

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

WHEREAS, the Federal Highway Administration (FHWA), under the authority of 23 U.S.C. § 101 et seq., implements the Federal-Aid Highway Program in the state of Iowa by funding and approving some state and locally sponsored transportation undertakings or projects that are administered by the Iowa Department of Transportation (Iowa DOT); and

WHEREAS, the FHWA has determined that transportation projects funded in Iowa are “Undertakings,” as defined in 36 CFR § 800.16(y) pursuant to Section 106 (54 U.S.C. § 306108), as amended, and codified in its implementing regulations, 36 CFR Part 800, as amended (August 5, 2004) and including any succeeding revisions to the regulations; and may have an effect on Historic Properties; and

WHEREAS, the Iowa FHWA Division Administrator, is the Agency Official, as defined in 36 CFR § 800.2(a) responsible for ensuring that Iowa DOT projects receiving approvals or funding from FHWA in the state of Iowa comply with Section 106; and

WHEREAS, the Iowa DOT, as authorized by Title 23 U.S.C. 302, administers projects throughout the State of Iowa that are carried out with FHWA financial assistance or require an FHWA permit or approval, and the Iowa DOT has participated in the consultation and has been invited to be a signatory to this Agreement; and

WHEREAS, the responsibilities of the Iowa State Historic Preservation Officer (Iowa SHPO) under Section 106 and 36 CFR § 800 are to advise, assist, review, and consult with the FHWA as they carry out their historic preservation responsibilities, and respond to FHWA’s requests within the timeframes detailed in 36 CFR Part 800 unless otherwise specified in this Agreement; and

WHEREAS, the responsibilities of the Advisory Council on Historic Preservation (ACHP) under Section 106 and 36 CFR § 800 are to advise, assist, review, and consult with the FHWA as they carry out their historic preservation responsibilities, and respond to FHWA requests within the timeframes detailed in 36 CFR Part 800 unless otherwise specified in this Agreement; and

WHEREAS, the FHWA has determined that certain types of Undertakings, would have or may have potential to affect properties included in, or eligible for inclusion in, the National Register of Historic Places (NRHP), hereafter referred to as “Historic Properties”, as defined in 36 CFR § 800.16(l), and have consulted on this Agreement with Iowa DOT, Iowa SHPO and ACHP pursuant to 36 CFR § 800.14(b)(ii) of the regulations implementing Section 106; and

WHEREAS, the FHWA recognize that they have a unique legal relationship with federally recognized Indian tribes as defined in 36 CFR § 800.16(m), (Tribes and Nations) set forth in the Constitution of the United States, treaties, statutes, and court decisions, and therefore, consultation with an Indian Tribe or Nation must recognize the government-to-government relationship between the federal government and Tribes and Nations; and

WHEREAS, the FHWA acknowledges that Tribes and Nations possess special expertise or unique Tribal knowledge in assessing the NRHP eligibility of properties with tribal religious and cultural significance pursuant to 36 CFR § 800.4(c)(1); and

2026 Section 106 Programmatic Agreement
for Transportation Federal Aid in Iowa

WHEREAS, the FHWA and Iowa DOT have consulted with Tribes and Nations with historical, ancestral and ceded lands in Iowa about this Agreement and have requested the Tribes' comments and consultation preferences and taken into account the statements received from the Tribes and Nations. The Tribes and Nations consulted are included in Appendix A; and

WHEREAS, the FHWA and Iowa DOT have invited Tribes to sign this Agreement as Concurring Parties; and

WHEREAS, any Undertaking involving tribal lands as defined in 36 CFR § 800.16(x), or any Undertaking that may affect a property identified by a Tribe or Nation as possessing traditional religious and cultural significance, shall not be governed by this Agreement, but shall be reviewed in accordance with 36 CFR § 800; and

WHEREAS, Iowa DOT employs cultural resources specialists and consultants who meet the Secretary of Interior's Professional Qualification Standards (Federal Register 48:44738-44739) in the fields of archaeology and architectural history to carry out its cultural resource responsibilities and are capable of completing the steps of the Section 106 review process on behalf of the FHWA; and

WHEREAS, pursuant to the consultation conducted under 36 CFR § 800.14(b)(2), the FHWA, Iowa DOT, Iowa SHPO, and ACHP (hereafter Signatory or Signatories) have developed this Agreement in order to establish an efficient and effective program alternative for taking into account the effects of the Programs on Historic Properties in Iowa and for affording ACHP a reasonable opportunity to comment on Undertakings covered by this Agreement; and

WHEREAS, the FHWA and Iowa DOT have notified regional planning organizations, consulting parties, and the public about this Agreement, have requested their comments, and have taken any comments received into account; and

WHEREAS, FHWA and Iowa DOT have consulted with the University of Iowa Office of the State Archaeologist (hereafter the "OSA") Bioarchaeology Program, regarding this agreement and the OSA has chosen to participate; and FHWA and Iowa DOT have invited the OSA to sign this Agreement as a Concurring Party; and

WHEREAS, this Agreement supersedes the previous Programmatic Agreement Among the Federal Highway Administration, the Iowa Department of Transportation, the Iowa State Historic Preservation Officer, and the Advisory Council on Historic Preservation Regarding Implementation of Federal-Aid Transportation Projects in the State of Iowa, executed May 4, 2018, amended to extend on May 9, 2023; and

NOW, THEREFORE, the FHWA, the Iowa DOT, the Iowa SHPO and the ACHP agree that the Programs in Iowa shall be carried out in accordance with the following stipulations in order to take into account the effects of the Programs on Historic Properties in Iowa and that these stipulations shall govern compliance of the projects with Section 106 until this Agreement expires or is terminated, whichever occurs first.

The Stipulations are organized in the following order:

- I. Applicability and Scope
- II. Definitions
- III. Responsibilities of the FHWA and Iowa DOT
- IV. Government-to Government Consultation with Tribes and Nations
- V. Participation of Other Consulting Parties and the Public
- VI. Project Review
- VII. Changes in Project Scope
- VIII. Emergencies
- IX. Discoveries
- X. Treatment of Human Remains
- XI. Support for Local Public Agencies
- XII. Annual Reporting, Auditing and Monitoring
- XIII. Amendment
- XIV. Termination
- XV. Dispute Resolution
- XVI. Confidentiality
- XVII. Duration
- XVIII. Execution of the Agreement

STIPULATIONS

The FHWA, with the assistance of Iowa DOT, shall ensure that the following measures are carried out:

I. APPLICABILITY AND SCOPE

A. The purposes of this Agreement are:

1. for the FHWA to delegate certain responsibilities to the Iowa DOT for Undertakings covered by this Agreement in Iowa for which Iowa DOT is the applicant and/or project sponsor, and
2. to establish an effective and efficient program alternative to Section 106 for those Undertakings.

B. This Agreement sets forth the process by which the FHWA, with the assistance of Iowa DOT, will meet their responsibilities pursuant to Section 106 for Undertakings. The Agreement defines the roles and responsibilities of each Signatory.

C. The objective of this Agreement is to make more efficient the methods by which the FHWA and Iowa DOT review individual Undertakings with the potential to affect Historic Properties and to establish the process by which FHWA, Iowa DOT, Iowa SHPO, and ACHP will be involved in such reviews.

D. Through this Agreement, the FHWA authorize Iowa DOT to initiate, and conclude, unless otherwise required by the FHWA, consultation with Iowa SHPO and other consulting parties for purposes of compliance with Section 106.

II. DEFINITIONS

A. The definitions listed in 36 CFR 800.16 are applicable and agreeable upon all parties to this agreement.

III. RESPONSIBILITIES OF THE FHWA AND IOWA DOT

A. In compliance with its responsibilities under the NHPA, and as a condition of its award of any assistance for, or permitting of, projects under the Federal-aid Highway Program, the FHWA shall require the Iowa DOT to carry out the obligations of this Agreement and applicable ACHP policies and guidelines for all transportation projects implemented through the Iowa DOT for which the FHWA is the lead agency pursuant to 36 CFR 800.3(a)(2) and 800.2(a)(4). Through this Agreement, the FHWA authorizes the Iowa DOT to initiate and, in most cases, conclude consultation with the Iowa SHPO and other consulting parties for purposes of compliance with Section 106 of the NHPA.

1. This authorization does not preclude the FHWA's right to intervene and take the lead in consultation among the Iowa DOT, Iowa SHPO, and other consulting parties; or to consult with Indian Tribes and Nations on a government-to-government basis consistent with the provisions of Stipulation IV. When the FHWA intervenes, it may either carry out consultation in accordance with the procedures in this Agreement or follow the procedures in 36 CFR Part 800.3 - 800.6

2. Because the FHWA is legally responsible for all findings and determinations made under this Agreement, no assistance or approval will be made by the FHWA if there are any unresolved consultation issues with the Iowa SHPO and other consulting parties. If the FHWA does not approve the outcome of consultation for a specific project, the FHWA may require Iowa DOT to provide additional information or to perform additional consultation, or the FHWA may consult directly with the Iowa SHPO and other consulting parties, if any, to complete Section 106 review process to its satisfaction.

B. Cooperating federal agencies with concurrent and affiliated projects may recognize the FHWA as the lead agency for the purposes of fulfilling their collective obligations under Section 106 of the NHPA in accordance with 36 CFR 800.2(a)(2), provided that: 1) the FHWA agrees to the lead agency designation; 2) the cooperating agency follows the requirements of this Agreement; 3) the projects have shared timing and development and, 4) the cooperating Federal agency's project does not have the potential to cause effects to historic properties beyond those considered by the FHWA and Iowa DOT.

C. All actions prescribed by this Agreement that involve the identification, evaluation, analysis, recording, treatment, monitoring, or disposition of cultural resources (i.e., properties, usually greater than 50 years old, that are, or may be, eligible for listing in the NRHP) , or that involve the reporting or documentation of such actions in the form of reports, forms, or other

records, shall be carried out by or under the direct supervision of a person or persons who meets the Secretary of the Interior's Professional Qualifications Standards for Archaeology, Architectural History, or History (published in 48 FR 44738-44739). Historic property identification, recordation and reporting shall conform with the Secretary of the Interior's *Standards and Guidelines for Archeology and Historic Preservation: Identification* (1983, as revised in the 48FR44716) and Iowa SHPO's Draft *Guidelines for Historic Architectural Survey in Iowa*, and/or the Association of Iowa Archaeologist's *Guidelines for Archaeological Investigations in Iowa*.

D. The Iowa DOT shall employ personnel, in the Location and Environment Bureau (LEB) or its successor designated by the Iowa DOT administration, with training, experience, or qualifications to apply the Secretary of the Interior's Standards for archaeology, history, and/or architectural history in consultation regarding a project's effects on historic properties (Appendix A, 36 CFR 61). Except on such occasions when the FHWA elects to consult directly with the Iowa SHPO or the ACHP, all consultation with the Iowa SHPO under this Agreement and decisions made under Stipulation VI shall be performed by the Iowa DOT LEB per Iowa DOT Standard Specification 2102.03J and Iowa DOT PPM 500.17 (Cultural Resource Protection).

E. Where possible the Iowa DOT shall curate archaeological materials acquired under this Agreement at a facility meeting the standards of 36 CFR 79 and NRS Chapter 381, as appropriate. Collections curated from Federal lands will be subject to terms of the Archaeological Resources Protection Act (ARPA) permit.

F. As the responsible federal agency, the FHWA shall conduct all formal consultation with the ACHP. Consultation with the ACHP shall follow procedures in 36 CFR 800 for consulting with the ACHP.

IV. GOVERNMENT-TO-GOVERNMENT CONSULTATION WITH TRIBES AND NATIONS

A. The FHWA shall retain ultimate responsibility for complying with all federal requirements pertaining to government-to-government consultation with Tribes and Nations pursuant to the NHPA. Notwithstanding any other provision of this stipulation, the FHWA shall honor the request of any Tribe or Nation for government-to-government consultation regarding a project covered by this Agreement.

B. The FHWA has delegated the initiation of tribal consultation to the Iowa DOT unless the individual Tribe or Nation does not agree to these alternate procedures.

C. In accordance with 36 CFR 800.3(f)(2), the Iowa DOT and FHWA will make a reasonable and good faith effort to identify and invite Tribes and Nations that might attach religious and cultural significance to historic properties in the area of potential effects of an undertaking to be consulting parties (See Appendix A).

D. Iowa DOT shall ensure that consultation with interested Tribes and Nations is initiated early in the project planning process to identify cultural, confidential, or other concerns, and to allow adequate time for consideration in a manner that reflects the nature and complexity of the project.

E. Iowa DOT shall ensure that consultation continues with interested Tribes and Nations throughout the Section 106 review process prescribed by this Agreement whenever such Tribes and Nations express a concern about a project or about historic properties that may be affected by a project.

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220 **V. PARTICIPATION OF OTHER CONSULTING PARTIES AND THE PUBLIC**

221 A. In addition to the previously named consulting parties, the following agencies, groups and
222 individuals may be identified as “consulting parties,” (in accordance with Section 800.3(c-f) and
223 current federal transportation legislation and regulations) and can be involved as “participating or
224 cooperating agencies” for some projects as situations dictate. These additional consulting parties
225 may be identified by the FHWA, Iowa DOT, or Iowa SHPO, or they will be considered if they
226 send a letter of request.

- 227 1. Designated representatives of local (city or county) units of government, such as the county
228 board of supervisors, county or city engineers, certified local governments, historic
229 preservation commissions, historical societies or other executive groups with jurisdiction
230 are entitled to participate in consultation.
- 231 2. Private associations, groups, or individuals having an interest by reason of expertise in the
232 subject area or by reason of ownership or affiliation with a historic property likely to be
233 affected by projects may be invited to be consulting parties upon request.

234 B. Public Involvement

- 235 1. Section 800.2(d) states that the views of the public are essential to informed Federal
236 decision making in the Section 106 process. Public involvement in planning and
237 implementing projects covered by this Agreement shall be governed by the FHWA’s and
238 Iowa DOT’s environmental compliance procedures. Public involvement and the release of
239 information hereunder shall be consistent with 36 CFR 800.2(d)(1-2), 800.3(e), and
240 800.11(c)(1 and 3) as well as public involvement regulations in 23 CFR 771.111 and 23
241 CFR 450 and IC 22.7(2).
- 242 2. Project sponsors shall continue, through opportunities afforded by their current public
243 involvement procedures, to seek and consider the views of the public in a manner that
244 reflects the nature and complexity of the project and its effects on historic properties, and
245 the likely interest of the public regarding the effects on historic properties, to remain
246 consistent with the intent of 36 CFR Part 800, as amended.
- 247 3. For those actions that do not routinely require public review and comment (e.g., certain
248 activities classified as Categorical Exclusions under the National Environmental Policy Act
249 (NEPA)), appropriate public involvement should be based on the specifics of the situation
250 and commensurate with the type and location of historic properties, and the project’s
251 potential impacts on them. Where possible the FHWA and Iowa DOT will integrate NHPA
252 actions and NEPA actions to communicate with the public as appropriate. Methods for
253 communicating with the public will include distributed notices, public meetings, posting
254 in local media/websites, or similar efforts whenever the determination of effect could
255 interest the public, especially for “Minor Projects” abutting historic properties.

256 **VI. PROJECT REVIEW**

257 A. Projects with No Potential to Cause Effects

- 258 1. Some projects by their very nature have no potential to cause effects on historic properties.
259 The signatories to this Agreement agree that the projects listed in this section have No
260 Potential to Cause Effects. These are non-construction projects that do not lead to, or are
261 part of, construction activity. These projects include: funding for planning studies, grants

for training and education, corridor management plans, research programs, publications, and purchase of equipment or materials. All parties agree that the FHWA and the Iowa DOT have no further compliance obligations under this agreement or Section 106 of the National Historic Preservation Act for these projects.

B. Minor Projects

1. As part of Iowa DOT's annual report, Minor Projects information will be shared with all parties. The FHWA and Iowa DOT are responsible for all necessary project consultation for the Minor Projects program with Tribes and Nations, and other interested parties and the public, even where projects may require no SHPO review. Following the terms of this Agreement all parties agree that the FHWA and Iowa DOT determination of effect for Minor Projects listed in Appendix B is No Historic Properties Affected, and Minor Projects listed in Appendix C is No Adverse Effect.

2. Minor Projects Criteria

- a. These projects have potential to affect historic properties, but following appropriate screening by qualified LEB staff, may be determined to require no further SHPO review.
- b. For a project to be considered a Minor Project – it must meet all of the following requirements:
 1. The project must be a stand-alone project and not part of a larger project that may have an unknown potential to cause effects to cultural resources; and
 2. The project is on a transportation facility within existing right of way or with minor right of way acquisition (such as the small parcels needed at the corners of intersection improvements, e.g. 2 acres or less), culvert extensions, ADA projects, or other projects listed in Appendices B and C; and
 3. The project has no known public controversy based on historic preservation issues; and
 4. A review of the project by the Iowa DOT cultural resources staff results in a finding of No Historic Properties Affected for projects listed in Appendix B or a finding of No Adverse Effect to Historic Properties for projects listed in Appendix C.

3. Minor Projects Without Cultural Resources Investigations

- a. When one or more of the qualifying criteria in Appendix B or Appendix C are applicable some projects may not have cultural resource investigations and will not be reviewed by the Iowa SHPO on a case by case basis, but will be reviewable through the annual report provided under this Agreement.

4. Minor Projects With Cultural Resources Investigations

- a. When a cultural resource investigation is completed and no cultural resources are located within the direct or indirect APE or a historic

property is identified, but the Iowa DOT determines that either there are no effects to historic properties or that the effects are Not Adverse as defined in Appendix C, the project may be treated as a Minor Project. A copy of the cultural resources survey report will be provided to the Iowa SHPO for their files. The Iowa SHPO will acknowledge receipt by issuing a Review and Compliance number to the Iowa DOT, but no review will be required. When a cultural resource investigation has been completed and one or more cultural resources are located within the direct or indirect APE, the project will not be treated as a Minor Project and will then follow the standard Section 106 process either in accordance with Stipulation VI of this Agreement or with 36 CFR 800.

C. FHWA, Iowa DOT, Iowa SHPO, and ACHP agree the bridges identified in Appendix D represent Iowa's historic bridges as of 2026. Except for projects whereby exceptional significance might have been identified or gained since this agreement was executed, and additional research is warranted, the evaluation of other bridges will not otherwise be required.

D. FHWA, Iowa DOT, Iowa SHPO, and ACHP agree that review of all remaining projects, except for those listed in Stipulation VI.A, and VI.B will be completed in accordance with 36 CFR 800 and the NHPA where applicable. The Iowa DOT may initiate and carry out the steps of the process on behalf of FHWA as directed in Stipulation I.

VII. CHANGES IN PROJECT SCOPE

A. A scope change (change in project footprint) to an undertaking after Section 106 review has concluded will trigger a reevaluation from the Iowa DOT. The Iowa DOT shall assess the need for additional consultation with FHWA and Iowa SHPO and other consulting parties in accordance with their respective responsibilities or rights under Stipulation VI.

B. Iowa DOT is not required to conduct additional consultation under the following conditions:

1. The APE has not changed beyond the vertical and horizontal limits of previous identification efforts; and
2. The Scope Change does not change the APE or effect finding; and
3. Less than three (3) years have passed since Historic Properties have been documented within the APE under the previous Section 106 determination and original construction on all Historic Properties within the APE has been completed within forty-five (45) years within this three (3) year period; and

C. Iowa DOT will provide annual reporting on undertakings with changes in project scope (reevaluations) as part of their annual reporting requirements.

VIII. EMERGENCIES

A. Actions to address Emergency situations can occur regardless of funding category, and regardless of declarations made by federal, state, or local agencies in accordance with 36 CFR § 800.12.

B. For the purposes of this Agreement, emergencies are defined as occurrences that require expedited repairs to a transportation system or facility that are necessary to a) protect the life,

safety, or health of the public; b) minimize the extent of damage to the transportation system or facilities; c) protect remaining transportation facilities; or d) restore essential traffic.

C. These repairs can occur regardless of funding category, and regardless of declarations made by federal, state, or local agencies. The Iowa DOT may take immediate remedial action without waiting for comment if such action is necessary to prevent further escalation of the emergency by the circumstances causing it.

D. If the emergency repair to an Iowa DOT managed transportation facility could affect historic properties, the Iowa DOT shall notify the Iowa SHPO, the FHWA, the ACHP, Tribes and Nations, and OSA as appropriate within 48 hours, when feasible. If possible, the SHPO and any Tribe or Nation that may attach religious and cultural significance to historic properties likely to be affected will be given at least 72 hours to respond.

E. 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, the Iowa DOT will comply with the procedures in Stipulation VI of this Agreement to the extent possible, but the reviews will likely be conducted after the emergency work is completed.

F. For projects taking longer than 30 days for repair, the Iowa DOT will comply with the procedures in Stipulation VI.

IX. DISCOVERIES

A. Planning for Subsequent Discoveries

1. If unusual circumstances, such as the possible existence of historic properties under existing pavement or structures, prevent completion of the Iowa DOT's identification efforts in accordance with Stipulation VI, the Iowa DOT shall develop a plan for discovery of such properties in consultation with the FHWA and the Iowa SHPO. 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. The plan may be executed as a signed agreement between the FHWA, the Iowa DOT and the Iowa SHPO (and the ACHP should they choose to participate) as a means of expediting review time for assessment of effects to any historic properties.

B. Discoveries Without Prior Planning

1. If previously unidentified cultural resources, or unanticipated effects to historic properties, are discovered after the Iowa DOT has completed its review under this Agreement, that portion of the project will stop immediately as outlined in Iowa DOT Standard Specification 2102.03J and Iowa DOT PPM 500.17 (Cultural Resource Protection).
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 and Nations that may attach traditional cultural and religious significance to the discovered property.
3. The Iowa DOT will consult with the FHWA, the Iowa SHPO as well as Tribes and Nations, as appropriate, to record, document, and evaluate the NRHP eligibility of the property and the project's effect on the property, and to design a plan for avoiding, minimizing, or mitigating adverse effects on the eligible property.
4. If the FHWA, the SHPO, or a Tribe or Nation fails to file an objection with the Iowa DOT within 72 hours to the Iowa DOT's plan for addressing the discovery, the Iowa DOT may

carry out the requirements of 36 CFR 800.13 on behalf of the FHWA. The ACHP will be notified where the discovery may result in significant adverse effects.

X. TREATMENT OF HUMAN REMAINS

A. The FHWA and Iowa DOT are committed and will make every effort to protect and preserve all human remains, including cemeteries, prehistoric graves, and isolated elements, during transportation construction and maintenance activities. Standard Specification 1107.18.D (2012.03J) stipulates that upon inadvertent discovery of human remains during construction, including bone or other remains suspected to be human, work shall immediately cease in the area. If there is uncertainty as to whether remains are human, the OSA Bioarchaeology Program shall be contacted to make the determination. The following steps are to be taken any time human remains are unearthed, or other artifacts associated with mortuary features are found during project construction or maintenance activities in Iowa.

1. Appropriate steps shall be taken to secure the site. No additional ground disturbance shall occur within a 100-foot buffer zone around the remains. All elements exposed must be left in place. Officials with the FHWA, the OSA Bioarchaeology Program (if not already notified), the SHPO, and appropriate Tribes and Nations will be notified within 24 hours via email or telephone. Law enforcement officials and the State Medical Examiner (SME) must also be notified in accordance with Section 523I.316 of the Iowa Code. Law enforcement and/or SME will coordinate with OSA to establish the antiquity and ancestry or cultural affiliation as possible of the human remains. If ancestry or cultural affiliation cannot be determined, the remains shall be collaboratively reviewed by the FHWA, the Iowa DOT, the Iowa SHPO, the OSA and the OSA-Indian Advisory Council to identify a best alternative for further analysis and reburial.
2. If the human remains appear to be ancient (i.e. older than 150 years) the OSA Bioarchaeology Program shall have jurisdiction to ensure that the appropriate procedures in accordance with Chapters 263B and 716.5 of Iowa Code are observed. The Iowa Department of Public Health has authority over human remains less than 150 years old per Iowa Code Chapters 113.34, 144.34, 523I.316, and 716.5.
3. If determined to be less than 150 years in age and of medico-legal significance, law enforcement and/or SME has jurisdiction.
4. If determined to be ancient and of Native American ancestry, representatives of the FHWA, the Iowa DOT, the OSA, the Iowa SHPO, and appropriate Tribes and Nations will confer at the site to examine the discovery, determine the likely project impacts if left in place, and determine the most appropriate avoidance, minimization, or mitigation measure(s) for dealing with the discovery.
5. If determined to be ancient and of European American ancestry, representatives of the Iowa DOT, the FHWA, the OSA, the SHPO, and identifiable descendant community(ies) will confer and determine appropriate measures for avoidance, minimization or mitigation.
6. If determined to be less than 150 years in age and of Native American ancestry but not of medico-legal significance, law enforcement and/or SME will be requested to confer with the Iowa DOT, the FHWA, the OSA, the Iowa SHPO, and appropriate Tribes and Nations concerning compliance with the Native American Graves Protection and Repatriation Act (NAGPRA).
7. Before work can resume in the area of any unanticipated discovery, the Iowa DOT and the FHWA will determine the NRHP eligibility of the archaeological resource in consultation with SHPO, and other stakeholders as necessary.

XI. SUPPORT FOR LOCAL PUBLIC AGENCIES

A. The FHWA, the Iowa DOT, the Iowa SHPO, and the ACHP agree regardless of funding category, support from LEB can aid in the practical application and effectiveness of Local Public Agency (LPA) use of federal aid. Development of this agreement is intended to apply to LPA projects in Iowa when the assistance of LEB is sought and is applicable per grant or funding requirements or conditions.

B. Documentation prepared by LPAs or their consultants in support of such findings shall be submitted to the Iowa DOT for review and approval. The Iowa DOT shall not transmit to the FHWA or the Iowa SHPO any documentation that has not been reviewed and approved by qualified LEB staff.

XII. ANNUAL REPORTING, AUDITING AND MONITORING

A. All parties to this agreement may review activities carried out pursuant to this Agreement. The Iowa DOT 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 all parties to this Agreement in the form of an annual report. Categories of information may include, but are not limited to, a summary of actions taken under the Agreement, including all findings and determinations, accomplishments, public objections, and inadvertent effects or foreclosures. The range and type of information included by the Iowa DOT in the report and the manner in which this information is organized and presented must be such that it facilitates the ability of the reviewing parties to assess accurately the degree to which the Agreement and its manner of implementation 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 could be improved through appropriate amendment.

B. The Iowa DOT shall submit the annual report to all parties to this Agreement no later than eight (8) months following the end of the state fiscal year (June 30). All parties are encouraged to review and provide comments and feedback on the annual report.

C. The Iowa DOT, the FHWA, and the Iowa SHPO will continue to schedule regular Cultural Interchange Team meetings and will use these meetings as a forum 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.

D. If any signatory party determines that the Iowa DOT is not meeting its responsibilities under this Agreement, that signatory shall inform the Iowa DOT of its concern(s) and suggest measures to be taken to resolve the matter.

XIII. AMENDMENT

A. Any Signatory to this Agreement may request that it be amended, whereupon the Signatories will consult to consider such an amendment. Any resulting amendments to the Agreement or any Appendix shall be developed and executed between the Signatories in the same manner as the original Agreement. Changes to an Appendix to this Agreement does not require a full amendment to the Agreement. Should a Signatory request a change to an Appendix, the Signatory will notify all Signatories of the requested change, and if no objection is raised in thirty (30) days, Iowa DOT will make the change and document it in the annual report.

XIV. TERMINATION

A. Any Signatory to this Agreement may request to terminate it by providing thirty (30) calendar days' notice in writing to the Signatories explaining the reason for termination, provided that the Signatories will consult during the period prior to termination to seek agreement on amendments and other actions that would avoid termination. In the event of termination, the FHWA will comply with 36 CFR Part 800 with regard to Undertakings covered by this Agreement.

XV. DISPUTE RESOLUTION

A. Objections from a Signatory or Consulting Party.

1. If any Signatory or consulting party objects regarding the way the terms of this Agreement are carried out, the objecting Signatory will notify in writing all other Signatories. The Signatories will consult to resolve the objection. The FHWA shall establish a reasonable timeframe commensurate with the nature of the objection for such consultations.
2. If the objection—other than a determination of eligibility which shall be resolved pursuant to Stipulation XV.C—is resolved through consultation, the FHWA may authorize the disputed action to proceed in accordance with the terms of such resolution.
3. If after initiating such consultation, the FHWA determines that the objection cannot be resolved through consultation, the FHWA shall forward all documentation relevant to the objection to ACHP and other Signatories, including the FHWA's proposed response to the objection. Within thirty (30) days after receipt of all pertinent documentation, ACHP shall exercise one of the following options:
 - a. Advise the FHWA that the ACHP concurs with the FHWA's proposed response to the objection, whereupon the FHWA will respond to the objection, accordingly; or
 - b. Provide the FHWA with recommendations, which the FHWA shall take into account in reaching a final decision regarding its response to the objection; or
 - c. Notify the 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, the FHWA, as the Agency Official shall ensure that the resulting comments are taken into account in accordance with 36 CFR § 800.7(c)(4).
4. If ACHP does not exercise one of the options in Stipulation XV.A.3 within thirty (30) days after receipt of all pertinent documentation, the FHWA may assume there is no objection from the ACHP in its proposed response to the objection.
5. The FHWA shall provide all other Signatories with a written copy of its final decision regarding any objection addressed pursuant to this Section.
6. The FHWA shall take into account any ACHP recommendation or comment, and any comments from the other Signatories, in reaching a final decision regarding the objection. All Signatories shall remain responsible for all obligations under this Agreement that are not the subject of the objection.

7. The FHWA may authorize any action subject to objection under this Stipulation XV to proceed, provided the objection has been resolved in accordance with the terms of this Stipulation XV.

B. Objections from the Public

1. At any time during implementation of this Agreement, if any member of the public raises an objection in writing pertaining to such implementation to any Signatory, that Signatory shall immediately notify the FHWA. The FHWA shall immediately notify the other Signatories in writing of the objection. Any Signatory may choose to comment on the objection to the FHWA. The FHWA shall establish a reasonable timeframe for this comment period. The FHWA shall consider the objection, and in reaching its decision, take all comments from the other Signatories into account. Within fifteen (15) days following closure of the comment period, the FHWA will render a decision regarding the objection and respond to the objecting party. The FHWA will promptly notify the other Signatories to its decision in writing and shall include a copy of its response to the objecting party. The FHWA's decision regarding resolution of the objection will be final. Following the issuance of its final decision, the FHWA may authorize the Undertaking subject to dispute hereunder to proceed in accordance with the terms of that decision.

C. Objections to Determination of Eligibility

1. If any Signatory or Tribe or Nation objects in writing to a determination of eligibility, the FHWA will submit the determination to the 'Keeper of the National Register of Historic Places' at the National Park Service for resolution in accordance with 36 CFR § 63.

XVI. CONFIDENTIALITY

- A. 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 the National Historic Preservation Act (NHPA) and the Iowa Code 263B.10 and 22.7(20) (in coordination with the State Archaeologist as appropriate). Section 304 allows the FHWA and Iowa DOT to withhold from disclosure to the public, information about the location, character, or ownership of a Historic Property if the FHWA, in consultation with Iowa DOT, determines that disclosure may 1) cause a significant invasion of privacy; 2) risk harm to the Historic Property; or 3) impede the use of a traditional religious site by practitioners. Having so acknowledged, all parties to this Agreement will ensure that all actions and documentation prescribed by this Agreement are, where necessary, consistent with the requirements of 36CFR800.11(c).

XVII. DURATION

- A. This Agreement shall remain in effect for a period of five (5) years after the date the last party executes this Agreement (Effective Date), unless extended pursuant to Stipulation XIII of this Agreement or it is terminated prior to that time pursuant to Stipulation XIV. The Iowa DOT shall provide written notification to the Signatories regarding extension of the Agreement at least six (6) months prior to the conclusion of the five (5) year Term. If there are no objections from the Signatories, the Term will be extended for an additional five (5) years by written amendment up to a maximum of ten (10) total years. If any Signatory objects to extending the Agreement, the Iowa DOT will consult with the Signatories to consider amendments or other actions to avoid the Agreement's expiration.

XVIII. EXECUTION OF THIS AGREEMENT

A. Execution and implementation of this Agreement are evidence that the FHWA has delegated certain Section 106 responsibilities to the Iowa DOT, and have afforded the ACHP a reasonable opportunity to comment on this Agreement regarding federal aid undertakings in Iowa; and that the FHWA has taken into account the effects of the Agreement and will evaluate its individual Undertakings on Historic Properties accordingly, and that the FHWA has laid out a process for compliance with Section 106 and 36 CFR § 800 for their individual Undertakings.

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
THE IOWA DEPARTMENT OF TRANSPORTATION,
THE IOWA STATE HISTORIC PRESERVATION OFFICER,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING TRANSPORTATION PROGRAMS IN IOWA**

SIGNATORY – ADVISORY COUNCIL ON HISTORIC PRESERVATION

Reid Nelson
Executive Director

Date

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
THE IOWA DEPARTMENT OF TRANSPORTATION,
THE IOWA STATE HISTORIC PRESERVATION OFFICER,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING TRANSPORTATION PROGRAMS IN IOWA**

SIGNATORY – FEDERAL HIGHWAY ADMINISTRATION

Vershun Tolliver
Iowa Division Administrator

Date

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
THE IOWA DEPARTMENT OF TRANSPORTATION,
THE IOWA STATE HISTORIC PRESERVATION OFFICER,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING TRANSPORTATION PROGRAMS IN IOWA**

SIGNATORY – IOWA STATE HISTORIC PRESERVATION OFFICER

Heather Gibb
Iowa State Historic Preservation Officer

Date

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
THE IOWA DEPARTMENT OF TRANSPORTATION,
THE IOWA STATE HISTORIC PRESERVATION OFFICER,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING TRANSPORTATION PROGRAMS IN IOWA**

SIGNATORY – IOWA DEPARTMENT OF TRANSPORTATION

Stuart Anderson
Transportation Development Division Director

Date

**PROGRAMMATIC AGREEMENT AMONG
THE FEDERAL HIGHWAY ADMINISTRATION,
THE IOWA DEPARTMENT OF TRANSPORTATION,
THE IOWA STATE HISTORIC PRESERVATION OFFICER,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING TRANSPORTATION PROGRAMS IN IOWA**

**CONCURRING PARTY – UNIVERSITY OF IOWA OFFICE OF THE STATE
ARCHAEOLOGIST**

John F. Doershuk
State Archaeologist and Director

Date

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Appendix A: List of Tribes

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896 The FHWA and Iowa DOT identified and invited the following Tribes and Nations to be consulting
897 parties to this Agreement and any joint FHWA and Iowa DOT projects.

898

899	Citizen Potawatomi Nation	937	
900	1601 S. Gordon Cooper Dr.	938	
901	Shawnee, Oklahoma 74801	939	Kickapoo Traditional Tribe of Texas
902		940	HC 1, Box 9700
903	Delaware Nation	941	Eagle Pass, TX 78852
904	P. O. Box 825	942	
905	Anadarko, OK 73005	943	Lower Sioux Indian Community
906		944	39527 Res. Hwy 1
907	Delaware Tribe of Indians	945	P. O. Box 308
908	170 NE Barbara	946	Morton, MN 56270
909	Bartlesville, OK 74006	947	
910		948	Miami Tribe of Oklahoma
911	Flandreau Santee Sioux	949	202 S. Eight Tribes Trail
912	P. O. Box 283	950	Miami, OK 74355
913	Flandreau, SD 57028	951	
914		952	Osage Nation
915	Ho-Chunk Nation	953	627 Grandview
916	W9814 Airport Rd.	954	P. O. Box 779
917	P. O. Box 677	955	Pawhuska, Oklahoma 74056
918	Black River Falls, WI 54615	956	
919		957	Omaha Tribe of Nebraska
920	Iowa Tribe of Kansas and Nebraska	958	P. O. Box 368
921	3345 Thrasher Road	959	Macy, NE 68039
922	White Cloud, KS 66094	960	
923		961	Otoe-Missouria Tribe
924	Iowa Tribe of Oklahoma	962	8151 Hwy 177
925	R.R.1, Box 721	963	Red Rock, OK 74651
926	Perkins, OK 74059	964	
927		965	Pawnee Nation of Oklahoma
928	Kickapoo Tribe in Kansas	966	P. O. Box 470
929	1107 Goldfinch Road	967	Pawnee, OK 74058
930	Horton, KS 66349	968	
931		969	Peoria Tribe of Indians of Oklahoma
932	Kickapoo Tribe of Oklahoma	970	118 S. Eight Tribes Trail
933	407 N. Hwy 102	971	P. O. Box 1527
934	P. O. Box 70	972	Miami, Oklahoma 74355
935	McCloud, OK 74851	973	
936		974	

2026 Section 106 Programmatic Agreement
for Transportation Federal Aid in Iowa

975		1009	Santee Sioux Nation
976	Ponca Tribe of Nebraska	1010	108 Spirit Lake Avenue West
977	P. O. Box 288,	1011	Niobrara, NE 68760-7219
978	Niobrara, NE 68760	1012	
979		1013	Shakopee Mdewakanton Sioux Community
980	Ponca Tribe of Oklahoma	1014	2330 Sioux Trail N.W.
981	20 White Eagle Drive	1015	Prior Lake, MN 55372
982	Ponca City, OK 74601	1016	
983		1017	Sisseton Wahpeton Oyate
984	Prairie Band Potawatomi Nation	1018	P. O. Box 509
985	16281 Q Road	1019	Agency Village, SD 57262
986	Mayetta, Kansas 66509-8970	1020	
987		1021	Spirit Lake Tribe
988	Prairie Island Indian Community	1022	P. O. Box 359
989	5636 Sturgeon Lake Road	1023	Fort Totten, ND 58335
990	Welch, MN 55089	1024	
991		1025	Three Affiliated Tribes - Mandan, Hidatsa &
992	Sac and Fox Tribe of the Mississippi in	1026	Arikara
993	Iowa	1027	404 Frontage Road,
994	349 Meskwaki Road	1028	New Town, ND 58763
995	Tama, IA 52339	1029	
996		1030	Upper Sioux Community
997	Sac and Fox Nation of Missouri in Kansas	1031	P. O. Box 147
998	305 N. Main Street	1032	5722 Traverse Lane
999	Reserve, KS 66434-9723	1033	Granite Falls, MN 56241-0147
1000		1034	
1001	Sac and Fox Nation in Oklahoma	1035	Winnebago Tribe of Nebraska
1002	920883 S. Hwy 99	1036	100 Bluff Street
1003	Stroud, OK 74079	1037	P. O. Box 687
1004		1038	Winnebago, NE 68071
1005		1039	
1006		1040	Yankton Sioux Tribe
1007		1041	P. O. Box 248
1008		1042	Marty, SD 57361-024
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Appendix B: Minor Projects Resulting in No Historic Properties Effected

For all undertakings that receive a Minor Project determination, qualified Iowa DOT staff shall track and document the basis for the exemption identified (i.e., data source) in the review and retain it in accordance with 800.11(e) documentation standards. At any time, a signatory may request information about the exemption.

Screened Projects

A. Projects Involving Ground Disturbance

1. One or more of the following Qualifying Criteria must be met for a project to be considered a Minor Project exempted from SHPO review:
 - a. The Area of Potential Effect (APE) is entirely contained within the existing public right-of-way, and no historic properties are known to be present within or near the APE;
 - b. The APE is entirely contained within areas that can be documented as being profoundly disturbed and no historic properties are known to be present within the APE. *Profound disturbance* as it relates to the APE occurs when a past activity or activities have physically altered the *three-dimensional* APE of a project *in its entirety* to the point where there is no potential for an archaeologically significant property to remain;
 - c. The APE was surveyed for cultural resources after 1989 and determined to contain none of significance and has received SHPO concurrence;
 - d. The APE is documented as exhibiting slope that exceeds 15 percent, and no historic properties are known to be present within or near the APE;
 - e. The APE measures two acres or less, and is entirely contained by soils mapped as historic alluvium or post-settlement alluvium, and no historic properties are known to be present within or near the APE;
 - f. The project will include the removal and or installation of utilities or facilities whereby a utility trench can be appropriately assessed. This allowance accounts for the existing facility plus three feet. No historic properties are known to be present within or near the APE;
2. Examples of Ground Disturbance Projects when one or more Qualifying Criteria are met:
 - a. Resurfacing, restoration, and rehabilitation, including minor roadway widening, milled rumble strips, patching, intersection modifications
 - b. Bridge deck overlays, replacements, and rehabilitation involving substructure replacements, widening, pier replacements, stabilizations, approach repair
 - c. Culvert extensions, new build, replacements, or repairs
 - d. Grading, including slide repair, debris removal, fencing, rip-rap, sub-drains, median work
 - e. Traffic safety improvements, including signing, lighting, guardrails, railroad warning devices, traffic signals, pavement marking, utility repairs

- 1095 f. Installation of bicycle and pedestrian facilities
- 1096 g. Noise wall installation
- 1097 h. Highway rest area or weigh scale improvements
- 1098 i. Landscaping, including tree or shrub planting, seeding, mowing, clearing and
- 1099 grubbing, vegetation management
- 1100 j. Erosion control, silt fencing
- 1101 k. Maintenance measures, including scour filling, sealing, deposit removal,
- 1102 stabilization measures
- 1103
- 1104 B. Projects Involving Built Environment for properties (structures, buildings, objects, sites,
- 1105 districts) not On or Eligible for the National Register
- 1106 1. One or more of the following Qualifying Criteria must be met for the project to be
- 1107 considered a Minor Project exempted from SHPO review:
- 1108 a. Work within the existing alignment including exposed brick streets and no historic
- 1109 properties are known to be present within the APE;
- 1110 b. Routine maintenance, stabilization, and protective activities and no historic
- 1111 properties are known to be present within the APE;
- 1112 c. Road surface modifications and rehabilitation and no historic properties are known
- 1113 to be present within the APE;
- 1114
- 1115 2. Examples of projects involving the Built Environment when one or more Qualifying
- 1116 Criteria are met:
- 1117 a. Removal of accumulated debris – which includes the removal of harmful or
- 1118 otherwise undesirable deposits of dirt, stains, coatings, efflorescence (salts) and
- 1119 pollutants in a manner that does the least amount of harm to the surface being
- 1120 treated;
- 1121 b. Routine maintenance such as mending the material of a structure or object;
- 1122 c. Limited paint removal, and re-application;
- 1123 d. Electrical work, plumbing work, heating and cooling work which are not visible
- 1124 from the exterior of the building;
- 1125 e. Replacement of deteriorated stairs;
- 1126 f. Replacement of siding, porches, doors, roofs, windows, balustrades, trim
- 1127 g. Caulking;
- 1128 h. Floor refinishing;
- 1129 i. Interior wall replacement, including crack repair;
- 1130 j. Anchoring of masonry walls and floor systems so long as anchors are imbedded and
- 1131 concealed from exterior view;
- 1132 k. Reconstruction- repair of parapets, chimneys and cornices;
- 1133 l. Temporary bracing or shoring as part of stabilizations or foundations;
- 1134 m. Repair to or replacement of ceiling systems;
- 1135 n. Brick street repair not in a historic district on or eligible for the National Register;
- 1136 o. Stabilization –including acts or processes of applying measures designed to
- 1137 reestablish a weather resistant structure and restoring the structure stability of an
- 1138 unsafe or deteriorated bridge or culvert while maintaining the essential form as it

exists at present. These tasks include reinforcement of load bearing members accomplished in such a manor so as to detract as little as possible from the property's original appearance, and arresting the deterioration of material that might otherwise be subject to structural failure;

- p. Protection – involving the least degree of intervention and, being preparatory to other work, includes such measure as installation of temporary fencing, emergency utility repairs, security lighting, protective sheeting, alarm systems and other short-term protective measures, and seasonal debris removal, without causing damage to historic materials;

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Appendix C: Minor Projects Resulting in No Adverse Effect on Historic Properties

For all undertakings that receive a Minor Project determination, qualified Iowa DOT staff shall track and document the basis for the exemption identified (i.e., data source) in the review and retain it in accordance with 800.11(e) documentation standards. At any time, a signatory may request information about the exemption.

A. One or more of the following Qualifying Criteria must be met for the project to be considered a Minor Project exempted from SHPO review:

1. Road surface modifications and rehabilitation with low vibration potential to adjacent historic properties or moderate vibration potential with defined protective measures included in special provisions or construction plan notes;
2. Bridge structural or surface modifications and rehabilitation with low vibration potential to adjacent historic properties or moderate vibration potential with defined protective measures included in special provisions or construction plan notes;
3. Routine maintenance, stabilization, and protective activities on NRHP listed or eligible structures, activities will follow *The Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*, and *The Secretary of Interior's Standards for Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes*;

B. Examples of projects involving the Built Environment when one or more Qualifying Criteria are met:

1. Removal of accumulated debris – which includes the removal of harmful or otherwise undesirable deposits of dirt, stains, coatings, efflorescence (salts) and pollutants in a manner that does the least amount of harm to the surface being treated;
2. Routine maintenance – which includes historic construction material through treatments such as mending the material of a structure or object where materials are kept **in-kind** such as;
 - a. Limited paint removal, and re-application;
 - b. Electrical work, plumbing work, heating and cooling work which are not visible from the exterior of the building;
 - c. Replacement of deteriorated stairs;
 - d. Replacement of siding, porches, doors, roofs, windows, balustrades, trim
 - e. Caulking;
 - f. Floor refinishing;
 - g. Interior wall replacement, including crack repair;
 - h. Anchoring of masonry walls and floor systems so long as anchors are imbedded and concealed from exterior view;
 - i. Reconstruction- repair of parapets, chimneys and cornices;
 - j. Temporary bracing or shoring as part of stabilizations or foundations;
 - k. Repair to or replacement of ceiling systems;
 - l. Brick street repair

- 1229 m. Stabilization –including acts or processes of applying measures designed to
1230 reestablish a weather resistant structure and restoring the structure stability of an
1231 unsafe or deteriorated bridge or culvert while maintaining the essential form as it
1232 exists at present. These tasks include reinforcement of load bearing members
1233 accomplished in such a manor so as to detract as little as possible from the
1234 property’s original appearance, and arresting the deterioration of material that might
1235 otherwise be subject to structural failure;
- 1236 n. Protection – involving the least degree of intervention and, being preparatory to
1237 other work, includes such measure as installation of temporary fencing, emergency
1238 utility repairs, security lighting, protective sheeting, alarm systems and other short-
1239 term protective measures, and seasonal debris removal, without causing damage to
1240 historic materials;

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Appendix D: Iowa's Historic Bridges

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