

PROGRAMMATIC AGREEMENT AMONG  
THE FEDERAL HIGHWAY ADMINISTRATION,  
THE FEDERAL TRANSIT ADMINISTRATION,  
THE WASHINGTON STATE HISTORIC PRESERVATION OFFICER,  
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  
PROGRAMS IN WASHINGTON STATE

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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 Transit Administration (FTA), administers the Federal Transit Program authorized by 49 U.S.C. Chapter 53; 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, "Programs" is used in this agreement to refer to the Federal-aid Highway Program, the Federal Transit Program, and the Federal Lands Highway Program collectively; and

WHEREAS, FTA has determined that projects authorized by FTA are undertakings pursuant to Section 106 and may have an effect on historic properties, and the FTA will utilize this Agreement for WSDOT projects subject to FTA funding and/or approvals.; and

WHEREAS, WFLHD has professional cultural resources staff who serve in the same role for WFLHD projects as WSDOT's professional cultural resources staff do for FHWA and FTA projects.; and

WHEREAS, the Washington Division FHWA Division Administrator and the FTA Regional Administrator are the "Agency Officials" responsible for ensuring that WSDOT projects receiving approvals or funding from FHWA and/or FTA in the State of Washington comply with 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, WSDOT administers Federal-aid projects throughout the State of Washington as authorized by Title 23 U.S.C 302; and

WHEREAS, the responsibilities of the Washington State Historic Preservation Officer (SHPO) under Section 106 of the NHPA and 36 CFR Part 800 are to advise, assist, review, and consult with Federal agencies as they carry out their historic preservation responsibilities and to respond to Federal agencies' requests within a specified period of time; and

WHEREAS, FHWA has determined that construction, maintenance, and emergency relief projects as part of the Program, and related FHWA approvals for changes in access to the Interstate System in Washington are undertakings pursuant to Section 106 of the NHPA and 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 has consulted with the Washington SHPO and the Advisory Council on Historic Preservation (ACHP) pursuant to Section 800.14(b) of the regulations implementing Section 106 of the NHPA; and

WHEREAS, FHWA, FTA, and WFLHD have consulted with Federally-recognized Indian tribes (Tribes) with ancestral lands in Washington about this Agreement, have requested their comments, and have taken any comments received into account. These Tribes are listed in Appendix A; and

WHEREAS, any project involving tribal lands as defined in 36 CFR 800.16(x) shall not be governed by this agreement, but shall be reviewed by FHWA, FTA, or WFLHD in accordance with 36 CFR 800; and

WHEREAS, pursuant to the consultation conducted under 36 CFR 800.14(b), the signatories have developed this Programmatic Agreement (Agreement) in order to establish an efficient and effective program alternative for taking into account the effects of each Agency's Programs on historic properties in Washington and for affording the ACHP a reasonable opportunity to comment on undertakings covered by this agreement; and

WHEREAS, FHWA has notified the public, Federal and State agencies, and Certified Local Governments (CLGs) about this Agreement, has requested their comments, and has taken any comments received into account;

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

WHEREAS, WSDOT, FHWA, FTA and WFLHD agree that any MOA signed under this agreement stands in lieu of a state permit for all adverse effects off federal lands, as per RCW 27.53.

WHEREAS, this Agreement shall supersede the following previous Programmatic Agreements among the FHWA, SHPO, ACHP, and WSDOT: *Programmatic Agreement Among the Federal Highway Administration, the Washington State Department of Transportation, the Advisory Council on Historic Preservation, and the Washington State Historic Preservation Officer Regarding Implementation of the Federal-Aid Highway Program in Washington State, and two amendments to this agreement dated March 7, 2007 and August 2, 2012.*

NOW, THEREFORE, FHWA, FTA, WFLHD, the SHPO, the ACHP, and WSDOT agree that the Programs in Washington shall be carried out in accordance with the following stipulations to consider the effects of the Programs on historic properties in 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, FTA, and WFLHD, with the assistance of WSDOT, shall ensure that the following measures are carried out:

### **I. APPLICABILITY AND SCOPE**

- A. This Agreement sets forth the process by which FHWA, and FTA, with the assistance of WSDOT; and WFLHD without the assistance of WSDOT will meet their responsibilities pursuant to Section 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 FHWA, WFLHD, FTA, and WSDOT review individual undertakings processed under Section 106 that may affect historic properties and to establish the process by which FHWA, WFLHD, and FTA (who retain ultimate Section 106 responsibility, except where such responsibility has been delegated to WSDOT) carry out their Section 106 responsibilities.
- C. Through this Agreement, FHWA and FTA authorize WSDOT's professional cultural resources staff to initiate and, in many cases, conclude consultation with the SHPO and other consulting parties for purposes of compliance with Section 106 of the NHPA.
- D. WFLHD's professional cultural resources staff conducts consultation with the SHPO and other consulting parties for purposes of compliance with Section 106 of the NHPA.
- E. Through this Agreement, FHWA, FTA, WFLHD and WSDOT establish categories of projects (Appendix B) that do not require review and consultation with the SHPO but that may still require tribal consultation.
- F. FHWA, WFLHD and FTA retain the responsibility to consult with Tribes as required under 36 CFR 800, as amended, except for those activities delegated to WSDOT by this Agreement.
- G. This Agreement shall not apply to undertakings that occur on or affect tribal lands as they are defined in 36 CFR 800.16(x). For such undertakings, FHWA, FTA, and WFLHD shall follow the procedures in 36 CFR Part 800.
- H. Cooperating Federal Agencies who recognize FHWA, WFLHD, or FTA as the lead Federal agency for an undertaking may fulfill their obligations under Section 106 of NHPA per 36 CFR 800.2(a)(2), if FHWA, WFLHD, or FTA, and WSDOT follow the requirements of this Agreement and the cooperating agency's undertaking does not have the potential to

cause effects to historic properties beyond those considered by the lead federal agency and WSDOT.

- I. FHWA, FTA and WFLHD agree that all information and consultation site forms, reports etc. will be transmitted and documented through the Washington Information System for Architectural and Archaeological Records Data (WISAARD).
- J. FHWA, FTA and WFLHD agree that 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 mitigation funds may be appropriate mitigation. .
- K. All correspondence held by SHPO is subject to the State Public Records Act unless explicitly exempted under RCW 42.56.310

## **II. DEFINITIONS**

- A. *Screened Projects:* Screened Projects are activities that are presumed to have no potential or minimal potential to cause effects to historic properties and can be exempted from further Section 106 review by a WSDOT or WFLHD Cultural Resources Specialist. Those activities identified in Appendix B are undertakings per 36 CFR 800.y and will not require review by FHWA, FTA, the SHPO, or the ACHP, so long as they are reviewed by a WSDOT or WFLHD Cultural Resources Specialist and all terms and conditions set forth in this stipulation and Appendix B are met.
- B. *Ground Disturbance:* Any 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.
- C. For purposes of this agreement, the definitions provided in 36 CFR Part 800.16 (a) through (y) shall apply whenever applicable.

## **III. PROFESSIONAL QUALIFICATIONS STANDARDS**

Projects screened per Appendix B of this Agreement must be reviewed by a WSDOT or WFLHD Cultural Resources Specialist who meets the Secretary of the Interior's Professional Qualifications Standards (published in 48 FR 44738-44739). Actions prescribed by this Agreement that involve 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 meet the Secretary of the Interior's Professional Qualifications Standards (published in 48 FR 44738-44739).

## **IV. RESPONSIBILITIES**

The following section identifies the responsibilities of FHWA, FTA, WFLHD and WSDOT in complying with the terms of this Agreement.

### **A. FHWA and FTA Responsibilities**

1. Consistent with the requirements of 36 CFR 800.2(a) and 800.2(a)(1-4), FHWA and FTA remain legally responsible for ensuring that the terms of this Agreement are carried out and for all findings and determinations made pursuant to this Agreement by WSDOT under the authority of FHWA or FTA. At any point in the Section 106 process, FHWA or FTA 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.
2. FHWA and FTA retain the responsibility for government-to-government consultation with Tribes as defined in 36 CFR 800.16(m), but delegate to WSDOT to undertake consultation on their behalf unless a Tribe requests otherwise. FHWA and FTA retain responsibility for government-to-government consultation regarding issues outside of NHPA Section 106 consultation, in particular, treaty right issues.
3. FHWA and FTA shall be responsible for resolving disputes and objections pursuant to Stipulation XI.C of this Agreement.

### **B. WFLHD Responsibilities**

1. Consistent with the requirements of 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 WFLHD projects, including screened projects.
2. WFLHD retains the responsibility for government-to-government consultation with Tribes as defined in 36 CFR 800.16(m) when WFLHD is the lead federal agency.

### **C. WSDOT and WFLHD Cultural Resources Specialist Responsibilities**

WSDOT will employ staff who meet the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-9) 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 FTA. Assignment of these responsibilities is based on

adequate and appropriate performance by WSDOT as evaluated in monitoring by FHWA and FTA pursuant to Stipulation XI.A of this Agreement.

WFLHD staff meeting the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-9), will perform the work and consultation described in 36 CFR 800.3 – 36 CFR 800.5 for WFLHD Projects.

These responsibilities include carrying out the following requirements:

1. 36 CFR 800.3(a) Determine whether the undertaking is a type of activity that has the potential to cause effects on historic properties.
2. 36 CFR 800.3(c) and (d) Determine whether the undertaking may occur on or has the potential to affect historic properties on tribal lands.
3. 36 CFR 800.3(e) Solicit public comment and involvement.
4. 36 CFR 800.3 Identify additional consulting parties who should be invited to participate in the undertakings covered by this Agreement.
5. 36 CFR 800.4(a) and (b) Determine and document, in consultation with the SHPO, the scope of identification efforts and level of effort, including the undertaking's area of potential effects (APE).
6. 36 CFR 800.4 In consultation with the SHPO, identify properties within the APE included in or eligible for listing in the NRHP.
7. 36 CFR 800.5(a)(1) Determine whether historic properties may be affected by the undertaking by applying the criteria of adverse effect.
8. 36 CFR 800.6 In consultation with: FHWA, FTA, or WFLHD; the SHPO; the ACHP (if it has chosen to participate); and any other consulting parties; address any adverse effects through the development, circulation, and execution of a Memorandum of Agreement, as appropriate.
9. WSDOT shall provide FHWA or FTA copies of all correspondence sent out on its behalf (e.g. letters to SHPO or Tribes).
10. WSDOT shall post on their website a list, updated monthly, of those projects under their review that meet the conditions in Appendix B and will not require further Section 106 review. Any interested party can subscribe to the WSDOT mailing list on the WSDOT website, and WSDOT will send monthly reminders to subscribers when the lists are updated. Should any party have questions or concerns involving such undertakings and desire to engage in consultation, the listing will contain contact information and further consultation shall occur.
11. WFLHD will maintain their own separate mailing list.

## **V. CONSULTATION WITH TRIBES**

- A. FHWA, FTA, and WFLHD recognize that they have a unique legal relationship with Indian tribes set forth in the Constitution of the United States, treaties, statutes, and court decisions; and that consultation with an Indian tribe must therefore recognize the government-to-government relationship between the federal government and Indian tribes. Nothing in this Agreement affects or changes FHWA, FTA, or WFLHD trust responsibilities and obligations toward Indian tribes. Consultation with Indian tribes must also recognize and respect the government-to-government relationships that exist among federal and state governments and federally-recognized Indian 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, including the Washington State Centennial Accord<sup>1</sup>. Accordingly, the parties recognize that consultation with Indian tribes is also carried out that is not related to the Section 106 process.
- B. WSDOT, FHWA, FTA, and WFLHD shall ensure that Indian tribes are provided information regarding proposed undertakings early in project planning and are invited to participate in consultation in accordance with the requirements of Section 101(d)(6) of the NHPA and 36 CFR Part 800. Nothing in this Agreement abrogates FHWA, FTA, or WFLHD's responsibility for government-to-government consultation with Indian tribes at their request. Upon receipt of a written request from any Indian tribe or officially designated representative of an Indian tribe to consult with FHWA or FTA in lieu of or in addition to WSDOT, FHWA or FTA, respectively, shall consult with that Indian tribe for the particular undertaking or program.
- C. WSDOT will document any consultation with Indian tribes WSDOT conducts on behalf of FHWA or FTA, and provide FHWA or FTA, respectively, the opportunity to participate directly in such consultation on individual undertakings as the circumstances warrant; WSDOT will not conduct consultation on behalf of WFLHD. WSDOT shall keep FHWA or FTA informed of the status of such consultation, provide advance notice of meetings so that FHWA or FTA respectively will have the opportunity to attend if desired, and supply documents including meeting notes and correspondence to FHWA or FTA respectively to meet the needs of effective consultation. WSDOT, FHWA, FTA, and WFLHD shall abide by the confidentiality provisions of Section 304 of the NHPA in determining what information may be provided to non-federal parties (16 USC § 470w-3).

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<sup>1</sup> *Centennial Accord between the Federally Recognized Indian Tribes in Washington State and the State of Washington*. The accord, dated August 4, 1989, 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.

- D. Before stipulations of this Agreement regarding tribal consultation may be implemented, FHWA, WFLHD, and FTA shall send a joint letter to each Indian tribe in Washington State, as well as to Indian tribes outside the State but with interests in historic properties in the State, notifying the tribes of the execution of this Agreement, transmitting a copy of the Agreement, noting that WSDOT may initiate consultation with Indian tribes for FHWA and FTA undertakings carried out under provisions of this Agreement, and giving Indian tribes the option of consulting directly with FHWA or FTA for individual undertakings or types of undertakings.
- E. FHWA, FTA and WFLHD will provide SHPO with all copies of tribal correspondence unless a tribe requests otherwise.

## **VI. PARTICIPATION OF OTHER CONSULTING PARTIES AND THE PUBLIC**

### **A. Additional Consulting Parties**

- 1. Consulting parties shall be identified by WSDOT, or by WFLHD's professional cultural resources staff, in consultation with the SHPO pursuant to 36 CFR 800.3(c-f) and their participation in undertakings covered under this Agreement shall be governed by 36 CFR 800.3(f)(3). Individuals and organizations with a demonstrated interest in an undertaking shall be invited by WSDOT in consultation with FHWA or FTA , or by WFLHD to participate in the Section 106 process. Any land owner whose land may be affected by an undertaking shall be invited by WSDOT or WFLHD to participate in the Section 106 process. Written requests by individuals, organizations, and agencies to become consulting parties will be evaluated on a case-by-case basis by WSDOT and FHWA or FTA, or 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 FHWA, FTA, WFLHD and WSDOT environmental compliance procedures, including but not limited to FHWA's Technical Advisory and similar and subsequent guidance documents. Public involvement and the release of information hereunder shall be consistent with 36 CFR 800.2(d), 800.3(e), and 800.1 l(c)(1 and 3).
- 2. WSDOT 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, as amended.
- 3. For those actions that do not routinely require public review and comment (e.g., screened projects), appropriate public involvement should be based on the specifics of

the situation and commensurate with the type and location of historic properties, and the undertaking's potential impacts on them.

4. WSDOT shall make FHWA, FTA, and SHPO aware of any and all public controversy as it relates to the historic properties potentially affected by the proposed undertaking, including properties of religious and/or cultural significance to Indian tribes.

## **VII. PROJECT REVIEW**

A. All projects will be reviewed by a WSDOT or WFLHD Cultural Resources Specialist to determine if all terms and conditions set forth in this stipulation and Appendix B are satisfactorily met for Screened Projects. Those undertakings identified in Appendix B will not require review by FHWA, FTA, the SHPO, or the ACHP.

1. WSDOT or WFLHD cultural resource staff will evaluate each undertaking for potential effects to historic properties. At a minimum, evaluations shall consist of review of Washington Information System for Architectural and Archaeological Records Data (WISAARD) records, project files, and project plans and specifications. Field investigations will be performed at the discretion of WSDOT's or WFLHD's cultural resource staff. Provided an undertaking is limited to the activities listed in Appendix B, and has no known public controversy related to historic properties, no further coordination pursuant to Section 106 shall be required.
2. In situations where undertakings meet the terms and conditions of this stipulation and Appendix B but portions of the undertaking are located on Tribal or federal property, WSDOT will apply the screening per Appendix B to the non-Tribal or non-federal property and conduct Section 106 review for the portion of the undertaking occurring on Tribal or federal land.
3. For any undertaking that does not meet the terms and conditions of Appendix B, WSDOT and WFLHD will follow 36 CFR 800 and Section IV.C of this Agreement.

## **VIII. EMERGENCY SITUATIONS**

For the purposes of this Agreement, emergencies are defined as occurrences that require emergency highway system and facility repairs that are necessary to 1) protect the life, safety, or health of the public; 2) minimize the extent of damage to highway or transit systems and facilities; 3) protect remaining highway or transit facilities; or 4) restore essential traffic and function. The following stipulations apply to emergency situations:

- A. 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.
- B. If the emergency repair project could affect historic properties, WSDOT or WFLHD cultural resources staff shall notify the SHPO; FHWA, FTA, or WFLHD; and Tribes within 72 hours of the undertaking.
  - C. For projects where the repair must be made within the first 30 days of the occurrence of the event that caused the emergency or the declaration of the emergency by an appropriate authority, the processing of environmental documentation will happen concurrently or after the fact. In these cases, WSDOT or WFLHD will comply with the procedures in Stipulation VII of this agreement to the extent possible, but the reviews will likely be conducted after the emergency work is completed. In all cases, WSDOT or WFLHD will notify FHWA, FTA, SHPO, ACHP, and affected Tribes within seven days of commencing the emergency undertaking.
  - D. For projects taking longer than 30 days for repair, WSDOT or WFLHD will comply with the procedures in Stipulations IV and VII.

## **IX. POST-REVIEW DISCOVERIES**

### **A. Planning for Subsequent Discoveries**

When WSDOT's or WFLHD's identification efforts indicate that historic properties are likely to be discovered during implementation of an undertaking, WSDOT or WFLHD shall include in any environmental document, contract, and specifications a plan for discovery of 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 800.4-6.

### **B. Late Discoveries**

- 1. If previously unidentified archaeological or historic properties, or unanticipated effects, are discovered after WSDOT has completed its review under this Agreement, that portion of the project will stop immediately, in accordance with WSDOT Standard Specification 1-07.16(4) Archaeological and Historical Objects and Standard Specification 1-07.16(4)A Inadvertent Discovery of Human Remains (Appendix C). WFLHD will handle such occurrences per their standard policies.
- 2. WSDOT will notify the responsible Federal agency as soon as is practical, or within 24 hours.
- 3. 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 Indian tribes that may attach traditional cultural and religious significance to the discovered property.

4. WSDOT or WFLHD will notify the responsible Federal agency and will consult with SHPO and Indian tribes, as appropriate, to record, document, and evaluate NRHP eligibility of the property and the project's effect on the property, and to design a plan for avoiding, minimizing, or mitigating adverse effects on the eligible property.
5. For WSDOT projects, if neither the SHPO nor an Indian tribe files 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 FHWA or FTA, and the ACHP does not need to be notified.
6. For WFLHD projects, if neither SHPO nor an Indian tribe files 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.

## **X. IDENTIFICATION AND TREATMENT OF HUMAN REMAINS**

- A. In the event that human remains are identified prior to, during, or after WSDOT project construction, WSDOT will develop a treatment plan in consultation with FHWA or FTA and the SHPO. If it is determined that the human remains are associated with a Native American occupation, WSDOT and FHWA or FTA will 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 will develop a treatment plan in consultation with the SHPO. If it is determined that the human remains are associated with a Native American occupation, WFLHD will consult with the Tribes prior to the development of a treatment plan.
- C. All work conducted on or involving human remains and abandoned cemeteries will comply with Chapter 27.44 Revised Code of Washington, if on the public or private lands of the State of Washington.
- B. All work involving human remains and abandoned cemeteries on federal lands will comply with the Native American Graves Protection and Repatriation Act.

## **XI. ADMINISTRATIVE STIPULATIONS**

- A. Monitoring and Reporting
  1. WSDOT shall prepare separately for FHWA, FTA, and SHPO a list of undertakings on which WSDOT has proceeded without further Section 106 review, in reliance on the procedure pursuant to Stipulation VII and Appendix B of this Agreement monthly. WFLHD shall similarly prepare a list for SHPO. The lists shall be made available to the

public and distributed to all consulting parties, including Tribes, who notify WSDOT or WFLHD of the desire to be supplied with the lists.

2. WSDOT, SHPO, FHWA, WFLHD, and FTA will consult via e-mail annually to determine if formal review is needed to evaluate the conduct of the Section 106 program. FHWA, WFLHD and FTA will notify ACHP of any review meetings and the ACHP may participate at its discretion. Notes documenting any review meetings held will be distributed to FHWA, WFLHD FTA, WSDOT and ACHP. Through these reviews, performance measures may be adopted for purposes of accountability and reporting to interested parties.
3. Each WSDOT region and mode shall on an annual basis contact Indian tribes to review ongoing effectiveness of this Agreement with regard to tribal consultation, and to discuss upcoming projects. The manner of communication to the Indian tribes will be determined by each WSDOT region and mode, in conjunction with affected tribes, with the objective of effective, meaningful consultation. Each WSDOT region and mode shall provide an annual report to FHWA and FTA summarizing their outreach to Indian tribes. This report will be submitted by the end of the Federal fiscal year, September 30.

B. Training

WSDOT, FHWA WFLHD, and FTA will coordinate to conduct training in cultural resources management and Section 106 implementation requirements and procedures, both for Cultural Resources Specialists and for other employees.

C. Resolving Objections to Implementation of this Agreement

1. Should any signatory party object in writing to FHWA, FTA, or WFLHD regarding the way the terms of this Agreement are carried out, FHWA, FTA, or WFLHD will immediately notify the other signatory parties of the objection and proceed to consult with the objecting party to resolve the objection. FHWA, FTA, or WFLHD will honor the request of any signatory party to participate in the consultation and will take any comments provided by such parties into account. FHWA, FTA, or WFLHD shall establish a reasonable time frame for such consultations.
2. Should any signatory party object to a WSDOT or FHWA, FTA, or WFLHD determination of eligibility, FHWA, FTA, or WFLHD will submit the determination to the Keeper of the National Register of Historic Places for resolution.
3. If the objection is resolved through consultation, FHWA, FTA, or WFLHD may authorize the disputed action to proceed in accordance with the terms of such resolution.
4. If after initiating such consultation, FHWA, FTA, or WFLHD determines that the objection cannot be resolved through consultation, FHWA, FTA, or WFLHD shall forward all documentation relevant to the objection to the ACHP and other signatory parties, including FHWA, FTA, 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:

- i. Advise FHWA, FTA, or WFLHD that ACHP concurs in FHWA, FTA, or WFLHD's proposed response to the objection, whereupon FHWA, FTA, or WFLHD will respond to the objection accordingly; or
  - ii. Provide FHWA, FTA, or WFLHD with recommendations, which FHWA, FTA, or WFLHD shall take into account in reaching a final decision regarding its response to the objection; or
  - iii. Notify FHWA, FTA, 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, FTA, or WFLHD shall ensure that the Agency Official is prepared to take the resulting comments into account in accordance with 36 CFR 800.7(a)(4).
5. Should ACHP not exercise one of the foregoing options within 30 days after receipt of all pertinent documentation, FHWA, FTA, or WFLHD may assume ACHP's concurrence in its proposed response to the objection.
  6. FHWA, FTA, or WFLHD shall take into account any ACHP recommendation or comment and any comments from the other signatory parties to this Agreement in reaching a final decision regarding the objection. FHWA, FTA, 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, FTA, or WFLHD shall provide all other signatory parties to this Agreement with a written copy of its final decision regarding any objection addressed pursuant to this Stipulation.
  8. FHWA, FTA, 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 party to this Agreement, that signatory party shall immediately notify FHWA, FTA, or WFLHD. FHWA, FTA, or WFLHD shall immediately notify the other signatory parties in writing of the objection. Any signatory party may choose to comment on the objection to FHWA, FTA, or WFLHD. FHWA, FTA, or WFLHD shall establish a reasonable time frame for this comment period. FHWA, FTA, or WFLHD shall consider the objection, and in reaching its decision, FHWA, FTA, or WFLHD will take all comments from the other parties into account. Within 15 days following closure of the comment period, FHWA, FTA, or WFLHD will render a decision regarding the objection and respond to the objecting party. FHWA, FTA, or

WFLHD will 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 DAHP documentation and uploading requirements to WISAARD.

### **XII. AMENDMENT**

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

### **XIII. TERMINATION**

- A. Any signatory party may terminate their participation in this agreement. If this Agreement is not amended as provided for in Stipulation XV or if any signatory party proposes termination of this Agreement for other reasons, the party proposing termination shall notify the other signatory parties in writing, explain the reasons for proposing termination, and consult with the other parties for no more than 30 days to seek alternatives to 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 FHWA, FTA, or WFLHD 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, FTA, or WFLHD 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.

#### **XIV. CONFIDENTIALITY**

All parties to this Agreement acknowledge that information about historic properties, potential historic properties, or properties considered historic for purposes of this Agreement are or may be subject to the provisions of Section 304 of NHPA. Section 304 allows FHWA, FTA, or WFLHD to withhold from disclosure to the public, information about the location, character, or ownership of a historic resource if the agency determines 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 will ensure that all actions and documentation prescribed by this Agreement are, where necessary, consistent with the requirements of Section 304 of the NHPA.

#### **XV. 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 will notify all parties in writing. If there are no objections from consulting parties, the term of the Agreement will automatically be extended for an additional five years. If any party objects to extending the Agreement, or proposes amendments, WSDOT will consult with the parties to consider amendments or other actions to avoid termination.

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

Signatories:

By: Daniel M. Mathis Date: 11/06/2018  
Daniel M. Mathis, Division Administrator  
Federal Highway Administration Washington Division

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Linda M. Gehrke, Regional Administrator  
Federal Transit Administration, Region 10

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Ricardo Suarez, Division Director  
Federal Highway Administration Western Federal Lands Highway Division

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Allyson Brooks, Ph.D., Director, State Historic Preservation Officer  
Washington State Department of Archaeology and Historic Preservation

By: \_\_\_\_\_ Date: \_\_\_\_\_  
John M. Fowler, Executive Director  
Advisory Council on Historic Preservation

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Roger Millar, Secretary of Transportation  
Washington State Department of Transportation

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

Signatories:

By: \_\_\_\_\_ Date: \_\_\_\_\_

Daniel M. Mathis, Division Administrator  
Federal Highway Administration Washington Division

By: \_\_\_\_\_ Date: \_\_\_\_\_

LINDA M  
GEHRKE  
Linda M. Gehrke, Regional Administrator  
Federal Transit Administration, Region 10

Digitally signed by LINDA M GEHRKE  
DN: c=US, o=U.S. Government, ou=FTA  
FTASeattleWA, ou=DOT FTASeattleWA,  
cn=LINDA M GEHRKE  
Date: 2018.11.20 10:28:46 -08'00'

By: \_\_\_\_\_ Date: \_\_\_\_\_

Ricardo Suarez, Division Director  
Federal Highway Administration Western Federal Lands Highway Division

By: \_\_\_\_\_ Date: \_\_\_\_\_

Allyson Brooks, Ph.D., Director, State Historic Preservation Officer  
Washington State Department of Archaeology and Historic Preservation

By: \_\_\_\_\_ Date: \_\_\_\_\_

John M. Fowler, Executive Director  
Advisory Council on Historic Preservation

By: \_\_\_\_\_ Date: \_\_\_\_\_

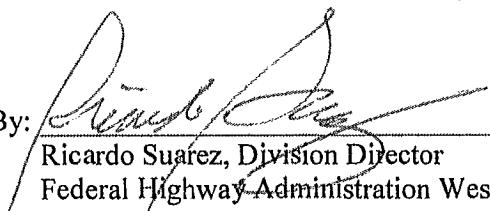
Roger Millar, Secretary of Transportation  
Washington State Department of Transportation

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Signatories:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Daniel M. Mathis, Division Administrator  
Federal Highway Administration Washington Division

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Linda M. Gehrke, Regional Administrator  
Federal Transit Administration, Region 10

By:  Date: 10/30/2018  
Ricardo Suarez, Division Director  
Federal Highway Administration Western Federal Lands Highway Division

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Allyson Brooks, Ph.D., Director, State Historic Preservation Officer  
Washington State Department of Archaeology and Historic Preservation

By: \_\_\_\_\_ Date: \_\_\_\_\_  
John M. Fowler, Executive Director  
Advisory Council on Historic Preservation

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Roger Millar, Secretary of Transportation  
Washington State Department of Transportation

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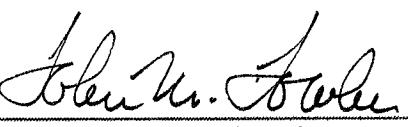
Signatories:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Daniel M. Mathis, Division Administrator  
Federal Highway Administration Washington Division

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Linda M. Gehrke, Regional Administrator  
Federal Transit Administration, Region 10

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Ricardo Suarez, Division Director  
Federal Highway Administration Western Federal Lands Highway Division

By: \_\_\_\_\_ Date: 11/19/18  
Allyson Brooks, Ph.D., Director, State Historic Preservation Officer  
Washington State Department of Archaeology and Historic Preservation

By:  Date: 12/4/18  
John M. Fowler, Executive Director  
Advisory Council on Historic Preservation

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Roger Millar, Secretary of Transportation  
Washington State Department of Transportation

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

Signatories:

By: \_\_\_\_\_ Date: \_\_\_\_\_

Daniel M. Mathis, Division Administrator  
Federal Highway Administration Washington Division

By: \_\_\_\_\_ Date: \_\_\_\_\_

Linda M. Gehrke, Regional Administrator  
Federal Transit Administration, Region 10

By: \_\_\_\_\_ Date: \_\_\_\_\_

Ricardo Suarez, Division Director  
Federal Highway Administration Western Federal Lands Highway Division

By: \_\_\_\_\_ Date: \_\_\_\_\_

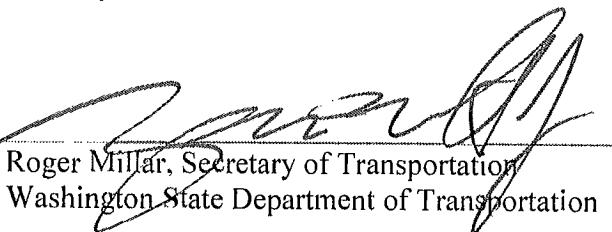
Allyson Brooks, Ph.D., Director, State Historic Preservation Officer  
Washington State Department of Archaeology and Historic Preservation

By: \_\_\_\_\_ Date: \_\_\_\_\_

John M. Fowler, Executive Director  
Advisory Council on Historic Preservation

By: \_\_\_\_\_ Date: \_\_\_\_\_

Roger Millar, Secretary of Transportation  
Washington State Department of Transportation



Date: 11/9/18

## **APPENDIX A**

### **Tribes Consulted with on Amended Statewide Programmatic Agreement<sup>2</sup>**

There are 29 federally-recognized Washington state tribes, and 5 federally-recognized out-of-state tribes that were consulted with on this agreement.

#### 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 the Umatilla	
Confederated Tribes of Warm Springs	
Nez Perce Tribe	

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<sup>2</sup> This Appendix is part of a Programmatic Agreement titled, *Programmatic Agreement* among the Federal Highway Administration, the Federal Transit Administration, the Washington State Historic Preservation Officer, the Advisory Council on Historic Preservation, the Western Federal Lands Highway Division, and the Washington State Department of Transportation regarding the Federal-aid Highway, Federal Lands Highway, and Federal Transit Programs in Washington State.

## **APPENDIX B**

### **Screened Highway, Bridge, and Transit Infrastructure Activities Presumed to Have Minimal Potential to Cause Effects:**

An undertaking of one or more of the types listed below will not require further Section 106 review with SHPO, FHWA, or FTA once the undertaking has been reviewed by a WSDOT or WFLHD Cultural Resources Specialist to ensure that the location or nature of the activity is such that it is unlikely to affect an historic property. The list below may apply to either FTA or FHWA activities.

If at any time during the undertaking information becomes available that would make this 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 FTA, or by WFLHD in accordance with Stipulation VII of this Programmatic Agreement.

- 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 is 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, and informational signage/kiosks, 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.
- 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 Replacement of bridge expansion joints.
- 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.
- 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 Replacement or extension of culverts and other drainage structures which do not extend beyond the vertical and horizontal limits of previous construction or disturbance for the existing culvert or drainage structure.
- A-15 Construction of turning lanes and pockets, auxiliary lanes, sidewalks, and shoulder widening within the demonstrated vertical and horizontal limits of previous construction or disturbance.
- 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 within the demonstrated vertical and horizontal limits of previous construction or 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, maintenance, repair, or rehabilitation of bicycle and pedestrian lanes, paths, 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.
- A-27 Stormwater retrofit activities designed to divert and treat highway 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 All bridges constructed after 1945 that meet the definition of “common bridge types” in Sec. V (A-D), Federal Register Vol. 77, No. 222, p. 68794 and that 1) have not been previously NRHP listed in or determined eligible; 2) are not truss, arch, movable, suspension, cable-stayed, or covered bridges; or 3) are not included in WSDOT’s Common Bridges in WA Excluded from ACHP’s Program Comment for Common Post-1945 Concrete and Steel Bridges Exemption ([https://www.environment.fhwa.dot.gov/histpres/bridges\\_list.asp](https://www.environment.fhwa.dot.gov/histpres/bridges_list.asp))
- 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](https://www.environment.fhwa.dot.gov/histpres/highways_list.asp)).
- A-30 Repair and/or maintenance activities at bus stop sites on existing shelters, signs, pads, sidewalks, lights, and other passenger amenities, including ADA improvements.
- A-31 Replacement at bus stop sites of existing shelters, signs, pads, sidewalks, lights, 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 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.
- 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 substantial off-site impacts.

A-35 Maintenance and/or rehabilitation of stand-alone recreation, pedestrian, or bicycle facilities, such as: a multi-use pathway, lane, trail, or pedestrian bridge; and transit plaza amenities.

A-36 Activities, including repairs, replacements, and rehabilitations, designed to promote transportation safety, security, accessibility and effective communication within or adjacent to existing right-of-way, such as: the deployment of Intelligent Transportation Systems and components; installation and improvement of safety and communications equipment, including hazard elimination and mitigation; installation of passenger amenities and traffic signals.

**Screened Washington State Ferries Terminal Activities 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 wingwall 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.

**APPENDIX C**  
**WSDOT Standard Specifications**

**1-07.16(4) Archaeological and Historical Objects**

Archaeological or historical objects, such as ruins, sites, buildings, artifacts, fossils, or other objects of antiquity that may have significance from a historical or scientific standpoint, which may be encountered by the Contractor, shall not be further disturbed. The Contractor shall immediately notify the Engineer of any such finds.

The Engineer will determine if the material is to be salvaged. The Contractor may be required to stop Work in the vicinity of the discovery until such determination is made. The Engineer may require the Contractor to suspend Work in the vicinity of the discovery until salvage is accomplished.

If the Engineer finds that the suspension of Work in the vicinity of the discovery increases or decreases the cost or time required for performance of any part of the Work under this Contract, the Engineer will make an adjustment in payment or the time required for the performance of the Work in accordance with Sections 1-04.4 and 1-08.8.

**1-07.16(4)A Inadvertent Discovery of Human Skeletal Remains**

If human skeletal remains are encountered by the Contractor, they shall not be further disturbed. The Contractor shall immediately notify the Engineer of any such finds, and shall cease all Work adjacent to the discovery, in an area adequate to provide for the total security and protection of the integrity of the skeletal remains. The Engineer may require the Contractor to suspend Work in the vicinity of the discovery until final determinations are made and removal of the skeletal remains is completed.

If the Engineer finds that the suspension of Work in the vicinity of the discovery increases or decreases the cost or time required for performance of any part of the Work under this Contract, the Engineer will make an adjustment in payment or the time required for the performance of the Work in accordance with Sections 1-04.4 and 1-08.8.e cost or time required for performance of any part of the Work under this Contract, the Engineer will make an adjustment in payment or the time required for the performance of the Work in accordance with Sections 1-04.4 and 1-08.8.