

**HISTORIC PRESERVATION COMMISSION
MEETING AGENDA**

Tuesday, November 1 @ 5:30 PM
155 W. Granite, Council Chambers, 3rd Floor Courthouse

- I. CALL TO ORDER
- II. ROLL CALL
- III. READING/APPROVAL OF THE PREVIOUS MONTH'S MINUTES, September 6, 2016
- IV. PUBLIC COMMENT – ITEMS ON THE AGENDA
- V. NEW/OLD BUSINESS
 - A. Determination of Eligibility: Stodden Park
 - B. Preliminary plans for the Jacobs House porch
 - C. Request by Ancient Order of Hibernians to BSB for granite pavers for use in St. Patrick Cemetery Restoration Project.
 - D. Browns Gulch Road Reconstruction MOA
- VI. STAFF/MEMBER REPORTS
 - A. Community Enrichment/BSB involvement in Butte CPR's Emma Park Neighborhood Project
 - B. Status of Basin Creek Caretakers House
- VII. ANNOUNCEMENTS
 - A. Dorsey Picture's pilot for home restoration series in Butte
- VIII. PUBLIC COMMENT – ITEMS NOT ON THE AGENDA
- IX. ADJOURNMENT

**MEMORANDUM OF AGREEMENT
BETWEEN FEDERAL HIGHWAY ADMINISTRATION
AND THE
MONTANA STATE HISTORIC PRESERVATION OFFICE
REGARDING THE
NORTH OF ROCKER INTERCHANGE – NORTH PROJECT
STPS 276-1(12)4
SILVER BOW COUNTY, MONTANA**

WHEREAS, the Federal Highway Administration (FHWA) plans to partially fund the North of Rocker Interchange-North, STPS 276-1(12)4 Project; and

WHEREAS, the Project consists of the reconstruction of 4.4 miles of Montana Secondary Highway 276 (Brown's Gulch Road) in Silver Bow County; and

WHEREAS, the FHWA has defined the Project's area of potential effects (APE) as all historic properties located within 200 feet on either side of the existing highway centerline from Reference Post 3.5 to Reference Post 7.9; and

WHEREAS, FHWA has determined that the Project may have an adverse effect on the Brown's Gulch School (24SB0970) and Feature 4 at the Galetti Dairy Farm (24SB0974), which are eligible for listing in the National Register of Historic Places, and has consulted with the Montana State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800, the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f); and

WHEREAS, FHWA has consulted with the Montana Department of Transportation (MDT) regarding the effects of the Project on historic properties and has invited them to sign this MOA as a concurring party; and

WHEREAS, FHWA has consulted with the Butte-Silver Bow Historic Preservation Commission (BSB) regarding the effects of the Project on historic properties has invited them to sign this MOA as a concurring party; and

WHEREAS, MDT has consulted with the property owner of Feature 4 at the Galetti Dairy and determined that the structure cannot be moved; and

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

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

I. STIPULATIONS

FHWA shall ensure that the following measures are carried out:

- A. Prior to initiating construction activities on the Project, MDT will consult with the National Park Service (NPS) to determine the level of Historic American Building Survey (HABS)-level (<http://www.nps.gov/hdpd/>) documentation appropriate for the Brown's Gulch School (24SB0970) and Feature 4 at the Galetti Dairy Farm (24SB0974). MDT will prepare HABS-level documentation per recommendation of NPS. MDT will provide copies of the HABS documentation to the National Park Service, SHPO, Butte-Silver Bow County Historic Preservation Officer, and the Butte-Silver Bow County Archives.
- B. In consultation with the BSB Historic Preservation Officer, the MDT will attempt to seek a new owner for the Browns Gulch School (24SB0970) close to the original location of the school and, if successful, relocate the building to the new owner's property prior to the initiation of construction activities for the North of Rocker Interchange-North project. The school will be placed on a concrete foundation at its new site. The construction of the concrete foundation is the responsibility of the MDT. The contractor selected to move the building will make every effort possible to relocate the building with a minimum of damage to the features that make it eligible for listing in the National Register of Historic Places.
- C. MDT will prepare and install two interpretive signs on Secondary 276 describing the history of Brown's Gulch and its significance to the histories of Butte and Silver Bow County. The markers will include information specific to the Brown's Gulch School and the Galetti Dairy Farm. The markers will be installed within six months of the completion of the Project at a turn-out constructed by the MDT.
- D. FHWA shall ensure that MDT complies with Butte-Silver Bow Ordinance No. 14-11, Historic Preservation Program.
- E. MDT will inform SHPO and the BSB of the completion of all stipulations of this MOA.

II. DURATION

If the terms of the MOA are not completed, the MOA will expire within five (5) years from the date of its execution.

III. MONITORING AND REPORTING

Upon termination or expiration of this MOA, FHWA shall provide the parties to this MOA a summary report detailing work undertaken pursuant to its terms. The report shall include any scheduling changes proposed, problems encountered, and any disputes and objections received in FHWA's efforts to carry out the terms of this MOA.

IV. DISPUTE RESOLUTION

Should any signatory or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA were implemented, FHWA shall consult with such party to resolve the objection. If FHWA determines that such objection cannot be resolved, FHWA will:

- A. Forward all documentation relevant to the dispute, including the FHWA's proposed resolution, to the ACHP. The ACHP shall provide the FHWA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. FHWA will then proceed according to the final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FHWA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.
- C. FHWA's responsibility to implement the terms of this MOA, not subject to the dispute remain unchanged.

V. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

VI. TERMINATION

This MOA will terminate upon completion of its terms. If, prior to its completion, any signatory to this MOA determines that its terms cannot be carried out, that party shall immediately consult with the other signatories to develop an amendment per Stipulation V, above. If within thirty (30) days (or another time period agreed to by all the signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

If the MOA is terminated prior to its completion, FHWA must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7, prior to work continuing on the Project. FHWA shall notify the signatories which course of action it will pursue.

Execution of this MOA by the FHWA and SHPO and implementation of its terms evidences that FHWA has taken into account the effects of this Project on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORIES:



Federal Highway Administration

10/19/2016
Date



Montana State Historic Preservation Officer

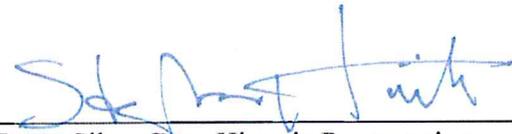
9/16/2016
Date

Concurring Parties:



Montana Department of Transportation

9/30/2016
Date



Butte-Silver Bow Historic Preservation
Commission, Chair

09.28.2016
Date