

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
THE NEVADA DEPARTMENT OF TRANSPORTATION,
THE NEVADA STATE HISTORIC PRESERVATION OFFICER,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING
IMPLEMENTATION OF FEDERAL-AID TRANSPORTATION PROJECTS IN THE
STATE OF NEVADA**

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

WHEREAS, the Nevada FHWA Division Administrator is the "Agency Official" responsible for ensuring that the Federal-aid Highway Program in the state of Nevada complies with Section 106 of the National Historic Preservation Act (NHPA), as amended, and codified in its implementing regulations, 36 CFR Part 800, as amended (August 5, 2004); and

WHEREAS, NDOT administers Federal-aid projects throughout the State of Nevada as authorized by Title 23 U.S.C. 302; 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 the Program on historic properties in Nevada and for affording the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment on undertakings covered by this Agreement; and

WHEREAS, the responsibilities of the Nevada 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 implementation of the Program in Nevada 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 SHPO and the ACHP pursuant to 36 CFR 800.14(b); and

WHEREAS, FHWA recognizes that it has a unique legal relationship with Indian Tribes (Tribes) set forth in the Constitution of the United States, treaties, statutes, and

court decisions, and the consultation with an Indian tribe must, therefore, recognize the government to government relationship between the federal government and Tribes; and

WHEREAS, the Battle Mountain Band Council, the Confederated Tribes of the Goshute, Duck Valley Sho-Pai Tribes, Duckwater Shoshone Tribes, Elko Band Council, Ely Shoshone Council, Fort McDermitt Pai-Sho Tribes, Fort Mohave Indian Tribe, Fallon Paiute-Shoshone Tribe, Lovelock Paiute Tribe, Las Vegas Paiute Tribe, Moapa Business Council, Pyramid Lake Paiute Tribe, Pahrump Paiute Tribe, Reno Sparks Indian Colony, South Fork Band Council, Summit Lake Paiute Tribe, Timbisha Shoshone Tribe, Te-Moak Tribal Council, Wells Band Council, Winnemucca Colony Council, Walker River Paiute Tribe, Washoe Tribal Council, Yerington Tribal Council, and the Yomba Shoshone Tribe were provided a draft of this Agreement, were invited to share their views, and did not respond with comments on this Agreement; and

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

WHEREAS, NDOT intends to utilize this Agreement to assist FHWA in Section 106 compliance for the Recreation Trails program, and the Nevada Division of State Parks (NDSP) was invited to be a signatory on this agreement; and

WHEREAS, Federal-aid projects as administered by NDOT may require issuance of permits pursuant to Section 404 of the Clean Water Act, and FHWA has consulted with and has invited the U.S. Army Corps of Engineers (Corps) to be a signatory to this Agreement; and

WHEREAS, FHWA has consulted with and has invited the Bureau of Land Management, Nevada (BLM); the Humboldt-Toiyabe Forest (USFS); and the Corps to be signatories to this Agreement because they are cooperating agencies (hereinafter referred to as cooperating federal agencies) and can use this PA to meet their Section 106 of NHPA responsibilities; and

WHEREAS, FHWA and BLM have entered into a Memorandum of Understanding (MOU), as amended, Concerning Operating Procedures for Processing Federal-Aid Highway Rights-of-Ways from the BLM in the MOU (Handbook Chapter 14). MOU Stipulation V.B. states that FHWA is the lead Federal Agency for Federal-Aid funded projects. MOU Stipulation V.C. states that NDOT will work with FHWA to comply with Section 106 of the NHPA. This Agreement spells out the process whereby MOU Stipulations V.B and V.C. are executed. This Agreement does not apply to Mineral Material Site Exploration activities or non Federal-Aid funded projects on BLM administered lands; and

WHEREAS, the Nevada Department of Transportation Cultural Resources Handbook (Handbook) describes the details of the application of this Agreement; and

WHEREAS, FHWA, ACHP, SHPO, NDOT, BLM, USFS, Corps and NDSP are collectively referred to herein as the “signatories” or individually as “signatory”; and

NOW, THEREFORE, the signatories agree that the Program in Nevada shall be carried out in accordance with the following stipulations in order to take into account the effects of the Program on historic properties in Nevada and that these stipulations shall govern compliance of the Program with Section 106 of the NHPA until this Agreement expires or is terminated.

STIPULATIONS

FHWA, assisted by NDOT, will ensure that the following measures are carried out:

I. PURPOSE AND APPLICABILITY

- A. This Agreement sets forth the process by which FHWA will meet its responsibilities under Section 106, 110(d), and 110(f) of the NHPA, with the assistance of NDOT, for all FHWA undertakings implemented by NDOT. This Agreement establishes the basis for considering the effects of FHWA undertakings on historic properties and establishes alternative procedures to implement Section 106 for the review of such undertakings by FHWA, SHPO, and ACHP.
- B. This Agreement shall not apply to undertakings that occur on or affect Tribal lands as they are defined in Section 301(14) of the NHPA 36 CFR 800.16(x). Tribal lands are all lands within the exterior boundaries of any Indian reservation, and all dependent Indian communities. For such undertakings, FHWA shall follow the procedures in 36 CFR Part 800.

II. RESPONSIBILITIES OF THE FHWA AND NDOT

- A. In compliance with its responsibilities under the NHPA, and as a condition of its award of any assistance for undertakings under the Federal Aid Highway Program, FHWA shall require NDOT to carry out the requirements of this Agreement and applicable ACHP policies and guidelines for all NDOT undertakings for which FHWA is the lead agency pursuant to 36 CFR 800.2(a) (2) and 800.2(a) (4). Through this Agreement, FHWA authorizes NDOT to initiate and, in most cases, conclude consultation with SHPO and other consulting parties for purposes of compliance with Section 106 of the NHPA.
 - 1. This authorization does not preclude FHWA’s right to intervene and take the lead in consultation among NDOT, SHPO, and other consulting parties; or to consult with Tribes on a government-to-

government basis consistent with the provisions of Stipulation III. When FHWA intervenes, it may either carry out consultation in accordance with the procedures in this Agreement or follow the procedures in 36 CFR Part 800.3-800.6.

2. Because FHWA is legally responsible for all findings and determinations made under this Agreement, no assistance or approval will be made by FHWA until it has approved the outcome of consultation with SHPO and other consulting parties. If the FHWA does not approve the outcome of consultation for a specific undertaking, FHWA may require NDOT to provide additional information or to perform additional consultation, or FHWA may consult directly with SHPO and other consulting parties, if any, to complete the Section 106 review process to its satisfaction.
- B. Cooperating federal agencies who recognize FHWA as the lead federal agency for an undertaking may fulfill their obligations under Section 106 of the NHPA according to 36 CFR 800.2(a) (2), provided that FHWA and NDOT 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 FHWA and NDOT.
 - C. All actions prescribed by this Agreement that involve the identification, evaluation, analysis, recording, treatment, monitoring, or disposition of cultural resources, 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 Secretary of the Interior's Professional Qualifications Standards for Archaeology or History (published in 48 FR 44738-44739) and who has been permitted (for archaeology only) by the state of Nevada, and who meets permit requirements of other cooperating federal agencies as appropriate. However, nothing in this stipulation may be interpreted to preclude FHWA or NDOT or any agent or contractor thereof from using the services of persons who do not meet these qualifications standards, providing their activities are conducted under the direct supervision of a person who does meet the standards.
 - D. NDOT shall employ personnel trained, experienced and qualified in the fields of archaeology, history, and architectural history (as defined in 36 CFR 61, Appendix A) in the Environmental Services Division or its successor designated by NDOT administration. Except on such occasions when FHWA elects to consult directly with SHPO or ACHP, all consultation with SHPO and other consulting parties under this Agreement and decisions made under Stipulation V may be performed by NDOT

Environmental Division. NDOT is authorized to consult with SHPO and other consulting parties in accordance with the terms of this Agreement.

- E. To facilitate historic and archaeological preservation planning and actions, NDOT will establish and promote progressive programs and activities of mutual interest to, and in consultation with, FHWA, SHPO, or other consulting parties. In its annual meeting pursuant to Stipulation X, NDOT will identify if special needs exist that should be addressed through such programs and activities and prepare a plan and cost estimate to address those needs.
- F. NDOT shall curate archaeological materials recovered from private and State lands under this Agreement at a facility meeting the standards of 36 CFR 79 or NRS Chapter 381 preferably in the State. Archaeological collections from Federal lands will be curated at a facility meeting standards of 36 CFR 79 and will be removed subject to terms of an Archaeological Resources Protection Act (ARPA) permit issued by the appropriate Federal land management agency.
- G. As the responsible federal agency, FHWA shall conduct all formal consultation with the ACHP. Consultation with the ACHP shall follow procedures in 36 CFR 800 for consulting with the ACHP.
- H. For activities on BLM and/or USFS managed lands, NDOT will apply for and receive appropriate permits for archaeological inventory as well as for any excavation or removal prior to initiating any investigations, as will any contractors or consultants engaged to work on FHWA's/NDOT's behalf. NDOT and its contractors or consultants will submit a fieldwork authorization request and obtain an approved BLM and/or USFS fieldwork authorization prior to initiating any work and will obtain and incorporate the required BLM and/or USFS site and report numbers prior to any submittals of site records or reports to SHPO. NDOT and any contractors or consultants will not initiate any excavation (including shovel testing or probing) or removal without the required prior authorization from BLM and/or USFS, which may include a separate process of permit application and Tribal notification/consultation conducted by the BLM and/or USFS. NDOT and any contractors or consultants will be subject to terms of BLM and/or USFS permits as they may be modified to reflect Tribal notification/consultation. Resulting work products (e.g., reports, site records) for investigation on BLM and/or USFS Nevada lands will conform to current BLM and/or USFS inventory guidelines.

III. GOVERNMENT-TO-GOVERNMENT CONSULTATION WITH TRIBES

- A. FHWA shall retain ultimate responsibility for complying with all federal requirements pertaining to government-to-government consultation with Tribes pursuant to the NHPA. Notwithstanding any other provision of this stipulation, FHWA shall honor the request of any Tribe for government-to-government consultation regarding an undertaking covered by this Agreement. Consultation with Tribes will be initiated with a letter from FHWA to the tribe(s).
- B. In accordance with 36 CFR 800.3(f)(2), any Tribes that might attach religious and cultural significance to historic properties in the Area of Potential Effects (APE) shall be identified by NDOT according to NDOT's Public Involvement/Public Hearing Procedures and invited by FHWA to be consulting parties.
- C. FHWA may ask NDOT to assist in consultation if the individual Tribes reach written agreement prior to having NDOT proceed with Tribal consultation. If the Tribe does not agree, FHWA is responsible for consultation.
- D. FHWA and NDOT shall ensure that consultation with Tribes is initiated early in the project planning process to identify cultural, confidentiality, or other concerns and to allow adequate time for consideration.
- E. FHWA and NDOT shall ensure that consultation continues with Tribes throughout the Section 106 review process prescribed by this Agreement whenever such Tribes express a concern about an undertaking or about historic properties that may be affected by an undertaking.
- F. FHWA and NDOT will notify BLM and USFS when initiating consultation with Tribes regarding undertakings on agency lands.
- G. The BLM and/or USFS retain their separate responsibility to conduct government-to-government Tribal consultation when provisions of the Native American Graves Protection and Repatriation Act (NAGPRA) or ARPA are involved.

IV. PARTICIPATION OF OTHER CONSULTING PARTIES AND THE PUBLIC

A. Consulting Parties

- 1. Consulting parties shall be identified pursuant to, and their participation in undertakings covered under this Agreement shall be governed by, 36 CFR 800.2(c)(5) and 800.3(f). Other individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties. Other parties

entitled to be consulting parties shall be invited by NDOT to participate in the Section 106 process. Any land-managing agency whose land may be affected by an undertaking shall be invited by NDOT to participate in the Section 106 process.

2. NDOT shall invite any local governments (including Certified Local Governments, or CLGs) or applicants that are entitled to be consulting parties under 36 CFR 800.2(c). NDOT shall consider all written requests of individuals and organizations to participate as consulting parties and determine which should be consulting parties for the undertaking, and will consult with FHWA and SHPO prior to denying consulting party status to any party requesting such status.
3. Cooperating federal agencies involved who have Section 106 compliance responsibilities may be consulting parties, concurring parties or signatories.

B. Public Involvement

1. Public involvement in planning and implementing undertakings covered by this Agreement shall be governed by FHWA's and NDOT's environmental compliance procedures (NDOT's Public Involvement/Public Hearing Procedures). FHWA's Technical Advisory (T6640.8A, October 30, 1987) and similar and subsequent guidance documents will also be used. Public involvement and the release of information hereunder shall be consistent with 36 CFR 800.2(d)(1-2), 800.3(e), and 800.11(c)(1 and 3).
2. NDOT shall continue, through opportunities afforded by the current NDOT Public Involvement Procedures, 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., certain activities classified as Categorical Exclusions – NDOT Public Involvement Procedures), 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. NDOT shall provide notice to FHWA and SHPO within one week of all documented public comments concerning cultural resources potentially affected by the proposed undertaking, including properties of religious and/or cultural significance to the Tribes.

V. THE SECTION 106 PROCESS

For all undertakings reviewed pursuant to this Agreement, NDOT shall use the following process:

A. Initiation of the Section 106 Process

1. NDOT will establish the undertaking, determine if the undertaking is a type of activity that does not have the potential to cause effects on historic properties and determine if the undertaking will occur on Tribal lands.
2. If NDOT determines that the undertaking is one with “no potential to cause effects” according to the July 21, 2011 FHWA Directive (Nevada Department of Transportation, Cultural Resources Handbook, 2012.1 (Handbook Chapter 4), NDOT will document this decision in the project record. This determination does not require SHPO or other Federal agency review prior to implementation.
3. NDOT will prepare and provide a Screening Sheet for each undertaking and provide this document to SHPO and the cooperating federal agencies with jurisdiction (Handbook Chapter 1). SHPO shall have 2 working days from receipt to review an electronic submission or 5 working days from receipt to review a copy received by mail and cooperating federal agencies with jurisdiction shall have 10 working days from receipt to review. If no response is received within the time period, NDOT may assume no comment and proceed.

B. Minor Projects

1. The undertakings listed in Handbook Chapter 2 do not require case-by-case consultation with SHPO. NDOT, at its discretion, may consult with SHPO either formally or informally for any undertaking identified as a minor project. Minor projects, as defined in this Agreement, by their nature and experience by NDOT staff, have little to no potential to cause effect to historic properties. Some actions may be considered to be undertakings with “no potential to affect historic properties” but because of the

undertaking's setting or context cannot be processed according to FHWA's July 21, 2011 delegation. These undertakings must result in a finding of "no historic properties affected." NDOT will maintain the following documentation:

- a. A cover sheet or other document that identifies the activity from the list in Handbook Chapter 2 and include a reference to this stipulation that qualifies the undertaking as a minor project and the name of individual who prepared the documentation.
 - b. A NDOT Cultural Resources Short Form (Handbook Chapter 3 and Chapter 6) along with the most current additional documentation to assure the project is not within or adjacent to a National Register eligible or listed property or district.
 - c. The record will also include one or more of the following as appropriate:
 1. construction plans,
 2. project area photos and descriptions,
 3. soil survey data,
 4. architectural history,
 5. archaeological documentation.
2. The undertakings listed in Handbook Chapter 2 may be revised or amended from time to time. Any changes to Handbook must be agreed upon in writing by the signatories and, upon approval, published on NDOT's Cultural Resources webpage. Such changes shall not be considered to be an amendment subject to Stipulation XII.
 3. If a cultural resource inventory is conducted for a minor project, the report shall be included in the annual report to SHPO. If SHPO specifically requests a copy of the documentation for a particular minor project, NDOT will provide SHPO with the requested documentation within thirty (30) days of the request. The SHPO will have 30 calendar days from receipt for review and comment, if after 30 calendar days NDOT receives no response, NDOT may assume the SHPO has no comment and concurs with the determination.
 4. If a cultural resources survey is conducted for a Minor Project where cultural resources are identified on Federal lands, the draft

report will be provided to the Federal land manager for review prior to implementation. The Federal land manager will have a 30 calendar day period for review and comment, if after 30 calendar days from receipt of the document, NDOT receives no response, NDOT may assume the Federal Land manager has no comment and proceed.

5. At NDOT's request, inventories for minor projects containing cultural resources can be submitted during the annual report, or sooner if necessary, for SHPO review of FHWA determinations of eligibility for the National Register of Historic Places. The SHPO will have 30 calendar days from receipt for review and comment, if after 30 calendar days NDOT receives no response, NDOT may assume the SHPO has no comment and concurs with the determination.

C. Identification of Historic Properties

1. NDOT shall determine the scope of identification efforts, including determining and documenting the undertaking's APE, as defined at 36 CFR 800.16(d) and Handbook Chapter 5.
2. NDOT shall identify historic properties that may be affected by an undertaking and shall gather information sufficient to evaluate the eligibility and integrity of these cultural resources for listing in the NRHP. Information may be obtained through cultural resource surveys or other appropriate methods.
3. The identification of historic properties shall follow the Secretary of the Interior's Standards and Guidelines for Identification (48 FR 44720-23), and should be consistent with SHPO historic contexts describe in Handbook Chapter 6, FHWA guidance, NDOT Guidance, Stipulation II.H of this Agreement, any other guidance, methodologies, agreements, or protocols that FHWA, NDOT, and SHPO agree should be used to identify properties, including those of cooperating federal land-managing agencies.

D. National Register Evaluation

1. NDOT shall evaluate the historic significance of identified cultural resources in accordance with National Register Bulletin 15 as well as the guidance in Handbook Chapters 7 and 8. Where historic property boundaries have not previously been established, NDOT will identify recommended boundaries, following standards set forth in National Register Bulletin 21, Defining Boundaries for

National Register Properties. FHWA, NDOT and any Federal land manager (for properties under their jurisdiction), and SHPO may jointly determine a class or classes of properties to be not eligible for listing on the National Register and modify Handbook Chapter 8.

2. If a cultural resources survey is conducted where cultural resources are identified on Federal lands, the draft report will be provided to the Federal land manager prior to implementation for review. The cooperating federal land manager will have a 30 calendar day period for review and comment, if after 30 calendar days from receipt of the document, NDOT receives no response, NDOT may assume the Federal Land manager has no comment on the determination of eligibility.
3. Agreements regarding the NRHP eligibility of cultural resources evaluated shall be governed by 36 CFR 800.4(c)(2). In the event of a disagreement, NDOT shall first consult with the disagreeing party to resolve the disagreement.
 - a. If the disagreement cannot be resolved through informal consultation, NDOT shall notify FHWA, whereupon NDOT, FHWA, SHPO, and any consulting party (including cooperating federal agencies) shall consult to resolve the disagreement in accordance with a time frame specified by FHWA.
 - b. If the disagreement is not resolved, or the ACHP requests, FHWA shall refer the issue to the Keeper of the National Register to obtain a determination of eligibility. The Keeper's determination will be considered final.

E. Finding Of Effect

1. No Historic Properties Affected
 - a. If NDOT finds that either there are no historic properties present or there are historic properties present within the APE, and the undertaking will have no effect on them as defined in 36 CFR 800.16(i), NDOT shall make a finding of "no historic properties affected" (36 CFR 800.4(d)(1)). NDOT shall submit its finding of effect and supporting documentation (Handbook Chapter 6 for Architectural) to SHPO, the cooperating federal agencies and the consulting parties for a 30 calendar day review period. If

NDOT receives no response within 30 calendar days of receipt, NDOT may assume concurrence and proceed.

- b. NDOT shall notify all consulting parties, and make the documentation available for public inspection prior to approving the undertaking. As per 36 CFR 800.2(d) (1) the agency official shall 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. Any public involvement will be in accordance with Stipulation IV.B of this document.

2. No Adverse Effect

- a. NDOT shall make a finding of “no adverse effect” if none of the undertaking’s anticipated effects meet the Criteria of Adverse Effect under 36 CFR 800.5(a)(1), or if NDOT imposes conditions that will avoid adverse effects to historic properties (Handbook Chapter 9).
- b. If NDOT finds that undertaking effects can be treated by meeting the Secretary of the Interior’s Standards on Treatment of Historic Properties, then the undertaking will be treated as a “no adverse effect” and documented per Handbook Chapter 6 (Treated No Adverse Effect). Individuals performing this work will be qualified consistent with Stipulation II.C.
- c. NDOT shall submit its finding of no adverse effect and supporting documentation to SHPO, the cooperating federal agencies, Tribes as appropriate, and all other consulting parties for review.
- d. If SHPO, a cooperating federal agency, or another consulting party, objects within 30 calendar days of receipt of a NDOT finding of no adverse effect, NDOT will notify FHWA. FHWA will either consult to resolve the objection or request the ACHP to review the finding pursuant to 36 CFR 800. 5(c)(2).
- e. NDOT shall maintain a record of the finding and provide information on the finding to the public on request, consistent with the confidentiality provisions of Stipulation XIV.

- f. NDOT may simultaneously request SHPO review of identification, evaluation, and findings of effect (not including adverse effect) covered by 36 CFR 800.3 through 800.5. Provided other consulting parties and the public are afforded an adequate opportunity to express their views pursuant to 36 CFR 800.2(d) and 36 CFR 800.5(c).
- g. If SHPO or other consulting party, including an affected federal agency, fails to comment on the submission within 30 calendar days of receipt, NDOT may assume their concurrence and proceed.

3. Adverse Effect

- a. Where adverse effects, as defined by the Criteria of Adverse Effect set forth in 36 CFR 800.5(a), cannot be avoided, NDOT shall make a finding of "adverse effect".
- b. As part of its process in assessing whether adverse effects exist, FHWA and NDOT shall consult with Tribes that ascribe traditional cultural and religious significance to affected historic properties, and may consult either formally or informally with SHPO regarding application of the criteria of adverse effect.
- c. NDOT shall inform consulting parties including the cooperating federal agencies of the finding of adverse effect.

F. Resolution Of Adverse Effect

- 1. When a finding of adverse effect has been made by NDOT, NDOT shall, in consultation with FHWA, SHPO, the cooperating federal agencies and other consulting parties, evaluate alternatives or modifications to the undertaking that would avoid, minimize, or mitigate adverse effects on historic properties. NDOT shall propose measures to resolve adverse effects, to be documented:
 - a. As a Standard Treatment (Stipulation V.G); or
 - b. In a Memorandum of Agreement (MOA).
- 2. NDOT shall make the finding available to the public, in accord with Stipulation IV.B. NDOT shall provide an opportunity for members of the public to express their views on resolving adverse effects of

the undertaking through NDOT's Public Involvement Process (Stipulation IV).

3. When a Standard Treatment is not used to resolve adverse effects, FHWA will notify the ACHP of the finding, pursuant to 36 CFR 800.6(a) (1) and that NDOT will be preparing a MOA to resolve adverse effects. NDOT will provide supporting documentation in accordance with 36 CFR 800.11(e).
 - a. The ACHP shall advise FHWA and the consulting parties whether it will participate within 15 days of receipt of notice.
 - b. If the ACHP fails to respond within 15 days of receipt of notice, FHWA may assume the ACHP will not participate.
4. After consideration of the views of all consulting parties and the public, if NDOT, FHWA, SHPO, and ACHP (if it has chosen to participate [pursuant to 36 CFR 800 Appendix A]) agree on how the adverse effects will be resolved, they shall execute a MOA, pursuant to 36 CFR 800.6(c).
5. FHWA will file a copy of the signed MOA with the ACHP, and shall provide a copy to each signatory, invited signatory and concurring signatory.
6. Once finalized, the measures to resolve adverse effects shall be incorporated into the undertaking, and the undertaking may be implemented. Such measures will be incorporated as part of the NEPA documentation and the agreement attached to the decision record.
7. If NDOT determines that an undertaking may have a direct adverse effect on a National Historic Landmark, NDOT will notify FHWA, who shall request SHPO, ACHP, and the Secretary of the Interior, as well as any other consulting parties, to participate in consultation to resolve any adverse effects, pursuant to 36 CFR 800.10.

G. Developing Standard Treatments

1. In consultation with the signatories of this Agreement, NDOT may develop standard treatments for resolving adverse effects to certain types of properties or that are caused by specific classes of undertakings. Once the signatories have agreed, in writing, to a standard treatment, NDOT shall incorporate it into a new chapter

of the Handbook and may implement it, as appropriate, to resolve adverse effects (V.H). If a standard treatment is the sole measure to resolve adverse effects, no MOA is needed.

2. When a proposed standard treatment would apply to properties of traditional cultural and religious significance to the Tribes, NDOT and FHWA shall consult with any land management agency with jurisdiction and Tribes that ascribe value to such properties in developing the standard treatment.
3. NDOT shall consult with SHPO, FHWA, the cooperating federal agencies, the Tribes, and other consulting parties as appropriate, on standard treatments developed under 1 and 2 above.

H. Applying Standard Treatments

1. NDOT may propose the use of approved standard treatments for individual undertakings when it determines that the adverse effects of specific classes of undertakings are limited and can be avoided or mitigated by applying the standard treatment. NDOT shall document a finding of no adverse effects (V.E.2) or adverse effects (V.E.3) and provide such documentation to the SHPO, the cooperating federal or state land managing agencies with jurisdiction, participating Tribes, and consulting parties for a 30 calendar day review. If SHPO agrees in writing, and no other consulting party objects, NDOT may proceed with the undertaking in accordance with the standard treatment. Application of Standard Treatments in this case will be reported on in the reporting and consultation process of Stipulations V.E.2 and V.E.3 and V.F.
2. Any standard treatment may include minor undertaking-specific changes by mutual agreement in writing by NDOT, FHWA, federal cooperating land managing agencies with jurisdiction, and SHPO, and if no other consulting parties object.
3. If a consulting party objects to use of a standard treatment for a particular undertaking, NDOT and FHWA will conclude consultation in accordance with Stipulation V.F. and/or V.I.

I. Resolving Objections For Adverse Effects

1. If FHWA, SHPO, NDOT, the cooperating federal agencies, or other consulting parties are unable to agree on measures to resolve the adverse effects of an undertaking pursuant to this stipulation, then

FHWA shall invite the ACHP to participate in the resolution pursuant to 36 CFR 800.6(b)(2).

2. If the parties fail to agree to measures to resolve the adverse effects, FHWA, SHPO, or ACHP may terminate consultation pursuant to 36 CFR 800.7(a). Upon termination, the signatories shall comply with the remaining requirements of 36 CFR 800.7.

VI. EMERGENCY SITUATIONS

- A. For the purposes of this Agreement, emergencies are defined as occurrences that require emergency highway system/facility repairs that are necessary to:
 1. Protect the life, safety, or health of the public; or
 2. Minimize the extent of damage to the highway system/facilities; or
 3. Protect remaining highway facilities; or
 4. Restore essential traffic.
- B. These repairs can occur regardless of funding category, and regardless of declarations made by federal, state, or local agencies.
- C. If NDOT determines that an emergency repair undertaking could affect historic properties, NDOT shall notify SHPO, FHWA, Tribes, and cooperating federal agencies as appropriate, within 24 hours. SHPO, cooperating federal agency and any Tribe that may attach religious and cultural significance to historic properties likely to be affected will have 72 hours to respond.
- D. For undertakings 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 Section 106 documentation will happen concurrently or after the fact. In these cases, NDOT will comply with the procedures in Stipulation V of this Agreement to the extent possible, but the reviews will likely be conducted after the emergency work is completed.
- E. For undertakings taking longer than 30 days for repair, NDOT shall comply with the procedures in Stipulation V.
- F. NDOT will provide written notification of an emergency action to SHPO (per Stipulation VI.C) in seven days. The notice shall be clearly and

prominently marked as an emergency notification, and shall include an explanation of how the action meets the requirements for emergency as defined herein. The notice shall also include a brief description of the eligibility and/or significance of the resource(s) involved and the nature, effect, and anticipated effect of the emergency action on the resource(s), and the anticipated time frame available for comment.

VII. POST-REVIEW DISCOVERIES

A. Planning for Subsequent Discoveries:

When NDOT's identification efforts in accordance with Stipulation V indicate that historic properties are likely to be discovered during implementation of an undertaking, NDOT shall include a plan for discovery of such properties in any environmental document. 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. FHWA and appropriate cooperating federal land management agencies shall review the draft discovery plan. FHWA/NDOT shall determine whether a planned activity may result in intentional excavation of human remains, funerary objects, etc. subject to NAGPRA and follow Stipulation VIII.A.

B. Discoveries Without Prior Planning:

1. If previously unidentified archaeological or architectural properties, or unanticipated effects, are discovered after NDOT has completed its review under this Agreement, activities within that area of the undertaking will stop immediately, in accordance with NDOT Standard Specification 01355, Part 1.10 (Handbook Chapter 10).
2. No further construction in the area of discovery will proceed until the requirements of 36 CFR 800.13 have been satisfied, including consultation with Tribes that may attach traditional cultural and religious significance to the discovered property.
3. NDOT will consult with FHWA, SHPO, the affected cooperating federal agencies and Tribes, as appropriate, to record, document, and evaluate the NRHP eligibility of the property and the undertaking's effect on the property, and to design a plan for avoiding, minimizing, or mitigating adverse effects on the eligible property.

4. If FHWA, SHPO, affected federal agency or a Tribe fails to file an objection within 72 hours of receipt to NDOT's plan for addressing the discovery, NDOT may carry out the requirements of 36 CFR 800.13 on behalf of FHWA, and the ACHP does not need to be notified.
5. Discoveries of Native American human remains without prior planning will be handled per Stipulation VIII.B or VIII.C.

VIII. TREATMENT OF HUMAN REMAINS

- A. For planned excavation and/or removal activities on federal land, FHWA/NDOT shall apply for a permit under the Archaeological Resource Protection Act of 1979 (ARPA) (16 U.S.C. 470cc) from the appropriate federal land management agency. Consistent with 43 CFR 10.3 et seq., and as part of its application for an ARPA permit, FHWA/NDOT will provide the federal land management agency with information necessary to make a reasonable determination whether the planned activity may result in the excavation of Native American human remains, funerary objects, sacred objects or objects of cultural patrimony (collectively cultural items) from federal lands. Based on the information provided, the federal land management agency may determine that the ARPA permit will include for the excavation and removal of Native American cultural items and under Section 3(c) of the NAGPRA (25 U.S.C. 3002). If requested, the FHWA/NDOT shall assist the Federal land manager in consultation with Tribes and in developing a NAGPRA Plan of Action (POA), as determined by the federal land management agency. The NAGPRA POA shall be developed in consultation with appropriate Tribes for the treatment and disposition of any cultural items that may be anticipated. The federal land management agency must approve the ARPA permit and any required NAGPRA POA prior to authorizing excavation and/or removal of archaeological resources under ARPA, including cultural items subject to NAGPRA.
- B. In the event of an inadvertent discovery of human remains on federal land, FHWA/NDOT shall notify the appropriate federal land managing agency immediately by phone, and follow up immediately with a written confirmation of discovery, sent by certified mail. FHWA/NDOT shall be responsible for ensuring security and protection of the inadvertent discovery and shall halt activities within 100 meters of the discovery. FHWA/NDOT shall also contact the county sheriff. The FHWA/NDOT and the appropriate federal land management agency may assist the

county sheriff or other responsible local official, as requested, to examine the discovery and to determine if the remains are Native American and subject to NAGPRA. If the remains are not of forensic interest, the federal land management agency shall be responsible to determine the disposition and treatment of the human remains. If the federal land management agency determines the remains are subject to NAGPRA, and consistent with 43 CFR 10.4, FHWA/NDOT staff shall, as requested, assist the federal land management agency in taking reasonable steps to protect the remains and to consult with Tribes per 43 CFR 10.4. The federal land management agency may halt activity for up to 30 days. Activity may be resumed after 30 days if otherwise lawful and the federal land manager's responsibilities are met.

- C. Upon discovery of human remains on non-Federal lands, they will be treated by NDOT in accordance with NRS (Nevada Revised Statutes) 383.16.

IX. REPORTING AND MONITORING

A. Documentation:

1. All documentation that supports findings and determinations made under this Agreement shall be consistent with 36 CFR 800.11, and any applicable guidelines and procedures of federal cooperating land-managing agencies that may be affected by the undertaking.
2. Documentation prepared by local agencies, or their consultants, in support of such findings shall be submitted to NDOT for review and approval. NDOT shall not transmit to FHWA, SHPO, or other consulting parties, any documentation that it has not reviewed and approved.
3. All documentation prepared under this Agreement shall be kept on file at NDOT and made available to consulting parties and the public at their request, consistent with applicable confidentiality requirements per Stipulation XIV.

B. Quarterly Reporting:

1. On a quarterly basis, NDOT shall compile and submit a list of Minor Projects to FHWA and SHPO by the end of the quarter (December 31, March 31, June 30, and September 30). This list shall include the following for each undertaking:

- a. the county,
- b. undertaking name and number,
- c. type of undertaking,
- d. level of effort,
- e. consultation measures,
- f. and a 1:24,000 map showing the location of each undertaking.

X. ANNUAL REPORTING

- A. NDOT shall compile an annual report for submission to FHWA, SHPO, and ACHP. Information in the report shall include, but is not limited to, a summary of actions taken under the Agreement, including all findings and determinations, accomplishments, estimated time and cost savings, public objections, and inadvertent effects or foreclosures. The range and type of information included by NDOT in the report and the manner in which this information is organized and presented must be such that it facilitates the ability of the reviewing parties to assess accurately the degree to which the Agreement, and its manner of implementation, constitutes an efficient and effective program alternative under 36 CFR 800, and to determine whether this Agreement should remain in effect, and if so, whether and how it should be improved through appropriate amendment.
- B. NDOT shall prepare the report of these findings annually following execution of the Agreement. The initial report shall be prepared following completion of the first full Federal fiscal year under this Agreement. NDOT shall submit the annual reports to FHWA, SHPO, and ACHP no later than December 30. NDOT shall notify other affected cooperating federal agencies of the posting and location of this website notice.
- C. NDOT, FHWA, and SHPO will meet annually to evaluate the Agreement, to suggest revisions to its provisions, and to evaluate the quality of the resource identification and protection activities carried out under the Agreement. Prior to any such meetings, the ACHP and consulting parties will be notified and may participate at their discretion.

- D. NDOT shall post the annual report on their website so that it is available for public inspection at the time it is submitted to the signatories. The web posting shall include a provision that allows the public to comment on the report. NDOT will consider public comments along with comments from signatories. At the request of any other signatory FHWA shall ensure that a meeting is held to facilitate review of, and comment on, the report to address questions and issues, or to resolve adverse comments.

XI. DISPUTE RESOLUTION

- A. Should any signatory object to FHWA regarding the manner in which the terms of this Agreement are carried out, FHWA will immediately notify the other signatories of the objection and proceed to consult with the objecting party to resolve the objection. FHWA will honor the request of any signatory to participate in the consultation and will take any comments provided by such parties into account. FHWA shall establish a reasonable time frame for such consultations.
- B. If the objection is resolved through consultation, FHWA may authorize the disputed action to proceed in accordance with the terms of such resolution.
- C. If after initiating such consultation, FHWA determines that the objection cannot be resolved through consultation, FHWA, with the cooperation of NDOT, shall forward all documentation relevant to the objection to the ACHP and other signatory parties, including FHWA's proposed response to the objection. Within 30 calendar days after receipt of all pertinent documentation, ACHP shall exercise one of the following options:
 - 1. Advise FHWA that ACHP concurs in FHWA's proposed response to the objection, whereupon FHWA will respond to the objection accordingly; or
 - 2. Provide FHWA with recommendations, which FHWA shall take into account in reaching a final decision regarding its response to the objection; or
 - 3. Notify FHWA 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 shall ensure that the Agency Official is prepared to take the resulting comments into account in accordance with 36 CFR 800.7(c)(4).

- D. Should ACHP not exercise one of the foregoing options within 30 calendar days after receipt of all pertinent documentation, FHWA may assume ACHP's concurrence in its proposed response to the objection.
- E. FHWA shall take into account any ACHP recommendation or comment and any comments from the other signatory parties in reaching a final decision regarding the objection.
- F. FHWA shall provide all other signatory parties with a written copy of its final decision regarding any objection addressed pursuant to this Stipulation.
- G. FHWA may then 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.
- H. FHWA's responsibility to carry out all actions under this Agreement that are not the subject of the objection shall remain unchanged.

XII. AMENDMENT

- A. Any signatory 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. The amendment will be effective on the date a copy is signed by all of the original signatories.
- B. Any changes to Handbook must be agreed upon in writing by the signatories and, upon approval, published on NDOT's Cultural Resources webpage.

XIII. TERMINATION

- A. Any signatory may terminate this Agreement. If any signatory proposes termination of this Agreement the party proposing termination shall notify the other signatory parties in writing, explain the reasons for proposing termination, provide suggestions for resolution that would end the signatory's desire for termination, and consult with the other parties for no more than 30 calendar 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 proposing termination may terminate this Agreement by promptly notifying the other parties in writing.
- D. Should this Agreement be terminated, FHWA would carry out the requirements of 36 CFR Part 800 for individual undertakings.

XIV. CONFIDENTIALITY

All signatories acknowledge that information about historic properties is subject to the provisions of Section 304 of NHPA. Section 304 allows NDOT to withhold from disclosure to the public, information about the location, character, or ownership of a historic property if NDOT determines that disclosure may 1) cause a significant invasion of privacy; 2) risk harm to the historic property; or 3) impede the use of a traditional religious site by practitioners. Having so acknowledged, all signatories 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

This Agreement shall remain in effect for a period of three (3) years after the date of execution of the Agreement by the ACHP, unless it is terminated or amended in accordance with Stipulation XII. Ninety days prior to the conclusion of the three-year period, NDOT will notify all parties in writing of the upcoming anniversary. Before the end of the three-year term, FHWA will consult with NDOT, SHPO, and ACHP to determine interest in renewing this Agreement. The Agreement may be extended for an additional term upon the written agreement of the signatories. This Agreement will terminate after twenty one (21) years unless it is terminated prior to this date in accordance with Stipulation XII.

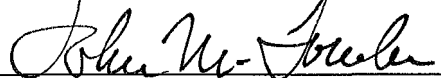
EXECUTION and implementation of this Agreement evidence that FHWA has delegated certain Section 106 responsibilities to NDOT and has afforded ACHP a reasonable opportunity to comment on the Program and its individual undertakings in Nevada; that FHWA and other cooperating federal agencies have taken into account the effects of the program and its individual undertakings on historic properties, and that FHWA and other cooperating federal agencies have complied with Section 106 of the NHPA and 36 CFR 800 for the Program and its individual undertakings.

SIGNATORIES

FEDERAL HIGHWAY ADMINISTRATION

By:  Date: 9/18/14
Susan Klekar, Nevada Division Administrator

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:  Date: 10/21/14
John M. Fowler, Executive Director

NEVADA STATE HISTORIC PRESERVATION OFFICE

By: _____ Date: _____
Rebecca L. Palmer, Nevada State Historic Preservation Officer

INVITED SIGNATORIES

NEVADA DEPARTMENT OF TRANSPORTATION

By: _____ Date: _____
Rodolfo Malfabon, Director

BUREAU OF LAND MANAGEMENT

By: _____ Date: _____
Amy Lueders, State Director

SIGNATORIES

FEDERAL HIGHWAY ADMINISTRATION

By: _____ Date: _____
Susan Klekar, Nevada Division Administrator

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: John M. Fowler Date: 10/21/14
John M. Fowler, Executive Director

NEVADA STATE HISTORIC PRESERVATION OFFICE

By: _____ Date: _____
Rebecca L. Palmer, Nevada State Historic Preservation Officer

INVITED SIGNATORIES

NEVADA DEPARTMENT OF TRANSPORTATION

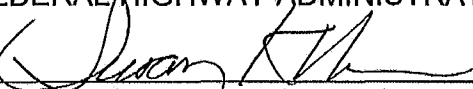
By: Rodolfo Malfabon Date: 9-10-14
Rodolfo Malfabon, Director

BUREAU OF LAND MANAGEMENT


By: _____ Date: _____
Amy Lueders, State Director

SIGNATORIES

FEDERAL HIGHWAY ADMINISTRATION

By:  Date: 9/18/14
Susan Klekar, Nevada Division Administrator

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:  Date: 10/21/14
John M. Fowler, Executive Director

NEVADA STATE HISTORIC PRESERVATION OFFICE

By:  Date: 09/25/14
Rebecca L. Palmer, Nevada State Historic Preservation Officer

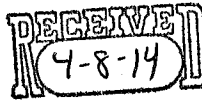
INVITED SIGNATORIES

NEVADA DEPARTMENT OF TRANSPORTATION

By: _____ Date: _____
Rodolfo Malfabon, Director

BUREAU OF LAND MANAGEMENT

By: _____ Date: _____
Amy Lueders, State Director



SIGNATORIES

FEDERAL HIGHWAY ADMINISTRATION

By: _____ Date: _____
Susan Klekar, Nevada Division Administrator

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: John M. Fowler Date: 10/21/14
John M. Fowler, Executive Director

NEVADA STATE HISTORIC PRESERVATION OFFICE

By: _____ Date: _____
Rebecca L. Palmer, Nevada State Historic Preservation Officer

INVITED SIGNATORIES

NEVADA DEPARTMENT OF TRANSPORTATION

By: _____ Date: _____
Rodolfo Malfabon, Director

BUREAU OF LAND MANAGEMENT

By: [Signature] Date: 9/11/14
Amy Lueders, State Director

U.S. ARMY CORPS OF ENGINEERS

By: 
Michael Jewell, Chief, Regulatory Division

Date: 16 September 2014

U.S. FOREST SERVICE

By: _____ Date: _____
William Dunkelberger, Forest Supervisor, Humboldt-Toiyabe Forest

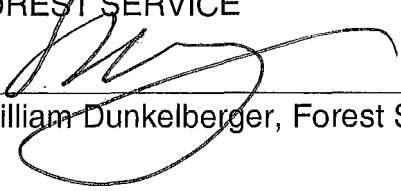
NV Division of State Parks

By: _____ Date: _____
Eric Johnson, Director

U.S. ARMY CORPS OF ENGINEERS

By: _____ Date: _____
Michael Jewell, Chief, Regulatory Division

U.S. FOREST SERVICE

By:  _____ Date: 8/8/2014
William Dunkelberger, Forest Supervisor, Humboldt-Toiyabe Forest

NV Division of State Parks

By: _____ Date: _____
Eric Johnson, Director


U.S. ARMY CORPS OF ENGINEERS

By: _____ Date: _____
Michael Jewell, Chief, Regulatory Division

U.S. FOREST SERVICE

By: _____ Date: _____
William Dunkelberger, Forest Supervisor, Humboldt-Toiyabe Forest

NV Division of State Parks

By:  _____ Date: 3/31/14
Eric Johnson, Director



Preserving America's Heritage

October 19, 2017

Mr. Abdelmoez Abdalla
Environmental Program Manager
FHWA Nevada Division
705 North Plaza Street, Suite 220
Carson City, NV 89701

Ref: *Amendment to Programmatic Agreement Regarding Implementation of Federal-Aid
Transportation Projects in the State of Nevada*

Dear Mr. Abdalla:

Enclosed is your copy of the fully executed Amendment to the Programmatic Agreement (PA) for the referenced program. By carrying out the terms of the Agreement, the Federal Highway Administration (FHWA) will fulfill its responsibilities under Section 106 of the National Historic Preservation Act and the regulations of Advisory Council on Historic Preservation. The original Amendment will remain on file at our office.

We commend FHWA for working closely with the Nevada State Historic Preservation Officer (SHPO), the Nevada Department of Transportation, and the other federal and state partners to extend the duration of this Agreement and continue its benefits for another three years.

If we may be of further assistance as the Agreement is implemented, please contact Ms. MaryAnn Naber at (202) 517-0218, or via e-mail at mnaber@achp.gov.

Sincerely,

Charlene Dwin Vaughn, AICP
Assistant Director
Office of Federal Agency Programs
Federal Permitting, Licensing, and Assistance Section

Enclosure

**AMENDMENT TO
PROGRAMMATIC AGREEMENT**

Among the Federal Highway Administration, the Nevada Department of Transportation,
the Nevada State Historic Preservation Officer,
and the Advisory Council on Historic Preservation
Regarding Implementation of Federal-Aid Transportation Projects in the State of Nevada
(Programmatic Agreement)

WHEREAS, the Programmatic Agreement was executed on October 21, 2014;

WHEREAS, the parties desire to extend the duration of the Programmatic Agreement and have
consulted pursuant to its terms;

NOW, THEREFORE, in accordance with Stipulations XII and XV, the signatories agree to
extend the duration of the Programmatic Agreement through October 31, 2020.

SIGNATORIES:

FEDERAL HIGHWAY ADMINISTRATION

By: DocuSigned by: Susan Klekar Date: 10/12/2017
2F0DFE8B5230A1E
Susan Klekar, Division Administrator

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: John M. Fowler Date: 10/18/17
John M. Fowler, Executive Director

NEVADA STATE HISTORIC PRESERVATION OFFICER

By: Rebecca L. Palmer Date: 10/17/17
Rebecca L. Palmer, Nevada State Historic Preservation Officer

INVITED SIGNATORIES:

NEVADA DEPARTMENT OF TRANSPORTATION

By:  Date: 10/09/2017
Rodolfo Malfabon, Director

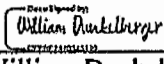
BUREAU OF LAND MANAGEMENT

By:  Date: 4 Oct 2017
For Marci Todd, Acting State Director

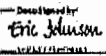
U.S. ARMY CORPS OF ENGINEERS

By:  Date: 28 September 2017
Michael Jewell, Chief, Regulatory Division

U.S. FOREST SERVICE

By:  Date: 09/22/2017
William Dunkelberger, Forest Supervisor, Humboldt-Toiyabe Forest

NEVADA DIVISION OF STATE PARKS

By:  Date: 09/21/2017
Eric Johnson, Administrator

AMENDMENT TWO TO THE
PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
THE NEVADA DEPARTMENT OF TRANSPORTATION,
THE NEVADA STATE HISTORIC PRESERVATION OFFICER,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING
IMPLEMENTATION OF FEDERAL-AID TRANSPORTATION PROJECTS IN THE
STATE OF NEVADA

WHEREAS, the Federal Highway Administration (FHWA), the Nevada State Historic Preservation Officer (SHPO), and the Advisory Council on Historic Preservation (ACHP), and the Nevada Department of Transportation (NDOT), executed the Programmatic Agreement (Agreement) on October 21, 2014 and the first amendment to the PA on October 18, 2017; and

WHEREAS, the signatories desire to extend the duration of the Agreement through October 31, 2023 and have consulted pursuant to its terms; and

WHEREAS, the SHPO requires a modification of the review period afforded to the SHPO for Screening Forms to accommodate significant workload increases since 2014; and

NOW, THEREFORE, in accordance with Stipulation XII of the Agreement, FHWA, NDOT, the SHPO, and ACHP agree to amend the Agreement as follows:

1. Amend Stipulation V.A.3 so it reads as follows:

NDOT will prepare and provide a Screening Sheet for each undertaking and provide this document to the SHPO and the cooperating federal agencies with jurisdiction (Handbook Chapter 1). The SHPO and cooperating federal agencies with jurisdiction shall have five (5) working days from receipt to review the submission. If NDOT receives no response within the time period above, NDOT may proceed.

2. Amend Stipulation VIII.C so it reads as follows:

Upon discovery of human remains on non-Federal lands, NDOT will immediately notify the SHPO in accordance with NRS 383.170.

The SHPO has determined that this Agreement meets the terms found in NRS 383.121 as amended (Chapter 523, Statutes of Nevada 2017, page 3544) for an "existing agreement with a federal agency that was executed pursuant to federal law and that relates to the discovery of prehistoric native Indian human remains or a funerary object." The SHPO has determined that execution of this PA means that the provisions for notification found in NRS 383.121, as amended, do not apply. Standard notification requirements found in NRS 383.150 to NRS 383.190, amended, do apply.

SIGNATORIES:

FEDERAL HIGHWAY ADMINISTRATION

By: _____ Date: _____
Susan E. Klekar, Division Administrator

ADVISORY COUNCIL ON HISTORIC PRESERVATION

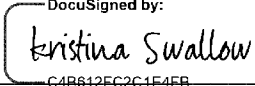
By: _____ Date: _____
Aimee Jorjani, Chairman

NEVADA STATE HISTORIC PRESERVATION OFFICER

By: _____ Date: _____
Rebecca L. Palmer, Nevada State Historic Preservation Officer

INVITED SIGNATORIES

NEVADA DEPARTMENT OF TRANSPORTATION

By:  _____ Date: 10/22/2020
C4B612FC2C1E4FB...
Kristina Swallow, Director

BUREAU OF LAND MANAGEMENT

By: _____ Date: _____
Jon Raby, State Director

INVITED SIGNATORIES (CONTINUED)

UNITED STATES ARMY CORP OF ENGINEERS

By: _____ Date: _____
Michael Jewell, Chief, Regulatory Division

UNITED STATES FOREST SERVICE

By: _____ Date: _____
William Dunkelberger, Forest Supervisor, Humboldt-Toiyabe Forest

NEVADA DIVISION OF STATE PARKS

By: _____ Date: _____
Robert Mergell, Administrator

SIGNATORIES:

FEDERAL HIGHWAY ADMINISTRATION

By:  Date: 10/23/2020
Susan E. Klekar, Division Administrator

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____ Date: _____
Aimee Jorjani, Chairman

NEVADA STATE HISTORIC PRESERVATION OFFICER

By: _____ Date: _____
Rebecca L. Palmer, Nevada State Historic Preservation Officer

INVITED SIGNATORIES

NEVADA DEPARTMENT OF TRANSPORTATION

By: _____ Date: _____
Kristina Swallow, Director

BUREAU OF LAND MANAGEMENT

By: _____ Date: _____
Jon Raby, State Director

AMENDMENT TWO TO THE
PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
THE NEVADA DEPARTMENT OF TRANSPORTATION,
THE NEVADA STATE HISTORIC PRESERVATION OFFICER,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING
IMPLEMENTATION OF FEDERAL-AID TRANSPORTATION PROJECTS IN THE
STATE OF NEVADA

WHEREAS, the Federal Highway Administration (FHWA), the Nevada State Historic Preservation Officer (SHPO), and the Advisory Council on Historic Preservation (ACHP), and the Nevada Department of Transportation (NDOT), executed the Programmatic Agreement (Agreement) on October 21, 2014 and the first amendment to the PA on October 18, 2017; and

WHEREAS, the signatories desire to extend the duration of the Agreement through October 31, 2023 and have consulted pursuant to its terms; and

WHEREAS, the SHPO requires a modification of the review period afforded to the SHPO for Screening Forms to accommodate significant workload increases since 2014; and

NOW, THEREFORE, in accordance with Stipulation XII of the Agreement, FHWA, NDOT, the SHPO, and ACHP agree to amend the Agreement as follows:

1. Amend Stipulation V.A.3 so it reads as follows:

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2. Amend Stipulation VIII.C so it reads as follows:

Upon discovery of human remains on non-Federal lands, NDOT will immediately notify the SHPO in accordance with NRS 383.170.

The SHPO has determined that this Agreement meets the terms found in NRS 383.121 as amended (Chapter 523, Statutes of Nevada 2017, page 3544) for an "existing agreement with a federal agency that was executed pursuant to federal law and that relates to the discovery of prehistoric native Indian human remains or a funerary object." The SHPO has determined that execution of this PA means that the provisions for notification found in NRS 383.121, as amended, do not apply. Standard notification requirements found in NRS 383.150 to NRS 383.190, amended, do apply.

SIGNATORIES:

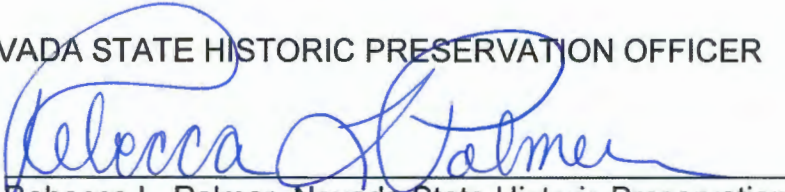
FEDERAL HIGHWAY ADMINISTRATION

By:  Date: 10/23/2020
Susan E. Klekar, Division Administrator

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____ Date: _____
Aimee Jorjani, Chairman

NEVADA STATE HISTORIC PRESERVATION OFFICER

By:  Date: 10/23/2020
Rebecca L. Palmer, Nevada State Historic Preservation Officer

INVITED SIGNATORIES

NEVADA DEPARTMENT OF TRANSPORTATION

By: _____ Date: _____
Kristina Swallow, Director

BUREAU OF LAND MANAGEMENT

By: _____ Date: _____
Jon Raby, State Director

INVITED SIGNATORIES (CONTINUED)

UNITED STATES ARMY CORP OF ENGINEERS

By: _____ Date: _____
Michael Jewell, Chief, Regulatory Division

UNITED STATES FOREST SERVICE

By: _____ Date: _____
William Dunkelberger, Forest Supervisor, Humboldt-Toiyabe Forest

NEVADA DIVISION OF STATE PARKS

By: _____ Date: _____
Robert Mergell, Administrator

AMENDMENT TWO TO THE
PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
THE NEVADA DEPARTMENT OF TRANSPORTATION,
THE NEVADA STATE HISTORIC PRESERVATION OFFICER,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING
IMPLEMENTATION OF FEDERAL-AID TRANSPORTATION PROJECTS IN THE
STATE OF NEVADA

WHEREAS, the Federal Highway Administration (FHWA), the Nevada State Historic Preservation Officer (SHPO), and the Advisory Council on Historic Preservation (ACHP), and the Nevada Department of Transportation (NDOT), executed the Programmatic Agreement (Agreement) on October 21, 2014 and the first amendment to the PA on October 18, 2017; and

WHEREAS, the signatories desire to extend the duration of the Agreement through October 31, 2023 and have consulted pursuant to its terms; and

WHEREAS, the SHPO requires a modification of the review period afforded to the SHPO for Screening Forms to accommodate significant workload increases since 2014; and

NOW, THEREFORE, in accordance with Stipulation XII of the Agreement, FHWA, NDOT, the SHPO, and ACHP agree to amend the Agreement as follows:

1. Amend Stipulation V.A.3 so it reads as follows:

NDOT will prepare and provide a Screening Sheet for each undertaking and provide this document to the SHPO and the cooperating federal agencies with jurisdiction (Handbook Chapter 1). The SHPO and cooperating federal agencies with jurisdiction shall have five (5) working days from receipt to review the submission. If NDOT receives no response within the time period above, NDOT may proceed.

2. Amend Stipulation VIII.C so it reads as follows:

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The SHPO has determined that this Agreement meets the terms found in NRS 383.121 as amended (Chapter 523, Statutes of Nevada 2017, page 3544) for an "existing agreement with a federal agency that was executed pursuant to federal law and that relates to the discovery of prehistoric native Indian human remains or a funerary object." The SHPO has determined that execution of this PA means that the provisions for notification found in NRS 383.121, as amended, do not apply. Standard notification requirements found in NRS 383.150 to NRS 383.190, amended, do apply.

SIGNATORIES:

FEDERAL HIGHWAY ADMINISTRATION

By: _____ Date: _____
Susan E. Klekar, Division Administrator

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____ Date: _____
Aimee Jorjani, Chairman

NEVADA STATE HISTORIC PRESERVATION OFFICER

By: _____ Date: _____
Rebecca L. Palmer, Nevada State Historic Preservation Officer

INVITED SIGNATORIES

NEVADA DEPARTMENT OF TRANSPORTATION

By:  _____ Date: 10/22/2020
Kristina Swallow, Director

BUREAU OF LAND MANAGEMENT

By: _____ Date: _____
Jon Raby, State Director

INVITED SIGNATORIES (CONTINUED)

UNITED STATES ARMY CORP OF ENGINEERS

By: _____ Date: _____
Michael Jewell, Chief, Regulatory Division

UNITED STATES FOREST SERVICE

By: _____ Date: _____
William Dunkelberger, Forest Supervisor, Humboldt-Toiyabe Forest

NEVADA DIVISION OF STATE PARKS

By:  _____ Date: 10-23-2020
Robert Mergell, Administrator

AMENDMENT TWO TO THE
PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
THE NEVADA DEPARTMENT OF TRANSPORTATION,
THE NEVADA STATE HISTORIC PRESERVATION OFFICER,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING
IMPLEMENTATION OF FEDERAL-AID TRANSPORTATION PROJECTS IN THE
STATE OF NEVADA

WHEREAS, the Federal Highway Administration (FHWA), the Nevada State Historic Preservation Officer (SHPO), and the Advisory Council on Historic Preservation (ACHP), and the Nevada Department of Transportation (NDOT), executed the Programmatic Agreement (Agreement) on October 21, 2014 and the first amendment to the PA on October 18, 2017; and

WHEREAS, the signatories desire to extend the duration of the Agreement through October 31, 2023 and have consulted pursuant to its terms; and

WHEREAS, the SHPO requires a modification of the review period afforded to the SHPO for Screening Forms to accommodate significant workload increases since 2014; and

NOW, THEREFORE, in accordance with Stipulation XII of the Agreement, FHWA, NDOT, the SHPO, and ACHP agree to amend the Agreement as follows:

1. Amend Stipulation V.A.3 so it reads as follows:

NDOT will prepare and provide a Screening Sheet for each undertaking and provide this document to the SHPO and the cooperating federal agencies with jurisdiction (Handbook Chapter 1). The SHPO and cooperating federal agencies with jurisdiction shall have five (5) working days from receipt to review the submission. If NDOT receives no response within the time period above, NDOT may proceed.

2. Amend Stipulation VIII.C so it reads as follows:

Upon discovery of human remains on non-Federal lands, NDOT will immediately notify the SHPO in accordance with NRS 383.170.

The SHPO has determined that this Agreement meets the terms found in NRS 383.121 as amended (Chapter 523, Statutes of Nevada 2017, page 3544) for an "existing agreement with a federal agency that was executed pursuant to federal law and that relates to the discovery of prehistoric native Indian human remains or a funerary object." The SHPO has determined that execution of this PA means that the provisions for notification found in NRS 383.121, as amended, do not apply. Standard notification requirements found in NRS 383.150 to NRS 383.190, amended, do apply.

SIGNATORIES:

FEDERAL HIGHWAY ADMINISTRATION

By: _____ Date: _____
Susan E. Klekar, Division Administrator

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____ Date: _____
Aimee Jorjani, Chairman

NEVADA STATE HISTORIC PRESERVATION OFFICER

By: _____ Date: _____
Rebecca L. Palmer, Nevada State Historic Preservation Officer

INVITED SIGNATORIES

NEVADA DEPARTMENT OF TRANSPORTATION

By: _____ Date: _____
Kristina Swallow, Director

BUREAU OF LAND MANAGEMENT

By: _____ Date: _____
Jon Raby, State Director

INVITED SIGNATORIES (CONTINUED)

UNITED STATES ARMY CORP OF ENGINEERS

By: _____ Date: _____
Michael Jewell, Chief, Regulatory Division

UNITED STATES FOREST SERVICE

WILLIAM
DUNKELBERGER
Digitally signed by WILLIAM
DUNKELBERGER
Date: 2008.10.27 10:33:05
-0700

By: _____ Date: _____
William Dunkelberger, Forest Supervisor, Humboldt-Toiyabe Forest

NEVADA DIVISION OF STATE PARKS

By: _____ Date: _____
Robert Mergell, Administrator

INVITED SIGNATORIES (CONTINUED)

UNITED STATES ARMY CORP OF ENGINEERS

By:  _____ Date: 28 October 2020
Michael Jewell, Chief, Regulatory Division

UNITED STATES FOREST SERVICE

By: _____ Date: _____
William Dunkelberger, Forest Supervisor, Humboldt-Toiyabe Forest

NEVADA DIVISION OF STATE PARKS

By: _____ Date: _____
Robert Mergell, Administrator

AMENDMENT TWO TO THE
PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
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SIGNATORIES:

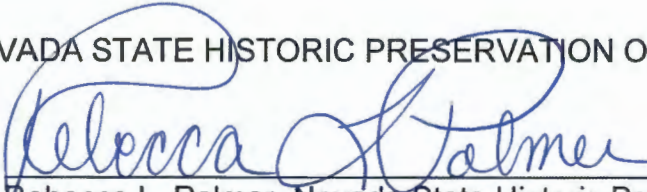
FEDERAL HIGHWAY ADMINISTRATION

By:  Date: 10/23/2020
Susan E. Klekar, Division Administrator

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:  Date: 10/29/2020
Aimee Jorjani, Chairman

NEVADA STATE HISTORIC PRESERVATION OFFICER

By:  Date: 10/23/2020
Rebecca L. Palmer, Nevada State Historic Preservation Officer

INVITED SIGNATORIES

NEVADA DEPARTMENT OF TRANSPORTATION

By: _____ Date: _____
Kristina Swallow, Director

BUREAU OF LAND MANAGEMENT

By: _____ Date: _____
Jon Raby, State Director

INVITED SIGNATORIES (CONTINUED)

UNITED STATES ARMY CORP OF ENGINEERS

By: _____ Date: _____
Michael Jewell, Chief, Regulatory Division

UNITED STATES FOREST SERVICE

By: _____ Date: _____
William Dunkelberger, Forest Supervisor, Humboldt-Toiyabe Forest

NEVADA DIVISION OF STATE PARKS

By: _____ Date: _____
Robert Mergell, Administrator

AMENDMENT TWO TO THE
PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
THE NEVADA DEPARTMENT OF TRANSPORTATION,
THE NEVADA STATE HISTORIC PRESERVATION OFFICER,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
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FEDERAL HIGHWAY ADMINISTRATION

By: _____ Date: _____
Susan E. Klekar, Division Administrator

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____ Date: _____
Aimee Jorjani, Chairman

NEVADA STATE HISTORIC PRESERVATION OFFICER

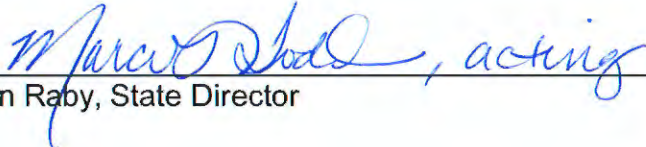
By: _____ Date: _____
Rebecca L. Palmer, Nevada State Historic Preservation Officer

INVITED SIGNATORIES

NEVADA DEPARTMENT OF TRANSPORTATION

By:  _____ Date: 10/22/2020
C48R12EC2C1E4EB
Kristina Swallow, Director

BUREAU OF LAND MANAGEMENT

By:  _____ Date: 10/28/2020
Jon Raby, State Director

INVITED SIGNATORIES (CONTINUED)

UNITED STATES ARMY CORP OF ENGINEERS

By: _____ Date: _____
Michael Jewell, Chief, Regulatory Division

UNITED STATES FOREST SERVICE

By: _____ Date: _____
William Dunkelberger, Forest Supervisor, Humboldt-Toiyabe Forest

NEVADA DIVISION OF STATE PARKS

By: _____ Date: _____
Robert Mergell, Administrator

NEVADA DEPARTMENT OF TRANSPORTATION
CULTURAL RESOURCES

HANDBOOK

July 21, 2014

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**All submission requirements outlined in the PA apply to these documents.
Please refer to the PA for all submissions to Signatories.**

CHAPTER 1 - NDOT CULTURAL RESOURCE SCREENING FORM

PROJECT NAME:

EA: FHWA:

NDOT CULTURAL RESOURCE NUMBER:

BLM Project Number:

USFS Project Number:

County:

Cities

Roads:

FUNDING: FEDERAL AID

STATE

OTHER

LAND OWNER:

OTHER POTENTIAL FEDERAL INVOLVEMENT:

DOC DATE:

FORM DATE:

LOCATION (Minimally printed from USGS maps at 1:24,000 scale and
Township/Range/Section included):

DESCRIPTION (INCLUDING PITS): State funded project, each project separate – not
bundled

Area of Potential Effect (described here, including acreage and displayed on map)

Notes: _____

Literature Review

- Class I literature search (date completed and by whom) _____
- Records review (i.e. SHPO, State Archives NDOT, BLM, etc.): List

- Project plans

- As built project plans
- Aerial photographs: List _____
- Historic Maps: List _____
- Topographic Maps: List _____
- ROW/Ownership/Parcel Data : List _____
- County Assessor Data:
List _____
- NVCRIS: Date _____
- Other: List _____

Field Review

- Field review (list methods used and rationale)

- Pedestrian survey (Class III)
If no field survey conducted, describe why not:
- Other (describe):

SHPO Screening Form Review Date: Comments _____
 BLM Screening Form Review Date: Comments _____
 USFS Screening Form Review Date: Comments _____

Consultation

- SHPO Review
- Advisory Council on Historic Preservation
- CLG and Local Government: List _____
- Tribes: List _____
- Knowledgeable Informants: List _____
- Federal and State Land Agencies: _____
- Public Involvement and Rationale: _____
- Other: List _____
- Controversy based on historic preservation issues? If yes, consultation with SHPO and FHWA is required.

The following Supporting Documentation* is attached. (List below)

- Maps: _____
- 1. _____
- 2. _____
- 3. _____

*If a cultural resource inventory is conducted under this stipulation, any cultural resource reports generated from the survey shall be submitted to the Nevada State Historic Preservation Office. Based on the screening process it is my professional determination that the subject undertaking will result in the following effect finding:

- No Historic Properties Affected: no sites present
- No Historic Properties Affected: sites present but no sites eligible
- No Historic Properties Affected: eligible sites present, but sites are completely avoided by the undertaking and the potential for substantial indirect effects is very low.
- No Adverse Effect
- Adverse Effect

Documentation of the screening will be included in the following:

- Project Files
- Quarterly Report
- Categorical Exclusion: _____
- Environmental Assessment: _____
- Environmental Impact Statement: _____

Name: _____

Title: _____

Date: _____

- Completed

CHAPTER 2 – MINOR PROJECTS

The following projects, by their nature and experience by NDOT staff, have little potential to cause effects to historic properties. Some actions on this list may be considered undertakings with “no potential to affect historic properties” but because of the project’s setting or context cannot be processed according to FHWA’s July 21, 2011 memorandum. These projects must result in a finding of “no historic properties affected”.

For Project Specific Locations, once the Department has approved a project specific location (such as material pits, access roads, staging areas, disposal site, etc), the Contractor shall procure all necessary permits and clearances for the proposed site (NDOT’s Standard Specifications for Road and Bridge Construction, Sections 106.3 and 107.14). These clearances shall include cultural resource clearances pursuant to the National and Historic Preservation Act (36 CFR 800). The contractor shall ensure that the clearances cover the entire site including any haul roads and/or other affected areas such as pipelines, storage areas, etc. Upon completion of the clearance reports, the contractor shall provide three copies of each report to the Engineer. The reports will be forwarded to the Department’s Cultural Resources Section for review and submission to external regulatory agencies as appropriate. Once the clearances have been obtained, the Cultural Resources Section will notify the Engineer that the Contractor may proceed with the use of the proposed site. The contractor shall not begin operations until given notification in writing.

ROADS

1. Roadway surface replacement, rehabilitation, resurfacing, or reconstruction, overlays, pavement repair, seal coating, pavement grinding, and pavement marking within areas previously disturbed by construction when such activities do not take place adjacent to or within a historic property.

2. Construction of turning and auxiliary lanes (e.g., truck climbing, acceleration and deceleration lanes), chain control areas, and maintenance pullouts in areas previously disturbed by vertical and horizontal construction activities except when adjacent to or within a historic property.
3. All work within interchanges and within medians of divided highways in previously disturbed soils when such activities when such do not take place adjacent to or within a historic property.
4. Erosion control within previously disturbed soils to prevent erosion of roadways when such activities when such do not take place adjacent to or within a historic property.
5. Routine roadside maintenance activities necessary to preserve existing infrastructure and maintain roadway safety in previously disturbed areas, including but not limited to: cleaning ditches, mowing, replacing signs on existing poles, replacing non-historic guardrails, noxious weed removal, water control and water delivery systems including canals and ditches where no new ground disturbance is required when such activities when such do not take place adjacent to or within a historic property.
6. Sub-base improvement limited to the depth of the existing sub-base.
7. Construction staging areas or other locations proposed for temporary use during construction within the demonstrated vertical and horizontal limits of previous construction or disturbance when such activities when such do not take place adjacent to or within a historic property.
8. Installation of noise barriers when such activities do not take place adjacent to or within a historic property.
9. Geotechnical borings (4 inches in diameter or less), data collection, and non-invasive environmental sampling required to support the planning or design of an undertaking when such activities do not take place adjacent to or within a historic property.

SHOULDERS AND SLOPES

10. Roadway shoulder treatments and widening within the disturbed roadway prism when such activities when such do not take place adjacent to or within a historic property.

11. Borrowing of rock and rock removal and stabilization activities (e.g. rock scaling, bolting) within existing rights of way when such activities do not take place adjacent to or within a historic property.

12. Slide corrections, slope corrections and slope flattening by placement of fill material on the side slopes to meet safety criteria, and other slope flattening done within the demonstrated vertical and horizontal limits of previous construction or disturbance when such activities do not take place adjacent to or within a historic property.

13. Construction activities in areas of continuous slides, other mass wasting, or unstable landforms when such activities do not take place adjacent to or within a historic property.

BRIDGES

14. Projects on bridges must meet the following conditions to be considered a minor project:

- a) Conditions:
 - 1) The project takes place in previously disturbed soils; and
 - 2) Age of structure:
 - (a) The bridge is less than 45 years old; or
 - (b) The bridge is over 45 years old and the bridge was determined in consultation with the SHPO, to be ineligible in an historic bridge inventory less than ten years old.; or
 - (c) The bridge is over 45 years old and is part of the Interstate system, but was not determined a historic property under the Section 106 Exemption Regarding Effects to the Interstate Highway System adopted by the ACHP on March 10, 2005; or
 - (d) The bridge has been evaluated as a historic property and the actions are limited to activities listed in (b) (1) below.
- b) Bridge Project activities:

- 1) Bridge deck resurfacing, overlay, pavement repair, seal coating, pavement grinding, and pavement marking (define actions) provided the work is limited to the roadway cross section only and does not impact structural members of the bridge. Work under this category can only take place where the existing surface is already concrete or asphalt pavement.
- 2) Scour protection projects for bridges that are not historic properties; and there are either no cultural resources, no historic properties, or historic properties can be avoided.
- 3) Riprap and other erosion control methods on bridge piers in previously disturbed soils.

WATERWAYS

15. Replacement, repair, lining, or extension of culverts and other drainage structures (i.e. dikes, headwalls, ditches, drainage berms, etc) in undisturbed soils, under the conditions listed below. If both conditions of this stipulation cannot be met, full Section 106 review will be required pursuant to Stipulation V of this agreement.

- a. The project does not occur within or adjacent to a historic property.
- b. An archaeological investigation (archaeological records check up to a Class I reconnaissance, as determined by the NDOT Cultural Resources Section) must be conducted to ensure that the project area has been previously inventoried and that no historic properties are within the undisturbed project area. If the archaeological investigation determines that no historic properties are present within the area of potential effect or those properties can be avoided, then the project may be reviewed as a minor project, according to Stipulation V.B of this agreement. If the archaeological investigation locates historic properties that cannot be avoided, then the project must complete full Section 106 review consultation pursuant to Stipulation V of this agreement.

16. Placement of riprap or other erosion control method to prevent erosion or waterways within the demonstrated vertical and horizontal limits of previous construction or disturbance when such activities do not take place adjacent to or within a historic property.

ROAD FEATURES

17. Repair/replacement of signs, kiosks, markers, fences, retaining walls, and landscaping guardrails, barriers, glare screens, and crash attenuators, when such activities do not take place adjacent to or within a historic property.

18. Installation of new lighting, signals and other traffic control devices in previously disturbed soils when such activities do not take place adjacent to or within a historic property.

UTILITIES

19. Trenching or other excavation to install, replace, or repair electrical, water, sewer lines, fiber optics, telephone cable, or other utilities in areas demonstrated to have been previously disturbed by construction, fill, or prior trenching activities when such activities do not take place adjacent to or within a historic property.

CURBS AND SIDEWALKS

20. Modification to concrete sidewalks and curb ramps to satisfy the Americans with Disabilities Act unless on or adjacent to historic property. Compliance under the Americans with Disabilities Act (ADA) includes but is not limited to the following: ramps, railing, re-surfacing, parking, signage, trail access and restrooms.

21. Modification of existing features, such as curbs, sidewalks, and driveways when such activities do not take place adjacent to or within a historic property.

MATERIAL PITS

22. Work within existing NDOT permitted material source pits, quarries or other borrow sources, or borrow pits that have been previously inventoried by NDOT within the past 20 years and where no historic properties were identified.

RAILROADS

23. Resurfacing of railroad crossings including: abandonment, removal, reconstruction, or alteration of railroad grade crossings or separations or grade crossing protection within previously disturbed soils, unless the crossing is composed of historic materials.

24. In kind replacement of existing bolt connected railroad tracks and wood ties.

TRAILS

25. Maintenance of existing trails, bicycle lanes and pedestrian walkways such as: debris removal, brush clearing, surface re-grading, drainage structures, and course design features within previously disturbed soils, unless on or adjacent to a historic property including:

- a. trail way surface replacement; rehabilitation, resurfacing, or reconstruction; overlays; laying down of crushed stone or gravel and pavement marking.
- b. shoulder treatments; pavement repair; seal coating; pavement grinding
- c. installation of new signals and other traffic control devices, landscaping, bike racks, fences, signage and/or kiosks, benches, trash cans, pit or vault toilets, and other amenities, excluding lighting.
- d. trail heads and trail accesses that do not involve rehabilitation or alteration of historic properties and occur within areas previously disturbed by vertical and horizontal construction activities.
- e. parking lots that occur within areas previously disturbed by vertical and horizontal construction activities when such activities when such do not take place adjacent to or within a historic property.
- f. replacement in kind of minor structures and facilities (comfort stations, pit toilets, fences kiosks, signs, displays) with little or no change in location, capacity, or appearance if they are not in or adjacent to historic properties.

26. Minor trail relocation or development of less than one mile on compatible trail networks using existing roads or other established routes that have been previously surveyed for cultural resources and are not within or adjacent to historic properties.

BUILDINGS AND STRUCTURES

27. Preliminary engineering tests, such as seismic, geologic, or hazardous materials testing that involve buildings or structures or require trenching or ground boring within previously disturbed soils unless the structure is a historic property.

28. Maintenance and minor improvements to existing Park and Rides, except lighting, where no excavation will take place, and when such activities do not take place adjacent to or within a historic property.

29. Additions, alterations, routine repair and maintenance to existing buildings and facilities, such as work on or in offices or equipment buildings, maintenance stations, warehouses, roadside rests, rest areas, minor transit facilities, weigh and inspection stations, toll facilities, equipment, or state-owned rentals when such activities do not take place adjacent to or within a historic property.

OTHER

30. Construction or repair of fish screens or ladders, springs, waterholes, or stream channels when such activities do not take place adjacent to or within a historic property.

31. Hazardous waste removal and disposal constituting an immediate public hazard and which require immediate removal.

**CHAPTER 3 – NDOT CULTURAL RESOURCE SHORT REPORT AND
ARCHAEOLOGICAL INVENTORY STANDARDS**

Nevada Cultural Resources Short Report

Author:

Date:

Project Title:

Project Overview

Project Description:

NDOT Eng. Number/ Contract Number: Project Number:

NDOT CR No. :SHPO Number:

BLM Report No. :USFS Number:

Prepared For:

Contact Person:

Address:

City: State: ZIP Code:

Telephone: Email:

Principal Investigator:

Company/Institution:

Address:

City: State: ZIP Code:

Telephone: Email:

Project Location

County:

USGS 7.5' series Topographic Quadrangle:

Milepost:

Legal Location.

1/4, 1/4, 1/4, 1/4, Section: Township: Range:
 1/4, 1/4, 1/4, 1/4, Section: Township: Range:
 1/4, 1/4, 1/4, 1/4, Section: Township: Range:

UTMe UTMe

UTMn UTMn

UTMe UTMe

UTMn UTMn

Datum:

Comments:

Property Owner:

Project Area Details

Length feet: meters: Width feet: meters: acres: hectares:

Physiographic Region:

Topography:

Soil Association:

Soils:

Drainage:

Current Land Use:

Comments:

Records Review (check all that apply) Date of Records Check:

Site Maps on file at NDOT and on NVCRIS

Previously Reported Sites within One Mile of the Project (include citations):

Cultural Resource Management reports, other research reports, grant reports on file at NDOT or other institutions

Previous Archaeological Studies within One Mile of the Project (include citations):

List other institutions:

Cemetery Records

Results:

Historic Maps

Results:

APN No.	<input type="text"/>	Bldg Date	<input type="text"/>	SR#	<input type="text"/>	<input type="checkbox"/> Recorded
APN No.	<input type="text"/>	Bldg Date	<input type="text"/>	SR#	<input type="text"/>	<input type="checkbox"/> Recorded
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APN No.	<input type="text"/>	Bldg Date	<input type="text"/>	SR#	<input type="text"/>	<input type="checkbox"/> Recorded
APN No.	<input type="text"/>	Bldg Date	<input type="text"/>	SR#	<input type="text"/>	<input type="checkbox"/> Recorded
APN No.	<input type="text"/>	Bldg Date	<input type="text"/>	SR#	<input type="text"/>	<input type="checkbox"/> Recorded
APN No.	<input type="text"/>	Bldg Date	<input type="text"/>	SR#	<input type="text"/>	<input type="checkbox"/> Recorded

Parcel Table Attached to Report

Known Cultural Manifestations and/or Additional Information:

Field Investigation: *(check all that apply)*

Field Investigation Dates:

Field Supervisor:

Field Crew:

Surface Visibility:

Factors Affecting Visibility:

Visual Walkover Pedestrian Survey Shovel Test Screened Mesh Size

Interval 5 m 10 m 15 m 30m Other (*describe below*)

Comments:

Describe Disturbances:

Attach photographs documenting disturbances below

Describe Methods:

Number of Shovel Test Units Excavated:

ARPA Permit for Test Units:

Sites

Isolates

Number	<input type="text"/>	UTM	<input type="text"/>	Description	<input type="text"/>
Number	<input type="text"/>	UTM	<input type="text"/>	Description	<input type="text"/>
Number	<input type="text"/>	UTM	<input type="text"/>	Description	<input type="text"/>

Isolate Table Attached

Sites

BLM Site No. USFS No. Temp No.

Site No. UTM Text Field

BLM Site No. USFS No. Temp No.

Site No. UTM Text Field

BLM Site No. USFS No. Temp No.

Site No. UTM Text Field

BLM Site No. USFS No. Temp No.

Site Table Attached Historic Context Attached Siteforms/HRIF Attached

Site No.

Justification

Site No.

Justification

Site No.

Justification

Site No.

Justification

Results

- Archaeological records check has determined that the project area does not have the potential to contain archaeological resources.
- Archaeological records check has determined that the project area has the potential to contain archaeological resources.
- Class I has located no archaeological resources in the project area.
- Class I has identified landforms conducive to buried archaeological deposits

Actual Area Surveyed acres: hectares:

Comments:

Management Recommendations

- The report finds that this survey is negative and determines that there are No Historic Properties Affected.
- The report finds that this survey is positive, all cultural resources are determined "not eligible" and that the project is determined as No Historic Properties Affected.
- The report finds that this survey is positive, at least one cultural resource is determined "eligible", those eligible resources will be avoided by the project (describe below) and that the project is determined as No Historic Properties Affect.

Other Recommendations/Commitments:

If any archaeological artifacts or human remains are uncovered during construction, demolition, or earthmoving activities, that the discovery must be reported to the Environment Services Division, NDOT at (775) 888-7868 or (775) 888-7666 within 24 hours.

Attachments

- Figure showing project location within Nevada.
- USGS topographic map showing the project area (1:24,000 scale).
- Aerial photograph showing the project area, land use and survey methods.
- Photographs of the project area.
- Project plans (if available)

Other Attachments:

References Cited:

Comments:

Curation

Curation Facility for Project Documentation:

Review Information - Do Not Write in This Section

Minor Projects Programmatic Agreement Category (if applicable):

NDOT Reviewer:

Date Reviewed:

SHPO Reviewer:

Date of Concurrence:

Print Form

Check Box

Nevada Department of Transportation, Environmental Division, Cultural Resources Section – Guidelines on Preparing Archaeological Inventories.

These guidelines detail the reporting procedures and minimum documentation standards for case by case archaeological reports (Programmatic Agreement - Stipulation V.E). These report guidelines are intended to supplement the Screening Form (Programmatic Agreement - Stipulation V.A.3) and the screening form will be attached as part of the appendices to this report.

Inventory Report Sections

- 1. Administrative Summary**
- 2. Project Description**
- 3. Environmental Background**
- 4. Literature Review**
- 5. Historic Overview**
- 6. Historic Context**
- 7. Expectations**
- 8. Field Methods**
- 9. Results of Inventory**
- 10. Determination of Eligibility**
- 11. Determination of Effect**
- 12. Citations**
- 13. Appendices**

- 1. Administrative Summary.** Provides a brief overview of the project as a whole including undertaking and acreage. Summary of total number of sites including previously recorded and newly recorded, how many sites were relocated, how many were prehistoric and historic, breakdown of eligible, not eligible, or unevaluated sites, as well as, contributing or non-contributing elements. Summarize the determination of effect and the discussion of how that was arrived at and avoidance measures.
- 2. Project Description.** Provides a full description of the undertaking including proponent, description of the undertaking (project dimensions, land status, legal description, county, quad maps and dates of fieldwork). See supporting documentation for mapping requirements.
- 3. Environmental Background.** Provides the parameters of the landscape that limit or allow cultural use (geology, vegetation, fauna, and climate), scaled to the scope of the project.
- 4. Literature Review Summary.** Consists of an archival review of pertinent data sources, including but not limited to agency reports, published articles

and books, ethnographic literature, and highway plan sets. This basic paragraph should summarize the recent historic and archaeological interpretation of the project area and the professional overview of those findings.

5. **Historic Overview.** Based on the Literature Review Summary, an overview of the Prehistoric, Historic and Ethnographic knowledge of the project area scaled to an appropriate size and scope is presented.
6. **Historic Context.** The historic context serves as the basis for making eligibility determinations. The historic context addresses significant research questions relevant to the sites recorded in the APE. A historic context will be developed for the site types encountered within the APE (e.g. historic mining, historic roads, prehistoric campsites, etc.). The scope of the historic context will be scaled to the size and complexity of the project and the resources encountered. The potential of each site to address specific research questions will be considered in determining site eligibility, and must be documented in the site evaluations and summaries.
7. **Expectations.** The expected results and the reason for those expectations. Expectations about the kind, number, location, character, and condition of historic properties are generally based on a combination of background research, proposed hypotheses, and analogy to the kinds of properties known to exist in areas of similar environment or history.
8. **Field Methods.** Methods used, including the intensity of coverage. If the methods differ from those outlined in the statement of objectives, the reasons should be explained.
9. **Results of Inventories.** The results of the inventory provide the body of the archaeological data findings from the fieldwork. Each cultural resource will be described with tables itemizing and summarizing large quantities of sites or cultural data. Detail of the data should be in the siteform attached to the report, but enough information should be provided in the report to support the eligibility determinations.
10. **Determination of Eligibility.** The eligibility determinations provide determinations and justifications of all cultural resources identified in inventory records or located during the inventory. All archaeological sites are to be assessed for eligibility with reference to the developed historic context. Eligibility is determined by applying the criteria for inclusion in the National Register of Historic Places (36 CFR 60.4).

11. **Determination of Effect.** The determination of effect evaluates project effects to NRHP listed and unevaluated sites. After specifying methods to avoid, minimized or mitigate any potential adverse effects, these could include but are not limited to, avoidance measures, fencing, project redesign, monitoring, and mitigation, if avoidance is not possible. A project level determination of effect will be made as well as determinations of effect for each cultural resource, described with summary tables for large site quantities.

Findings of Effect:

No Effect. Based on the determinations of NRHP eligibility, the report will state that there are **No Historic Properties Affected** if either A) there are no recommended historic properties, or B) there are historic properties present but that the undertaking will have no effect. If this is the case, the basis of that determination will be presented.

Effect. An **Adverse Effect** is found when it may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the NRHP in a manner that diminishes the integrity of the property's location, design, setting, materials, workmanship, feeling or association. A summary of some adverse effects includes, but is not limited to: physical destruction or damage; removal of the property from its historic location; change of the character of the property's use or of physical features within the property's setting that contribute to its historic significance; introduction of visual, atmospheric or audible elements that diminish the integrity of the significant historic features of the property; transfer, lease or sale of property out of Federal ownership or administration without adequate and legally enforceable restriction or conditions to ensure long-term preservation of the property's historic significance.

For an archaeological resource to be identified as a historic property, important information is typically preserved in a combination of factors to include: location, materials and workmanship, and especially association, which provides horizontal and vertical context to artifacts and features that is used in interpreting the past. Direct effects to archaeological resources as historic properties are expected to diminish this association and thereby qualify as adverse effects.

A determination of **No Adverse Effect** can be made if none of the undertaking's anticipated effects meet the Criteria of Adverse Effect under 36 CFR 800.5(a)(1), or if NDOT imposes conditions that will avoid adverse effects to historic properties (Handbook Chapter 9).

12. **Citations.** All citations in the text will be referenced, including manuscripts, web sites and other results from archival research. Style follows *American Antiquity*.
13. **Appendices.** The appendices will include the screening form, complete site records, isolate location information (isolate table and maps), and a combined set of maps detailing the project and site locations. Additional appendices may include supporting maps, illustrations, and archival documents, such as plan sets, that support the Historic Overview and/or Historic Context.

Supporting Documentation

Mapping Standards.

Mapping data provides spatial relationships of cultural resource data not easily transmitted through text or photographs. Three types of plan-view maps are used in cultural resources reports and site forms; project location maps, site and isolate location maps, and site sketch maps.

Project location maps show the inventory area and the APE without displaying site and isolate locations. These maps may appear in the body of the report, and may become public. Two scales of project maps will be included: (1) at 100,000 or larger scale, in order to show the location of the project in relation to the broader region; and (2) 1:24,000 scale USGS maps.

All maps (including sketch maps) will contain the following information (and will be submitted on 8.5" x 11" or 11" x 17" paper):

- Source map used
- Scale
- North Arrow
- Township/Range/Section
- Datum (NAD 83)
- Site Boundary or Isolate point

A complete set of site and isolate location maps using the 7.5' USGS maps will be provided in each report; individual site location and sketch maps will also be included with each site form. Site and isolate location maps for the report, as well as for site records will appear only in detachable confidential appendices and will not appear in the body of the report. Similarly, UTM's, legal descriptions, etc. of sites will not appear in the body of the report but only in the confidential appendices.

1:24,000 scale maps will be produced on paper at 1:24,000 scale; do not submit 1:24,000 scale maps that have been reduced.

Sketch maps convey information about the site at an appropriate scale. This information provides a visual reference for information provided elsewhere in the report and site form.

CHAPTER 4 – NO POTENTIAL TO CAUSE EFFECTS DELEGATION

Directive for Activities that are Undertakings with No Potential to Cause Effects to
Historic Properties Pursuant to 36 CFR 800.3(a) (1)



U.S. Department
of Transportation
Federal Highway
Administration

Nevada Division

July 21, 2011

705 N. Plaza Street, Suite 220
Carson City, NV 89403
Phone 775 687-1204
Fax 775 687-3803

In Reply Refer To:
HENV-NV

Ms. Susan Martinovich, P.E., Director
Nevada Department of Transportation
1263 South Stewart Street
Carson City, Nevada 89712

Subject: **ACTION:** Activities that are Undertakings with No Potential to Cause Effects to
Historic Properties Pursuant to 36 CFR 800.3(a)(1)

Dear Ms. Martinovich:

In accordance with 36 CFR Part 800.3(a)(1), implementing regulations of Section 106 of the National Historic Preservation Act of 1966 as amended, the Nevada Division of the Federal Highway Administration (FHWA) has determined that some federal-aid highway funded actions administered by the Nevada Department of Transportation (NDOT) would have no potential to cause effects to historic properties in Nevada. As such, these program projects do not require further obligations under the Section 106 process of the National Historic Preservation Act. The purpose of this letter is to (1) identify a list of those actions and to (2) identify a process that satisfies any National Historic Preservation Act obligations of FHWA. These consultation procedures are effective July 21, 2011.

General Conditions:

FHWA agrees to administratively delegate procedures defined in Part II below. This delegation applies only to projects that are not adding capacity, not needing additional right-of-way, and qualify as Categorical Exclusions as defined in 23 CFR 771 and cannot be combined with other actions.

This administrative delegation applies to actions or activities administered by NDOT, including Local Public Agency Program projects.

This administrative delegation does not apply to actions or activities on historic roadways or other properties on or eligible to be on the National Register of Historic Places.

Part I: Actions or Activities (Undertakings) that result in "No Potential to Affect Historic Properties"

Provided the project under review is limited to the activities specified and is not part of a larger undertaking, the following project categories apply to this agreement:

1. Guardrail, cable barrier and bridge rail repair and replacement. Conditions: New guardrail material is limited to in-kind replacement/repair (using similar materials) with any and all ground disturbance limited to fill material locations only, not to exceed the depth of the fill material.
 2. Traffic signals, intersection lighting, pedestrian signals, underpass lighting, railroad lighting, safety appurtenances and traffic control devices including but not limited to glare screens, snow and ice detectors, energy attenuators, cameras, automated traffic maintenance systems, raised pavement markers, thermoplastic tape, raised bars, or ramp metering sensors within existing right-of-way. Conditions: New material utilized is limited to in-kind replacement/repair (using similar materials) on existing traffic devices. Any and all ground disturbance is limited to fill material locations only, not to exceed the depth of the fill material.
 3. Maintenance and replacement of highway signs on existing poles.
 4. Crack-sealing, pothole repair, overlaying, milling, resurfacing, installation of rumble strips, dowel bar retrofits, profile grinding, joint sawing and sealing, and pavement's marking. Conditions: This authority does not apply to brick streets. The maintenance or rehabilitation is limited to the existing surfaced areas with no surface expansion, is within the existing vertical and horizontal alignments with no alterations, no ditching or drainage work is included, and all staging areas can be limited to existing paved surfaces only. No ground disturbance is allowed under this authority.
 5. Repair/Maintenance of right-of-way fencing, limited to repair/replacing fence wire and fence posts only on existing fence post locations. Condition: If any grading is required for access or installation of fencing, this authority does not apply.
 6. Improving existing bicycle and pedestrian lanes and paths on their existing alignments. Conditions: Any and all ground disturbance is limited to fill material locations only, not to exceed the depth of the fill material.
 7. Acquisition of scenic easements.
 8. Approvals for disposal of excess right-of-way or for joint or limited use of the right-of-way provided no cultural resources over 50 years old are located within the property.
 9. Acquisition of land for hardship or protective purposes; advance land acquisition loans under section 3(b) for the UMT Act. Hardship and protective buying will be permitted only for a particular parcel or a limited number of parcels, as long as those parcels do not contain cultural resources over 50 years old.
 10. Improvements to existing maintenance facilities and truck weight stations less than 50 years old. Condition: Any and all ground disturbance is limited to fill material locations only, not to exceed the depth of the fill material.
 11. Grants for training, education and research programs which do not involve construction.
 12. Purchase of equipment or materials that do not lead to, or are a part of, a construction activity.
 13. Removal of vegetation and noxious weeds. Condition: Any and all ground disturbance is limited to fill material locations only, not to exceed the depth of the fill material.
-

Part II: Procedures for Evaluating and Documenting a Finding of "No Potential to Affect Historic Properties"

1. On a project by project basis, NDOT shall review the project scope to determine if this program determination applies.
2. This evaluation may be conducted by any NDOT Environmental Services staff member meeting the Secretary of the Interior Qualifications Standards (published in 48 FR 44738-44739). This authority is non-transferable by NDOT to other parties.
3. This evaluation shall include a consideration of whether or not unusual circumstances are present which may preclude the use of this determination. Unusual circumstance is defined as whether the project is in a historic district or whether the project requires field review.
4. Both the finding of "no potential to affect" and the evaluation shall be documented as part of the project file and retained by NDOT.
 - a. The finding documentation shall include:
 - i. Identification of the activity from the list in Part I;
 - ii. the name of the individual; and
 - iii. the date the finding was made.
5. FHWA shall monitor these procedures on an annual basis.
 - a. On a quarterly basis, NDOT shall send a list of projects determined to have no potential to affect historic properties under this authority to the FHWA Environmental Program Manager.
 - b. FHWA shall schedule a meeting to occur on or before September 30 of each year, to discuss with NDOT its performance of these procedures and contemplate any changes in procedures or modifications of the list of actions in Part I.
 - c. FHWA may review documentation related to these procedures at any time.
6. FHWA reserves the right to revoke this administrative delegation at any time.
 - a. FHWA shall notify NDOT in writing if this right is revoked.
 - b. FHWA shall identify the date that this administrative delegation is revoked.

Sincerely,

Susan F. Klekar
Division Administrator

cc: Cliff Creger, NDOT
Bill Hoffman, NDOT
Steve Cooke, NDOT
Rebecca Palmer, SHPO
ec: Abdelmoez Abdalla, FHWA

CHAPTER 5 - DELINEATION OF AREA OF POTENTIAL EFFECTS (APE)

In accordance with Stipulation V.C.1., NDOT will establish the area of potential effects (APE) for undertakings covered by this Agreement. The NDOT Cultural Resource Specialist staff, in consultation with the project manager, is responsible for describing and establishing an APE.

When the guidelines below are followed, specific consultation with the SHPO regarding APE and level of effort will typically not be necessary prior to a submission under Stipulation V.E. Consultation with the SHPO may be needed for large and complex undertakings; when there are issues of access for inventory and evaluation; when there are concerns over delineating whole properties; or when there is public controversy such as potential for litigation, concerns expressed by outside parties, or issues related to Native American consultation.

As defined in 36 CFR 800.16(d), an APE is

“the geographic area or areas within which an undertaking may directly (caused by the undertaking) or indirectly (caused by the undertaking and are later in time, further in distance, or are cumulative but are still reasonably foreseeable) cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.”

An APE depends on an undertaking's potential for effects. Effects to be considered may include, but are not limited to; physical damage or destruction of all or part of a property; physical alterations; moving or realigning a historic property, isolating a property from its setting; visual, audible, or atmospheric intrusions; vibrations; and change in access or use.

An APE delineates the boundaries within which it can be reasonably expected that a proposed undertaking has the potential to affect historic properties, should any be present. It may be the right-of-way, or an area either more or less than the right-of-way, depending on the scope and design of the undertaking.

An APE may extend well beyond the right-of-way. It can include but is not limited to construction easements, such as slope and drainage easements, storm water detention basins, off-site biological mitigation sites requiring ground disturbance, and mandatory borrow and disposal sites. It includes project-related activity areas such as utility relocations, access roads, staging areas, equipment storage areas, or conservation or scenic easements that are set as part of the project prior to contracting.

An APE must address indirect effects. Indirect effects may include, but are not limited to: visual, audible, or atmospheric intrusions; vibrations from construction activities; or change in access or use. Indirect effects can also include growth-inducing effects and other effects related to changes in the pattern of land use, population density, or growth rate. Delineation of an indirect APE must be considered carefully, particularly for potential audible and visual effects, taking into account for example, the surrounding topography or audible and visual effects from previous developments.

An example of indirect effects could be constructing a trail near an archaeological site that may introduce visitors who would threaten damage to the resource.

1. Noise: When considering potential noise effects, there must be a reasonable basis for predicting effects based on an increase over existing noise level. Noise effects should be considered when a project would result in a new through lane or a substantial change in vertical or horizontal alignment according to 23 CFR 772 and NDOT noise policy.
2. Visual: Highways on new alignments, multi-level structures, elevated roadways, new or larger signage, and new or increased lighting could have the potential for visual effects. Projects that improve or expand existing transportation facilities but that will not substantially deviate from the existing alignment or profile are not expected to have visual effects. If circumstances indicate potential for visual effects, consultation with the SHPO, prior to a submission under Stipulation V.E may be warranted.

Different APEs may be established for the various effects of the undertaking and identification efforts should be tailored to address the potential effect:

1. A survey for archaeological properties, which are usually affected by the direct effects from ground-disturbing activities, could be limited to the footprint of the undertaking. On occasion, archaeological sites may also have qualities that could be affected indirectly.
2. Buildings, structures, objects, districts, traditional cultural properties, and cultural landscapes are more likely to be subject to indirect, as well as direct, effects; thus an inventory for the built and cultural environment is usually broader than an archaeological inventory in order to identify properties that would be affected indirectly. For instance, the first row of houses beyond the right-of-way may be subject to such effects, and thus be included in an indirect APE.

Whenever an undertaking is revised (e.g., design changes, utility relocations, or additional off-site mitigation areas), NDOT staff will determine if the changes

require modifying the APE. If an APE proves to be inadequate, NDOT is responsible for informing consulting parties in a timely manner of needed changes. The APE shall be revised commensurate with the nature and scope of the changed potential effects.

In order to encourage consideration of historic properties early in the planning of an undertaking, NDOT staff may designate a study area for identifying cultural resources until an APE can be delineated. A study area should encompass all land that could potentially be included in the final APE. Establishing a study area is especially pertinent to those undertakings that will benefit from the development of a Programmatic Agreement, such as those that are phased.

CHAPTER 6 – PROCEDURES AND DOCUMENTATION STANDARDS FOR HISTORIC ARCHITECTURE

This chapter deals with procedures, documentation and treatment of historic architectural resources and provides standards for architectural resources eligible for inclusion in the National Register of Historic Places at a state or local level of significance, not at a national level of significance. Should NDOT propose to affect architectural resources significant at the state or local level, the agency may propose treatment to mitigate the effect. In the past, NDOT not only consulted with SHPO but also sought advice from the National Park Service (NPS) on the kinds of treatment that would be required. NPS no longer requires HABS/HAER documentation on properties of local or state significance, instead, requesting that SHPOs create their own state standards. Seeking advice from NPS is now unnecessary unless the resource is of national significance.

This chapter deals with procedures and documentation standards for identification, evaluation, and mitigation for historic architectural resources.

To assist in preparing a treatment plan and in estimating costs, this chapter provides standards for documentation and treatment of historic architectural resources as agreed upon by NDOT, FHWA, and SHPO.

ARCHITECTURAL AREA OF POTENTIAL EFFECT

Methodology for establishing the area for potential effects for architectural resources can be found in Chapter 5.

HISTORIC CONTEXT

A historic context is required for Section 106 architectural history documentation if resources are being evaluated for the NRHP.

A historic context is not required for documentation if:

- There are no historic-aged resources in the APE; or
- Historic-aged resources in the APE are not being evaluated for the NRHP.

For the purposes of this PA, the term “historic-aged resource” means a resource that is old enough to be considered for evaluation for the NRHP. “Historic-aged” usually means a resource that is 50 year or older, but it can also mean a resource that is less than 50 years of age but is exceptionally important, or a resource that is less than 50 years of age but is being considered for the NRHP because the resource will be 50 years old or older by the time of the projected end of

construction. One way to figure historic-aged resources is to subtract 50 years from the projected end of project construction.

The following elements required for a historic context should be employed:

1. **Documentation Methodology**--should include an explanation of the procedures used to execute the documentation, including the name of the researcher, date of the research, sources searched, and limitations of the project.
2. **Statement of Context**--Begin the context with a summary statement that identifies the areas of significance or themes, time periods, and geographic areas that are encompassed by the context and are applicable to all properties identified within the APE. Explain why the context pertains to local or state history. Details will be explored in the sections that follow.
3. **Background History**-- Present a brief overview of the history of the geographic area encompassed by the context, with a focus on its relationship to the nominated property. If the context pertains to a city or county, provide an overview of the development of the area. If the context pertains to the entire state, provide sufficient background to set the stage for a detailed description of a particular theme or Area of Significance. For example, if an Area of Significance relates to Ethnic Heritage, information on general settlement of the state may be used as background to settlement by a particular ethnic group.
4. **Definition of the Context**—Establish the thematic, temporal, and geographic parameters of the theme or Area of Significance.
 - a. **Theme**--The historical context should be guided by the thematic study units identified in the *Nevada Comprehensive Preservation Plan* (1991).
 - b. **Geographic Parameters**--Geographic parameters can be based on a variety of factors. They may be determined by the extent of a survey effort, such as the Lincoln Highway through Nevada, or by municipal boundaries, such as Barns of Elko County, and Cast Iron Architecture in Virginia City.

The selected geographic parameters should not be arbitrary. The boundaries must be justified in the context; in some cases, smaller areas require greater explanations. For example, generally the boundaries of a historic district do not constitute sufficient geographic parameters for the historic context. If bungalows and foursquare houses contribute to an architecturally significant district, the context needs to explain the manifestation

of these house types in the broader neighborhood and city. In some cases, the introduction of a style or the occurrence of an event is explained from a statewide or national perspective, as a means of explaining how it filtered into the city and neighborhood.

- c. **Temporal Limits**--The temporal limits of a context are generally based on the earliest and latest occurrence of an event, activity, or date of development/construction.

For example, one assumes a context called *Atomic Testing in Nevada* relates to 1951-1992; however, the context could extend to events leading up to the testing of atomic weapons and events that happened shortly thereafter testing stopped. If so, the temporal limits should state the year of the earliest event and latest event that are considered within the parameters of the context.

- 5. **Development of the Theme or Area of Significance**--Address pertinent environmental, economic, cultural, technological, settlement, and governmental factors that may have influenced development of the context. The nature of information presented varies, depending on the geographic scope of the context. This section of the context should be presented as a summary, although if themes are complex, cover a wide geographic range, and extend over a long period of time, the content will be more complex than a theme more limited in all aspects. Suggestions regarding information to include in contexts that are local and state in scope follow.

- a. **Local Contexts**--For local contexts, describe how and why the theme or Area of Significance developed. Describe the contributions of individuals or groups, and present factors outside the local area that influenced the theme. For example, technological advances, the completion of transportation networks, the emerging popularity of an architectural style, or a boom in the national economy may have had a direct impact on the local context.
- b. **Statewide Contexts**--For contexts of statewide significance, describe how the historical themes generally unfolded in the state. For example, a historic context for Agriculture, but, more specifically, cattle ranching in Nevada, could be developed as follows:

- Set the stage by mentioning types of agriculture that preceded the introduction of modern ranching and why their popularity faded;
 - Describe environmental conditions and settlement patterns that fostered the development of ranches;
 - Describe economic factors that influenced ranches;
 - Describe ethnic groups that contributed to the development of ranches;
 - Explain technological advances that contributed to the success of ranches;
 - Describe the influence of government agencies and the influence of government oversight, such as codes and regulations that pertain to agriculture, commerce, and health;
 - Describe how transportation networks influenced the development of ranches.
6. **Property Types**--Identify the types of resources that are related to the context and their locational patterns. Property types should be inclusive, reflecting all manifestations, throughout the period and the area encompassed by the theme. For example, properties associated with hay farming in Nevada may reflect agriculture, as well as transportation, marketing, and technological developments. Therefore, various types of agricultural buildings, structures, and landscapes may be associated with hay farming. Be as specific as possible in identifying property types. Information about the occurrence and survival of property types should be presented, as well as general impressions about their adaptive uses and condition.
7. **Character-Defining Features and Integrity.** Define the essential physical features of each property type and describe any modifications that may have occurred. Describe the associative qualities that must be evident for a property to be recommended as eligible. Discuss the aspects of integrity and how they relate to the property as based on National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation.
8. **Bibliography**--The historic context may distill a great deal of research and fieldwork into a relatively brief document. Because of the summary nature of the documentation, it is essential to include a bibliography of sources consulted in its preparation. The bibliography should not be a "reading list," but sources that are cited in the text or that directly influenced the content of the context.

(Adapted from the National Park Service's White Paper, "The Components of a Historic Context," prepared by Barbara Wyatt in 2009.)

IDENTIFICATION OF HISTORIC PROPERTIES

According to the Secretary of the Interior's Standards for Identification, Standard 1, "identification of historic properties is undertaken to the degree required to make decisions." The following identification efforts are sufficient for the FHWA to make decisions regarding the effects of a project to historic resources:

- A search of the SHPO Architectural Database
- A search of other known architectural history documents that may not be included in the SHPO Architectural Database, such as NDOT architectural reports, and architectural reports prepared for other agencies that were not submitted to SHPO.
- A search of the NPS NRHP Database
- A search of the county assessor records for the date of construction
- Completion of an ARA SHORT FORM FOR NDOT USE ONLY for each historic-aged resource with no accessory buildings/structures/objects.
- Completion of an ARA Building, Object, Structure, and/or District Form for each historic-aged resource with accessory buildings/structures/objects.
- A GIS polygon shapefile for each historic-aged resource projected in UTM NAD 83.

Survey for Architectural Resources

Resource Categories.

An historic architectural resource/property is defined as a historic district, building, site, structure, or object; specifically, any such resource that is listed or eligible for listing in the National Register of Historic Places. The following is a partial listing of historic resource types:

1. District--a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically, or aesthetically by plan, or physical development. A district may also comprise individual elements separated geographically but linked by association or history. Examples of historic districts are mining sites with multiple resources, including buildings and equipment; farms and ranches; and various linear resources, such as water systems and railroads.
2. Building--a structure enclosing a space and providing protection from the elements and that shelters some form of human activity; can include walls, a roof, and other components. Commercial buildings include banks, breweries, casinos, factories, foundries, garages, hangars, laundries, mortuaries, office buildings, railroad stations, blacksmith's shops, stores, theaters, and warehouses. Residential types may be single-family dwellings, duplexes, apartment buildings, barracks, dormitories, hotels, bunkhouses, quarters, shacks, and shanties. Institutional buildings may be academies,

amphitheatres, armories, arsenals, asylums, aviaries, Capitols and other governmental buildings, churches, courthouses, fortifications, hospitals, jails, libraries, museums, post offices, and schools. Agricultural and rural buildings may be barns, blinds, cellars, kennels, pole structures, Quonset huts, sheds, stables, smokehouses, and storehouses.

3. Structure--any kind of human construction; often used to refer to an engineering work, as opposed to a building, constructed for purposes other than to provide shelter. Examples of structures include aqueducts, blast furnaces, bridges, cisterns, canals, dams, fences, fortifications, flumes, railroad turntables, reservoirs, root cellars, silos, snow sheds, springhouses, stamp mills and other mining equipment, water tanks, viaducts, wellheads, and windmills.

4. Object--a material thing of functional, aesthetic, cultural, historical, or scientific value; typically primarily artistic in nature or relatively small in scale and simply constructed. An object may be, by nature or design, movable yet related to a specific setting or environment. Examples include airplanes, boats, boundary markers, head stones, mileposts, monuments, railroad engines, sculptures, statuary, or steam engines.

5. Linear Features--are long, narrow works of human construction, which may be classified by the National Register as structures, districts, or sites. Linear features (Chapter 7) are usually considered archaeological resource, unless the resource has engineered elements, such as:

- a canal or ditch with sluice gates and stone or concrete lining;
- a fence structure; a wood flume structure;
- a road or trail with pavement, culverts, and gutters.

Linear features that are not considered "engineered" include:

- dirt roads,
- dirt trails,
- earthen canals or ditches with no additional structures

Survey "Cut-off" Dates

Architectural resources that are less than 50 years old are usually not given consideration for the NRHP. Because transportation projects often take years to complete, and resources may turn 50 years old before the project is completed, NDOT may choose to evaluate resources that are less than 50 years of age for the NRHP. The evaluation will be based on their integrity and significance and not Criterion Consideration G, unless applicable.

The date used to decide if a building is of "historic-age" may be the "50 years old or older" date, or it may be the year the project is expected to be completed, minus 50 years. Thus, a project expected to be completed in 2015 will have a "cut off" date

of 1965 and all resources built during or before 1965 will be considered “historic-aged.”

NRHP ELIGIBLE PROPERTIES

Re-Evaluating Architectural Resources

Resources that have been previously evaluated for the NRHP will be re-evaluated using the ARA SHORT FORM FOR NDOT USE ONLY when:

- There have been alterations to the property’s condition or integrity that could change its NRHP eligibility status; or
- The previous evaluation documentation contains inaccurate and/or incomplete information; or
- The last recording was completed over ten years ago.

DOCUMENTATION STANDARDS FOR REPORTS

Documentation for “No Potential to Cause Effect” Projects

FHWA delegated to NDOT limited authority to determine if a project has no potential to cause effect in a memo from Susan Kleker (FHWA Division Administrator) to Susan Martinovich (NDOT Director) dated July 21, 2011 and titled, “Activities that are Undertakings with No Potential to Cause Effects to Historic Properties Pursuant to 36 CFR 800.3(a)(1)”. NDOT will follow the stipulations in the memo for qualifying projects (see Chapter 4).

Documentation for Minor Projects

Minor projects are projects that have little potential to cause effect to historic properties. If a project meets the definition of a “minor project” as described by this PA, then the following documentation in support of the finding will be prepared:

- A Screening Form (includes project description, APE map, and APE justification)
- An NDOT Short Report.
- A GIS polygon shapefile of the APE and of the survey area (if different from the APE), projected in UTM NAD 83.
- A description of the methodology used to document and identify historic architectural resources within the APE.
- ARA SHORT FORM FOR NDOT USE ONLY for resources with no accessory buildings/structures/objects, are not part of a historic district, or properties that were previously evaluated and require an update form.
- A GIS polygon shapefile for each historic-aged resource projected in UTM NAD 83.
- ARA Building, Object, Structure, and/or District Form for resources that have accessory buildings/structures/objects or are in districts.
- A historic context (if resources are being newly evaluated for the NRHP).

- A complete spreadsheet of resources within the APE listed by SHPO resource number.

Documentation for Case-by-Case Projects

Case-by-Case projects are undertakings that could have a finding of No Properties Affected, No Adverse Effect, or an Adverse Effect.

Documentation for No Historic-aged Resources Present.

A project may have a finding of “No Historic Properties Affected” if there are no historic-aged resources in the APE; or if there are historic-aged resources in the APE but they have been evaluated and are not eligible for the NRHP.

If there is no evidence of historic-aged resources in the APE then the following documentation will be prepared in support of the Section 106 process:

- A Screening Form (includes project description, APE map, and APE justification)
- An NDOT Short Report
- A GIS polygon shapefile of the APE and of the survey area (if different from the APE), projected in UTM NAD 83.
- A description of the methodology used to determine that there were no historic-aged resources in the APE.
- A complete spreadsheet of resources within the APE will be produced with columns for the following information:
 - Unique ID number shown on map (SHPO Resource Number, parcel number or Map ID number)
 - Address (if any).
 - City (if any)
 - County
 - Original Construction Date (if a parcel is vacant, a “0” will be used in this column. If the building has a “weighted year” or an average of the construction date and remodel dates, this can be noted in the “Notes” column)
 - Descriptive Name of Property, (e.g. Crown Movie Theater, Commercial Building, Restaurant, Big Joe’s Diner, Vacant)
 - Notes. This column could include information such as if the property was previously surveyed and when, if the assessor information appears inaccurate, or if there is an old parcel number.

This documentation can be prepared when there are no historic-aged architectural resources within the project’s APE, regardless of whether the project is considered a “Minor” Project, or a “Case-by-Case” Project.

Documentation for No Adverse Effect and Adverse Projects

No Adverse Effect Projects will have NRHP eligible properties within the APE, but the project will have no adverse effects to the properties as defined by 36 CFR

800.5. The following documentation will be prepared in support of the Section 106 process:

- A Screening Form (includes project description, APE map, and APE justification)
- A GIS polygon shapefile of the APE and of the survey area (if different from the APE), projected in UTM NAD 83.
- A complete spreadsheet of resources within the APE listed by SHPO resource number.
- An Architectural History Survey report.

An outline of the Architectural History Survey Report follows:

1. Title Page

Report title and date, author and organization, lead federal agency, identification numbers.

2. Table of Contents

3. Executive Summary

Summary of the report including, description of federal undertaking, establishment of APE, and findings.

4. Project Description

Detailed description of the scope of the project, including location of the project, vertical and horizontal limits of project, who the project proponent is and the lead federal agency.

If available and appropriate, this section (or an appendix) will include:

- A plan set or excerpts from the plan
- Cut sheets with product information
- Artist's renderings of the project.
- Photographs of the existing conditions of the project area.

5. Establishing the Area of Potential Effects

Justification for the APE.

Direct Effects

Description of the project's direct effects and the area of direct effects.

Indirect Effects

Description of the project's indirect effects, if any, and how the indirect effects are accommodated by the APE.

Cumulative Effects

Description of the projects cumulative effects, if any, and how was that accommodated by the APE.

Acreage and Parcels

Information on how many acres are in the APE and how many parcels are intersected by the APE.

6. Maps

The report will include one map (or set of maps depending on the size of the project) that uses a topographic base map at an appropriate scale. The topographic base map will show the entire project area with the boundary of the APE illustrated on it.

Other maps may use a topographic, orthophoto, or other background as appropriate to the scale and type of project. In addition to the maps in the report, GIS shapefiles will be prepared. The shapefiles will depict the boundary of the APE, the survey area (if different from the APE), and the location of individual historic-aged resources within the APE and survey area. The shapefiles will be projected in UTM, NAD 83 and prepared in NVCRIS format.

Project Vicinity Map

State map with the general project area pointed out. This may be presented as an inset map.

APE Overview Map

The APE Overview map will depict the entire APE using a topographic base map. The page will be printed on paper no larger than 11" x 17".

Detail APE Maps (if needed)

For larger projects, detail maps may be needed. The maps should still use a topographic base map at an appropriate scale to be clear enough to identify individual sections of the APE.

Resource Maps (if needed)

The location of each surveyed architectural resource will be identified on a map. If the scale of the APE Overview Map, or the Detail Maps prevent the location of the surveyed resources from being clearly distinguishable from each other, then additional maps will be needed. Each resource will be identified on the map with the SHPO Resource ID number. The SHPO Resource ID number will be included on the Complete List of resources within the APE.

7. Historic Architectural Context

For guidance on writing a historic context, please refer to the previous section in this chapter, “Historic Context.”

8. Identification of Historic Properties

a. Identification Methodology - Description of the methodology and the resources used to identify historic properties in the APE (e.g. County Assessor’s website, historic maps, field survey, and results of previous surveys).

b. Previous Work - List of all architectural surveys completed within one mile of the project area or APE, whichever is larger. This will not include archaeological reports unless the archaeology report covered a historic structure or building. This document will include information on the title, author, year report was completed, whom the report was prepared for, and information on any historic properties or ineligible resources identified that are also in this project’s APE.

c. “Cut Off” Date - Justification for what year was used as a “cut off” date to decide if a property should be evaluated for the NRHP, or not considered for evaluation.

d. Historic Properties - Description of the efforts to identify historic properties and the results of those efforts. This section (or an appendix) will include a list of historic properties within the APE.

9. Survey Forms

An ARA SHORT FORM FOR NDOT USE ONLY will be completed for resources in the APE without accessory buildings, structures, or objects, or properties that were previously evaluated and require an update form. An ARA Building, Object, Structure, and/or District Form will be completed for newly documented properties that are eligible for the NRHP or contain accessory buildings, structures, or objects. Previously recorded resources without shapefiles will be updated. Each form will be accompanied by a GIS polygon shapefile for each historic-aged resource projected in UTM NAD 83.

10. Architectural Survey Methodology

a. Personnel - Describe who worked on the project, what their roles were, and what their qualifications are.

b. Field Methods - Describe who completed fieldwork, when it was done, and how it was done.

c. Photography - Digital photographs will be taken in compliance with SHPO guidelines issued Spring 2012.

d. UTM Readings - Description for how UTM locations were determined and information on the placement of the UTM point (e.g. The UTM point represents the middle of a building, or the front door, or the middle of the parcel)

e. Evaluation Criteria - All resources will be evaluated according to Secretary of the Interior's Standards, Criteria A, B, C and D, and the seven aspects of integrity. This section will include a description of the character defining features of specific resources in the APE and how those resources will be evaluated.

11. Survey Results

Description and analysis of the types of historic architectural resources within the APE.

12. Finding of Effect

Description of the justification for the finding of effect.

13. Mitigation

Description of recommended mitigation, if any.

14. Bibliography

15. Appendices (as appropriate)

Appendices may include:

- A complete list of all the resources in the APE, if this was not included in the body of the report
- Additional maps
- Historic maps
- Historic photographs that were not included in the Historic Architectural Context
- Previously published historic contexts that are relevant to this project area
- Official correspondence letters from SHPO or the lead federal agency (such as a letter from SHPO that concurs on the APE for the project)
- Plan sets, or details from plan sets
- Cut sheets that give product information on streetlights, pavers, benches, railing, bollards, signs, etc.
- Glossary of terms the general public might not be familiar with.

Additional information that will be submitted with the report includes:

- SHPO Cultural Resources Survey Coversheet
- Archival CD of digital photographs, a PDF of the report, PDFs of the site forms
- Photo logs

CONSIDERING RESOURCES AS ELIGIBLE FOR THE NRHP FOR COMPLIANCE PURPOSES

Considering resources as eligible for Section 106 purposes (Stipulation V.E.2.b.) allows FHWA to make management decisions that will protect historic resources, without the extra time and costs associated with an NRHP evaluation. Consultation with SHPO is required before FHWA can treat architectural resources as eligible for Section 106 purposes per Stipulation V.E.2.

NDOT, in consultation with SHPO, may choose to consider resources as eligible for Section 106 purposes under the following conditions:

- There are known NRHP eligible or listed properties within the APE, and
- The project meets the Secretary of the Interior's Standards for the Treatment of Historic Properties, and
- The project will have No Adverse Effect as established by 36 CFR 800.5

Examples of when treating resources as eligible for Section 106 purposes is appropriate, includes:

- A sidewalk and landscaping project that meets the Secretary of the Interior's Standards for the Treatment of Historic Properties and takes place adjacent to historic-aged resources.
- Rehabilitation or restoration of a historic resource in a manner that conforms to the Secretary of the Interior's Standards for Rehabilitation or Restoration.
- A project to build a new building or structure within an NRHP listed or eligible historic district, when the new building or structure meets the Secretary of the Interior's Standards for the Treatment of Historic Properties.

Documentation for Treating Architectural Resources as Eligible for Section 106 Purposes

If historic-aged architectural resources are being treated as eligible for Section 106 purposes, then the following documentation will be prepared in support of the Section 106 process:

- A Screening Form (includes project description, APE map, and APE justification)
- A GIS polygon shapefile of the APE and of the survey area (if different from the APE), projected in UTM NAD 83.
- An NDOT Short Report

- An attachment to the Short Report with the following information:
 1. Project Description.
 2. Description of how the undertaking will comply with the Secretary of the Interior's Standards.
 3. Justification for the APE.
 4. APE Maps.
 5. Methodology used to identify and document architectural resources in the APE, including justification for treating resources as eligible for Section 106 purposes.
 6. Survey Results.
 7. Recommended mitigation, if any.
 8. Justification for Finding of No Adverse Effect.
 9. The ARA SHORT FORM FOR NDOT USE ONLY for all historic-aged resources with no accessory resources. The ARA SHORT FORM FOR NDOT USE ONLY will not include an NRHP eligibility justification.
 10. The ARA Building, Object, Structure, and/or District Form for newly documented resources that contain accessory structures or are in districts.
 11. A GIS polygon shapefile for each historic-aged resource projected in UTM NAD 83.
 12. A complete spreadsheet of resources within the APE

STANDARD TREATMENTS – HISTORIC ARCHITECTURE

Standard Treatment 1 - Standard Mitigation for Local and State Level Historic Architectural Properties.

Should NDOT propose to affect historic architectural resources significant at the state or local level and that are eligible under criteria A-D or archaeological resources significant at the state or local level that are eligible under criteria A-C, NDOT may propose treatment to mitigate the effect. In the past, NDOT not only consulted with SHPO but also sought advice from the National Park Service (NPS) on the kinds of treatment that would be required. NPS no longer requires HABS/HAER documentation on properties of local or state significance, instead, requesting that SHPOs create their own state standards. Seeking advice from NPS is now unnecessary unless the resource is of national significance.

To assist in preparing a treatment plan and in estimating costs, this section provides standards for treatment of historic architectural resources as agreed upon by NDOT, FHWA, and SHPO. Mitigation is not limited to the following treatment and other treatments may be developed in consultation with SHPO and consulting parties.

Standard Photographic Documentation Mitigation for Architectural and Engineering Resources

The historic significance of the building, site, structure, or object will be conveyed through drawings, photographs, and other materials that comprise documentation. The appropriate level of documentation for properties eligible for the National Register at a local, regional, or state level of significance must include:

Photographs

1. Digital photographs of exterior and, if accessible, interior views of the resource. The exterior should be documented by at least 6 views including:
 - a) the front and one side; and
 - b) the rear and one side; and
 - c) the front elevation; and
 - d) setting views showing the building as part of its larger landscape;
 - e) major elements of the building, including doors, windows, additions, etc.; and
 - f) details, such as materials and hardware. Interior photographs should yield information about the floor plan. Three or four views should be sufficient to document the significant elements of the interior, unless the resource is large or complex.
2. Digital Photographs will be printed as part of the report at a minimum size of 4" x 6". All photos will have a caption containing the digital file name.
3. The report will include a photo log or index with information on digital file name, resource address, date photo was taken, photographer, direction facing, and description (as applicable).
4. Digital files of the photographs will be saved to an archival "gold" CD as either a TFF or JPG file.

Other Historic Documentation

1. Digital images of historic photographs, maps, drawings, plans or other material, if available. If scanned, images will be scanned at 400 DPI or higher.
2. Other historic documentation images will be printed as part of the report with a caption containing the digital image file.

3. The report will include an index with information on digital file name, resource address, date photo was taken, photographer, direction facing, source of historic photograph, and description (as applicable).
4. The digital image will be saved to the archival CD as a JPG or TFF file.
5. If permission is required to reproduce historic photographs, plans, maps, or other materials, it is the responsibility of the researcher to obtain proper authorizations. Copies of permission forms must be submitted with the report.

Site Map and Floor Plan

6. The site map must include the resource's orientation in its natural landscape, all associated resources and a scale and a north arrow.
7. If the interior is accessible, the report will include a floor plan showing the layout of the resource. If the building is simple, it may be appropriate to include this information on the site map. The floor plan need not be a measured drawing, but an approximate scale should be included.

Other Historic Documentation

Other documentation may include digital images of historic photographs, maps, drawings, plans or other material. A site map must include the resource's orientation in its natural landscape, all associated resources and a scale and a north arrow.

Historical Research

Historical research will be pursued into the property for its local, regional and potential national significance. This effort may include but is not limited to library and archival research along with oral histories.

Submission Requirements

The documentation submission must include one copy sent to the State Historic Preservation Office (SHPO). Two copies will be required if the resource is located within the boundaries of a Certified Local Government (CLG), i.e., City of Reno, Carson City Historic District, City of Las Vegas, or the Comstock Historic District. SHPO will distribute the copies to the appropriate repository (see below) and CLG. The repository's copy must include:

1. The narrative report of the resource's historical context and significance;
2. One archival gold CD containing digital photographs and historic documentation as described above
3. One copy each of the site map and floor plan.

The SHPO's copy must include all of the above. The CLG's copy must contain all of the above except that it may contain a non-archival CD.

Upon receipt, SHPO will review the documentation for completeness within 30 days. SHPO will send its comments to the preparer for action, if needed. The preparer shall submit any required changes to SHPO (or duplicate, in the case of a CLG). SHPO will insert the changed sections and forward the final documents to the appropriate repository if 10 structures, buildings, or objects or fewer are subject to mitigation. If the number of structures, buildings, or objects exceeds 10, the preparer will be responsible for inserting the changed sections upon SHPO approval of the changes.

Records Storage - Repositories

One copy of each report will be added to the State's architectural resources inventory and will be available for public inspection at SHPO, 901 S. Stewart Street, Suite 5004, Carson City, NV 89701, subject to Stipulation XIV.

Depending on the location of the resource being documented, one copy (which will include the archival gold CD) will be sent to one of the following repositories, subject to NDOT's determination whether to withhold information from the public about the location, character, or ownership when there is cultural resources information involved that is subject to Stipulation XIV.

1. The Nevada Historical Society, Reno
2. The Nevada State Museum and Historical Society, Las Vegas
3. The Northeastern Nevada Historical Society, Elko
4. The North Central Nevada Historical Society, Winnemucca
5. The Central Nevada Historical Society, Tonopah

There are four Certified Local Governments (CLGs) in the State of Nevada. If a resource is within the boundary of a CLG, then one copy of the report will be sent to the appropriate CLG; depending on NDOT's determination whether to withhold information from the public about the location, character, or ownership.

1. The Historical Resources Commission, City of Reno
2. The Historical Architecture Review Commission, Carson City Historic District
3. The Las Vegas Historical Commission, City of Las Vegas
4. The Comstock Historic District Commission, Virginia City

CHAPTER 7 - RECORDING AND EVALUATING HISTORIC LINEAR FEATURES OR DISTRICTS

Many of the most important and prominent cultural resources in Nevada are linear features from the historic period. These include trails, roads, highways, railroads, canals, telegraph lines, fences, and other similar features. Some historic linear features have an excellent documentary record showing when they were created, who was involved in their creation, where they are located, and what has happened to them during their existence. However, problems arise in determining how much to record, how to evaluate, and thresholds of integrity. As a result, a consistent method of providing the information required to record, evaluate, and manage linear features is provided in this appendix.

The evaluation of a linear resource is more challenging than that of a non-linear resource with manageable boundaries. The linear resource may possess varying states of preservation and integrity, and may pass through federal, state, county, and private lands, causing recordation and evaluation to be complex tasks. Surveys of linear resources should attempt to ascertain or reconstruct the nature, extent, and chronology of the resource, and the historical context to which it belongs. Recording linear features is problematical because the full extent of the resource usually extends beyond the APE. It should be agreed upon in advance whether the project should involve the recordation and evaluation of the entire resource or a portion of it. The investigator should prepare a historical context to evaluate the entire linear feature unless FHWA, or other Federal land manager involved and SHPO agree otherwise.

A. Conducting Research for Historic Linear Features or Districts

Pre-field research may indicate the presence of historic linear features. They may be present on GLO plat maps and USGS topographical maps. Secondary sources of history may also provide information about their presence.

When linear features are encountered, the investigator needs to assess whether a linear resource is historic in origin. The following three criteria should be applied to make such a determination:

1. Is the general alignment present on historic maps, such as GLO plats or USGS maps?
2. Does the resource possess artifacts of the period?
3. Does the resource possess physical characteristics similar to other identified linear resources?

Fieldwork must be supplemented by historical research to locate historic photographs, maps, and plans, or engineering drawings of the resource.

To evaluate the feature, the investigator will prepare a historic context using information found in records such as GLO records, State Board of Control/Engineers records, Highway Department records, Army Topographical Corps reports, USGS topographical maps, aerial photographs, and county records. General histories of Nevada and the region should be consulted to determine if the project or the individuals involved are historically significant. Newspapers may be checked to see if the construction event was widely reported at the time or if the feature was considered important in engineering or design, and local histories should be consulted to determine if the event or individuals were considered important by the local population. The investigator should also consult the transportation chapter of the *Nevada Comprehensive Preservation Plan* (1991) and any Certified Local Governments within the APE. References should be cited in the documentation, whether they yielded pertinent information or not. The results of the records search should be incorporated into the report to evaluate the linear resource.

B. Documenting Historic Linear Resources

Some specific considerations for documenting linear resources are:

1. Location and Boundaries--on a map (or maps) of appropriate scale indicate the location of the known extent of the resource and identify the portion(s) being documented, as well as any feature associated with the linear resource.
 - a. Linear resources may intersect and exceed limits of an APE. Unless otherwise specified by the BLM's cultural resource specialist for projects on BLM land or if right of entry has not been obtained, recording of linear features exceeding the APE will extend 100 meters beyond the APE boundaries.
2. Description--provide information on the construction techniques, configuration of, and materials used to construct the linear feature. Describe any features and/or artifacts that may be associated with it. Describe in detail each cultural feature associated with the linear resource. Features of a linear resource generally consist of components integral to the functioning of the resource. Feature descriptions should include information about its construction details, dimensions, and any brand names or patent information recorded on machinery. Plans, cross-sections, and elevations of associated features should be included in the engineering documentation section of the report. Examples of features associated with linear resources include:
 - a. Roads: retaining walls, culverts, borrow pits, road beds and grades, fences, bridges, and tunnels;
 - b. Ditches/Water Systems: siphons, flumes, spill gates, gate valves, dams, head gates, sluices, canals, pipes, ditch/flume tenders¹⁴-cabins, and reservoirs;
 - c. Trails: blazes, cairns, retaining walls, and paving;

- d. Railroad Grades: through cuts, sidings, retaining walls, culverts, spurs, signals, switch stations, depot remains, fences, bridges, tunnels, and trestles;
 - e. Telegraph/Power Lines: poles, access roads.
3. Setting--Describe in detail the natural or physical environment through which the linear resource passes. Such information would include descriptions of natural features, landscape characteristics, slope, vegetation, etc. Provide an estimate of the proportion of the resource that has been destroyed or modified, where possible.
4. Dimensions--describe the dimensions of the entire linear feature or the portion being documented in the following manner:
- a. Top Width--measure the linear feature at its highest point. For water systems such as ditches and canals, the top width should be measured at the crest of the berm(s) or wall(s). Record more than one width or range of widths, if appropriate. For example, a single water delivery system may be composed of a flume, earthen ditch, and concrete canal with different top widths. Clearly identify the elements being measured and the locations where measurements were taken.
 - b. Bottom Width--provide a width for the base of the feature, or provide a range of widths, as appropriate.
 - c. Height or Depth--provide the maximum depth or height of the resource, as applicable, or indicate the variation in that dimension along the length of the linear feature, or the segment being documented. Note any changes to this measurement, such as siltation in a ditch.
 - d. Length--provide the overall length of the linear feature and the segment being documented, if applicable.

C. Evaluating Historic Linear Resources: National Register Criteria and Integrity Issues

Evaluating the significance and National Register eligibility of a linear resource is as problematical as documenting it, because it may be significant under one or more of the four National Register eligibility criteria, and it most likely will display varying states of preservation and integrity. An investigator must identify the criteria under which the linear resource may be eligible for inclusion in the National Register before considering integrity issues. However, integrity, and thereby eligibility may be determined on a segment-by-segment basis.

The National Register defines integrity as the ability of a resource to convey its significance. The evaluation of integrity must always be grounded in an understanding of a resource's physical features and how they relate to its significance. To retain historic integrity a resource will possess at least several of

the seven aspects of integrity. These aspects of integrity are: location, design, setting, materials, workmanship, feeling, and association.

Setting is an important factor in demonstrating integrity of a linear resource. The setting must reflect the character of the historic period with minimal intrusive elements. The National Register has been liberal in the evaluation of numerous linear resources in Nevada by determining eligibility on the basis that there has been little change in the landscape since the historic period. For example, a railroad grade may lack ties and tracks, but if little of its historical appearance has changed, it may still be eligible for the National Register under Criterion A. In this instance an assessment of whether or not the railroad grade has more than minimal value for preservation in place (to address the Section 4(f) issue). Because of the importance of setting to a linear resource, viewsheds may become a major consideration in determining project effects. However, setting may be less important in evaluating a water conveyance feature because the feature may be most significant for its engineering, and its design and workmanship become most important in determining integrity.

Some linear resources possess structural and/or engineering features (e.g., the Marlette Lake Water System), and some possess none (e.g., the Old Spanish Trail). Therefore, assessing integrity of design and workmanship may have limited applicability, or it may be highly significant. Some considerations regarding design and workmanship might be to determine if the linear feature has distinctive engineering features such as rock retaining walls, trestles, or culvert. If so, determine whether these elements exhibit structural integrity. If the resource retains some degree of its original fabric and workmanship, ascertain if it is sufficient to demonstrate the feature's significance. Significance might then be viewed in terms of distinction as a representative of a type or style. It would also be important to determine if there are any other associated resources present and in sufficient numbers to convey an understanding of the linear resource.

On-going maintenance and continued use of a linear resource may or may not affect the resource's integrity. Maintenance and use that has been conducted consistent with methods employed when the resource was developed do not compromise the historic integrity of the resource. These resource activities include canals, the use of roads along the canal, and cleaning silt from the canal; for railroads, the in-kind replacement of ties, rails and switching facilities; and for roads, in-kind repairing, grading, and cleaning of roads. Maintenance and use that is not consistent with historic use compromise the integrity of a historic resource. Such actions would include changing headgate or siphon design for canals, lining earthen ditches with concrete, changing the ballast type, rail type, or other structures for railroads, and changing the surface material and grade of roads. Modification of the route of any linear feature may also compromise its integrity.

Feeling and association may be important facets of integrity for trails (Oregon-California Emigrant Trail), but their retention alone is never sufficient to support eligibility of a property for the National Register.

CHAPTER 8 - RESOURCE TYPES CATEGORICALLY NOT ELIGIBLE

A. Isolate artifact

A single artifact or pieces from a single artifact, i.e., 10 pieces of glass from a single bottle. An isolate artifact is considered single and unassociated when separated by 30 meters or more from any other artifact. For example, two flakes of the same or different raw material separated by 29 meters would be documented as a site. Ten pieces of glass from a single bottle spread across 31 meters would be an isolate. Isolates are not recorded on a site form, but are listed in a table designated by number, description, and location.

B. Isolated or Unassociated feature

A single feature unassociated with other features or artifact scatters that are undateable; e.g. a prospect pit, a claim marker, an audit, or a shaft. An isolated or unassociated feature is considered single and unassociated when separated by 30 meters or more from any other feature or artifact. If these features are elements to a historic district, they are not isolated or unassociated. In addition, if an isolated feature is unique because of its construction (elaborate stonework claim marker) or distinctive qualities, the feature has to be evaluated for eligibility. Isolated features that have potential data (fire hearth) need to be evaluated for eligibility. Isolated or unassociated features need not be recorded on a site form, but are listed in a table designated by number, description, and location.

C. Post-1960 Cultural Resources

Cultural resource sites that post-date 1960 (or contain a majority of artifacts that post-date 1960) are not considered eligible for the purposes of Section 106 compliance unless the site is of exceptional significance as defined in National Register B Bulletin 22, entitled *How to Evaluate and Nominate Potential National Register Properties That Have Achieved Significance Within the Last 50 Years*.

D. Unassociated Historic Artifact Scatters

This site type is categorically not eligible when it cannot be definitively associated with a specific historic theme as defined in the *Nevada Comprehensive Preservation Plan* (1991). One example of this site type is a single episode roadside refuse deposit.

Unassociated artifact scatters will be considered categorically ineligible with the submission of the following information:

1. A minimal level of archival research does not reveal a possible association. The feature or site in question may not be depicted on the following documents:
 - a. General Land Office map (provide date);
 - b. Land Status map;

- c. Mineral Survey records;
- d. Nevada State Museum records;
- e. State Water Engineer's records;
- f. 15 Minute Quadrangle (date required);
- g. Local City and County records

2. A brief justification for this determination will be included in the eligibility section of the report and will address the following topics:
- a. location and type of nearest recorded site; and
 - b. location of the nearest known town, community, or historical development.

E. Linear Resources

Linear resources in isolation from other linear resources, archeological deposits, and buildings/structures are discussed below in this framework for categorical exemptions. Artifacts directly associated with that linear resource, such as an insulator for a telecommunication line is considered inclusive to that linear resource. If only a segment of the linear resource is present within the project area, and is determined ineligible (non-contributing), the remaining portions of the linear resource are considered unevaluated for the purposes of Section 106 compliance.

- 1. Roads/Trails: If a road or trail is undateable, cannot be historically associated with a historic theme, lacks engineered features associated with the road or trail, and has been bladed, then that segment is considered not eligible under all criteria.
- 2. Water Conveyance: If a water conveyance system is undateable, cannot be historically associated with a historic theme, and lacks engineered features associated with the water conveyance feature, then that segment considered as not eligible under all criteria.
- 3. Fences: If a fence is undateable, lacks unique construction features, is constructed of metal T-posts and barbed wire, then that segment of the fence is considered not eligible under all criteria.
- 4. Telecommunication lines (telegraph, telephone, power transmission): If a telecommunication line is undateable, lacks unique engineered features associated with that segment of the telecommunication line, then that segment is considered not eligible under all criteria.

CHAPTER 9 - AVOIDING PROPERTIES

A. Avoidance through Standard Measures

The following protection measures shall be implemented as appropriate for all NDOT undertakings. At a minimum, historic properties shall be excluded from areas where activities associated with an undertaking will occur as follows:

1. All proposed activities, facilities, improvements, and disturbances shall avoid historic properties. Avoidance means that no activities, unless specifically identified in this Agreement, associated with an undertaking that may affect historic properties shall occur within a property's identified boundaries, including any defined buffer zones. Portions of undertakings may need to be modified, redesigned, or eliminated to avoid historic properties.
 - a. For historic properties eligible or important only for the information they contain, the physical demarcation of historic properties, and their exclusion from an undertaking's proposed activity areas is a minimum requirement.
 - b. Physical demarcation and avoidance during the implementation of an undertaking is also required for properties eligible under other criteria. However, minimum protection requirements will also include the use of buffer zones to extend the protection area around properties where setting is an important attribute and the proposed activity may have an effect on the setting's quality.
2. All historic properties within an APE shall be clearly delineated prior to implementing any associated activities that have the potential to effect historic properties.
 - a. Historic property boundaries shall be delineated with coded flagging and/or other effective marking. Activities within historic property boundaries will be prohibited except for travel on developed roads when the Cultural Resource Specialist recommends that such use is consistent with the terms and purposes of this agreement. Flagging and other markings will be removed as soon as possible to avoid calling undue attention to cultural resources.
 - b. Historic property location and boundary marking information shall be conveyed to appropriate NDOT administrators or employees responsible for implementation so pertinent information can be incorporated into planning and implementation documents, and contracts (e.g., clauses or stipulations in permits).

3. Buffer zones may be established to ensure added protection where the Cultural Resource Specialist or other professional archaeologist determines that they are necessary. The use of buffer zones in conjunction with other avoidance measures are particularly applicable where setting contributes to the property's eligibility, or where it may be an important attribute of some types of historic properties (e.g., historic buildings or structures; properties important to Native Americans). The size of buffer zones needs to be determined by the professional archaeologist on a case-by-case basis. Landscape architects may be consulted to determine appropriate view sheds for historic resources. Knowledgeable Native Americans will be consulted when the use or size of protective buffers for Native American traditional or cultural properties needs to be determined.
4. When any changes in proposed activities are necessary to avoid historic properties (e.g. project modifications, redesign, or elimination; removing old or confusing project markings or engineering stakes within site boundaries; or revising maps or changing specifications), these changes shall be completed prior to initiating any activities.
5. Monitoring may be used to enhance the effectiveness of protection measures in conjunction with other measures. In any instance where monitoring is implemented, it shall not proceed until a monitoring/discovery plan is prepared and approved by NDOT. This plan should be shared with all consulting parties and any comments received considered prior to its implementation.

B. Avoiding through Non-Standard Measures

1. Scope
 - a. Appropriate Undertakings: This exemption applies to, but is not limited to, undertakings, such as small projects, fences, minerals exploration drilling, OHV events on developed roads, rights-of-way, wild horse gathers, wildlife guzzlers, interpretive and regulatory signs, materials pits, and fire rehabilitation seedings that are relatively easy to redesign or move to avoid cultural resources or for which effects are relatively temporary or ephemeral. It does not apply to undertakings that do not meet these requirements or where there may be visual or other effects to setting that cannot be avoided. It will not be used for major federal actions (requiring an Environmental Impact Statement or major Environmental Assessment).
 - b. Appropriate Measures: Undertaking redesign or relocation is the most appropriate avoidance measure under this exemption. Temporary physical barriers are probably the next most effective.

Active monitoring should be considered as a last resort and only used in limited circumstances or highly sensitive situations.

2. Procedures

- a. The APE will be determined prior to inventory and inventoried to Class III standards.
- b. All cultural resources in the APE will be recorded in conformance with the format and content requirements in Stipulation V.
- c. NDOT will determine appropriate administrative or physical measures to avoid effects to all cultural resources, excluding isolates, within the APE and include these measures as stipulations in environmental documentation and the decision record for the undertaking. The proponent of the undertaking will be required to agree to these stipulations prior to authorization.
- d. Once the avoidance measures have been developed, stipulated, and accepted by the proponent the undertaking can be authorized without specific consultation with SHPO.
- e. The eligibility of cultural resources should be determined during initial inventory. If determining the eligibility of a cultural resource involves subsurface testing, extensive archival research or other extensive additional data gathering, then eligibility can be deferred as long as the resource is treated as if it is eligible.

CHAPTER 10 - NDOT STANDARD SPECIFICATION FOR DISCOVERY OF HISTORIC, ARCHEOLOGICAL OR PALEONTOLOGICAL OBJECTS

Standard Specification Section 107.12, Discovery of Historical, Archaeological or Paleontological Objects

Standard Specification Section 107.12, Discovery of Historical, Archaeological or Paleontological Objects, will be enforced during this project. This specification stipulates procedures to be followed should any archaeological, historical, or paleontological resource be discovered during construction of the project. These procedures are as follows:

1. Immediately suspend construction operations within 200 feet of the vicinity of the discovery if a suspected historic, archeological or paleontological item, feature, prehistoric dwelling sites or artifacts of historic or archeological significance are encountered.
2. Verbally notify the ENGINEER of the nature and exact location of the findings.
3. The ENGINEER contacts the NDOT Chief of Environmental Services and the Chief Archaeologist to determine the disposition of the objects.
4. Protect the discovered objects and provide written confirmation of the discovery to the ENGINEER within 2 calendar days.
5. The ENGINEER keeps the CONTRACTOR informed concerning the status of the restriction. The time necessary for the DEPARTMENT to handle the discovered item, feature, or site is variable and dependent on the nature and condition of the discovered item. Expect a two (2) week or more delay in the

vicinity of the discovery. The Engineer will provide written confirmation when the restriction is terminated.

Should a discovery occur, the FHWA will consult with SHPO/THPO, and the ACHP in accordance with 36 CFR 800.13(b) (3) toward developing and implementing an appropriate treatment plan prior to resuming construction.

CHAPTER 11 – PRIMARY FEDERAL AGENCY CONTACTS

District Manager - Battle Mountain District Office

50 Bastian Road
Battle Mountain, NV 89820
Phone: 775-635-4000
Fax: 775-635-4034
Email: bmfwweb@blm.gov
Office hours: 7:30 am-4:30 pm, M-F

Field Manager - Mount Lewis Field Office

50 Bastian Road
Battle Mountain, NV 89820
Phone: 775-635-4000
Office hours: 7:30 am-4:30 pm, M-F

Field Manager - Tonopah Field Office

1553 South Main Street
P. O. Box 911
Tonopah, NV 89049
Phone: 775-482-7800
Fax: 775-482-7810
Office hours: 7:30 am-4:30 pm, M-F

District Manager - Elko District Office

3900 E. Idaho Street
Elko, NV 89801
Phone: 775-753-0200
Fax: 775-753-0255
Email: elfoweb@blm.gov
Office hours: 7:45 am-4:30 pm, M-F

Field Manager - Tuscarora Field Office

3900 E. Idaho Street
Elko, NV 89801
Phone: 775-753-0200
Fax: 775-753-0255
Office hours: 7:45 am-4:30 pm, M-F

Field Manager - Wells Field Office

3900 E. Idaho Street
Elko, NV 89801
Phone: 775-753-0200
Fax: 775-753-0385
Office hours: 7:45 am-4:30 pm, M-F

District Manager - Carson City District Office

5665 Morgan Mill Road
Carson City, NV 89701
Phone: 775-885-6000
Fax: 775-885-6147
Email: ccfoweb@blm.gov
Office hours: 7:30 am-4:30 pm, M-F

Field Manager - Sierra Front Field Office

5665 Morgan Mill Road
Carson City, NV 89701
Phone: 775-885-6000
Office hours: 7:30 am-4:30 pm, M-F

Field Manager - Stillwater Field Office

5665 Morgan Mill Road
Carson City, NV 89701
Phone: 775-885-6000
Office hours: 7:30 am-4:30 pm, M-F

District Manager - Ely District Office

702 North Industrial Way, HC 33 Box 33500
Ely, NV 89301
Phone: 775-289-1800
Fax: 775-289-1910
Email: eyfoweb@blm.gov
Office hours: 7:30 am-4:30 pm, M-F

Field Manager - Caliente Field Office

US Hwy 93 Bldg #1, P.O. Box 237
Caliente, NV 89008
Phone: 775-726-8100
Fax: 775-726-8111
Office hours: 7:30 am-4:15 pm, M-F

Field Manager - Egan Field Office

702 North Industrial Way, HC 33 Box 33500
Ely, NV 89301
Phone: 775-289-1800
Fax: 775-289-1910
Office hours: 7:30 am-4:30 pm, M-F

Field Manager - Schell Field Office

702 North Industrial Way, HC 33 Box 33500
Ely, NV 89301
Phone: 775-289-1800
Fax: 775-289-1910
Office hours: 7:30 am-4:30 pm, M-F

District Manager - Southern Nevada District Office

4701 North Torrey Pines Drive
Las Vegas, NV 89130
Phone: 702-515-5000
Fax: 702-515-5023
Email: lvfoweb@blm.gov
Office hours: 7:30 am-4:30 pm, M-F

Field Manager - Las Vegas Field Office

4701 North Torrey Pines Drive
Las Vegas, NV 89130
Phone: 702-515-5000
Fax: 702-515-5023
Office hours: 7:30 am-4:30 pm, M-F

Field Manager - Pahrump Field Office

4701 North Torrey Pines Drive
Las Vegas, NV 89130
Phone: 702-515-5000
Fax: 702-515-5023
Office hours: 7:30 am-4:30 pm, M-F

Field Manager - Red Rock/Sloan Field Office

4701 North Torrey Pines Drive
Las Vegas, NV 89130
Phone: 702-515-5350
Fax: 702-363-6779
Office hours: 7:30 am-4:30 pm, M-F

Archaeologist - BLM Nevada State Office

1340 Financial Blvd.,
Reno, NV 89502
Front Desk: 775-861-6400
Fax: 775-861-6601
Email: nvsoweb@blm.gov
Office hours: 7:30 am-4:30 pm, M-F

Forest Supervisor - Humboldt-Toiyabe National Forest

1200 Franklin Way
Sparks, NV 89431
(775) 331-6444
FAX: (775) 355-5399

Army Corp of Engineers

Senior Project Manager
Reno Field Office,
300 Booth Street, Room 2103,
Reno, NV 89509-1361.

District Manager - Winnemucca District Office

5100 East Winnemucca Blvd.
Winnemucca, NV 89445
Phone: 775-623-1500
Fax: 775-623-1503
Email: wfoweb@blm.gov
Office hours: 7:30 am-4:30 pm, M-F

Field Manager - Black Rock Field Office

5100 East Winnemucca Blvd.
Winnemucca, NV 89445
Phone: 775-623-1500
Fax: 775-623-1503
Office hours: 7:30 am-4:30 pm, M-F

Field Manager - Humboldt River Field Office

5100 East Winnemucca Blvd.
Winnemucca, NV 89445
Phone: 775-623-1500
Fax: 775-623-1503
Office hours: 7:30 am-4:30 pm, M-F

CHAPTER 12 - ANNUAL REPORT CONTENTS (CALENDAR YEAR)

1. Summary list of actions taken under this Agreement, including all findings and determinations, accomplishments, estimated time and cost savings, public objections, and inadvertent effects or foreclosures.
2. Screening Form documentation compiled by NDOT through the calendar year.
3. A list of eligible properties including property type and the criteria under which each is eligible,
 - a. Criteria are defined using the relevant Secretary of the Interior's significance criteria a, b, c and d, per 36 CFR 60.4;
 - b. Acceptable property types include archaeological, architectural, and those of cultural and religious importance.
 - (1) Eligible archaeological resources shall be categorized by prehistoric and historic site types;
 - (2) Eligible architectural resources shall be listed separately;
 - (3) Properties of cultural and religious importance will be listed separately.
4. A list of properties determined ineligible, categorized by historic and prehistoric sites, site types include archaeological, architectural, and properties of cultural and religious importance:
 - a. Non-eligible archaeological resources shall be categorized by prehistoric and historic site types;
 - b. Non-eligible architectural resources shall be listed separately;
 - c. Properties of cultural and religious importance will be listed separately.
5. A list of reports not submitted and a schedule for their completion and submission;
6. A list of proactive cultural resources projects and activities (i.e., Section 110 responsibilities), their nature, purpose and general location, and
7. The BLM federal fiscal year Annual Report on Cultural Resources.

CHAPTER 13: TRANSPORTATION ALTERNATIVES SUB-PROGRAM: RECREATIONAL TRAILS PROGRAM

The following procedures address the required documentation for a project funded by the Federal Highway Administration (FHWA) under the Recreational Trails Program (a sub program under Transportation Alternatives). This program is administered by the Nevada Division of State Parks (NDSP).

I. If there are Federal Applicant and/or Federal Landowner: Federal Agency application

If a project application is submitted by a Federal Agency; or is located on federally managed land; or there is another federal lead agency, NDSP will adhere to the following process:

1. The federal agency responsible for ensuring compliance with the National Environment Policy Act (NEPA) shall provide copies of the original NEPA or Categorical Exclusion decision documents. If consultation with SHPO was required under the agency's procedures for this undertaking, the documentation shall include a letter of concurrence from SHPO. If consultation with SHPO is not required under the agency's procedures or agreements, a statement from the federal agency manager is required.
2. NDSP then prepares the package for FHWA review and the funding authority checklist for FHWA's signature.
3. FHWA will sign the environmental document that adopt partially or fully the federal land agency's decision.
4. Project agreement is completed with grantee by NDSP.

II. If the project is not located in Federal land or there is no other Federal lead agency (FHWA is the lead Federal agency)

All minor projects listed in Chapter 2 and all actions or activities listed in the July 21, 2011 FHWA-NV Division Directive for "Activities that are Undertakings with No Potential to Cause Effects to Historic Properties" pursuant to 36 CFR 800.3(a) (1) (Chapter 4) can apply to many Recreation Trails-funded Projects.

If a County or other entity has prepared the required NEPA documents but the undertaking has not had a federally authorized decision document including the required Section 106 consultation with SHPO, NDSP shall adhere to the following process:

1. NDSP shall review the project scope to determine if the undertaking qualifies for the Recreational Trail Program.
2. NDSP shall submit the project application and scope to NDOT that determine if the undertaking qualifies to be a minor project or from the actions listed in the July 21, 2011 FHWA-NV Division directive as described in Chapter 2 and Chapter 4.

3. If the project is determined by NDOT to be a minor project or from the actions listed in the July 21, 2011 directive, then NDOT will send a letter or an email to FHWA and NDSP of that determination.
4. If the project is not qualified to be a minor project or from the actions listed in the July 21, 2011 directive, then NDOT will decide in a case by case if they can finalize section 106 consultations or if they need more information from the applicant. NDOT shall inform FHWA and NDSP of their decision.
5. Undertakings that are not minor projects or from the actions listed in the July 21, 2011 directive and do not have a current NEPA decision by another lead Federal Agency shall follow the process outlined in Stipulation V.C-V.H of this Agreement.
6. NDSP shall take comments into account and then prepare funding authority checklist for FHWA's signature.
7. FHWA will sign the environmental decision document for the project.
8. Project agreement is completed with grantee by NDSP.

**CHAPTER 14: MEMORANDUM OF UNDERSTANDING
CONCERNING OPERATING PROCEDURES FOR PROCESSING
FEDERAL-AID HIGHWAYS RIGHTS-OF-WAY FROM BLM**

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DEFINITIONS

Appropriated Lands – Lands transferred from BLM to FHWA under the authorities contained in 23 U.S.C. §§107(d) and 317 for Federal-aid highways and material sites.

Authorized Officer – The Field/District Manager or delegate authorized to approve Federal-aid highway appropriations. The Field Manager and State Director or authorized to approve appropriations.

Bureau of Land Management (BLM) – The federal agency within the U.S. Department of the Interior that administers America's public lands, located primarily in the 12 Western States.

Case Serial Number – Assigned by the BLM. It officially opens the administration process regarding the appropriation of the right-of-way or material site.

Categorical Exclusion (CE or CX) – This is a NEPA term for categories of projects that do not individually or cumulatively have a significant effect of the natural, social, or economic environment and, do not require the preparation of an EA or EIS.

Days - Calendar days

Decision Record (DR) – This is issued after a FONSI and is the BLM term for the decision document indicating approval of the proposed action.

Environmental Assessment (EA) – This is a NEPA term for categories of projects where the significance of the natural, social or economic impacts is not clearly established or is deemed to be non-significant.

Environmental Impact Statement (EIS) – NEPA term for categories of projects where it is known the action will have a significant effect on the natural, social, or economic environment.

Federal-aid Highways – Highways on the National Highway System, the Interstate System, and all other public roads not classified as local roads or rural minor collectors.

Federal Highway Administration (FHWA) – The FHWA is responsible for administration and management of the Federal-aid highway program and application for right-of-way appropriation consistent with 23 C.F.R. §710.601, Subpart F. The FHWA is the lead Federal agency, and has the authority to administer and monitor the land transfer program involving Federal-aid highways under Title 23.

Finding of No Significant Impact (FONSI) – A document by FHWA or BLM briefly presenting the reasons why an action, not otherwise excluded as a CE, will not have a significant effect on the human environment and for which an EIS therefore will not be prepared.

Highway Easement Deed – The instrument that transfers the right-of-way uses to the State; this instrument is recorded with the appropriate county.

Intent to Study Letter – Official NEPA start for Environmental Assessment. The letter is developed by NDOT and FHWA.

Letter of Consent – Document issued by the BLM that agrees and authorizes the appropriation of public lands for highway and material site purposes, which clearly states the conditions under which the agreement is given.

Material Site – Appropriated site required for construction and long term maintenance of Federal-aid highways located on lands under the jurisdiction of BLM and transferred under the authorities contained in 23 U.S.C. §§107(d) and 317.

Minerals Management Act – Under the authority of the Minerals Management Act of 1947, as amended, (30 U.S.C. §§601 & 602)

National Environmental Policy Act (NEPA) – 42 U.S.C. §§4341- 4343; and 23 C.F.R. § 771 requires Federal agencies to integrate environmental values into their decision making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions. To meet this requirement, Federal agencies prepare a detailed statement known as a Categorical Exclusion (CE), Environmental Assessment (EA), or Environmental Impact Statement (EIS).

National Historic Preservation Act – The Act of 1966, 16 U.S.C. §470

Nevada Department of Transportation (NDOT) - The State of Nevada Department responsible for the planning, construction, operation and maintenance of highways and bridges which make up the state highway system.

Notice of Intent (NOI) – The official notice in the Federal Register to start an Environmental Impact Statement.

Permanent Highway Easement Deed – Document issued by the FHWA to the NDOT for the permanent right-of-way area and recorded by the NDOT in the appropriate County Clerk's office. This deed is issued pursuant to the terms and conditions included in the Letter of Consent.

Record of Decision (ROD) - BLM and FHWA term for the decision document indicating approval of an EIS.

Right-of-Way Grant – Authorization issued under Title V of FLPMA permitting the use over, upon, under or through public lands. Grants are used to construct, maintain, and operate non-Federal-aid highway for the NDOT.

R.S. 2477 – The Act of July 26, 1866, R.S. 2477 (formerly codified at 43 U.S.C. §932) provided: "The right-of-way for the construction of highways over public lands, not reserved for public uses, is hereby granted." The construction of a public highway or unreserved public land must have occurred prior to October 21, 1976, for a R.S. 2477 grant to have taken place. Construction after this date is appropriately authorized under FLPMA.

Scoping – NEPA process where agencies and public are given an opportunity to express concerns and identify issues.

Silver Book – This is the official NDOT manual on Standard Specifications for Road and Bridge Construction.

Special Stipulations – Measures developed to accomplish the required mitigation “on the ground” or to address other issues needed for adequate land management.

Temporary Construction Easement Deed – Document issued by the FHWA to the NDOT for the temporary construction areas identified in the Letter of Consent and is not recorded in the county records.

ACRONYMS

BLM – Bureau of Land Management

CE or CX – Categorical Exclusion

CFR – Code of Federal Regulations

DR – Decision Record

EA – Environmental Assessment

EIS – Environmental Impact Statement

FHWA – Federal Highway Administration

FLPMA – Federal Land Policy and Management Act of 1976

FONSI – Finding of No Significant Impact

MOU – Memorandum of Understanding

NDOT – Nevada Department of Transportation

NEPA – National Environmental Policy Act

ROD – Record of Decision

ROW – Right-of-Way

SAFETEA-LU – Safe, Accountable, Flexible, Efficient
Transportation Equity Act: a Legacy for Users

SHPO – State Historic Preservation Office

T & E – Threatened and Endangered

USC – United States Code

USCOE – U.S. Corp of Engineers

USEPA – U.S. Environmental Protection Agency

USFWS – U.S. Fish and Wildlife Service

MEMORANDUM OF UNDERSTANDING

**Concerning:
Operating Procedures for
Processing Federal-aid Highway
Rights of Way From BLM**

I. BACKGROUND

On July 1, 1982, the Bureau Land Management (BLM) and the Federal Highway Administration (FHWA) entered into an Interagency Agreement regarding Federal-aid highway right-of-way. On July 1, 1985, the BLM entered into a Memorandum of Understanding (MOU) with the State of Nevada Department of Transportation (NDOT) and the FHWA concerning highway right-of-way. These agreements define specific policies and guidelines for appropriating public lands from BLM for highway rights-of-way and sources of materials for Federal-aid Highways.

II. PURPOSE

The purpose of this MOU is to establish one uniform set of updated operating procedures and one environmental decision document that will be used by the BLM, FHWA, and the NDOT, for appropriating public lands from BLM for highway rights-of-way and sources of materials for new and amended Federal-aid highways. Specific items covered in this agreement include planning, design, environmental analysis and assessment, appropriation, material sites, and construction and maintenance of Federal-aid highway right-of-way projects delineated in this Operating Manual of 2007.

III. AUTHORITY

Authority for this MOU is the Economy Act of June 30, 1932, (41 U.S.C. §501-509, P.L. 95-224); Title IV of the Inter-Governmental Cooperative Act of 1968; the Taylor Grazing Act of June 28, 1934, (48 STAT. §1259, 43 U.S.C. §315, as amended); The Federal Land Policy and Management Act of 1976 (43 U.S.C. §1737, P.L. 94-579); Interstate and Defense Highways Act, the Federal-aid Highway Acts (23 U.S.C. §107 (d) and 317), P.L. 109-59 (SAFETEA-LU) and such other State of Nevada and/or Federal legislation and regulations as may apply.

IV. AREAS OF COOPERATION

The BLM, FHWA, and NDOT recognize the need to work together to develop coordinated action plans; to provide a basis for timely disposition of material issues or problems connected with the planning, design, construction and maintenance of public road Federal-aid highway systems in the State of Nevada; and to achieve maximum efficiency from their respective agencies.

V. RESPONSIBILITIES

A. The BLM is responsible for the administration and management of public lands. The BLM will participate as a cooperating agency in the NEPA process on public lands as defined in Federal Regulations. As a cooperating agency, BLM will use the final environmental decision document as a basis for future actions, and interests in public lands. The BLM Field Office will make existing baseline information available, as appropriate, during the scoping process.

B. The FHWA is responsible for administration and management of the Federal-aid highway program and application for right-of-way appropriation consistent with 23 C.F.R. 710.601, Subpart F. The FHWA is the lead Federal agency, and has the authority to administer and monitor the land transfer program involving Federal-aid highways under Title 23.

C. The NDOT has the responsibility for planning, designing, constructing, and maintaining those portions of the established state highway system. All parties to this agreement shall operate under the applicable Code of Federal Regulations. As the agent of FHWA, the NDOT is responsible for compliance with the National Environmental Policy Act, the Endangered Species Act, Section 106 of the National Historic Preservation Act, and all other pertinent environmental protection laws, regulations, policies and executive orders for Federal-aid Highway Projects. The NDOT will coordinate in the scoping process with the BLM Field Offices where the lands proposed for appropriation are located. NDOT will coordinate with the U.S. Fish and Wildlife Service (USFWS), which is the final authority for issues/actions regarding T & E species and migratory birds on lands requested for appropriation, and U.S. Army Corp of Engineers/EPA which is the final authority for issues/actions regarding Section 404 of the Clean Water Act.

VI. OPERATIONAL PROCEDURES

The BLM, FHWA and NDOT have collectively developed this Operating Manual with written procedures on the functional interrelated work areas. This Operating Manual is an Addendum to this Memorandum, and made a part hereof.

VII. ADMINISTRATION

A. This agreement in no way restricts the parties from participating with other public and private parties, organizations, and individuals, or from accepting contributions and donations for operation and maintenance activities of highway related facilities.

B. Nothing in this agreement shall be construed as obligating any of the participant parties to expend funds, or as involving these entities in any obligation for future payment of money in excess of appropriations authorized by law and administratively allocated for these purposes except as specifically set forth herein.

C. The Federal Government's liability shall be governed by the provisions of the Federal Tort Claims Act (28 U.S.C. 2671-80). The State of Nevada's liability shall be governed by the Nevada Revised Statutes. The parties shall operate in conformance with the Code of Federal Regulations and the United States Code.

D. This MOU may be amended as necessary by the mutual consent of all parties, and the issuance of a written modification, signed and dated by all parties.

E. The BLM, FHWA and NDOT will meet annually on a mutually agreed date to review and evaluate the implementation current conditions and trends concerning the intent and functioning of this MOU. This meeting will also serve as a coordination session to determine immediate and future programming of cooperative actions requiring coinciding appropriations.

F. This MOU shall become effective upon signature by all participants and shall be in effect from the date of signature until updated by all or revoked by any party to this agreement.

G. The participants shall comply with all Federal Statutes relating to nondiscrimination. These include but are not limited to: a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color, handicap, or national origin; b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §1681-16783, and §1685-1686), which prohibits discrimination on the basis of sex.

H. Each and every provision herein is subject to the applicable laws and regulations of the United States, the State of Nevada, the regulations of the Secretary of the Interior, and the regulations of the Secretary of Transportation.

I. Each agency party will fund its own activities while assisting the other agencies parties. However, if assistance involves a substantial commitment of personnel or other resources, the agencies parties may enter into a separate agreement.

J. If disagreements emerge which cannot be resolved, they shall be elevated as follows:

BLM: Field or District Manager to Deputy State Director, Natural Resources, Lands and Planning, to State Director


NDOT: ROW Engineering Manager to Chief ROW Agent to Director

FHWA: ROW Program Manager to Assistant Division Administrator to Division Administrator

VIII. APPROVALS

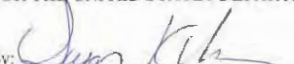
This Memorandum of Understanding replaces and supersedes the Joint Memorandum signed July 1, 1985, along with any amendments thereto and becomes effective upon the last date of signature.

FOR THE UNITED STATES DEPARTMENT OF THE INTERIOR

By: 
Amy Lueders, Associate State Director,
Bureau of Land Management, Nevada

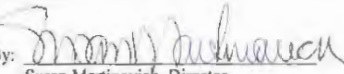
11/26/07
Date

FOR THE UNITED STATES DEPARTMENT OF TRANSPORTATION

By: 
Susan Klekar, Division Administrator,
Federal Highway Administration
Nevada Division

11/26/07
Date

FOR THE STATE OF NEVADA

By: 
Susan Martinovich, Director
Nevada State Department of Transportation

11/26/07
Date

USER GUIDE

The information that follows serves as a "how to use" guide for the Joint Memorandum between the U.S. Department of Transportation Federal Highway Administration (FHWA), the State of Nevada Department of Transportation (NDOT), and the Department of the Interior Bureau of Land Management (BLM). This guide applies to the Joint Memorandum and its 2007 Operating Manual in processing the Federal-aid highway right-of-way proposals under 23 United States Code (USC).

The Operating Manual addresses four processes. Chapter 1 addresses Federal highway right-of-way. Chapter 2 addresses highway materials sources. Chapter 3 addresses abandonment and relinquishment. Chapter 4 addresses National Environmental Policy Act (NEPA) processes.

I. PRE-APPLICATION WORK

A. NDOT representatives on behalf of FHWA will contact BLM representatives in the field office where the project is occurring. NDOT may have broad, early contact discussions with BLM prior to this point in processing.

B. NDOT, on behalf of FHWA, will provide the following information:

1. Applicability of Federal action (funding source).
2. Type of project (e.g., new vs. amended right-of-way, highways, material sites, maintenance stations, rest areas, etc...)
3. Timelines (if known) for required actions by all parties.

C. BLM and NDOT personnel may conduct joint field reviews of the proposed project and alternatives. FHWA staff will be invited and may participate at their discretion. The joint review may entail the following:

1. The joint field review will be used to identify project alternatives and issues needing further clarification. The joint field review checklist will be used for material sites right-of-way reviews.
2. The BLM/NDOT field review coordination provides the framework for the deed Special Stipulations.
3. NDOT for FHWA will complete the data collection, survey needs, and compliance with environmental laws.

II. PREPARATION OF ENVIRONMENTAL DOCUMENTATION

A. NDOT, on behalf of FHWA, will prepare an administrative draft NEPA compliance document. This could be an Environmental Impact Statement (EIS), Environmental Assessment (EA), or Categorical Exclusion (CE) as defined in 23 C.F.R. 771.

The NDOT and FHWA, with BLM input as needed, will agree to the following points at this time:

1. Level of NEPA documentation;
2. Adequacy of public participation;
3. Concurrence points, time frames, agreement on preliminary schedule, identification of participating/cooperating agencies, and methodologies;
4. Review elements needed for compliance with environmental laws.

B. The appropriate BLM field office personnel will review the administrative draft NEPA compliance document and respond to NDOT in writing.

C. NDOT will review recommended revisions, if any, that BLM has suggested.

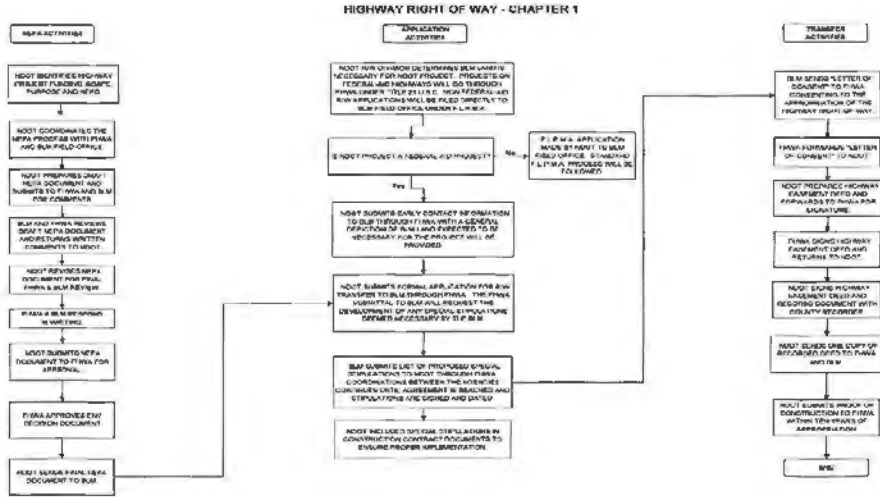
D. The appropriate agency will complete the NEPA process.

III. REQUEST FOR RIGHT OF WAY APPROPRIATION AND SPECIAL STIPULATIONS DEVELOPMENT

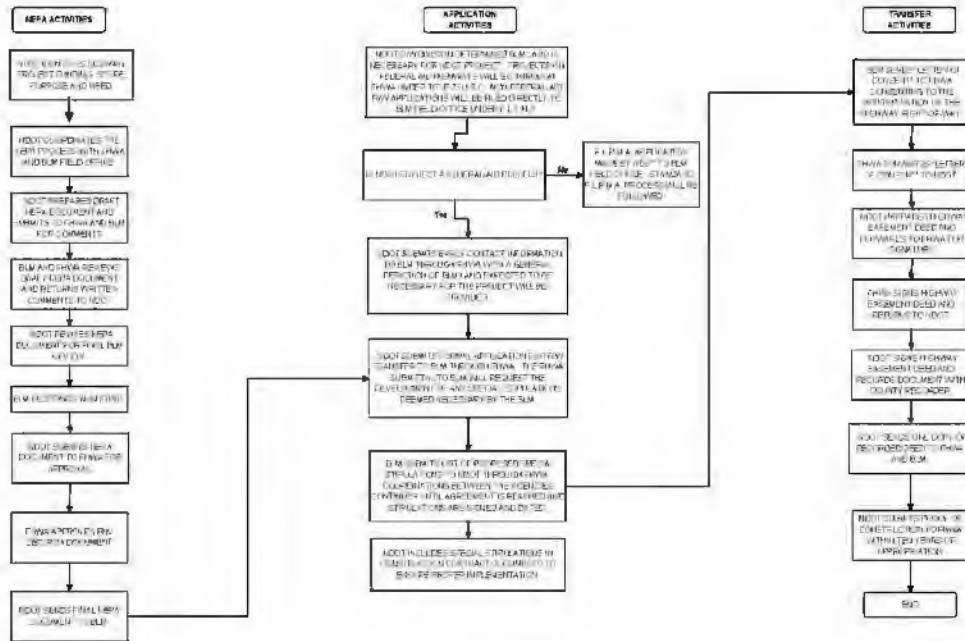
A. After the environmental document clearance is complete, the FHWA will send the Request for Appropriation to the BLM Authorized Officer to jointly develop Special Stipulations. The 120-calendar day processing period begins on the date BLM receives the complete Request for Appropriation package. If BLM determines the package is incomplete or requests additional information, they should notify FHWA within 30 days and describe the missing elements.

B. The formalized Special Stipulations will be an attachment to the Letter of Consent that BLM issues to FHWA.

C. Upon receipt of BLM's letter of consent, FHWA will initiate the final steps to issue a Highway Easement Deed to NDOT. Specific procedures are in Chapter 1 (Highways) and Chapter 2 (Materials)



Highway Material Sources (Chapter 2)



CHAPTER 1
HIGHWAY RIGHT-OF-WAY

I. BACKGROUND

The BLM-FHWA Interagency Agreement of 1982 became effective upon revocation of certain BLM regulations in 43 C.F.R. §2820-Roads and Highways. With this action, FHWA is designated as the Lead Federal Agency, and has authority to administer and monitor the land transfer program involving Federal-aid highways under Title 23 U.S.C. This responsibility includes such aspects as: executing the "Highway Easement Deed", monitoring compliance with the conditions contained in the deed (as well as the special stipulations included in the application), insuring compliance with all applicable laws including the National Environmental Policy Act and the Civil Rights Act, and implementing reversionary actions if the lands are not used for construction or they are no longer necessary for highway purposes. The BLM will work with FHWA to assure compliance with BLM land use plans and to correct non-compliance with the conditions of the transfer.

The following procedures will be used to assure sufficient lead time to process highway right-of-way transfer and provide for uniform document processing.

II. FEDERAL-AID HIGHWAYS

A. General

The majority of right-of-way required for Federal-aid highways across lands under the jurisdiction of BLM will be transferred to NDOT by FHWA under the authorities contained in 23 USC, Sections 107(d) and 317. These transfers will be in accordance with the BLM-FHWA Interagency Agreement executed in 1982 (see Appendix A).

B. Pre-application Work

Early project coordination - to provide for a maximum flow of information, an initial formal written contact will be made by FHWA on all projects where it is anticipated new or amended right-of-way could be required from BLM.

1. This contact will be made at the time the project is first initiated (when NDOT programs the project and FHWA authorizes preliminary engineering).
2. The formal written notification will be made by FHWA to the BLM administering office.
3. The notification will include:
 - Location of the project.
 - Anticipated environmental document (i.e., categorical exclusion - CE, environmental assessment - EA, environmental impact statement - EIS).

- General description of the project.
 - Applicability of Federal action (funding source).
 - Type of project (e.g., new vs. amended right-of-way, highways, material sites, maintenance stations, rest areas, etc...).
 - Timelines (if known) for required actions by all parties.
4. Upon receipt of the notification, BLM administering office will assign a case serial number and provide FHWA written advice of the serial number (with a copy to NDOT).
 5. The NDOT will contact the appropriate BLM administering office for coordination and input in the environmental process (see Chapter 4).
- C. Preparation of environmental documentation (See Chapter 4).

III. REQUESTS FOR RIGHT OF WAY APPROPRIATIONS AND SPECIAL STIPULATIONS DEVELOPMENT

At this stage of project development, the environmental process and document have been completed by FHWA and the identified mitigation measures become a commitment of the project. While these measures are covered in general terms in the environmental document, special stipulations may need to be developed to assure proper implementation. When the proposed project has advanced to the ROW appropriation stage, FHWA will formally ask BLM to initiate the process of identifying any required special stipulations (see Appendix L for format).

The BLM has 120-calendar days to respond to the FHWA request beginning on the date BLM receives the complete Request for Appropriation package. If BLM determines the package is incomplete or requests additional information, they should notify FHWA as soon as practical and describe the missing elements.

Special stipulations are those measures developed by BLM to actually accomplish the required mitigation "on the ground" or to address other issues needed for adequate land management. The special stipulations will not duplicate or contradict those stipulations already:

- A. Covered by the standard stipulations contained in the Highway Easement Deed.
- B. Covered in adequate detail in the environmental document;
- C. Contained in the Standard Specifications for Road and Bridge Construction (NDOT Silver Book) which NDOT is required to comply with, and is incorporated by reference into this Operating Manual;
- D. Required by Federal, State, or local statute, ordinance, or code.

Special stipulations formalized - to assure that mutually acceptable special stipulations are incorporated into the project/contract, a third and final written pre-application contact will be made with BLM. This notification will be at the right-of-way acquisition stage of the project and will request that the special stipulations be formalized and submitted to FHWA. This resultant

list will be included as an attachment to the application to BLM for the "Letter of Consent" to transfer.

Right-of-Way Transfer

1. New Federal-aid Right-of-Way - A transfer will be made by the Easement Deed process. Upon application, the BLM administrating office will issue a "Letter of Consent" (See Appendix "H") to transfer the required land appropriation. The transfer document will be a "Highway Easement Deed - Highways" (See Appendix "C") executed by FHWA to NDOT. The NDOT will send a copy of the executed deed to the BLM administrating office. NOTE: FLPMA regulations do not apply.

2. New Temporary Federal-aid Right-of-Way - Lands requiring short term occupancy will be transferred to NDOT by FHWA using the same procedures as in 1. above. Following the "Letter of Consent" the transfer document will be a "Temporary Easement Deed - Highways" (See Appendix "D") executed by FHWA to NDOT. The Temporary Easement portion of the Letter of Consent will have a defined expiration date. NDOT will send a copy of the executed deed to the BLM administrating office.

Non-Federal-aid Right-of-Way Grant

FLPMA Right-of-Way - All permanent right-of-way required for non-Federal-aid highways across lands under the jurisdiction of BLM will be issued to the NDOT under the authority of Title V of the Federal Land Policy and Management Act. Upon application, the appropriate BLM field office will issue a "Right-of-Way Grant", granting use of the lands requested. Right-of-way granted by this procedure will include, but not be limited to, access roads to maintenance sites and radio communication sites and will be negotiated directly between NDOT and the BLM.

IV. EASEMENT DEED PROCESS-FEDERAL-AID HIGHWAY RIGHTS OF WAY

The following list summarizes the process for Federal-aid highways.

- A. The NDOT applies to FHWA. Application package includes:
 1. Three sets of right-of-way plans
 2. Three sets of parcel descriptions
 3. List of mutually accepted special stipulations (if applicable)
- B. The FHWA applies to BLM. Application package includes:
 1. Two sets of right-of-way plans
 2. Two sets of parcel descriptions
 3. A copy of NDOT's application letter
 4. List of mutually accepted special stipulations (if applicable)
- C. BLM sends "Letter of Consent" to FHWA
- D. FHWA sends "Letter of Consent" to NDOT
NDOT can now certify ROW for construction
- E. NDOT prepares Highway Easement Deed and sends to FHWA
- F. FHWA executes Highway Easement Deed and returns to NDOT
- G. NDOT executes Deed acceptance and records
- H. NDOT sends copy of recorded Deed to BLM
- I. NDOT sends "proof of construction" to FHWA

CHAPTER 2

HIGHWAY MATERIAL SOURCES

I. BACKGROUND

The BLM-FHWA Interagency Agreement gives FHWA authority to administer and monitor the land transfer program, including material sources, for the construction and maintenance of Federal-aid highways. This responsibility includes such aspects as: execution of the "Highway Easement Deed (Material Site)", monitoring compliance with the conditions contained in the deed (as well as the special stipulations), insuring compliance with applicable laws and regulations, and implementing reversionary actions if the sites are no longer necessary for highway purposes. The BLM will work with FHWA to assure compliance with BLM land use plans and to correct non-compliance with the conditions of the transfer.

The following procedures will be used to assure sufficient lead time to process highway right-of-way transfer and provide for uniform document processing.

II. FEDERAL-AID HIGHWAYS

A. General

Material sites required for construction and long term maintenance of Federal-aid highways located on lands under the jurisdiction of BLM will be transferred under the authorities contained in 23 USC, Sections 107(d) and 317. These transfers will be in accordance with the BLM-FHWA Interagency Agreement executed in 1982 (see Appendix A).

B. Pre-application Activities

Pre-application activities for materials sampling and testing are covered under the Mineral Materials Act of 1947 (43 CFR 3600) and are not Title 23 highway activities. Title 23 activities occur when it is determined these sites are suitable for highway use and FHWA requests lands appropriation.

1. Early project coordination - Generalized material source areas will be identified by NDOT. The NDOT will contact and coordinate with the appropriate BLM administrating office personnel for land status and availability of use. Unless waived by the BLM administrating office, a joint field review will be conducted to evaluate all physical aspects and environmental impacts of the proposed expansion of existing sites and new sites. The NDOT will evaluate those areas which appear to contain the best material sources and which will result in the least overall adverse impacts.
2. Local planning and zoning - NDOT will ascertain if the proposed exploration areas conform to applicable local zoning and master plans before initiating environmental resource surveys.

3. Sampling and testing - Before entering a proposed material site for sampling and testing, NDOT will obtain an Exploration Permit under the BLM Mineral Materials Disposal Regulations from the appropriate BLM administrating office. (See Appendix B for Materials Exploration Application Sample letter and needed information, map, etc.) When the NEPA process is complete, BLM will authorize NDOT activities in writing. The authorization will require compliance with the mitigation determined through the NEPA process. The NDOT will be responsible for obtaining permits required by other agencies. The NEPA process for sampling and testing is covered in more detail in Chapter 4.

C. Title 23 Application Activities

1. Obtaining a new material site or expanding an existing site - After sampling and testing, NDOT through FHWA will apply to obtain the rights for site use. The NDOT for FHWA will prepare a separate NEPA document for a new material site or expanding an existing site. As a "Cooperating Agency", the appropriate BLM administrating field office will be contacted for input and coordination during development of this NEPA document. The BLM will provide written concurrence with the NEPA document prior to FHWA approval. The FHWA will furnish the appropriate BLM administrating field office a copy of the final approved NEPA document. The NEPA process for obtaining a new material site or expanding an existing site is covered in more detail in Chapter 4.

2. Special stipulations development - Following environmental document approval, FHWA will request that BLM identify required special stipulations. The BLM and NDOT will informally coordinate to assure any special stipulations are mutually acceptable.

3. Special stipulations are those measures developed to accomplish the required mitigation "on the ground" or to address other issues needed for adequate land management. The special stipulations will not duplicate or contradict those stipulations already:

- a. Covered by the standard stipulations contained in the Highway Easement Deed;
- b. Covered in adequate detail in the environmental document;
- c. Contained in the Standard Specifications for Road and Bridge Construction (NDOT Silver Book) which NDOT is required to comply, with and is incorporated by reference into this Operating Manual;
- d. Required by Federal, State, or local statute, ordinance, or code.

NDOT will assure any special stipulations developed by BLM are included in NDOT contract documents. See example of special stipulations that may be placed in the Letter of Consent as shown in Appendix L.

The BLM has 120-calendar days to respond to the FHWA request. Time begins the date BLM receives the complete Request for Appropriation package. If BLM determines the package is incomplete or requests additional information, they should notify FHWA as soon as practical and describe the missing elements.

- D. Material Site Transfer – The Easement Deed process will be used to transfer the land. Upon application, the BLM administrating office will issue a “Letter of Consent (Materials)” to FHWA authorizing the land appropriation. The transfer document from FHWA to NDOT will be a “Highway Easement Deed-(Material Site)” (See Appendix “E”) executed by FHWA.

III. EASEMENT DEED PROCESS – FEDERAL-AID HIGHWAYS (Material Sites)

- A. NDOT will apply to FHWA. The application will include:
 - 1. Three sets of material site plats.
 - 2. List of mutually accepted special stipulations.
- B. FHWA will apply to BLM. The application will include:
 - 1. Two sets of material site plats.
 - 2. A copy of NDOT’s application.
 - 3. List of mutually accepted special stipulations.
- C. BLM will send “Letter of Consent” to FHWA.
- D. FHWA will send “Letter of Consent” to NDOT.
NDOT is responsible for securing all necessary Federal, State, and local approvals prior to developing the material source.
NDOT can now certify ROW clear for construction.
- E. NDOT will prepare the Highway Easement Deed and send to FHWA.
- F. FHWA will execute the Highway Easement Deed and return to NDOT.
- G. NDOT will execute the Deed acceptance and record.
- H. FHWA will send a copy of recorded Deed to BLM.
- I. NDOT will send “proof of use” to FHWA and BLM.

Amending Existing pre-1982 NDOT Grants – Amending pre-1982 grants will no longer be done under the current interagency agreement. Amendments will be authorized by letter of consent or by FLPMA right-of-way from BLM. A FLPMA grant applies only to material site access roads.

Temporary sites - Lands requiring temporary occupancy will be transferred to NDOT by FHWA under the same procedures discussed in Section II.C. Following the “Letter of Consent” the transfer document will be a “Temporary Highway Easement Deed - (Material Site)” executed by FHWA to NDOT (See Appendix E). The Temporary Easement portion of the Letter of Consent will have a defined period. The NDOT will send a copy of the executed deed to the BLM administrating office.

CHAPTER 3

ABANDONMENT-RELINQUISHMENT

HIGHWAY RIGHT-OF-WAY AND MATERIAL SITES

For appropriated lands transferred by easement deed from FHWA to NDOT, the NDOT and BLM will coordinate to meet all regulations affecting abandonment and agree on a restoration and rehabilitation plan. The NDOT will submit the proposed abandonment to FHWA for concurrence. After approval by Resolution by the NDOT Board of Directors, the NDOT will file maps depicting the area to be abandoned with FHWA. The FHWA will submit the proposal to BLM. The BLM will review the site to assure restoration and rehabilitation has been completed. When restoration and rehabilitation is accepted by the Federal agencies, NDOT will relinquish interest (quit claim deed or other formal document) in the lands to the United States. The NDOT will forward a recorded copy of the quit claim deed to FHWA and to BLM. The appropriate BLM administrating office will issue a decision accepting the abandonment-relinquishment to FHWA and inform NDOT.

For pre-1982 grants (non easement deed), NDOT will work directly with BLM. The form in Appendix K will be used to accomplish the relinquishment. The NDOT will notarize and record the document relinquishing its interest in the land, only if the original granting document was recorded.

CHAPTER 4

NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) PROCEDURES (HIGHWAY RIGHT OF WAY)

I. BACKGROUND

It is beneficial for all parties for the NDOT to prepare the proper NEPA document for the FHWA, which is the lead agency and for the BLM to participate as a "cooperating agency" for the procurement of highway right-of-way. The BLM will not prepare a separate NEPA document.

The following procedures will be used to assure sufficient lead time to process highway right-of-way transfer and provide for uniform document processing.

II. AGENCY ROLES

- A. FHWA is the lead agency for NEPA documents for highway right-of-way and material site use, with BLM acting as a "Cooperating Agency".
- B. NDOT as a joint lead agency prepares the NEPA documents on behalf of FHWA.
- C. BLM is responsible for compliance with Section 106 of the National Historic Preservation Act for highway projects and material sites on BLM right-of-way. See Appendix I and J.

III. TYPE OF NEPA DOCUMENTATION

The NDOT will develop the project scope, purpose and need statement, preliminary alternatives, the level of NEPA documentation in coordination with the FHWA and the BLM. The NDOT will consider the comments and formalize the level of NEPA document.

A. Categorical Exclusion (CE) - The NDOT will coordinate development of the CE document with the BLM and the FHWA and submit the draft document for comment. The NDOT will consider comments, finalize the CE and submit to the FHWA for approval. The FHWA will approve the CE and return the signed CE to the NDOT. The NDOT will send the final CE to the BLM.

B. Environmental Assessment (EA) - The NDOT will coordinate development of the EA document with the BLM and the FHWA and submit the administrative draft document for comment. The NDOT will consider comments, finalize the EA and submit to the FHWA for approval. The FHWA will approve the EA, by issuing a Finding of No Significant Impact (FONSI), and return the FONSI to the NDOT. The NDOT will send the final EA/FONSI to the BLM.

C. Environmental Impact Statement (EIS) - The NDOT will coordinate development of the EIS document with the BLM and the FHWA and submit the administrative draft document for comment. The NDOT will consider comments, finalize the EIS and submit to the FHWA for approval. The FHWA will approve the EIS, by issuing a Record of Decision (ROD) and return the ROD to the NDOT. The NDOT will send the final EIS/ROD to the BLM.

**NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) PROCEDURES
(MATERIAL SITE TRANSFERS)**

I. BACKGROUND

In the event that sampling and testing for potential material sources under the Minerals Management Act of 1947 is needed, NDOT will prepare the NEPA document in coordination with BLM. As the lead federal agency, BLM will sign the decision document and issue the authorization for a field reconnaissance and exploration permit. At its option, FHWA may act as a cooperating agency.

If NDOT decides to pursue the material site for procurement as a highway material site under a Title 23 authorization, the NDOT will prepare a second (separate) environmental NEPA document for the FHWA, as the lead agency. The BLM will participate as a "cooperating agency" and will not prepare a separate NEPA document.

BLM is responsible for compliance with Section 106 of the National Historic Preservation Act for highway projects and material sites on BLM right-of-way. See Appendix I and J.

NOTE: The following provisions apply to preparing a Categorical Exclusion or an Environmental Assessment. If an Environmental Impact Statement is required, the time frames for preparation and review will be determined.

II. MATERIAL SITE ASSESSMENT - A Material Site assessment will be initiated when one of the following occurs:

A. NDOT Materials Division Request for Exploration and Testing: The NDOT Materials Division requests environmental clearance from the NDOT Environmental Services Division for testing existing and proposed material sites on BLM Land.

B. NDOT Right-of-Way Request for Clearance prior to acquisition: The NDOT Materials Division requests the NDOT Right-of-Way Division acquire right-of-way for use of a material site. NDOT Right-of-Way Division requests environmental clearance from the NDOT Environmental Services Division.

C. NDOT Right-of-Way Division Request for Use of an Existing Site: NDOT Materials Division recommends the use of a material site for a project to the NDOT Right-of-Way Division. The NDOT Right-of-Way Division requests environmental clearance for material site use from the NDOT Environmental Services Division. These sites may or may not have had previous clearances.

D. NDOT Materials Division Request for Use of an Existing Material Site: The NDOT Maintenance Crews request use of an authorized material site from the NDOT Right-of-Way Division. The NDOT Environmental Services Division ensures environmental clearances and permits are completed for material site use.

III. PREAPPLICATION

Pre-application Activities

Early project coordination - The NDOT will contact and coordinate with the appropriate BLM administrating office personnel for land status, land use planning, and availability for use. Unless waived by the BLM administrating office, a joint field review will be conducted to evaluate physical aspects and environmental impacts of the proposed expansion of existing sites and new sites. The Proposed Materials Site Field Checklist (Appendix M) will be completed at this time.

Sampling and testing - The NDOT will complete the environmental resource surveys. These surveys will be submitted to the appropriate BLM administrating office with the application. The BLM will complete the NEPA process ONLY for the sampling and testing. The NDOT will be responsible for obtaining permits required by other agencies.

IV. TITLE 23 APPLICATION ACTIVITIES

Obtaining a new material site or expanding an existing site - The NDOT for FHWA will prepare a NEPA document for a new material site or expanding an existing site. The NDOT will contact the appropriate BLM administrating field office, as a "Cooperating Agency" for input and coordination during development of this NEPA document.

If site use requires consultation with regulatory agencies and/or permit acquisition, the NDOT Environmental Services Division will coordinate and obtain the necessary approvals from the regulatory agencies. The NDOT will obtain written BLM approval prior to doing the cultural resource survey. The NDOT will complete the surveys and forward the report to BLM. The BLM will process the document in accordance with the National Historic Preservation Act. BLM will notify the NDOT Archaeologist of the SHPO consultation results.

The NDOT will submit the draft NEPA document to BLM, who will provide written comments within 45 calendar days. The BLM will provide written concurrence with the NEPA document through NDOT prior to FHWA review and approval. The FHWA will review and submit changes to the document to the BLM and NDOT for final coordination. NDOT will finalize the NEPA document and forward to FHWA for approval. The FHWA will prepare the environmental decision document and forward to NDOT. The NDOT will furnish the appropriate BLM administrating field office a copy of the approved NEPA document and the decision document.

REFERENCES

INTERAGENCY AGREEMENT – Bureau of Land Management and Federal Highway Administration, July 7, 1982

JOINT MEMORANDUM between Nevada Department of Transportation, Federal Highway Administration, and Bureau of Land Management, Nevada; July 1, 1985

23 United States Code, §§107(d) and 317

23 Code of Federal Regulations Part 771

40 Code of Federal Regulations §§1500 – 1508

BLM Manual 2805 – Federal Agencies

National Historic Preservation Act of 1966–16 U.S.C. §470

NEPA Handbook, BLM Handbook H-1790-1

Nevada Standard Specifications for Road and Bridge Construction – “The Silver Book”

Minerals Management Act - Under the authority of the Minerals Management Act of 1947, as amended, (30 U.S.C. §§601 & 602)

SAFETEA-LU – P.L. 109-59 of 2005

APPENDIX A

Interagency Agreement

INTERAGENCY AGREEMENT

Bureau of Land Management
and
Federal Highway Administration

- I. Purpose. This Interagency Agreement provides procedures by which the Secretary of Transportation acting through the Federal Highway Administration (FHWA) may appropriate public lands for highway rights-of-way and sources of materials for the Federal-aid Highway System and those classes of highways provided for in Chapter 2, 23 U.S.C. The lands appropriated are for use by the States for highways and/or highway material purposes. The appropriation is subject to conditions the Secretary of the Interior acting through the Bureau of Land Management (BLM) may deem necessary for adequate protection and utilization of the public land and protection of the public interest.
- II. Authority.
 - A. The Federal Land Policy and Management Act of 1976, 90 Stat. 2766, 43 U.S.C. 1737.
 - B. The Act of August 27, 1958, as amended) 23 U.S.C., §§ 107(d) and 317.
- III. Procedures. BLM and FHWA recognize the need for streamlined procedures by which the FHWA may appropriate BLM-administered public lands for highway and highway materials for the Federal-aid System and those classes of highways provided for in Chapter 2, 23 U.S.C. To accelerate the appropriation process, FHWA and BLM agree to the following procedures:
 - A. FHWA will notify BLM, as far in advance as possible, of any highway project being contemplated and arrange a meeting with the BLM authorized officer and the participating State agency to discuss the proposed project to ascertain whether or not the appropriation of the lands for highway or highway materials is consistent with BLM resource management programs and develop a plan of action to complete the appropriation within a reasonable time.
 - B. It will be the responsibility of FHWA to comply with the National Environmental Policy Act and other legal requirements in arriving at its determination that the lands are necessary for the project.
 - C. FHWA shall submit to the authorized officer of BLM a written request for appropriation, accompanied by a map showing the location of lands it desires to appropriate, a statement of its determination that the lands are necessary for the project, a copy of the environmental assessment, and/or a copy of the environmental impact statement.

The authorized officer of the BLM, after receipt of the request and attachments, shall review the material and, within a period of four months, notify FHWA, in writing, either (a) that the appropriation would be contrary to the public interest or inconsistent with the purposes for which the public lands or materials are being managed or (b) that BLM is in agreement with the appropriation subject to conditions of adequate protection and utilization of the public lands. If within a period of four months, the Bureau of Land Management has not responded, in writing, to the request for appropriation, such lands

- A. may be considered appropriated by FHWA and transferred to the State for right-of-way purposes as requested.
- B. Disagreement to the appropriation will be in the form of a letter, from BLM to FHWA, clearly stating the reasons why such an appropriation would be contrary to the public interest or inconsistent with the purposes for which the public lands or materials are being managed.
- C. Agreement to the appropriation will be in the form of a "Letter of Consent" which clearly states the conditions under which the agreement is given. These conditions involve the following:
 - 1. Resolution of existing valid claims and use authorizations.
 - 2. Granting authority to FHWA within the appropriation is limited to rights-of-way for the Federal-aid Highway System and those classes of highways provided for in Chapter 2, 23 U.S.C.
 - 3. BLM retains the authority to grant additional right-of-way uses within and across the appropriated highway or material site right-of-way. Such additional uses include, but are not limited to, transportation and utility systems for water, power, communications, oil and gas, or any other facilities which are in the public interest, are not directly associated with highway use, operation and related highway purposes, and are not inconsistent with Title 23 of the U.S. Code. The FEWA shall be consulted prior to the issuance of such authorizations.
 - 4. The appropriation will automatically terminate if construction is not started within ten (10) years or sooner if agreed upon.
 - 5. Conditions providing for development and use of the adjacent public lands, such as, reasonable access and signing.
 - 6. Conditions protecting the adjacent public lands from right-of-way construction and maintenance activities which may cause off right-of-way adverse effects, such as, wildfire, chemical control of vegetation and animals, runoff drainage and revegetation with non-native species.
- G. FHWA, when transferring the highway right-of-way or highway material appropriation to the State, will make it subject to BLM's conditions as contained in the "Letter of Consent". FHWA will administer these conditions. BLM will work with or through FHWA when they observe non-compliance to the appropriation "Letter of Consent" conditions.
- H. When the need for the appropriation no longer exists and the State has reasonably rehabilitated the area to protect the public and environment, FHWA will notify BLM in writing. Upon receipt of this notice and acceptance of the rehabilitation, the lands appropriated shall revert to the BLM.
- I. A copy of the right-of-way use document from FHWA to the respective State shall be furnished to the BLM authorized officer.
- J. Amendments to or modifications of this Interagency Agreement may be initiated by either party, but shall not become effective or binding until agreed upon by both parties.

IV. Tenure. This document shall become effective upon the revocation of 43 CFR 2820-Roads and Highways and shall remain in effect unless terminated by mutual agreement or one agency after giving the other agency thirty (30) days prior written notice.


Director, Bureau of Land Management


Administrator, Federal Highway Administration

7/1/82
Date

JUL 27 1982
Date

NEVADA-17
DATE: June 27, 1985

JOINT MEMORANDUM

BETWEEN

United States
Department of the Interior
Bureau of Land Management
Reno, Nevada

State of Nevada
Department of Transportation
Carson City, Nevada

Federal Highway Administration
1050 East Williams Street, Suite 300
Carson City, Nevada 89701

TO: All Personnel, Bureau of Land Management, Nevada
All Personnel, Department of Transportation, Nevada
All Personnel, Federal Highway Administration, Nevada

FROM: Edward F. Spang, State Director, Nevada
A.E. Stone, Director, Nevada Department of Transportation
A.J. Horner, Division Administrator, Federal Highway Administration,
Nevada

SUBJECT: Procedures for Coordination of Interrelated Work Areas.
This Joint Memorandum supersedes the Memorandum executed
August 14, 1972 and the applicable appendices.

I. PURPOSE

This memorandum outlines policies and procedures for use by Bureau of Land Management (hereinafter referred to as BLM) personnel, more particularly identified in Part III, for working with the Nevada Department of Transportation (hereinafter referred to as NDOT) and for working with the Nevada Federal Highway Administration (hereinafter referred to as FHWA) in consultation with key employees at various levels in each organization. This memorandum is especially pointed toward:

- A. Developing a better understanding of responsibilities of the BLM, NDOT and FHWA as they relate to work that is or may be interrelated; land and resource management practices on public lands on or contiguous to NDOT highways and NDOT Management practices on highways located on and/or public lands needed for transportation purposes.
- B. Defining BLM, NDOT and FHWA organizational lines, and delineating relationships to facilitate the coordination of such work;
- C. Identifying interrelated work areas, developing procedures and standardized methods for coordination; and
- D. Minimizing duplication of work.

-7-

This memorandum provides for the coordination and integration of planning, programming and available budget to accomplish interrelated land and resource management and transportation management in order to assure that joint efforts will bring about purposeful actions toward completing BLM, NDOT and FHWA goals and objectives. Such coordination is subject to the respective authorities of each agency. The principal authorities are highlighted in Part II hereof. This coordinated approach is designed to eliminate duplication and divergent plans, to provide each agency sufficient lead time for proper sequential functions, to make more efficient use of available resources, and moreover, to develop and execute more responsive public action programs.

II. AUTHORITIES

The broad authority for such coordinated work is cited below. Regulations for the administration of such authorities are cited where necessary in part V.- B. on each specific work area.

A. Bureau of Land Management

1. Legislation

- a. Taylor Grazing Act of June 28, 1934, as amended
- b. Federal Highway Acts of August 28, 1937, July 26, 1955; 1962
- c. Recreation and Public Purposes Act of June 14, 1926
- d. Right-of-Way Granting; act of March 4, 1911; Act of February 25, 1920, as amended by Acts of August 21, 1935 and August 12, 1953
- e. Material Act of July 31, 1947
- f. Antiquities Act of 1906
- g. Historic Sites Act
- h. Soil Conservation and Domestic Act of 1935
- i. Halogeton Glomeratus Control Act of 1952
- j. Water Pollution Control Act of July 9, 1956
- k. Water Quality Act of 1965
- l. Water Protection and Flood Prevention Act of 1954
- m. Protection Act of 1922
- n. Reciprocal Fire Protection Agreement Act of 1955
- o. National Environmental Policy Act of 1969
- p. F.L.P.M.A. (Federal Land Policy and Management Act of 1976)

B. Nevada Department of Transportation

1. Legislation

- a. Nevada Revised Statutes; Chapters 37 et seq, and 403 et seq.
- b. United States Code, Title 23
- c. Code of Federal Regulations, Title 15, Title 25, Title 43 and Title 2700
- d. All applicable Federal Highway Acts - Concurrence of the FHWA is required during various stages on all federally funded projects.
- e. Act of February 5, 1948; granting of right-of-way (Indian Lands)
- f. Act of March 4, 1911 (Radio Sites)
- g. Mineral Materials Act of July 23, 1955
- h. Beautification Act of October 22, 1965
- i. National Environmental Policy Act of 1969 & Clean Air Act of 1970

C. Federal Highway Administration

1. Legislation

- a. Pertinent to but not limited to those authorities listed in items A and B.
- b. BLM - FHWA Interagency Agreement executed in 1982.

III. ORGANIZATION AND WORK FLOW

A. BLM

1. BLM operates under a line-staff organization. BLM Manual Part 1203 as amended, provides specifics on lands and resource delegations and redelegations of authority among the different line levels of management in the BLM.

- a. There are generally four levels of line management; i.e., Area Manager, District Manager, State Director, and Director.
- b. There are also four levels of technical support for the aforementioned line managers. These are located in the Service Center, district, state, and Washington offices.

2. BLM district offices administering Nevada Public Lands are located in:

- a. Elko, Winnemucca, Carson City, Ely, Las Vegas, and Battle Mountain, Nevada;
- b. Susanville, California and Boise, Idaho. The District Managers in these offices administer Nevada public lands based on Memoranda of Understanding signed by the State Directors. Procedures developed herein apply to all public lands in Nevada.
- c. Detached resource area offices in Caliente and Tonapah.

3. The BLM's customary internal work flow is from the Area Manager to District Manager, District Manager to State Director, and State Director to Director. Generally, on external intergovernmental working relationships, the Area Manager, District Manager and their staffs work with local counterparts; the State Director and his staff work with State and regional offices; and the Director works with regional and national office levels.

B. The Nevada Department of Transportation operates through a line and staff organization.

1. In general, there are five levels of line authority: State Transportation Board of Directors, Director, Deputy Director, Asst. Deputy Directors; Administration Operations, Planning and Program Development, Engineering, Division Chiefs and District Engineers.

2. Providing administrative support and technical assistance at each level of line authority are staff positions. These staff organizations are located and provide service within the Department headquarters structure and at the local district level.

3. District offices responsible for local administration of the highway program are located in:

- a. Las Vegas (District One)
- b. Sparks (District Two)
- c. Elko (District Three)

C. Internal work flow normally proceeds in either of two ways.

1. An activity originates at the district level through some local request, proceeding from the District Engineer to the Asst. Deputy, or to the Deputy, and to the Director.

2. An activity originates at the Director's level though some request from outside the agency, proceeding to a Deputy or an Asst. Deputy, and to the appropriate Division Chief or District Engineer.

3. Work requests that originate at the district level also frequently are referred to divisions within headquarters by either an Asst. Deputy or Deputy Director.

D. External work flow, normally involving relationships with other governmental entities and agencies, provides for direct working contact between: (1) division or district personnel and their local counterparts; (2) the Deputies and Asst. Deputies, and Assistant Agency and Department Heads; and the State Director and Agency Directors at the state and regional levels.

E. A skeletonized organization chart and personnel roster for the BLM, NDOT and FHWA is attached hereto.

BLM Skeletonized Organization Chart	- Attach. 1
BLM Skeletonized Personnel Roster	- Attach. 2
NDOT Skeletonized Organization Chart	- Attach. 3
NDOT Skeletonized Personnel Roster	- Attach. 4
FHWA Skeletonized Organization Chart	- Attach. 5
FHWA Skeletonized Personnel Roster	- Attach. 6
BLM, NDOT and FHWA Administrative Areas	- Attach. 7

IV. RESPONSIBILITIES

A. BLM

BLM is responsible for multiple use management, development and service programs on about 48 million acres of public lands and/or other lands under its jurisdiction. These programs include lands, minerals, range, watershed, recreation, wildlife, timber, protection, cadastral survey, range improvement, roads and trails.

B. The NDOT has the responsibility for planning, designing, constructing, and maintaining those portions of the established state highway system under its jurisdiction. This responsibility includes the establishment and maintenance of effective working relationships with all other governmental entities and agencies interested in or affected by the state's highway program.

C. The FHWA has the responsibility to authorize, fund and audit those Federal Aid Highway projects for NDOT.

V. PROCEDURES

Because of the complex nature of many of the BLM, NDOT and FHWA operations involving interrelated work, this part of the memorandum establishes a framework (1) to hold BLM, NDOT and FHWA local and state meetings to implement the intent of this agreement; (2) to identify, on a continuing basis, functional interrelated work areas, and (3) to jointly develop procedures in sufficient detail to guide operations of BLM, NDOT and FHWA in such work areas.

A. Coordination Meetings - General Procedures

1. Local Meetings

At least annually, a district meeting of the BLM District Manager and NDOT District Engineer and appropriate members of their staffs will be held. This will be done on a BLM, NDOT and FHWA district basis. The BLM Boise District Manager, when necessary, will attend the Elko meeting while the BLM Susanville District Manager will attend the Carson meeting. The meetings will be scheduled by joint action of the Nevada BLM District Managers and the NDOT District Engineers. Other groups, agencies and individuals may be invited to attend.

The purpose of the local meetings are:

- a. To exchange data, identify additional interrelated work areas, and to keep each agency informed.
- b. To review agency responsibilities, programs and priorities, including preliminary plans which may develop into future cooperative efforts. Full recognition will be given to agency annual work plans, short and long-range plans, and programming processes to provide adequate time for submission of budget requests. This, in turn, will allow simultaneous scheduling of programs and execution of such interrelated work.
- c. To identify unresolved areas that require the attention of the next level of management and/or should be included on the agenda for the State meeting.
- d. To work out exchanges of manpower, materials, and/or equipment on a temporary basis and on specific case interrelated work areas where such an arrangement would be to the mutual benefit of the BLM, NDOT and FHWA.

2. State Meeting

As necessary, and preferably after concluding all the local meetings, a State meeting will be scheduled by joint action of the BLM State Director, NDOT Director and the FHWA Division Administrator. Agenda items and participants will be discussed as needed before the meeting.

The purposes of the State meeting are:

- a. To develop procedures designed to coordinate BLM, NDOT and FHWA District work on a statewide basis.
- b. To assist BLM and NDOT District Offices in their interrelated work goals.
- c. To review priorities and designate critical functional and/or geographical areas.
- d. To conduct joint evaluations and review of plans and/or completed work.
- e. To resolve conflicts.

B. Specific Functional Procedures on Interrelated Work Areas (See Attachment 8).

BLM, NDOT and FHWA shall collectively develop written procedures on functional interrelated work areas. Such procedures shall, by definition, become an addendum to this memorandum. Concurrence to add, delete and/or change such procedures shall be obtained through the exchange of correspondence between the BLM State Director, the NDOT Director and the FHWA Division Administrator.

Attachment 8 is a cataloging of the functional areas where procedures have been developed, identified as Appendices I through VII, inclusive, and are made a part hereof.

VI. APPROVAL

This joint memorandum replaces and supersedes the Joint Memorandum between Nevada BLM State Director and NDOT approved August 14, 1972 and the amendments thereto.

Effective this 12 day of July 1985.

STATE OF NEVADA
DEPARTMENT OF TRANSPORTATION

UNITED STATES DEPARTMENT OF THE
INTERIOR - BUREAU OF LAND MANAGEMENT

By: [Signature]
Director

By: [Signature]
State Director, Nevada

FEDERAL HIGHWAY ADMINISTRATION

BY: [Signature]
Division Administrator

APPENDIX B

MATERIALS PERMIT APPLICATION

Application must include the following as a minimum:

- General legal description of entire site to be sampled
- How many samples
- Type of equipment
- Dimension of sample test pit
- Method of access to each test pit
- Description of total amount of disturbance (acreage)
- Any measure to prevent unnecessary disturbance
- Intended method for reclamation
- Timeline for process – start to finish
- Notification to BLM when work is complete
- Map showing location of each test pit
- See following sample letter

MATERIALS PERMIT APPLICATION

Sample Letter

December 12, 2007

FIELD MANAGER
BUREAU OF LAND MANAGEMENT
LAS VEGAS FIELD OFFICE
4701 N TORREY PINES DRIVE
LAS VEGAS NV 89130

Dear Mr. Manager:

The Nevada Department of Transportation (NDOT) requests a Mineral Materials Exploration Permit for exploring and sampling mineral materials for use in future highway construction and maintenance. The area to be tested is approximately 40 acres, situated in NW1/4 SW1/4 Section 2, T. 22 S., R. 55 E., M.D.M.

The NDOT request is to take 16 samples. The test holes will be excavated using a track mounted excavator. The excavated material will be temporarily stockpiled next to the trench during sampling. After the sample is taken, the trench will be immediately backfilled with the excavated material and the site will be re-contoured with either the excavator or a small bulldozer.

Samples will be taken throughout the 40 acre parcel in a grid pattern (see enclosed map). The trenches will be spaced approximately 400 feet apart. Access to the site will be from SR-160 along an existing dirt road. Access to the sample sites will be by cross-country travel. Each sample site is expected to disturb about 0.04 of an acre. Cross-country travel is expected to cause an additional acre of disturbance, for a total disturbance of 1.64 acres.

A joint site visit with the BLM was completed on December 12, 2006 to determine any conflicts with the 1998 Las Vegas RMP. No conflicts were identified. A cultural survey was completed for the site in March 2005. The site does not contain cultural resources (include NDOT cultural survey number). NDOT biologists surveyed the site for tortoise on February 6, 2006. No tortoise or tortoise sign was found on or near the site. A qualified biologist will survey the site prior to exploration activities and will assist with determining the exact sample locations and the travel line for the equipment. The biologist will mark all potential tortoise pellets or burrows, cacti and yucca. These will be avoided. The site will be kept clean of trash and debris to avoid attracting predators.

It is expected work will begin in March 2007, pending BLM approval. Work is expected to take two weeks. The BLM will be notified within 10 working days of when sampling and reclamation is complete.

Enclosures: Location map

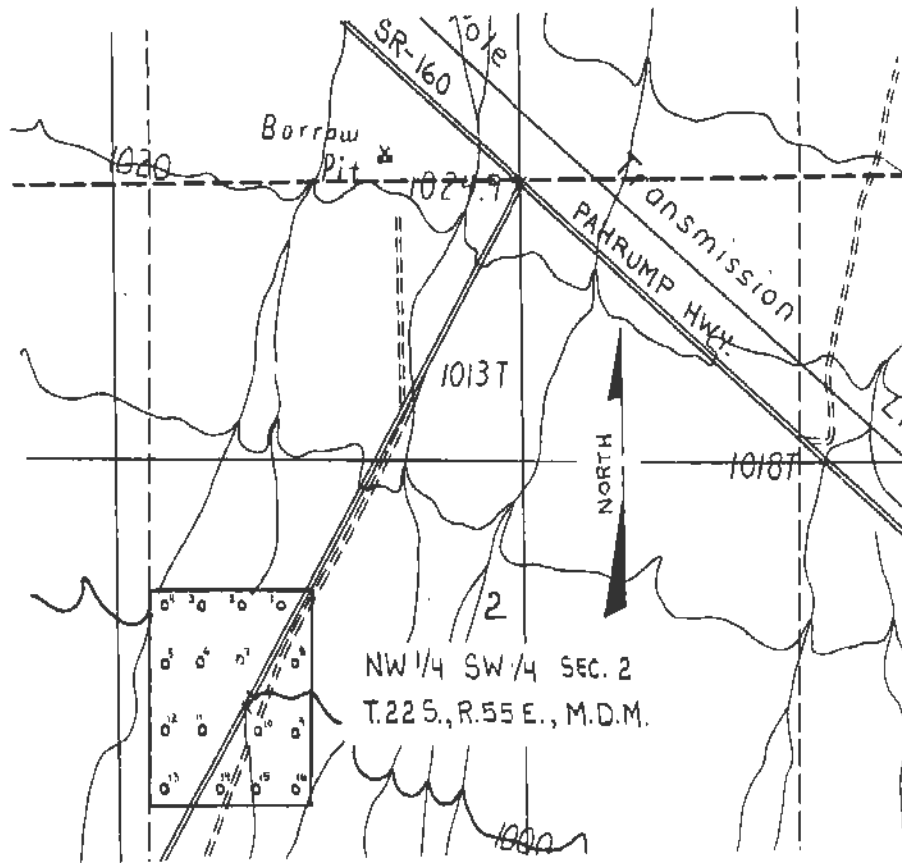
MATERIALS PERMIT APPLICATION

Sample Location Map



MATERIALS PERMIT APPLICATION

Sample Site Map



APPENDIX C

HIGHWAY EASEMENT DEED

THIS DEED, made this ____ day of _____, 20____, by and between the UNITED STATES OF AMERICA, acting by and through the Department of Transportation, Federal Highway Administration, hereinafter referred to as the DEPARTMENT, and the STATE OF NEVADA, DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the Grantee:

WITNESSETH.

WHEREAS, the Grantee has filed application under the provisions of the Act of Congress of August 27, 1958, as amended (23 U.S.C. Section 317 and/or Section 107), for the right-of-way of a highway over certain federal land located in the State of Nevada under the jurisdiction of the United States Department of the Interior - Bureau of Land Management, which land has been appropriated by the Department; and

WHEREAS, the Federal Highway Administrator, pursuant to delegation of authority from the United States Secretary of Transportation, has determined that an easement over the land covered by the application is reasonably necessary for a right-of-way for _____ and _____

WHEREAS, the United States Department of the Interior, acting by and through the United States Bureau of Land Management, in its consent to the appropriation of the federal land, has agreed to the transfer by the Department of an easement over the land to the Grantee; and

WHEREAS, the Grantee with respect to activities related to the Property, agrees that: (a) no person shall, on the grounds of race, color, national origin, sex, age, disability, or religion be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to the Grantee's operations, programs, or activities conducted on the Property; and (b) that the Grantee shall use said land so conveyed in compliance with all requirements imposed by or pursuant to Title VI of the Civil Rights Act of 1964 (42 U.S.C. section 2000d to 2000d-4) and all applicable civil rights provisions of other Federal statutes.

NOW THEREFORE, the Department, as authorized by law, and in compliance with all requirements imposed by or pursuant to Title 49 CFR, Department of Transportation, Sub-title A, Office of Secretary, Part 21, nondiscrimination in federally-assisted programs of the Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby grant to the Grantee an easement for a right-of-way for the construction, operation, and maintenance of a highway including control of access thereto from adjoining lands and use of the space above and below the established grade line of the highway pavement for highway purposes on, over, across, in, and upon the following described federal land within the City of _____, County of _____, State of Nevada;

Township ____ North South, Range _____ East, M.D.M.

SECTION

SUBDIVISION

more particularly described in Exhibit "A" attached hereto and made a part hereof, and as shown on the following described plats:

<u>Drawing Nos.</u>	<u>Dated</u>	<u>Number of Drawing</u>
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marked Exhibit "B" attached hereto and made parts hereof, subject, however, to the following terms and conditions:

- (1) If outstanding valid claims exist on the date of this grant, the Grantee shall obtain such permission as may be necessary on account of any such claims.
- (2) Construction of the highway facility is to be undertaken by the Grantee in compliance with the Act entitled "An Act for the preservation of American antiquities" approved June 8, 1906 (34 Stat. 225, 16 U.S.C. 432-433), and state laws where applicable.
- (3) The easement herein granted shall terminate ten (10) years from the date of the execution of this deed by the United States of America in the event construction of a highway on the right-of-way is not started during such period.
- (4) The easement herein granted is limited to use of the described right-of-way and the space above and below the established grade line of the highway pavement for the purpose of construction, operation, and maintenance of a highway in accordance with the approved plans and does not include the grant of any rights for non-highway purposes or facilities: provided, that the right of the United States Bureau of Land Management to use or authorize the use of any portion of the right-of-way for non-highway purposes shall not be exercised when such use would be inconsistent with the provisions of Title 23 of the United States Code and of the Federal Highway Administration Regulations issued pursuant thereto or would interfere with the free flow of traffic or impair the full use and safety of the highway, and in any case the Federal Highway Administration and the State Department of Transportation shall be consulted prior to the exercise of such rights: and provided, further that nothing herein shall preclude the United States Bureau of Land Management from locating Department of the Interior information signs on the portions of the right-of-way outside of construction clearing limits, except that such signs shall not be located on the right-of-way of an interstate system.
- (5) The design and construction of highway projects situated on this right-of-way will be in accord with the provisions of Title 23, United States Code - Highways, and amendments; the provisions of Title 23, Code of Federal Regulations; and the construction specifications of the state highway department as approved by the Federal Highway Administration for use on federal-aid projects.
- (6) Consistent with highway safety standards, the Grantee shall:
 - (a) Protect and preserve soil and vegetative cover and scenic and esthetic values on the right-of-way outside of construction limits.
 - (b) Provide for the prevention and control of soil erosion within the right-of-way and adjacent lands that might be affected by the construction, operation, or maintenance of the highway, and shall vegetate and keep vegetated with suitable species, all earth cut or fill slopes feasible for revegetation or other

BLM-FHWA-NDOT-MCU
Page 10 of 66

areas on which ground cover is destroyed. The Grantee shall maintain all terracing, waterbars, lead-off ditches, or other preventive works that may be required to accomplish this objective. This provision shall also apply to slopes that are reshaped following slides which occur during or after construction.

- (7) The Grantee shall:
 - Establish no borrow, sand, or gravel pits, stone quarry, or permanent storage areas, sites for highway operation and maintenance facilities, camps, supply depot or disposal areas within the right-of-way unless shown on approved construction plans without first obtaining approval.
- (8) The Grantee shall maintain the right-of-way and highway facilities to acceptable standards of repair, orderliness, neatness, sanitation, and safety
- (9) The Grantee shall maintain the right-of-way clearing by means of chemicals only after specific written approval has been given by the Department after consultation with the United States Bureau of Land Management. Application for such approval must be in writing and specify the time, methods, chemicals, and the exact portion of the right-of-way to be chemically treated.
- (10) When need for the easement herein granted shall no longer exist and the area has been reasonably rehabilitated to protect the public and environment, the Grantee shall give notice of that fact to the United States Secretary of Transportation and the rights herein agreed shall terminate and land shall immediately revert to the full control of the United States Secretary of the Department of the Interior or his assigns.

IN WITNESS WHEREOF, I, _____
Division Administrator (or acting in the official capacity thereof), pursuant to delegations of authority from the United States Secretary of Transportation and the Federal Highway Administrator, by virtue of authority in me vested by law, have hereunto subscribed my name as of the day and year first above written.

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

By _____
Division Administrator

STATE OF NEVADA)
CARSON CITY)

On this _____ day of _____, 20____, personally appeared before me, the undersigned, a Notary Public in and for Carson City, State of Nevada, _____ personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument upon which he acted, executed the instrument.

S
E

IN WITNESS WHEREOF I have hereunto
set my hand and affixed my official seal

BLM FHWA/NDOT/NOU
Page 11 of 66

A
L

the day and year first above written

In compliance with the conditions set forth in the foregoing deed, the State of Nevada, Department of Transportation, certifies, and by the acceptance of this deed, accepts the right-of-way over certain land herein described and agrees for itself, its successors and assigns forever to abide by the conditions set forth in said deed.

STATE OF NEVADA
DEPARTMENT OF TRANSPORTATION

By _____
Director Date

APPROVED AS TO LEGALITY AND FORM:

Deputy Attorney General Date

STATE OF NEVADA)
CARSON CITY)

On this _____ day of _____, 20____, personally appeared before me, the undersigned, a Notary Public in and for Carson City, State of Nevada, _____ personally known (or proved) to me to be the _____ Director of the Department of Transportation of the State of Nevada who subscribed to the above instrument for the Nevada Department of Transportation under authorization of Nevada Revised Statutes, Chapter 408.205; that he affirms that the seal affixed to said instrument is the seal of said Department; and that said instrument was executed for the Nevada Department of Transportation freely and voluntarily and for the uses and purposes thereby mentioned.

S
E
A
L

IN WITNESS WHEREOF I have hereunto
set my hand and affixed my official seal
the day and year in this certificate first
above written

APPENDIX D

Temporary Construction Easement Deed

TEMPORARY CONSTRUCTION EASEMENT DEED

THIS DEED, made this _____ day of _____, 20____, by and between the UNITED STATES OF AMERICA, acting by and through the Department of Transportation, Federal Highway Administration, hereinafter referred to as the Department, and the STATE OF NEVADA, DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the Grantee:

WITNESSETH:

WHEREAS, the Grantee has filed application under the provisions of the Act of Congress of August 27, 1956, as amended (23 U.S.C. Section 317) and Section 107 (d), for temporary construction easement right-of-way over certain federal land under the jurisdiction of the United States Department of the Interior - Bureau of Land Management in the State of Nevada, which land has been appropriated by the Department, and

WHEREAS, the Federal Highway Administrator, pursuant to delegation of authority from the United States Secretary of Transportation, has determined that an easement over the land covered by the application is reasonably necessary for a right-of-way for _____ and _____

WHEREAS, the United States Department of the Interior, acting by and through the United States Bureau of Land Management, in its consent to the appropriation of the federal land, has agreed to the transfer by the Department of an easement over the land to the Grantee;

WHEREAS, the Grantee with respect to activities related to the Property, agrees that: (a) no person shall, on the grounds of race, color, national origin, sex, age, disability, or religion be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to the Grantee's operations, programs, or activities conducted on the Property; and (b) that the Grantee shall use said land so conveyed in compliance with all requirements imposed by or pursuant to Title VI of the Civil Rights Act of 1964 (42 U.S.C. section 2000d to 2000d-4) and all applicable civil rights provisions of other Federal statutes.

NOW THEREFORE, the Department, as authorized by law, and in compliance with all requirements imposed by or pursuant to Title 49 CFR, Department of Transportation, Subtitle A, Office of Secretary, Part 21, nondiscrimination in federally-assisted programs of the Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby grant to the Grantee a temporary construction easement right-of-way, for a ten-year term, unless sooner released, for construction purposes outside the highway right-of-way limits in, and upon the following described federal land within the City of _____, County of _____, State of Nevada:

Township ____ North South, Range _____ East, M.D.M.

SECTION

SUBDIVISION

more particularly delineated in Exhibit "A" attached hereto and made a part hereof, and as shown on the following described plats:

<u>Drawing Nos.</u>	<u>Dated</u>	<u>Number of Drawings</u>
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marked Exhibit "B" attached hereto and made parts hereof, subject, however, to the following terms and conditions:

- (1) If outstanding valid claims exist on the date of this grant, the Grantee shall obtain such permission as may be necessary on account of any such claims.
- (2) Construction of the highway facility is to be undertaken by the Grantee in compliance with the Act entitled "An Act for the preservation of American antiquities" approved June 8, 1906 (34 Stat. 225, 16 U.S.C. 432-433), and state laws where applicable.
- (3) The easement herein granted shall terminate ___ () years from the date of the execution of this deed by the United States of America in the event construction of a highway on the right-of-way is not started during such period.
- (4) The easement herein granted is limited to use of the described right-of-way and the space above and below the established grade line of the highway pavement for the purpose of construction, operation, and maintenance of a highway in accordance with the approved plans and does not include the grant of any rights for non-highway purposes or facilities: provided, that the right of the United States Bureau of Land Management to use or authorize the use of any portion of the right-of-way for non-highway purposes shall not be exercised when such use would be inconsistent with the provisions of Title 23 of the United States Code and of the Federal Highway Administration Regulations issued pursuant thereto or would interfere with the free flow of traffic or impair the full use and safety of the highway, and in any case the Federal Highway Administration and the State Department of Transportation shall be consulted prior to the exercise of such rights: and provided, further that nothing herein shall preclude the United States Bureau of Land Management from locating United States Department of the Interior information signs on the portions of the right-of-way outside of construction clearing limits, except that such signs shall not be located on the right-of-way of an interstate system.
- (5) The design and construction of highway projects situated on this right-of-way will be in accord with the provisions of Title 23, United States Code - Highways, and amendments; the provisions of Title 23, Code of Federal Regulations; the construction specifications of the state highway department as approved by the Federal Highway Administration for use on federal-aid projects.
- (6) Consistent with highway safety standards, the Grantee shall.
 - (a) Protect and preserve soil and vegetative cover and scenic and esthetic values on the right-of-way outside of construction limits.
 - (b) Provide for the prevention and control of soil erosion within the right-of-way and adjacent lands that might be affected by the construction, operation, or maintenance of the highway, and shall vegetate and keep vegetated with suitable species, all earth cut or fill slopes feasible for revegetation or other areas on which ground cover is destroyed. The Grantee shall maintain all

BLM\FHWA\NDOT\NOU
Page 44 of 66

terracing, waterbars, lead-off ditches, or other preventive works that may be required to accomplish this objective. This provision shall also apply to slopes that are reshaped following slides which occur during or after construction.

- (7) The Grantee shall:
 - Establish no borrow, sand, or gravel pits, stone quarry, or permanent storage areas, sites for highway operation and maintenance facilities, camps, supply depot or disposal areas within the right-of-way unless shown on approved construction plans without first obtaining approval.
- (8) The Grantee shall maintain the right-of-way and highway facilities to acceptable standards of repair, orderliness, neatness, sanitation, and safety.
- (9) The Grantee shall maintain the right-of-way clearing by means of chemicals only after specific written approval has been given by the Department after consultation with the United States Bureau of Land Management. Application for such approval must be in writing and specify the time, methods, chemicals, and the exact portion of the right-of-way to be chemically treated.
- (10) When need for the easement herein granted shall no longer exist and the area has been reasonably rehabilitated to protect the public and environment, the Grantee shall give notice of that fact to the United States Secretary of Transportation and the rights herein granted shall terminate and land shall immediately revert to the full control of the United States Secretary of the Department of the Interior or his assigns.

IN WITNESS WHEREOF, I, _____
Division Administrator (or acting in the official capacity thereof), pursuant to delegations of authority from the United States Secretary of Transportation and the Federal Highway Administrator, by virtue of authority in me vested by law, have hereunto subscribed my name as of the day and year first above written.

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

DATE

Division Administrator

In compliance with the conditions set forth in the foregoing deed, the State of Nevada, Department of Transportation, certifies, and by the acceptance of this deed, accepts the right-of-way over certain land herein described and agrees for itself, its successors and assigns forever to abide by the conditions set forth in said deed.

STATE OF NEVADA
DEPARTMENT OF TRANSPORTATION

DATE

By _____
Director

APPROVED AS TO LEGALITY AND FORM:

Deputy Attorney General Date

TERMINATION AND RELEASE OF TEMPORARY HIGHWAY EASEMENT

The foregoing Temporary Highway Easement Deed dated the ____ day of _____, 20____, granting a temporary right-of-way for a material site, described in Exhibit ____, to the NEVADA DEPARTMENT OF TRANSPORTATION, Grantee, is hereby released and relinquished through DOT-FHWA to the United States Department of Interior - Bureau of Land Management.

STATE OF NEVADA
DEPARTMENT OF TRANSPORTATION

DATE

By _____
Director

APPROVED AS TO LEGALITY AND FORM:

Deputy Attorney General Date

Concurrence

The United States Department of Transportation, Federal Highway Administration concurs in the termination and release of this Temporary Highway Easement.

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

DATE

By _____
Division Administrator

APPENDIX E

Highway Easement Deed (Material Site)

**HIGHWAY EASEMENT DEED
(Material Site)**

THIS DEED, made this ____ day of _____, 20____, by and between the UNITED STATES OF AMERICA, acting by and through the Department of Transportation, Federal Highway Administration, hereinafter referred to as the Department, and the STATE OF NEVADA, DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the Grantee:

WITNESSETH:

BLM FHWA AND DOT A-11
Page 46 of 66

WHEREAS, the Grantee has filed application under the provisions of the Act of Congress of August 27, 1958, as amended (23 U.S.C. Section 317) for the right-of-way of a material site over certain federal land located in the State of Nevada under the jurisdiction of the United States Department of the Interior - Bureau of Land Management which land has been appropriated by the Department, and

WHEREAS, the Federal Highway Administrator, pursuant to delegation of authority from the United States Secretary of Transportation, has determined that an easement over the land covered by the application is reasonably necessary for a right-of-way for a material site for construction and maintenance of federal-aid highways including Project _____; and

WHEREAS, the United States Department of the Interior, acting by and through the United States Bureau of Land Management, in its consent to the appropriation of the federal land, has agreed to the transfer by the Department of an easement over the land to the Grantee; and

WHEREAS, the Grantee with respect to activities related to the Property, agrees that: (a) no person shall, on the grounds of race, color, national origin, sex, age, disability, or religion be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to the Grantee's operations, programs, or activities conducted on the Property; and (b) that the Grantee shall use said land so conveyed in compliance with all requirements imposed by or pursuant to Title VI of the Civil Rights Act of 1964 (42 U.S.C. section 2000d to 2000d-4) and all applicable civil rights provisions of other Federal statutes.

NOW THEREFORE, the Department, as authorized by law, and in compliance with all requirements imposed by or pursuant to Title 49 CFR, Department of Transportation, Sub-title A, Office of Secretary, Part 21, nondiscrimination in federally-assisted programs of the Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby grant to the Grantee an easement for a right-of-way for the use of a material site on, over, across, in, and upon the following described federal land within the City of _____, County of _____, State of Nevada:

Township ____ North South, Range _____ East, M.D.M.

SECTION

SUBDIVISION

more particularly described in Exhibit "A" attached hereto and made a part hereof, and as shown on the following described plats:

<u>Drawing Nos.</u>	<u>Dated</u>	<u>Number of Drawings</u>
---------------------	--------------	---------------------------

marked Exhibit "B" attached hereto and made parts hereof, subject, however, to the following terms and conditions:

- (1) If outstanding valid claims exist on the date of this grant, the Grantee shall obtain such permission as may be necessary on account of any such claims.
- (2) Use of the material site is to be undertaken by the Grantee in compliance with the Act entitled "An Act for the preservation of American antiquities" approved June 8, 1906 (34 Stat. 225, 16 U.S.C. 432-433), and state laws where applicable.

- (3) The easement herein granted shall terminate ten (10) years from the date of the execution of this deed by the United States of America in the event use of the material site is not started during such period.
- (4) The easement herein granted is limited to use of the described right-of-way for the purpose of a material site and or access road and does not include the grant of any rights for non-highway purposes or facilities: provided, that the right of the United States Bureau of Land Management to use or authorize the use of any portion of the right-of-way for non-highway purposes shall not be exercised when such use would be inconsistent with the provisions of Title 23 of the United States Code and of the Federal Highway Administration Regulations issued pursuant thereto, and in any case the Federal Highway Administration and the State Department of Transportation shall be consulted prior to the exercise of such rights: and provided, further that nothing herein shall preclude the United States Bureau of Land Management from locating United States Department of the Interior information signs on the portions of the right-of-way outside of construction clearing limits.
- (5) Use of the material site situated on this right-of-way will be in accord with the provisions of Title 23, United States Code - Highways, and amendments; the provisions of Title 23, Code of Federal Regulations; and the construction specifications of the state highway department as approved by the Federal Highway Administration for use on federal-aid projects.
- (6) Consistent with highway safety standards, the Grantee shall:
 - (a) Protect and preserve soil and vegetative cover and scenic and esthetic values on the right-of-way outside of construction limits.
 - (b) Provide for the prevention and control of soil erosion within the right-of-way and adjacent lands that might be affected by construction of an access road or the use of the material site, and shall vegetate and keep vegetated with suitable species, all earth cut or fill slopes feasible for revegetation or other areas on which ground cover is destroyed. The Grantee shall maintain all terracing, waterbars, lead-off ditches, or other preventive works that may be required to accomplish this objective. This provision shall also apply to slopes that are reshaped following slides which occur during or after material extraction or access road construction.
- (7) Establish no sites for highway operation and maintenance facilities, camps, supply depots or disposal areas within the right-of-way, unless shown on approved construction plans, without first obtaining approval of the United States Bureau of Land Management is authorized officer.
- (8) The Grantee shall maintain the right-of-way to acceptable standards of repair, orderliness, neatness, sanitation, and safety.
- (9) The Grantee shall maintain the right-of-way clearing by means of chemicals, only after specific written approval has been given by the Department after consultation with the United States Bureau of Land Management. Application for such approval must be in writing and specify the time, methods, chemicals, and the exact portion of the right-of-way to be chemically treated.
- (10) When need for the easement herein granted shall no longer exist and the area has been reasonably rehabilitated to protect the public and environment, the Grantee shall give notice of that fact to the United States Secretary of Transportation and the rights herein granted shall terminate and land shall immediately revert to the full

control of the United States Secretary of the Department of the Interior or his assigns.

IN WITNESS WHEREOF, I, _____ Division Administrator (or acting in the official capacity thereof), pursuant to delegations of authority from the United States Secretary of Transportation and the Federal Highway Administrator, by virtue of authority in me vested by law, have hereunto subscribed my name as of the day and year first above written.

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

By _____
Division Administrator

STATE OF NEVADA)
CARSON CITY)

On this __ day of _____, 20__, personally appeared before me, the undersigned, a Notary Public in and for Carson City, State of Nevada, _____ personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument upon which he acted, executed the instrument.

S
E
A
L

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year first above written

In compliance with the conditions set forth in the foregoing deed, the State of Nevada, Department of Transportation, certifies, and by the acceptance of this deed, accepts the right-of-way over certain land herein described and agrees for itself, its successors and assigns forever to abide by the conditions set forth in said deed.

STATE OF NEVADA
DEPARTMENT OF TRANSPORTATION

By _____
Director Date

APPROVED AS TO LEGALITY AND FORM:

Deputy Attorney General Date

STATE OF NEVADA)
CARSON CITY)

On this __ day of _____, 20____, personally appeared before me, the undersigned, a Notary Public in and for Carson City, State of Nevada, _____ personally known (or proved) to me to be the _____ Director of the Department of Transportation of the State of Nevada who subscribed to the above instrument for the Nevada Department of Transportation under authorization of Nevada Revised Statutes, Chapter 408.205; that he affirms that the seal affixed to said instrument is the seal of said Department; and that said instrument was executed for the Nevada Department of Transportation freely and voluntarily and for the uses and purposes thereby mentioned.

S
E
A
L

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

APPENDIX F

Temporary Highway Easement Deed (Material Site)

Application.
Ptn. of A.P.N
Project
E.A.
Parcel

WHEN RECORDED RETURN TO:
NEVADA DEPT OF TRANSPORTATION
RIGHT-OF-WAY DIVISION
1263 S. STEWART ST.
CARSON CITY, NV 89712

TEMPORARY HIGHWAY EASEMENT DEED
(Material Site)

THIS DEED, made this day of _____, 20____, by and between the UNITED STATES OF AMERICA, acting by and through the Department of Transportation, Federal Highway Administration, hereinafter referred to as the Department, and the STATE OF NEVADA, DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the Grantee:

WITNESSETH:

WHEREAS, the Grantee has filed application under the provisions of the Act of Congress of August 27, 1958, as amended (23 U.S.C. Section 317), for a temporary right-of-way for a material site on certain federal land located in the State of Nevada, under the jurisdiction of the United States Department of the Interior - Bureau of Land Management, which land has been appropriated by the Department; and

WHEREAS, the Federal Highway Administrator, pursuant to delegation of authority from the United States Secretary of Transportation, has determined that an easement over the land covered by the application is reasonably necessary for a material site for construction and maintenance of highways located on the Federal-aid System; and

WHEREAS, the United States Department of the Interior, acting by and through the United States Bureau of Land Management, in its consent to the appropriation of the federal land, has agreed to the transfer by the Department of an easement over the land to the Grantee; and

WHEREAS, the Grantee with respect to activities related to the Property, agrees that: (a) no person shall, on the grounds of race, color, national origin, sex, age, disability, or religion be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to the Grantee's operations, programs, or activities conducted on the Property; and (b) that the Grantee shall use said land so conveyed in compliance with all requirements imposed by or pursuant to Title VI of the Civil Rights Act of 1964 (42 U.S.C. section 2000d to 2000d-4) and all applicable civil rights provisions of other Federal statutes.

NOW THEREFORE, the Department, as authorized by law, and in compliance with all requirements imposed by or pursuant to Title 49 CFR, Department of Transportation, Subtitle A,

Office of the Secretary, Part 21, nondiscrimination in federally-assisted programs of the Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby grant to the Grantee a temporary easement for a right-of-way, for a _____ () year term, unless sooner released, for the use of a material site on, over, across, in and upon the following described federal land within the City of _____, County of _____, State of Nevada:

Township ____ North South, Range _____ East, M.D.M.

SECTION

SUBDIVISION

more particularly delineated in Exhibit "A" attached hereto and made a part hereof, and as shown on the following described plats:

<u>Drawing Nos.</u>	<u>Dated</u>	<u>Number of Drawings</u>
---------------------	--------------	---------------------------

marked Exhibit "B" attached hereto and made a part hereof, subject, however, to the following terms and conditions:

- (1) If outstanding valid claims exist on the date of this grant, the Grantee shall obtain such permission as may be necessary on account of any such claims.
- (2) Use of the material site is to be undertaken by the Grantee in compliance with the Act entitled "An Act for the preservation of American antiquities" approved June 8, 1906 (34 Stat. 225, 16 U.S.C. 432-433), and state laws where applicable.
- (3) The easement herein granted shall terminate __ () years from the date of the execution of this deed by the United States of America.
- (4) The easement herein granted is limited to use of the described right-of-way for the purpose of a material site and or access road and does not include the grant of any rights for nonhighway purposes or facilities: provided, that the right of the United States Bureau of Land Management to use or authorize the use of any portion of the right-of-way for nonhighway purposes shall not be exercised when such use would be inconsistent with the provisions of Title 23 of the United States Code and of the Federal Highway Administration Regulations issued pursuant thereto, and in any case the Federal Highway Administration and the State Department of Transportation shall be consulted prior to the exercise of such rights: and provided, further that nothing herein shall preclude the United States Bureau of Land Management from locating United States Department of the Interior information signs on the portions of the right-of-way outside of construction clearing limits.
- (5) Use of the material site situated on this right-of-way will be in accord with the provisions of Title 23, United States Code - Highway, and amendments; the provisions of Title 23, Code of Federal Regulations; and the construction specifications of the state highway department as approved by the Federal Highway Administration for use on federal-aid projects.
- (6) Consistent with highway safety standards, the Grantee shall:
 - (a) Protect and preserve soil and vegetative cover and scenic and esthetic values on the right-of-way outside of construction limits.

- (b) Provide for the prevention and control of soil erosion within the right-of-way and adjacent lands that might be affected by construction of an access road or the use of the material site, and shall vegetate and keep vegetated with suitable species, all earth cut or fill slopes feasible for revegetation or other areas on which ground cover is destroyed. The Grantee shall maintain all terracing, waterbars, lead-off ditches, or other preventive works that may be required to accomplish this objective. This provision shall also apply to slopes that are reshaped following slides which occur during or after material extraction or access road construction.
- (7) Establish no sites for highway operation and maintenance facilities, camps, supply depots or disposal areas within the right-of-way, unless shown on approved construction plans, without first obtaining approval of the United States Bureau of Land Management authorized officer.
- (8) The Grantee shall maintain the right-of-way to acceptable standards of repair, orderliness, neatness, sanitation, and safety.
- (9) The Grantee shall maintain the right-of-way clearing by means of chemicals only after specific written approval has been given by the Department after consultation with the United States Bureau of Land Management. Application for such approval must be in writing and specify the time, methods, chemicals, and the exact portion of the right-of-way to be chemically treated.
- (10) When need for the easement herein granted shall no longer exist and the area has been reasonably rehabilitated to protect the public and environment, the Grantee shall give notice of that fact to the United States Secretary of Transportation and the rights herein granted shall terminate and land shall immediately revert to the full control of the United States Secretary of the Department of the Interior or his assigns.

IN WITNESS WHEREOF, I, _____
 Division Administrator (or acting in the official capacity thereof), pursuant to delegations of authority from the United States Secretary of Transportation and the Federal Highway Administrator, by virtue of authority in me vested by law, have hereunto subscribed my name as of the day and year first above written.

UNITED STATES OF AMERICA
 DEPARTMENT OF TRANSPORTATION
 FEDERAL HIGHWAY ADMINISTRATION

 DATE

By _____
 Division Administrator

In compliance with the conditions set forth in the foregoing deed, the State of Nevada, Department of Transportation, certifies, and by the acceptance of this deed, accepts the right-of-way over certain land herein described and agrees for itself, its successors and assigns forever to abide by the conditions set forth in said deed.

STATE OF NEVADA
 DEPARTMENT OF TRANSPORTATION

DATE

By _____
Director

APPROVED AS TO LEGALITY AND FORM:

Deputy Attorney General Date

TERMINATION AND RELEASE OF TEMPORARY HIGHWAY EASEMENT

The foregoing Temporary Highway Easement Deed dated the ____ day of _____, 20____, granting a temporary right-of-way for a material site, described in Exhibit _____, to the NEVADA DEPARTMENT OF TRANSPORTATION, Grantee, is hereby released and relinquished through DOT-FHWA to the Department of Interior - Bureau of Land Management.

STATE OF NEVADA
DEPARTMENT OF TRANSPORTATION

DATE

By _____
Director

Concurrence

The Department of Transportation, Federal Highway Administration concurs in the termination and release of this Temporary Highway Easement.

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

DATE

By _____
Division Administrator



In Reply Refer To:
CASE NUMBER
SUBJECT CODE
(NV-ORGANIZATION CODE)

APPENDIX G
United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Las Vegas Field Office
4701 N. Torrey Pines Drive
Las Vegas, Nevada 89130-2301
<http://www.blm.gov>



**LETTER OF CONSENT
MATERIAL SOURCES**

CERTIFIED MAIL NO.
RETURN RECEIPT REQUESTED

Federal Highway Administration, Nevada Division
XXXXXX XXXXXX, Division Administrator
705 North Plaza Street, Suite 220
Carson City, NV 89701

Dear XX XXXXXXX,

A request has been received for the appropriation of public lands of the United States within the State of Nevada to issue a right-of-way use document to the Nevada Department of Transportation (NDOT) for maintenance and construction for Federal-aid highway purposes pursuant to the Act of August 27, 1958, as amended (23 U.S.C. Section 317).

The areas requested lie within:
(LEGAL DESCRIPTION) as shown on the enclosed maps as approved by NDOT, Manager, Right-of-Way Engineering.

The BLM agrees to the appropriation and transfer of the lands depicted on the enclosed maps subject to the conditions listed below (1-11) and also subject to the stipulations as outlined in the attached Exhibit "A" which must be included in the easement deed document issued to NDOT, agreed upon by the State, and enforced by the FHWA.

1. If outstanding valid claims exist on the date of this use authorization, NDOT shall obtain such permissions as may be necessary on account of such claims.
2. The provision of the Act entitled "An Act for the Preservation of American Antiquities" (16 U.S.C. 432-433) shall be complied with.
3. The use right herein authorized shall terminate ten years, or sooner if agreed upon, from the date of execution of the transfer document by FHWA to NDOT in the event construction of the highway has not been initiated during such period.

4. The use right herein authorized is limited to the described **appropriation of public lands** and the space above and below for highway purposes and does not include any use for non-highway purposes.
5. Retention of rights by BLM to use or authorize use on any portion of the right-of-way for non-highway purposes, provided such use would not interfere with the free flow of traffic, impair the full use and safety of the highway, or be consistent, or be inconsistent with the provisions of Title 23 of the United States Code and the FHWA regulations pursuant thereto, and the FHWA and **NDOT** concerned shall be consulted prior to exercising such rights.
6. Location by BLM of any Bureau information signs on the portion of the right-of-way outside of construction clearing limits except that such signs shall not be located on the right-of-way of an Interstate System.
7. Consistent with highway safety standards, **NDOT** shall:
 - a. Protect and preserve soil and vegetative cover and scenic aesthetic values on the right-of-way outside of construction limits.
 - b. Provide for the prevention and control of soil erosion within the right-of-way and adjacent lands that might be affected by construction, operation and maintenance of the highway.
 - c. Vegetate and keep vegetated with suitable species, all earth cut or fill slopes feasible for revegetation or other areas on which ground cover is destroyed where it is deemed necessary prior to completion of the highway and shall maintain terracing, water bars, leadoff ditches, or other preventive works that may be required to accomplish this objective. This provision shall also apply to slopes that are reshaped following slides which occur during or after construction.
8. Establish no sites for highway operation and maintenance facilities, camps, supply depot or disposal areas within the right-of-way, unless shown on approved construction plans, without first obtaining approval of the BLM authorized officer.
9. The grantee shall maintain the right-of-way to acceptable standards of repair, orderliness, neatness, sanitation, and safety.
10. Application of chemicals shall be pursuant to the National Environmental Policy Act and shall be approved by FHWA prior to application by the State.
11. The provisions of title VI of the Civil Rights Act of 1964 (78 Stat. 242) shall be complied with.

If you have any questions, please contact **GEOLOGISTS/REALTY SPECIALIST** at (XXX) XXX-XXXX.

Sincerely,

Signature
BLM Title
Office

Enclosures

1. **NDOT ROW Plan, Project Number XXXXXXXX**
2. **Special Stipulations – Appendix L**

cc: **NDOT**, Manager, Right-of-Way Engineering

APPENDIX H



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Las Vegas Field Office
4701 N. Torrey Pines Drive
Las Vegas, Nevada 89130-2301
<http://www.blm.gov>



In Reply Refer To:
CASE NUMBER
SUBJECT CODE
(NV-ORGANIZATION CODE)

**LETTER OF CONSENT
HIGHWAY**

CERTIFIED MAIL NO.
RETURN RECEIPT REQUESTED

Federal Highway Administration, Nevada Division
XXXXXX XXXXXX, Division Administrator
705 North Plaza Street, Suite 220
Carson City, NV 89701

Dear XX XXXXXX,

A request has been received for the appropriation of public lands of the United States within the State of Nevada for the purposes of issuing a right-of-way use document to the Nevada Department of Transportation (NDOT) for highway purposes on **NDOT PROJECT NUMBER AND APPROVAL DATE**, pursuant to the Act of August 27, 1958, as amended (23 U.S.C. Section 317).

The areas requested lie within:
(LEGAL DESCRIPTION MOUNT DIABLO MERIDIAN, Nevada, T. XX S., R. XX E., Sec. XX) as shown on the enclosed maps designated as **(NDOT PROJECT NUMBER AND APPROVAL DATE "Sheet X of X" and or through "Sheet X of X", INCLUDE NDOT PARCEL ID'S Permanent Easement (PE) and Temporary Easement (TE))** and entitled "R/W Plans", dated **(MMXXYYYY)**, as approved by NDOT, Manager, Right-of-Way Engineering.

In accordance with the provisions of the Interagency Agreement between the Bureau of Land Management (BLM) and the Federal Highway Administration (FHWA), the BLM agrees to the appropriation and transfer of the lands as depicted on the enclosed maps as referenced above for the foregoing purpose subject to the following conditions listed below and also subject to the stipulations as outlined in the attached Exhibit "A" which must be included in the **easement deed** document issued to NDOT, agreed upon by the State, and enforced by the FHWA.

1. If outstanding valid claims exist on the date of this use authorization, **NDOT** shall obtain such permissions as may be necessary on account of such claims.

2. The use right herein authorized shall terminate ten years, or sooner if agreed upon, from the date of execution of the transfer document by FHWA to **NDOT** in the event construction of the highway has not been initiated during such period.
3. The use right herein authorized is limited to the described **appropriation of public lands** and the space above and below for highway purposes and does not include any use for non-highway purposes.
4. Retention of rights by BLM to use or authorize use on any portion of the right-of-way for non-highway purposes, provided such use would not interfere with the free flow of traffic, impair the full use and safety of the highway, or be consistent, or be inconsistent with the provisions of Title 23 of the United States Code and the FHWA regulations pursuant thereto, and the FHWA and **NDOT** concerned shall be consulted prior to exercising such rights.
5. Location by BLM of any Bureau information signs on the portion of the right-of-way outside of construction clearing limits except that such signs shall not be located on the right-of-way of an Interstate System.
6. Consistent with highway safety standards, **NDOT** shall:
 - a. Protect and preserve soil and vegetative cover and scenic aesthetic values on the right-of-way outside of construction limits.
 - b. Provide for the prevention and control of soil erosion within the right-of-way and adjacent lands that might be affected by construction, operation and maintenance of the highway.
 - c. Vegetate and keep vegetated with suitable species, all earth cut or fill slopes feasible for revegetation or other areas on which ground cover is destroyed where it is deemed necessary prior to completion of the highway and shall maintain terracing, water bars, leadoff ditches, or other preventive works that may be required to accomplish this objective. This provision shall also apply to slopes that are reshaped following slides which occur during or after construction.
7. Establish no burrow, sand or gravel pits, stone quarry or permanent storage areas, sites for highway operation and maintenance facilities, camps, supply depot or disposal areas within the right-of-way, unless shown on approved construction plans, without first obtaining approval of the BLM authorized officer.
8. Application of chemicals shall be pursuant to the National Environmental Policy Act and shall be approved by FHWA prior to application by the State.
9. The provisions of title VI of the Civil Rights Act of 1964 (78 Stat. 242) shall be complied with.

If you have any questions, please contact **GEOLOGISTS/REALTY SPECIALIST** at (XXX) XXX-XXXX.

Sincerely,

Signature
BLM Title
Office

Enclosures

3. **NDOT ROW Plan, Project Number XXXXXXXX**
4. **Special Stipulations – Appendix L**

cc: **NDOT**, Manager, Right-of-Way Engineering

APPENDIX I

Cultural Resource Inventory Process

Notify the BLM that a cultural resources inventory is to take place in their District. Obtain any special stipulations placed on the survey by the BLM.

Conduct background search for NDOT, Museum and BLM records for past surveys and sites. Obtain appropriate maps to satisfy BLM.

Conduct a Class III or other appropriate level of inventory, following BLM Guidelines.

Notify BLM of cultural resources inventory results and consult on proposed mitigation recommendations.

Complete cultural resources inventory report and send it to BLM.

BLM reviews report and forwards recommendations to the Nevada State Historic Preservation Officer (SHPO).

Nevada SHPO concurs in recommendations and returns concurrence to BLM.

BLM notifies NDOT Archaeologist of the results of the SHPO consultation.

NDOT Archaeologist notifies Material and Testing Division of the BLM project approval and, after mitigation, they may proceed with testing the pit.

APPENDIX J

Field Recon/Exploration Permit Process

1. NDOT will conduct preliminary reconnaissance to locate potential aggregate sites.
2. NDOT conducts a search of county records to determine ownership and encumbrance information.
3. NDOT personnel will meet with the BLM Area Manager to notify him that NDOT is interested in specific areas to explore for aggregate. Upon a Preliminary positive response from BLM, NDOT will prepare legal descriptions and location maps which will be formally submitted to the BLM field office (see item #4).
4. NDOT will formally contact the appropriate BLM Field Office (NDOT form letter EBEN-020) and coordinate with their field personnel to obtain input and a preliminary decision of usability and concurrence to proceed with the exploration application process.
5. After completion of the cultural resource ground survey and BLM's preliminary positive response, on those sites that are apparently "clear" (see Attachment C. 4.) NDOT M&T will proceed with the request for the Exploration Permit from the appropriate BLM field office. However, in those cases where it is not so obvious that the site is "clear", M&T will not make application for the Exploration Permit until after the Cultural Resource Report is formally approved.
6. Upon receipt of the Exploration Permit but not before final approval of the Cultural Resource Survey Report, M&T can proceed with field exploration and sampling.

APPENDIX K

Relinquishment of BLM Land Use Authorization

Serial Number _____

I HEREBY relinquish to the United States any and all rights and interests the Department of Transportation may have obtained by reason of the approval of the right-of-way grant by the Bureau of Land Management in the above identified case insofar as:

_____ all the lands described are concerned

_____ only the following described lands are concerned

Section	Township	Range	Subdivision
---------	----------	-------	-------------

Meridian	County	State	Acres
----------	--------	-------	-------

_____ Date

_____ Signature

APPENDIX I

Application No. _____

The Nevada Department of Transportation agrees to comply with the following:

SPECIAL STIPULATION EXAMPLES

1. An archaeological monitor shall be present during upgrading of the material site access road through archaeological site 26ES821 to ensure no damage is done to the site. NDOT shall notify BLM when the construction is to take place and a report documenting the results of the monitoring shall be submitted to the BLM within 30 days of monitoring completion.

2. Continued ingress and egress to adjacent public lands shall be provided either by allowing access through the pit area on the existing dirt road or relocation of the road. If relocation of the road is the preferred option, such action must be coordinated with the BLM - Elko office.

3. The marked gravesite in the southwest corner of the material site shall be fenced with six-foot chain link to prevent its obliteration.

Signature

Date

Title

030/Office/Forms/Engr/Bss/rw
rev 9/97

APPENDIX M
Proposed Material Site
Field Checklist

BLM #: _____ NDOT #: _____ Date: _____

Areas of Impact

Critical Element	Yes	No	Information/Comment
Air Quality			
Area of Critical Environmental Concern (ACEC)			
Cultural Resources			
Environmental Justice			
Farm Lands (prime or unique)			
Floodplain			
Invasive, Non-native Species			
Native American Religious Concerns			
Threatened or Endangered Species			
Waste, Hazardous or Solid			
Water Quality			
Wetlands or Riparian Areas			
Wild and Scenic Rivers			
Wilderness			

Additional Considerations			
Forestry & Vegetation			
Grazing/Range			
Noise			
Recreation			
Social & Economic			
Visual			
Wild Horse & Burro			
Wildlife & Fisheries			
Other land uses (mining claims, leases, utilities)			
Other			

Land Status: _____ Land Use Plan: _____

Does the action conform to the land use plan: Yes No

Notes:

Signed:

 NDOT Representative

 BLM Representative

GLOSSARY

Abutment - A substructure supporting the end of a single span or the extreme end of a multi-span superstructure and, in general, retaining or supporting the approach embankment.

Access road - See "frontage road."

Acorn Style Light Fixture - a post-top streetlight design with a decorative glass globe that resembles an acorn

Acreage - "Area of a historic property measured in acres" (www.cr.nps.gov, accessed 11/26/2006).

ADA - Acronym for "Americans with Disabilities Act" of 1990.

Adjacent – very near (10 meters or less), next to, or touching. Adjacent is used in Handbook Chapter 2 to qualify proximity of the project to potential historic properties. For direct effects, adjacent is 10 meters or less. For indirect effects, (visual, audible, atmospheric, etc) adjacent is to the nearest edge of the potential historic properties given that after review of the effects, there are potential effects at that range. For cumulative effect, adjacent is the range will be the longer of direct or indirect effect distances.

At Grade - A junction at which two or more transport axes cross at the same level or grade.

Backage Roads - Backage roads are access roads running parallel to a higher-speed road, usually a freeway, and connecting to it at appropriate points of access (interchanges).

BLM - Acronym for "Bureau of Land Management."

Bollards - A short vertical post that can be placed to obstruct the passage of vehicles. Sometimes bollards contain light fixtures.

BOR - Acronym for "Bureau of Reclamation."

Boundaries - Lines delineating the geographical extent or area of a historic property

Box Culvert - A square or rectangular shaped masonry structure designed for drainage under a road.

Bridge - A structure built to span physical obstacles such as a body of water, valley, or road, for the purpose of providing passage over the obstacle.

Bridge Deck Resurfacing – Paving of the driving surface of the bridge.

Bulb-outs - (Also called bulbouts, curb bulbs.) A traffic calming measure used to extend the sidewalk, reducing the crossing distance and allowing pedestrians about to cross and approaching vehicle drivers to see each other when vehicles in a parking lane would otherwise block visibility.

CFR - Acronym for "Code of Federal Regulations."

Cloverleaf Interchange - A cloverleaf interchange is a two-level interchange in which left turns are handled by loop ramps. To go left, vehicles first continue as one road passes over or under the other, then exit right onto a one-way three-fourths loop ramp (270°) and merge onto the intersecting road.

Cobrahead Light Fixture - An informal term for the curved-arm oblong-headed fixtures that are mainstay of roadway lighting. Introduced in 1957. Wikipedia

Composite Construction - The use of different materials together in a single structure.

Controlled-Access Highway - (Also called freeway, highway.) A highway designed exclusively for high-speed vehicular traffic, with all traffic flow and ingress/egress regulated.

CRINA - Acronym for "Cultural Resource Inventory Needs Assessment" form.

Cultural Resource – any building, site, structure, object, or district either prehistoric or historic.

Curb Bulb - See "curb extensions."

Curb Extensions - See "bulb-outs"

Design - Quality of integrity applying to the elements that create the physical form, plan, space, structure, and style of a property.

Diamond-Type Interchange - A common type of road junction, used where a freeway crosses a minor road. The freeway itself is grade-separated from the minor road, one crossing the other over a bridge. Approaching the interchange from either direction, an off-ramp diverges only slightly from the freeway and runs directly across the minor road, becoming an on-ramp that returns to the freeway in similar fashion.

Drop Inlet - A vertical inlet to a buried culvert or storm drain attached at the upstream end of a horizontal culvert. The drop inlet can be constructed as a filter to prevent debris from entering the culvert causing it to fail.

Embankment - A bank of earth constructed above the natural ground surface to carry a road or to prevent water from passing beyond desirable limits: also known as bank.

Entrance Ramp - see "highway ramp."

Evaluation - Process by which the significance and integrity of a historic property are judged and eligibility for National Register listing is determined.

Exit ramp - see "highway ramp."

FHWA - Acronym for "Federal Highway Administration."

Footing - The enlarged, lower portion of a substructure that distributes the structure load either to the earth or to supporting piles; the most common footing is the concrete slab; footer is a local term for footing.

Freeway - see "controlled-access highway."

Frontage Road - (also access road, service road). A non-limited access road running parallel to a higher-speed road, usually a freeway, and feeding it at appropriate points of access (interchanges). In many cases, the frontage road is a former alignment of a road already in existence when the limited-access road was built.

Geographical Area - An area of land containing historic or archeological resources that can be identified on a map and delineated by boundaries.

Girder Bridge - A bridge whose superstructure consists of two or more girders supporting a separate floor system, as differentiated from a multi-beam or a slab bridge.

Grade - The degree of rise or descent of a sloping surface. The ground level around a building or structure.

Grade Separation - The method of aligning a junction of two or more surface transport axes at different heights (grades) so that they will not disrupt the traffic flow on other transit routes when they cross each other. The composition of such transport axes does not have to be uniform; it can consist of a mixture of roads, footpaths, railways, canals, or airport runways. Bridges, tunnels, or a combination of both can be built at a junction to achieve the needed grade separation.

Guardrail - A structural element designed to redirect an errant vehicle onto the roadway (Guide Rail).

Gutter - A narrow channel along the side of a road or street to carry off rain water to a culvert or sewer.

Highway ramp (also, exit ramp, entrance ramp) - A short section of road which allows vehicles to enter or exit a freeway (see controlled-access highway).

Historic - is a resource that is old enough that it should be considered for the NRHP, usually 50 years old or older.

Historic Property - any prehistoric or historic district, building, site, structure, or object listed in or eligible for listing in the National or State Registers of Historic Places.

Intelligent Transport Systems (ITS) - Use of information and communication technology that improve transport outcomes.

Interchange - A road junction that typically uses grade separation, and one or more ramps, to permit traffic on at least one highway to pass through the junction without directly crossing any other traffic stream. It differs from a standard intersection, at which roads cross at grade. Interchanges are almost always used when at least one of the roads is a limited-access divided highway (expressway or freeway), though they may occasionally be used at junctions between two surface streets.

ITS - Acronym for "Intelligent Transport Systems."

Junction - A location where traffic can change between different routes, directions, or sometimes modes, of travel.

Laterals - Lateral conduits coming off of the main line, usually a storm drain or sewer line.

Light Fixture - The assembly that holds the lamp in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts

Light Standard - The pole to which the fixture is attached

Local significance - Importance of a property to the history of its community, such as a town or county.

Location - Quality of integrity retained by a historic property existing in the same place as it did during the period of significance.

Luminaries - A fixture with its lamp.

Maintenance Activities for Park and Rides – Maintenance activities include but are not limited to repairing, replacing control devices, remove road hazards, repairing stable road embankments, repairing parking facilities, and repairing transit facilities.

Materials - Quality of integrity applying to the physical elements that were combined or deposited in a particular pattern or configuration to form a historic property.

Median - The area that separates opposing lanes of traffic on a divided road. See also raised median, pork chop island.

NAC - Acronym for "Native American Consultation."

NAGPRA - Acronym for "Native American Graves Protection and Repatriation Act."

National Historic Landmark (Also NHL) - A historic property evaluated and found to be outstanding example of American history and designated as such by the Secretary of the Interior.

National Historic Preservation Act (Also NHPA) 1966 - legislation establishing the National Register of Historic Places and extending the national historic preservation programs to properties of State and local significance.

National Register of Historic Places - Official federal list of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering and culture.

NDOT Acronym for "Nevada Department of Transportation."

NEPA Acronym for "National Environmental Policy Act."

NHL Acronym for "National Historic Landmark"

NHPA Acronym for "National Historic Preservation Act, as amended"

NRHP Acronym for "National Register of Historic Places"

NRS Acronym for "Nevada Revised Statutes."

Overlay - The overlay consists of a wearing course and a base course on top of the existing road.

Ownership - Legal status in which an owner holds fee simple title to a property, or portion of it.

Pavement Grinding – A pavement preservation technique that corrects surface imperfections by removing the surface with closely spaced diamond saw blades.

Pavement Marking – include centerline stripes, lane lines, and edge striping. These may be supplemented by other pavement markings, such as approach to obstructions, stop and crosswalk lines, and various word and symbol markings.

Pavement Repair – Surface sealing and filling of cracks in pavement.

Plant mix - Asphalt mixed at a plant and transported to the construction site for installation.

Precast concrete - Concrete members which are cast and cured before being placed into their final position on a construction site.

Raised median - A raised barrier in the center portion of the street, as opposed to a median that is delineated with striping. A raised median can serve as a landing place for pedestrians who cross a street. May also provide space for trees and landscaping.

RCB Acronym for "reinforced concrete box."

Rehabilitation – the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.

Reinforced concrete - Concrete with steel reinforcing bars bonded within it to supply increased tensile strength and durability.

Reinforced concrete box (Also RCB) - A square or rectangular "pipe" made of concrete with rebar or wire mesh fabric strewn throughout for the addition of extra strength. Multiple such boxes are arranged sideways to make a pipe or tunnel like structure.

Retaining wall - A structure designed to restrain and hold back a mass of earth.

Road mix - asphalt mixed at the construction site

Rumble strips - A road safety feature that alerts inattentive drivers to potential danger by causing a tactile vibration. And audible rumbling, transmitted through the wheels into the car body.

SAFTEA-LU - Acronym for "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.

Scour Protection – to remove dirt from something by rubbing it hard with something rough or by running water; bridge scour is the removal of sediment such as sand and rocks from around bridge abutments or piers. Scour protection includes riprapping the piers as the most common countermeasure.

Seal Coating – a spray of asphalt on the surface of the pavement to waterproof the pavement and base.

Service pedestal - A metal utility cabinet that allows access to electrical breakers, etc. for the purposes of monitoring, maintenance and repair. Usually 3 to 5 feet tall.

Service road - See "frontage road."

Silver Book - The Nevada Department of Transportation's book of standard specifications for construction projects.

Simple span - The span of a bridge or element that begins at one support and ends at an adjacent support.

Span - The distance between piers, towers, or abutments.

Speed cushions - A traffic calming device designed as several small speed bumps installed across the width of the road with spaces between them.

Steel girder bridge - A bridge built of girders placed on abutments and foundation piers. A bridge deck is built on top of the girders in order to carry traffic.

T-intersection (also, T-junction) - A place where one road joins another and forms the shape of the letter T.

T-junction - See "T-intersection."

Traffic calming - Methods used to slow or reduce vehicle traffic in order to improve living conditions for residents as well as to improve safety for pedestrians and cyclists. Common traffic calming measures include speed bumps, speed cushions, chicanes, bulb outs and roundabouts.

Universal Transverse Mercator (Also UTM) - A set of coordinates (easting and northing) that indicates a unique location according to the Universal Transverse Mercator Grid appearing on maps of the United States Geological Survey.

USACE - Acronym for "United States Army Corp of Engineers."

UTM - Acronym for "Universal Transverse Mercator"

Sources: Idaho Department of Transportation, Iowa Department of Transportation, AASHTO, FHWA, Colorado State Roads and Highways: Multiple Property Listing, Webster's New World Dictionary, Wikipedia, Macmillan Dictionary, hyperdictionary.com, cr.nps.gov