

**PROGRAMMATIC AGREEMENT  
AMONG THE FEDERAL HIGHWAY ADMINISTRATION,  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,  
THE ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES,  
AND THE ALASKA STATE HISTORIC PRESERVATION OFFICER  
REGARDING ALASKA'S HIGHWAY SYSTEM ROADS  
AFFECTED BY THE FEDERAL-AID HIGHWAY PROGRAM IN ALASKA**

**WHEREAS**, the Federal Highway Administration (FHWA), under authority of 23 U.S.C. 101 et seq., implements the Federal-Aid Highway Program (Program) in the State of Alaska by funding and approving State and locally sponsored transportation projects that are administered by the Alaska Department of Transportation and Public Facilities (DOT&PF); and

**WHEREAS**, the FHWA and DOT&PF have determined that this federally-assisted program may have an effect on roads included in or eligible for inclusion in the National Register of Historic Places (NRHP) (hereafter, historic roads) and have consulted with the Advisory Council on Historic Preservation (ACHP) and the Alaska State Historic Preservation Officer (SHPO) pursuant to Section 800.14 of the regulations (36 CFR 800), implementing Section 106 of the National Historic Preservation Act (NHPA); and

**WHEREAS**, in accordance with Section 6004(a) of the *Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users* (SAFETEA-LU) (P.L. 109-059), codified as Section 326 as amended Chapter 3 of Title 23 U.S.C., the Secretary of the United States Department of Transportation (U.S. DOT), acting by and through FHWA has assigned to DOT&PF the responsibility for compliance with Section 106 of NHPA for projects covered by the 6004(a) Memorandum of Understanding (MOU) and DOT&PF may contemplate additional agreements that assign FHWA responsibility in the future; and

**WHEREAS**, the objective of this Agreement is to allow DOT&PF to efficiently proceed with needed transportation projects while, in cooperation with FHWA and SHPO, it develops an efficient, systematic approach to evaluating the NRHP eligibility of roads receiving Program funding in Alaska; and

**WHEREAS**, the need for the efficiencies provided by this Agreement is further heightened by funding of these projects under the American Recovery and Reinvestment Act of 2009; and

**WHEREAS**, this Agreement provides an alternative process and establishes thresholds for Program undertakings with minimal or low potential to affect the characteristics that may make a road eligible for listing in the National Register of Historic Places; and

**WHEREAS**, the Agreement can apply to all roads subject to Program Funding; and

**WHEREAS**, DOT&PF participated in the consultation and has been invited to be a Signatory to this Agreement; and

**NOW THEREFORE**, FHWA, ACHP, DOT&PF, and SHPO agree that the Program shall be administered in accordance with the following stipulations to satisfy FHWA's and DOT&PF's Section 106 responsibilities with regard to potential impacts to Alaska roads that may be eligible for inclusion on the NRHP.

## **STIPULATIONS**

FHWA and DOT&PF shall ensure that the following measures are carried out:

### **1. COORDINATION AND CONSULTATION**

- A. FHWA, DOT&PF, and SHPO will strive to work cooperatively in all matters concerning the identification, evaluation, and treatment of historic properties along Alaska roads.
- B. DOT&PF will encourage, invite, and support SHPO participation in on-site field visits and meetings when there are questions on applicability of Program undertakings and their implementation under the terms of this Agreement.
- C. SHPO will routinely provide timely reviews and constructive comments to all written requests for consultation from DOT&PF and FHWA and will regularly communicate, advise, and meet with DOT&PF to share information and seek to resolve issues pertaining to Alaska roads, corridors and road related features.
- D. FHWA and DOT&PF will consult with the Signatories, the National Park Service (NPS), and other consulting parties as identified by FHWA, DOT&PF, and SHPO during the development of the Linear Feature Guidance and Historic Context of this Agreement as described in Stipulations 5.B and 5.C.

### **2. APPLICABILITY OF SECTION 106 TO ALASKA ROADS AND HIGHWAYS**

- A. This Agreement only pertains to effects on roads. The FHWA and DOT&PF shall follow all other aspects of 36 CFR 800 for undertakings that could result in effects to historic properties other than roads. The Agreement does not apply to effects on:
  - 1. Road related features in the APE, including, but not limited to, bridges, waysides, tunnels, and campgrounds.
  - 2. Non-road potential historic properties, including, but not limited to, archaeological sites, buildings, structures, objects, and districts.
  - 3. Roads that are listed or previously determined eligible for listing in the NRHP.
  - 4. Portions of roads located in historic districts or National Historic Landmarks.

The Agreement also does not apply to undertakings that occur on or affect Tribal lands as they are defined in 36 CFR 800.16(x). Tribal lands are all lands within the exterior boundaries of any Indian reservation, and all dependent Indian communities. (The only Tribal land in Alaska under this definition is the Metlakatla Indian Community Federal Reservation on Annette Island.)

### **3. EXEMPTION FROM CONSIDERING EFFECTS TO ROADS**

#### **A. Professional Qualifications**

1. All actions that ensure the implementation of the terms of this Agreement 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 (published in 48 FR 44738-44739).
2. DOT&PF shall employ staff meeting the Secretary of the Interior's Professional Qualifications Standards qualified in the fields of history or architectural history. The Professional Qualified Individual (PQI) will ensure that all processing and documentation meet the requirements of this Agreement

**Stip 3.B. has been changed by Interim Guidance (Amendment 2)**

#### **B. Exemption from Considering Effects to Roads**

1. FHWA and DOT&PF will not need to comply with Section 106 with regard to the effects of an undertaking on roads within the scope of this Agreement when the DOT&PF PQI determines that the undertaking falls within the thresholds established under Appendix A of this Agreement. FHWA and DOT&PF will still need to comply with Section 106 for the undertaking, as applicable, with regard to effects on other properties.
2. The PQI may consult with the SHPO regarding such a determination at any time, either formally or informally.
3. The PQI will document such a determination. The documentation will include the name of the PQI making the determination and enough information to produce the annual report under Stipulation 4 of this Agreement.

### **4. ANNUAL REPORTING REQUIREMENTS**

**Stip 4 has been changed by Amendment 2**

By October 31<sup>st</sup> for each year this Agreement is in effect, DOT&PF shall submit a report summarizing the following information to SHPO and FHWA for each project determined by the PQI to be subject to the exemption under Stipulation 3.B.1 of this Agreement: federal number, project name, indication of whether DOT&PF has been assigned federal agency responsibility under SAFETEA-LU 6004(a), type of undertaking, and basis for determination under Stipulation 3.B.1 of this Agreement.

### **5. LINEAR FEATURE GUIDANCE AND CONTEXT DEVELOPMENT**

#### **A. Roads Workshop**

1. FHWA and DOT&PF shall organize and host a workshop to develop shared goals and understandings for linear feature guidance and context on historic roads and highways. The workshop will be developed in cooperation with SHPO and will also include a planning session that will outline future planning meetings, workshop goals, and responsibilities. FHWA and DOT&PF will invite the NPS to participate in this workshop. The workshop is to be attended by representatives from FHWA Alaska Division, DOT&PF Statewide and Regions, and SHPO. Workshop participation by other interested parties in addition to NPS may be identified by FHWA, DOT&PF, and SHPO.

2. FHWA and DOT& PF shall host the workshop no later than four (4) months after signing this Agreement.

**Stip 5.B. has been changed by Amendments 1 & 2**

B. Linear Feature Guidance

1. Based on the results of the workshop and existing NPS guidance, DOT&PF will develop Interim Guidance for the evaluation of roads for those undertakings that fall outside the exemption under Stipulation 3 of this Agreement. That Interim Guidance will be used until a more developed historic context is completed per Stipulation 5.C of this Agreement.
  - a. DOT&PF will prepare a white paper on NRHP eligibility of roads and highways in Alaska subject to Program funding in consultation with NPS, SHPO, and FHWA that identifies general issues, resource treatment, boundaries, integrity, effects, and types.
    1. DOT&PF shall schedule a preliminary meeting with SHPO and FHWA within two (2) months of the execution of this Agreement to identify a timeline and objectives to complete the white paper six (6) months after signing this Agreement.
    2. DOT&PF shall submit the final white paper to NPS, SHPO, ACHP, and FHWA six (6) months after signing this Agreement.
  - b. Based on the white paper, DOT&PF will develop draft guidance from the final white paper to evaluate roads in consultation with SHPO and FHWA. FHWA will provide other consulting parties as identified by FHWA, DOT&PF, and SHPO a thirty (30) calendar day opportunity to review and comment on the draft guidance. DOT&PF shall take into account comments received during the review period.
2. The final guidance to evaluate NRHP eligibility of roads will be developed by DOT&PF in consultation with NPS, SHPO, ACHP, and FHWA within six (6) months of the completed final historic context (Stipulation 5.C.11).

**Stip 5.C. has been changed by Amendments 1 & 2**

C. Historic Roads Context

1. DOT&PF will develop a Historic Roads Context in consultation with SHPO and FHWA. The context shall include methodology for identification and treatment of historic roads that identifies historic themes, property types, eligibility criteria, treatment approaches, and program recommendations.
2. DOT&PF shall submit a context outline to SHPO within nine (9) months of signing this Agreement.
3. SHPO shall submit context comments to DOT&PF thirty (30) days after receiving the outline.
4. DOT&PF shall submit a draft Historic Roads Context to SHPO within two (2) years of signing this Agreement.
5. SHPO shall submit draft comments to DOT&PF sixty (60) days after receiving the draft.
6. DOT&PF shall take into account any SHPO comments received during the review period.
7. DOT&PF shall submit the revised draft to SHPO within six (6) months of the receipt of SHPO's draft comments.

8. FHWA shall provide the NPS and other consulting parties as identified by FHWA, DOT&PF, and SHPO a thirty (30) calendar day opportunity to review and comment on the revised draft Historic Roads Context.
9. SHPO shall submit final draft comments to DOT&PF thirty (30) days after receiving the final draft.
10. DOT&PF shall take into account any comments received during the review period.
11. DOT&PF shall submit final Historic Roads Context to NPS, SHPO, and FHWA within six (6) months of the receipt of SHPO's final draft comments.

## 6. ALASKA HISTORIC TRANSPORTATION ROUTES BOOKLET

Stip 6 has been changed by Amendment 3

- A. DOT&PF shall develop an Alaska Historic Transportation Routes Booklet for the general public that depicts architectural, natural, cultural, and transportation related features along Alaska's road system.
- B. DOT&PF shall prepare a draft outline of the booklet and submit it to SHPO within three (3) months of the completion of the final historic context (Stipulation 5.C.11). FHWA, DOT&PF, and SHPO may invite other interested parties to participate in this review.
- C. SHPO shall provide comments on the outline to DOT&PF thirty (30) days after receiving the outline.
- D. DOT&PF shall submit a draft booklet to SHPO within six (6) months of the receipt of SHPO's comments on the outline.
- E. SHPO shall provide comments on the booklet to DOT&PF thirty (30) days after receiving the draft. If SHPO determines a second review is necessary, SHPO must notify DOT&PF and specify an agreeable timeframe for the second review.
- F. Within six (6) months after receiving SHPO's comments on the draft booklet, DOT&PF shall provide SHPO fifty (50) copies of the final product and produce a minimum of one thousand (1,000). Distribution of the booklets shall be determined in consultation among FHWA, DOT&PF, and SHPO.

## 7. AMENDMENTS

Any Signatory to this Agreement may at any time propose amendments, whereupon all Signatories shall consult to consider such amendment. This Agreement may be amended only upon written concurrence of all signatory parties.

## 8. DISPUTE RESOLUTION

- A. Should any Signatory to this Agreement object in writing to FHWA regarding any action carried out or proposed with respect to the implementation of this Agreement, FHWA shall consult with the objecting party. If after initiating such consultation FHWA determines that the objection cannot be resolved through consultation, it shall forward all

documentation relevant to the objection to ACHP, including FHWA's proposed response to the objection. Within thirty (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;
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 to ACHP for formal comment and proceed to refer the objection and comment within forty-five (45) calendar days.

B. Should ACHP not exercise one of the above options within thirty (30) calendar days after receipt of the pertinent documentation, FHWA may assume ACHP's concurrence in its proposed response to the objections.

C. FHWA shall take into account any ACHP recommendations or comments provided in accordance with this stipulation with reference only to the subject of the objection; FHWA's responsibility to carry out all actions under this Agreement that are not the subjects of the objection shall remain unchanged.

D. At any time during implementation of any stipulation in this Agreement, should an objection to any such stipulation or its manner of implementation be raised by a member of the public, FHWA shall take the objection into account and consult as needed with the objecting party, ACHP, DOT&PF, and SHPO to address the objection.

## 9. DURATION

Duration has been extended by Amendments 1 & 3

This Agreement shall continue in full force and effect until all measures provided for are completed or until five (5) years from its execution date. No extension or modification shall be effective unless all Signatories to the Agreement have agreed to it in writing.

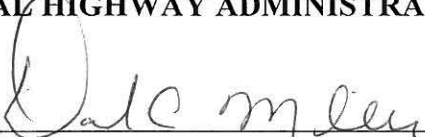
## 10. TERMINATION

FHWA, DOT&PF, SHPO, or ACHP may propose to terminate this MOA by providing thirty (30) days notice to the other explaining the reasons for the proposed termination. FHWA, DOT&PF, SHPO, and ACHP will consult during this period to seek agreement on amendments or other actions that will avoid termination. At the end that thirty (30) day period, the party proposing termination may terminate the Agreement by written notification to the others. In the event of termination, FHWA and DOT&PF will comply with 36 CFR 800 with regard to road eligibility and individual undertakings covered by this Agreement and not completed at the time of termination.

Execution and Implementation of this Agreement is evidence that FHWA and DOT&PF have taken into account the effect of the Program in the State of Alaska on historic roads and have provided ACHP reasonable opportunity to comment.

Signatories

**FEDERAL HIGHWAY ADMINISTRATION**

By:  1/29/10  
David C. Miller, Division Administrator, Alaska Division Date

**ADVISORY COUNCIL ON HISTORIC PRESERVATION**


By:  2/16/10  
John M. Fowler, Executive Director Date

**STATE HISTORIC PRESERVATION OFFICER**

By:  2.23.10  
*for* Judith E. Bittner, Alaska SHPO Date

Invited Signatory

**ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES**

By:  1/26/10  
Leo von Scheben, Commissioner Date

**APPENDIX A**  
**Undertaking Thresholds for the**  
**Programmatic Agreement Regarding Alaska's Highway System Roads**

The Federal Highway Administration (FHWA), the Alaska State Historic Preservation Officer (SHPO), the Advisory Council on Historic Preservation (ACHP), and the Alaska Department of

**This appendix SUPERSEDED by Interim Guidance (Amendment 2)**

systematic approach to project development.

Stipulation 3.B. of the Agreement sets forth that FHWA and DOT&PF will not need to comply with Section 106 with regard to the effects of an undertaking on roads within the scope of the Agreement when the DOT&PF Professional Qualified Individual determines that the undertaking falls within the thresholds established under this Appendix. FHWA and DOT&PF will still need to comply with Section 106 for the undertaking, as applicable, with regard to effects on other properties.

The relevant types of undertakings fall under four broad categories: road widening, road realignment, surface material change, and new construction. The specific thresholds applicable to Stipulation 3.B. of the Agreement are the following:

1. **Minor Road Widening:** Road and/or clear zone widening by no more than a 25% increase of the average surface/cleared widths, involving one or more of the following activities:
  - Widening travel lanes and shoulders: This is to meet current safety standards for existing highway facilities. The design standard widths vary depending on traffic volume, road classification, and the terrain. A typical widening project will add material to the existing road prism to provide additional surface area.
  - Adding shoulders: This provides a reserved area along an existing roadway/highway for emergency maneuvers, and serves as a buffer between the main thoroughfare and the edge of the road.
  - Widening the road for a turning lane: This is to provide a separate auxiliary lane that allows a vehicle to leave the road more safely at a decreased speed. The minimum length of a turning lane is 100' and additional length is needed for the taper.
  - Widening the shoulder for a pedestrian/bicycle lane: (This undertaking also falls under "surface material change" as it often involves both the widening and paving of a gravel-surfaced shoulder.) The existing shoulder would be widened to accommodate one-way bicycle traffic. The current standards provides a 4' wide paved bicycle lane or when adjacent to guardrail or curb a lane that is 5' wide.
  - Widening the shoulder for a vehicle turnout/pullout or bus stop: This allows vehicles to pull out of the through travel lane to give passing opportunities to following vehicles and a widened road section onto which a bus can pull and be completely off the road travel surface.
  - Widening for drainage improvements: Lack of sufficient drainage features along a road can lead to severe damage of the road prism. This would place additional material on the embankment to provide for limited riprap erosion control protection, alter ditches through



minor widening and/or installation of fabric ditch lining, and conduct in-kind replacement or lengthening of cross culverts within the existing road prism.

- Widening the clear zone: This improves sight distances and provides additional room for

**SUPERSEDED by Interim Guidance (Amendment 2)**

2.

line-of-sight and eliminate “blind spots”. The thresholds for this category are established according to horizontal and vertical alignments shifts as follows:

- Horizontal alignment shifts by no more than 25% increase of surface width: This would provide for minor shifts in the horizontal alignment to soften tight curves and to improve the alignment of skewed or offset intersections.
- Vertical alignment shifts up to 2’ in elevation: This would provide minor improvements to the road profile and adjustments to its banking and curves.

**3. Surface Material Change:** Road surface materials in Alaska generally fall under three main types (gravel, asphalt, and chip-seal). Undertakings that change surface material of the travel lanes from gravel to asphalt or chip seal exceed this category’s threshold and therefore are not applicable for the exemption under Stipulation 3.B of the Agreement. However, the following undertakings are applicable for that exemption:

- Chip seal applications to asphalt: Chip seal is a seal coating surface treatment application (combining a layering of emulsion and small aggregate) applied to the top layer of the road wearing surface. This maintenance measure is used as a preservation technique on existing gravel and asphalt surfaces to prolong the life of the road. Applying chip seal to an asphalt concrete surface fills small depressions and cracks, but the surface characteristics will remain similar to the aged asphalt concrete.
- Paving existing shoulder: In rural areas, improving and paving shoulders to an existing paved road can be the best way to accommodate bicyclists and benefit motor vehicle traffic. Paved shoulders can extend the service life of the road surface by reducing the deterioration of edge of the travel surface. Paved shoulders at least 4 feet wide to accommodate bicycle travel or 5 feet wide adjacent to guardrail or curb.
- Paving widened or new shoulder: This is similar to the previous action; however, it would also include the addition of a new highway shoulder.
- Paving access road/driveway approach aprons: This surfacing treatment would be consistent with the surfacing of the adjacent road.

**4. New Construction:** New construction for the following purpose(s):

- American with Disabilities Act (ADA) compliance: This would provide improvements to existing pedestrian crossings.
- Installation of drainage improvements (including ditching and culverts): Ditching and cross culverts are common components of roads. Sufficient drainage features are necessary to preserve the road prism. This would provide for cross culverts in new locations within the road prism and ditch construction, both with limited riprap erosion control protection. This would not provide headwalls at the inlet/outlet of culverts at locations where they previously did not exist.

**FIRST AMENDMENT TO THE  
PROGRAMMATIC AGREEMENT  
AMONG THE FEDERAL HIGHWAY ADMINISTRATION,  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,  
THE ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES,  
AND THE ALASKA STATE HISTORIC PRESERVATION OFFICER  
REGARDING ALASKA'S HIGHWAY SYSTEM ROADS  
AFFECTED BY THE FEDERAL-AID HIGHWAY PROGRAM IN ALASKA**

**WHEREAS**, the Federal Highway Administration (FHWA), the Alaska State Historic Preservation Officer (SHPO), the Advisory Council on Historic Preservation (ACHP), and the Alaska Department of Transportation and Public Facilities (DOT&PF) have executed a Programmatic Agreement (PA) effective as of February 23, 2010 regarding Alaska's Highway System Roads Affected by the Federal-Aid Highway Program in Alaska; and

**WHEREAS**, funding issues delayed the project start-up and certain PA deliverables were scheduled according to the effective date of the PA that will also affect the overall duration of the PA:

Stipulation 5.A.2: "FHWA and DOT&PF shall host the [historic roads] workshop no later than four (4) months after signing this Agreement."

Stipulation 5.B.1.a: "DOT&PF...shall complete the [interim guidance] white paper six (6) months after signing this Agreement."

Stipulation 5.C.2: "DOT&PF shall submit a [historic roads] context outline to SHPO within nine (9) months of signing this Agreement."

Stipulation 5.C.3: "DOT&PF shall submit a draft historic roads context to SHPO within two (2) years of signing this Agreement."

Stipulation 9: "This Agreement shall continue in full force and effect until all measures provided for are completed or until five (5) years from its execution date."; and

**WHEREAS**, FHWA and DOT&PF have requested a four (4)-month extension in time to adjust each of the deliverable dates for the historic roads workshop, the interim guidance white paper, the historic roads context outline, the historic roads context, and a one (1) year extension in time to the duration of the PA; and

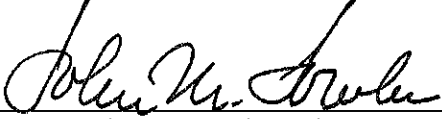
**WHEREAS**, the signatories to the PA agree that the PA should be amended to afford DOT&PF the additional four (4) months of time to fulfill the deliverable obligations of Stipulation 5 and to extend the duration of the PA to six (6) years; and

**NOW, THEREFORE**, the FHWA, SHPO, and ACHP hereby agree that the PA entered into by the parties concerning Alaska's Highway System Roads Affected by the Federal-aid Highway Program in Alaska is hereby amended by revising Stipulation 5 to allow a four (4) month extension on the submittal and completion dates of those deliverables scheduled according to the effective date of the PA, and by revising Stipulation 9 to allow the PA to remain in effect for six (6) years.

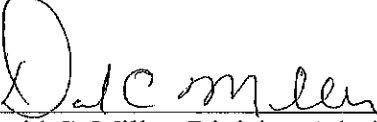
The parties hereby acknowledge and reaffirm their commitment to perform all duties previously set forth in the PA and these duties are incorporated by reference as if fully set forth herein.

Signatories

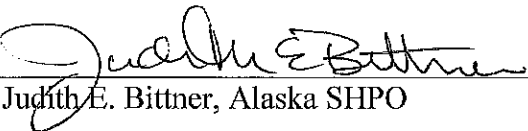
**ADVISORY COUNCIL ON HISTORIC PRESERVATION**

By:  Date: 9/21/10  
John M. Fowler, Executive Director

**FEDERAL HIGHWAY ADMINISTRATION**

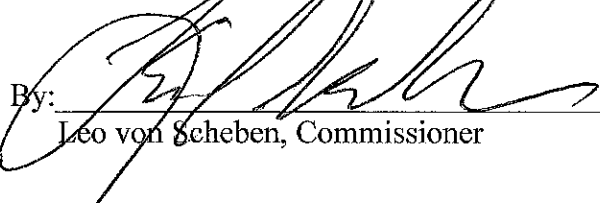
By:  Date: Aug 26, 10  
David C. Miller, Division Administrator, Alaska Division

**ALASKA STATE HISTORIC PRESERVATION OFFICER**

By:  Date: Aug 30, 2010  
Judith E. Bittner, Alaska SHPO

Invited Signatory

**ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILTITES**

By:  Date: Aug 30, 2010  
Leo von Scheben, Commissioner

**SECOND AMENDMENT TO THE  
PROGRAMMATIC AGREEMENT  
AMONG THE FEDERAL HIGHWAY ADMINISTRATION,  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,  
THE ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES,  
AND THE ALASKA STATE HISTORIC PRESERVATION OFFICER  
REGARDING ALASKA'S HIGHWAY SYSTEM ROADS  
AFFECTED BY THE FEDERAL-AID HIGHWAY PROGRAM IN ALASKA**

**WHEREAS**, the Federal Highway Administration, Alaska Division (FHWA), the Alaska Department of Transportation and Public Facilities (DOT&PF), the Advisory Council on Historic Preservation (ACHP), and the Alaska State Historic Preservation Officer (SHPO) executed February 23, 2010 a Section 106 programmatic agreement (PA) entitled *Programmatic Agreement Regarding Alaska's Highway System Roads Affected by the Federal-Aid Highway Program* (Alaska Road PA); and

**WHEREAS**, the First Amendment in effect September 21, 2010, extended the duration of the PA to six (6) years and provided adjustments to the deliverable dates for the Historic Roads Workshop, the Interim Guidance white paper, and the Historic Roads Context; and

**WHEREAS**, Stipulation 5.B.1 of the PA directs DOT&PF to develop Interim Guidance for the evaluation of roads for those undertakings that fall outside the PA exemptions, which will be used until the Final Guidance is developed per Stipulation 5.B.2; and

**WHEREAS**, DOT&PF developed Interim Guidance, appended to this Second Amendment, in consultation with, and reviewed by the National Park Service, and reviewed and accepted by FHWA, SHPO, and ACHP; and

**WHEREAS**, FHWA during the development of the Interim Guidance invited local governments and federally recognized Tribes across the State to participate in the identification of potential historic roads and in the identification of measures to mitigate adverse effects to those roads; and

**WHEREAS**, FHWA and DOT&PF requested flexibility of the Linear Feature Guidance (Stipulation 5.B) and the Historic Roads Context (Stipulation 5.C) deliverable dates provided that those deliverables are finalized and received by December 31, 2015; and

**WHEREAS**, this Second Amendment which will supplement the earlier PA (1) indicates by reference those unchanged stipulations which will be in effect for the duration of the PA and those stipulations which have already been accomplished, (2) contains in their entirety stipulations being amended or those having deliverables that are yet to be accomplished, and (3) provides the Interim Guidance which will replace the original PA Appendix A (*Undertaking Thresholds for the Programmatic Agreement Regarding Alaska's Highway System Roads*, dated January 25, 2010); and

**NOW THEREFORE**, FHWA, ACHP, DOT&PF, and SHPO agree that the PA is hereby amended. The parties hereby acknowledge and reaffirm their commitment to perform all duties previously set forth in the PA.

## **STIPULATIONS**

FHWA and DOT&PF shall ensure that the following measures are carried out:

### **1. COORDINATION AND CONSULTATION**

*Stipulation 1 is unchanged and in effect for the duration of the PA.*

### **2. APPLICABILITY OF SECTION 106 TO ALASKA ROADS AND HIGHWAYS**

*Stipulation 2 is unchanged and in effect for the duration of the PA.*

### **3. EXEMPTION FROM CONSIDERING EFFECTS TO ROADS**

#### **A. Professional Qualifications**

*Stipulation 3.A is unchanged and in effect for the duration of the PA.*

#### **B. Exemption from Considering Effects to Roads**

*The Second Amendment amends Stipulation 3.B to read as follows:*

1. In accordance to Stipulation 5.B, the Interim Guidance is incorporated into this PA as Appendix A, replacing the original PA Appendix A exemption thresholds.
2. When the DOT&PF PQI determines that the effects of the undertaking on roads in the State that are to be treated as eligible (TE List Roads) for the National Register of Historic Places (National Register) are being addressed through procedures established under the Interim Guidance, FHWA and DOT&PF will be in compliance with Section 106. FHWA and DOT&PF will still need to comply with Section 106 for the undertaking, as applicable, with regard to effects on other properties.
3. The PQI will conduct project reviews and make the applicability determinations in accordance with the Appendix A, Interim Guidance. The PQI may consult with the SHPO regarding such a determination at any time, either formally or informally.
4. The PQI will document such determinations with enough information to produce the annual report under Stipulation 4 of this Agreement and the Interim Guidance Section 5.1 reporting requirements.

### **4. ANNUAL REPORTING REQUIREMENTS**

*The Second Amendment amends Stipulation 4 to read as follows:*

In accordance with the Interim Guidance, by November 15<sup>th</sup> for each year the Interim Guidance is in effect, DOT&PF shall submit a report summarizing the following information to SHPO and FHWA for each project determined by the PQI to be subject to the Interim Guidance under Stipulation 5.B of this Agreement: federal number, project name, indication of whether DOT&PF has been assigned federal agency responsibility under SAFETEA-LU

6004(a), type of undertaking, and basis for determination under Interim Guidance Section 5.1.

## **5. LINEAR FEATURE GUIDANCE AND CONTEXT DEVELOPMENT**

### **A. Roads Workshop**

***Stipulation 5.A is accomplished. The Roads Workshop was held in Anchorage, Alaska on September 28-30, 2010.***

### **B. Linear Feature Guidance**

***The Second Amendment amends Stipulation 5.B to read as follows:***

1. Based on the results of the workshop and existing NPS guidance, FHWA and DOT&PF developed Interim Guidance for TE List Roads and for assessing project effects on these roads. The Interim Guidance replaces the original PA Appendix A thresholds and will be in effect until the statewide Historic Roads Historic Context per Stipulation 5.C and Final Guidance per Stipulation 5.B.2 of this Agreement are completed.
2. The Final Guidance to evaluate NRHP eligibility of roads will be developed by DOT&PF in consultation with NPS, SHPO, ACHP, and FHWA within six (6) months of the completed final Historic Context (Stipulation 5.C.11), but no later than December 31, 2014.

### **C. Historic Roads Context**

***The Second Amendment amends Stipulation 5.C deliverable dates and review schedules as follows:***

1. DOT&PF will develop a Historic Roads Context in consultation with SHPO and FHWA. The context shall include methodology for identification of historic roads that identifies historic themes, property types, and eligibility criteria. This is the basis for the final Linear Feature Guidance of Stipulation 5.B.2.
2. DOT&PF shall submit a context outline to SHPO.
3. SHPO shall submit context comments to DOT&PF thirty (30) days after receiving the outline unless an alternate review schedule has been worked out in consultation with the Historic Context Review Team.
4. DOT&PF shall submit a draft Historic Roads Context to SHPO.
5. SHPO shall submit draft comments to DOT&PF sixty (60) days after receiving the draft unless an alternate review schedule has been worked out in consultation with the Historic Context Review Team.
6. DOT&PF shall take into account any SHPO comments received during the review period.
7. DOT&PF shall submit the revised draft to SHPO within six (6) months of the receipt of SHPO's draft comments.
8. FHWA shall provide the NPS and other consulting parties as identified by FHWA, DOT&PF, and SHPO a thirty (30) calendar day opportunity to review and comment on the revised draft Historic Roads Context.

9. SHPO shall submit final draft comments to DOT&PF thirty (30) days after receiving the final draft unless an alternate review schedule has been worked out in consultation with the Historic Context Review Team.
10. DOT&PF shall take into account any comments received during the review period.
11. DOT&PF shall submit final Historic Roads Context to NPS, SHPO, and FHWA within six (6) months of the receipt of SHPO's final draft comments, and by December 31, 2014.
12. DOT&PF in consultation with SHPO and FHWA will use the final Historic Roads Context and the final Linear Feature Guidance to develop treatment approaches and program recommendations for historic roads by December 31, 2015.

## **6. ALASKA HISTORIC TRANSPORTATION ROUTES BOOKLET**

*Stipulation 6 is unchanged, but has deliverables yet to be accomplished.*

- A. DOT&PF shall develop an Alaska Historic Transportation Routes Booklet for the general public that depicts architectural, natural, cultural, and transportation related features along Alaska's road system.
- B. DOT&PF shall prepare a draft outline of the booklet and submit it to SHPO within three (3) months of the completion of the final historic context (Stipulation 5.C.11). FHWA, DOT&PF, and SHPO may invite other interested parties to participate in this review.
- C. SHPO shall provide comments on the outline to DOT&PF thirty (30) days after receiving the outline.
- D. DOT&PF shall submit a draft booklet to SHPO within six (6) months of the receipt of SHPO's comments on the outline.
- E. SHPO shall provide comments on the booklet to DOT&PF thirty (30) days after receiving the draft. If SHPO determines a second review is necessary, SHPO must notify DOT&PF and specify an agreeable timeframe for the second review.
- F. Within six (6) months after receiving SHPO's comments on the draft booklet, DOT&PF shall provide SHPO fifty (50) copies of the final product and produce a minimum of one thousand (1,000). Distribution of the booklets shall be determined in consultation among FHWA, DOT&PF, and SHPO.

## **7. AMENDMENTS**

*Stipulation 7 is unchanged and in effect for the duration of the PA.*

## **8. DISPUTE RESOLUTION**

*Stipulation 8 is unchanged and in effect for the duration of the PA.*

## **9. DURATION**

*Under the First Amendment, the duration of Stipulation 9 was extended to six years.*

This Agreement shall continue in full force and effect until all measures provided for are completed or until six (6) years from its execution date. No extension or modification shall be effective unless all Signatories to the Agreement have agreed to it in writing.

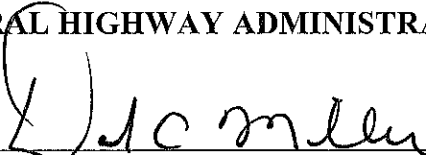
**10. TERMINATION**

*Stipulation 10 is unchanged and in effect for the duration of the PA.*

Execution and Implementation of this Agreement is evidence that FHWA and DOT&PF have taken into account the effect of the Program in the State of Alaska on historic roads and have provided ACHP reasonable opportunity to comment.

Signatories

**FEDERAL HIGHWAY ADMINISTRATION**

By:  23 May 2012  
David C. Miller, Division Administrator, Alaska Division Date

**ADVISORY COUNCIL ON HISTORIC PRESERVATION**

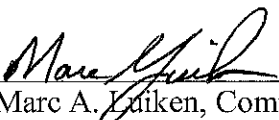
By:  6/8/12  
John M. Fowler, Executive Director Date

**STATE HISTORIC PRESERVATION OFFICER**

By:  22 May 2012  
Judith E. Bittner, Alaska SHPO Date

Invited Signatory

**ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES**

By:  18 May 2012  
Marc A. Luiken, Commissioner Date



**INTERIM GUIDANCE FOR ADDRESSING  
ALASKA HISTORIC ROADS**

**Under the February 23, 2010  
PROGRAMMATIC AGREEMENT  
AMONG THE FEDERAL HIGHWAY ADMINISTRATION,  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,  
THE ALASKA DEPARTMENT OF TRANSPORTATION  
AND PUBLIC FACILITIES, AND  
THE ALASKA STATE HISTORIC PRESERVATION OFFICER  
REGARDING ALASKA'S HIGHWAY SYSTEM ROADS  
AFFECTED BY THE FEDERAL-AID HIGHWAY PROGRAM IN ALASKA**

**STATE OF ALASKA  
DEPARTMENT OF TRANSPORTATION  
& PUBLIC FACILITIES**

**Document Date: May 2, 2012**

**Effective Date: June 8, 2012**

This Interim Guidance will replace Appendix A of the Alaska Road PA (2-23-10) through a formal PA amendment and will be in effect until the Final Guidance stipulated in the Alaska Road PA is completed.

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## ACRONYMS AND ABBREVIATIONS

ACHP	Advisory Council on Historic Preservation
Alaska Road PA	Programmatic Agreement Regarding Alaska's Highway System Roads Affected by the Federal-Aid Highway Program
APE	Area of Potential Effect
CDS	Coordinated Data System
CFR	Code of Federal Regulation
CRM	Cultural Resource Management
DOT&PF	Alaska Department of Transportation and Public Facilities
FHWA	Federal Highway Administration, Alaska Division
MOA	Memorandum of Agreement
NRHP [or National Register]	National Register of Historic Places
NEPA	National Environmental Policy Act
PA	Programmatic Agreement
PQI	Professionally Qualified Individuals
SAFETEA-LU	Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users
Section 106	Section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR 800)
Section 6004 [or 6004]	Section 6004(a) of the Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users
SHPO	Alaska State Historic Preservation Officer
TE List Roads	List of roads to be treated as eligible for listing on the National Register of Historic Places for the purpose of the Interim Guidance

## **SECTION 1.0 BACKGROUND**

The Federal Highway Administration, Alaska Division (FHWA), the Alaska Department of Transportation and Public Facilities (DOT&PF), the Advisory Council on Historic Preservation (ACHP), and the Alaska State Historic Preservation Officer (SHPO) executed in February 2010 a Section 106 programmatic agreement (PA) entitled *Programmatic Agreement Regarding Alaska's Highway System Roads Affected by the Federal-Aid Highway Program* (Alaska Road PA). The Alaska Road PA establishes the process whereby FHWA and DOT&PF comply with Section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR 800) in terms of project effects on National Register of Historic Places (National Register [or NRHP])-listed and eligible historic roads in the State. The Alaska Road PA covers Federal-Aid Highway Program (Program) projects where FHWA retains Section 106 responsibility as well as Program projects where DOT&PF has responsibility for compliance with Section 106 under *Section 6004(a) of the Safe, Accountable, Flexible Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)*.

Stipulation 5 of the Alaska Road PA required FHWA and DOT&PF to organize and host a workshop to “develop shared goals and understandings for linear feature guidance and contexts on historic roads and highways.” This workshop was held in Anchorage, Alaska on September 28–30, 2010. Based on the results of this workshop, and as required by Stipulation 5 of the Alaska Road PA, FHWA and DOT&PF developed this Interim Guidance for establishing roads in the State that are to be treated as eligible for the National Register and for assessing project effects on these roads.

## **SECTION 2.0 INTERIM GUIDANCE APPLICABILITY**

This Interim Guidance will be in effect until the statewide Historic Roads Historic Context and final guidance stipulated in the Alaska Road PA are completed.

### **2.1 Roads Treated as National Register Eligible for the Purpose of this Interim Guidance**

One goal of the Alaska Road PA was to develop a systematic approach to evaluating National Register eligibility of roads. This is being addressed through development of the Historic Roads Historic Context study. Roads will not be evaluated for National Register eligibility while the Interim Guidance is in effect. Instead, a group of roads was identified that will be treated as eligible for listing on the National Register for the purpose of this Interim Guidance. A list of these roads is presented in Appendix 1 of this Interim Guidance (Treated as Eligible List, or TE List Roads). While this Interim Guidance is in effect, only those roads listed in Appendix 1 will be considered historic properties under Section 106. Other roads will not be considered historic properties except roads that are listed or previously determined eligible for listing in the National

Register and portions of roads located in historic districts or National Historic Landmarks (see Stipulation 2 of the Alaska Road PA).

The flow chart in Appendix 2 shows where the Interim Guidance review process intersects with the four-step Section 106 Process of 36 CFR 800.

Section 4(f) of the U.S. Department of Transportation Act of 1966 as amended, 49 U.S.C. 303, applies to properties that are in or eligible for the National Register. The TE List Roads are being treated as eligible for the National Register and therefore Section 4(f) requirements apply to these roads during the interim period.

## **2.2 TE List Road Components**

For the purposes of this Interim Guidance, the following are considered to be components of the TE List Roads in Appendix 1:

1. Traveled way (the portion of the roadway provided for the movement of vehicles, the travel lanes with their surfacing and striping)
2. Shoulders
3. Existing cleared right-of way (ROW)
4. Curbs
5. Base/Sub-base (the supporting course material beneath the surface)
6. Side slopes (foreslopes and backslopes)
7. Drainage features (culverts, drains, gutters, ditches, dikes, and headwalls)
8. Barriers (median, guardrail, walls, posts, crash cushions, and fencing)
9. Lighting, signage, delineators, traffic signals and direction control devices (including those associated with railroad crossings)
10. Turnouts (widened shoulder areas flush with the traveled way)
11. At grade intersections with roads
12. Bicycle and pedestrian facilities that are flush with the roadway

The following are not considered to be components of the TE List Roads in Appendix 1 only for the purposes of the Interim Guidance:

1. Bridges
2. Separated turnouts/rest areas
3. Tunnels
4. Recreational facilities (such as trailheads, camp sites, picnic areas)
5. Side roads or streets
6. Frontage roads
7. Driveways
8. Railroad crossings (the railbed and ties)
9. Overhead and buried utilities (excluding road lighting), Trans Alaska Pipeline System
10. Material sites
11. Maintenance stations

12. Signage unrelated to roadway function, use or safety
13. Separated bicycle and pedestrian facilities

### **2.3 Applicability of Interim Guidance to projects that may affect only TE List Roads**

This document formalizes agreements on how to assess project effects on the TE List Roads. These include agreement on the types of activities that have limited or no potential to affect these roads; activities that will have no adverse effect on TE List Roads; and activities that may have an adverse effect. This Interim Guidance also provides for streamlined reviews when projects would only affect a TE List Road. The Interim Guidance stipulates the level of review screening and SHPO consultation that is appropriate for those projects, based on the type of effect that may occur.

### **2.4 Applicability of Interim Guidance when projects may affect other historic properties**

The Alaska Road PA only pertains to project effects on TE List Roads. FHWA and DOT&PF must follow all other aspects of 36 CFR 800 (or other applicable programmatic agreements) for undertakings that could result in effects to historic properties other than roads in a project's Area of Potential Effect (APE).

When projects may affect other types of historic properties, consultation would proceed according to the standard Section 106 consultation process under 36 CFR 800, or other applicable programmatic agreements.

## **SECTION 3.0 PROFESSIONAL QUALIFICATIONS STANDARDS**

In accordance with Stipulation 3 of the Alaska Road PA, DOT&PF shall employ Professionally Qualified Individuals (PQIs) to implement this Interim Guidance. A PQI will meet the Secretary of the Interior's Professional Qualifications Standards (published in 48 FR 44738-44739) in the fields of history, architectural history, or closely related fields. DOT&PF's PQIs will ensure that all project and activity reviews and documentation meet the requirements of this Interim Guidance.

## **SECTION 4.0 ACTIVITIES DETERMINED TO HAVE LIMITED OR NO POTENTIAL TO CAUSE EFFECTS TO ROADS TREATED AS NATIONAL REGISTER ELIGIBLE**

Appendix 3 of this Interim Guidance lists the activities determined to have limited or no potential to affect the TE List Roads. A DOT&PF regional or Statewide Office PQI will conduct the activity reviews and make the applicability determinations. For activities covered in Appendix 3, no further Section 106 review is required for effects to the road. Potential effects to other types of properties should still be addressed pursuant to 36 CFR 800.

**SECTION 5.0  
ACTIVITIES DETERMINED TO HAVE FINDINGS OF NO HISTORIC  
PROPERTIES AFFECTED OR NO ADVERSE EFFECT ON ROADS TREATED  
AS NATIONAL REGISTER ELIGIBLE**

Appendix 5 contains a list of activities that have no adverse effect on the TE List Roads in Appendix 1 of this Interim Guidance.

**5.1 Project Review of Appendix 4 activities when no other historic properties are within the APE**

When there are no additional historic properties present within the APE, reviews of projects limited to these listed activities will be processed without further consultation with SHPO for the findings of No Historic Properties Affected and No Adverse Effect. The processing of these reviews will be accomplished as follows within fifteen (15) business days:

1. **No Historic Properties Affected:** A DOT&PF Region PQI makes a recommendation to a Statewide Office PQI that there are no additional historic properties present within the APE associated with an activity on this list, and that the activity will not affect the TE List Road.
  - a. For 6004 projects, if the Region and Statewide Office PQIs are in agreement, the Statewide Office PQI will make a finding of No Historic Properties Affected.
  - b. For FHWA projects, the Region and Statewide Office PQIs will consult with FHWA, and if in agreement, FHWA will make a finding of No Historic Properties Affected.
  
2. **No Adverse Effect:** A DOT&PF Region PQI makes a recommendation to a Statewide Office PQI that there are no additional historic properties present within the APE associated with an activity on this list, and that the listed activity will have an effect on the TE List Road, but this effect is not adverse.
  - a. For 6004 projects, if the Region and Statewide Office PQIs are in agreement, the Statewide Office PQI will make a finding of No Adverse Effect.
  - b. For FHWA projects, the Region and Statewide Office PQIs will consult with FHWA, and if in agreement, FHWA will make a finding of No Adverse Effect.

**Reporting Requirements:** The DOT&PF shall record the basis for findings made under Section 5.1 of this Interim Guidance. By November 15<sup>th</sup> for each year this Interim Guidance is in effect, DOT&PF Statewide Environmental Office will provide FHWA and SHPO with a list of projects and activities pursuant to Section 5.1 undertaken during the federal fiscal year that has just concluded. The list will include the following information: federal number, project name, indication of whether DOT&PF has been assigned federal agency responsibility under SAFETEA-LU 6004(a), definition of the APE and the identification and evaluation efforts undertaken, and the basis for determination under Section 5.1.

## **5.2 Project Review of Appendix 4 activities when other historic properties within the APE may be affected**

The DOT&PF and FHWA, if participating, will review the project pursuant to 36 CFR 800, or pursuant to other applicable agreements among FHWA, DOT&PF, and the SHPO. Under these reviews, activities covered under Appendix 4 will be considered as actions that would not cause adverse effects to the TE List Roads.

## **SECTION 6.0 PROJECTS THAT MAY HAVE AN ADVERSE EFFECT ON ROADS TREATED AS NATIONAL REGISTER ELIGIBLE**

For the purpose of this Interim Guidance, when an undertaking includes other activities beyond those listed in Appendices 3 and 4, there will be further consultation with SHPO and other interested consulting parties to identify whether the undertaking would have an adverse effect on TE List Roads (listed in Appendix 1). The DOT&PF will identify and invite other consulting parties, such as local governments and others with a demonstrated interest in the effects of improvements on historic roads consistent with the requirements of 36 CFR 800.6(a). Information recommended for the project consultation includes: project location, project description summary, existing and proposed road typical sections, project APE, photographs of the road and setting, and the proposed rationale to support a finding of effect.

Application of the programmatic mitigation options described below may result in a finding of no adverse effect for an individual project. If use of one or more of the programmatic mitigation options is found adequate in consultation with SHPO and interested consulting parties to mitigate or lessen the impact of adverse effect to the TE List Road, FHWA (or DOT&PF for 6004 projects) will incorporate those measures into a formal written finding of no adverse effect.

If after consultation with SHPO the effect is found to be adverse, FHWA (or DOT&PF for 6004 projects) will consult to resolve the adverse effects pursuant to 36 CFR 800.6. The FHWA (or DOT&PF for 6004 projects) will notify the ACHP when appropriate pursuant to 36 CFR 800.6(a)(1). Should that consultation identify measures other than the programmatic mitigation options described below, those measures shall be captured in an agreement (i.e., Memorandum of Agreement (MOA) or Programmatic Agreement (PA)) among the parties.

### **6.1 Programmatic Mitigation Options**

At the time of the project consultation, FHWA (or DOT&PF for 6004 projects), SHPO, and other interested consulting parties may develop the details for any programmatic mitigation option selected from the list below. Programmatic mitigation options agreed upon for the project are to be documented in the No Adverse Effect finding letter as discussed in Section 6.2.



Option 1: Cultural Resource Management (CRM) Record

- a. The DOT&PF will provide to SHPO the highway data record of photographic logs and description of existing features and establish a CRM Record for the road to record projects as they are developed from this point forward.
- b. Design details and locations will be put into the CRM Record. The CRM Record will contain project engineering design plans and working drawings to document the evolving engineering design as upgrades and ongoing maintenance adaptations are conducted.

Option 2: Historic Road Management Plan(s)

- a. The DOT&PF shall fund development of Historic Road Management Plan(s) for Alaska historic roads subject to the Federal-Aid Highway Program. These management plans will be developed after the Statewide Historic Road Context has been completed and Alaska roads are evaluated for their National Register eligibility using the Alaska Road PA final guidance assessment methodology. Management Plan(s) would be developed for roads that have been determined eligible for the National Register, with SHPO concurrence. If a TE List Road is determined to be not eligible for the National Register after application of the final guidance, no management plan would be required for it.
- b. The Historic Road Management Plan(s) for the historic roads will recommend practices consistent with the needs of transportation and historic preservation. The appropriate structure of the Management Plan(s) will be developed in consultation with the consulting parties. It may be determined that historic road management can be accomplished through a single statewide plan or separate plans.
- c. If this option is selected, the No Adverse Effect letter will contain the following language for the commitment to a future Historic Road Management Plan:

“The DOT&PF will fund the development of a future Alaska Historic Road Management Plan after Alaska roads have been evaluated for their NRHP eligibility using the Alaska Road PA Final Guidance assessment methodology. The DOT&PF commits to include **[name road]** in the Management Plan should the road be determined eligible after the application of the Final Guidance. The DOT&PF will involve consulting parties and the public in the development of the Historic Road Management Plan.”

Option 3: Preserve In-Place Road Segment:

As part of the roadway improvements project, DOT&PF will commit to maintain and preserve in-place or restore a segment of the TE List Road while allowing other segments to be modified or replaced. Management of the preserved or restored road segment will be determined by FHWA and DOT&PF in consultation with SHPO and appropriate consulting parties and the public.

### **6.2 Streamlined Review for projects that affect only a TE List Road**

If a project would affect only a TE List Road, FHWA (or DOT&PF for 6004 projects) will prepare a No Adverse Effect finding that identifies the proposed programmatic mitigation option(s) and submit it to SHPO in a single letter package for concurrence, in accordance with 36 CFR 800.3(g). This submittal must document the informal consultation that has already occurred with SHPO to identify any adverse effects on the TE List Road, and the deliberation and consultation with SHPO regarding the appropriateness of using one or more of the programmatic mitigation options. If SHPO has not responded within fifteen (15) days after confirmed receipt of the finding, FHWA and DOT&PF may assume the SHPO's concurrence with the recommended finding and proceed accordingly.

### **6.3 Processing for TE List Roads that are subject to multiple undertakings with potential adverse effects**

If a TE List Road in Appendix 1 of this Interim Guidance will be involved in multiple future undertakings that might result in an adverse effect on the road prior to the completion of the statewide Historic Roads Historic Context and the preparation of the Final Guidance, FHWA, DOT&PF, and the SHPO and other consulting parties may prepare a PA specifically for that road. The PA would establish the process for FHWA and DOT&PF to take into account any effects to the TE List Road, and to satisfy FHWA's and DOT&PF's Section 106 responsibilities in relation to that road. The PA would replace the review process established by this Interim Guidance for all projects and activities involving that specific TE List Road (see Appendix 5, Reserved for templates for this type of PA).

## **SECTION 7.0**

### **AMENDMENTS TO APPENDICES 1, 3, and 4**

FHWA, DOT&PF, or the SHPO may identify an additional road or roads to be added to the TE List in Appendix 1 of this Interim Guidance. If the FHWA, DOT&PF, and the SHPO agree to the addition to Appendix 1, DOT&PF will amend Appendix 1, will obtain FHWA's and the SHPO's written concurrence on the amendment, and will append the written concurrence to this Interim Guidance.

FHWA, DOT&PF, or the SHPO may identify an additional activity or activities to be added to Appendix 3 or Appendix 4. FHWA, DOT&PF, or the SHPO may also recommend that one or more of the listed activities be deleted from this Interim Guidance. If FHWA, DOT&PF, and the SHPO agree to the addition or deletion of an activity or activities, DOT&PF will amend this Interim Guidance accordingly, will obtain FHWA's and the SHPO's written concurrence on the amendment, and will append the written concurrence to this Interim Guidance. (Appendix 6 has been reserved to log amendments.) The amended Interim Guidance will be filed with the ACHP.

## **SECTION 8.0 DISPUTE RESOLUTION**

This Interim Guidance will be appended to and be part of the Alaska Road PA Second Amendment. Section 8.0 of the Alaska Road PA provides the structure and consultation process for dispute resolution under the Agreement.

## **SECTION 9.0 RE-EVALUATIONS**

- a. Projects which affect those roads listed in Appendix 1 for which the Section 106 consultation was completed before the Interim Guidance TE List was originally established (September 30, 2010), shall not be revisited for coordination pursuant to Section 106, provided that the previously reviewed scope remains the same, and that no other changes in conditions warrant an updated Section 106 review.
- b. If the only change in the project conditions is the inclusion of the road on the TE list, then the Regional Environmental Manager will add an email to the file that includes the following statement:

“Section 106 consultation was completed for this project on **[Date]**, prior to inclusion of **[name road(s)]** on the Alaska Road PA Interim Guidance list of roads to be treated as eligible for the NRHP. The project falls within the parameters of an interim agreement among SHPO, FHWA, and DOT&PF, which states that such projects do not require additional Section 106 consultation on effects to the road if no scope changes have occurred since that review.”

The email will be sent to the project’s FHWA Area Engineer or DOT&PF 6004 NEPA Manager, with a copy to the Regional PQI and the Statewide PQI assigned to that region.

- c. If there is a scope change, then consult as needed regarding the project’s effect on historic properties, including on the TE List Road. If the new scope does not exceed the parameters of the activities lists in Appendix 3 or Appendix 4, no further consultation is required regarding effects to the TE List Road. This should be noted to the project file. If the scope exceeds the parameters of the activities lists, then FHWA (or DOT&PF for 6004 projects) will consult pursuant to Section 6 of this Interim Guidance.

## **SECTION 10.0 EMERGENCIES**

Emergencies are those actions deemed necessary as an essential and immediate response to a disaster or emergency declared by the President or the Governor, or another immediate threat to life or property. Emergency actions are only those actions required to resolve the emergency at that time and they are limited to undertakings that will be started within thirty (30) days after the emergency has been declared. Should such emergency actions to a TE List Road become necessary, DOT&PF will notify FHWA and SHPO, and consultation including the opportunity to review and comment on the emergency undertaking, shall be conducted as soon as possible in accordance with 36 CFR 800.12.

## **SECTION 11.0 TRAINING**

The DOT&PF, FHWA, and SHPO staff are required to receive training on the implementation of this Interim Guidance. The DOT&PF, with the assistance of FHWA and SHPO, will develop this training and identify the required staff within three (3) months of the amendment of the Alaska Road PA to include this Interim Guidance. This training will be conducted within six (6) months of the amendment of the Alaska Road PA to include this Interim Guidance. This training will include the following elements:

1. An overview of the Section 106 of the National Historic Preservation Act process and the Section 6004 of SAFETEA-LU process as implemented by FHWA and DOT&PF in Alaska
2. An overview of this Interim Guidance and its application (including case studies on the use of this Interim Guidance)

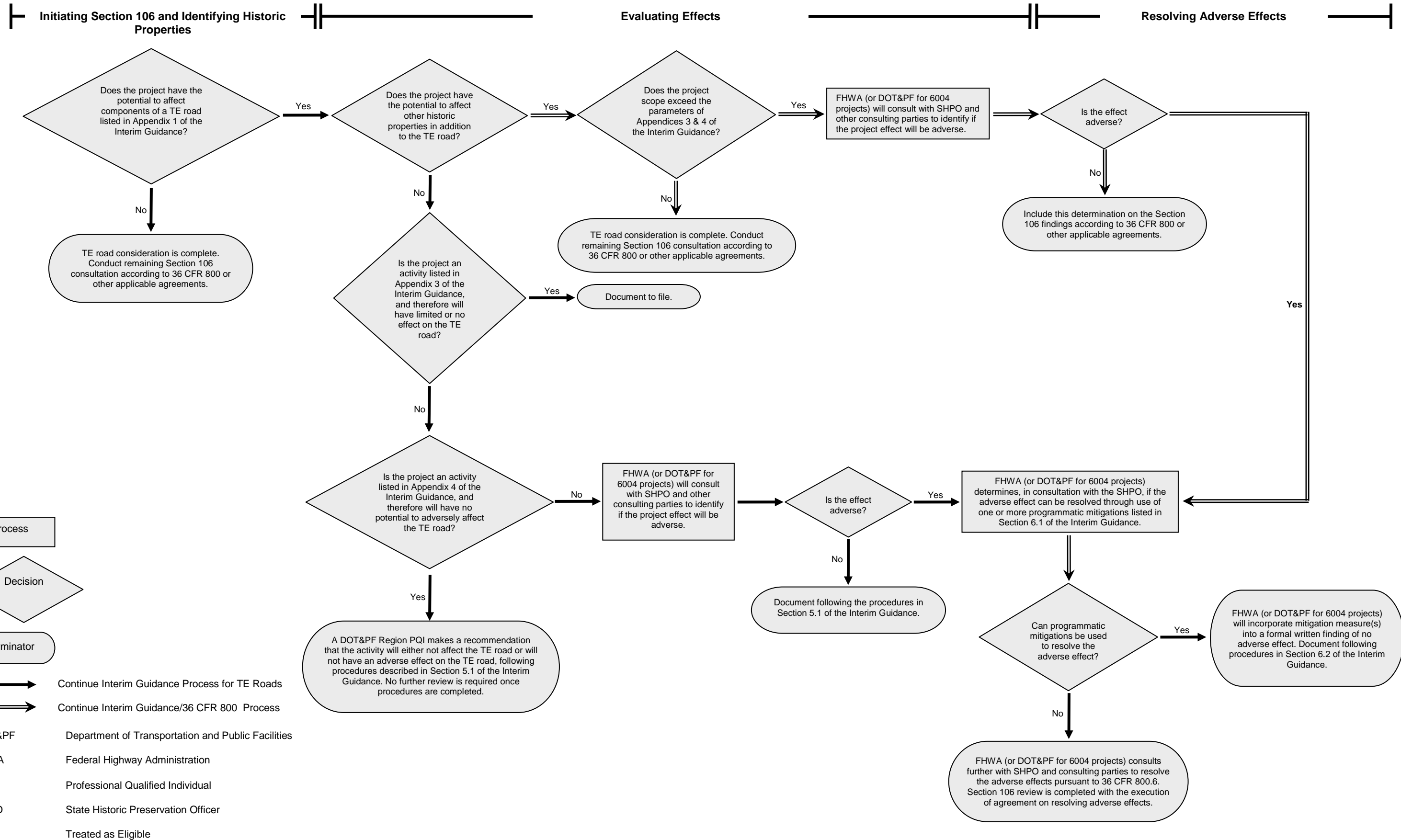
On an annual basis, DOT&PF and SHPO staff who have completed the above training will be required to receive refresher training on the application of this Interim Guidance. DOT&PF, with the assistance of FHWA and the SHPO, will develop this refresher training within six (6) months of the amendment of the Alaska Road PA to include this Interim Guidance.

**APPENDIX 1**  
**LIST OF ROADS TREATED AS ELIGIBLE FOR LISTING ON THE NATIONAL**  
**REGISTER FOR THIS PURPOSE OF THE INTERIM GUIDANCE**  
**(“TE LIST ROADS”)**

<b>Route Description</b>	<b>CDS Route Number</b>	<b>Beginning Milepoint</b>	<b>Descriptive Feature, Beginning</b>	<b>End Milepoint</b>	<b>Descriptive Feature, End</b>
Dalton Highway	150000	0.000	Jct Elliott Hwy	414.437	Boundary change
Williamsport–Pile Bay Road	74000	0.000	Cook Inlet, Iliamna Bay	15.030	Pile Bay, Iliamna Lake
Denali Highway	140000	0.000	Jct Richardson Hwy	134.558	Jct Parks Hwy
McCarthy Road	198000	34.542	End Edgerton Hwy (end pavement, Chitina)	92.616	Kennicott River tram
Basin Road	296023	0.000	Jct East St/6th St, Juneau	1.182	Perseverance Trail
Palmer–Fishhook Road	137000	6.828	Wasilla/Fishhook Jct	17.237	Hatcher Pass, by Gold Chord Rd
Willow–Fishhook Road	137700	0.000	Hatcher Pass, by Gold Chord Rd	31.355	Jct Parks Hwy
Old Glenn Highway Segment	136000	0.649	Old Glenn Access Road (past the off-ramp)	16.841	Matanuska River bridge, east approach
Nabesna Road	237000	0.000	Jct Tok Cutoff	41.096	Road end
Richardson Highway Segment	190000	132.491	Gulkana Jct (Tok Cutoff Jct)	269.312	South end, Delta Jct city limits
South Tongass Highway	291400	3.406	South end Coast Guard station, Ketchikan	15.503	Road end
Thane Road	296011	0.868	Jct end of So. Franklin St., Juneau	5.639	Road end
Nome–Council Road	166500	0.000	Jct Nome ByPass Rd	71.941	Niukluk River
Taylor Highway	250000	0.000	Jct AK Hwy	157.756	8th Ave, Eagle
Steese Highway Segment	152000	55.112	Jct U.S. Creek Rd	155.382	River St., Circle

Note: This table uses milepoint references (obtained November 30, 2010) from the DOT&PF Coordinated Data System (CDS)

**APPENDIX 2  
INTERIM GUIDANCE REVIEW PROCESS FLOW CHART**



**APPENDIX 3**  
**ACTIVITIES DETERMINED TO HAVE LIMITED OR NO POTENTIAL TO**  
**CAUSE EFFECTS TO ROADS TREATED**  
**AS ELIGIBLE FOR LISTING ON THE NATIONAL REGISTER OF HISTORIC**  
**PLACES UNDER THIS INTERIM GUIDANCE**

Processing documentation for the Appendix 3 activities will be accomplished through the DOT&PF Professionally Qualified Individuals according to Interim Guidance Section 4.0 protocol.

Activity lists from the September 28-30, 2010 Workshop and Alaska Road PA Appendix A activities lists were revised and combined during the development and review of the Interim Guidance. These listed activities are considered to have limited or no potential to affect TE List Roads, but may affect other historic properties. When projects may affect other types of historic properties, the Section 106 consultation process under 36 CFR 800, or other applicable programmatic agreements, must be followed.

1. Repaving, resurfacing, re-striping, and routine maintenance of the existing travelway (roadway prism).
2. Providing the following changed surface material treatments:
  - a. Chip seal applications to asphalt
  - b. Dust palliative applications that are not asphalt emulsion based to unpaved roads
  - c. Paving roadway shoulders and access road/driveway approach aprons: This surfacing treatment would be consistent with the surfacing of the adjacent road.
3. Slope embankment repair and maintenance.
4. Ditch cleaning, seeding, and construction of erosion control features.
5. Brushing, mowing within the existing cleared right-of-way (ROW).
6. Removal, replacement, technological upgrade, rehabilitation or re-establishment to as-built conditions of roadway components associated with safe vehicular and pedestrian travel, including but not limited to, existing guardrail, barriers, delineators, lighting, fencing, poles, retaining walls, signs, traffic signals and direction control devices (including those associated with railroad crossings), cameras, and weather and roadway condition/location devices.
7. Culvert repair, extension, maintenance, and replacement.
8. Replacement or rehabilitation, re-establishment to as-built conditions, and debris cleaning activities associated with existing drains, gutters, ditches, dikes, and headwalls.
9. Installation, maintenance, and replacement of subsurface utilities including components necessary for their safe operation and maintenance including sewer manholes/liftstations that have associated components level with the ground surface.
10. Maintenance, repaving, or resurfacing of existing sidewalks, curbing, pathways, or bike lanes.
11. Roadway widening involving one or more of the following activities and includes widening of the road prism:
  - a. Widening travel lanes and shoulders

- b. Adding shoulders
  - c. Widening to add a turning pocket
  - d. Widening to add a turnout flush with the travel lane
  - e. Widening for drainage improvements: This would place additional material on the embankment or in the ditch to provide for erosion control protection, or alter ditches through widening.
12. Removal of new growth (greater than 6" in diameter) within the cleared ROW necessary to maintain safe vehicular travel.
13. Removal of trees and branches that are determined to be a threat to safe travel of the public, including overhanging, windsnap, and windthrow trees or branches.



**APPENDIX 4**  
**ACTIVITIES THAT WILL HAVE NO ADVERSE EFFECT ON ROADS**  
**TREATED AS ELIGIBLE FOR LISTING ON THE NATIONAL REGISTER OF**  
**HISTORIC PLACES UNDER THIS INTERIM GUIDANCE**

Processing documentation for the Appendix 4 activities will be accomplished through the DOT&PF Professionally Qualified Individuals according to Interim Guidance Section 5.0 protocol.

The following activities were determined in consultation with SHPO and ACHP to have no adverse effect on the TE List Roads in Appendix 1 of this Interim Guidance. These listed activities are considered to have no adverse effect to TE List Roads, but may affect other historic properties. When projects may affect other types of historic properties, the Section 106 consultation process under 36 CFR 800, or other applicable programmatic agreements, must be followed.

1. Installation of new barriers and guardrail in areas where they currently do not exist provided materials are similar in type of material and scale to such features elsewhere along the road
2. Installation of new drainage improvements and erosion control protection to maintain effective drainage maintenance across, along, and outside the right-of-way, including but not limited to drains, cross culverts, ditches, dikes, channel, debris storage, and headwalls
3. Installation of new thermo piles or maintenance of existing ones
4. Installation of new cameras, weather and roadway condition/location devices
5. Installation of new highway signage where such signage does not currently exist
6. Upgrades to existing guardrail, barriers, delineators, lighting, fencing, poles, retaining walls, signs, traffic signals and direction control devices (including railroad), and ITS cameras and devices
7. Rehabilitation of existing separated turnouts/rest areas and truck weigh stations
8. Installation, maintenance, and replacement of subsurface utilities with above-ground components necessary for their safe operation and maintenance (including, but not limited to, above ground junction/distribution boxes or vaults, and water valves and hydrants), and the relocation of existing above-ground ground utilities.
9. Maintenance and Operations (M&O) spot improvement dig-outs to remove poor soils below the base/sub-base
10. Providing Americans with Disability Act (ADA) compliance improvements
11. Construction of private driveways connecting to the traveled way.

**APPENDIX 5  
HISTORIC ROAD MANAGEMENT PLAN  
PROGRAMMATIC AGREEMENTS (RESERVED)**

**APPENDIX 6  
INTERIM GUIDANCE  
AMENDMENT LOG (RESERVED)**

**THIRD AMENDMENT TO THE  
PROGRAMMATIC AGREEMENT  
AMONG THE FEDERAL HIGHWAY ADMINISTRATION,  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,  
THE ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES,  
AND THE ALASKA STATE HISTORIC PRESERVATION OFFICER  
REGARDING ALASKA'S HIGHWAY SYSTEM ROADS  
AFFECTED BY THE FEDERAL-AID HIGHWAY PROGRAM IN ALASKA**

**WHEREAS**, the Federal Highway Administration (FHWA), the Alaska State Historic Preservation Officer (SHPO), the Advisory Council on Historic Preservation (ACHP), and the Alaska Department of Transportation and Public Facilities (DOT&PF) have executed a Programmatic Agreement (PA) effective as of February 23, 2010 regarding Alaska's Highway System Roads Affected by the Federal-Aid Highway Program in Alaska; and

**WHEREAS**, the First Amendment in effect September 21, 2010, extended the duration of the PA to six (6) years from its execution date (extension to February 23, 2016) and provided adjustments to the deliverable dates for the Historic Roads Workshop, the Interim Guidance white paper, and the Historic Roads Context; and

**WHEREAS**, the Second Amendment in effect June 8, 2012, provided the Interim Guidance that replaced the original PA Appendix A (*Undertaking Thresholds for the Programmatic Agreement Regarding Alaska's Highway System Roads*, dated January 25, 2010); and

**WHEREAS**, all deliverables for Stipulation 5 *Linear Feature Guidance and Context Development* (5.A *Roads Workshop* [September 28-30, 2010], 5.B.1 *Interim Guidance* [effective June 8, 2012], 5.B.2 *Final Guidance* [Methodology, December 30, 2014], and 5.C *Historic Roads Context* [December 30, 2014]) have been completed; and

**WHEREAS**, Stipulation 6 *Alaska Historic Transportation Routes Booklet* (booklet) delivery date is contingent on the completion date of the Stipulation 5.C.11 *Final Historic Context*; and

**WHEREAS**, it has been determined that the booklet schedule is not realistic due to extensive consultation needed to develop and finalize the Stipulation 6 deliverables, and that the booklet schedule would extend beyond the current duration of the PA; and

**WHEREAS**, the Signatories agree that additional time beyond what was originally envisioned will be necessary to successfully complete Stipulation 6; and

**WHEREAS**, the Signatories agree that the Stipulation 6.B. timeframe for preparing a draft outline of the booklet and submitting it to SHPO for review should be extended to fourteen (14) months from the date of this amendment; and

**WHEREAS**, the Signatories agree that Stipulations 6.A. and 6.C. through 6.F. should remain in effect and be adhered to for the completion of the booklet; and

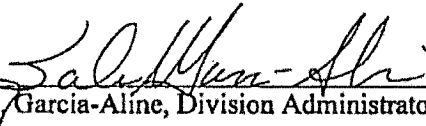
WHEREAS, the Signatories to the PA agree that the PA should be amended to afford the DOT&PF additional time to fulfill the deliverable obligations of Stipulation 6 and to extend the duration of the PA for an additional two (2) years;

NOW, THEREFORE, the FHWA, the SHPO, the DOT&PF, and the ACHP hereby agree that the PA entered into by the parties concerning Alaska's Highway System Roads Affected by the Federal-aid Highway Program in Alaska is hereby amended to allow additional time for the Stipulation 6 completion date and to extend the duration of Stipulation 9 by two (2) years to allow the PA to remain in effect until February 23, 2018.

The parties hereby acknowledge and reaffirm their commitment to perform all duties previously set forth in the PA and these duties are incorporated by reference as if fully set forth herein.

Signatories

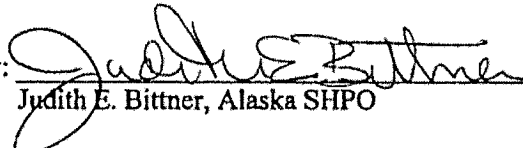
**FEDERAL HIGHWAY ADMINISTRATION**

By:  Date: 6-24-15  
Sandra A. Garcia-Aline, Division Administrator, Alaska Division

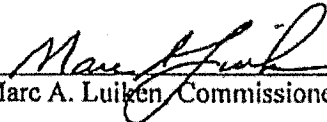
**ADVISORY COUNCIL ON HISTORIC PRESERVATION**

By:  Date: 7/31/15  
John M. Fowler, Executive Director

**ALASKA STATE HISTORIC PRESERVATION OFFICER**

By:  Date: 7-2-15  
Judith E. Bittner, Alaska SHPO

**ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES**

By:  Date: 22 Jun 2015  
Marc A. Luiken, Commissioner