

**PROGRAMMATIC AGREEMENT  
AMONG THE FEDERAL HIGHWAY ADMINISTRATION,  
THE MISSOURI HIGHWAY AND TRANSPORTATION COMMISSION,  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, AND  
THE MISSOURI STATE HISTORIC PRESERVATION OFFICE  
FOR MINOR HIGHWAY PROJECTS**

**Whereas**, the Federal Highway Administration (FHWA) administers the Federal Aid Highway Program (FAHP) in Missouri authorized by 23 U.S.C. 101 et seq. through the Missouri Highway and Transportation Commission (MHTC); and

**Whereas**, the MHTC acts through the Missouri Department of Transportation (MoDOT) to ensure compliance with federal environmental and historic preservation law; and

**Whereas**, the MoDOT has participated in consultation and has been invited to be a signatory to this Programmatic Agreement (PA); and

**Whereas**, the MoDOT in its compliance with the National Environmental Policy Act (NEPA) seeks to coordinate historical and archaeological investigations, reviews and consultations as a single process; and

**Whereas**, the MoDOT undertakes Federal minor highway projects that qualify as Categorical Exclusions under the NEPA, as defined in 23 CFR 771, that do not individually or cumulatively have a significant impact on the environment, and therefore do not require the preparation of an environmental document; and

**Whereas**, the FHWA has determined that certain types of minor highway projects typically have little to no potential to affect properties included in or eligible for inclusion in the National Register of Historic Places (NRHP) and has consulted with the Advisory Council on Historic Preservation (ACHP) and the Missouri State Historic Preservation Office (MO SHPO) pursuant to Section 800.14(b) of the regulations (36 CFR 800 Subpart C) implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

**Whereas**, this Programmatic Agreement shall cover only those activities funded under the FAHP, administered by MoDOT; and

**Whereas**, the MoDOT has a staff of cultural resource specialists, including those who meet the professional qualifications in 36 CFR 61, Appendix A in the fields of archaeology, architectural history and history to carry out its historic preservation programs and responsibilities; and

**Whereas**, the FHWA, ACHP, MO SHPO and MoDOT executed a PA for Minor Projects on February 18, 2009, which expired on September 30, 2014, and the parties to the original agreement have consulted and agreed to this amended PA;

**Now, therefore**, the FHWA, ACHP, MO SHPO and MoDOT agree that the undertaking of minor highway projects shall be administered in accordance with the following stipulations,

exercising reasonable judgment and good faith, to satisfy the FHWA's Section 106 responsibilities for all individual undertakings covered by this PA.

## **Stipulations**

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

### **I. Purpose and Applicability**

This PA sets forth the process by which the FHWA will meet its responsibilities under Sections 106, 110(d), and 110(t) of the National Historic Preservation Act (NHPA), with the assistance of the MoDOT, for minor highway projects of the FAHP. Minor highway projects are defined as activities funded by the FAHP, that qualify as Categorical Exclusions under the NEPA, as defined in 23 CFR 771, that do not individually or cumulatively have a significant impact on the environment, and therefore do not require the preparation of an environmental document. This PA establishes the basis for the MoDOT's internal review of individual minor projects and establishes how the FHWA and MO SHPO will be involved in project review and monitoring.

This PA covers only activities carried out by MoDOT that are funded under the FAHP. The PA does not apply to cities and counties that sponsor projects utilizing federal transportation funds.

### **II. Responsibilities of the FHWA, the MoDOT, and the MO SHPO**

In compliance with its responsibilities under NHPA and as a condition of its award of any assistance for minor projects under the FAHP, the FHWA shall require the MoDOT to carry out the requirements of 36 CFR 800 and this PA, and applicable ACHP policies and guidance for all the MoDOT's minor projects that receive Federal assistance. The FHWA and the MO SHPO will participate in the process as specified in subsequent stipulations.

The MoDOT shall continue to employ professionals trained and qualified in the fields of archaeology, architectural history and history. These qualified MoDOT cultural resources professionals shall have responsibility for carrying out the requirements of this PA that are delegated to MoDOT.

This PA applies only to FHWA undertakings that either have no potential to affect historic properties, or through internal MoDOT review, are determined to have no potential historic properties within the area of potential effects. As such, it is not anticipated that consultation with Indian tribes or other consulting parties is needed for undertakings covered by this PA. If a tribe or other party raises concerns about effects to historic properties or requests consulting party status under 36 CFR 800.2, FHWA and the SHPO shall consider the request, and comply with the requirements of 36 CFR 800 to conclude consultation for the subject undertaking.

MoDOT shall use the public involvement policies set forth in Category 129: Public Involvement, of the MoDOT Engineering Policy Guide ([www.epg.modot.gov](http://www.epg.modot.gov)) to ensure

that the public is made aware of historic preservation issues and to solicit comments and concerns from the public regarding historic preservation concerns, where appropriate.

### **III. Guidelines, Standards and Regulations**

Guidelines, standards and regulations relevant to this PA and its purposes include:

- Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation: Identification (1983);
- 36 CFR 800: Protection of Historic Properties (2007), including the definitions found in 36 CFR 800.16..

### **IV. Projects with No Potential to Cause Adverse Effects**

#### **A. Project Types:**

The signatories to this PA agree that the project types listed below (provided the projects are limited to the activities specified and are not part of a larger undertaking), by their nature and definition, constitute undertakings that have no potential to cause adverse effects on historic properties (including bridges eligible for listing on the NRHP). Therefore, the following actions are categorically exempt from review in compliance with Section 106, provided the actions do not take place within an NRHP listed district and occur within existing right of way. Qualified MoDOT cultural resources professionals may, as needed, determine whether a particular project meets the following exemption categories:

1. Mowing, seeding/reseeding, planting of annual and perennial flowers, in-kind replacement of trees and shrubs, and other ground cover maintenance activities;
2. Installation or replacement/repair of fixed static signs, interconnection devices, surveillance cameras, closed circuit TV, co-location of antennae, and other minor incident and traffic management devices (not including variable message signs), accessible pedestrian signals, railroad warning devices, improved rail crossing surfaces, and underground cable;
3. In-kind replacement, reconstruction, or ordinary repair or modification of existing lighting, guardrails, modern fencing, traffic and pedestrian signals, curbs and gutters, sidewalks and ramps, variable message signs, and ADA retrofits or enhancements;
4. Activities that do not involve construction or ground disturbance, such as preliminary engineering, training, technical studies, non-invasive inspections, and educational programs;
5. Overlay, milling, grooving, chip sealing, repairing (concrete or asphalt patching or slurry seal), striping, or resurfacing of existing ramp, roadway and parking lot surfaces where there will be no expansion of wearing surfaces; or addition of

rumble strips, pavement markings (normal and raised), bus pads, bumper stops, bike racks, and snow and ice detectors to the same;

6. Routine bridge, culvert and structure maintenance and repair actions, including and limited to: cleaning of the bridge, sandblasting, in-kind painting of the bridge, in-kind replacement of bridge decking and expansion joints and compression seals; deck overlay with the same or similar materials; overlay of existing approach roads for all bridges, where there will be no expansion of the wearing surface; cleaning scuppers or other drainage conveyances; modifications of expansion joints; deck patching with in-kind material; repair of guardrails which are already attached to parapets; in-kind replacement or repair of existing modern fencing; in-kind replacement or repair of steel beam plates and/or bridge bearings; placement of grout bags; repair of cracks in superstructure and substructure with trowel able mortar; in-kind replacement of rip rap, steel caps, protective jackets, and dolphins; and other similar routine actions;
7. Routine cleaning, maintenance and repair of existing drainage, stormwater management and water quality facilities and devices, including replacement of devices with like devices in the same locations, but does not including projects that seek to expand or extend such facilities, and retrofitting or redesign of existing drainage facilities limited to installation of traversable grates and conversion of drop inlets to traversable designs;
8. Water quality activities limited to the removal of natural waterway obstructing debris or sediment;
9. Fencing installation and repair, including safety fencing on bridges, where the bridge has been determined ineligible for the NRHP;
10. Removal of salt, contaminated soil and materials from median and shoulder; and
11. Improvements to the existing travel way, including shoulder widening, sidewalk improvements, and adding a turn lane, provided ALL improvements are conducted within existing right of way that has been previously disturbed.

**B. Notification and Coordination:**

For actions that met the categories listed in Stipulation IV.A., individual project consultation between MoDOT and the MO SHPO will not occur. This PA serves as consensus determination of no potential to cause adverse effects for the above specified undertakings. Based on this determination, MoDOT is not required to take any further action in the Section 106 process for these projects.

**V. Project Review – Minor Highway Projects**

**A. Project Types:**

The majority of minor highway projects are unlikely to affect historic properties. In general, these projects may be confined to existing right-of-way or involve minimal amounts of new right-of-way or easements, and as a result often have limited areas of potential effects. . These projects do not introduce new structural or visual elements near historic properties (i.e., retaining walls or sound walls and do not require substantial ground disturbance that may affect historic properties. Therefore, the following minor highway projects will be reviewed for Section 106 purposes within the MoDOT and documented using the Programmatic Agreement Report form included in Appendix 1, without further review by the ACHP or the MO SHPO, provided:

- MoDOT bases its review upon information adequate to identify historic properties as specified in Stipulation V.B. and consistent with 36 CFR 800.4;
  - MoDOT decisions are based on the guidelines, standards and regulations identified in Stipulation III;
  - There is no potential to affect historic properties either directly or indirectly;
  - The project is not within a NRHP listed district; and
  - The project is limited to the items specified and is not part of a larger undertaking.
1. Minor bridge and small structure rehabilitation, not necessarily in-kind, (e.g., deck replacement, bridge rails, bridge anchoring sections, substructure alterations, etc.) where the work is confined to the bridge itself and the bridge has been determined ineligible for the NRHP;
  2. Modernization of or improvements to rest areas, truck weigh stations and park and ride lots where no new right-of-way is acquired and no ground disturbing activities of previously undisturbed right of way one-half acre occur;
  3. Modernization of an existing highway by widening, provided such widening does not extend more than 12 feet beyond existing right-of-way and does not exceed one-half (1/2) mile in length (existing right-of-way in V.A.3-5 is the right-of-way that is required for the current size facility and does not apply to right-of-way that may have been previously purchased for highway expansion that has not yet occurred);
  4. Modernization of an existing highway by widening one travel lane, provided such widening does not extend more than 22 feet beyond existing right-of-way, and does not exceed one-quarter (1/4) mile in length;
  5. Correcting substandard roadway geometries and intersections (i.e., spot improvements and roundabouts), provided such corrections do not extend more than 22 feet beyond existing right-of-way;

6. Minor drainage improvements, including but not limited to: installation, replacement or removal of culverts, pipes and storm drains and inlets;
7. Repair or construction of erosion control and protection measures including but not limited to: slope stabilization, slide repair, rip rap, or retaining walls;
8. Installation of new lighting, traffic barriers, guardrails, traffic signals, curbs, gutters, sidewalks, hazard identification beacons, and variable message signs where the installation requires only existing right of way or easement and the installation will impact only previously disturbed areas ; and
9. Water quality activities including the installation of storm water management facilities and infiltration trenches, but not including backsloping.

## **B. MoDOT Review Process**

1. Internal review: For project types listed in Stipulation V.A., qualified MoDOT cultural resources professionals will employ a multi-disciplinary approach to carry out the requirements of 36 CFR 800.4, including the following:
  - Determine the project's area of potential effects;
  - Review existing information (including but not limited to SHPO's GIS database and cultural resources inventory and the National Register Information System) on inventoried resources in the area of potential effects;
  - Assess the likelihood that unidentified cultural resources exist in the area of potential effects;
  - Determine the degree of existing disturbance within the area of potential effects, performing a field inspection where warranted;
  - Conduct a field survey in conformance with the applicable standards in Stipulation III, where warranted;
  - Determine whether historic properties are in the area of potential effects;
  - If historic properties may be present in area of potential effects this PA is not applicable and regular Section 106 process is initiated; and
  - If no cultural resources are present or there is no potential for historic properties in the area of potential effects, a Programmatic Agreement Report Form is completed for the project.
2. Notification and Coordination with MO SHPO: For projects included in Stipulation V.A. that do not include cultural resources or there is no potential for historic properties within the area of potential effects the MoDOT shall document and file the finding in accordance with Stipulation V.B.4. The MoDOT shall use a

single Programmatic Agreement Report form to document its review of an individual undertaking. The MoDOT does not need to provide the MO SHPO with copies of the Programmatic Agreement Report forms unless the MO SHPO specifically requests a copy of the documentation for a particular action.

3. Notification and Coordination with other parties: MoDOT shall make a project Programmatic Agreement Report form and supporting information available to consulting parties and the public upon request. Should FHWA and/or MoDOT become aware of any public controversy regarding historic properties for projects considered under this PA, FHWA and MoDOT will consult with the SHPO to determine if the controversy is a valid public concern about a legitimate historic property. If the SHPO determines there is a legitimate public concern the project will cease consideration under the PA and will use the regular Section 106 process in accordance with 36 CFR 800.3 - 36 CFR 800.6.
4. Documentation: For all undertakings reviewed under this PA, the MoDOT will maintain records including Programmatic Agreement Report forms, photographs and field notes. The documentation shall be publicly accessible at MoDOT. Pertinent records for each project covered under this PA shall include:
  - A description of the project and its area of potential effects;
  - The location of the project area on USGS 7.5 minute topographic maps, project mapping and/or other sourced and scaled mapping;
  - The type, extent and degree of existing disturbance within the area of potential effects; and
  - Associated notes and correspondence.

## **VI. Project Reviews - Other Undertakings**

For all undertakings that do not qualify for internal review under Stipulation IV or V, FHWA shall identify appropriate consulting parties, as described at 36 CFR 800.2, and complete consultation in accordance with 36 CFR 800.3- 36 CFR 800.6.

## **VII. Cooperation and Communication**

FHWA, MoDOT and the MO SHPO will continue to share information developed or generated by each agency related to the identification, evaluation, management, and treatment of Missouri's cultural resources.

## **VIII. Annual Review and Monitoring**

MoDOT and MO SHPO will regularly consult to review implementation of the terms of the PA. The MoDOT shall maintain a list of all its Stipulation V.A. projects covered under the PA for a 12-month period from January 1 through December 31 of each year. The MoDOT shall provide the MO SHPO, FHWA and the ACHP with a copy of this list

called the Use of Programmatic Agreement Report by February 28 of each following year. The MO SHPO and ACHP shall review the Use of Programmatic Agreement Report and assess the implementation of the PA for the year under review. If any party to this PA requests a meeting to discuss or resolve issues that have arisen as a result of the review, MoDOT shall plan such a meeting and ensure that all signatory parties are invited to participate.

The Use of Programmatic Agreement Report shall be available for public inspection upon request at the MoDOT Historic Preservation Section.

The FHWA, ACHP and MO SHPO may monitor activities carried out pursuant to this PA. The MoDOT will cooperate with these parties in carrying out their monitoring efforts.

#### **IX. Amendment**

Any party to this PA may request that it be amended, whereupon the parties will consult to consider such an amendment. This PA may only be amended upon the written concurrence of all signatory parties.

#### **X. Termination**

Any party to this PA may terminate it by providing thirty (30) calendar days notice in writing to the other parties, provided that the parties will consult during the period prior to termination to seek agreement on amendments and other actions that would avoid termination. In the event of termination, the FHWA will comply with 36 CFR 800.3 through 36 CFR 800.6 with regard to individual undertakings covered by this PA.

#### **XI. Dispute Resolution**

Should the MO SHPO or ACHP object within 30 days to any documentation submitted or actions proposed pursuant to this PA, the FHWA will ensure that the MoDOT consults with the objecting party to resolve the objections. If the objection cannot be resolved, the FHWA will comply in accordance with 36 CFR 800.4 through 36 CFR 800.6. FHWA's responsibility to comply with the stipulations of the PA for all other projects that are not the subject of the dispute will remain unchanged. When requested by any consulting party, the ACHP will consider FHWA's findings under this PA. The provisions of 36 CFR 800.9(a) on public requests to the ACHP will apply.

#### **XII. Duration**

This PA shall continue in full force and effect until December 31, 2019. At any time in the six-month period prior to this date, the signatory parties shall consult to consider an extension or amendment of the PA. No extension or amendment will be effective unless all parties to the PA have agreed to it in writing by amending the PA. Execution and implementation of this PA evidences that the FHWA has satisfied its Section 106 responsibilities for all individual undertakings of minor highway projects covered under this agreement.



**FEDERAL HIGHWAY ADMINISTRATION:**

By: Skell Date: 12/29/14

Title: Program Development Team leader

**THE ADVISORY COUNCIL ON HISTORIC PRESERVATION:**

By: John M. Fowler Date: 12/31/14

Title: John M. Fowler, Executive Director

**THE MISSOURI STATE HISTORIC PRESERVATION OFFICE:**

By: Mark C. Male Date: 12/23/14

Title: DSHPD

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION:**

By: Harvey P. Harvey Date: 12-10-14

Title: Assistant Chief Engineer

Attest: [Signature]  
Commission Secretary

Approved as to form:  
[Signature]  
Commission Counsel



## **Appendix 1**

*This page intentionally left blank for printing purposes*

- 1) Job Number: \_\_\_\_\_ 2) County(s): \_\_\_\_\_ 3) Route(s): \_\_\_\_\_  
4) Section: \_\_\_\_\_ 5) Township: \_\_\_\_\_ 6) Range: \_\_\_\_\_  
7) Quadrangle: \_\_\_\_\_ 8) Prepared by: \_\_\_\_\_ 9) Date: \_\_\_\_\_  
10) Project Description (including size): \_\_\_\_\_
- 

**I) ARCHAEOLOGY**

- 11) Field Observations (i.e. Topography, Soils, Drainages, % Visibility): \_\_\_\_\_  
12) Field Methodology (Including Limitations): \_\_\_\_\_  
13) Comments: \_\_\_\_\_  
14) Surveyor(s): \_\_\_\_\_  
15) Survey Date(s): \_\_\_\_\_
- 

**II) ARCHITECTURE/BRIDGES**

- 16) Area of Potential Effects: \_\_\_\_\_  
17) Survey methodology: \_\_\_\_\_  
18) Bridge number(s): \_\_\_\_\_  
19) Surveyor(s): \_\_\_\_\_  
20) Survey date: \_\_\_\_\_  
21) Comments: No
- 

**III) ATTACHMENTS**

- 22) Attach:  
 Project plan sheets  
 Relevant 1:24,000 topographic mapping  
 Correspondence
- 23) Comments: