Stipulations

A. Monitoring and Reporting

1. The Federal Agencies, with assistance from WSDOT, shall prepare an annual report on the implementation of this Agreement for the signatories. The report will be made available to the public and consulted Tribes, and any other consulting parties who were consulted in the preparation of this Agreement if they notify the Federal Agencies or WSDOT of the desire to receive the report.
2. WSDOT shall document in the annual report all undertakings exempted by WSDOT from further Section 106 review in accordance with Stipulation VII.B and the procedures in Appendix B of this Agreement.
3. WFLHD shall document in the annual report, all undertakings exempted by WFLHD from further Section 106 review in accordance with Stipulation VII.B and the procedures in Appendix B of this Agreement.
4. The Federal Agencies, SHPO and WSDOT will consult via e-mail to determine if a formal annual review meeting is needed to evaluate the implementation of this Agreement. The Federal Agencies shall notify ACHP of any review meetings and the ACHP may participate at its discretion. Notes documenting any review meetings held shall be distributed to the Federal Agencies, WSDOT, SHPO, and the ACHP. Through these reviews, performance measures may be adopted for purposes of accountability and reporting to the signatories of this Agreement and consulting parties who were consulted in the preparation of this Agreement.
5. Each WSDOT region and mode shall on an annual basis contact the Tribes to review ongoing effectiveness of this Agreement with regard to tribal consultation, and to discuss upcoming undertakings. The manner of communication with the Tribes will be determined by each WSDOT region and mode, in conjunction with affected Tribes, with the objective of effective, meaningful consultation.
6. Each WSDOT region and mode shall submit an annual report to WSDOT Headquarters (HQ) summarizing their outreach to the Tribes. WSDOT HQ will incorporate these regional reports into its own statewide summary of Tribal outreach and submit this report to the Federal Agencies. This report shall be submitted by the end of the Federal fiscal year, September 30.

B. Training

WSDOT and the Federal Agencies shall coordinate to conduct training in cultural resources management, the Section 106 requirements, and the implementation procedures of this Agreement, both for Cultural Resources Specialists and for other agency employees. WSDOT will prepare and hold the first training session within one year of the implementation of this Agreement and then annually thereafter.

C. Resolving Objections to Implementation of this Agreement

1. Should any signatory object in writing to FHWA, USFS, or WFLHD regarding the way the terms of this Agreement are carried out, that Federal agency shall immediately notify the other signatory parties of the objection and proceed to consult with the objecting party to resolve the objection. FHWA, USFS, or WFLHD shall honor the request of any signatory to participate in the consultation and will take any comments provided by such parties into account. FHWA, USFS, or WFLHD will establish a reasonable time frame for such consultations.
2. Should any signatory object to a determination of NRHP eligibility made by WSDOT or FHWA, USFS, or WFLHD; then FHWA, USFS, or WFLHD shall submit the determination to the Keeper of the National Register of Historic Places for resolution pursuant to 36 CFR § 800.4(c)(2).
3. If the objection is resolved through consultation, FHWA, USFS, or WFLHD may authorize the disputed action to proceed in accordance with the terms of such resolution.
4. If after initiating such consultation, FHWA, USFS or WFLHD determines that the objection cannot be resolved through consultation, FHWA, USFS, or WFLHD shall forward all documentation relevant to the objection to the ACHP and other signatories, including FHWA, USFS, or WFLHD's proposed response to the objection. Within 30 days after receipt of all pertinent documentation, ACHP shall exercise one of the following options:
 - a. Advise FHWA, USFS or WFLHD that ACHP concurs in FHWA, USFS or WFLHD's proposed response to the objection, whereupon FHWA, USFS or WFLHD will respond to the objection accordingly; or
 - b. Provide FHWA, USFS or WFLHD with recommendations, which FHWA, USFS or WFLHD will take into account in reaching a final decision regarding its response to the objection; or

- c. Notify FHWA, USFS or WFLHD that the objection will be referred for comment pursuant to 36 CFR § 800.7(a)(4) and proceed to refer the objection and comment. In this event, FHWA, USFS or WFLHD will take the resulting comments into account in accordance with 36 CFR § 800.7(c)(4).
5. Should ACHP not exercise one of the foregoing options within 30 days after receipt of all pertinent documentation, FHWA, USFS or WFLHD may assume ACHP's concurrence in its proposed response to the objection.
6. FHWA, USFS or WFLHD shall take into account any ACHP recommendation or comment and any comments from the other signatories to this Agreement in reaching a final decision regarding the objection. FHWA, USFS or WFLHD's responsibility to carry out all actions under this Agreement that are not the subjects of the objection shall remain unchanged.
7. FHWA, USFS or WFLHD shall provide all other signatories to this Agreement with a written copy of its final decision regarding any objection addressed pursuant to this Stipulation.
8. FHWA, USFS or WFLHD may authorize any action subject to objection under this Stipulation to proceed, provided the objection has been resolved in accordance with the terms of this Stipulation.
9. At any time during implementation of the terms of this Agreement, should any member of the public raise an objection in writing pertaining to such implementation to any signatory to this Agreement, that signatory shall immediately notify FHWA, USFS or WFLHD. FHWA, USFS or WFLHD shall immediately notify the other signatories in writing of the objection. Any signatory may choose to comment on the objection to FHWA, USFS or WFLHD. FHWA, USFS or WFLHD shall establish a reasonable time frame for this comment period. FHWA, USFS or WFLHD shall consider the objection, and in reaching its decision, shall take all comments from the other parties into account. Within 15 days following closure of the comment period, FHWA, USFS or WFLHD shall render a decision regarding the objection and respond to the objecting party. FHWA, USFS or WFLHD shall promptly notify the other parties of its decision in writing, including a copy of the response to the objecting party.

D. Documentation Standards

All documentation that supports findings and determinations made under this

Agreement must be consistent with 36 CFR § 800.11 and meet SHPO documentation and uploading requirements to WISAARD.

E. WSDOT Curation Policy

WSDOT's curation policy can be found in the WSDOT Environmental Manual Chapter 456.

XIV. Amendment

- A. Any signatory to this Agreement may at any time propose amendments, whereupon all signatories shall consult to consider such amendment. This Agreement may be amended only upon written concurrence of all signatories.
- B. Each Appendix to this Agreement may be individually amended through consultation of the signatories without requiring amendment of the Agreement unless the signatories through such consultation decide otherwise.

XV. Termination

- A. Any signatory to this Agreement may terminate the Agreement by providing thirty (30) calendar days-notice in writing to the other signatories explaining the reason for termination, provided that the signatories will consult during the period prior to termination to seek agreement on amendments and other actions that would avoid termination.
- B. Should such consultation result in an agreement on an alternative to termination, the signatory parties shall proceed in accordance with that agreement.
- C. Should such consultation fail, the signatory party proposing termination may terminate their agency's participation in this Agreement by promptly notifying the other parties in writing; the termination of this Agreement by either WFLHD or USFS does not terminate the Agreement for the other signatories.
- D. Should an agency's participation in this Agreement be terminated, that agency would carry out the requirements of 36 CFR Part 800 for individual undertakings.
- E. If all parties agree to termination, beginning with the date of termination, FHWA, WFLHD or USFS shall ensure that until and unless a new Agreement is executed for the actions covered by this Agreement, such undertakings shall be reviewed individually in

accordance with 36 CFR § 800.4-800.6.

XVI. Confidentiality

All signatories to this Agreement acknowledge that information about historic properties, unevaluated historic properties, or properties considered historic for purposes of this Agreement are or may be subject to the provisions of Section 304 of the NHPA. Section 304 allows the Federal Agencies to withhold from disclosure to the public, information about the location, character, or ownership of a historic property if the Federal Agencies determine that disclosure may 1) cause a significant invasion of privacy; 2) risk harm to the historic resource; or 3) impede the use of a traditional religious site by practitioners. Having so acknowledged, all parties to this Agreement shall ensure that all actions and documentation prescribed by this Agreement are, where necessary, consistent with the requirements of 54 U.S.C. § 307103 of the NHPA.

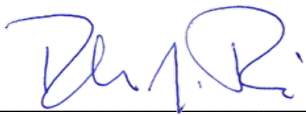
XVII. Duration of Agreement

This Agreement shall remain in effect for a period of five years after the date it takes effect unless it is terminated prior to that time. Ninety days prior to the conclusion of the five-year period, WSDOT and WFLHD shall notify all signatories in writing. The term of this Agreement may be extended for an additional five years by an amendment signed by all the signatories. If any signatory objects to extending this Agreement, or proposes additional amendments, the signatories shall consider amendments or other actions to avoid termination.

Execution and implementation of this Agreement evidence that FHWA and USFS have delegated certain Section 106 responsibilities to WSDOT, and FHWA, USFS, and WFLHD have afforded ACHP a reasonable opportunity to comment on the Programs and their individual undertakings in Washington; that FHWA, USFS, or WFLHD have taken into account the effects of the Programs and their individual undertakings on historic properties, and that FHWA, USFS, or WFLHD have complied with Section 106 of the NHPA and 36 CFR 800 for Program and their individual undertakings.

SIGNATURE BLOCKS



Signatories:

By:  _____
Ralph J. Rizzo, Division Administrator
Federal Highway Administration Washington Division

Date: November 16, 2023

SIGNATURE BLOCKS


Signatories:

By:   Digitally signed by KEVIN LORIN
MCLAURY
Date: 2023.11.20 11:41:47 -08'00' Date: 11/20/20233 _____

Kevin McLaury, P.E., Director
Federal Highway Administration Western Federal Lands Highway Division


SIGNATURE BLOCKS

Signatories:

By:  Allyson Brooks (Nov 15, 2023 12:18 PST) Date: Nov 15, 2023
Allyson Brooks, Ph.D., Director, State Historic Preservation Officer
Washington State Department of Archaeology and Historic Preservation

SIGNATURE BLOCKS

Signatories:

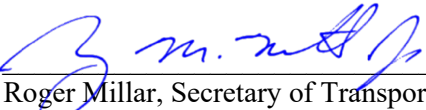
By: 

Reid Nelson, Executive Director
Advisory Council on Historic Preservation

Date: 12/21/2023

SIGNATURE BLOCKS

Invited Signatories:

By: 

Roger Millar, Secretary of Transportation
Washington State Department of Transportation

Date: 11/22/2023

SIGNATURE BLOCKS

Invited Signatories:

By: **MERV**
GEORGE _____

Digitally signed by MERV
GEORGE
Date: 2023.11.20
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Date: _____

(for) Elizabeth Berger, Acting Regional Forester
United States Forest Service, Region 6

APPENDIX A

Tribal Consultation

During the development of this agreement, FHWA and WSDOT consulted with 29 federally recognized Washington state tribes and 5 federally recognized out-of-state tribes.

Washington State Tribes

Chehalis Confederated Tribes	Quinault Indian Nation
Colville Confederated Tribes	Samish Nation
Cowlitz Indian Tribe	Sauk-Suiattle Tribe
Hoh Indian Tribe	Shoalwater Bay Tribe
Jamestown S'Klallam Tribe	Skokomish Tribe
Kalispel Tribe of Indians	Snoqualmie Indian Tribe
Lower Elwha Klallam Tribe	Spokane Tribe of Indians
Lummi Nation	Squaxin Island Tribe
Makah Nation	Stillaguamish Tribe of Indians
Muckleshoot Tribe	Suquamish Tribe
Nisqually Tribe	Swinomish Tribe
Nooksack Tribe	Tulalip Tribes
Port Gamble S'Klallam Tribe	Upper Skagit Tribe
Puyallup Tribe	Yakama Nation
Quileute Nation	

Out-of-State Tribes

Coeur D'Alene Tribe
Confederated Tribes of Grand Ronde Community of Oregon
Confederated Tribes of Warm Springs
Confederated Tribes of the Umatilla
Nez Perce Tribe

APPENDIX B

Screened Highway, Bridge, and Transit Infrastructure Projects Presumed to Have Minimal Potential to Cause Effects:

Screened Projects are those actions whose effects to historic properties are foreseeable and will have minimal effect on historic properties. Following appropriate screening, these projects, which are listed below, may be determined exempt from further review or consultation under this Agreement. Screened Projects require internal review by a SOI-qualified WSDOT or WFLHD professional to determine if a project meets all of the terms and conditions in this appendix and that no particular circumstances exist that would call for additional review. If no such circumstances exist, WSDOT's or WFLHD's SOI-qualified staff will document the finding that the project is exempt from further review, and place documentation on the finding in the project file as specified in Stipulation VII.B and produce a report of Screened Projects, as specified in Stipulation XIII.A.

If at any time during the project information becomes available and/or there is a change in project scope that would make this screening procedure inapplicable, including but not limited to the discovery of historic properties or human remains, Section 106 review shall be initiated by WSDOT, on behalf of FHWA or USFS, or by WFLHD in accordance with their respective review responsibilities under Stipulation IV.D and/or under Stipulations XII.B and XIII, as applicable.

- A-1 Roadway surface replacement, overlays, shoulder treatments, rumble strips, pavement repair, seal coating, pavement grinding, and pavement marking that do not include ground disturbance or are within the demonstrated vertical and horizontal limits of previous disturbance.
- A-2 Installation, replacement, or repair of maintenance equipment, safety appurtenances, and traffic control devices, including but not limited to guardrails, barriers, glare screens, snow and ice detectors, energy attenuators, cameras, lighting, signs, signals, informational signage/kiosks, and Intelligent Transportation Systems and components, provided the activity is in-kind replacement or does not include ground disturbance or is within the demonstrated vertical and horizontal limits of previous construction or disturbance.
- A-3 Fencing within the demonstrated vertical and horizontal limits of previous construction or disturbance.
- A-4 Landscaping or revegetation within the demonstrated vertical and horizontal limits of previous construction or disturbance.
- A-5 In-kind emergency repairs to maintain the structural integrity of a bridge, structure, or roadway, and to remove landslide and rockslide material from travel lanes and shoulders. Applies only to areas within the demonstrated vertical and horizontal limits of previous disturbance.
- A-6 Hazardous waste removal and disposal that requires immediate removal within the demonstrated vertical and horizontal limits of previous construction or disturbance.
- A-7 Work within existing permitted material source pits, quarries or other borrow sources; or

borrow pits that have been previously inventoried by WSDOT and where no cultural resources were identified.

- A-8 Stripping and painting of bridges.
- A-9 Repair or replacement of bridge deck and highway joints, expansion joints, and failed grout; limited to similar materials and design.
- A-10 Bridge deck pavers and striping projects.
- A-11 In-kind repair or replacement of curb and gutter, sidewalks and catch basins, and other components of NRHP bridges not considered character defining. Applies only to areas within the demonstrated vertical and horizontal limits of previous disturbance.
- A-12 Removal of vegetation or fallen rock in the clear zone along a roadway.
- A-13 Work within interchanges, medians of divided highways, or between a highway and an adjacent frontage road within the demonstrated vertical and horizontal limits of previous construction or disturbance.
- A-14 All work on road ditches and channels including reestablishment of existing ditches to original width. Applies only to areas within the demonstrated vertical and horizontal limits of previous disturbance. Does not apply to irrigation ditches or canals.
- A-15 Correcting substandard roadway geometrics and intersections, provided that such improvements do not extend beyond the limits of previously disturbed areas of the existing right-of-way. These improvements would include but are not limited to roundabouts, turning lanes and pockets, improved turning radii, auxiliary lanes, traffic channelization, divisional and refuse island, acceleration/deceleration lanes, BAT lanes, sidewalks, shoulder widening, and installation of curbs and gutters.
- A-16 Slope flattening done within the demonstrated vertical and horizontal limits of previous construction or disturbance.
- A-17 Placement of riprap or other erosion control method to prevent erosion. Applies only to areas within the demonstrated vertical and horizontal limits of previous disturbance.
- A-18 Construction activities in areas of continuous slides, other mass wasting, or unstable landforms as evidenced by geotechnical core samples or other geotechnical evaluation.
- A-19 Roadway widening within the demonstrated vertical and horizontal limits of previous construction or disturbance
- A-20 Installation, repaving, regrading, maintenance, repair, or rehabilitation of bicycle and pedestrian lanes, paths, trails, and related facilities within the demonstrated vertical and horizontal limits of previous construction or disturbance.

- A-21 Trenching or other excavation to install, replace, or repair electrical, water, sewer lines, fiber optics, telephone cable, or other utilities within the demonstrated vertical and horizontal limits of previous construction or disturbance.
- A-22 Construction staging areas or other locations proposed for temporary use during construction within the demonstrated vertical and horizontal limits of previous construction or disturbance.
- A-23 Geotechnical borings, data collection, and non-invasive environmental sampling required to support the planning or design of an undertaking.
- A-24 Soil pits dug by hand using shovels or augers for delineating wetland boundaries, characterizing wetland soils, or characterizing potential hazardous materials.
- A-25 Borrowing of rock and rock removal and stabilization activities (e.g. rock scaling, bolting) within existing rights-of-way.
- A-26 Real estate leases and surpluses. Early acquisition/purchase of real estate where no physical changes to the property are part of the planned acquisition/purchase. If any physical changes are planned, this project cannot be reviewed under this Appendix and will require further review under Stipulation IV.D and/or under Stipulations XII.B and XIII, as applicable.
- A-27 Stormwater retrofit activities designed to divert and treat highway or transit facilities runoff including but not limited to installation of curbing, spillways, filter strips, and biofiltration swales, within the demonstrated vertical and horizontal limits of previous construction or disturbance.
- A-28 Installation of new street and transit shelter/station furniture and landscaping; upgrading existing pedestrian and bike signals; and installation of and improvements to sidewalk features to meet Americans with Disabilities Act (ADA) requirements, under the following conditions: A) project area is not within a NRHP listed or eligible district and is within the area of demonstrated vertical and horizontal previous disturbance, and b) activities will not impact existing historic streetscape materials and/or features (such as brick walkways, stone curbs, markers, mounting blocks, etc.).
- A-29 All Interstate components not included in FHWA's Final List of National and Exceptionally Significant Features of the Interstate Highway System.
(https://www.environment.fhwa.dot.gov/histpres/highways_list.asp).
- A-30 Repair and/or maintenance activities at bus stop or transit station sites on existing shelters, signs, pads, sidewalks, lights, fare collection and other passenger amenities, including ADA improvements. Applies only to areas within the demonstrated vertical and horizontal limits of previous disturbance.
- A-31 Replacement at bus stop sites of existing shelters, signs, pads, sidewalks, lights, fare collection and other passenger amenities, provided the replacements are in-kind (i.e., the same or

comparable in size, appearance, and function) and they are within the existing horizontal and vertical footprint, or extend the footprint only minimally to accommodate improvements, and any ground disturbance is minimal and is in previously disturbed areas.

- A-32 Improvements inside an existing bus shelter or station that have no visual impact or minimal visual impact to those outside the shelter (e.g., adding light or transit information signage in an existing shelter).
- A-33 Placing a bus stop and bus stop/information sign, but not a shelter, at a new location. Applies only to areas within the demonstrated vertical and horizontal limits of previous disturbance.
- A-34 Acquisition, installation, rehabilitation, replacement, and maintenance of equipment, within or accommodated by existing facilities, that does not result in a change in functional use of the facilities, such as: equipment to be located within existing facilities and with no off-site impacts.
- A-35 Maintenance and/or rehabilitation of stand-alone recreation, pedestrian, or bicycle facilities, such as: a pedestrian bridge and transit plaza amenities.

Screened Washington State Ferries Terminal Projects Presumed to Have Minimal Potential to Cause Effects:

- B-1 Minor repair and maintenance activities necessary for continued safe operation of terminal facilities including, but not limited to: repair and maintenance of wing wall rub timbers and polyethylene fender panels; wood, steel, and polyethylene dolphin fender panels; cross bracing; hanger bars; transfer spans; bolting and lashing on dolphins and other offshore structures; counterweight cables; repair and replacement of existing anchor chains and anchors associated with floating dolphins and wing dolphins; and repair to existing structures that are not NRHP eligible.
- B-2 Replacement of existing structures including, but not limited to, bridge seat, towers, wingwalls, dolphins, and overhead loading and passenger walkway facilities.
- B-3 Repair and replacement of trestles including decking, stringers, pile caps, and piling supporting the trestle, provided there is no expansion of the trestle.
- B-4 Repair and replacement of bulkheads of the same size and location.
- B-5 Roadway surface replacement, overlays, shoulder treatments, rumble strips, pavement repair, seal coating, pavement grinding, and pavement marking that do not include ground disturbance or is within the demonstrated vertical and horizontal limits of previous disturbance.
- B-6 Fencing within the demonstrated vertical and horizontal limits of previous construction or disturbance.

- B-7 Landscaping or revegetation within the demonstrated vertical and horizontal limits of previous construction or disturbance.
- B-8 Installation, replacement, or repair of safety appurtenances and traffic control devices, including but not limited to guardrails, barriers, glare screens, snow and ice detectors, energy attenuators, cameras, lighting, signs, signals, and informational signage/kiosks; provided the activity does not include ground disturbance or is within the demonstrated vertical and horizontal limits of previous construction or disturbance.
- B-9 Repair or replacement of curb and gutter, catch basins, and other drainage structures within the demonstrated vertical and horizontal limits of previous construction or disturbance.
- B-10 Emergency repairs to maintain the structural integrity of a structure.
- B-11 Geotechnical borings, data collection, and non-invasive environmental sampling required to support the planning or design of an undertaking.
- B-12 Trenching or other excavation to install, replace, or repair electrical, water, sewer lines, fiber optics, telephone cable, or other utilities within the demonstrated vertical and horizontal limits of previous construction or disturbance.
- B-13 Installation of bicycle and pedestrian lanes, paths, and related facilities within the demonstrated vertical and horizontal limits of previous construction or disturbance.
- B-14 Placement of riprap or other erosion control method to prevent erosion within the demonstrated vertical and horizontal limits of previous construction or disturbance.
- B-15 Installation, replacement, repair, or maintenance activities conducted on existing vessels, provided that the vessels are not NRHP eligible, or if NRHP eligible, the activities do not have a potential to affect the integrity of the character-defining elements that make the vessel eligible to the NRHP.

ATTACHMENT 1

Tribal Concurring Parties

The following Tribes have chosen to sign this agreement as Concurring Parties: