

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE ARIZONA DEPARTMENT OF TRANSPORTATION
AND
THE ARIZONA STATE HISTORIC PRESERVATION OFFICER
REGARDING ARIZONA STATE HISTORIC PRESERVATION ACT COMPLIANCE**

This Memorandum of Understanding (MOU) delineates the mutual responsibilities of the Arizona Department of Transportation (ADOT) and the State Historic Preservation Officer (SHPO) regarding the Arizona State Historic Preservation Act (SHPA or State Act), Arizona Revised Statute (A.R.S.) § 41-861, et seq. for state-sponsored projects and actions and for ensuring that historic properties that are listed on, are eligible for listing, or are unevaluated for the Arizona Register of Historic Places (Arizona Administrative Code R12-8-301 and 302) (ARHP) are taken into consideration at all levels of planning and development.

The participants to this MOU consist of ADOT and SHPO. Together, these entities shall be identified as the "Parties."

I. PURPOSE

The purpose of this MOU is to streamline ADOT consultation with SHPO for routine State Act projects that have minimal potential to impact Register-eligible cultural resources.

II. AUTHORITIES

- A. The SHPO and ADOT are authorized under A.R.S. § 11-952, et seq. to enter into agreements.
- B. The SHPO advises, assists, and cooperates with State Agencies and Subdivisions of the State to ensure that historic properties eligible for inclusion in the ARHP are taken into consideration at all levels of planning and development. The SHPO conducts reviews of State Agency plans pursuant to the SHPA, A.R.S. § 41-864.
- C. ADOT operates under A.R.S. Title 28.
- D. Regulations on the confidentiality of information relating to location of archaeological discoveries and places or objects included or eligible for inclusion on the ARHP (A.R.S. § 39-125).
- E. ADOT is responsible for consulting with the SHPO on plans as per the SHPA, A.R.S. § 41-862 through 41-864. Plans include projects and actions that have the potential to alter the characteristics that make a historic property eligible for the ARHP.

III. DEFINITIONS

For the purposes of this MOU, the following definitions apply:

- A. Cultural Resource: Material remains consisting of artifacts, features, sites, buildings, districts, or structures resulting from past human activities.
- B. Historic Property: A district, site, building, structure, or object that is at least 50 years of age and significant in Arizona's history, architecture, engineering, archaeology, or culture at the national, state, or local level that is listed in, eligible for listing in, or unevaluated for the ARHP.

- C. Historic State Highway System (HSHS): The network of roadways within Arizona that were developed between 1912 and 1955 whose remnants are preserved as in-use and abandoned segments of roadway, not including the interstate system.
- D. In-kind Replacement or Repair: Replacement or repair of features exactly matching in size, configuration, materials, color, and construction for items that have deteriorated beyond repair.
- E. Maintenance: Protective or preventive measures performed on a regular basis to maintain original functionality.
- F. Previously Disturbed: Refers to areas where previous construction or other activity by human or natural agents has physically altered soils within the Project Area.
- G. Project Area: The geographic area or areas within which a project could directly or indirectly cause changes in the character or use of historic properties.
- H. Right-of-way (ROW): Land used by ADOT or a local county, city, or town for the purposes of transportation, which contains the traveled portion of a roadway and associated facilities such as shoulders, turnouts, medians, rest areas as well as adjacent lands required for routine maintenance of the roadway and associated facilities. Portions of the ROW between the roadway prism and the ROW fence may not be previously disturbed.
- I. Roadway Prism: The three-dimensional area of a roadway from the top of slope to the toe of slope that has been previously disturbed by roadway construction. This also includes bridges, drainage culverts, walls, ditches, road surfaces, road shoulders, and road fills.
- J. Scope Change: Any modification of the project footprint, listed scope items, or any such alteration that poses potential new and/or additional impacts to historic properties.
- K. Shoulder: The paved or unpaved portion of the roadway contiguous with the travel lanes for accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface courses.

IV. RESPONSIBILITIES

- A. ADOT shall:
 - 1. Design, construct, operate, maintain, and manage the state highway system in Arizona and has responsibility for the safety of the traveling public on state highways and interstate facilities.
 - 2. Ensure that all technical cultural resources reports submitted for review meet current professional standards.
 - 3. Identify, treat, and/or preserve, and/or record any substantive alteration to or the demolition of historic properties on lands owned or controlled by the agency as defined by A.R.S. § 41-861 through 41-863.
 - 4. Make assessment of impacts and treatment recommendations to historic properties.
 - 5. Ensure that ADOT Historic Preservation Team Specialists (HPT) staff hold a Bachelor's degree or above in archaeology, anthropology, history, architectural history, or a related field.
 - 6. Ensure that the ADOT Historic Preservation Team Lead and the Cultural Resources Program Manager hold a Master's degree or above in archaeology, anthropology, history, architectural history, or a related field and meets the Professional Qualifications of the Secretary of the Interior for history, and /or archeology, and/or architectural history, and/or historic architecture.

7. Ensure that cultural resources consultants hired to assist ADOT are qualified to work under the authorities of the appropriate state, federal, and/or Tribal permits and meets the Professional Qualifications of the Secretary of the Interior for history, and /or archeology, and/or architectural history, and/or historic architecture.

B. SHPO shall:

1. Concur on the adequacy of technical cultural resources reports submitted for review.
2. Provide determinations of eligibility for all cultural resources within the Project Area, based on report submittals.
3. Provide project impact findings, based on consultation submittals and with consideration for ADOT recommendations.
4. Provide recommendations for the treatment of historic properties in coordination with ADOT.
5. Include the performance of ADOT in initiating and satisfying the programmatic management of historic properties in the annual report to the legislature and the governor per A.R.S. 41-862.
6. Review biannual and annual reports for adequacy and provide recommendations for improvement and/or MOU amendment, as warranted.

V. CONSULTATION PROTOCOL

ADOT undertakes numerous state-funded projects including but not limited to maintenance work, land acquisitions, land disposals, material sources, encroachment permits, and administration of airport grants. Many of these projects have minimal potential to impact historic properties. ADOT will evaluate projects and determine the course of consultation action as follows:

- A. **Exempt Actions:** When a project meets the requirements of Appendix A (No Potential to Impact), the project will be exempt from SHPO consultation and biannual and annual reporting.
- B. **Scope-Restricted Projects Exempt from Consultation:** ADOT HPT will define the Project Area limits and determine that the project meets the requirements of Appendix B. No background research or consultation with SHPO will be required. ADOT HPT will receive commitments from the Project Manager and District Engineer to restrict work within the existing roadway prism and/or existing pavement. The project will be documented on the State MOU *Scope-restricted Projects Exempt from Review* form and included in the biannual and annual reports.
- C. **Screened Undertakings:** ADOT HPT will define the Project Area limits, complete a desktop background research, and will determine that the project meets the requirements of Appendix C. No consultation with SHPO is required. The project will be documented on the State MOU *Screened Undertakings* form and included in the biannual and annual reports.
- D. **No Adverse Impact with or without Standard Conditions:** When ADOT HPT has defined the Project Area limits, has completed desktop background research, and has determined that the project meets the requirements of Appendix D, ADOT will consult with SHPO, who has a 15-calendar day period in which to respond. If SHPO does not concur, standard consultation will be undertaken. The project and SHPO consultation correspondence will be documented on either the

State MOU *No Adverse Impact* or the *No Adverse Impact with Standard Conditions* form and included in the biannual and annual reports.

- E. **Standard Consultation:** When ADOT HPT has defined the Project Area limits, completed desktop background research, and determines that a project does not meet the requirements of Appendices A-D, ADOT will undertake standard consultation with the SHPO, who has a 15-calendar day period in which to respond. Standard consultation shall apply for all consultations in which the adequacy of cultural resource reports must be assessed, any new or revised ARHP recommendations are presented, and for all ADOT impact recommendations or existing SHPO determinations of “Adverse Impact.”
- F. **Changes in Project Scope:** Whenever the scope of a project is revised (e.g., design changes, utility relocation, addition of geotechnical investigations, addition of new ROW), including during construction, ADOT HPT will determine whether the changes require modification of the Project Area, need for additional cultural resources inventory, or a revised impact recommendation. A scope change is defined as any modification of the project footprint, listed scope items, or any such alteration that poses potential new and/or additional impacts to historic properties.
 - a. When ADOT HPT determines that a change in project scope does not change the Project Area or impact recommendation, no consultation with SHPO will be required. ADOT HPT will document the scope change on the *Scope Change* form and will file the form in the biannual and annual reports.
 - b. When ADOT HPT determines that the change in scope requires modification of the Project Area or impact recommendation, it will review the change and if the project meets the criteria for exemption, a screened undertaking, or no adverse impact with or without standard conditions, it will proceed accordingly. Otherwise, ADOT will undertake standard consultation in accordance with Stipulation V.E.
- G. **Encroachment Permits:** When ADOT HPT receives completed Section 106 consultation from a federal agency regarding an applicant’s encroachment within ADOT ROW or easement, ADOT will review it for adequacy. If ADOT finds it adequate, the consultation will be submitted for a 15-calendar day consultation with SHPO. With SHPO’s concurrence, ADOT can use the federal agency’s Section 106 consultation to fulfill its State Act responsibilities. The correspondence between SHPO and ADOT will be documented in the biannual and annual reports.
- H. **Biannual Report:** A mid-year report will include an accounting of all projects that were reviewed for State Act compliance using the State MOU Forms between January 1 and June 30. The report will include copies of the State MOU Forms and a summary letter.
- I. **Annual Report:** An end-of-the-year report will include an accounting of all projects that were reviewed for State Act compliance using the State MOU Forms between January 1 and December 31. Additionally, ADOT will complete inspections based on a random sample of 10% of the projects where avoidance commitments were agreed to under Appendix B (Projects Exempt from Review with Conditions). The results of the inspections will be summarized and included in the annual report. The annual report will include copies of the State MOU forms and a summary letter, will document any amendments to the MOU, and will provide recommendations for improvements (if applicable).

VI. AMENDMENTS

This MOU may be amended when both Parties agree, in writing, to the proposed revision(s). The amendment(s) shall be appended to the original MOU.

Appendices A and B may be amended following an informal consultation process. ADOT will provide the amended appendices, with the date of the amendment noted, to SHPO. All amendments will be tracked and reported in the annual report.

VII. TERMINATION

This MOU may be terminated by either ADOT or SHPO with 90 days written notice.

VIII. DURATION

- A. This MOU shall be in effect for five (5) years.
- B. This MOU may be extended for additional 5-year periods; both ADOT and SHPO must indicate their intent to extend this MOU in writing.

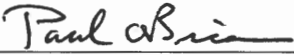
IX. FINANCING

- A. ADOT will reimburse all SHPO costs based on the terms agreed to in the applicable Interagency Service Agreement (Current agreement ISA 18-0007087-I (executed June 30, 2022, expires June 30, 2027)).
- B. Nothing herein shall be construed as obligating any Party to expend funds in excess.

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SIGNATORIES

Arizona Department of Transportation


Paul O'Brien
Environmental Planning Administrator

8/12/2025
Date

State Historic Preservation Office


Kathryn Leonard
State Historic Preservation Officer

August 14, 2025
Date

Appendix A. No Potential to Impact

1. Several categories of encroachment permits will have a finding of “No Potential to Impact.” These projects will be exempt from SHPO consultation and biannual and annual reporting. These permits but are not limited to:
 - a. Adopt a Highway
 - b. Aerial utility installation with no ground disturbance
 - c. Blanket permit: utility with no ground disturbance (routine maintenance, emergency repair)
 - d. Blanket permit: environmental investigation/ clean up with no ground disturbance (for pre-approved contractors),
 - e. Blanket permit: manual landscape maintenance in dry conditions, municipal (maintenance by city/county)
 - f. Blanket permit: fence maintenance
 - g. Change of ownership (paperwork only, no improvements or modifications)
 - h. Special events
 - i. Statewide permit services with no ground disturbance (Class C, film, outdoor advertising)
 - j. Temporary Activity (Surveys: topographic, boundary; traffic data collection)
 - k. Temporary Traffic control with no ground disturbance
2. Actions that involve purchasing or installing equipment where installations involve no ground disturbance, no new or increased vertical expressions, and no attachments to or potential alteration of historic buildings or structures.
3. Work entirely within the roadway prism, on paved surfaces, within existing paved/unpaved pullouts (includes but is not limited to) (refer to Appendix E)
 - a. Repair of existing road surfaces, drives, and entryways
 - b. Remove/replace pavement
 - c. Roadway treatment to existing pavement (such as fog coat)
 - d. Install rumble strips
 - e. Pavement striping/painting
 - f. Pavement coring (not below prism)
 - g. Installation/replacement/repair of signs, posts
 - h. Guardrail repair (non-ground disturbing)
 - i. Installation of traffic loop counters, cameras, and other monitoring equipment
4. Activities beyond the prism (includes but is not limited to)
 - a. Vegetation management on foot with hand tools
 - b. Fence repair and in-kind replacement on foot with hand tools
 - c. Application of herbicides, fertilizers, pesticides, other chemicals
 - d. Mowing of grass/thinning vegetation with extension arm/boom axe from top of prism (non-ground disturbing)
 - e. Staging/stockpiling on pavement, or within existing pullouts, including areas that have been previously graded, or are regularly in use by vehicles.
 - f. Use of existing access roads
 - g. Repairs of conduit, pull boxes, and controller cabinets (without ground disturbance)

Appendix B. Scope-Restricted Projects Exempt from Consultation

Scope-restricted projects exempt from consultation may be carried out with commitments from the Project Manager and District Engineer to confine all work activities within the existing roadway prism and/or pavement (refer to attached figure). A random 10 percent selection of this class of projects yearly will be visited by ADOT HPT to ensure adherence to the commitments. The results of the inspections will be included in the annual MOU report.

Project types for which these conditions pertain include but are not limited to:

1. **Pavement preservation** including removal or obliteration of pavement by saw-cut or jackhammer milling and replacement.
2. **Shoulder build back** (in-kind) from on top of the prism.
3. **Guardrail replacement** by unbolting or cutting damaged guardrail from the support posts and adjacent undamaged guardrail and installing new guardrail in-kind.

Specifically, projects will be exempt from further review and consultation if they meet all of the following conditions:

1. All scope items and activities are to be confined to the existing road prism, and/or on pavement.
2. Written commitments are obtained from the Project Manager and District Engineer to stay within the existing prism or on the pavement. If the contractor violates their commitment, they would pay for a damage assessment report, which would consist of hiring a qualified consultant to provide a Class I report combined with a damage assessment of any resource(s) that were previously identified within the project area, or carrying out a Class III survey combined with a damage assessment of any cultural resource(s) found within the project area.
3. An ADOT HPT specialist shall attend project pre-construction meetings to communicate these environmental commitments and requirements.

These projects would be documented on the *Scope-restricted Projects Exempt from Review* Form and included in the biannual and annual reports.

Appendix C. Screened Projects

Screened projects are those that under certain conditions will not cause impacts to historic properties and with appropriate screening by ADOT HPT, may be determined to be exempt from further review. This class of projects can apply to any action. ADOT HPT will define the Project Area and complete desktop background research. Projects can be screened if the following conditions are found to apply:

1. An adequate survey has been completed in the last 20 years, or the surface is paved or otherwise unsurveyable, or SHPO agrees that survey is not needed via informal consultation.
2. There are no cultural resources present other than the historic highway, and there will be no adverse impact to the historic highway (if present).

All screened projects will be documented on the *Screened Projects* Form and added to the biannual and annual reports.

Appendix D. No Adverse Impact with or without Standard Conditions

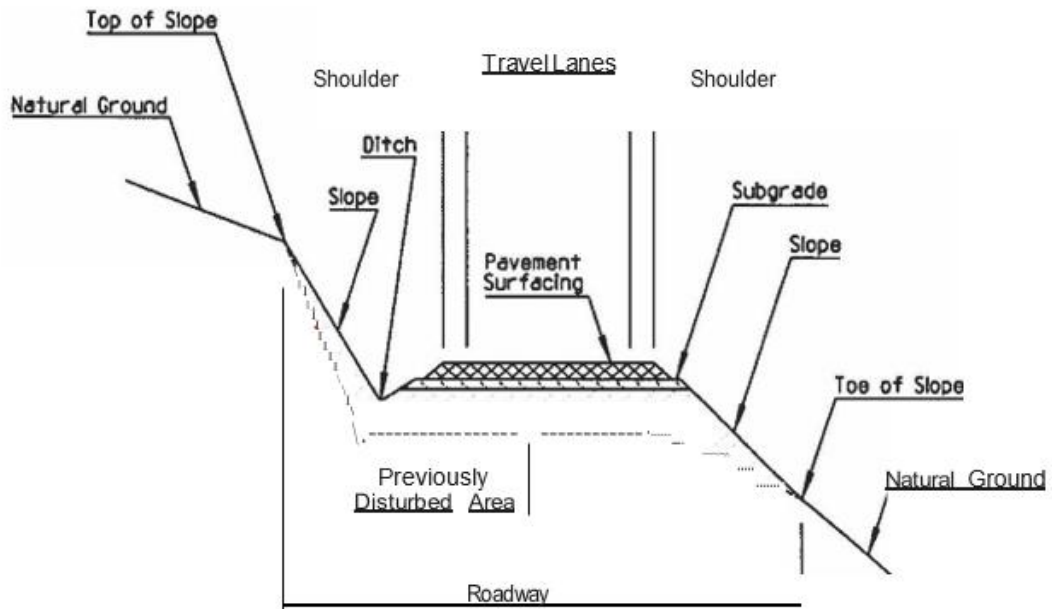
When a project does not meet the criteria laid out in Appendices A through C, ADOT HPT will define the Project Area and complete desktop background research. If cultural resources other than portions of the Historic State Highway System (SHHS) are present but, in ADOT HPT's assessment, will not be adversely impacted, ADOT will carry out 15-calendar day consultation with SHPO. If the lack of adverse impacts is from avoidance that is achieved by fencing, flagging, signing, or monitoring, this is considered Standard Conditions. If ADOT, in consultation with SHPO, determines that avoidance commitments are necessary to reach a finding of "No Adverse Impact," ADOT will obtain avoidance commitments from the Project Manager and District Engineer. The project details, consultation correspondence, and avoidance commitments (if applicable) will be documented on the State MOU *No Adverse Impact* or *No Adverse Impact with Standard Conditions* form and submitted to the biannual and annual reports.

These provisions do not apply to sites that might be of cultural significance to Tribes. Standard consultation will be undertaken with SHPO and tribes when there are unknown tribal interests.

The following standard conditions for a finding of No Adverse Impact are designed to protect archaeological sites, buildings, and structures within the project area from the effects of project activities through avoidance via fencing, flagging, signing, or monitoring.

- The scope and design of the undertaking are sufficiently developed and detailed to ensure that the property will be protected from all adverse impacts.
- Adequate information is available to accurately delineate the boundary of the archaeological site or the building or structure in relation to the anticipated project impacts and to identify contributing features of the site. This information may be obtained from literature review, surface survey, historical research, and/or consultation with Tribes and land managing agencies.
- A clear chain of command is established identifying specific tasks, responsibilities and contact information for each ADOT, consultant, or other party in the chain.

Appendix E. Roadway Prism Illustration



Appendix F. State MOU Forms

- *Scope-Restricted Projects Exempt from Review* Form
- *Screened Projects* Form
- *No Adverse Impacts* Form
- *No Adverse Impacts with Standard Conditions* Form
- *Scope Change* Form

PROJECT NAME:

TRACS:

STATE ACT MOU FORM

SCOPE-RESTRICTED PROJECTS EXEMPT FROM REVIEW

SCOPE OF WORK

LAND OWNERSHIP:

DEFINE THE PROJECT AREA:

Has a commitment to remain on the pavement or within the existing prism been obtained from the Project Manager? **Yes**

Has a commitment to remain on the pavement or within the existing prism been obtained from the District Engineer? **Yes**

Required commitments attached? **Yes**

Does the project fit the conditions of Appendix B of the State MOU? **Yes**

Location

Route

MP

ADOT has determined that this project is exempt from review with conditions pursuant to the Memorandum of Understanding between the Arizona Department of Transportation and the State Historic Preservation Office Regarding Arizona State Historic Preservation Act Compliance, executed date, 2025.

Attach Map (if necessary)

Assigned HPT and Date

Attach continuation page (if necessary)

PROJECT NAME:

TRACS:

STATE ACT MOU FORM

SCREENED PROJECTS

SCOPE OF WORK

LAND OWNERSHIP:

RESEARCH REFERENCES:

DEFINE THE PROJECT AREA: Location: _____ Route: _____ MP: _____

Has an adequate survey been completed in the last 20 years?

Is the surface paved or otherwise unsurveyable?

Does SHPO agree that survey is not needed via informal consultation?

Are cultural resources present other than the historic highway?

Will there be an adverse impact to the historic highway?

IF YES, LIST ALL APPLICABLE SPECIFIC CONDITION(S):

ADOT has determined that this is a screened project pursuant to the Memorandum of Understanding between the Arizona Department of Transportation and the State Historic Preservation Office Regarding Arizona State Historic Preservation Act Compliance, executed date, 2025.

Attach Map

Assigned HPT and Date

Attach continuation page (if necessary)

PROJECT NAME:

TRACS:

STATE ACT MOU FORM

NO ADVERSE IMPACTS

SCOPE OF WORK

LAND OWNERSHIP:

RESEARCH REFERENCES:

DEFINE THE PROJECT AREA: Location:_____ **Route:**_____ **MP:**_____

LIST/DESCRIBE ELIGIBLE/UNEVALUATED CULTURAL RESOURCES AND JUSTIFY A FINDING OF NAI:

ADOT has determined that this project fits the conditions of No Adverse Impacts pursuant to the Memorandum of Understanding between the Arizona Department of Transportation and the State Historic Preservation Office Regarding Arizona State Historic Preservation Act Compliance, executed date, 2025.

Assigned HPT and Date

**Attach informal consultation with Land
Owner/SHPO
Attach Map**

Attach continuation page (if necessary)

PROJECT NAME:

TRACS:

STATE ACT MOU FORM

NO ADVERSE IMPACTS (STANDARD CONDITIONS)

SCOPE OF WORK

LAND OWNERSHIP:

RESEARCH REFERENCES:

DEFINE THE PROJECT AREA: Location: _____ Route: _____ MP: _____

LIST/DESCRIBE ELIGIBLE/UNEVALUATED CULTURAL RESOURCES AND JUSTIFY A FINDING OF NAI:

DESCRIBE AVOIDANCE MEASURES

HAS THE PM/DISTRICT COMMITTED TO THE AVOIDANCE MEASURES?

**YES, attach
commitments**

NO

ADOT has determined that this project has resulted in a finding of No Adverse Impacts with Standard Conditions pursuant to the Memorandum of Understanding between the Arizona Department of Transportation and the State Historic Preservation Office Regarding Arizona State Historic Preservation Act Compliance, executed date, 2025.

**Attach informal consultation with Land
Owner/SHPO
Attach Map**

Assigned HPT and Date

Attach continuation page (if necessary)

PROJECT NAME:

TRACS:

STATE ACT MOU FORM

CHANGES IN PROJECT SCOPE OF WORK

DESCRIBE THE SCOPE CHANGE:

LAND OWNERSHIP:

RESEARCH REFERENCES:

DEFINE THE PROJECT AREA: Location: _____ Route: _____ MP: _____

**IF THE PROJECT AREA IS MODIFIED, HAS THE NEW PROJECT AREA
BEEN PREVIOUSLY SURVEYED?**

Yes

No

**IS A NEW SURVEY OF THE MODIFIED APE WARRANTED? IF NO,
JUSTIFY:**

Yes

No

The project is exempt from further review under the State Historic Preservation Act as described in the Memorandum of Understanding between the Arizona Department of Transportation and the State Historic Preservation Office, executed

Attach Map

Attach continuation page (if necessary)

Assigned HPT and Date