ANNUAL MONITORING REPORT

SECTION 106 AND U.C.A. 9-8-404 PROGRAMMATIC AGREEMENTS

FISCAL YEAR 2012

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Pursuant to the April 2007, executed Section 106 Programmatic Agreement: Implementation for Federal-Aid Transportation Projects in the State of Utah, as amended, Section XIII. Administrative Stipulations, B. Monitoring Implementation of this Agreement, the Utah Department of Transportation is required to submit the following Annual Monitoring Report to the Federal Highway Administration, Utah State Historic Preservation Officer and the Advisory Council on Historic Preservation to assist the signatory parties with: (1) accurately assessing the degree to which the agreement and its manner of implementation constitute an effective program alternative under 36 CFR Part 800, (2) to determine whether the agreement should remain in effect, and (3) , to recommend whether and how the agreement should be improved through appropriate amendment

Pursuant to the March 2008, executed Programmatic Agreement for Implementation of U.C.A. 9-8-404 for State-Funded Transportation Projects in Utah, Section III, the Utah Department of Transportation is required to submit the following annual report to the State Historic Preservation Officer to assist the signatory parties with (1) accurately assessing the degree to which the agreement and its manner of implementation constitute an effective program alternative under U.C.A. 9-8-404, (2) to determine whether the agreement should remain in effect, and (3), to recommend whether and how the agreement should be improved through appropriate amendment

EXECUTIVE SUMMARY

This report summarizes activities carried out under, and documents the effectiveness of, the *First Amended Programmatic Agreement Among the Federal Highway Administration, the Utah Department of Transportation, the Utah State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding Section 106 Implementation for Federal-Aid Transportation Projects in the State of Utah*, executed April 16, 2010 (106 PA), and the *Programmatic Agreement Between the Utah Department of Transportation and the Utah State Historic Preservation Officer Regarding Implementation of U.C.A. 9-8-404 for State-Funded Transportation Projects in Utah (404 PA)*. It covers actions for which consultation was concluded between October 1, 2011 and September 30, 2012 (FY2012), in accordance with stipulations XIII.B.1. and XIII.B.2 of the 106 PA and stipulation III of the 404 PA. PA actions or projects that were "in progress" with determinations or findings still pending as of September 30 are not reflected in this report; the results of those consultations will be reported in subsequent reports, once Section 106 or 404 compliance has been completed.

The Utah Department of Transportation (UDOT) processed 159 federal-aid projects and 90 state-funded projects in FY2012. Of these, 27 required external review by the Utah State Historic Preservation Officer (SHPO) (Tier 2 projects): 22 projects had a finding of no adverse effect, and 5 resulted in an adverse effect finding. The remaining projects (222) were processed as Tier 1 projects (no historic properties affected). The proportion of the various findings of effect for the past four reporting years has been fairly similar, suggesting the PAs are being implemented consistently. The proportions of determinations of eligibility have varied for the past four reporting years, though no clear reason for this has been identified.

Assessment of performance under each set of stipulations in the Section 106 PA has led UDOT to make the following recommendations for amendments to the Section 106 PA, add clarification language where needed, and provide additional training:

- Amend the Section 106 PA to include the USACE as a signatory and to clarify Stipulation I.I. regarding other federal agencies.
- Provide both Introductory-level Section 106 training and Advanced-level Section 106 training for PQS.
- Provide Section 4(f) training for PQS.
- Increased informal training and review sessions to help PQS maintain skill sets, especially regarding discovery procedures, role of architectural historian, and document quality.
- Continue to work towards developing agreements with other tribes to streamline the Section 106 process.
- Meet with the tribes with whom FHWA and UDOT have PAs to discuss ways to improve the process, and any changes that need to be made.
- The Section 4(f) *de minimis* agreement between FHWA and SHPO should be added as an attachment to the PA and language added where appropriate.
- Section 4(f) requirements should be incorporated where appropriate and language clarified to ensure that the PA does not contradict them.

- Change the language in Stipulation IX.C.1. to require that boundaries be established for every historic property.

- Amend the Section 106 PA to incorporate other changes as previously discussed (i.e., public involvement procedures, reporting dates for quarterly reports).

- Tracking of effect and eligibility will continue in order to provide a risk based assessment of the program.

- Identify ways to track and compare project types and/or funding sources to effect findings.

- Continue to identify ways to improve processes and improve quality of work.

Now in its sixth year of implementation, the findings of this report demonstrate that the PAs continue to be effective environmental streamlining tools by improving project delivery while ensuring that effects to cultural resources as a result of federal-aid highway and state-funded projects are appropriately taken into account during project planning.

TABLE OF CONTENTS

EXECUTIVE SUMMARY i
TABLE OF CONTENTS iii
INTRODUCTION 1
BACKGROUND 1
APPLICABILITY AND SCOPE 3
CE DELEGATION 3
PROFESSIONAL QUALIFICATIONS STANDARDS 3
TRAINING 4
CONSULTATION WITH NATIVE AMERICAN TRIBES 4
PARTICIPATION OF OTHER CONSULTING PARTIES 6
UPDATE ON MITIGATION COMMITMENTS 6
PROJECT REVIEW 7
POST-REVIEW DISCOVERIES, INADVERTENT EFFECTS OR FORECLOSURE 11
SECTION 4(F) COMPLIANCE 12
ADMINISTRATIVE STIPULATIONS 12
ESTIMATED TIME AND COST SAVINGS 13
PUBLIC OBJECTIONS 14
IMPLEMENTATION OF RECOMMENDATIONS FROM FY2011 14
RECOMMENDATIONS FROM FY2012 REVIEW 16
ANNUAL MONITORING REPORT ASSESSMENT AND RECOMMENDATIONS 17

APPENDIX 1: SKILLS ASSESSMENT
APPENDIX 2: PROJECT TRACKING
APPENDIX 3: SECTION 4(F) AGREEMENT
APPENDIX 4: PUBLIC NOTICE OF AVAILABILITY
APPENDIX 5: DRAFT SECOND AMENDED AGREEMENT

INTRODUCTION

The *Programmatic Agreement Among the Federal Highway Administration, the Utah Department of Transportation, the Utah State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding Section 106 Implementation for Federal-Aid Transportation Projects in the State Of Utah* (106 PA) went into effect on April 16, 2007, streamlining the Utah Department of Transportation (UDOT) procedures under Section 106 of the National Historic Preservation Act (NHPA). The PA was amended on April 16, 2010.

The *Programmatic Agreement Between the Utah Department of Transportation and the Utah State Historic Preservation Officer Regarding Implementation of U.C.A. 9-8-404 for State-Funded Transportation Projects in Utah* (404 PA), went into effect on March 19, 2008, streamlining the UDOT procedures under U.C.A. 9-8-404, the Utah Antiquities Act.

This report summarizes activities carried out under, and documents the effectiveness of, the 106 PA and the 404 PA. It covers actions for which consultation was concluded between October 1, 2011 and September 30, 2012 (FY2012), in accordance with stipulations XIII.B.1. and XIII.B.2 of the 106 PA and stipulation III of the 404 PA. PA actions or projects that were not completed by September 30, 2012, or had pending determinations or findings are not reflected in this report. The results of those consultations will be reported in subsequent reports, once Section 106 and Section 404 compliance have been completed.

BACKGROUND

Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies to take into account the effects of their undertakings on historic properties and afford the Advisory Council on Historic Preservation (Council) a reasonable opportunity to comment on such undertakings: "The section 106 process seeks to accommodate historic preservation concerns with the needs of federal undertakings through consultation among the agency official and other parties with an interest in the effects of the undertaking on historic properties, commencing at the early stages of project planning" (36 CFR §800.1(a)). The implementing regulations, 36 CFR Part 800, define the process for how federal agencies meet these statutory responsibilities: "The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties" (36 CFR §800.1(a)).

The regulations (36 CFR §800.14) allow for the development of program alternatives by the federal agency. The Federal Highway Administration (FHWA) implements the Federal-aid Highway Program by funding and approving state and locally sponsored transportation projects that are administered by UDOT. The Utah FHWA Division Administrator is the "Agency Official" responsible for ensuring that this Program complies with Section 106 of NHPA, as amended, and its implementing regulations, 36 CFR Part 800, as amended.

Under Section 6004 of SAFETEA-LU (Pub. L. 109-59), UDOT has assumed the responsibility for projects classified as Categorical Exclusions (CEs) under the National Environmental Policy Act (NEPA) in the *Memorandum of Understanding Between Federal Highway Administration, Utah Division, and the Utah Department of Transportation for the State Assumption of Responsibility for Categorical Exclusions*, executed June 30, 2011. For those projects processed as CEs under this delegation, UDOT has also assumed the responsibility for compliance with Section 106, 36 CFR 800, and Section 4(f) of the DOT Act of 1966. Under this MOU, the UDOT Executive Director is the "Agency Official" responsible

for ensuring that the Federal-aid Highway Program complies with Section 106. FHWA retains the responsibility for Native American tribal consultation.

Section 404 (Agency Responsibilities), Chapter 8 (History Development), Title 9 (Community and Culture Development) of the Utah Code Annotated (U.C.A) states that "Before expending any state funds or approving any undertaking, each agency shall (i) take into account the effect of the expenditure or undertaking on any historic property; and (ii) unless exempted by agreement between the agency and the state historic preservation officer, provide the state historic preservation officer with a written evaluation of the expenditure's or undertaking's effect on the historic property" (U.C.A. 9-8-404(1)(a)). UDOT administers the state-funded transportation program in the state of Utah and is responsible for ensuring that the Department is in compliance with U.C.A. 9-8-404. UDOT has not developed administrative rules for implementing the statute. The 404 PA referenced above outlines the process used to implement U.C.A. 9-8-404. It essentially mirrors the Section 106 process as outlined in the PA for federal-aid transportation projects.

The primary goal of the 106 PA is to streamline the Section 106 process. This is accomplished through the following measures:

- FHWA authorizes UDOT to initiate, and in most cases, conclude consultation with the SHPO and other consulting parties. FHWA retains the responsibility to consult with Tribes and is still responsible for Section 106 compliance, except where that responsibility has been assumed by UDOT under the 6004 CE MOU.

- The Section 106 PA establishes two tiers of project review, based on the type of impacts to historic properties: Tier 1 projects are those that result in a finding of no historic properties affected, and do not require case-by-case review by the SHPO (following appropriate screening by UDOT; see Attachment 4 the PA); Tier 2 projects are those that result in a finding of no adverse effect or adverse effect, and require case-by-case review by the SHPO. UDOT submits determinations of eligibility, findings of effect, and cultural resource reports for projects that qualify as Tier 1 to the SHPO on a quarterly basis.

- For CEs processed under the 6004 CE MOU, UDOT has assumed the responsibilities of FHWA for complying with Section 106 and 36 CFR Part 800 (except for tribal consultation), and for Section 4(f). The PA defines the process by which UDOT will act as FHWA for Section 106 compliance purposes.

- UDOT maintains Professionally Qualified Staff (PQS) to carry out the terms of the 106 PA.

As in the 106 PA, the 404 PA establishes two tiers of project review, based on the type of impacts to historic properties. UDOT submits determinations of eligibility, findings of effect, and cultural resource reports for projects that qualify as Tier 1 to the SHPO on a quarterly basis. The 404 PA includes all other provisions of the 106 PA, except that FHWA and the Council are not involved and Section 4(f) does not apply. UDOT initiates tribal consultation at the discretion of the UDOT PQS, depending on the nature and scope of the undertaking. In general, UDOT would initiate consultation on the same type of projects for which consultation would be initiated under the 106 PA.

The UDOT has divided the state into four regions: Region 1 includes Box Elder, Cache, Davis, Weber, Morgan, and Rich counties; Region 2 includes Tooele, Salt Lake, and Summit counties; Region 3 includes Juab, Utah, Wasatch, Duchesne, and Daggett counties; and Region 4 includes Millard, Beaver, Iron, Washington, Sanpete, Sevier, Piute, Wayne, Garfield, Kane, Carbon, Emery, Grand, and San Juan

counties. Currently, Regions 1 and 2 have one archaeologist for both regions, Region 3 has one archaeologist, and Region 4 has two archaeologists. In addition, the UDOT headquarters in Salt Lake City has one architectural historian and the Cultural Resources Program Manager.

APPLICABILITY AND SCOPE

Stipulation I.I of the 106 PA is a provision that allows cooperating federal agencies who recognize FHWA as the lead federal agency for an undertaking to have FHWA act on their behalf in fulfilling their responsibilities under Section 106. The US Army Corps of Engineers (USACE), who is required to comply with Section 106 when issuing a permit under the Clean Water Act for a FHWA project, has been conducting their own Section 106 compliance for the issuance of the permit if they have not been involved in the Section 106 process during the FHWA project, which can cause delays on projects and result in two consultation letters submitted to SHPO for the same project. Because many FHWA projects require a permit from the USACE, in order to streamline the process, it is recommended that the Section 106 PA be amended to include the USACE, and that they become a signatory.

Recommendation: Amend the Section 106 PA to include the USACE as a signatory, and to clarify Stipulation I.I

CE DELEGATION

Under Section 6004 of SAFETEA-LU (Pub. L. 109-59), UDOT has assumed the responsibility for projects classified as CEs in the *Memorandum of Understanding Between Federal Highway Administration, Utah Division, and the Utah Department of Transportation for the State Assumption of Responsibility for Categorical Exclusions* (executed June 30, 2011), (CEs) (effective June 30, 2011; Attachment 1 of PA). For those projects processed as CEs under this delegation, UDOT has also assumed the responsibility for compliance with Section 106, 36 CFR 800, and Section 4(f) of the DOT Act of 1966. Under this MOU, the UDOT Executive Director is the "Agency Official" responsible for ensuring that the Federal-aid Highway Program complies with Section 106. FHWA retains the responsibility for Native American consultation.

FHWA's monitoring of the Section 106 delegation has identified no instances where UDOT has not satisfied the terms and conditions of the MOU. In accordance with the MOU, FHWA has been involved in some Section 106 issues on CE projects that have implications for the program.

Recommendation: No concerns or amendments have been identified.

PROFESSIONAL QUALIFICATIONS STANDARDS

All actions taken by UDOT under the authority of the PAs have been carried out by or under the direct supervision of a person who meets the Secretary of the Interior's Professional Standards, as published in 48 FR 44738-44739, and who has been permitted for archaeology by the State of Utah pursuant to U.C.A 9-8-305 and its implementing rules. UDOT has provided a Cultural Resources Program Manager (currently permitted for archaeology by the State of Utah) who oversees the implementation of the PAs to ensure professional standards are met and to maintain quality of work. The program manger submits the annual and quarterly reports after reviewing them for appropriateness, evaluating whether or not the PQS staff is properly taking into account the effects of projects on cultural resources, and determining that there is no loss in quality of work.

In FY2012, Regions 1, 2, and 3 each had one archaeologist and Region 4 had two archaeologists. The archaeologists for Regions 1 and 2 left UDOT during FY2012 and have recently been replaced with one archaeologist. Currently, UDOT maintains a staff of four region archaeologists. In addition, UDOT has provided for a full-time architectural historian who serves all four UDOT regions.
Recommendation: Continue to implement recommendations in annual report in regards to training, improving quality of work, and maintaining core competency.

TRAINING

The Cultural Resources Program Manager held an initial training for the rest of the UDOT PQS after it was executed in 2007. UDOT holds quarterly meetings and an annual meeting with the PQS to discuss cultural resource issues and/or receive training. Additional meetings with PQS and the regions are held as needed throughout the year and UDOT plans to increase the frequency of these meetings. When a new PQS is hired, he/she is provided training by a UDOT PQS and is sent to Section 106 training (if available locally). Additional training opportunities are provided as funding allows.

During FY2012, all UDOT PQS attended training on state NAGPRA, provided by Derrina Kopp, forensic archaeologists with the Utah Division of State History. UDOT PQS also viewed several webinars offered throughout the year by National Highway Institute and FHWA. Overall, UDOT training procedures appear to be adequate to help the regions stay consistent and to keep each PQS up to date on new processes and requirements. However, there are areas where core competency skills could be strengthened through additional training, as identified in the recommendations made in this report.

As part of the annual report for FY2011, skill assessments via phone were conducted in February 2012 with all region PQS to assess their understanding and knowledge of the Section 106, 9-8-404, and Section 4(f) processes. Each PQS was asked ten short-answer questions (Appendix 1). The responses indicated that the PQS have a solid understanding of the PA procedures, 6004 CE delegation, and the Section 106 and Section 404 processes, but are somewhat unclear on the Section 4(f) process. The PQS all demonstrated their thoroughness in consultation with Native American tribes, Certified Local Governments (CLGs), and other potentially interested parties, such as local historical groups. The skill assessments also suggested that the region PQS may not be fully utilizing UDOT's architectural historian on projects (e.g., establishing the area of potential effects, determining the type of architectural survey needed, evaluating site significance for historical archaeological sites, and developing mitigation measures). Skill assessments have not been conducted for the FY2012 annual report though UDOT will continue to use the results of the FY2011 assessment to address core competency skills and identify training needs.

Recommendations: 1) Introductory-level Section 106 training and Advanced-level Section 106 training; 2) Section 4(f) training; and 3) Increased informal training and review sessions to help PQS maintain skill sets.

CONSULTATION WITH NATIVE AMERICAN TRIBES

UDOT staff has made good-faith efforts to consult with Native American tribes on project and include tribal governments who have demonstrated an interest in participating as a Section 106 consulting party. The PQS seek to actively engage tribes on projects of concern through letters, phone calls, emails, and meetings when necessary. FHWA and UDOT have executed four programmatic agreements (Tribal PAs) with tribal governments documenting alternative procedures for consultation under Section 106, and are

in the process of executing additional agreements. Each of the Tribal PAs authorizes UDOT to consult with the tribe on any matter pertaining to the agreements, although FHWA remains responsible and will honor any request by a tribe for government-to-government consultation, not withstanding any provisions of the agreements. The Tribal PAs also identify projects that are exempted from review, which include projects that are unlikely to have the potential to cause effects to historic properties or projects located outside of areas of interest to the tribe. The Tribal PAs are with the following tribal governments:

- Confederated Tribes of the Goshute Indian Reservation, executed on July 29, 2008.
- Cedar Band of Paiute Indians, executed on September 29, 2008.
- Indian Peaks Band of Paiute Indians, executed on September 29, 2008.
- Shivwits Band of the Paiute Indians, executed on April 22, 2011.

Tribal consultation under the 404 PA, although initiated at the discretion of the UDOT PQS, is generally done for the same type of projects for which consultation would be initiated under the 106 PA.

UDOT has developed a tracking form for the Tribal PAs that documents on which projects consultation was done and describes tribal responses, concerns, and resolution of concerns. The form also lists those projects for which consultation was not conducted and which exemption applied. Annual reports (based on the federal fiscal year) are prepared for each Tribal PA which provides information on projects processed under the PA that were exempted from individual review. These reports are posted on UDOT's Environmental Services webpage and are available upon request.

The Tribal PAs are an effective streamlining tool by improving project delivery while ensuring that effects to cultural resources as a result of federal-aid projects are appropriately taken into account. A time savings by UDOT of 30 days per project is realized on exempted projects that do not require tribal notification. The tribes also realize time savings since they do not have to review individual notifications on every project. The Tribal PAs ensure that the tribes are provided opportunities to participate fully in the Section 106 consultation process.

Project notification to tribes other than those with which FHWA and UDOT have PAs is based primarily on geographic proximity of the reservations to the project, or known areas of interest. Responses received rarely indicate any specific project-related concerns but often express interest in keeping the tribe informed of projects, if a known site will be adversely affected, or if human remains are discovered. Additional PAs with these tribes will aid in understanding their areas of interest and identifying projects of potential concern.

Two notable examples of tribal consultation occurred on the Southern Parkway Corridor project and the Aneth Lighting project, both in Region 4. On the Southern Parkway project, the region archaeologist consulted with the Paiute and Hopi tribes in regards to finding a suitable burial location for human remains discovered during construction. On the Aneth Lighting project, the region archaeologist worked closely with the Navajo Nation to reach a successful closure to the project. In both cases, the tribes were very appreciative of UDOT's efforts.

Recommendations: 1) Continue to work towards developing agreements with other tribes to streamline the Section 106 process; 2) Meet with the tribes with whom FHWA and UDOT have PAs to discuss ways to improve the process, and any changes that need to be made; and 3) Continue to evaluate the effectiveness of current consultation procedures to ensure meaningful consultation.

PARTICIPATION OF OTHER CONSULTING PARTIES

UDOT staff has made good-faith efforts to identify and include representatives of local governments and individuals and organizations with a demonstrated interest in undertakings (such as the Utah Heritage Foundation and the Utah Professional Archaeological Council). UDOT seeks and considers the views of the public by providing the public with information about the undertaking and its effects on historic properties. This is not only accomplished through public meetings held in conjunction with the NEPA compliance, but also through presentations at city council meetings, historical society meetings, and notices of adverse effect. For projects that will affect historic buildings, representatives of the CLGs are routinely contacted and are invited to be consulting parties on projects. The UDOT PQS has found that some CLGs and their representatives are unaware of the benefits of National Register, Preserve America, and other programs that could reinforce community awareness of historic preservation and its benefits.

During FY2012, the UDOT architectural historian and the region PQS have continued to actively notify local preservation organizations, primarily CLGs, of potential impacts of UDOT projects to eligible properties, and solicit their comments. These efforts have increased the awareness of Section 106 and the role of communities in the consultation process among the city officials and volunteers who serve on local preservation commissions and the city planners who serve the CLGs. Depending on the project impact and the interest expressed by historic preservation representatives, the mitigation of adverse effects can further long-term historic preservation goals of these communities.

One successful instance of consultation occurred in FY2012 with the mitigation commitments on the I-15 South Layton Interchange Project in Davis County. The UDOT Architectural Historian consulted with the City of Layton and the Utah Heritage Foundation regarding the resolution of adverse effects to the historic Layton Train Depot building. UDOT funded a historic structure report, prepared by CRSA Architects, and the Utah Heritage Foundation agreed to accept an easement on the property. Layton agreed to acquire the property and plans to find a tenant or owner who will respect the integrity of the building during future use.

Additionally, the Utah Professional Archaeological Council and the Utah Statewide Archaeological Society participated in the consultation for the Provo Westside Connector Project in Utah County.

Recommendation: For certain projects that adversely affect historic buildings, the PQS should continue to expend effort in engaging CLGs and other stakeholders in the resolution of adverse effects.

UPDATE ON MITIGATION COMMITMENTS

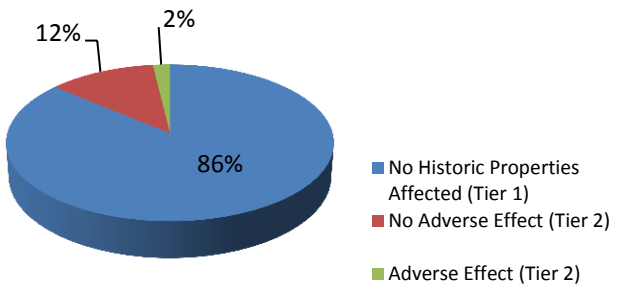
In FY2012, UDOT executed 5 new memorandum of agreements (MOA) for the resolution of adverse effects on the following projects: Provo Westside Connector (Utah County), I-15 MP 0-16 Environmental Assessment (Washington County), SR-105 and SR-106 Intersection Improvements (Centerville), and two surplus property sales (Salt Lake County). The stipulations of 4 MOAs were fulfilled on the following projects: Cottonwood Street (Murray), 5400 South and Bangerter (Kearns), and two surplus property sales (Salt Lake County).

Significant progress has been made on several MOAs: South Layton Interchange Project (mentioned above), 200 East Minor Arterial (Logan), Mountain View Corridor (Salt Lake County), SR-105 and SR-106 Intersection Improvements (Centerville), and Southern Parkway (Washington County). Approximately 20 MOAs remain in progress and are on schedule for completion.

PROJECT REVIEW

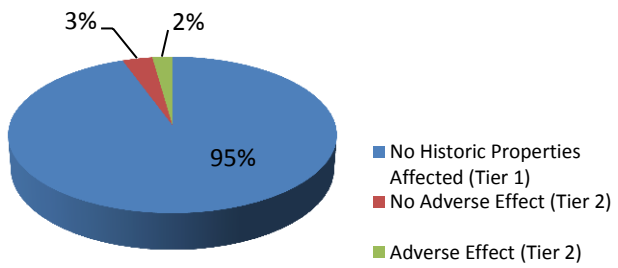
According to data provided by the UDOT Regions, between October 1, 2011 and September 30, 2012, UDOT processed 159 Federal-aid Highway Program projects. As depicted in Figure 1, a majority of the projects (137) were exempted from further review after appropriate screening by the PQS (Tier 1 projects: No Historic Properties Affected). Twenty-two projects required external review by the SHPO (Tier 2 projects). Of the Tier 2 projects, 19 projects resulted in no adverse effect findings and 3 resulted in an adverse effect finding. A list of all federal-aid projects is included as Appendix 2 of this report.

Figure 1. FY2012 Federal-aid Projects



According to data provided by the UDOT Regions, between October 1, 2011 and September 30, 2012, UDOT processed 90 state-funded highway projects and encroachment projects during FY2012. The majority of these (85) were exempted from further review after appropriate screening by the PQS (Tier 1 projects; No Historic Properties Affected) (Figure 2). Five projects required external review by the SHPO (Tier 2 projects). Of the Tier 2 projects, 3 projects resulted in no adverse effect findings and 2 resulted in adverse effect findings. A list of all state-funded projects is included as Appendix 2 of this report.

Figure 2. FY2012 State-funded Projects



In FY2012, 159 federal-aid projects were processed as CEs. Of those, 137 were processed under the 6004 CE MOU delegation, which gave UDOT the authority and responsibility for Section 106 compliance. Seven were processed as non-delegated CE documents, which required FHWA approval. UDOT staff

processed four projects as Environmental Assessments (EA) and two projects as re-evaluations of Environmental Impact Statements (EIS). Clearances were completed for two projects in compliance with the 106 PA, but environmental documents were not required. These were supplemental clearances for material storage areas identified after the environmental document was completed.

In FY2012, 63 state-funded projects were processed as state environmental studies, requiring compliance under 9-8-404. Clearances were completed for 25 projects in compliance with the 404 PA, but environmental documents were not required. These were primarily utility projects that required an encroachment permit from UDOT, as well as clearances for the sale of surplus properties.

On federal-aid projects, a total of 54 new archaeological sites and 202 new architectural properties were recorded during FY2012 (Figures 3 and 4). Of the archaeological sites, 30 were determined eligible for the National Register of Historic Places (NRHP). Of the architectural properties, 139 were determined eligible for the NRHP.

Figure 4. Architectural Properties Recorded - Federal Projects

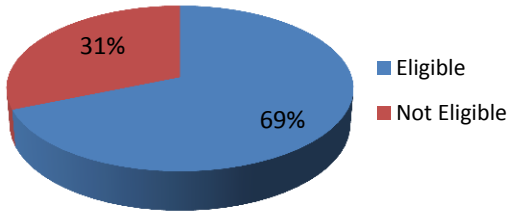
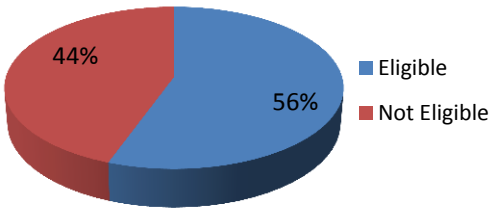
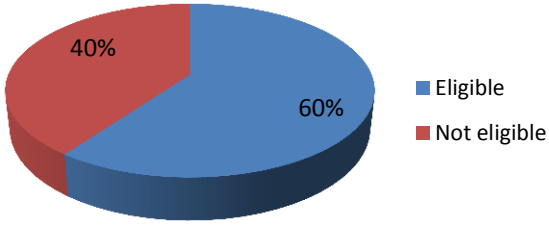


Figure 3. Archaeological Sites Recorded - Federal Projects

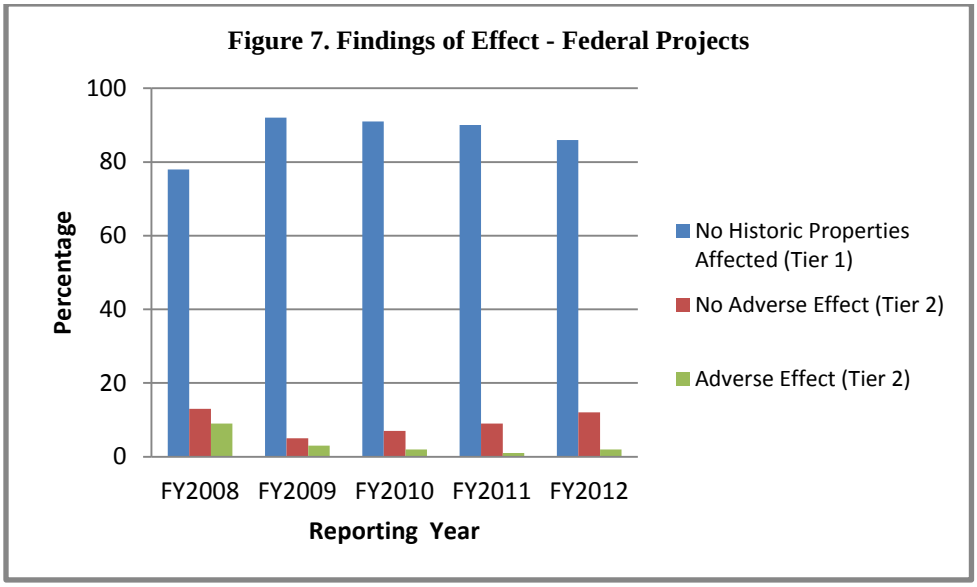


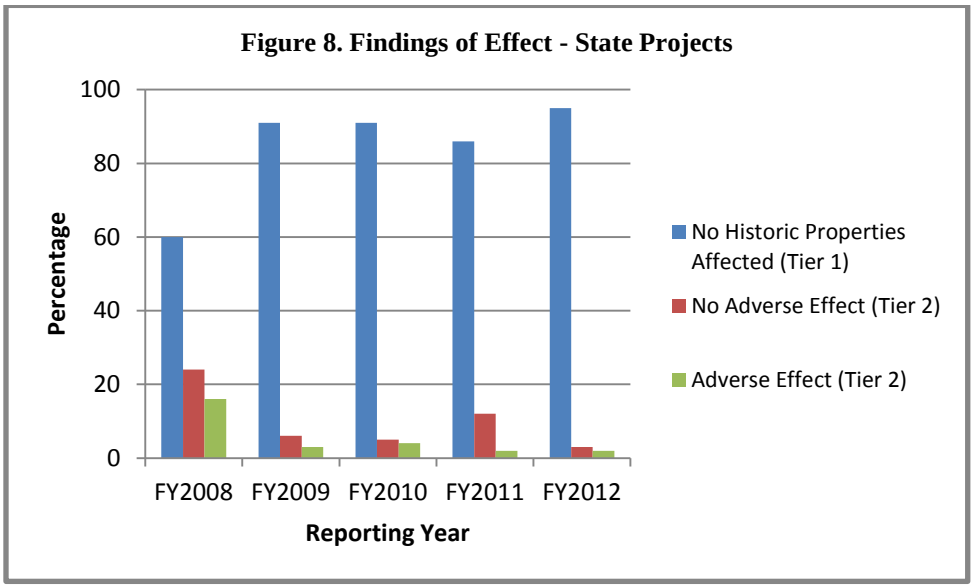
On state-funded projects, a total of 10 new archaeological sites and no new architectural properties were recorded during FY2012 (Figure 5). Of the archaeological sites, 6 were determined eligible for the NRHP.

Figure 5. Archaeological Sites Recorded - State Projects



The findings of effect from the five years the PAs have been in place were compared to determine if there are any trends that may indicate areas of concern (Figures 6 and 7).





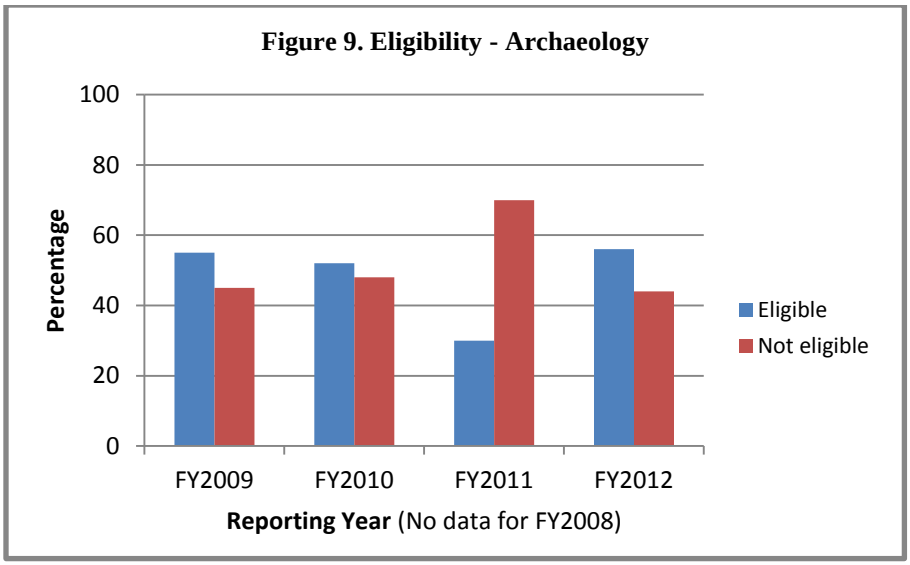
The findings of effect for the past four reporting years (both federal projects and state projects) have been very similar to each other in regards to the higher number of projects with no historic properties affected and fewer no adverse effect and adverse effect findings. The results for FY2008 are quite different (especially for state projects), with a smaller percentage of no historic properties affected findings and a higher percentage of no adverse effect and adverse effect findings. This information was not tracked prior to the implementation of the PA in FY2008 and the effect findings for previous years are unknown. A reason for the variation seen in FY2008 has not yet been identified but UDOT will continue to evaluate the trend data.

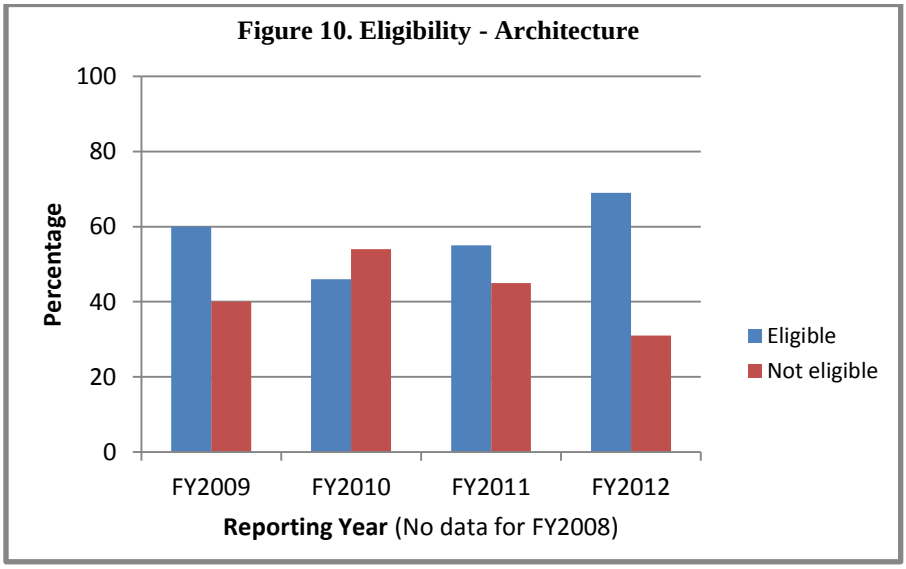
FY2009-2011 experienced an increase in federal economic stimulus projects and an increase in state-funded projects which could account for the increase in no historic properties affected findings. The majority of these projects are types of projects that are less likely to affect historic properties (maintenance, pavement preservation, etc.). Though a slightly higher percentage of no adverse effect findings were reported for FY2011 (especially for state funded projects), the results overall for FY2011 appear to remain consistent with the previous two reporting years. FY2012 shows a slight decrease in no historic properties affected findings and an increase in no adverse effect findings for federal projects as compared to the previous years. For state projects, there is a slight increase in no historic properties affected findings and a decrease in no adverse effect findings as compared to the previous years. Adverse effect findings for both federal and state projects continues to remain very low.

The number of federal projects processed in FY2012 was slightly lower than in FY2011 (though only by a few projects) but higher than FY2010. FY2009 saw a significant increase in projects due to economic stimulus funds. The number of state projects processed in FY2012 was considerably higher than in previous years. Since no federal economic stimulus funds were received in FY2012, this cannot account for the continued high number of federal projects. However, as with previous years, the majority of projects continue to be types of projects that are less likely to affect historic properties. For state projects in FY2012, no adverse effect findings have decreased from FY2011 but are consistent with the findings in FY2009-2010. Continued tracking of types of projects may indicate if the effect findings are due to the nature of the project or funding sources.

Overall, the data suggests that the PQS are consistent in their determinations of effect and their implementation of the PAs, for both federal and state projects. FY2009-2012 show similar patterns in effect determinations with only slight variations—Tier 1 projects comprise approximately 85-90% of all projects processed and Tier 2 projects account for the remaining 10-15% of projects. The Cultural Resources Program Manager reviews finding of effect determinations (quarterly for Tier 1 projects and individually for Tier 2 projects) as a quality assurance measure and has not identified any concerns. Additionally, the Utah SHPO reviews all finding of effect determinations when submitted and has not identified any concerns. It is possible that there is a correlation between the effect findings and the types of projects and this may be an area for further analysis. UDOT will continue to track effect findings in order to provide a risk based assessment of the program and will identify ways to better evaluate the trend data.

The eligibility evaluations from the past four reporting years were compared to determine if there are any trends that may indicate areas of concern (Figures 8 and 9). This information was not tracked for the FY2008 reporting year. The proportions of determinations of eligibility have varied for the past four reporting years, though no clear reason for this has been identified. The Cultural Resources Program Manager reviews eligibility determinations (quarterly for Tier 1 projects and individually for Tier 2 projects) as a quality assurance measure and has not identified any problems or inconsistencies. Based on discussions with the PQS, the PQS have a solid understanding of the criteria for determining eligibility and are consistent in their application of the criteria. UDOT will continue to evaluate the reasons for variations.





Recommendation: 1) Tracking of effect and eligibility will continue in order to provide a risk based assessment of the program; and 2) Identify ways to track and compare project types and/or funding sources to effect findings.

POST-REVIEW DISCOVERIES, INADVERTENT EFFECTS OR FORECLOSURE

No post-review discoveries, inadvertent effects or foreclosures occurred in FY2012.

Recommendation: While the PQS are familiar with the notification procedures for discoveries, informal ongoing reviews of the procedures would be beneficial to better prepare in case of future discoveries.

SECTION 4(f) COMPLIANCE

Under the 6004 CE MOU, UDOT has assumed the responsibilities of FHWA for complying with Section 4(f) of the DOT Act of 1966. Section 4(f) impact findings to historic properties are based on Section 106 determinations of effect and require notification to SHPO of the Section 4(f) impact finding. FHWA has an executed agreement with SHPO regarding the notification of Section 4(f) *de minimis* impact findings (Appendix 3).

In accordance with 36 CFR §800.3(c)(4), the 106 PA states that "If the SHPO/THPO fails to respond within 30 days of receipt of a request for review of a finding or determination, the agency official may either proceed to the next step in the process ... or consult with the Council in lieu of the SHPO/THPO." However, in order to make a *de minimis* impact finding under Section 4(f), written concurrence from the SHPO is needed on a Section 106 finding of no adverse effect or no historic properties affected. This apparent contradiction was addressed in the FHWA *Guidance for Determining De Minimis* issued on December 13, 2005: "FHWA or FTA must inform the SHPOs and THPOs who are parties to such PAs, in writing, that a non-response that would be treated as a concurrence in a 'no adverse effect' or 'no historic properties affected' determination will also be treated as the written concurrence for purposes of the FHWA or FTA *de minimis* impact finding. It is recommended that this understanding of the parties be documented by either appending the written notice to the existing PA, or by amending the PA itself." The agreement between FHWA and SHPO regarding the notification of *de minimis* impact findings satisfies this requirement.

Because Section 4(f) requires written concurrence from SHPO on a finding of no historic properties affected (as well as no adverse effect) in order to make a *de minimis* impact finding, the Tier 1 projects defined in the 106 PA appear to not be in compliance with Section 4(f). However, the 106 PA defines a finding of no historic properties affected as one of the following: no sites present, no eligible sites (historic properties) present, or historic properties present but completely avoided. None of these scenarios would lead to a *de minimis* impact finding.

Stipulation IX.C.1. of the 106 PA states that, "Where historic property boundaries have not previously been established, the PQS may identify recommended boundaries…". Both Section 106 and Section 4(f) require boundaries to determine effect and use.

Recommendations: 1) The Section 4(f) *de minimis* agreement between FHWA and SHPO should be added as an attachment to the PA and language added where appropriate; 2) Section 4(f) requirements should be incorporated where appropriate and language clarified to ensure that the PA does not contradict them; and 3) Change the language in Stipulation IX.C.1. to require that boundaries be established for every historic property.

ADMINISTRATIVE STIPULATIONS

Documentation

The data provided by the regions suggest that all documentation supports the findings and determinations made under the Agreements, is consistent with 36 CFR 800.11, and has been processed in accordance with the *UDOT Guidelines For Identifying, Recording, and Evaluating Archaeological and Paleontological Resources* (previously titled *UDOT Guidelines for Archeological Survey and Testing*). Documentation prepared by consultants has been reviewed and approved by the PQS prior to submission to SHPO. No concerns or amendments have been identified.

Monitoring Implementation

A copy of this report has been provided to FHWA, Utah SHPO, USACE, and the Council 30 days before the Annual Monitoring Meeting (emailed on March 8, 2013 and mailed via USPS on March 12, 2013). The Annual Monitoring Meeting with the signatories has been scheduled for April 9, 2013 to discuss the findings presented in this report and to offer the opportunity for the signatory parties to propose amendments to the PA. The signatories will have an opportunity to comment on the recommendations made in this report during the 30 day comment period and at the annual meeting. If the recommendations made in this report are agreed upon by all signatories, they will be implemented.

A notice of availability was sent by letter in March 2013 to federal and state agencies, Native American tribes, and other interested parties, including the Utah Heritage Foundation, Utah Historical Society, and Utah Professional Archaeological Council. A notice of availability for public inspection was issued by electronic distribution through the email list services of the Utah SHPO's Historic Preservation, Utah Professional Archaeological Council, Utah Statewide Archaeological Association, and Utah Public Lands Policy Coordination Office (Archaeological Permitting Office) (Appendix 4). The report was also posted on the Environmental Services webpage on UDOT's website.

ESTIMATED TIME AND COST SAVINGS

Implementation of the PAs has substantially reduced the UDOT region PQS's workload. Although each is required to complete a Tier 1 Screening Form and enter information into a database for every project, they no longer are required to prepare the consultation materials on the determination of eligibility and effect for each project. The Tier 1 screening form is filled out for every Tier 1 project and the project added to the region's tracking spreadsheet. The screening form and the spreadsheet take approximately 60 minutes to complete for each project. For the 221 Tier 1 projects processed in FY2012, this resulted in approximately 221 hours of documentation-related work, spread out over the region archaeologists during the year. SHPO consultation materials require on average 6 hours of documentation-related work. If SHPO consultation was conducted for each of these 221 Tier 1 projects, the PQS would have spent approximately 1,326 hours preparing the documentation. By following the procedures of the PAs, UDOT has realized a savings of approximately 1,105 hours for the PQS.

Administration of the PAs has required additional staffing hours and administrative duties in the UDOT Environmental Services Division that were not required prior to implementation of the PAs. The Cultural Resources Program Manager receives the Tier 1 projects from each region PQS, conducts QC on them, and compiles them to submit to SHPO and FHWA on a quarterly basis. Each quarterly submission requires an average of 15 hours, depending on the number of projects, resulting in approximately 60 hours of administrative effort over the year. The Cultural Resources Program Manager also prepares the Annual Monitoring Report, which requires approximately 120 hours. Over the course of the year, administration of the PAs require approximately 180 hours.

The real time savings and the greatest benefit to UDOT are in reduced project delivery times. On Tier 1 projects, UDOT saved between 15 and 30 days per project by not having to request SHPO concurrence, which allows projects to move forward to advertising and construction much quicker, particularly those for which a CE was completed. This time savings is most noticed on routine projects involving roadway maintenance and on projects in urban areas were little potential exists for impacting cultural resources. This provision also saves SHPO staff time in not having to review documentation, except on a quarterly basis, for projects that will not affect historic properties. By eliminating from SHPO review routine projects and those that do not affect historic properties, SHPO staff is able to concentrate on the limited number of projects that will adversely affect historic properties. Since the PAs were first implemented,

UDOT has noticed a significant increase in response times from SHPO on DOEFOEs, APE notification, and project-related questions.

Implementation of the PA has not substantially changed FHWA's workload because UDOT had been operating in a similar framework since the 1990 delegation agreement between FHWA, SHPO, and UDOT.

Recommendation: UDOT will continue to identify measures to streamline the tracking and reporting processes.

PUBLIC OBJECTIONS

No public objections have been communicated to UDOT or FHWA.

IMPLEMENTATION OF RECOMMENDATIONS FROM FY2011

- Provide both Introductory-level Section 106 training and Advanced-level Section 106 training for PQS.
  Training has not yet been scheduled.

- Additional training with the PQS is needed to clarify the Section 4(f) process, specifically the procedures for notifying SHPO of a Section 4(f) finding.
  Additional training was done through the quarterly meetings. The regions have demonstrated their understanding of the procedures, and there were no new processes or requirements to implement. Additional reviews will be done as needed.

- Review with the region PQS the role of the architectural historian, specifically how to utilize her as resource in determining the level of identification efforts for architectural properties, evaluating site significance for historical archaeological sites, and determining mitigation measures.
  Additional training was done through the quarterly meetings. The architectural historian now reviews field work authorization forms to better facilitate early coordination on projects. The regions routinely involve the architectural historian on projects.

- Develop standard templates to ensure the correct regulatory language is included in correspondence.
  Standard templates have been developed and are currently being used by the PQS.

- Revise Tier 1 Screening Form to provide specific sections for explanatory text or additional relevant information.
  The Tier 1 form has been revised and is currently being used by the PQS.

- Evaluate the need for additional QA/QC procedures.
  UDOT has evaluated this need and determined that while quality can be improved in some areas, additional QA/QC procedures are not needed at this time. A formal process has not been implemented; however the Cultural Resources Program Manager reviews all Tier 1 clearances, DOEFOEs, MOAs, and project-related documentation as an informal quality measure.

- Additional clarification with the PQS is needed regarding the difference between Federal NAGPRA and Utah NAGPRA.
  Training was provided by Derrina Kopp, Forensic Archaeologist with the Utah Division of State History. The regions have demonstrated their understanding of the procedures, and there were no new processes or requirements to implement. Additional reviews will be done as needed.

- Review the notification procedures for discoveries to ensure continued compliance with the PA stipulations.
  Additional training was done through the quarterly meetings. The regions have demonstrated their understanding of the procedures, and there were no new processes or requirements to implement. Additional reviews will be done as needed.

- Increased informal training and review sessions to help PQS maintain skill sets.
  Additional training was done through the quarterly meetings.

- Amend the Section 106 PA to include the USACE as a signatory.
  Amendments to the PA have been drafted but have not yet been implemented.

- Amend the Section 106 PA to clarify Stipulation I.I. regarding other federal agencies and consider adding them as concurring parties to the PA.
  Amendments to the PA have been drafted but have not yet been implemented.

- Continue to work towards developing agreements with other tribes to streamline the Section 106 process.
  UDOT and FHWA are continuing to work on developing additional agreements, though no new agreements have been negotiated yet.

- Meet with the tribes with whom FHWA and UDOT have PAs to discuss ways to improve the process, and any changes that need to be made.
  UDOT and FHWA intend to meet with tribes to discuss existing PAs.

- Tracking of eligibility and effect will continue in order to identify areas of concern or need for additional analysis.
  The PQS has continued to track eligibility and effect.

- The Section 4(f) *de minimis* agreement between FHWA and SHPO should be added as an attachment to the PA and language added where appropriate.
  Amendments to the PA have been drafted but have not yet been implemented.

- Section 4(f) requirements should be incorporated where appropriate and language clarified to ensure that the PA does not contradict them.
  Amendments to the PA have been drafted but have not yet been implemented.

- Change the language in Stipulation IX.C.1. to require that boundaries be established for every historic property.
  Amendments to the PA have been drafted but have not yet been implemented.

- Change the language in Stipulation IX.C.4.d to allow more flexibility for public notification of adverse effects (in accordance with 36 CFR 800).
  Amendments to the PA have been drafted but have not yet been implemented.

- Continue to expend effort in engaging CLGs and other stakeholders in the resolution of adverse effects.
  Consultation with CLGs and other interested parties routinely occurs on projects and will continue.

- The various tracking forms used to compile this report as well as the tribal PA reports should be revised and consolidated to decrease data entry time and time spent by the PQS compiling the information for the reports.
  The tracking forms have been consolidated and a new tracking form is currently being used by the PQS.

RECOMMENDATIONS FROM FY2012 REVIEW

- Amend the Section 106 PA to include the USACE as a signatory and to clarify Stipulation I.I. regarding other federal agencies.

- Provide both Introductory-level Section 106 training and Advanced-level Section 106 training for PQS.

- Provide Section 4(f) training for PQS.

- Increased informal training and review sessions to help PQS maintain skill sets, especially regarding discovery procedures, role of architectural historian, and document quality.

- Continue to work towards developing agreements with other tribes to streamline the Section 106 process.

- Meet with the tribes with whom FHWA and UDOT have PAs to discuss ways to improve the process, and any changes that need to be made.

- The Section 4(f) *de minimis* agreement between FHWA and SHPO should be added as an attachment to the PA and language added where appropriate.

- Section 4(f) requirements should be incorporated where appropriate and language clarified to ensure that the PA does not contradict them.

- Change the language in Stipulation IX.C.1. to require that boundaries be established for every historic property.

- Amend the Section 106 PA to incorporate other changes as previously discussed (i.e., public involvement procedures, reporting dates for quarterly reports).

- Tracking of effect and eligibility will continue in order to provide a risk based assessment of the program.

- Identify ways to track and compare project types and/or funding sources to effect findings.

- Continue to identify ways to improve processes and improve quality of work.

ANNUAL MONITORING REPORT ASSESSMENT AND RECOMMENDATIONS

The PAs continue to accomplish the goals of the signatory agencies, as evidenced by the results of this annual report. It has improved project delivery by resulting in considerable project cost and time savings for UDOT. It has also succeeded in reducing the workload of the SHPO staff in that fewer UDOT projects required external review.

UDOT finds that the PAs remain an efficient and effective program alternative for taking into account effects of the Federal-aid Highway Program on historic properties and for affording the ACHP a reasonable opportunity to comment on undertakings covered by the PAs. UDOT recommends that the PAs remain in effect. Recommendations have been made in this report to amend the PAs to add clarifying language and provide for additional training.

APPENDIX 1: SKILLS ASSESSMENT

FY2011 PQS SKILLS ASSESSMENT QUESTIONS

Note: Skills assessment for FY2012 was not conducted and UDOT will continue to use the results from the FY2011 assessment to address core competency needs.

1) Under the CE MOU delegation, FHWA has assigned certain responsibilities to UDOT for processing CEs. How does this relate to Section 106? To Native American consultation?

2) What are the differences between a Section 106 action and a 9-8-404 action? How does that affect the cultural resources evaluation and documentation? (Follow up: what if funding changes?)

3) Describe the process for notifying the SHPO of a Section 4(f) de minimis finding.

4) Describe the process for notifying the SHPO of a Section 4(f) non-de minimis (complete use) finding.

5) In evaluating eligibility and effect, what is the difference between the terms "determination" and "recommendation"? Why does that matter to UDOT?

6) Explain the role of UDOT's Architectural Historian on projects involving architectural resources.

7) What are the differences between Federal NAGPRA and State NAGPRA?

8) Describe the procedures to be followed for an inadvertent project discovery without prior planning?

9) List the stakeholders you might consult on a project (for both archaeological and architectural resources). How would you go about consultation?

10) What resources do you consult when you have project-related questions?

APPENDIX 2: PROJECT TRACKING

FY2012 ANNUAL REPORT: SECTION 106 PROJECTS (October 1, 2011 to September 30, 2012)

Region	PIN	Project Number	Project Name	Environmental Document	Antiquities Project Number	Sites/Properties*		Finding of Effect
						Total	Eligible	
1	3520	STP-1232(1)1	Hyde Park, North Logan Transportation Corridor, Cache County	EIS re-eval.	NA	4B	2B	No Historic Propeties Affected
1	5522	F: HPP-0158(116)0	SR-158 Improvements, Weber County	CE	U-11-EP-0177p	1A	0	No Historic Propeties Affected
1	7928	F-LC05(37)	Logan Canyon Gateway Trail, Phase 1, Cache County	CE	U-11-JM-0503s	0	0	No Historic Propeties Affected
1	8559	F-LC57(24)	Adams Avenue; City Limits to US-89	CE	U-12-LI-0567s	0	0	No Historic Propeties Affected
1	8618	F-LC03(15)	Malad River Bridge	CE	U-12-LI-0242p	1B	0	No Historic Propeties Affected
1	8836	F-I15-8(134)336	SR-103 to SR-97, Auxiliary Lane, Davis and Weber Counties	CE	U-11-ST-0436s	2A	2A	No Historic Propeties Affected
1	9551	F-0126(18)3	SR-126; SR-108 to Weber River, West Haven, Weber County	CE	NA	0	0	No Historic Propeties Affected
1	9553	F-0165(8)5	SR-165, SR-101 to Ballard Springs	CE	NA	0	0	No Historic Propeties Affected
1	9554	F-0089(285)398	US-89, Cherry Hills to 200 N, Kaysville and Fruit Heights, Davis County	CE	NA	0	0	No Historic Propeties Affected
1	9565	F-I84-6(107)92	I-84; Mountain Green to Morgan, Proposed Access Points, Morgan County	CE	NA	0	0	No Historic Propeties Affected
1	9568	F-0104(8)1	SR-104; I-15 to Wall Avenue, Ogden and West Haven, Weber County	CE	NA	0	0	No Historic Propeties Affected
1	9570	F-0089(289)412	US-89; 40th Street to 36th Street, Ogden, Weber County	CE	NA	1A	1A	No Historic Propeties Affected
1	9618	F-R199(107)	Pavement Markings, Box Elder County	CE	NA	0	0	No Historic Propeties Affected
1	9937	F-R199(103)	Deer Fencing (Regionwide), Box Elder and Cache County	CE	NA	0	0	No Historic Propeties Affected
1	9941	F-R199(104);	Wildlife Signing (Region wide), Box Elder, Weber, Rich, and Davis Counties	CE	NA	0	0	No Historic Propeties Affected
1	10273	F-R199(110)	Micro-Surfacing, Various Locations, Region One, Davis and Weber Counties	CE	NA	0	0	No Historic Propeties Affected
1	10275	F-R199(130)	Microsurface Various Locations Davis & Weber Counties	CE	NA	0	0	No Historic Propeties Affected
1	10285	F-0089(302)386	US-89, Lagoon to Cherry Hills, Farmington, Davis County	CE	NA	0	0	No Historic Propeties Affected
1	10293	F-0091(47)19	US-91, SR-101 to 3200 South, Cache County	CE	NA	0	0	No Historic Propeties Affected
1	10294	F-R199(109)	I-15, Ramps at SR-103, SR-97, and SR-26, Weber and Davis Counties	CE	NA	0	0	No Historic Propeties Affected
1	10296	F-I15-8(143)362	I-15, SR-91 to SR-13	CE	NA	0	0	No Historic Propeties Affected
1	10298	F-0089(293)414	US-89, 26th to 22nd, Ogden, Weber County	CE	NA	0	0	No Historic Propeties Affected
1	10301	F-0089(295)487	US-89, SR-243 to Rich County, Cache County	CE	NA	0	0	No Historic Propeties Affected
1	10302	F-0091(46)22	US-91, 3200 South to SR-165, College Ward and Logan, Cache County	CE	NA	0	0	No Historic Propeties Affected
1	10367	F-0039(22)14	SR-39; SR-158 to SR-167, Weber County	CE	NA	0	0	No Historic Propeties Affected
1	10379	F-I84-6(111)81	I-84; I-15 to SR-26, Riverdale, Weber County	CE	NA	0	0	No Historic Propeties Affected
1	10551	F-0126(19)15	SR-126 Turn Lanes at 700 South, Marriott-Slaterville, Weber County	CE	NA	0	0	No Historic Propeties Affected
1	10553	F-R199(118)	SR-30 & US-89 Rumble Strips	CE	NA	0	0	No Historic Propeties Affected
1	10729	F-I84-6(113)82	I-84; SR-26 to SR-89, Riverdale, Weber County and South Weber, Davis County	CE	NA	0	0	No Historic Propeties Affected
1	10367	F-0039(22)14	SR-39; SR-158 to SR-167, Weber County	CE	NA	3B	2B	No Historic Propeties Affected
1	None	RTP FY 11(001)(13)	Weber Pathways Rail Trail Bridge	CE	NA	0	0	No Historic Propeties Affected
2	6587	F-0048(22)8	SR-48; 7800 South and Airport Road Addendum	CE	NA	0	0	No Historic Propeties Affected
2	6719	F-I80-4(147)143	I-80; High UTE to Fire Station	CE	NA	0	0	No Historic Propeties Affected
2	8100	F-0172(20)0	SR-172, 5600 West; 6300 South to 7000 South	CE	NA	0	0	No Historic Propeties Affected
2	8110	F-LC35(202)	Fort Union and Highland Intersection	CE	NA	0	0	No Historic Propeties Affected
2	8597	F-LC45(11)	Stansbury Park and Ride	CE	NA	1A	1A	No Historic Propeties Affected
2	9441	F-0186(17)4	SR-186; 700 E to 1300 E	CE	NA	1A	1A	No Historic Propeties Affected
2	9612	F-R299(148)	SR-266, SR-152, US-40 Median Cable Barrier	CE	NA	3A	3A	No Historic Propeties Affected
2	9687	F-R299(156)	400 S. St. to 300 W. & 300 W. 400 S. to N. Temple	CE	NA	2A	2A	No Historic Propeties Affected
2	9688	F-0171(36)10	SR-171 (3300 South), 70 West to State Street	CE	NA	1A	1A	No Historic Propeties Affected
2	9693	F-0154(69)0	SR-154; 13800 Junction to I-15	CE	NA	0	0	No Historic Propeties Affected
2	9695	F-0209(26)9	SR-209; 700 E to 1300 E	CE	NA	1A	0	No Historic Propeties Affected
2	9770	F-0224(15)5	SR-224; Marsac Roundabout to High School on SR-248	CE	NA	1A	0	No Historic Propeties Affected
2	9859	F-0040(94)7	US-40 Wildlife Fencing, MP 1.3 to MP 4	CE	NA	0	0	No Historic Propeties Affected
2	10004	F-209(25)7	SR-209; 9000 South and 700 West	CE	NA	0	0	No Historic Propeties Affected
2	10006	F-0154(67)6	13400 S. and Bangerter	CE	NA	0	0	No Historic Propeties Affected
2	10019	F-R299(143)	500 West; North Temple to 300 North	CE	NA	1A	1A	No Historic Propeties Affected
2	10081	F-LC45(10)	Grantsville Park and Ride	CE	NA	0	0	No Historic Propeties Affected
2	10086	F-R299(129)	I-215; Barrier Replacement, Various Locations	CE	NA	0	0	No Historic Propeties Affected
2	10087	F-R299(130)	I-80, Pipe Liner Replacement, Various Locations	CE	NA	0	0	No Historic Propeties Affected
2	10161	F-R299(146)	I-80 Median Barrier MP 183.5 to 195.4	CE	NA	0	0	No Historic Propeties Affected
2	10182	F-I84-6(109)119	I-84, Echo Frontage Rd., Bridge Replacement D-783	CE	NA	2A	1A	No Historic Propeties Affected
2	10194	F-R299(132)	Widening 4 miles of EB SR-210	CE	NA	1A	1A	No Historic Propeties Affected

FY2012 ANNUAL REPORT: SECTION 106 PROJECTS (October 1, 2011 to September 30, 2012)

2	10236	F-R299(133)	Droubay Rd., Roadway Improvements at RR Crossing	CE	U-12-EV-0101s	2A	2A	No Historic Propeties Affected
2	10417	F-ST99(163)	Safe Routes to School, Salt Lake and Tooele Counties	CE	NA	19B	7B	No Historic Propeties Affected
2	10447	F-I215(157)27	I-215; End of PCCP to 3300 South	CE	NA	0	0	No Historic Propeties Affected
2	10450	F-I215(156)0	I-215 at 3500 South Interchange Enhancement	CE	NA	0	0	No Historic Propeties Affected
2	10467	F-0266(57)4	SR-266; State St. to 700 E.	CE	NA	0	0	No Historic Propeties Affected
2	10468	F-0089(296)380	SR-89; North Temple to Victory Road	CE	U-12-UT-0030s	1A	0	No Historic Propeties Affected
2	10469	F-0154(68)11	SR-154; 7800 S. to 9000 S.	CE	NA	0	0	No Historic Propeties Affected
2	10559	F-I80-3(175)119	I-80 EB Curve Warning Signs at I-15 Transition	CE	NA	0	0	No Historic Propeties Affected
2	10560	F-0111(20)4	SR-111 Shoulder Improvements	CE	NA	1A	1A	No Historic Propeties Affected
2	10609	F-0036(30)41	SR-36 near Stockton Crossing Safety Improvement	CE	NA	2A	2A	No Historic Propeties Affected
2	10862	F-0171(38)8	SR-171; Redwood Road to State Street	CE	NA	1A	1A	No Historic Propeties Affected
2	10864	F-0138(10)12	SR-138; Sheep Lane to SR-36	CE	NA	0	0	No Historic Propeties Affected
2	None	RTP FY10(001)(21)	Bunny Bradley Trail	CE	NA	0	0	No Historic Propeties Affected
2	None	RTP FY11(001)(16)	Utah and Salt Lake Canal Trail, Phase II	CE	NA	0	0	No Historic Propeties Affected
3	7867	F-R399(85)	800 North Trail, Orem	CE	NA	1A	1A	No Historic Propeties Affected
3	8061	F-0114(21)0	SR-114; Geneva Rd. Widening 475 S 6020 W Disposal Site	CE	NA	0	0	No Historic Propeties Affected
3	8567	F-LC49(125)	Jordan River/Murdock Connector Trail, Lehi	CE	U-11-JBM-0809ps	0	0	No Historic Propeties Affected
3	9426	F-R399(129)	US 89 & SR-180, AF & Lehi	CE	NA	0	0	No Historic Propeties Affected
3	9917	F-ST99(166)	Safe Routes to Schools	CE	NA	0	0	No Historic Propeties Affected
3	9976	F-0156(163)	SR-156 (SF Main), 300 S to MP 2 (I-15)	CE	NA	0	0	No Historic Propeties Affected
3	9997	F-2794(3)0	500 South, Vernal Avenue west to 1500 West	CE	NA	0	0	No Historic Propeties Affected
3	10000	F-0040(111)111	US-40; Jct. SR-87 to State Street Roosevelt	CE	NA	0	0	No Historic Propeties Affected
3	10033	F-0028(069)16	SR-28; Sanpete/Juab CL to MP 39.16	CE	NA	0	0	No Historic Propeties Affected
3	10035	F-R399(134)	US-189; 900 S to 500 S Provo & Jct. SR-52 to River	CE	NA	0	0	No Historic Propeties Affected
3	10074	F-R399(141)	US-6; Chipseal 2 locations	CE	NA	0	0	No Historic Propeties Affected
3	10075	F-R399(130)	U.S. 40 and SR-87 Microsurfacing in Duchesne County	CE	NA	0	0	No Historic Propeties Affected
3	10077	F-R399(142)	Chip Seal 2 locations in Wasatch Co	CE	NA	0	0	No Historic Propeties Affected
3	10111	F-0087(006)0	SR-87 Pedestrian Bridge in Duchesne	CE	NA	0	0	No Historic Propeties Affected
3	10211	F-R399(131)	SR-296; AF Dev. Center & Mouth of SF Canyon	CE	NA	0	0	No Historic Propeties Affected
3	10215	F-I15-5(42)233	I-15; NB Aux. Lane Santaquin Hill	CE	NA	0	0	No Historic Propeties Affected
3	10287	F-0121(15)24	SR-121, Whiterocks Canal, Structure OC-801	CE	NA	0	0	No Historic Propeties Affected
3	10370	F-0040(100)158	US-40 Over the Green River, Structure OC-753	CE	NA	0	0	No Historic Propeties Affected
3	10480	F-0040(110) 6	US-40; Median Cable Barrier Summit CL to Jct SR-32	CE	NA	0	0	No Historic Propeties Affected
3	10494	F-0191(100)261	US-191; Slide Repair MP 261.4 to 261.8	CE	NA	0	0	No Historic Propeties Affected
3	10585	F-I15 5(43)207	Bridge Deck Rehabilitation MP 206.5 to MP 207.1	CE	NA	0	0	No Historic Propeties Affected
3	10902	F-0121(20)34	SR-121; Chipseal MP 34.43 to MP 40.29	CE	NA	0	0	No Historic Propeties Affected
3	10904	F-0040(114)87	US-40; Duchesne E. City Limits to MP 97.70	CE	NA	0	0	No Historic Propeties Affected
3	10905	F-R399(143)	Chip Seal 2 locations in Utah County	CE	NA	0	0	No Historic Propeties Affected
3	10932	F-0040(113)9	US-40; MP 9.2 South of Mayflower Culvert Repair	CE	NA	0	0	No Historic Propeties Affected
4	5832	F-R499(29)	Bitumionous Pavement Rehabilitation, San Juan County, Region 4	CE	NA	0	0	No Historic Propeties Affected
4	8413	F-3166 (3)0	East Dixie Drive – St. George	CE	NA	0	0	No Historic Propeties Affected
4	8516	F-0089(233)63	US-89; Kanab, 900 East to 450 North	CE	NA	0	0	No Historic Propeties Affected
4	8610	F-I15-3(33)116	I-15; Manderfield Bridge No. D-699 North of Beaver	CE	U-11-UT-0834	2A	0	No Historic Propeties Affected
4	8743	F-2430(4)0	Lisbon Valley Road, Phase IV	CE	NA	0	0	No Historic Propeties Affected
4	8823	F-I15-1(94)52	I-15, Hamilton Fort to Cedar City, MP 52 to 58 - Addendum	CE	U-11-HO-0593	2A	0	No Historic Propeties Affected
4	8832	F-0018(46)4	SR-18; Redhills Parkway to MP 6.5	CE	NA	3A	0	No Historic Propeties Affected
4	8834	F-I15-1(93)28	I-15; Northbound Passing Lane, MP 27.5 to 31.3	CE	NA	4A	0	No Historic Propeties Affected
4	9397	F-0128(14)28	SR-128; Slope Stabilization and Shoulder Improvement	CE	U-11-MQ-0996	0	0	No Historic Propeties Affected
4	9398	F-R499(147)	Region 4 Rumble Strips Various Locations	CE	NA	0	0	No Historic Propeties Affected
4	9484	F-LC53(62)	Dixie Drive Interchange Trail/Landscape Enhancement	EA	NA	0	0	No Historic Propeties Affected
4	9606	F-0089 (300)73	US-89 Guardrail and Barrier MP 73-82	CE	NA	0	0	No Historic Propeties Affected
4	9630	ER-R499(136)	Emergency Flood Repair	CE	NA	0	0	No Historic Propeties Affected
4	9636	ER-R499(137)	Emergency Flood Repair	CE	NA	3A	3A	No Historic Propeties Affected
4	9641	F-0089(225)124	US-89 at SR-12 Jct MP 124.2	CE	NA	1A	0	No Historic Propeties Affected
4	9845	F-LC53(63)	SR-9, Zion Canyon Trail, Springdale, Washington County	CE	U-12-SQ-0100s	0	0	No Historic Propeties Affected
4	9916	F-R499(130)	Safe Routes to School in Richfield and Fairview	CE	U-11-HO-0941	0	0	No Historic Propeties Affected

FY2012 ANNUAL REPORT: SECTION 106 PROJECTS (October 1, 2011 to September 30, 2012)

4	9965	F-R499(133)	Rural Roads in Millard County	CE	NA	0	0	No Historic Propeties Affected
4	10083	F-I70-4(57)221	I-70; Westwater to CO State Line, Frehner Gravel Pit Addendum	Clearance	NA	0	0	No Historic Propeties Affected
4	10083	F-I70-4(57)221	Westwater to CO State Line, Material Stockpile Sites	Clearance	U-12-ER-0319	0	0	No Historic Propeties Affected
4	10162	F-R499 (149);	US-6, Safety Improvements West of Delta, MP 19-77	CE	U-12-LI-0343bs	2A	0	No Historic Propeties Affected
4	10185	F-I15-2(56)88	Lunt Park Rest Area Parking Improvements	CE	NA	0	0	No Historic Propeties Affected
4	10186	SB-11UT(003)	SR-12; Scenic Byways Program Wayside Improvements	CE	U-12-BL-0198bs	0	0	No Historic Propeties Affected
4	10350	F-0009(29)12	SR-9; Laverkin to Rockville	CE	NA	12A	10A	No Historic Propeties Affected
4	10351	F-0089(283)237	US-89 ; Centerfield to Gunnison	CE	NA	0	0	No Historic Propeties Affected
4	10353	F-R499(162)	US-89 and US-50, Main Streets in Salina	CE	NA	7A	0	No Historic Propeties Affected
4	10354	F-0010(61)60	SR_10; MP 59.7 to 63.2	CE	NA	0	0	No Historic Propeties Affected
4	10355	F-I15-3(38)104	I-15; South Beaver to North Beaver	CE	NA	0	0	No Historic Propeties Affected
4	10356	F-I15-2(58)61	I-15; North Cedar City to Summit	CE	NA	1A	1A	No Historic Propeties Affected
4	10375	F-0279(6)1	SR-279; Potash Plant Wash Culvert 0V-2057	CE	U-12-MQ-0594	1A, 1B	0	No Historic Propeties Affected
4	10398	F-0014 (34)	SR-14; Landslide Emergency Repair	CE	NA	3A	0	No Historic Propeties Affected
4	10398	F-0014 (34)6	SR-14; Landslide Emergency Repair, MP 16.9– 17.2	CE	NA	0	0	No Historic Propeties Affected
4	10401	F-I70-3(56)108	I-70; Salt Wash to Moore Interchange, MP 108.2 to 117.0	CE	NA	0	0	No Historic Propeties Affected
4	10402	F-I15-2(57)70	I-15, Summit to Paragonah	CE	NA	0	0	No Historic Propeties Affected
4	10403	F-I70-4(58)163	I-70; MP 154 to Floy	CE	NA	0	0	No Historic Propeties Affected
4	10405	F-R499(156)	US-191; MP 106.245 to 108.32 & MP 111.045 to 114.373	CE	NA	0	0	No Historic Propeties Affected
4	10405	F-R499(156)	US-191; MP 106.245 to 108.32 & MP 111.045 to 114.373 - Addendum	CE	U-12-MQ-0247	8A	5A	No Historic Propeties Affected
4	10406	F-0089 (288)10	US-89; Buck Tank Draw to Paria	CE	NA	0	0	No Historic Propeties Affected
4	10407	F-0160 (8)0	SR-160; Beaver Main Street	CE	NA	0	0	No Historic Propeties Affected
4	10410	F-R499(161)	SR-120; Richfield Main Street Asphalt Sections	CE	NA	2A	0	No Historic Propeties Affected
4	10440	F-0021(11)100	Beaver River Bridge on SR-21, West of Beaver	CE	U-12-ST-0202	1B	0	No Historic Propeties Affected
4	10496	F-R499(164)	Region 4 Chip Seal Guardrail Locations	CE	NA	0	0	No Historic Propeties Affected
4	10567	F-R499 (178)	Region 4 Rumble Strips - Phase II	CE	NA	0	0	No Historic Propeties Affected
4	10606	F-R499(165)	Nine Mile Canyon Roadside Improvement	CE	U-12-EV-0491	2A	1A	No Historic Propeties Affected
4	10854	F-0290(5)0	SR-290; Snow College Loop	CE	NA	0	0	No Historic Propeties Affected
1	8137	F-R199(68)	400 North; 800 West to 1100 West, West Bountiful, Davis County	CE	U-11-EP-0419s	1A, 5B	1A, 3B	No Adverse Effect
1	8527	F-0102(6)16	SR-102, Main St. Railroad Crossing Improvement, Tremonton, Box Elder County	CE	U-11-UT-0474ps	1A	1A	No Adverse Effect
1	8741	F-0089(244)406	US-89 @ I-84, MP 406.1, Uintah, Weber County	CE	U-11-LI-0167ps	4A, 1B	2A	No Adverse Effect
2	7204	F-0068(54)48	SR-68; Redwood Road & 8200 South	CE	U-11-ZP-0498	4B	4B	No Adverse Effect
2	8114	F-0195(5)	SR-195, 2300 East; I-80 to 3900 South	CE	U-11-ST-558ps	2A, 146B	107B	No Adverse Effect
2	10145	F-R299(131)	Point of the Mountain Trail Phase II	CE	NA	1A	1A	No Adverse Effect
3	9939	F-0006(143)140	US-6; Eureka Main Streetwalks	CE	U-11-UT-1010ps	1A	1A	No Adverse Effect
3	10240	F-0040(107)103	US-40; MP 103.5 at Pleasant Valley Intersection	CE	NA	2A	2A	No Adverse Effect
3	9994	F-0089(276)345	US-89; State Street, Pleasant Grove to 500 East	CE	NA	1A	0	No Adverse Effect
3	10419	F-ST99(164)	Safe Routes to Schools, Lehi, Pleasant Grove, Utah County	CE	U-12-UT-0285ps	0	0	No Adverse Effect
3	10085	F-0006(145)177	US-6 and Hole Road Safety Crossing Improvement	CE	U-12-UT-0293ps	2A	2A	No Adverse Effect
3	10239	F-0040(108)116	US-40; 2500 E Roosevelt to MP 118.8 Ballard	CE	U-12-UT-0584ps	2A, 2B	1A, 2B	No Adverse Effect
4	9940	F-II5-2(55)34	I-15; Wildlife Fencing, Black Ridge to Cedar City	CE	U-11-SQ-0475bip	11A	5A	No Adverse Effect
4	9625	ER-R499 (135)	Old US 91; Flood Repair on Old U.S. Highway 91	CE	U-11-SQ-0475bip	0	0	No Adverse Effect
4	7757	F-0018(42)4	Bluff Street Environmental Assessment	EA	U-10-MQ-0197p	0	0	No Adverse Effect
4	9625	ER-R499 (135)	Old US 91; Flood Repair on Old US 91	CE	U-11-SQ-0475bip	2A	2A	No Adverse Effect
4	9625	ER-R499 (135)	Old US 91; Flood Repair on Old U.S. Highway 91	CE	NA	2A	2A	No Adverse Effect
4	10349	F-0089(279)37	SR-89, Wildlife Connectivity East of Kanab	CE	U-12-SQ-0248bs	7A, 1B	6A	No Adverse Effect
4	7755	S-I15-1(77)6	Dixie Drive Interchange	EA	U-08--HO-0784p,s	2A	2A	No Adverse Effect
1	7194	F-0106(11)3	SR-105 & SR-106 Intersection Improvements, Centerville, Davis County	CE	U-10-ST-0814ps	13B	13B	Adverse Effect
2	7703	STP-0067(1)OE	Mountain View Corridor	EIS re-eval.	NA	8B	3B	Adverse Effect
4	7843	F-I15-1(86)0	I-15 South Environmental Assessment	EA	U-11-SQ-0475bip	18A	11A	Adverse Effect

*Note: A = Archaeology, B = Building/Bridge

FY 2012 ANNUAL REPORT: U.C.A. 9-8-404 Projects (October 1, 2011 to September 30, 2012)

Region	PIN	Project Number	Project Name	Environmental Document	Antiquities Project Number	Sites/Properties*		Finding of Effect
						Total	Eligible	
1	7158	S-LC11(44)	Antelope Island State Park Access, Syracuse, Davis County	SES	NA	0	0	No Historic Propeties Affected
1	8931	S-0089(249)406	US-89 Over Weber River at Uintah Jct., Davis and Weber Counties	SES	U-11-ZP-0755ps	2A	1A	No Historic Propeties Affected
1	9384	S-R199(98)	US-89 & SR-13 Intersection Modification	SES	NA	0	0	No Historic Propeties Affected
1	9552	S-0165(7)10	SR-165; Ballard Springs to SR-91, Providence and Logan, Cache	SES	NA	0	0	No Historic Propeties Affected
1	10159	S-0134(10)6	SR-134; Warren Canal Bridge Safety Improvements, Plain City,	SES	NA	1B	0	No Historic Propeties Affected
1	10203	S-0134(14)12	SR-134; SR-89 TO SR-235	SES	NA	0	0	No Historic Propeties Affected
1	10277	S-0097(7)0	SR-97; SR-37 to 3900 W, Roy and Hooper, Weber County	SES	NA	0	0	No Historic Propeties Affected
1	10517	S-0039(25)5	Traffic Signal at SR-39 & Depot Drive, Ogden, Weber, County	SES	NA	0	0	No Historic Propeties Affected
1	10518	S-0089(297)386;	Pedestrian Signal at US-89 & 800 West, North Salt Lake, Davis	SES	NA	0	0	No Historic Propeties Affected
1	10555	S-R199(119)	Region 1 Upgrade Guardrail and End Sections, Morgan County	SES	NA	0	0	No Historic Propeties Affected
1	10556	S-0102(7)14	SR-102 Turn Lanes At 2300 West, Tremonton, Box Elder County	SES	NA	0	0	No Historic Propeties Affected
1	10557	S-0089(301)410	US-89 NB Right Turn Lane at Sunset Dr, South Ogden, Weber	SES	NA	0	0	No Historic Propeties Affected
1	10626	S-R199(122)	SR-67; Legacy Highway, Bridge Deck Treatments, Davis County	SES	NA	0	0	No Historic Propeties Affected
1	10627	S-R199(123)	I-84; Bluecreek, Howell & Whites Valley Interchanges, Box Elder	SES	NA	0	0	No Historic Propeties Affected
1	10628	S-R199(116)	Various Structures in Region 1, near Corinne, Box Elder County	SES	NA	0	0	No Historic Propeties Affected
1	10630	S-0023(26)17	SR-23, Cutler Reservoir, Structure: C-687, Cache County	SES	NA	0	0	No Historic Propeties Affected
1	10683	S-0203(17)0	Traffic Signal Improvements at SR-203 & 5600 South, South	SES	NA	0	0	No Historic Propeties Affected
1	10728	S-0060(5)6	SR-60, 1600 E. to 2050 E., South Weber, Davis County	SES	NA	0	0	No Historic Propeties Affected
1	10728	S-0060(5)6	SR-60, 1600 E. to 2050 E., South Weber, Davis County - Update	SES	NA	0	0	No Historic Propeties Affected
1	None	None	Wendover City New Roadway	Encroachment	NA	1A	1A	No Historic Propeties Affected
1	None	None	Pavement Preservation along SR-30, SR-42, SR-83	SES	NA	0	0	No Historic Propeties Affected
2	9381	S-0016(6)17	SR-16 Guardrail Attenuator, Rich County	SES	NA	0	0	No Historic Propeties Affected
2	10139	S-0186(15)3	SR-186; State Street to 1300 East	SES	NA	1A	1A	No Historic Propeties Affected
2	10248	S-0224(14)6	SR-224 HAWK Signal, Park City	SES	NA	0	0	No Historic Propeties Affected
2	10618	S-0151(73)0	SR-151 & Baxter Drive, South Jordan	SES	NA	0	0	No Historic Propeties Affected
2	10632	S-0172(23)9	SR-172; 5600 West Over I-80	SES	NA	0	0	No Historic Propeties Affected
2	10633	S-R199(124)	SR-154; Bangerter Highway from 14000 S to 13600 S	SES	NA	0	0	No Historic Propeties Affected
2	10682	S-R299(152)	Pedestrian Signal Improvements, Various Location in Region 2	SES	NA	0	0	No Historic Propeties Affected
2	10768	S-0036(31)51	SR-36 at South Mountain Road	SES	NA	1A	1A	No Historic Propeties Affected
2	10796	S-0201(28)17	SR-201 MP 17; Pavement	SES	NA	0	0	No Historic Propeties Affected
2	10798	S-0292(202)0	SR-292 MP 0-1.7; Overlay and Rotomill and Overlay	SES	NA	0	0	No Historic Propeties Affected
2	10814	S-R299(154)	I-215, Parapets on Structures	SES	NA	0	0	No Historic Propeties Affected
2	10999	S-0266(58)8	SR-266; 4500 South over I-215, Structure C-953	SES	NA	0	0	No Historic Propeties Affected
2	None	None	Sale of Surplus Property at 3528 W. 3500 S., West Valley	Clearance	NA	1B	1B	No Historic Propeties Affected
2	None	None	Fuel Reduction in I-15 Median North of Milepost 101	Encroachment	NA	0	0	No Historic Propeties Affected
2	None	None	Echo Port of Entry Cell Tower	Encroachment	NA	0	0	No Historic Propeties Affected
2	None	None	SR-111 Pedestrian Overpass	Encroachment	NA	0	0	No Historic Propeties Affected
2	None	None	Questar FL-38	Encroachment	NA	0	0	No Historic Propeties Affected
2	None	None	University of Utah UIT Metro-Optical Network	Encroachment	NA	0	0	No Historic Propeties Affected
3	8281	S-0089(221)300	US-89 & SR-197, Lehi	SES	NA	0	0	No Historic Propeties Affected
3	8937	S-0189(37)17	US-189 Over HVHRR Near Deer Creek Reservoir	SES	NA	0	0	No Historic Propeties Affected
3	9613	S-191(102)268	US-191 Install/Upgrade Guardrail MP 268	SES	NA	0	0	No Historic Propeties Affected
3	10155	S-0040(97)13	US-40 & SR-32 Traffic Signal Improvements, Wasatch County	SES	NA	0	0	No Historic Propeties Affected
3	10232	S-198(16)5	Traffic Signal at SR-198 & Utah Ave, Payson	SES	NA	0	0	No Historic Propeties Affected
3	10360	S-R399(128)	US-189 Two Intersections in Provo	SES	NA	0	0	No Historic Propeties Affected
3	10376	S-0089(282)326	New Signal at US-89 and Maple Street, Mapleton	SES	NA	0	0	No Historic Propeties Affected
3	10377	S-0040(101)	US-40 Traffic Signal Improvements in Vernal	SES	NA	0	0	No Historic Propeties Affected
3	10378	S-0068(66)29	New Signal at SR-68 & Grandview Dr, Saratoga Spgs.	SES	NA	0	0	No Historic Propeties Affected
3	10453	S-0040(104)110	Traffic Signal at US-40 & SR-87 in Duchesne	SES	NA	0	0	No Historic Propeties Affected
3	10471	S-I15-5(41)223	Nephi Structures Repairs on I-15	SES	NA	0	0	No Historic Propeties Affected

FY 2012 ANNUAL REPORT: U.C.A. 9-8-404 Projects (October 1, 2011 to September 30, 2012)

3	10617	S-198(17)13	Signal at SR-198 & 820 East, Spanish Fork	SES	NA	0	0	No Historic Propeties Affected
3	10634	S-0035(6)49	SR-35 over the Duchesne River, Structure F-209	SES	NA	0	0	No Historic Propeties Affected
3	10684	S-ST99(183)	New Traffic Signal at SR-68 & North Star Drive	SES	NA	0	0	No Historic Propeties Affected
3	10778	S-0040(112)149	New Traffic Signal at US-40 & 2500 South, Naples	SES	NA	0	0	No Historic Propeties Affected
3	10828	S-0121(19)38	New Traffic Signal at SR-121 & 2000 West, Maeser	SES	NA	0	0	No Historic Propeties Affected
3	None	None	SR-35 Bridge D-561	SES	NA	0	0	No Historic Propeties Affected
3	None	None	UDOT Maintenance Project: SR-153; MP 4, Flood Control	SES	NA	0	0	No Historic Propeties Affected
4	7755	S-I15-1(77)6	Dixie Drive Interchange; Freeway Billboard Sign Relocation	SES	NA	0	0	No Historic Propeties Affected
4	8938	S-R499(118)	SR-128; Three Locations	SES	NA	0	0	No Historic Propeties Affected
4	9401	S-I70-1(76)10	MP 10-17 Dynamic Icy Bridge Warning Signs	SES	NA	0	0	No Historic Propeties Affected
4	9651	S-I15-4(55)133	I-15; MP 135-137 Guardrail Installation	SES	NA	1A	1A	No Historic Propeties Affected
4	10459	S-R499 (163)	SR-7; Southern Parkway Bridge Deck Sealing	SES	NA	1A	1A	No Historic Propeties Affected
4	10637	S-R499(174)	I-70; MP 31.8 to MP 40.3, Bridge Deck Treatments Preservation	SES	NA	0	0	No Historic Propeties Affected
4	10777	S-0006(153)247	US-6 and 100 East, Wellington Traffic Signal	SES	NA	0	0	No Historic Propeties Affected
4	10816	S-0096(4)11	SR-96 Over Scofield Reservoir Spillway; F-736	SES	NA	0	0	No Historic Propeties Affected
4	None	None	SR-10; SUFCO Mine Encroachment, Intersection and Turn	Encroachment	NA	0	0	No Historic Propeties Affected
4	None	None	SR-10; Emery Telcom Utility Line Encroachment, MP 6.5 to 8.5	Encroachment	NA	1A	0	No Historic Propeties Affected
4	None	None	I-70; Mid America Fiberoptic Encroachment near the Cisco Loop	Encroachment	NA	0	0	No Historic Propeties Affected
4	None	None	SR-72; South Central Communication Fiberoptic Line	Encroachment	NA	0	0	No Historic Propeties Affected
4	None	None	SR-12; SCC Encroachment, MP 27.85 to 29.03	Encroachment	NA	0	0	No Historic Propeties Affected
4	None	None	US-191; Questar Gas Pipeline Extension, MP 116.9 to 118.2	Encroachment	NA	0	0	No Historic Propeties Affected
4	None	None	SR-12; SCC Fiberoptic Line Installation, MP 21.3 TO 25.5	Encroachment	U-12-MQ-0504	1A	0	No Historic Propeties Affected
4	None	None	US-6; Emery Telcom Fiberoptic Line, Sunnyside Jct to MP 278;	Encroachment	NA	6A	4A	No Historic Propeties Affected
4	None	None	Red Hill Parkway/Dixie Middle School Material Waste Site	Encroachment	NA	0	0	No Historic Propeties Affected
4	None	None	Material Waste Site - Tuscany Ridge	Encroachment	NA	0	0	No Historic Propeties Affected
4	None	None	Red Hills Parkway/Dixie Middle School Material Waste Site	Encroachment	NA	0	0	No Historic Propeties Affected
4	None	None	Anderson Windfarm Access	Encroachment	NA	0	0	No Historic Propeties Affected
4	None	None	Kanab to Johnson Canyon Fiber Project, South Central	Encroachment	NA	1A	1A	No Historic Propeties Affected
4	None	None	South Central Communications: Kanab to Fredonia Fiber Project	Encroachment	NA	1A	1A	No Historic Propeties Affected
4	None	None	St. George Industrial Park Storm Drain Repair	Encroachment	NA	0	0	No Historic Propeties Affected
4	None	None	Twin Lakes Material Waste Site	Encroachment	U-11-HO-1115p	0	0	No Historic Propeties Affected
4	None	None	Supplemental Environmental Clearances for US-191; Slide Repair M	SES	NA	0	0	No Historic Propeties Affected
4	None	None	SR-12; MP 2.5 - 6.5: Flood Damage Repair, Garfield County	SES	U-12-LI-0203bfs	3A	0	No Historic Propeties Affected
4	None	None	SR-18, MP 36 to MP 37.1	SES	U-12-UT-0496	4A	4A	No Historic Propeties Affected
4	None	None	UDOT Project: SR-18; Pinto Road Turn Lane	SES	U-12-UT-0344s	0	0	No Historic Propeties Affected
4	None	None	Jericho Junction to Fillmore Telecommunications Project, Millard	Encroachment	U-11-HO-0626bps	0	0	No Adverse Effect
4	None	None	Hampton Inn Driveways	Encroachment	NA	1A	1A	No Adverse Effect
4	8723	S-0073(21)40	Pioneer Crossing Connection Project	SES	U-11-UT-0721p	3A	3A	No Adverse Effect
2	None	None	Sale of Surplus Property at 515 Columbus Street, Salt Lake	Clearance	NA	1B	1B	Adverse Effect
2	None	None	Sale of Surplus Property at 2435 S. 700 E., Salt Lake	Clearance	NA	1B	1B	Adverse Effect

*Note: A = Archaeology, B = Building/Bridge

APPENDIX 3: SECTION 4(F) AGREEMENT

Statewide programatic agr.

U.S. Department
Of Transportation
Federal Highway
Administration

Utah Division
2520 West 4700 South, Ste. 9A
Salt Lake City, UT 84118-1847

June 12, 2007

File: Section 4(f) *De Minimis*

Mr. Wilson Martin
State Historic Preservation Officer
Division of State History
300 South Rio Grande Street
Salt Lake City, Utah 84101

Subject: Section 4(f) De Minimis Determination; Pursuant to SAFETEA-LU Section 6009
In Conjunction with Section 106 Programmatic Agreement Among the Federal Highway Administration, the Advisory Council on Historic Preservation, the Utah State Historic Preservation Officer, and the Utah Department of Transportation

Dear Mr. Martin:

This letter was prepared in response to the FHWA December 13, 2005 Guidance regarding Section 6009 (a) of the 2005 Safe, Accountable, Flexible, Efficient Transportation Equity: A Legacy for Users (SAFETEA-LU) Act Pub. L. 109-59. Section 6009 allows increased flexibility with respect to minor transportation impacts to Section 4(f) properties, including historic properties. It simplifies the processing and approval of federally funded transportation projects that have a *de minimis* impact on lands protected by Section 4(f). For historic properties, a finding of *de minimis* impact on a historic site may be made by the FHWA when Section 106 consultation results in the *written* concurrence of the SHPO with the determination of "no adverse effect" or "no historic properties affected".

Public Law 109-59 (SAFETEA-LU) has no new Section 106 implications other than the requirement for written SHPO concurrence with Section 106 findings of effect for individual Section 4(f) properties. It does require FHWA to notify the SHPO of FHWA's intent to utilize the finding of "no historic properties affected" or "no adverse effect" for individual Section 4(f) properties as a basis for making a Section 4(f) *de minimis* use finding.

The December Guidance offers two specific points of relevant direction:

> **Question B. How should the concurrence of the SHPO and/or THPO, and ACHP if participating in the Section 106 determination, be documented when the concurrence will be the basis for a *de minimis* finding?**
>
> **Answer:** Section 4(f) requires that the SHPO and /or THPO, and ACHP if participating, must concur in writing in the Section 106 determination of "no adverse effect" or "no historic properties affected." The request for concurrence in the Section 106 determination should include a statement informing the SHPO or THPO, and ACHP if participating, that the FHWA or FTA intends to make a *de minimis* finding based upon their concurrence in the Section 106 determination.

MOVING THE
AMERICAN
ECONOMY

Under the Section 106 regulation, concurrence by a SHPO and/or THPO may be assumed if they do not respond within a specified timeframe, but Section 4(f) explicitly requires their written concurrence. It is recommended that transportation officials share this guidance with the SHPOs and THPOs in their States so that these officials fully understand the implication of their concurrence in the Section 106 determinations and the reason for requesting written concurrence.

Question C. Certain Section 106 programmatic agreements (PAs) allow the lead agency to assume the concurrence of the SHPO and/or THPO in the determination of "no adverse affect" or "no historic properties affected" if response to a request for concurrence is not received within a period of time specified in the PA. Does such concurrence through non-response, in accordance with a written and signed Section 106 PA, constitute the "written concurrence" needed to make a *de minimis* finding?

Answer: In accordance with the provisions of a written and signed programmatic agreement, if the SHPO and/or THPO does not respond to a request for concurrence in the Section 106 determination within the specified time, the non-response together with the written agreement, will be considered written concurrence in the Section 106 determination that will be the basis of the *de minimis* finding by FHWA or FTA.

FHWA or FTA must inform the SHPOs and THPOs who are parties to such PAs, in writing, that a non-response that would be treated as a concurrence in a "no adverse effect" or "no historic properties affected" determination will also be treated as the written concurrence for purposes of the FHWA or FTA *de minimis* use finding. It is recommended that this understanding of the parties be documented by either appending the written notice to the existing PA, or by amending the PA itself.

According to 2005 Guidance, by transmittal of this letter, the FHWA is notifying your office of FHWA's intent to make the Section 4(f) *de minimis* use finding for properties where a determination of no historic properties affected (no effect), or no adverse effect have been concurred in by your office or when your office has not replied within the appropriate timeframe with written concurrence.

By the following signature, the SHPO acknowledges it has been notified of the intent of the FHWA to make a *de minimis* finding based on Section 106 determinations of effect for specific properties.

Yours truly,

Walter Waidelich
Division Administrator

Concurrence: _____ 7/19/07

~~Wilson Martin,~~ State Historic Preservation Officer Date

Matthew T. Seddon, RPA
Deputy State Historic
Preservation Officer

APPENDIX 4: PUBLIC NOTICE OF AVAILABILITY

NOTICE OF THE AVAILABILITY OF THE ANNUAL MONITORING REPORT FOR IMPLEMENTATION OF THE NHPA SECTION 106 AND U.C.A. 9-8-404 PROGRAMMATIC AGREEMENTS

The Federal Highway Administration (FHWA) and the Utah Department of Transportation (UDOT) are providing notice to the public that the annual monitoring report on the implementation of the following programmatic agreements are available for public review and comment: 1) *First Amended Programmatic Agreement Among the Federal Highway Administration, the Utah Department of Transportation, the Utah State Historic Preservation Officer, and the Advisory Council on Historic Preservation*; and 2) *Programmatic Agreement Between the Utah Department of Transportation and the Utah State Historic Preservation Officer Regarding Implementation of U.C.A. 9-8-404 for State-Funded Transportation Projects in Utah*. This document covers the Federal fiscal year 2012 (FY2012) between October 1, 2011 and September 30, 2012.

The annual report is available for review at www.udot.utah.gov, Inside UDOT/ Project Development/ Environmental/Section 106 Programmatic Agreement Information/FY2012 Annual Report. Interested members of the public may comment to the signatory parties to the PAs. Any person or group wishing to submit comments regarding this report may do so in writing. Comments should be postmarked by April 9, 2013, and should be directed to one of the following:

Edward Woolford, FHWA
Environmental Program Manager
FHWA – Utah Division Office
2520 West 4700 South, Suite 9A
Salt Lake City, UT 84118
Edward.woolford@dot.gov

Jennifer Elsken, UDOT
Cultural Resources Program Manager
UDOT
4501 South 2700 West
Box 148450
Salt Lake City, UT 84118
jelsken@utah.gov

At any time during regular office hours, the Annual Monitoring Report will be available for public inspection during regular business hours at the UDOT Calvin Rampton Complex, Salt Lake City, at the address above.

APPENDIX 5: DRAFT SECOND AMENDED AGREEMENT

SECOND AMENDED PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
THE UTAH STATE HISTORIC PRESERVATION OFFICER,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
THE UNITED STATES ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT,
AND THE UTAH DEPARTMENT OF TRANSPORTATION
REGARDING
SECTION 106 IMPLEMENTATION FOR FEDERAL-AID TRANSPORTATION PROJECTS
IN THE STATE OF UTAH

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 Utah by funding and approving state and locally sponsored transportation projects that are administered by the Utah Department of Transportation (UDOT); and

WHEREAS**,** the Utah FHWA Division Administrator is the "Agency Official" responsible for ensuring that the Federal-aid Highway Program in the state of Utah 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, UDOT administers Federal-aid projects throughout the State of Utah as authorized by Title 23 U.S.C. 302 and Sections 72-1-201 and 72-2-111 of the Utah Code, has participated in this consultation, and has been invited to be a signatory to this Agreement; and

WHEREAS, the responsibilities of the Utah 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 has been invited to be a signatory to this Agreement; and

WHEREAS, the United States Army Corps of Engineers, Sacramento District (USACE) may also have an undertaking with Section 106 responsibilities because it may issue a Clean Water Act Section 404 permit for discharges of dredged or fill material into jurisdictional waters of the United States associated with an FHWA/UDOT project; and

WHEREAS, for the purpose of Section 106 compliance for all Federal undertakings pertaining to the Federal-aid Highway Program, the USACE has participated in this consultation, will recognize FHWA as the lead Federal agency, and has been invited to be a signatory to this agreement pursuant to 36 CFR 800.2(a)(2); and

WHEREAS, FHWA has determined that implementation of the Program in Utah 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 Utah State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (Council) pursuant to 36 CFR 800.14(b); 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 Utah and for affording the Council a reasonable opportunity to comment on undertakings covered by this agreement; and

WHEREAS, FHWA has notified the public, Federal and State agencies, Certified Local Governments (CLGs), and federally recognized Indian tribes (Tribes) with ancestral lands in Utah about this Agreement, has requested their comments, and has taken any comments received into account. These Tribes include the Confederated Tribes of the Goshute Reservation, Northern Arapaho, Hopi, Eastern Shoshone Tribe of the Wind River Reservation, Navajo Nation, Northwestern Band of Shoshone Nation, Paiute Indian Tribe of Utah, San Juan Southern Paiute Tribe, Skull Valley Band of Goshute Indians, Ute Indian Tribe, Ute Mountain Ute Tribe, and White Mesa Band of Ute Mountain Ute Tribe; and

WHEREAS, this Agreement shall supersede the previous letter agreement between FHWA, SHPO, and UDOT (June 6, 1990; Delegation of Section 106 Responsibility); and

WHEREAS, the parties to this Agreement (except USACE) executed an earlier agreement on April 16, 2007, entitled *Programmatic Agreement Among the Federal Highway Administration, the Utah Department of Transportation, the Utah State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding Section 106 Implementation for Federal-Aid Transportation Projects in the State of Utah*., which was amended on April 16, 2010. This second amendment of the Agreement replaces and supersedes the earlier Agreements in full.

NOW, THEREFORE**,** FHWA, SHPO, Council, USACE, and UDOT agree that the Program in Utah 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 Utah and that these stipulations shall govern compliance of the Program with Section 106 of the NHPA until this Amended Programmatic Agreement expires or is terminated.

STIPULATIONS

FHWA, with the assistance of UDOT, shall ensure that the following measures are carried out. To aid the signatories of this Agreement, the stipulations are organized in the following order:

I. Applicability and Scope
II. Definitions
III. Professional Qualifications Standards
IV. Responsibilities
V. Consultation with Tribes
VI. Participation of Other Consulting Parties and the Public
VII. CE Delegation
VIII. Project Review
IX. The Section 106 Process
X. Emergency Situations
XI. Post-Review Discoveries
XII. Treatment of Human Remains
XIII. Administrative Stipulations

I. APPLICABILITY AND SCOPE

A. This Agreement sets forth the process by which FHWA, with the assistance of UDOT, will meet its responsibilities pursuant to Section 106 and 110 of the NHPA (16 U.S.C. 470f and 470h-2).
B. The objective of this Agreement is to make more efficient the methods by which FHWA and UDOT review individual undertakings processed under Section 106 that may affect historic properties and to establish the process by which FHWA, SHPO, Council, USACE, and interested parties will be involved in any such review.

C. Through this Agreement, FHWA authorizes UDOT to initiate and, in most cases, conclude consultation with SHPO and other consulting parties for purposes of compliance with Section 106 of the NHPA.
D. UDOT has assumed responsibility for projects classified as Categorical Exclusions, pursuant to 23 U.S.C 326 and a Memorandum of Understanding (MOU) between FHWA and UDOT (Attachment 1). UDOT shall assume the responsibilities of FHWA and shall satisfy the provisions of Section 106 of the NHPA and 36 CFR 800, as well as Section 4(f) of the Department of Transportation (DOT) Act of 1966, for all projects classified as Categorical Exclusions by complying with the stipulations of this Agreement.
E. Through this Agreement, FHWA and UDOT establish two tiers of project review, dependent upon the type of impacts to historic properties.
   1. Tier 1 Project Review: Tier 1 projects have the potential to affect historic properties, but following screening, may be determined to require no case-by-case review or consultation with SHPO because they result in a finding of no historic properties affected. Tier 1 undertakings must meet the criteria outlined in Stipulation VIII.A.4.
   2. Tier 2 Project Review: Tier 2 projects result in a finding of no adverse effect or adverse effect.
F. FHWA retains the responsibility for government-to-government consultation with Tribes as required under 36 CFR 800.16(m). UDOT may assist FHWA if individual Tribes agree to alternate procedures.
G. This Agreement shall not apply to undertakings that occur on or affect tribal lands as they are defined in 36 CFR 800.16(x). 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.
H. This Agreement does not supersede existing agreements currently in use in Utah by FHWA, SHPO, Council, and UDOT, except for the June 6, 1990 delegation letter (referenced above). These existing agreements remain in force and are separate from this Agreement. A list of these agreements is attached hereto as Attachment 2.
I. Cooperating Federal agencies who recognize FHWA as the lead Federal agency for an undertaking may fulfill their obligations under Section 106 of NHPA by having FHWA act on their behalf in fulfilling their collective responsibilities (36 CFR 800.2(a)(2)), provided FHWA and UDOT follow the requirements of this Agreement and the cooperating agency's undertaking does not have the potential to cause effects to historic properties beyond those considered by FHWA and UDOT.
   1. FHWA and UDOT will consult with other agencies involved in the undertaking (except USACE, who is a signatory to this Agreement) to reach an agreement that FHWA is the lead Federal agency for the undertaking, and that they will accept FHWA's compliance with NHPA.
   2. These agencies will be considered consulting parties in the undertaking.
   3. All consultation with an agency regarding lead Federal agency status and compliance with Section 106 will be documented.
   4. The process whereby USACE meets their Section 106 compliance responsibilities on projects that need, or anticipate, a USACE permit, is outlined in Attachment 3.

II. DEFINITIONS

A. For purposes of this Agreement, the definitions provided in 36 CFR 800.16 (a) through (z) inclusive shall apply whenever applicable.
B. There are three classes of action defined in the Council on Environmental Quality regulations (40 CFR 1500) that implement the National Environmental Policy Act (NEPA): Categorical Exclusion (CE), Environmental Assessment (EA), and Environmental Impact Statement (EIS).
C. SAFETEA-LU = Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Pub. L. 109-59).

III. PROFESSIONAL QUALIFICATIONS STANDARDS

All actions prescribed by this Agreement that involve the identification, evaluation, analysis, recording, treatment, monitoring, or disposition of historic properties, or that involve the reporting or documentation of such actions in the form of reports, forms, or other records, shall be carried out by or under the direct supervision of a person or persons who meets the Secretary of the Interior's Professional Qualifications Standards (published in 48 FR 44738-44739) and who has been permitted (for archaeology only) by the state of Utah in accordance with U.C.A. 9-8-305 and its implementing rules, and who meets permit requirements of other agencies as appropriate. However, nothing in this stipulation may be interpreted to preclude FHWA or UDOT 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.

UDOT shall employ personnel trained, experienced, and qualified in the fields of archaeology, history, and architectural history (as defined in 36 CFR 61, Appendix A). They are designated as professionally qualified staff (PQS). Except on such occasions when FHWA elects to consult directly with SHPO or Council, all consultation with SHPO under this Agreement, and decisions made under Tier I, shall be performed by the UDOT PQS. All consultation on behalf of UDOT and FHWA shall be performed by the UDOT PQS.

IV. RESPONSIBILITIES

The following section identifies the responsibilities of FHWA and of UDOT in complying with the terms of this Agreement. These responsibilities are listed in more detail in Attachment 4.

A. FHWA Responsibilities

1. Consistent with the requirements of 36 CFR 800.2(a) and 800.2(c)(4), FHWA remains legally responsible for ensuring that the terms of this Agreement are carried out and for all findings and determinations made pursuant to this Agreement by UDOT under the authority of FHWA, except where such responsibility has been delegated to UDOT in accordance with the MOU in Attachment 1. At any point in the Section 106 process, FHWA may inquire as to the status of any undertaking carried out under the authority of this Agreement and may participate directly in any undertaking at its discretion.
2. FHWA retains the responsibility for government-to-government consultation with Tribes as defined in 36 CFR 800.16(m). UDOT may assist FHWA in consultation if the individual Tribes agree to alternate procedures.

B. UDOT Responsibilities

Under the authority of FHWA, UDOT may carry out the following steps with respect to undertakings covered by this Agreement. Each PQS shall be responsible for ensuring that the following activities are carried out (Attachment 4). This list is not inclusive of all responsibilities of UDOT under this Agreement.

1. Determine whether the proposed federal action is an undertaking as defined in 36 CFR 800.16(y).
2. Determine under 36 CFR 800.3(a) whether the undertaking is a type of activity that has the potential to cause effects on historic properties
3. Determine under 36 CFR 800.3(c) and (d) whether the undertaking may occur on or has the potential to affect historic properties on tribal lands as they are defined in 36 CFR 800.16(x).

4. Solicit public comment and involvement, in accordance with 36 CFR 800.3(e) and UDOT's public involvement procedures.
5. Except as identified in Stipulation V, identify additional consulting parties, including Tribes, as described in 36 CFR 800.3, and invite them to participate in the undertakings covered by this Agreement.
6. Determine and document the scope of identification efforts and level of effort, as described in 36 CFR 800.4 (a) and (b), including the undertaking's area of potential effects (APE). SHPO consultation on the APE will not be required on routine projects (defined as those projects classified as a CE). For undertakings that are non-routine or those with the potential for substantial indirect and/or cumulative effects (EAs and EISs), SHPO shall be consulted in writing.
7. Determine boundaries for historic properties.
8. Determine the eligibility of properties within the APE for listing on the NRHP.
9. Determine whether historic properties may be affected by the undertaking. Assess effects by applying the criteria of adverse effects as described in 36 CFR 800.5(a)(1)
10. In consultation with FHWA, USACE (if a permitted undertaking, and the adverse effects are on historic properties in the USACE jurisdictional APE), SHPO, and Council (if it has chosen to participate), resolve adverse effects through the development, circulation, and execution of a Memorandum of Agreement (MOA), if appropriate.
11. Ensure conformance with the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation; The Advisory Council on Historic Preservation – Section 106 Archaeology Guidance; UDOT's Guidelines for Identifying, Recording, and Evaluating Archaeological and Paleontological Resources, and UDOT's Environmental Manual of Instruction, and any successors to those guidelines; and applicable guidelines and procedures of land-managing agencies whose lands may be affected by the undertaking.
12. The UDOT PQS shall submit to the Utah Division of State History (UDSH) copies of all fieldwork reports, Intermountain Antiquities Computer Site (IMACS) forms, Reconnaissance Level Survey (RLS) forms, Intensive Level Survey (ILS) forms, and any other relevant documents. If a project qualifies as a Tier 1 project, these materials will be submitted quarterly in accordance with Stipulation VIII.C
13. Ensure curation of archaeological materials produced under this Agreement at a facility meeting the standards of 36 CFR 79 and U.C.A. 53B-17-603, as appropriate.

V. CONSULTATION WITH TRIBES

A. FHWA shall retain ultimate responsibility for complying with all federal requirements pertaining to government-to-government consultation with Tribes. 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.
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 shall be identified by UDOT and invited by FHWA to be consulting parties.
C. UDOT 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.
D. UDOT 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.
E. UDOT may assist FHWA in consultation if the individual Tribes agree to alternate procedures.
F. Tribal consultation shall be done in accordance with 36 CFR Part 800, except where separate agreements have been executed with Tribes (Attachment 2).

VI. 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 UDOT to participate in the Section 106 process. Any land-managing agency whose land may be affected by an undertaking shall be invited by UDOT to participate in the Section 106 process.
2. UDOT 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). UDOT shall consider all written requests of individuals and organizations to participate as consulting parties and determine, in consultation with FHWA, which should be consulting parties for the undertaking.

B. Public Involvement

1. Public involvement in planning and implementing undertakings covered by this Agreement shall be governed by FHWA's and UDOT's environmental compliance procedures. UDOT's Public Involvement Policy and UDOT's Manual of Instruction will provide guidance for identifying, informing, and involving the public. 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), 800.3(e), and 800.11(c)(1) and (3).
2. The UDOT shall continue to seek and consider the views of the public in a manner that reflects the nature and complexity of the undertaking and its effects on historic properties, and the likely interest of the public in the effects on historic properties, to remain consistent with the intent of 36 CFR Part 800, as amended.
3. For those actions that do not routinely require public review and comment (e.g., certain activities classified as a CE), 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. The UDOT shall make FHWA, SHPO, and the USACE aware of any and all public controversy as it relates to the historic properties potentially affected by the proposed undertaking, including properties of religious and/or cultural significance to the Tribes.

VII. CE DELEGATION

A. UDOT, under Section 6004 of SAFETEA-LU, has assumed responsibility, authority, and liability for projects classified as Categorical Exclusions pursuant to the MOU in Attachment 1 of this Agreement. UDOT shall be deemed to be a Federal agency for those undertakings for the duration of this delegation.
B. UDOT shall satisfy the provisions of Section 106 of the NHPA, 36 CFR 800, and Section 4(f) of the DOT Act of 1966 by complying with the stipulations of this Agreement.
C. FHWA shall retain responsibility for government-to-government consultation with Tribes as defined in 36 CFR 800.16(m).
    a. If UDOT resolves any project-specific Tribal issues or concerns, FHWA's role in the environmental process shall be limited to carrying out the government-to-government consultation process.
    b. If FHWA determines through consultation with a Tribe, or a Tribe indicates to FHWA, that the proposed resolution of Tribal issues or concerns by UDOT is not adequate and requires government-to-government consultation to resolve, FHWA shall reassume

responsibility for Section 106 for that project while continuing to comply with the stipulations of this Agreement.

D. FHWA may monitor UDOT's processing of any project. If FHWA has reason to believe that UDOT's performance does not satisfy the terms and conditions of the MOU in Attachment 1, it may intervene to identify the problem. If the problem cannot be resolved to the satisfaction of FHWA, FHWA may reassume responsibility for Section 106 for that project, according to the provisions of the MOU in Attachment 1.

E. Although FHWA will not normally be involved in these undertakings, FHWA must monitor and assess quality assurance of the assumption by UDOT of Section 106 responsibilities. In furtherance of those obligations, FHWA may elect to attend meetings between UDOT and another agency, and may submit comments to UDOT and the other agency, if FHWA determines that an issue between UDOT and the other agency has broad or unique policy implications for the administration of the state or national program.

VIII. PROJECT REVIEW

A. Tier 1 Project Review

1. Tier 1 undertakings are those undertakings that have the potential to affect historic properties, but following appropriate screening, may be determined to require no further review or consultation under this Agreement. FHWA retains ultimate authority, responsibility, and liability, unless the project is processed under Stipulation VII. Pursuant to consultation with the other signatories to this Agreement, FHWA has identified undertakings that meet certain criteria and that will be addressed in accordance with Attachment 5 to this Agreement. The undertakings classified in this Attachment as Tier 1 undertakings do not require case-by-case review by SHPO, but may be reviewed by SHPO in a quarterly report under this Agreement when the steps set forth in the Attachment have been satisfactorily completed and when UDOT determines that no condition of the undertaking necessitates further review pursuant to this Agreement.
2. The PQS is responsible for screening undertakings to determine if those individual undertakings require further consideration, or if they may be determined not to require further review or consultation under the terms of this Agreement. The UDOT PQS may consult at any time, either formally or informally, with SHPO on any undertaking.
3. The PQS shall include the identification of all known storage, disposal, or borrow areas, and construction easements and staging areas, prior to the screening process. If additional project areas are added to a screened undertaking, the undertaking must be re-screened.
4. The criteria for determining if an undertaking requires no further review and consultation beyond the screening assessment and documentation of decision making by UDOT, are as follows:
   a. Has no known public controversy based on historic preservation issues; and
   b. Has one of the following effect findings:
      i. No Historic Properties Affected: No cultural resources present, as determined by UDOT PQS; or
      ii. No Historic Properties Affected: No historic properties (i.e., eligible for the National Register) present, as determined by UDOT PQS; or
      iii. No Historic Properties Affected: Historic properties are present, but are completely avoided by the undertaking and there is no or negligible potential for adverse indirect effects, as determined by UDOT PQS.
5. If a cultural resource inventory is conducted under this stipulation, any cultural resource reports generated from the survey shall be submitted to the UDSH quarterly for filing, in accordance with Stipulation VIII.C.

6. The UDOT Standard Specification 01355, Part 3.8, Discovery of Historical, Archaeological, or Paleontological Objects, Features, Sites, or Human Remains (Attachment 6), applies to all UDOT projects and will be referenced in all environmental documents (CEs, EAs, EISs).
7. The requirements for reporting on the projects that qualify and are processed as Tier 1 undertakings will be in accordance with Attachment 5.
8. The PQS will ensure that the documentation in Attachment 5 is included in the appropriate environmental document and project file. For Tier I undertakings, to document compliance in USACE decisions, UDOT shall notify USACE by submittal of screening form in permit application.
9. UDOT administratively completes Section 106 activities, but FHWA retains authority, responsibility, and liability for all actions, findings, and determinations, unless the project is classified as a CE pursuant to the MOU in Attachment 1.

B. Tier 2 Project Review

Tier 2 projects are all other projects not processed as Tier 1 projects (i.e., projects that result in a finding of no adverse effect or adverse effect). UDOT administratively completes Section 106 activities, but FHWA retains authority, responsibility, and liability for all actions, findings, and determinations, unless the project is classified as a CE pursuant to the MOU in Attachment 1.

C. Quarterly Reports

1. On a quarterly basis (no later than January 15, April 15, July 15, and October 15), the UDOT Region PQS shall submit to the UDOT Central PQS a list of all projects that were processed as screened undertakings (Tier 1) (Attachment 5) in that quarter. The Central PQS will compile a complete list of Tier 1 projects for submission to FHWA, SHPO, and USACE within 30 days from the end of the quarter (submitted by January 31, April 30, July 31, and October 31).
2. This list shall include the county, project name and number, type of undertaking, level of effort, consultation measures, description of any archaeological sites, buildings, or structures, and a map showing the distribution by county of the projects throughout the state. The list will also indicate which projects require a USACE permit.
3. All cultural resource reports, site forms, and other documentation for undertakings completed during the quarter, will be submitted to the UDSH by UDOT.
4. UDOT will provide the list to FHWA, SHPO, and USACE, who will review it for compliance with this Agreement. If there are objections regarding the manner in which the terms of this Agreement are being carried out, the parties to this agreement will proceed in accordance with Stipulation XIII.C

IX. THE SECTION 106 PROCESS

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

A. Initiation of the Section 106 Process

1. Establish the undertaking, determine if the undertaking is a type of activity that has the potential to cause effects on historic properties, determine if the undertaking will occur on Tribal lands, or if the undertaking will require consultation with USACE. Coordination with USACE should be conducted early the Section 106 process in order to determine if a permit is required.
2. If UDOT determines that the undertaking is one with no potential to cause effects, UDOT will document this decision in the project record and Section 106 is complete. Otherwise, continue the process.
3. Identify the appropriate SHPO.
4. Identify consulting parties, including Tribes, as appropriate, during the early stages of Section 106 review. If UDOT wishes to consult with SHPO on the identification of consulting parties, SHPO shall

have 15 days to respond or concur. If SHPO does not respond within that time period, UDOT may assume that SHPO has no objections and may proceed.

5. Develop planning to involve the public, Tribes, USACE, and other consulting parties.
6. Begin consultation with consulting parties subject to limitations specified in Stipulation V.

B. Identification of Historic Properties

1. Pursuant to 36 CFR 800.4(a), UDOT shall determine the scope of identification efforts, including determining and documenting the undertaking's area of potential effects (APE), as defined at 36 CFR 800.16(d) and Attachment 7. If UDOT wishes to consult with SHPO and the USACE (to ensure scope and APE cover USACE's permit area) on the scope of the identification efforts and the definition of the APE, SHPO shall have 15 days to respond or concur. If SHPO does not respond within that time period, UDOT may assume that SHPO has no objections and may proceed.
2. Pursuant to 36 CFR 800.4(b), UDOT shall ensure the identification of historic properties that may be affected by an undertaking and gather information to evaluate the eligibility and integrity of these properties for listing in the NRHP.
3. Information shall be obtained through cultural resource surveys or other appropriate methods.
4. 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 guidance issued by SHPO, FHWA, UDOT, and USACE, and any other guidance, methodologies, agreements, or protocols that FHWA, UDOT, USACE, and SHPO agree should be used to identify properties, including those of other land-managing agencies.
5. If no historic properties are found to be present in the APE, the project will be processed as a Tier 1, in accordance with Stipulation VIII.A.

C. Evaluating Historic Significance

1. UDOT shall evaluate the historic significance of identified properties in accordance with 36 CFR 800.4(c), and shall make appropriate findings regarding eligibility. Where historic property boundaries have not previously been established, the PQS will identify boundaries, following standards set forth in National Register Bulletin 21, *Defining Boundaries for National Register Properties*. UDOT shall consult with SHPO on the outcome of identification and evaluation of historic resources.
2. For undertakings that have properties that are determined by the PQS to be not eligible for inclusion in the NRHP, the project will be processed as a Tier 1, in accordance with Stipulation VIII.A.
3. UDOT may simultaneously request SHPO concurrence on findings of inventory, eligibility, and effect covered by 36 CFR 800.3 through 800.6, provided other consulting parties and the public are afforded an adequate opportunity to express their views pursuant to 36 CFR 800.2(d).
   a. If SHPO fails to comment on any findings contained in a submission within 30 calendar days of receipt, UDOT may assume they have no objection and proceed to the next step in the consultation process pursuant to 36 CFR 800.3(c)(4).
   b. For purposes of Section 4(f) (36 CFR 774), if SHPO does not respond to a request for concurrence in the determination of no adverse effect within 30 days, the non-response together with the written agreement in Attachment 8 will be considered written concurrence in the Section 106 determination that will be the basis of the *de minimis* impact finding by FHWA
4. Agreements regarding the NRHP eligibility of properties evaluated hereunder, and any disagreements pertaining thereto, shall be governed by 36 CFR 800.4(c)(2), except that in the event of a disagreement, UDOT shall first consult with the disagreeing party to resolve the disagreement.
   a. If the disagreement cannot be resolved through informal consultation, UDOT shall notify FHWA (unless the project is processed under Stipulation VII), whereupon UDOT, FHWA, SHPO, and

any consulting party shall consult to resolve the disagreement in accordance with a time frame specified by FHWA.

b. If the disagreement is not resolved, FHWA (unless the project is processed under Stipulation VII) shall refer the issue to the Keeper of the National Register to obtain a determination of eligibility.

D. Finding of Effect

1. No Historic Properties Affected

a. If UDOT finds that either there are no historic properties present or there are historic properties present within the APE, but the undertaking will have no effect on them as defined in 36 CFR 800.16(i), UDOT shall make a finding of no historic properties affected (36 CFR 800.4(d)(1).
b. As defined in Stipulation VIII.A.4., a finding of no historic properties affected does not lead to a *de minimis* impact finding under Section 4(f).
c. For projects processed as Tier 1 undertakings, the findings will be documented in the quarterly reports, and documentation submitted quarterly to FHWA, SHPO, and USACE.
d. UDOT shall notify all consulting parties, and make the documentation available for public inspection, consistent with the confidentiality provisions of 36 CFR 800.11(c), prior to approving the undertaking.

2. No Adverse Effect

a. UDOT shall make a formal 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 UDOT modifies the undertaking or imposes conditions that will avoid adverse effects to historic properties.
b. UDOT shall submit its finding of effect (FOE) and supporting documentation to all consulting parties for comment, and will request SHPO concurrence on the finding.
c. UDOT may consult at any time, either formally or informally, with SHPO regarding application of the criteria.
d. If SHPO, or another consulting party, objects within 30 days of receipt of a UDOT finding of no adverse effect, UDOT will notify FHWA, unless the project is being processed under Stipulation VII. FHWA will either consult to resolve the objection or request the Council to review the finding pursuant to 36 CFR 800. 5(c)(2).
e. If the project is processed under Stipulation VII, UDOT will either resolve the objection or will request the ACHP to review the finding pursuant to 36 CFR 800.5(c)(2).
f. UDOT shall maintain a record of the finding and provide information on the finding to all consulting parties and the public on request, consistent with the confidentiality provisions of 36 CFR 800.11(c), prior to approving the undertaking.

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, UDOT shall make a finding of adverse effect.
b. Prior to any finding of adverse effect, FHWA or UDOT 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.

4. Resolution of Adverse Effect

a. When a finding of adverse effect has been made by UDOT, the UDOT shall, in consultation with FHWA (unless the project is processed under Stipulation VII), SHPO, USACE (if this is a

permitted undertaking and the adverse effect is on a historic property within USACE jurisdictional APE), and other consulting parties, evaluate alternatives or modifications to the project that would avoid, minimize, or mitigate adverse effects on historic properties. UDOT shall propose measures to resolve adverse effects, to be documented in a memorandum of agreement (MOA) or other appropriate agreement document.

b. UDOT shall make information available to the public, including the documentation specified in 36 CFR 800. 11(e), subject to the confidentiality provisions of 36 CFR 800.11(c).
c. UDOT shall provide an opportunity for members of the public to express their views on resolving adverse effects of the project through UDOT's public involvement procedures.
d. UDOT will also notify the public of the adverse effect by publishing a notice in statewide or local newspapers, providing notice in a project newsletter, providing information at a public meeting, or other manner appropriate to the scope and complexity of the project (consistent with the intent of Stipulation VI.B of this Agreement).
e. UDOT will notify the Council of the finding, pursuant to 36 CFR 800.6(a)(1), and that UDOT will be preparing a MOA to resolve adverse effects. UDOT will provide supporting documentation in accordance with 36 CFR 800.11(e), and determine Council participation pursuant to 36 CFR 800.6(a)(1).
    i. The Council shall advise the agency and the consulting parties whether it will participate within 15 days of receipt of notice.
f. After consideration of the views of all consulting parties and the public, if UDOT, FHWA (unless the project is processed under Stipulation VII), SHPO, USACE (if this is a permitted undertaking and the adverse effect is on a historic property within USACE jurisdictional APE), and Council (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 an MOA, pursuant to 36 CFR 800.6(c).
g. A copy of the MOA shall be provided to each signatory, invited signatory, and concurring parties, as well as the Council (if they are not a signatory).
h. Once finalized, the measures to resolve adverse effects shall be incorporated into the undertaking, and the undertaking may be implemented.
i. If the UDOT determines that an undertaking may adversely affect a National Historic Landmark, UDOT will notify FHWA, who shall request SHPO, Council, and 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.

E. Resolving Objections

1. If FHWA, SHPO, and UDOT are unable to agree on measures to resolve the adverse effects of an undertaking pursuant to this stipulation, they shall invite the Council to participate in the resolution process 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 the Council 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.

X. 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; 2) minimize the extent of damage to the highway system/facilities; 3) protect remaining highway facilities; or 4) restore essential traffic.
    1. These repairs can occur regardless of funding category, and regardless of declarations made by federal, state, or local agencies.

2. If the emergency repair project could affect historic properties, UDOT shall notify SHPO, FHWA, USACE (if a permitted undertaking), and Tribes within 24 hours. SHPO and any Tribe that may attach religious and cultural significance to historic properties likely to be affected will have 72 hours to respond.
3. For projects where the repair must be made within the first 30 days of the occurrence of the event that caused the emergency or the declaration of the emergency by an appropriate authority, the processing of environmental documentation will happen concurrently or after the fact. In these cases, UDOT will comply with the procedures in Stipulation IX of this Agreement to the extent possible, but the reviews will likely be conducted after the emergency work is completed.
4. For projects taking longer than 30 days for repair, UDOT will comply with the procedures in Stipulation IX.
5. Written notification of an emergency action shall be provided to SHPO. 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, the nature, effect, and anticipated effect of the emergency action on the resource(s), and the anticipated time frame available for comment.

XI. POST-REVIEW DISCOVERIES

A. Planning for Subsequent Discoveries

When UDOT's identification efforts in accordance with Stipulation IX.B indicate that historic properties are likely to be discovered during implementation of an undertaking, UDOT shall include in any environmental document a plan for discovery of such properties. Implementation of the plan as originally proposed, or modified as necessary owing to the nature and extent of the properties discovered, will be in accordance with 36 CFR 800.4-6.

B. Discoveries Without Prior Planning

1. If previously unidentified archaeological or historic properties, or unanticipated effects, are discovered after UDOT has completed its review under this Agreement, that portion of the project will stop immediately, in accordance with UDOT Standard Specification 01355, Part 3.8 (Attachment 6).
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. UDOT will notify SHPO, FHWA, USACE (if a permitted undertaking), and the Tribes within 48 hours of the discovery with a description of the discovery, and the actions that are proposed to document the discovery, evaluate NRHP eligibility of the property, and determine the project's effect on the property if the discovery is determined eligible.
4. If there will be an adverse effect to the property, UDOT will consult with SHPO, FHWA, USACE (if a permitted undertaking), and the Tribes to design a plan for avoiding, minimizing, or mitigating adverse effects on the eligible property.
5. If neither SHPO nor a Tribe files an objection within 72 hours to UDOT's plan for addressing the discovery or resolving adverse effects, UDOT may carry out the requirements of 36 CFR 800.13 on behalf of FHWA, and the Council does not need to be notified.
6. UDOT will provide SHPO, FHWA, USACE (if a permitted undertaking), and the Tribes a copy of the treatment plan and the report of the actions when they are completed.

XII. TREATMENT OF HUMAN REMAINS

Native American remains and any funerary objects, sacred objects, or objects of cultural patrimony (cultural objects) found within the APE shall be treated pursuant to the Native American Graves Protection and Repatriation Act (NAGPRA) of 1990 (25 U.S.C. 3001 *et seq.* and its implementing regulations (43 CFR 10, as amended) or the Utah Native American Graves Protection and Repatriation Act (Utah NAGPRA) of 1992 (U.C.A. 9-9-401, *et seq*., and its implementing Rule R230-1, depending on land ownership (BLM, Forest Service, SITLA, UDOT, private, etc.).

XIII. ADMINISTRATIVE STIPULATIONS

A. Documentation

1. All documentation that supports findings and determinations made under this Agreement shall be consistent with 36 CFR 800.11 and shall be in accordance with the UDOT Guidelines for Archaeological Survey and Testing, and its subsequent revisions or editions, with attachments to this Agreement, and with applicable guidelines and procedures of land-managing agencies that have jurisdiction over the land involved in the undertaking.
2. Documentation prepared by local agencies or their consultants in support of such findings shall be submitted to UDOT for review and approval by the UDOT PQS. UDOT shall transmit all documentation cited herein to SHPO as stipulated by this Agreement. UDOT shall not transmit to FHWA or SHPO any documentation that has not been reviewed and approved by the UDOT PQS.
3. All documentation prepared under this Agreement shall be kept on file at UDOT and made available to consulting parties and the public as stipulated by the Agreement, consistent with applicable confidentiality requirements [as described in 36 CFR 800.11(c)].
4. The UDOT PQS shall submit to the UDSH copies of all fieldwork reports, Intermountain Antiquities Computer Site (IMACS) forms, Reconnaissance Level Survey (RLS) forms, Intensive Level Survey (ILS) forms, and any other relevant documents as soon as possible (and no later than 2 years) after completion of the work, unless an agreement between UDOT and UDSH states a different period.
5. For projects processed as Tier 1 projects, reports and forms will be submitted on a quarterly basis, in accordance with Stipulation VIII.C.

B. Monitoring Implementation of this Agreement

1. FHWA, SHPO, USACE, and Council may review activities carried out pursuant to this Agreement. UDOT shall facilitate this review by compiling specific categories of information to document the effectiveness of the Agreement and by making this information available on an annual basis to FHWA, SHPO, USACE, and Council in the form of a written report. Categories of information can include, but are 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 UDOT in the written 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 constitute 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.
2. UDOT shall prepare the written 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. UDOT shall submit the annual reports to FHWA, SHPO, USACE, and Council no later than three (3) months following the end of the Federal fiscal year (September 30).

3. UDOT, FHWA, USACE, 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 Council will be notified at least 30 days in advance, and may participate at its discretion. Thirty days prior to the annual evaluation, UDOT shall submit the report of the previous year's activities to FHWA, SHPO, USACE, and Council.
4. UDOT shall provide notice to the public that the annual report herein prescribed is available for public inspection and ensure that potentially interested members of the public are made aware of its availability and that the public may comment to signatory parties on the report. FHWA and UDOT, in consultation with SHPO, USACE, and Council, shall identify the specific recipients of the public notice herein described.
5. At the request of any other signatory party to this Agreement, FHWA shall ensure that one or more meetings are held to facilitate review of, and comment on, the report to address questions and issues, or to resolve adverse comments.
6. In conjunction with the review of the reports prepared by UDOT pursuant to this Stipulation, the signatory parties shall consult to review the overall effectiveness and benefits of the Agreement, determine if its requirements are being met, decide if amendments to the Agreement are warranted, review the reporting format and categories for adequacy, and identify any other actions that may be needed in order to take into account the effects of the Program on historic properties in Utah.
7. If any signatory party determines that a UDOT Region (there are four) is not meeting its responsibilities under this Agreement, measures will be taken to resolve the concerns with the UDOT PQS, and the UDOT Central PQS if appropriate.

C. Resolving Objections to Implementation of this Agreement

1. Should any signatory party object in writing to UDOT or FHWA regarding the manner in which the terms of this Agreement are carried out, FHWA will immediately notify the other signatory parties of the objection and proceed to consult with the objecting party to resolve the objection. FHWA will honor the request of any signatory party to participate in the consultation and will take any comments provided by such parties into account. FHWA shall establish a reasonable time frame for such consultations.
2. If the objection is resolved through consultation, FHWA may authorize the disputed action to proceed in accordance with the terms of such resolution.
3. If after initiating such consultation, FHWA determines that the objection cannot be resolved through consultation, FHWA, with the cooperation of UDOT, shall forward all documentation relevant to the objection to the Council and other signatory parties, including FHWA's proposed response to the objection. Within 30 days after receipt of all pertinent documentation, Council shall exercise one of the following options:
   a. Advise FHWA that Council concurs in FHWA's proposed response to the objection, whereupon FHWA will respond to the objection accordingly; or
   b. Provide FHWA with recommendations, which FHWA shall take into account in reaching a final decision regarding its response to the objection; or
   c. 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).
4. Should Council not exercise one of the foregoing options within 30 days after receipt of all pertinent documentation, FHWA may assume Council's concurrence in its proposed response to the objection.
5. FHWA shall take into account any Council recommendation or comment and any comments from the other signatory parties to this Agreement in reaching a final decision regarding the objection.

FHWA's responsibility to carry out all actions under this Agreement that are not the subject of the objection shall remain unchanged.

6. FHWA shall provide all other signatory parties to this Agreement with a written copy of its final decision regarding any objection addressed pursuant to this Stipulation.
7. FHWA may authorize any action subject to objection under this Stipulation to proceed, provided the objection has been resolved in accordance with the terms of this Stipulation.
8. At any time during implementation of the terms of this Agreement, should any member of the public raise an objection in writing pertaining to such implementation to any signatory party to this Agreement, that signatory party shall immediately notify FHWA. FHWA shall immediately notify the other signatory parties in writing of the objection. Any signatory party may choose to comment on the objection to FHWA. FHWA shall establish a reasonable time frame for this comment period. FHWA shall consider the objection, and in reaching its decision, FHWA will take all comments from the other signatory parties into account. Within 15 days following closure of the comment period, FHWA will render a decision regarding the objection and respond to the objecting party. FHWA will promptly notify the other signatory parties of its decision in writing, including a copy of the response to the objecting party. FHWA's decision regarding resolution of the objection will be final. Following the issuance of its final decision, FHWA may authorize the action subject to dispute hereunder to proceed in accordance with the terms of that decision.

D. Amendment

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

E. Termination

1. Any signatory party may terminate this agreement. If this Agreement is not amended as provided for in Stipulation XIII.D, or if any signatory party proposes termination of this Agreement for other reasons, the party proposing termination shall notify the other signatory parties in writing, explain the reasons for proposing termination, and consult with the other parties for no more than 30 days to seek alternatives to termination.
2. Should such consultation result in an agreement on an alternative to termination, the signatory parties shall proceed in accordance with that agreement.
3. Should such consultation fail, the signatory party proposing termination may terminate this Agreement by promptly notifying the other parties in writing.
4. Should this Agreement be terminated, FHWA would carry out the requirements of 36 CFR Part 800 for individual undertakings, as stated in Stipulation XIII.D.5.
5. Beginning with the date of termination, FHWA shall ensure that until and unless a new Agreement is executed for the actions covered by this Agreement, such undertakings shall be reviewed individually in accordance with 36 CFR 800.4-800.6.
6. If this Agreement is terminated and UDOT has assumed Section 106 compliance responsibility in accordance with the MOU in Attachment 1, UDOT shall comply with 36 CFR 800.4 through 800.6.

F. Confidentiality

All parties to this Agreement acknowledge that information about historic properties, potential historic properties, or properties considered historic for purposes of this Agreement are or may be subject to the

provisions of Section 304 of NHPA., Section 304 allows UDOT to withhold from disclosure to the public, information about the location, character, or ownership of a historic resource if UDOT determines that disclosure may 1) cause a significant invasion of privacy; 2) risk harm to the historic resource; or 3) impede the use of a traditional religious site by practitioners. Having so acknowledged, all parties to this Agreement will ensure that all actions and documentation prescribed by this Agreement are, where necessary, consistent with the requirements of Section 304 of the NHPA.

G. Duration of Agreement

This Agreement shall remain in effect for a period of ten years after the date it takes effect, unless it is terminated prior to that time. Six months prior to the conclusion of the ten year period, UDOT will notify all parties in writing. If there are no objections from consulting parties, the term of the Agreement will automatically be extended for an additional ten years. If any party objects to extending the Agreement, or proposes amendments, UDOT will consult with the parties to consider amendments or other actions to avoid termination.

Execution of this Agreement by the FHWA, SHPO, Council, USACE, and UDOT, and implementation of its terms evidence that FHWA and USACE have taken into account the effects of the Program and its individual undertakings on historic properties, afforded the Council an opportunity to comment, and has complied with Section 106 of the NHPA and 36 CFR 800 for the Program and its individual undertakings.

SIGNATORIES

FEDERAL HIGHWAY ADMINISTRATION

_____ _____

James Christian, P.E., Utah Division Administrator Date

UTAH STATE HISTORIC PRESERVATION OFFICER

_____ _____

Kristen Rogers-Iversen, Interim Division Director Date

ADVISORY COUNCIL ON HISTORIC PRESERVATION

_____ _____

John Fowler, Executive Director Date

UNITED STATES ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT

_____ _____

Michael S. Jewell, Chief, Regulatory Division Date

INVITED SIGNATORY

UTAH DEPARTMENT OF TRANSPORTATION

_____ _____

Executive Director Date

ATTACHMENT 1

MEMORANDUM OF UNDERSTANDING FOR CE DELEGATION

23 U.S.C. 326 CE Assignment MOU: FHWA, Utah Division, and the Utah Department of Transportation—Renewed Memorandum of Understanding between the Federal Highway Administration, Utah Division, and the Utah Department of Transportation for State Assumption of Responsibility for Categories Exclusions (June 30, 2011) (MOU CE Delegation)

ATTACHMENT 2

EXISTING AGREEMENTS

1. Programmatic Agreement between the UDOT and the Utah State Historic Preservation Officer Regarding Implementation of U.C.A. 9-8-404 for State Funded Transportation Projects in Utah (State PA) (March 19, 2008)
2. Memorandum of Understanding Between the Utah Department of Transportation and the Utah Geological Survey Concerning Agency Responsibilities Pursuant to U.C.A. 79-3-508 (UGS MOU) (March 25, 2010)
3. Programmatic Agreement Among the Federal Highway Administration, the Utah Department of Transportation and the Confederated Tribes of the Goshute Indian Reservation Regarding Coordination and Consultation on Federal-Aid Highway Projects in Utah in Accordance with the National Historic Preservation Act Section 106 Process and 36 CFR Part 800 (Goshute PA) (July 29, 2008)
4. Programmatic Agreement Among the Federal Highway Administration, the Utah Department of Transportation, The Paiute Indian Tribe of Utah, and the Cedar Band of Paiute Indians Regarding Coordination and Consultation on Federal-Aid Highway Projects in Utah in Accordance with the National Historic Preservation Act Section 106 Process and 36 CFR Part 800 (Cedar Band PA) (September 29, 2008)
5. Programmatic Agreement Among the Federal Highway Administration, the Utah Department of Transportation, The Paiute Indian Tribe of Utah, and the Indian Peaks Band of Paiute Indians Regarding Coordination and Consultation on Federal-Aid Highway Projects in Utah in Accordance with the National Historic Preservation Act Section 106 Process and 36 CFR Part 800 (Indian Peaks PA) (September 29, 2008)
6. Programmatic Agreement Among the Federal Highway Administration, the Utah Department of Transportation, and the Shivwits Band of the Paiute Indian Tribe of Utah Regarding Coordination and Consultation on Federal-Aid Highway Projects in Utah in Accordance with the National Historic Preservation Act Section 106 Process and 36 CFR Part 800 (Shivwits PA) (March 15, 2011)
7. Agreement to Share Protected Records Between Governmental Entities (Division of State History and Utah Department of Transportation) (August 21, 2007)
8. Interlocal Cooperation Agreement Between Utah Department of Transportation and Utah Division of State History for Assistance with Human Remains Discoveries (October 11, 2011)

ATTACHMENT 3

USACE COMPLIANCE WITH SECTION 106

There are three types of permits that are issued by the United States Army Corps of Engineers (USACE) for Utah Department of Transportation (UDOT) projects: 1) Individual permits; 2) Nationwide permits (usually NWP14); and 3) Programmatic General Permit 40, or PGP40 (Utah Joint Stream Alteration permits). Issuance of a permit in connection with a FHWA/UDOT project is the undertaking for which USACE is responsible for ensuring compliance with Section 106 of the National Historic Preservation Act (NHPA). Thus, USACE compliance responsibilities are limited to the jurisdictional area of potential effects (APE) or Permit Area (USACE Guidelines for Compliance with Section 106 of the National Historic Preservation Act, February 25, 2011) The process outlined below will be used, in addition to the process outlined in the PA, on those projects for which a USACE permit is needed, or anticipated.

Pursuant to 33 CFR 325, Appendix B.8(c), "If another agency is the lead agency as set forth by the CEQ regulations (40 CFR 1501.5 and 1501.6(a) and 1508.16), the district engineer will coordinate with that agency as a cooperating agency under 40 CFR 1501.6(b) and 1508.5 to insure that agency's resulting EIS may be adopted by the Corps for purposes of exercising its regulatory authority." This also applies to Section 106 compliance: "If more than one Federal agency is involved in an undertaking, some or all the agencies may designate a lead Federal agency, which shall identify the appropriate official to serve as the agency official who shall act on their behalf, fulfilling their collective responsibilities under Section 106" (36 CFR 800.2(a)(2).

As a signatory to this Agreement, USACE has designated FHWA as the lead Federal agency for purposes of Section 106 compliance and will serve as a cooperating agency on all Federal-aid projects that may require a permit from USACE. The process to allow USACE to adopt FHWA's Section 106 consultation by having FHWA act on their behalf in fulfilling their collective responsibilities under Section 106 is as follows:

- Invite USACE to project team meetings

- Early coordination on the draft scope of the project and the APE
    - For EAs and EISs, USACE will be copied on the Section 106 APE consultation letter to SHPO and will be invited to any APE consultation meetings.
        - UDOT will request that USACE defines their jurisdictional APE/Permit Area based on available information of aquatic resource locations; USACE will ensure that the UDOT-defined APE encompasses the USACE-defined jurisdictional APE/Permit Area.
        - USACE will have 15 days to respond or concur with the APE. If they do not respond within that time period, UDOT may assume USACE has no objections and that the UDOT-defined APE encompasses the USACE-defined jurisdictional APE/Permit Area, and may proceed.
    - For CEs, except for the exempted projects listed below, a description of the project and the proposed APE will be sent to USACE by UDOT at the same time project notifications are sent to other potential consulting parties.
        - UDOT will request that USACE define their jurisdictional APE/Permit Area; USACE will ensure that the UDOT-defined APE encompasses the USACE-defined jurisdictional APE/Permit Area.
        - USACE will have 15 days to respond or concur with the APE. If they do not respond within that time period, UDOT may assume USACE has no objections

and that the UDOT-defined APE encompasses the USACE-defined jurisdictional APE/Permit Area, and may proceed.

- USACE will be copied on all correspondence to and from Native American Tribes

- Tier 1 projects
  - USACE will accept the Tier 1 quarterly submittals through the process defined in this PA and will not require further SHPO consultation on each individual project. UDOT will include a copy of the Tier 1 Screening Form with all permit applications.

- Tier 2 projects
  - USACE will be copied on the determination of eligibility and finding of effect (DOE-FOE) letter to SHPO submitted by UDOT.
  - The DOE-FOE or FOE will describe the effects on historic properties within the USACE-defined jurisdictional APE/Permit Area.
  - UDOT will request USACE concurrence on the determinations and findings within the USACE-defined jurisdictional APE/Permit Area.
    - If USACE fails to comment on any findings contained in a submission within 30 calendar days of receipt, UDOT may assume they have no objection and proceed to the next step in the consultation process pursuant to 36 CFR 800.3(c)(4).

- Memorandums of Agreement (MOAs)
  - USACE will be a signatory on all MOAs with adverse effects within their jurisdictional APE/Permit Area.

- On projects with a USACE permit, the discovery process will include the USACE if within their jurisdictional APE/Permit Area.

UDOT has identified certain activity types that do not require a USACE permit and qualify for an exemption from USACE coordination. These activities tend to be pavement or maintenance related and are limited to the roadway prism. Identification of which projects are exempted types of activities will be added to the Tier 1 tracking form and submitted quarterly to FHWA, SHPO, and USACE. The list of types of activities exempted is as follows:

A. Pavement Related

1. Resurfacing the existing roadway within the roadway prism (toe of slope to top of cut) without other geometric changes. Work includes removing existing pavement surface by rotomilling or grinding, placing new pavement surface overlay using a variety of material types, and/or replacing concrete pavement panels. Existing subbase and original ground remains under the roadway.
2. Sidewalk, curb and gutter, and pedestrian access ramp replacement and/or installation within the roadway prism and not including additional excavation outside existing disturbed area. Disturbance is less than 2 feet below existing surface. Mostly done in urban, residential, or developed/disturbed areas.

B. Maintenance Related

1. Pavement repairs within the roadway prism including pothole repairs, joint repairs, pavement patching, soft spot repairs, crack sealing of roads, rumble strips, and pavement marking, striping, and messaging where the construction does not disturb original ground.

2. Bridge maintenance and other structure repairs where work is limited to the structure, including deck and joint repairs, sealing, painting, approach slab work, and barrier/railing upgrades or replacement.

C. Signing Related

1. Installation and replacement of signs within the roadway prism, including replacement of existing signs in-kind and/or any sign that does not disturb original ground. Signs include traffic signs, information signs, mile markers, and other delineators.
2. Other signs within the roadway prism that include installation of driven foundation posts 6" or less in diameter for signs, or drilled shaft foundations generally to a maximum diameter of 36."

D. Roadside Safety Related

1. Install, repair, replace or upgrade existing guardrail, impact attenuators, and/or crash cushions on highways within the roadway prism where construction does not disturb original ground.
2. Install or replace center median or shoulder barriers on highways within the roadway prism where construction does not disturb original ground. Includes barriers of concrete, cable, or similar material type.

E. Traffic Monitoring Related

1. Install, replace, and upgrade traffic signal and lighting poles, located entirely in uplands. Includes street lighting poles.
2. Install highway monitoring systems including loop detectors (or other types of sensors), cameras, radio systems, ATMS systems, and variable message signs (with the exception of towers) where construction does not disturb original ground, located entirely in uplands.

F. Other Project Types

1. Any project, not specifically mentioned above, where all proposed work will take place on existing roadways within roadway prism (toe of slope to top of cut).
2. Streetscape improvements, including benches, decorative lighting, textured crosswalks, transit shelters, community signage, and containerized plantings where the construction does not disturb original ground.
3. Rehabilitation of historic structures where construction is limited to the structure.
4. Rehabilitation of historic transportation equipment such as railroad locomotives and rail cars.
5. Purchase of scenic easements or abandoned rail corridors where no construction activity is planned. Resale of scenic easements is not part of this agreement.

ATTACHMENT 4

RESPONSIBILITIES

TIER 1 AND TIER 2 PROJECTS

Stipulation No.	Activity	FHWA	UDOT PQS	USACE	Consultant[1]	Comments
IV.A	Ensure compliance with the terms of Agreement	X				
IV.B.1 & IX.8	Determine undertaking		X			
IV.B.2 & IX.A	Determine if type of undertaking has potential to cause effects		X			
IV.B.3 & IX.A	Determine if undertaking has potential to affect historic properties on tribal lands		X			
V.A & IX.A.C	Initial consultation with Tribes	X				Unless Tribes have agreed to consultation with UDOT PQS
V.E	Subsequent consultation with Tribes	X				Unless Tribes agree to alternate procedures
IV.B.6 & IX.A	Identify and invite consulting parties		X		X	
IV.B. 5	Solicit public comment		X		X	
IV.B.7 & IX.B	Determine scope and level of effort; if field survey is needed		X			
IV.B and IX.B	Determine APE		X	X		
IX.B	Conduct literature search		X		X	
IX.B	Conduct field survey		X		X	
VII.A	Determine if project qualifies for Tier 1 review process		X			
IV.B. and IX.C	Determine historic property boundaries		X		X	
N/A	Recommendations of eligibility				X	
IV.B.9 & IX.C	Determine eligibility		X			
N/A	Draft DOE[2]		X		X	May be combined with FOE
IX.C	Submit DOE to SHPO and consulting parties		X			
IX.C	Resolve disagreements on eligibility, including notifying the Keeper of the National Register	X				
IX.D	Determine effect		X			

Stipulation No.	Activity	FHWA	UDOT PQS	USACE	Consultant[1]	Comments
N/A	Draft FOE[3]		X		X	
IX.D	Submit FOE to SHPO and consulting parties		X			May be combined with DOE
IX.D	Consult to resolve adverse effects		X			
IX.D	Resolve disagreements on effect and request Council comment	X				
IX.D	Notify public of adverse effect		X		X	
IX.D	Draft MOA[4] or Treatment Plan		X		X	
IX.D	Execute MOA or Finalize Treatment Plan		X			
IX.D	Distribute executed MOA or final Treatment Plan to consulting parties		X			
IX.D	Send executed MOA and supporting documentation to Council		X			
IX.D	Carry out stipulations in MOA or Treatment Plan		X		X	
XI.B.	Notify FHWA, USACE, SHPO, Council, Tribes of discovery		X			
XI.B.	Develop treatment plan for discovery		X		X	
XI.B	Consultation on discovery		X			
XI.B	Data recovery of discovery		X		X	
XIII.B	Monitor implementation of Agreement	X				
XIII.C	Resolving objections to implementation of Agreement	X				

[1] At the request and under the direction of the UDOT PQS
[2] Determination of Eligibility
[3] Finding of Effect
[4] Memorandum of Agreement

DELEGATED CEs

Stipulation No.	Activity	FHWA	UDOT PQS	USACE	Consultant[1]	Comments
IV.A	Ensure compliance with the terms of Agreement	X				
IV.B.1 & IX.8	Determine undertaking		X			
IV.B.2 & IX.A	Determine if type of undertaking has potential to cause effects		X			
IV.B.3 & IX.A	Determine if undertaking has potential to affect historic properties on tribal lands		X			
V.A & IX.A.C	Initial consultation with Tribes	X				Unless Tribes have agreed to consultation with UDOT PQS
V.E	Subsequent consultation with Tribes	X				Unless Tribes agree to alternate procedures
IV.B.6 & IX.A	Identify and invite consulting parties		X		X	
IV.B. 5	Solicit public comment		X		X	
IV.B.7 & IX.B	Determine scope and level of effort; if field survey is needed		X			
IV.B and IX.B	Determine APE		X	X		
IX.B	Conduct literature search		X		X	
IX.B	Conduct field survey		X		X	
VII.A	Determine if project qualifies for Tier 1 review process		X			
IV.B. and IX.C	Determine historic property boundaries		X		X	
N/A	Recommendations of eligibility				X	
IV.B.9 & IX.C	Determine eligibility		X			
N/A	Draft DOE[2]		X		X	May be combined with FOE
IX.C	Submit DOE to SHPO and consulting parties		X			
IX.C	Resolve disagreements on eligibility, including notifying the Keeper of the National Register		X			
IX.D	Determine effect		X			
N/A	Draft FOE[3]		X		X	
IX.D	Submit FOE to SHPO and consulting parties		X			May be combined with DOE
IX.D	Consult to resolve adverse effects		X			
IX.D	Resolve disagreements on effect and		X			

Stipulation No.	Activity	FHWA	UDOT PQS	USACE	Consultant[1]	Comments
	request Council comment					
IX.D	Notify public of adverse effect		X		X	
IX.D	Draft MOA[4] or Treatment Plan		X		X	
IX.D	Execute MOA or finalize Treatment Plan		X			
IX.D	Distribute executed MOA or final Treatment to consulting parties		X			
IX.D	Send executed MOA and supporting documentation to Council		X			
IX.D	Carry out stipulations in MOA or Treatment Plan		X		X	
XI.B.	Notify FHWA, USACE, SHPO, Council, Tribes of discovery		X			
XI.B.	Develop treatment plan for discovery		X		X	
XI.B	Consultation on discovery		X			
XI.B	Data recovery of discovery		X		X	
XIII.B	Monitor implementation of Agreement	X				
XIII.C	Resolving objections to implementation of Agreement	X				

[1] At the request and under the direction of the UDOT PQS
[2] Determination of Eligibility
[3] Finding of Effect
[4] Memorandum of Agreement

ATTACHMENT 5

SCREENED UNDERTAKINGS: TIER 1 REVIEW PROCESS

The Screening Process

The determination that an undertaking is exempt from further review or consultation will be made by the PQS, although some of the activities included in the screening may be done by qualified consultants, as specified in Stipulation IV.B.

The screening process may include one or more of the following procedures. The process is not limited to the procedures below, nor are all these procedures required for all undertakings. Screening should be appropriate to the specific complexity, scale, and location of the undertaking.

- Literature search (Class 1) or records review (UDSH database, UDOT records, other agency files, etc.) to determine potential for involvement of historic properties
- Field review of project area, including survey if necessary
- Consultation with Tribes who may attach religious or cultural significance to properties within the project area, as appropriate for the scope of the undertaking.
- Consultation with certified local governments, local historic societies, or knowledgeable informants, as appropriate for the scope of the undertaking
- Review of aerial photographs, UDOT photologs, historic maps, or as-built records
- Review of right-of-way, assessment parcel, or ownership data
- Review of detailed project plans

Based on the outcome of the screening process, the PQS may determine that individual undertakings require no further review and consultation. Documentation of the screening must be completed using the Tier 1 Screening Form which will be included in the appropriate environmental document. The Tier 1 Screening Form and supporting documentation will be submitted to the SHPO quarterly.

TIER 1 SCREENING FORM

PIN:
Project Number:
Project Name:
City:
County:
Project Description:

Screening Process

Screened undertakings are those that have the potential to affect historic properties, but following appropriate screening, may be determined by UDOT Professionally Qualified Staff to require no further review or consultation under this Agreement. The screening process may include one or more of the following tasks and should be appropriate to the complexity, scale, and location of the undertaking.

Antiquities Project Number:

Literature Review

- ☐ Class I literature search (date completed and by whom):
- ☐ Records review (i.e. UDSH, UDOT, BLM, etc.):
- ☐ Project plans
- ☐ As-built project plans
- ☐ Aerial photographs:
- ☐ Historic Maps:
- ☐ Topographic Maps:
- ☐ ROW/Ownership/Parcel Data:
- ☐ Other:

Description of search results:

Field Review

- ☐ Pedestrian survey (Class III) (survey interval):
- ☐ Field review other than Class III (reconnaissance, windshield, etc.):
- ☐ Other:
- ☐ None

Description of survey results (If no field survey was conducted, describe why not):

Supporting Documentation

If a cultural resource inventory is conducted under this stipulation, any reports and/or forms generated from the survey shall be submitted quarterly to the Utah Division of State History (UDSH) for filing.

Title of report:

Consultation

☐ Utah SHPO (including APE consultation):
☐ Certified Local Government (CLG):
☐ Tribes:
☐ Knowledgeable Informants:
☐ State/Federal Agencies:
☐ Other:
☐ None:

Description of consultation efforts (If no consultation was done, explain why not)**:**

☐ Controversy based on historic preservation issues? If yes, consultation with SHPO and UDOT Central Environmental is required. Additional consultation with FHWA may be required.

Finding of Effect

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 cultural resources present
☐ No Historic Properties Affected: cultural resources present but none eligible
☐ No Historic Properties Affected: historic properties present, but are completely avoided by the undertaking and the potential for substantial indirect effects is very low

Description of impacts:

Based on the outcome of the screening process, this undertaking requires no further review and consultation. Documentation of the screening will be included in the following:

☒ Project Files
☒ Quarterly Report
☐ Environmental Document:

Additional Information

Screening Completed By

Name:
Title:
Date:

ATTACHMENT 6

SECTION 01355 - ENVIRONMENTAL COMPLIANCE
PART 3.8 - DISCOVERY OF HISTORICAL, ARCHAEOLOGICAL, OR PALEONTOLOGICAL OBJECTS, FEATURES, SITES, OR HUMAN REMAINS

A. Immediately suspend construction operations in the vicinity (minimum 100-ft buffer around the perimeter) of the discovery if a suspected historic, archaeological, or paleontological item, feature, or site is encountered, or if suspected human remains are encountered.

B. Verbally notify the Engineer of the nature and exact location of the findings.

C. The Engineer contacts the UDOT Region staff archaeologist, who will assess the nature of the discovery and determine the necessary course of action.

D. Protect the discovered objects or features and provide written confirmation of the discovery to the Engineer within two calendar days.

E. The Engineer keeps the Contractor informed concerning the status of the restriction.
   1. The time necessary for the Department to handle the discovered item, feature, or site is variable, dependent on the nature and condition of the discovery.
   2. The Engineer will provide written confirmation when work may resume in the area.

Should a discovery occur, UDOT will consult with SHPO/THPO, Tribes (as appropriate), and USACE (if permit action is involved and discovery is within the USACE jurisdictional APE) in accordance with 36 CFR 800.13(b)(3) and this Agreement toward developing and implementing an appropriate treatment plan prior to resuming construction.

ATTACHMENT 7

DELINEATION OF AREA OF POTENTIAL EFFECTS (APE)

In accordance with Stipulations IV.B. and IX.B., UDOT will establish the area of potential effects (APE) for undertakings covered by this Agreement. The UDOT PQS, in consultation with the project manager, is responsible for describing and establishing an APE.

When the guidelines below are followed, specific consultation with SHPO regarding APE and level of effort will typically not be necessary. Consultation with 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 or indirectly 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 therefore 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; shadow effects; 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 itself, 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 must include all construction easements, such as slope and drainage easements, stormwater detention basins, off-site biological mitigation sites requiring ground disturbance, and mandatory borrow and disposal sites. It may include project-related activity areas such as utility relocations, access roads, equipment storage areas, or conservation or scenic easements.

An APE addresses indirect effects when warranted. Indirect effects may extend beyond the right-of-way to encompass visual, audible, or atmospheric intrusions; shadow effects; vibrations from construction activities; or change in access or use. Delineation of an indirect APE must be considered carefully, particularly for potential audible and visual effects, taking into account proximity and use of adjoining properties, the surrounding topography, and other aspects of a property's setting.

1. Noise: When considering potential noise effects, there must be a reasonable basis for predicting an effect 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.

2. Visual: Highways on new alignments, multi-level structures, or elevated roadways are considered to have potential for visual effects if they could be out of character with or intrude upon a historic property or isolate it from its setting. Projects for improvement or expansion of existing transportation facilities that will not substantially deviate from existing alignment or profile are not expected to involve visual impacts. If circumstanced indicate potential for visual effects, consultation with SHPO may be warranted.

Different APEs may be established for archaeological and built properties:

1. For archaeological properties, an APE is typically established based on an undertaking's potential for direct effects from ground-disturbing activities. 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 APE for the built and cultural environment is usually broader than an archaeological APE in order to include the potential for such effects. For instance, the first row of potential properties beyond the right-of-way may be subject to such effects, and thus be included in an indirect APE when warranted.

In delineating the APE, consideration must always be given to the undertaking's potential effects on a historic property as a whole. If any part of a property may be affected, the APE will generally encompass the entire property, including the reasonably anticipated or known boundaries of archaeological sites. However, it is rarely necessary to extend an APE to include entire large districts or landscapes, large rural parcels, extensive functional systems, or long linear features, if potential effects on the whole would clearly be negligible.

The guiding principle on delineating an APE is that it should be commensurate with, and provide for, an appropriate level of effort to take into account an undertaking's potential for effects on historic properties.

While an APE will generally encompass an entire property, physical intrusion such as testing of archaeological sites must be focused on areas subject to reasonably foreseeable effects of the undertaking, and should be guided by a project- or site-specific research design. Areas of an archaeological site that are unlikely to be affected by an undertaking should not be tested unless compelling reasons to conduct such testing are provided in the research design.

Whenever an undertaking is revised (e.g., design changes, utility relocations, or additional off-site mitigation areas), UDOT PQS will determine if the changes require modifying the APE. If an APE proves to be inadequate, UDOT 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 a design of an undertaking, UDOT PQS may designate a study area of use in conducting cultural resource studies 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 subject to a phased identification and evaluation process.

ATTACHMENT 8

SECTION 4(F) *DE MINIMIS* AGREEMENT

Section 4(f) De Minimis Determination; Pursuant to SAFETEA-LU Section 6009
In Conjunction with Section 106 Programmatic Agreement Among the Federal Highway Administration, the Advisory Council on Historic Preservation, the Utah State Historic Preservation Officer, and the Utah Department of Transportation (July 19, 2007) (Section 4(f) agreement)