

SECTION 11

Memorandum of Agreement Between FHWA and SHPO

In September 2004, the Federal Highway Administration and Colorado's State Historic Preservation Officer entered into an agreement that describes the measures that will be undertaken to mitigate impacts to historic resources affected by the I-25 Proposed Action. One of the affected resources is the United States Air Force Academy, and the Air Force Academy is an invited signatory agency in the Memorandum of Agreement.

**MEMORANDUM OF AGREEMENT
BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION AND
THE COLORADO STATE HISTORIC PRESERVATION OFFICER**

**REGARDING MITIGATION FOR PROPOSED IMPROVEMENTS TO THE
INTERSTATE 25 CORRIDOR THROUGH COLORADO SPRINGS
COLORADO DEPARTMENT OF TRANSPORTATION PROJECT IM 0252-316,
I-25 CORRIDOR ENVIRONMENTAL ASSESSMENT
EL PASO COUNTY, COLORADO**

WHEREAS, the Federal Highway Administration (FHWA) has determined that Project IM 0252-316 will have an adverse effect on (1) the Monument Valley Park Rock Entrance Gate (5EP613.13) and a portion of the Monument Valley Park Historic District (5EP613) upon which it is situated, (2) the United States Air Force Academy (5EP595) (the USAFA Cadet Area is a National Historic Landmark District and the remainder of the campus is eligible for the National Register), and (3) the WPA Flood Wall along Monument Creek (5EP3856) in El Paso County, Colorado, all of which are eligible for listing on the National Register of Historic Places, and has consulted with the Colorado State Historic Preservation Officer (SHPO) pursuant to 36 CFR 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. Section 470f); and

WHEREAS, FHWA has consulted with the Colorado Department of Transportation (CDOT) regarding the effects of the undertaking on historic properties and has invited CDOT; the United States Air Force Academy; and the City of Colorado Springs, a home rule city and Colorado municipal corporation, through its Parks, Recreation, and Cultural Services Department to sign this MOA as invited signatories; and

WHEREAS, in accordance with 36 CFR 800.6(a)(1), FHWA has notified the Advisory Council on Historic Preservation (Council) of its adverse effect determinations with specified documentation and the Council has chosen not to participate in the consultation pursuant to 36 CFR 800.6(a)(1)(iii);

NOW, THEREFORE, FHWA and SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on National Register eligible historic properties.

STIPULATIONS

The FHWA shall ensure that the following measures are carried out:

I. MITIGATION

Monument Valley Park Rock Entrance Gate (5EP613.13) and Monument Valley Park Historic District (5EP613):

A) AESTHETICS AND DESIGN

The proposed reconstruction of Bijou Street, which borders the Monument Valley Park Historic District and the Rock Entrance Gate, will require construction of a small retaining wall and pedestrian hand rail along Bijou Street and two sets of steps leading from the Bijou Street sidewalk to the sidewalk at the Entrance Gate. These new features will create a visual

and physical barrier where none existed before. FHWA and CDOT developed the following strategies to mitigate this impact:

- 1) The retaining wall, pedestrian rail, and steps will be designed to fit within and compliment the historic and visual context of the Rock Entrance Gate and its immediate park surroundings. Aesthetic elements that will be considered are materials (such as a rock facing on the wall), color, and texture.
- 2) Landscaping at the Rock Entrance Gate will match the current landscaping, including the location of the beds and the types of vegetation.
- 3) Prior to construction, FHWA and CDOT will consult with the SHPO and the Colorado Springs Parks, Recreation and Cultural Services Department regarding the proposed landscaping and the design, color, textures, and materials for the retaining wall, pedestrian rail, and steps.

B) ARCHIVAL DOCUMENTATION

- 1) CDOT shall ensure that the Monument Valley Rock Entrance Gate (5PE613.13) is documented in accordance with Level I documentation as outlined in Colorado Office of Archaeology and Historic Preservation Form #1595, *Historical Resource Documentation: Standards for Level I, II, and III Documentation*. CDOT shall consult with the SHPO to determine appropriate Level I recordation measures.
- 2) CDOT shall ensure that all documentation activities will be performed or directly supervised by architects, historians, photographers, and/or other professionals meeting the qualification standards in their field as stipulated in the *Secretary of Interior's Professional Qualifications Standards* (36 CFR 61, Appendix A).
- 3) CDOT shall provide originals of all documents resulting from the documentation to the SHPO; the Colorado Springs Parks, Recreation, and Cultural Services Department; and a local library or archive designated by the SHPO.

C) CONSTRUCTION

To minimize damage to the Rock Entrance Gate during construction, care will be taken during all activities near the Gate. FHWA and CDOT will include specifications in the project construction plans to require the following:

- 1) The type of heavy equipment and allowable distance from the Gate will be restricted in accordance with the recommendations contained in the structural analysis prepared by A-E Design Associates.
- 2) The pavement and sidewalk located directly next to the Gate will be removed by hand.
- 3) Proximity of construction equipment to the Gate will be restricted to the allowable distances by requiring appropriate fencing and cones.

- 4) The contractor will be required to attend a preconstruction briefing prior to commencement of the work adjacent to the Gate to assure understanding of and conformance with the stipulations in this agreement and the recommendations contained in the structural analysis report.

United States Air Force Academy (5EP595) (Baptist Road to North Gate Blvd, and North Gate Blvd. To North Academy Blvd. Segments):

A) ARCHIVAL DOCUMENTATION

- 1) CDOT shall ensure that the seven linear mile segment of I-25 traversing the eastern boundary of the United States Air Force Academy (5EP595) is documented in accordance with the guidance for Level II documentation found in OAHF Form #1595. CDOT shall consult with the SHPO to determine appropriate Level II recordation measures.
- 2) CDOT shall ensure that all documentation will be performed or directly supervised by architects, historians, photographers, and/or other professionals meeting the qualification standards in their field in the *Secretary of Interior's Professional Qualifications Standards* (36 CFR 61, Appendix A) and that USAFA will be actively involved in the coordination and review of all documentation.
- 3) CDOT shall provide originals of all documents resulting from the documentation to the SHPO, the United States Air Force Academy, and to a local library or archive designated by the SHPO.

B) DESIGN AND CONSTRUCTION

CDOT proposes to implement the following plans to mitigate impacts to the eastern boundary of the Air Force Academy:

- 1) Most of the impacts and resultant mitigation will occur in the vicinity of the existing North Gate Interchange. CDOT will maintain the interstate and its ramps at or below the existing centerline grade to lessen the possibility of viewing them from high vantage points within the Academy property, including the Cadet and Academic areas.
- 2) Vegetation removed for construction will be replaced with similar density and species after construction is complete.
- 3) Prior to and during construction, FHWA and CDOT will consult with the United States Air Force Academy regarding proposed landscaping and final interchange design. CDOT will coordinate all landscaping with USAFA Civil Engineering, and continue USAFA entryway landscaping into the redeveloped Northgate interchange at the same density and quality as provided in USAFA

landscape plans for the entry point.

WPA Flood Wall at Monument Creek (5EP3856):

A) ARCHIVAL DOCUMENTATION

- 1) CDOT shall ensure that the WPA Flood Wall at Monument Creek (5EP3856) is documented in accordance with the guidance for Level II documentation found in OAHF Form #1595. CDOT shall consult with the SHPO to determine appropriate Level II recordation measures.
- 2) CDOT shall ensure that all documentation will be performed or directly supervised by architects, historians, photographers, and/or other professionals meeting the qualification standards in their field in the *Secretary of Interior's Professional Qualifications Standards* (36 CFR 61, Appendix A).
- 3) CDOT shall provide originals of all documents resulting from the documentation to the SHPO and to a local library or archive designated by the SHPO.

B) DESIGN AND CONSTRUCTION

CDOT proposes to mitigate impacts to the WPA Flood Wall at Monument Creek as follows:

- 1) The proposed cantilever retaining wall for I-25 will be designed to be aesthetically compatible with the existing WPA Flood Wall. Input from local stakeholders will be sought before final design is prepared. The final design of the retaining wall will be submitted to SHPO for review and comment to ensure its compatibility with the Flood Wall.
- 2) Prior to construction activities that impact the WPA Flood Wall, photographs will be taken and detailed drawings will be prepared. Wherever reconstruction is feasible, qualified stonemasons will use the removed stones and reconstruct the effected portions of the wall using the photographs and drawings to match its preconstruction appearance. Stones that are not used will be stockpiled for future repair projects or to replace the existing riprap at the abutment of the Colorado Avenue bridge.
- 3) Scrub vegetation growing between the stones of the WPA Flood Wall along the west side of Monument Creek will be removed and the mortar repaired and stabilized.

II. DURATION

This agreement will be null and void if its terms are not carried out within (5) years from the date of its execution. Prior to such time, FHWA may consult with the other signatories to reconsider the terms of the agreement and amend it in accordance with Stipulation IV below.

III. MONITORING AND REPORTING

Each year following the execution of this agreement until it expires or is terminated, FHWA shall provide all parties to this agreement a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, problems encountered, and/or disputes and objections received in FHWA's efforts to carry out the terms of this agreement. Failure to provide such summary report may be considered noncompliance with the terms of this MOA pursuant to Stipulation VI, below.

IV. DISPUTE RESOLUTION

Should any party to this agreement object to any actions proposed or the manner in which the terms of this MOA are implemented, FHWA shall consult with the objecting party(ies) to resolve the objection. If FHWA determines, within 30 days, that such objection(s) cannot be resolved, FHWA will:

A) Forward all documentation relevant to the dispute to the Advisory Council in accordance with 36 CFR 800.2(b)(2). Upon receipt of adequate documentation, the Council shall review and advise FHWA on the resolution of the objection within 30 days. Any comments provided by the Council, and all comments from the parties to the MOA, will be taken into account by FHWA in reaching a final decision regarding the dispute.

B) If the Council does not provide comments regarding the dispute within 30 days after receipt of adequate documentation, FHWA may render a decision regarding the dispute. In reaching its decision, FHWA will take into account all comments regarding the dispute from the parties to the MOA.

C) FHWA's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged. FHWA will notify all parties of its decision in writing before implementing that portion of the undertaking subject to dispute under this stipulation. FHWA's decision will be final.

V. AMENDMENTS AND NONCOMPLIANCE

If any signatory to this MOA, including the invited signatory, determines that its terms will not or cannot be carried out or that an amendment to its terms must be made, that party shall immediately consult with the other parties to develop an amendment to this MOA pursuant to 36 CFR 800.6(c)(7) and 800.6(c)(8). The amendment will be effective on the date a copy signed by all of the original signatories is filed with the Council. If the signatories cannot agree to appropriate terms to amend the MOA, any signatory may terminate the agreement in accordance with Stipulation VI, below.

VI. TERMINATION

If the MOA is not amended following the consultation set out in Stipulation IV above, it may be terminated by any signatory or invited signatory. Within 30 days following termination, the FHWA shall notify the signatories if it will initiate consultation to execute an MOA with the signatories under 36 CFR 800.6(c)(1) or request the comments of the Council under 36 CFR 800.7(a) and proceed accordingly.

Execution of this agreement by FHWA and Colorado SHPO, and the submission of documentation and filing of this agreement with the Council pursuant to 36 CFR 800.6(b)(1)(iv) prior to FHWA's approval of this undertaking, and implementation of its terms, evidence that FHWA has taken into account the effects of this undertaking on historic properties and afforded the Council an opportunity to comment.

SIGNATORIES:

Federal Highway Administration

Shirley K. Jones
for William C. Jones, Colorado Division Administrator *9/10/04*
Date

Colorado State Historic Preservation Officer

Georgianna Contiguglia
Georgianna Contiguglia, SHPO *August 16, 2004*
Date

INVITED SIGNATORIES:

Colorado Department of Transportation

Tom Norton Chief Engineer *8/12/04*
Date
for Tom Norton, Executive Director

United States Air Force Academy

Susanne P. LeClere *9 SEP 04*
Date
Susanne P. LeClere, Colonel, USAF
10 ABW Commander

Colorado Springs Parks, Recreation, and Cultural Services

Paul D. Butcher *8/20/04*
Date
Paul D. Butcher, Director

CONCURRING PARTY:

City of Colorado Springs Historic Preservation Board

Nancy I. Brown *9-13-04*
Date
Nancy I. Brown, Chair