

# **Section 4(f) Resources Evaluation Technical Report**

**State Highway 82 / Entrance to Aspen  
Environmental Reevaluation**

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**Colorado Department of Transportation, Region 3  
and  
Federal Highway Administration, Colorado Division**

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### APPENDIX A - AGREEMENT FOR TEMPORARY OCCUPANCY OF BERGMAN TRAIL

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## 1.0 Introduction

This report provides a reevaluation of the analysis of Section 4(f) resources presented in the 1997 State Highway 82/Entrance to Aspen Final Environmental Impact Study (FEIS) and the 1998 Record of Decision. The Section 4(f) Resources Evaluation is in Appendix A of the FEIS, and on pages 25 through 31 of the ROD.

While the overall Entrance to Aspen Environmental Reevaluation focuses on the Preferred Alternative selected in the 1998 ROD, Section 4(f) analysis requires that all alternatives be considered and compared in regard to potential use of Section 4(f) resources in order to conduct an appropriate analysis of Avoidance Alternatives and of Least Harm. Therefore, this technical report summarizes information for alternatives that were considered in the Entrance to Aspen Draft EIS, Draft Supplemental EIS, Final EIS, and ROD.

## 2.0 Methodology

The information contained in the recreation section and cultural resource sections of the FEIS and ROD as well as the Section 4(f) evaluation sections of these documents were reviewed for information on resources that are protected under Section 4(f). To determine if new parks, recreation, wildlife or waterfowl refuges have been developed since the FEIS and ROD, City of Aspen and Pitkin County park and recreation maps and land use documents were reviewed (accessed at: <http://www.aspenpitkin.com/depts/21/> ).

An updated historic properties inventory was completed for this reevaluation to determine if additional properties have become eligible for or listed on the National Register of Historic Places (NRHP) since publication of the FEIS and ROD.

Additionally, the Memoranda of Understanding between the City of Aspen, Colorado Department of Transportation (CDOT), and the Federal Highway Administration (FHWA), and between Pitkin County, CDOT and FHWA were reviewed to understand the mitigation and least harm measures that were part of the Preferred Alternative.

The existing conditions within the study area with respect to Section 4(f) resources were compared to those described in the FEIS and ROD to determine whether previously reported conditions have changed. Measures to minimize harm and the least-harm analysis were reviewed in light of any changed conditions.

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## 3.0 Regulatory Overview

Section 4(f) applies to publicly owned parks, recreations areas, wildlife or waterfowl refuges, as well as historic sites regardless of ownership. Protection of Section 4(f) resources is covered by Section 4(f) of the Department of Transportation Act of 1966, which is codified at 49 U.S.C. 303 and 23 U.S.C. 138. FHWA has adopted 23 CFR 771.135 as the implementing regulations for this section of federal law. FHWA also has policy guidance for questions related to Section 4(f).

The Section 4(f) law has been amended as part of the latest federal transportation bill, which was signed following the 1997 FEIS and 1998 ROD. Section 6009 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, amended existing Section 4(f) legislation at Section 138 of Title 23 and Section 303 of Title 49, United States Code. SAFETEA-LU was signed into law August 10, 2005. Section 6009 amends 49 U.S.C. § 303 and 23 U.S.C § 138; see specifically 49 U.S.C. § 303(d) and 23 U.S.C §138(b).

While the *de minimis* impact criteria may be applied to any project meeting the specified requirements, Section 6009(a) of SAFETEA-LU does not require the U.S. DOT to re-open decisions already made concerning Section 4(f) impacts of individual projects. Project sponsors are encouraged to examine projects currently in the environmental process to see if any would benefit from application of the *de minimis* impact criteria, but the decision must be made on a case-by-case basis.

Where multiple Section 4(f) resources are present in the study area and potentially used by a transportation project, *de minimis* impact findings must be made for the individual Section 4(f) resources. The impacts to Section 4(f) resources and any impact avoidance, minimization, and mitigation or enhancement measures must be considered on an individual resource basis and *de minimis* impact findings made individually for each Section 4(f) resource. However, when there are multiple resources for which *de minimis* impact findings are appropriate, the procedural requirements of Section 4(f) can and should be completed in a single process, document and circulation, so long as it is clear that distinct determinations are being made. Also in these cases, the written concurrence of the official(s) with jurisdiction may be provided for the project as a whole, so as long as the *de minimis* impacts findings have been made on an individual resource basis.

On July 27, 2006, the Federal Highway Administration (FHWA) and Federal Transit Authority (FTA) published a Notice of Proposed Rulemaking regarding modification of procedures for granting approvals under Section 4(f) [Federal Register, Volume 71, No. 144, pages 42611-42622]. Comments received on the proposed rules are now being addressed. The proposed rules, among other things, (1) clarify factors to be considered and standards to be applied when determining if an alternative for avoiding the use of Section 4(f) property is “feasible and prudent”; (2) clarify factors to be considered when selecting a project alternative where all alternatives use Section 4(f) property and no feasible and prudent avoidance alternative exists; (3) establish procedures for determining that the use of a Section 4(f) property has *de minimus* impacts (i.e., incorporate the *de minimus* standards from SAFETEA-LU into these rules); and (4) updates the regulation to recognize statutory and common-sense exceptions for uses that advance Section

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4(f)'s preservationist goals, and the option of conducting certain Section 4(f) evaluations on a programmatic basis.

The proposed rules would better allow for considering and balancing mitigation opportunities, harm to other important resources, and the magnitude of impact to Section 4(f) properties.

In 2005, FHWA issued a new Section 4(f) Policy Paper, updating its comprehensive guidance on when and how to apply to provisions of Section 4(f) on FHWA projects that propose to use 4(f) land or resources. This policy paper is not regulatory but represents the official policy of the FHWA, and replaces all previous FHWA Section 4(f) policy papers.

## **4.0 Section 4(f) Resources**

The status of the Preferred Alternative selected in the 1998 ROD is described in Section 4.1 below. Due to completion of some components of this project, some of the estimated impacts to Section 4(f) resources in the FEIS and ROD have already occurred. These impacts and how they were mitigated are described further in Section 5.0 of this report.

Sections 4.2 and 4.3 update the information in the FEIS and ROD on Section 4(f) resources in the project study area, based on current status and conditions.

### **4.1 Status of the Preferred Alternative Selected in the 1998 ROD**

The conceptual design of the Preferred Alternative selected in the ROD has not changed since publication of the 1998 ROD. The Purpose and Need for the Entrance to Aspen remains the same as noted in FEIS Section I, Purpose and Need, and pages 7 through 10 of the ROD. (See also Purpose and Need and Project Objectives Technical Report, State Highway 82/Entrance to Aspen Environmental Reevaluation, November 2006.)

Two components of the Preferred Alternative selected in the ROD have been constructed since the publication of the ROD: (1) Owl Creek Road and West Buttermilk Road have been relocated to create a new, signalized intersection with State Highway 82 near the Buttermilk Ski Area; and (2) the roundabout at the Maroon Creek Road intersection has been completed.

In addition, the Maroon Creek Bridge Replacement Project is currently under construction, scheduled for completion by spring of 2008. This project is being constructed as a bridge replacement without any increase in roadway capacity. However, it will accommodate the Entrance to Aspen Preferred Alternative in the future by removing the center median and re-striping for two general-purpose lanes and two exclusive bus lanes (see the Introduction to the Technical Report Volume for more detail).

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The intersection of Truscott Drive and State Highway 82 was completed in 2001. While this intersection is not part of the Entrance to Aspen Project, its configuration accommodates the alignment for the east approach to the Maroon Creek Bridge Replacement Project.

A transportation easement across the Marolt-Thomas Open Space was conveyed from the City of Aspen to CDOT in August of 2002, as part of land exchange and mitigation agreements between CDOT and the City of Aspen and Pitkin County. (Refer to Appendix A and B in the 1998 Record of Decision for details of the open space conveyance agreements and mitigation commitments.)

## **4.2 Section 4(f) Parks and Recreation Resources**

Parks and recreation properties identified within the project study area as part of the original Section 4(f) evaluation are described in the 1997 FEIS on pages IV-8 through IV-17 and in Appendix A. The properties identified include:

- **Aspen Trail System**
- **Zoline Ranch Open Space**
- **Aspen City Golf Course/Plum Tree Playing Field**
- **Moore Property Open Space**
- **Marolt-Thomas Open Space**
- **Bugsy Barnard Park, Paepcke Park, and Wagner Park**

The parks and open spaces listed above have remained essentially the same as described in the FEIS. The Aspen Trail System, however, has changed substantially since publication of the FEIS and ROD. Numerous trails have been modified, rerouted, extended and added. Therefore, all trails within the project study area are described below based on their current names and configurations (Weiss 2006, CDOT 2006c, D'Autrechy 2006a and 2006b, Pitkin County Open Space and Trails 2006). Due to these extensive changes in the trail system, it is not possible to directly correlate the 1997 trail descriptions from the FEIS to the current trail system.

Hiking and bicycling trails that currently parallel or cross State Highway 82 in the study area are described below (see Figures 1a and 1b in the Social Environment and Community Character Technical Report, State Highway 82/Entrance to Aspen Environmental Reevaluation, November, 2006):

**Owl Creek Trail** is a 4.4-mile-long trail between Snowmass Village and Aspen that descends through the Owl Creek Valley to an underpass crossing of State Highway 82. The trail then joins the Aspen Airport Business Center (ABC) Trail (Aspen Ranger District, 2006). The portion of the trail that crosses State Highway 82 is in the City of Aspen, and was built as an underpass beneath the highway in 2001 as part of the widening of State Highway 82. Parts of this trail near State Highway 82 were realigned in 2001 as part of the Owl Creek Road realignment project.

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**ABC Trail** extends from Aspen to the Aspen Airport Business Center along the north side of State Highway 82 (2.5 miles long), with underpasses at Harmony Road and Truscott Drive, and is connected across State Highway 82 by the Owl Creek Trail, the Maroon Creek Trail, the James E. Moore Trail, and the Marolt Trail (Aspen Parks & Recreation 2006b, D'Autrechy 2006b).

**Maroon Creek Trail** (1.3 miles long) runs along Maroon Creek connecting the eastern end of the Government Trail to the ABC Trail (Aspen Parks & Recreation 2006b).

**Maroon Creek Picnic Trail:** This trail was constructed in 2002.

**Truscott Underpass:** Located immediately west of the Truscott Drive/State Highway 82 intersection, this underpass was constructed under State Highway 82 in 2002.

**James E Moore Trail** (2 miles long) is used to reach the High School Trail from the ABC Trail and the Aspen Golf Course & Cross Country Center, with an underpass at the roundabout (Aspen Parks & Recreation 2006b).

**Roundabout Trail:** This trail was constructed in 2001 as part of the roundabout construction. It serves as a link between the ABC Trail, Marolt Trail, and the High School Bike Path. Pedestrian bridges were also built over Maroon Creek Road and Castle Creek Road as part of the roundabout construction.

**High School Bike Path:** This trail's connection to Highway 82 changed in 2001 when the roundabout was constructed. It now connects to the Roundabout Trail to gain access to State Highway 82 and other trails.

**Bergman Trail:** This trail was constructed in the summer of 2005. It is an adjunct trail to the Marolt Trail providing additional access to the eastern side of the Marolt-Thomas Open Space. This trail crosses beneath State Highway 82 via an underpass.

**Marolt Trail** is used as an access route between the ABC Trail and the High School Trail (1.5 miles long). It also connects the West Hopkins Bikeway with Castle Creek Road, with overpasses at Maroon Creek Road and Castle Creek Road (Aspen Parks & Recreation 2006b).

**Nordic trails:** Several Nordic trails were listed in the 1997 FEIS, but are not shown in the current County GIS database. These trails operate only during the winter months. They have perpetual easements, but are only groomed from November 1 – April 1. In a few cases, Nordic trails are located on existing roads and trails.

Two new recreation facilities have been added in the study area, but are not located in proximity to the Preferred Alternative corridor. The Aspen Recreation Center (ARC) was built in 2003 at 0861 Maroon Creek Road. It is operated by Aspen Parks & Recreation Department. The Rio Grande Skateboard Park was built in 2001 by the Aspen Parks & Recreation Department for use by skateboarders and roller bladers. Located at the eastern end of the Rio Grande Park, it has 13,000 square feet of skate terrain, including a small bowl, street skate, and half pipe (Aspen Parks & Recreation). Neither of these facilities is in or adjacent to the project corridor. In addition, the Aspen Golf Club was certified as an Audubon Cooperative Sanctuary.

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No other substantive changes have occurred to any of the parks and recreation Section 4(f) resources identified in the FEIS.

### **4.3 Historic Properties**

Nine historic properties were identified in the 1997 FEIS (Appendix A) as being Section 4(f) resources within the project study area, as listed below. Two of these properties (Marolt Ditch and 920 West Hallam, known as the Edward C Stimson Cottage) have since been determined to be not eligible for the NRHP and, therefore, are no longer Section 4(f) resources.

- Maroon Creek Bridge
- Holden Smelting and Mining Complex
- Marolt Ditch (determined not eligible for the NRHP during the FEIS; not a Section 4(f) resource)
- Colorado Midland Railroad
- Castle Creek Power Plant
- 920 West Hallam (determined not eligible for the NRHP in 2003; not a Section 4(f) resource)
- Berger Cabin (835 West Main)
- Smith/Elisha House
- Thomas Hynes House.

A literature review and field survey was conducted in July of 2006 for this reevaluation of the Preferred Alternative selected in the 1998 ROD. (Refer to Historic Resources Technical Report, State Highway 82/Entrance to Aspen Environmental Reevaluation, December, 2006.) After reviewing the records and completing the 2006 field survey within the project study corridor for the Preferred Alternative selected in the ROD, a total of 13 historic properties were determined to currently have Section 4(f) status. These are listed in Table 4-1.

Since publication of the 1997 FEIS, additional properties have met the age threshold for historic structures and are now eligible for the NRHP as well as for protection under Section 4(f). These are shown with grey shading in Table 4-1. The two Historic Districts were determined to be eligible in 2006. The 2006 field survey also identified four additional historic properties in the study corridor that are individually eligible to the NRHP. These four properties are all within and contribute to the Main Street Historic District (as well as now being individually eligible). They are described in more detail in the Historic Resources Technical Report (FHWA and CDOT, December, 2006).



**Table 4-1  
Historic Properties in Study Corridor Determined to be Section 4(f) Resources in 2006**

<b>Identified as Section 4(f) Property in FEIS?</b>	<b>Site No.</b>	<b>Address</b>	<b>Property Name</b>	<b>2006 NRHP Eligibility</b>
No	5PT113	Aspen	Commercial Core Historic District (HD)	Officially Eligible; 2006, Criterion C
Yes	5PT113.5	303 E Main Street	Thomas Hynes House	NRHP; Criteria A and C; 1987
No	5PT114	Aspen	Main Street HD	Officially Eligible; 2006, Criterion C
Yes	5PT114.19	320 W Main Street	Smith/Elisha House	NRHP; Criterion C; 1989
No	5PT114.15	128 E Main Street	Sardy House	Eligible; 2006, Criterion C
No	5PT114.16	333 W Main Street	Finley Residence	Eligible; 2006, Criterion C
No	5PT114.17	332 W Main Street	Taylor House	Eligible; 2006, Criterion C
No	5PT114.18	328 W Main Street	Brunton House	Eligible; 2006, Criterion C
Yes	5PT136	SH 82	Maroon Creek Bridge	NRHP; Criteria A and D; 1985
Yes	5PT498	1080 Power Station Road	Castle Creek Power Plant	Officially Eligible, 1988, Criteria A and C
Yes	5PT539	SH 82	Holden Smelting & Milling Complex	NRHP; Criteria A and D; 1990
Yes	5PT542	SH 82	Colorado Midland Railroad	Officially Eligible; 1988, Criterion A
Yes	5PT592	835 Main Street	Berger Cabin	Officially Eligible; 1996, Criteria B and C

Shaded = Additional Section 4(f) Resources identified as eligible during 2006 reevaluation survey

The 1997 FEIS (page IV-68) indicated that no archaeological sites had been recorded in the project corridor since the Carbondale-East 1981 survey. Page V-42 indicates that there will be no effect on significant archaeological resources in Study Area. There has been no change in the status of archaeological resources since completion of the 1997 FEIS and ROD. A review of the files at the office of Archaeology and Historic Preservation (August 11, 2006) indicated that no archaeological sites have been recorded in the project corridor since the 1997 FEIS.

## 5.0 Impacts to Section 4(f) Resources

This section describes the estimated uses of Section 4(f) resources that would result from the Entrance to Aspen alternatives. Alternatives that were analyzed in the Section 4(f) evaluation in the FEIS are first summarized below in Section 5.1, and a clarification of the FEIS and ROD Preferred Alternatives is provided in Section 5.2. Assumptions made for data that cannot be verified under current conditions are outlined in Section 5.2. Potential uses of Section 4(f) resources for each alternative are described in Section 5.3, including a summary of and corrections to Section 4(f) data from the FEIS, and a discussion of new uses (or other impacts) identified during this reevaluation. Section 5.4 estimates the Section 4(f) uses that have already occurred as a result of partial development of the Preferred Alternative selected in the ROD, and the mitigation that has been completed for those impacts.

### 5.1 Alternatives Included in the Section 4(f) Impact Analysis

As described in Section 1.0, all alternatives analyzed for the Entrance to Aspen are included in the Section 4(f) impact analysis. These alternatives are summarized in Table 5-1. All alternatives used the existing alignment of State Highway 82 from Buttermilk Ski Area to Maroon Creek (designated as the Existing Alignment). Some alternatives then continued along the existing highway alignment, while others used a new alignment across the Marolt-Thomas property, known as the Modified Direct Alignment. (Refer to the Draft EIS (DEIS), Draft Supplemental EIS (DSEIS), and Final EIS (FEIS) for illustrations and detailed descriptions of all alternatives and alignments).

**Table 5-1  
Alternatives Evaluated in the DEIS and DSEIS**

<b>Alternative Name/ Designation</b>	<b>Summary Description <sup>a</sup></b>
<b>Draft EIS Alternatives (1995) <sup>b</sup></b>	
<i>Buttermilk Ski Area to Maroon Creek:</i>	
1	No Action Alternative
2	Existing Alignment, 2 GP lanes, 2 DV / Transit lanes
3	Existing Alignment with Separate Transit Envelope
<i>Maroon Creek to 7<sup>th</sup> and Main Street:</i>	
A	No Action Alternative
B	Existing Alignment, 2 GP lanes, 2 DV / Transit lanes
C	Modified Direct Alignment, At Grade, 2 GP lanes, 2 DV / Transit lanes
D	Modified Direct Alignment, At Grade, Separate Transit Envelope
E	Modified Direct Alignment, Cut and Cover Tunnel, 2 GP lanes, 2 DV / Transit Lanes

<b>Alternative Name/ Designation</b>	<b>Summary Description <sup>a</sup></b>
F	Modified Direct Alignment, Cut and Cover Tunnel, with Separate Transit Envelope
G	2 Improved Lanes on Existing Alignment, Transitway on Modified Direct Alignment, At Grade
<b>Draft Supplemental EIS Alternatives (1996) <sup>c</sup></b>	
H	Couplet Alignment, At Grade, No Phasing
Phased H	Couplet Alignment, At Grade, Phased (Bus to Light Rail)
Modified Direct	Modified Direct Alignment, Cut and Cover Tunnel, No Phasing
Phased Modified Direct	Modified Direct Alignment, Cut and Cover Tunnel, Phased (Bus to Light Rail)
Notes: <sup>a</sup> GP = General Purpose Lanes; DV = Dedicated Vehicle Lanes <sup>b</sup> Alternatives considered in the Draft EIS were broken into two segments, one from Buttermilk Ski Area to Maroon Creek, and one from Maroon Creek to 7 <sup>th</sup> and Main Street. A full alternative required adding one west segment with one east segment. <sup>c</sup> DSEIS alternatives included phased and non-phased alternatives. Phased alternatives allowed for exclusive bus lanes in the initial phase, with light rail transit in the ultimate phase.	

## 5.2 Clarification of Preferred Alternative

The alternative designated as “Preferred” in the FEIS is different from the alternative selected in the ROD as “Preferred”. The preferred alternative identified in the Final EIS (1997) was essentially the “Modified Direct” alternative described in the Draft Supplemental EIS (See Table 5-1). This non-phased Modified Direct alternative was designated in the FEIS Section 4(f) analysis as the “Preferred Alternative”, and the phased Modified Direct alternative was labeled in the FEIS as “Modified Direct” (or, sometimes, “Phased Modified Direct”).

In the Record of Decision, the Preferred Alternative selected was a “variation of the Modified Direct Alternative evaluated in the DSEIS and of the Preferred Alternative described in the FEIS” (ROD, page 3 of 37). These alternatives have virtually the same alignment<sup>1</sup> for the general-purpose lanes of the highway component (one general-purpose lane in each direction) and the light-rail transit (LRT) envelope. This alignment follows the existing State Highway 82 alignment to east of Maroon Creek Road, then turns southeast to cross the Marolt-Thomas property in a cut-and-cover tunnel, comes back to grade and crosses a new Castle Creek Bridge at Main Street. The proposed Main Street roadway alignment consists of two travel lanes in each direction, within the existing curb lines.

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<sup>1</sup> It appears that there were small alignment variations between these two alternatives during the FEIS phase, based on slight differences in some quantified impacts for various resources. However, such differences cannot be verified at the current time, and impact differences in these cases are generally less than 0.1 acre.

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The ROD Preferred Alternative, however, is a phased alternative with the first phase consisting of exclusive bus lanes until and unless funding and public approval is obtained for the LRT system. The bus lanes would be on the outside of the general-purpose lanes described above (one in each direction). The addition of bus lanes for the ROD Preferred Alternative results in a wider cross-section than for the FEIS Preferred Alternative. See the Introduction to this Technical Reports Volume for more information and illustrations of the ROD Preferred Alternative.

Other differences between the FEIS Preferred Alternative and the ROD Preferred Alternative that affect the Section 4(f) analysis are indicated in Table 5-3 in the next section and described in the text as needed. (See Section 6 and Table 6-1 for a complete summary of Section 4(f) uses for all alternatives.)

### **5.3 Data Verification and Decision Making**

In reviewing environmental data that are over 10 years old, it is not always possible to verify with precision the quantification of impacts reported in the original document(s). Instead, this reevaluation of potential Section 4(f) impacts is focused on *whether or not the original project decisions remain sound*, based on current knowledge and conditions.

It must also be acknowledged that the level of engineering design for all alternatives examined in the EIS, including the Preferred Alternative selected in the 1998 ROD, remains very conceptual for the components not yet constructed. Until and unless these project components are advanced further, precise cross-sections, right-of-way widths, and other specific design elements must be considered estimates based on the best information available during the original studies and as presented in the Final EIS and ROD.

The estimation of project impacts to the Aspen trails system illustrates the way in which the reevaluation must be done based on current conditions and the preliminary design information available, without precise verification of original data (1995-1998) or additional design specifications. The Final EIS estimated linear feet of impacts to the trails systems (see Section 5.1.4 below), but the trails system has changed substantially since publication of the Final EIS and ROD. Trails have been added, extended, relocated and reconstructed. The reevaluation of project-related impacts to trails did not attempt to verify the original estimate of linear feet affected. Rather, the analysis describes the current trail system within the study area, describes which of the impacts estimated in the Final EIS have occurred, whether those impacts have been mitigated as outlined in the ROD, and whether new impacts will occur that were not foreseen in the Final EIS. This analysis method allows for a determination of whether the original project decisions remain valid, even when the exact, original quantification of impacts cannot be verified with data available today.

Finally, in a process that produces four major environmental documents (DEIS, DSEIS, FEIS, and ROD), some numeric errors and other inconsistencies are inevitable. The question that must be answered during a reevaluation is whether or not any such errors or inconsistencies have a substantive bearing on the decisions that were made. In the case of the FEIS Section 4(f) analysis, some inconsistencies and numeric

errors were found during the reevaluation, which are described in this technical report along with any effect they had on the decisions made. Where numerical quantifications of impacts were inconsistent between, for instance, the Final EIS and the ROD, the “worst case” or highest number was assumed to be correct for purposes of this reevaluation.

## 5.4 Summary of Section 4(f) Impacts Reported in the Final EIS

This section first summarizes the total Section 4(f) impacts for all of the alternatives addressed in the Section 4(f) analysis in the FEIS, and then focuses on the FEIS Preferred Alternative and the (Phased) Modified Direct Alternative for reasons described below.

### 5.4.1 Draft EIS Alternatives and Alternative H

The Draft EIS alternatives and Alternative H from the Draft Supplement EIS were all found to have higher Section 4(f) impacts than either the FEIS Modified Direct or the FEIS Preferred Alternative. The total Section 4(f) takes (with mitigation) identified in the FEIS for all alternatives are summarized in Table 5-2 below.

**Table 5-2  
Summary of FEIS Section 4(f) Impacts of All Alternatives**

<b>Alternatives Evaluated in FEIS Section 4(f) Analysis <sup>1</sup></b>									
	<b>Alt. 2+B</b>	<b>Alt. 2+C</b>	<b>Alt. 2+E</b>	<b>Alt. 3+D</b>	<b>Alt. 3+F</b>	<b>Alt. 3+G</b>	<b>Alt. H</b>	<b>FEIS Modified Direct Alt. <sup>2</sup></b>	<b>FEIS Preferred Alt.</b>
<b>Total Section 4(f) Take with mitigation (hectares and acres) <sup>3</sup></b>	4.1 ha (10.7 ac)	5.3 ha (13.2 ac)	4.1 ha (10.2 ac)	6.4 ha (15.7 ac)	5.1 ha (12.4 ac)	5.8 ha (14.3 ac)	4.9 ha (12.1 ac)	4.0 ha (9.8 ac)	3.1 ha (7.6 ac)
<sup>1</sup> Refer to Table 5-1 for description of the alternatives and combinations noted here. <sup>2</sup> The FEIS alternative labeled “Modified Direct” is the phased (bus lanes to LRT) alternative; see Section 5.1.1 for explanation Source: Table A-4, Final EIS, 1997 <sup>3</sup> Numbers are rounded.									

The reevaluation of Section 4(f) resources relied on the estimated acreages of Section 4(f) uses for each alternative. Based on these numbers, the FEIS determined that the Draft EIS Alternatives and Alternative H would have higher impacts than the remaining two alternatives shown in Table 5-2. The FEIS impacts were based on the conceptual designs for those alternatives, which never changed prior the publication of the FEIS or ROD. There is no new information that would indicate that any of the DEIS alternatives or Alternative H would have fewer Section 4(f) impacts than the other two alternatives. (See Section 6 for a

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detailed summary of impacts of all alternatives.) Therefore, the remainder of the impact reevaluation in this section focuses on the Modified Direct Alternative analyzed in the FEIS, the FEIS Preferred Alternative, and the Preferred Alternative selected in the ROD (which was a combination of these two alternatives).

#### **5.4.2 FEIS Modified Direct Alternative and FEIS Preferred Alternative**

The Section 4(f) analysis in the FEIS was based on the conceptual designs at that time (1997) for the (Phased) Modified Direct Alternative and the FEIS Preferred Alternative (non-phased). Differences in impacts between those two alternatives showed that the FEIS Preferred Alternative would have fewer impacts (after mitigation) on Section 4(f) properties than the FEIS Modified Direct Alternative (Table 5-2). Table 5-3 shows the Section 4(f) properties that were identified in the FEIS as having a Section 4(f) use from these two alternatives after mitigation. (Properties for which the project would result in no Section 4(f) take are not shown in Table 5-3, because they do not contribute to the total take (use) of Section 4(f) properties being described in this section. This includes all of the historic properties except the Holden Smelting and Milling Complex and the Colorado Midland Railroad).

As shown in the last row in Table 5-3, the FEIS contained errors in the total take of Section 4(f) properties for the FEIS Modified Direct and the FEIS Preferred Alternative. When the numbers of hectares (acres) itemized in Table 5-3 are added correctly, the totals change as shown. The corrected total Section 4(f) takes for the full alternatives are as follows:

FEIS Modified Direct Alternative:	4.1 hectares (10 acres)
FEIS Preferred Alternative:	2.8 hectares (7 acres)

However, the conclusion in the FEIS – that is, the FEIS Preferred Alternative would have fewer Section 4(f) property takes than the FEIS Modified Direct Alternative – remains valid. Therefore, the FEIS analysis remains valid for those two alternatives.

The primary reasons that the FEIS Modified Direct Alternative had higher amounts of Section 4(f) impacts than the FEIS Preferred Alternative were related to (1) the wider cross-section needed for the exclusive bus lanes in the phased alternative across open space, and (2) the fact that the phased alternative included parking at the Moore Property intermodal transit station, and the FEIS Preferred Alternative did not include parking so the impacts to the Moore Property were lower.

As described in the next section, these two alternatives were combined and re-configured for the ROD Preferred Alternative, so impacts to Section 4(f) properties changed between the FEIS and the ROD.

**Table 5-3  
Quantifiable Section 4(f) Use After Mitigation for FEIS Modified Direct  
and FEIS Preferred Alternative (1997)**

Section 4(f) Resource <sup>1</sup>	<i>Buttermilk to Maroon Creek Road</i>		<i>Maroon Creek Road to Rubey Park</i>	
	<b>(Phased) Modified Direct</b>	<b>FEIS Preferred Alternative</b>	<b>(Phased) Modified Direct</b>	<b>FEIS Preferred Alternative</b>
1) Aspen Trail System <sup>2</sup>	831 m (2,727 ft) <i>Area take is included in #2, 3 &amp; 4 below</i>	1,210 m (3,975 ft) <i>Area take is included in #2, 3 &amp; 4 below</i>	580 m (1,902 ft) <i>Area take is included in #5 below</i>	731 m (2405 ft) <i>Area take is included in # 5 below</i>
2) Zoline Open Space	0.5 ha (1.2 ac) New bridge on north side of Maroon Cr. Bridge	0.6 ha (1.5 ac) New bridge on north side of Maroon Cr. Bridge	N/A	N/A
3) Aspen Golf Course	0.5 ha (1.2 ac) New bridge on north side of Maroon Cr. Bridge	0.47 ha (1.17 ac) New bridge on north side of Maroon Cr. Bridge	No effect	0.05 ha (0.13 ac) New bridge on north side of Maroon Cr. Bridge
4) Moore Open Space	1.6 ha (3.9 ac) Parking included at transit station	0.6 ha (1.5 ac) Parking eliminated at transit station to reduce impact	N/A	N/A
5) Marolt-Thomas Open Space	N/A	N/A	2.7 ha (6.7 ac) Mitigation returns 1.2 ha (3 ac) to open space Total take with mitigation = 1.5 ha (3.7 ac)	2.1 ha (5.2 ac) Mitigation returns 1 ha (2.5 ac) to open space Total take with mitigation = 1.1 ha (2.7 ac)
8) Holden Smelting & Mining Complex (Would take open space around the site, but no take would occur within the historic site boundary – see text).	N/A	N/A	0.17 ha (0.2 ac) <i>Included in #5 above</i>	0.02 ha (0.05 ac) <i>Included in #5 above</i>
10) Colorado Midland Railroad	N/A	N/A	0.10 ha (0.25 ac) <i>Included in #5 above</i>	0.22 ha (0.54 ac) <i>Included in #5 above</i>
<b>Total Section 4(f) Take with Mitigation</b>				
<b>FEIS Totals <sup>3</sup></b>	2.4 ha (5.9 ac)	1.7 ha (4.2 ac)	1.6 ha (3.9 ac)	1.4 ha (3.4 ac)
<b>Corrected Totals <sup>4</sup></b>	2.6 ha (6.3 ac)	1.7 ha (4.2 ac)	1.5 ha (3.7 ac)	1.2 ha (2.8 ac)

<sup>1</sup> As stated in text, only properties with a take (use) after mitigation are reproduced from the FEIS in this table. Item numbers next to the Section 4(f) resource are the same as those in Table A-2 of the FEIS for consistency.

<sup>2</sup> As stated in text, verification of the linear feet of impacts to trail system in the FEIS is no longer possible due to extensive changes and additions to the trail system since the FEIS and ROD.

<sup>3</sup> FEIS total Section 4(f) property takes were added incorrectly in Table A-2, Appendix A, FEIS. The totals are reproduced in this table, for comparison to the corrected totals (see note 4 below).

<sup>4</sup> Section 4(f) property takes outlined in Table 5-3 (and in FEIS Table A-2) are re-added here to show the correct totals; refer to text. (Some differences in totals are likely due to rounding; other differences are larger and cannot be accounted for in rounding.)

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### 5.4.3 Reevaluation of Section 4(f) Impacts

This section describes the Section 4(f) impacts of the ROD Preferred Alternative, based on uses identified in the FEIS and ROD, and new uses identified as a result of this reevaluation.

#### ROD Preferred Alternative

The ROD Preferred Alternative combined elements of the DSEIS/FEIS (Phased) Modified Direct Alternative and the FEIS Preferred Alternative. (A more detailed description and maps are included in the Introduction to this Technical Reports Volume.) The key changes incorporated into the ROD Preferred Alternative that relate to the final Section 4(f) impacts of this alternative are summarized below:

1. The phased approach to light rail (with exclusive bus lanes in the first phase) was originally dismissed in the FEIS because of a lack of support from the community and Aspen City Council. This approach initially added costs and unnecessary disruption to Section 4(f) resources, compared with the non-phased alternatives. However, the conceptual design of the highway component of the ROD Preferred Alternative was further refined after the publication of the FEIS, to include a grassy median to create a parkway on State Highway 82, at the request of the Aspen City Council. The addition of a median to the ultimate cross-section (after the bus phase, during the LRT phase) allowed room for the phased approach (page ROD, page 19 of 37).
2. Parking at the transit station on the Moore Open Space property was eliminated for the ROD Preferred Alternative (parking had been previously eliminated at this station for the FEIS Preferred Alternative also, but not for the FEIS Modified Direct Alternative).

The uses of Section 4(f) resources by the ROD Preferred Alternative are described below, including all new properties or impacts identified during this reevaluation. Impacts that have already occurred, from construction of some components of the ROD Preferred Alternative, are also noted along with mitigation to date. Section 4(f) impacts and mitigation of the ROD Preferred Alternative are summarized at the end of this section.

#### Park and Recreation Resource Uses

**Aspen Trail System:** The 1997 FEIS identified seven trails that would have 4,629 linear feet of use from the FEIS Modified Direct Alternative and 6,380 linear feet from the FEIS Preferred Alternative (page V-17, Table V-5 and Table A-2, page A-26). The seven trails affected (by either alternative) were:

- ABC Trail
- High School Bike Path
- Golf Course Nordic Trail
- Moore Nordic Trail
- Maroon Creek Nordic Trail



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- Marolt Trail
  - Marolt Nordic Trail

As stated previously in this technical report, the Aspen Trail System has changed substantially since publication of the ROD, and it is not possible to verify precise trail impacts estimated in the FEIS because of these changes. It is also unclear whether the ROD Preferred Alternative would have affected the higher or lower number of trail length.

Regardless of the precise linear distance of impacts to trails, most of these impacts have already occurred and been mitigated, and additional trails have been constructed by CDOT and others in the study area (see Section 4.2). Trail additions, relocations, reconstruction and mitigation have been completed by CDOT for approximately 10,000 linear feet of trails in the study area to date, substantially more than the linear feet of impact from construction, assuming the higher impact number. These trail segments include the ABC trail from the Aspen Airport Business Center to Maroon Creek (relocated and extended as part of State Highway 82 improvements), the Owl Creek Trail (relocated as part of the Owl Creek Road realignment), the Roundabout Trail (built as part of the roundabout construction), and the Maroon Creek Trail (relocated and completed in 2006 as part of the Maroon Creek Bridge Replacement Project). All other requirements set forth in the Memorandum of Understanding between CDOT and the City of Aspen (July 27, 1998, ROD Appendix A) regarding the mitigation of trails impacts have been completed for the areas affected by construction to date.

One new trail, the Bergman Trail, was constructed in the summer of 2005 and crosses beneath State Highway 82 via an underpass. It is an adjunct trail to the Marolt Trail providing additional access to the eastern side of the Marolt-Thomas Open Space, and crosses beneath State Highway 82 via an underpass. This trail would be closed temporarily during future construction associated with the ROD Preferred Alternative in the area east of the cut-and-cover tunnel, resulting in a temporary occupancy during part of the construction period. A detour for this temporary closure has been identified and approved through consultation with the City of Aspen (see Appendix A).

**Parks and Open Space:** Based on the FEIS and ROD and the configuration of the ROD Preferred Alternative, the following uses (property takes) would occur to parks and open space:

**Zoline Open Space:** As stated in the ROD, the ROD Preferred Alternative would take 0.6 hectare (1.5 acres) of this open space, associated with the north-side alignment of the new Maroon Creek Bridge. These property-take impacts have not changed since the ROD, and occurred during the 2005-2006 construction of the new Maroon Creek Bridge Replacement Project north of the existing bridge.

**Aspen City Golf Course/Plum Tree Playing Field:** The 1998 ROD states that the ROD Preferred Alternative would take approximately 0.68 hectare (1.7 acres) of these properties, including the Maroon Creek Basin (ROD page 26 of 37). The FEIS states that the property use would be a total of 1.2 acres, consisting of 0.7 acre of the playing field and 0.5 acre of undeveloped golf course land (FEIS, page A-17). To be conservative and consistent with the ROD, the ROD impact area of 1.7 acres is accepted in this reevaluation as correct, and it is also

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referenced in the MOU between CDOT and the City of Aspen (July 27, 1998) as the total use area. This acreage is also assumed to be correct for the FEIS Preferred Alternative, because the initial impacts were nearly identical in the FEIS Section 4(f) evaluation. See Table 6-1 for corrections.

These Section 4(f) resource uses have occurred with the previous construction of the roundabout and the current construction of the new Maroon Creek Bridge.

**Moore Property Open Space:** The ROD Preferred Alternative alignment was shifted to the north to avoid the Moore Open Space. The intermodal transfer (transit) station identified as part of the ROD Preferred Alternative would take 0.6 hectare (1.5 acres) of the open space. The area of take was minimized by eliminating parking at this proposed intermodal transfer station.

**Marolt-Thomas Open Space:** The ROD Preferred Alternative crosses the Marolt-Thomas Open Space to eliminate the existing S-curves on State Highway 82. The FEIS states that the FEIS Modified Direct Alignment required 2.1 hectares (5.2 acres) of these open space lands. (It is more than the FEIS Preferred Alternative due to the wider cross-section needed for the phased alternative). Of the existing State Highway 82 right-of-way, 0.4 hectare (1.0 acre) would be returned to open space. The cut-and-cover tunnel across the open space would return 0.6 hectare (1.5 acres) to open space. Therefore, the total take for the ROD Preferred Alternative would be 1.1 hectares (2.7 acres).

As mitigation for all open space impacts, CDOT has conveyed approximately 31 acres of open space by quitclaim deed to the City of Aspen and Pitkin County. This property includes the former Mills Ranch, located at the intersection of Brush Creek Road and State Highway 82, as well as vacated right-of-way from the highway between Maroon Creek and 7<sup>th</sup> and Main Streets.

## Historic Properties

This section summarizes the Section 4(f) uses of the ROD Preferred Alternative associated with historic resources determined to be Section 4(f) resources. In addition to direct use of these Section 4(f) resources (described below), there were determinations at the time of the FEIS and ROD regarding whether these historic properties would have an adverse effect from the project. Where applicable, the Section 4(f) use of the properties is addressed first, followed by the mitigation proposed to avoid an adverse effect on the historic properties. More information on these and other historic resources can be found in the Historic Resources Technical Report (February, 2007).

**Maroon Creek Bridge (5PT136):** Adaptive reuse of the historic bridge as a pedestrian or transit crossing of Maroon Creek without modification does not constitute a Section 4(f) use because it does not substantially impair the integrity of this historic resources (FEIS, page A-21). Mitigation measures to ensure there is no adverse effect, when the historic bridge is to be modified in any way to accommodate transit use, include providing design plans, drawings, and a photographic record to the SHPO.

**Holden Smelting and Milling Complex (5PT539):** The alignment of the ROD Preferred Alternative was shifted north to remain outside of the historic site boundary for this complex. There is a Section 4(f)

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property take associated with this site, as identified in the FEIS, but it refers to the Marolt-Thomas open space property, rather than the historic site property. Under the Preferred Alternative, approximately 0.02 hectare (0.05 ac) of the open space surrounding this historic site (but outside the site boundary) would be taken (included in the Marolt-Thomas Open Space acreage in this report). No buildings will be removed. SHPO determined at the time of the ROD that there would be no adverse effect to this historic resource because the alignment was moved north of the historic site boundary. To avoid the boundary, it will be staked in the field prior to commencement of construction activities and verified by the City of Aspen (ROD, 7). In addition, a berm is proposed between the historic site and the highway to minimize any direct visual impacts to the Holden Smelting and Milling Complex.

**Colorado Midland Railroad (5PT542):** The ROD Preferred Alternative would require a ROW acquisition of 0.22 hectare (0.54 acre) of railroad grade (included in the Marolt-Thomas Open Space acreage), constituting a Section 4(f) use. At the time of the ROD, SHPO determined that this loss would not adversely affect the historic resource.

**Berger Cabin (5PT592):** The ROD Preferred Alternative alignment along Main Street stays within existing curb lines. The ROD Preferred Alternative will not result in any take (use) of this Section 4(f) property. However, the Preferred Alternative with LRT would come within 20 feet of the building in its existing location on the property. Because this could impact the visitor experience with potential visual and/or noise impacts, the Berger Cabin may be moved away from the project alignment, but remain on the same property. These indirect impacts will be addressed through landscaping. SHPO determined at the time of the ROD that potential adverse effects to this historic resource can be avoided through consultation, review and approval during final design of landscaping to provide a visual buffer, and of any proposed movement of the cabin farther back on its existing property (if required based on final design).

**Section 4(f) Properties within the City Core:** Based on the 1997 assessment for the FEIS and the 2006 reevaluation survey, five Section 4(f) properties were identified within the Main Street Historic District (HD), and one property within the Commercial Core HD along the alignment of the ROD Preferred Alternative. In addition, both Historic Districts were found to be eligible for the National Register of Historic Places in 2006 and, therefore, are protected under Section 4(f). These resources are listed below:

- Finley Residence – located on Main Street in the Main Street HD
- Taylor House – located on Main Street in the Main Street HD
- Brunton House – located on Main Street in the Main Street HD
- Smith/Elisha House – located on Main Street in the Main Street HD
- Sardy House – located on Main Street in the Main Street HD
- Thomas Hynes House – located on Main Street in the Commercial Core HD

The ROD Preferred Alternative will not result in any right-of-way take or use of any of these Section 4(f) properties. The project alignment along Main Street will remain within the existing curb lines. At the time of the ROD, SHPO determined that there would be no adverse effect on historic properties on Main Street subject to additional landscaping being incorporated to provide a visual buffer. SHPO and Aspen HPC will review and approve landscaping and LRT overhead wire design. These mitigation measures,

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outlined in the ROD for Main Street historic resources identified at that time, will be implemented for the additional four historic resources identified during this reevaluation survey (Finley, Taylor, Brunton and Sardy houses).

## **6.0 Avoidance Alternatives**

### **6.1 Section 4(f) Properties Identified in the FEIS and ROD**

Resources protected under Section 4(f) must not be taken unless there is no feasible and prudent alternative to the use of such land. The FEIS analysis of Avoidance Alternatives for Section 4(f) resources identified at that time was reviewed during this reevaluation. As stated, only the No-Action Alternative avoids taking Section 4(f) property in the study area, and this alternative does not meet the project purpose and need. Therefore, there are no prudent and feasible alternatives that would avoid all Section 4(f) impacts. This conclusion remains valid, based on a review of the Section 4(f) properties identified at the time of the FEIS and ROD, and a review of the DEIS, DSEIS, and FEIS alternatives.

No additional prudent and feasible avoidance alternatives were identified during this reevaluation. Prior (FEIS) analysis of design alternatives that would have avoided some Section 4(f) properties but were not deemed prudent and feasible included a south-side alignment for the new Maroon Creek Bridge due to residential impacts (the new bridge is being constructed north of the existing bridge), and creating a signalized intersection at Maroon Creek Road and State Highway 82 instead of a roundabout (the roundabout was chosen as the prudent and feasible alternative, and is now completed and operational).

### **6.2 Section 4(f) Resources Identified in the Reevaluation**

As described in Section 5.1.4 above, four new Section 4(f) historic properties were identified in the study area during the reevaluation, but the ROD Preferred Alternative will not result in any use of these properties. With mitigation of potential indirect visual effects, the project will have no adverse effect on these resources. Therefore, they are not addressed in this Avoidance analysis.

One new Section 4(f) property was identified during this reevaluation that will be impacted by the ROD Preferred Alternative -- the Bergman Trail. The project would not result in a use of this resource. However, the trail would be closed temporarily during future construction associated with the ROD Preferred Alternative in the area east of the cut-and-cover tunnel, resulting in a temporary occupancy of this resource during part of the construction period. A detour for this temporary closure has been identified and approved through consultation with the City of Aspen (see Appendix A).

The No-Action Alternative is the only alternative that would avoid temporary occupancy of the Bergman Trail. All other build alternatives evaluated in the FEIS would have virtually the same impact on this trail, because it crosses State Highway 82 and then crosses the Direct Modified Alignment across the Marolt-Thomas property. DEIS Alternative B utilized the existing State Highway 82 alignment, and DEIS

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Alternatives C, D, E and F utilize the Modified Direct Alignment, either at grade or including a cut-and-cover tunnel just west of the Bergman Trail. DEIS Alternative G utilizes both the existing and the Modified Direct alignments, the first for improved highway lanes and the second for a separate transitway.

All DSEIS alternatives would utilize an alignment across the Marolt-Thomas property that would impact the Bergman Trail. The phased and non-phased Modified Direct alternatives would impact the trail, as would DSEIS Alternative H (phased or not phased). Alternative H utilizes the existing State Highway 82 alignment to approximately Cemetery Lane, where the alignment becomes a couplet, with the transit envelope and the inbound lane crossing the Marolt-Thomas property and the outbound lanes remaining on the existing highway alignment. This alternative would affect the Bergman trail in essentially the same manner as the ROD Preferred Alternative.

No feasible and prudent avoidance alternatives were identified during the reevaluation that would avoid the temporary occupancy to the Bergman Trail. Measures to minimize harm to the Section 4(f) resources affected by the ROD Preferred Alternative are discussed in the next section.

### **6.3 Summary of Section 4(f) Impacts of All FEIS Alternatives**

Table 6-1 summarizes Section 4(f) uses for all the alternatives evaluated in the FEIS Section 4(f) Analysis. This summary includes Section 4(f) properties newly identified within the study area during this reevaluation, in relation to all FEIS alternatives.<sup>2</sup> As stated in Section 5, quantifications of uses cannot be accurately verified due to changes in the study area (e.g., trail system) and the very conceptual nature of the design of the alternatives at the time of the FEIS and now. Therefore, quantifications of Section 4(f) uses presented in the FEIS and ROD are assumed to be reasonably accurate for the purposes of this summary table.

As described in the previous sections of this report, there will be no use of the four newly identified, eligible historic properties in the downtown city core. Adverse effects to these properties will be avoided through SHPO review of landscaping and overhead wiring design.

The temporary occupancy of the Bergman Trail does not constitute a Section 4(f) use. A temporary occupancy does not constitute a use of 4(f) resource when all of the conditions set forth in 23 C.F.R. 771.135(p)(7) are met (FHWA, 2005b). These conditions are outlined below, along with an explanation (*in italics*) of how the temporary closure and detour of the Bergman Trail meets the conditions for temporary occupancy.

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<sup>2</sup> None of the newly identified Section 4(f) properties will have a use as a result of the ROD Preferred Alternative. However, these resources (four historic properties and the Bergman Trail) are included in Table 6-1 in order to be consistent with the FEIS comparative table which included “effects” (e.g., potential adverse effects to historic properties) as well as actual Section 4(f) uses. The table makes clear that these resources will not have a Section 4(f) use.

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(1) Duration (of the occupancy) must be temporary, i.e., less than the time needed for construction of the project, and there should be no change in ownership of the land. *The trail will be closed only during construction activities near the east end of the cut-and-cover tunnel. This construction period will be only a small duration of the entire construction period for the full roadway realignment. There will be no change of ownership of the land.*

(2) Scope of the work must be minor, i.e., both the nature and the magnitude of the changes to the 4(f) resource are minimal. *The Bergman Trail will be closed across State Highway 82, then reconstructed and reopened. It will be reconnected to all other existing trails, as it currently exists. Changes to the trail will be negligible.*

(3) There are no anticipated permanent adverse physical impacts, nor will there be interference with the activities or purpose of the resource, on either a temporary or permanent basis. *There will be no permanent adverse physical impacts to the trail or trail system in the project area after the temporary closure. The proposed detour of the trail during construction (see Appendix A) will allow continued use of area trails and interconnections. This temporary closure will not interfere with use of the many other trails in the project area. The public will be informed of the detour prior to closure through project web sites, public notices, and other appropriate means.*

(4) The land being used must be fully restored, i.e., the resource must be returned to a condition which is at least as good as that which existed prior to the project. *The trail will be reconstructed and reopened, and will remain interconnected to other area trails as it is today.*

(5) There must be documented agreement of the appropriate Federal, State, or local officials having jurisdiction over the resource regarding the above conditions. *The City of Aspen has jurisdiction over the trail, and has documented its agreement with the conditions for temporary occupancy (see Appendix A).*

Table 6-2 shows the total Section 4(f) impacts (with mitigation) for the full (combined) alternatives detailed in Table 6-1.

**Table 6-1**  
**Summary of Section 4(f) Impacts for all Alternatives in FEIS and ROD <sup>1</sup>**

Section 4(f) Resource and Total Acreage of Resource	Buttermilk to Maroon Creek Road					Maroon Creek Road to Rubey Park									
	Alt. 2	Alt. 3	Alt. H / Mod. Direct	FEIS Pref. Alt.	ROD Pref. Alt.	Alt. B	Alt. C	Alt. D	Alt. E	Alt. F	Alt. G	Alt. H	FEIS Mod. Direct Alt <sup>2</sup>	FEIS Pref. Alt.	ROD Pref. Alt.
<b>1) Aspen Trail System</b>	831 m 2727 ft  Incl. in #2, 3, 4 below	837 m 27  Incl. in #2, 3, 4 below 46 ft	831 m 2727 ft  Incl. in #2, 3, 4 below	1210 m 3975 ft  Incl. in #2, 3, 4 below	831- 1210 m 2727- 3975 ft <sup>3</sup>  Incl. in #2, 3, 4 below	611 m 2005 ft  Incl. in #5 below	656 m 1854 ft  Incl. in #5 below	610 m 2001 ft  Incl. in #5 below	565 m 1854 ft  Incl. in #5 below	610 m 2001 ft  Incl. in #5 below	404 m 1325 ft  Incl. in #5 below	534 m 1789 ft  Incl. in #5 below	580 m 1902 ft  Incl. in #5 below	731 m 2405 ft  Incl. in #5 below	580-731m  1902 – 2405 ft <sup>3</sup>  Incl. in #5 below
<b>2) Zoline Open Space</b>  (18.2 ha [45 ac])	1.2 ha 3.0 ac	1.4 ha 3.5 ac	0.5 ha 1.2 ac	0.6 ha 1.5 ac	0.6 ha 1.5 ac	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>3) Aspen Golf Course</b>  (63.1 ha [156 ac])	1.2 ha 3.0 ac	1.4 ha 3.5 ac	0.5 1.2 ha	0.68 ha <sup>4</sup> 1.7 ac	0.68 ha 1.7 ac	N/A	N/A	N/A	N/A	N/A	N/A	0.1 ha 0.25 ac	N/A	0.05 ha 0.13 ac	N/A
<b>4) Moore Open Space</b>  (26.3 ha [65 ac])	0.6 ha 1.6 ac	0.9 ha 2.4 ac	1.6 ha 3.9 ac	0.6 ha 1.5 ac	0.6 ha 1.5 ac	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Section 4(f) Resource and Total Acreage of Resource	Buttermilk to Maroon Creek Road					Maroon Creek Road to Rubey Park									
	Alt. 2	Alt. 3	Alt. H / Mod. Direct	FEIS Pref. Alt.	ROD Pref. Alt.	Alt. B	Alt. C	Alt. D	Alt. E	Alt. F	Alt. G	Alt. H	FEIS Mod. Direct Alt <sup>2</sup>	FEIS Pref. Alt.	ROD Pref. Alt.
<b>5) Marolt-Thomas Open Space</b>  (30.1 ha [74.3 ac])	N/A	N/A	N/A	N/A	N/A	1.2 ha 3.0 ac	2.6 ha 6.5 ac Mit. returns 0.4 ha (1 ac) to open space  Total Mit. Take 2.2 ha 5.5 ac	2.9 ha 7.2 ac Mit. returns 0.4 ha (1 ac) to open space  Total Mit. Take 2.5 ha 6.2 ac	2.6 ha 6.4 ac Mit. returns 1.6 ha (3.9 ac) to open space  Total Mit. Take 1.0 ha 2.5 ac	2.9 ha 7.2 ac Mit. returns 1.7 ha (4.2 ac) to open space  Total Mit. Take 1.2 ha 2.9 ac	2.0 ha 4.9 ac	2.2 ha 5.4 ac	2.7 ha 6.7 ac Mit. returns 1.2 ha (3 ac) to open space  Total Mit. Take 1.5 ha 3.7 ac	2.1 ha 5.2 ac Mit. returns 1 ha (2.5 ac) to open space  Total Mit. Take 1.1 ha 2.7 ac	2.7 ha 6.7 ac Mit. returns 1.2 ha (3 ac) to open space  Total Mit. Take 1.5 ha 3.7 ac
<b>6) Buggy Barnard Park</b>  (0.81 ha [2 ac])	N/A	N/A	N/A	N/A	N/A	No Effect	No Effect	No Effect	No Effect	No Effect	No Effect	0.1 ha 0.25 ac	No Effect	No Effect	No Effect
<b>7) Maroon Creek Bridge</b>	No Effect with Mit.	No Effect with Mit.	No Effect with Mit.	No Effect with Mit.	No Effect with Mit.	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A



Section 4(f) Resource and Total Acreage of Resource	Buttermilk to Maroon Creek Road					Maroon Creek Road to Rubey Park									
	Alt. 2	Alt. 3	Alt. H / Mod. Direct	FEIS Pref. Alt.	ROD Pref. Alt.	Alt. B	Alt. C	Alt. D	Alt. E	Alt. F	Alt. G	Alt. H	FEIS Mod. Direct Alt <sup>2</sup>	FEIS Pref. Alt.	ROD Pref. Alt.
<b>8) Holden Smelting &amp; Milling Complex</b>  (3.2 ha [7.9 ac])  Note: no take will occur within the historic site boundary.	N/A	N/A	N/A	N/A	N/A	N/A	0.22 ha 0.54 ac Take of open space incl. in #5 above; No Effect with Mit.	0.30 ha 0.74 ac Take of open space incl. in #5 above; No Effect with Mit.	0.22 ha 0.54 ac Take of open space incl. in #5 above; No Effect with Mit.	0.30 ha 0.74 ac Take of open space incl. in #5 above; No Effect with Mit.	0.13 ha 0.32 ac Take of open space incl. in #5 above; No Effect with Mit.	0.08 ha 0.02 ac Take of open space incl. in #5 above; No Effect with Mit.	0.17 ha 0.42 ac Take of open space incl. in #5 above; No Effect with Mit.	0.02 ha 0.05 ac Take of open space incl. in #5 above; No Effect with Mit.	0.02 ha 0.05 ac Take of open space incl. in #5 above; No Effect with Mit.
<b>10) Colorado Midland RR</b>  (1.6 ha [4 ac])	N/A	N/A	N/A	N/A	N/A	0.13 ha 0.32 ac Take incl. in #5 above No Adverse Effect	0.13 ha 0.32 ac Take incl. in #5 above No Adverse Effect	0.17 ha 0.42 ac Take incl. in #5 above No Adverse Effect	0.13 ha 0.32 ac Take incl. in #5 above No Adverse Effect	0.17 ha 0.42 ac Take incl. in #5 above No Adverse Effect	0.13 ha 0.32 ac Take incl. in #5 above No Adverse Effect	0.10 ha 0.25 ac Take incl. in #5 above No Adverse Effect	0.10 ha 0.25 ac Take incl. in #5 above No Adverse Effect	0.22 ha 0.54 ac Take incl. in #5 above No Adverse Effect	0.22 ha 0.54 ac Take incl. in #5 above No Adverse Effect
<b>13) Berger Cabin</b>	N/A	N/A	N/A	N/A	N/A	No Use. No Effect with Mit.	No Use. No Effect with Mit.	No Use. No Effect with Mit.	No Use. No Effect with Mit.	No Use. No Effect with Mit.	No Use. No Effect with Mit.	No Use. No Effect with Mit.	No Use. No Effect with Mit.	No Use. No Effect with Mit.	No Use. No Effect with Mit.

Section 4(f) Resource and Total Acreage of Resource	Buttermilk to Maroon Creek Road					Maroon Creek Road to Rubey Park									
	Alt. 2	Alt. 3	Alt. H / Mod. Direct	FEIS Pref. Alt.	ROD Pref. Alt.	Alt. B	Alt. C	Alt. D	Alt. E	Alt. F	Alt. G	Alt. H	FEIS Mod. Direct Alt <sup>2</sup>	FEIS Pref. Alt.	ROD Pref. Alt.
14) <b>Smith/Elisha House</b>	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	No use; No Effect with Mit.	No use; No Effect with Mit.	No use; No Effect with Mit.	No use; No Effect with Mit.
15) <b>Thomas Hynes House</b>	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	No use; No Effect with Mit	No use; No Effect with Mit	No use; No Effect with Mit	No use; No Effect with Mit
16) <b>Paepcke Park</b>  (0.69 ha [1.72 ac])	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	No Effect.	No Effect	No Effect.	No Effect
17) <b>Wagner Park</b>  (1.17 ha [2.89 ac])	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	No Effect.	No Effect	No Effect.	No Effect
*18) <b>Finley House</b>	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	No use; No Effect with Mit	No use; No Effect with Mit	No use; No Effect with Mit	No use; No Effect with Mit
*19) <b>Taylor House</b>	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	No use; No Effect with Mit	No use; No Effect with Mit	No use; No Effect with Mit	No use; No Effect with Mit

Section 4(f) Resource and Total Acreage of Resource	Buttermilk to Maroon Creek Road					Maroon Creek Road to Rubey Park									
	Alt. 2	Alt. 3	Alt. H / Mod. Direct	FEIS Pref. Alt.	ROD Pref. Alt.	Alt. B	Alt. C	Alt. D	Alt. E	Alt. F	Alt. G	Alt. H	FEIS Mod. Direct Alt <sup>2</sup>	FEIS Pref. Alt.	ROD Pref. Alt.
*20) Brunton House	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	No use; No Effect with Mit	No use; No Effect with Mit	No use; No Effect with Mit	No use; No Effect with Mit
*21) Sardy House	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	No use; No Effect with Mit	No use; No Effect with Mit	No use; No Effect with Mit	No use; No Effect with Mit
*22) Bergman Trail	N/A	N/A	N/A	N/A	N/A	No Use; Temp. Occup.	No Use; Temp. Occup.	No Use; Temp. Occup.	No Use; Temp. Occup.	No Use; Temp. Occup.	No Use; Temp. Occup.	No Use; Temp. Occup.	No Use; Temp. Occup.	No Use; Temp. Occup.	No Use; Temp. Occup.

<sup>1</sup> Refer to Table 5-1 and Section 5 of this report for description of the alternatives noted here. Detailed descriptions and illustrations can be found in the DEIS and DSEIS.

<sup>2</sup> The FEIS alternative labeled "Modified Direct" is the phased (bus lanes to LRT) alternative; see Section 5.1.1 for explanation

Source: Table A-4, Final EIS, 1997

<sup>3</sup> Trail impacts are unclear for the ROD Preferred Alternative which is a combination of the FEIS Modified Direct and FEIS Preferred Alternative. Trail impacts are included in the open space acreages shown in Item Nos. 2, 3, 4 and 5 so are accounted for regardless of their precise linear feet in Item 1.

<sup>4</sup> Aspen Golf Course acreage was adjusted for the FEIS Preferred Alternative, based on the numbers indicated in the ROD. See Section 5.1.4 of this technical report for details.

\* Resources that were identified as new Section 4(f) resources in the study area during this reevaluation.

**Table 6-2  
Total Reevaluated Quantifiable Impacts to Section 4(f) Resources for all Alternatives**

<b>Combined Alternatives Evaluated in FEIS and ROD Section 4(f) Analysis <sup>1</sup></b>										
	<b>Alt. 2+B</b>	<b>Alt. 2+C</b>	<b>Alt. 2+E</b>	<b>Alt. 3+D</b>	<b>Alt. 3+F</b>	<b>Alt. 3+G</b>	<b>Alt. H</b>	<b>FEIS Modified Direct Alt. <sup>2</sup></b>	<b>FEIS Preferred Alt.</b>	<b>ROD Preferred Alt.</b>
<b>Total Section 4(f) Take with mitigation (hectares and acres)</b>	4.2 ha (10.3 ac)	5.2 ha (12.9 ac)	4.0 ha (9.8 ac)	6.2 ha (15.3 ac)	4.9 ha (12.1 ac)	5.7 ha (14.0 ac)	5.0 ha (12.3 ac)	4.1 ha (10.0 ac)	3.0 ha (7.4 ac)	3.4 ha (8.3 ac)
<sup>1</sup> Refer to Table 5-1 for description of the alternatives and combinations noted here. <sup>2</sup> The FEIS alternative labeled "Modified Direct" is the phased (bus lanes to LRT) alternative; see Section 5.1.1 for explanation All numbers are rounded. Conversion factors from metric to English units may differ slightly from those used in FEIS, reflected in rounding differences.										

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## 7.0 Measures to Minimize Harm

When properties protected by Section 4(f) are used by a federal transportation project, the project must include all possible planning to minimize harm to those properties where they cannot be avoided. The measures for minimizing harm outlined in the FEIS and ROD were reviewed during the reevaluation, and are considered comprehensive. The measures are summarized below:

1. Relocation of the trail system where impacts cannot be avoided.
2. Design ROD Preferred Alternative with least possible right-of-way when impacts to Section 4(f) resources are unavoidable.
3. Replace any lost open space land or compensate the City of Aspen and Pitkin County for the reasonable cost of purchasing replacement open space land. (See Appendix A and B in the ROD.)
4. Incorporate a cut-and-cover tunnel and earthen berms in design to mitigate impacts to the Marolt-Thomas Open Space and the Holden Smelting and Milling Complex.
5. Provide SHPO and the local Historic Preservation Committee (HPC) the opportunity to comment on the architectural compatibility and placement of new bridge structures across Maroon Creek (completed) and Castle Creek.
6. Conduct a historic archaeological survey, excavation if necessary, and monitoring during construction in the vicinity of the Holden property and the Castle Creek Bridge.
7. Shift alignment across the Marolt-Thomas property as far north as feasible to avoid impacts to the Holden property.
8. Provide SHPO and the local HPC the opportunity to review and approve berm design, landscaping plans, street designs, and wiring in the vicinity of historic properties.
9. Provide SHPO a photographic record, plans, and drawings of the Maroon Creek Bridge before and after modification.
10. Minimize LRT station footprints when impacts to Section 4(f) resources are unavoidable.
11. Relocate the Berger Cabin farther back on the property if necessary to reduce indirect impacts, and add landscaping subject to SHPO review and approval.

The mitigation measures committed to in the ROD have been implemented for components of the ROD Preferred Alternative already constructed. These measures also will be implemented during construction of future components of the Preferred Alternative, and are adequate to protect and mitigate uses of Section 4(f) resources in the project area.

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Table 7-1 summarizes the Section 4(f) resource impacts based on the FEIS, the ROD and this reevaluation. The reevaluation of Section 4(f) resources resulted in the identification of four additional historic properties listed on the NRHP since the publication of the ROD. As described above, there will be no right-of-way take of these Section 4(f) properties. Mitigation for potential indirect visual and noise impacts is summarized in Table 7-1. With mitigation outlined in the ROD for properties within the Historic Districts (Table 7-1), none of these properties would have an adverse effect from the ROD Preferred Alternative.

The temporary occupancy of the Bergman Trail across State Highway 82 will last only as long as construction in the vicinity of the crossing, and the trail will be detoured during that closure as shown in Appendix A (see Section 6.3 for more information). There will be no Section 4(f) use of the trail, and as soon as feasible after construction activities are complete in the area of the Bergman Trail, the trail will be reconstructed.

**Table 7-1  
Summary of Section 4(f) Impacts of the ROD Preferred Alternative  
and Measures to Minimize Harm**

Topic	ROD Impact	Reevaluation Impact	Measures to Minimize Harm (ROD and Reevaluation)
<p><b>Recreation</b></p>	<p>Encroachment on recreational and open space lands.</p> <p><b>Aspen Trail System:</b></p> <ul style="list-style-type: none"> <li>• 7 Trails with as much as 6,380 feet of impacts:               <ul style="list-style-type: none"> <li>- ABC Trail</li> <li>- High School Bike Path</li> <li>- Golf Course Nordic Trail</li> <li>- Moore Nordic Trail</li> <li>- Maroon Creek Nordic Trail</li> <li>- Marolt Trail</li> <li>- Marolt Nordic Trail</li> </ul> </li> </ul> <p><b>Open Space/Parks/Rec:</b></p> <ul style="list-style-type: none"> <li>• Zoline Open Space – total take of 1.5 acres</li> <li>• Aspen Golf Course/Plum Tree Playing Field – total take of 1.7 acres</li> <li>• Moore Open Space – total take of 1.5 acres</li> <li>• Marolt-Thomas Open Space – take of up to 6.7 acres, with 3 acres returned to open space ; total mitigated take up to 3.7 acres</li> </ul>	<p>Encroachment on recreational and open space lands</p> <p><b>Aspen Trail System:</b></p> <ul style="list-style-type: none"> <li>• No change in the impacts to 7 Trails noted in FEIS/ROD. (Precise linear feet reported in FEIS cannot be verified due to changes in the trail system and lack of mapped data from 1997).</li> <li>• Impacts reported for the ABC and Maroon Creek Trail have already occurred and the trails have been relocated and restored.</li> <li>• Temporary occupancy (no Section 4(f) use) of the Bergman Trail will occur due to temporary closure of the trail during project construction east of the cut-and-cover tunnel.</li> </ul> <p><b>Open Space/Parks/Rec:</b></p> <ul style="list-style-type: none"> <li>• No change to impacts to open space. Impacts have occurred to Zoline Open Space and Aspen Golf Course/Plum Tree</li> </ul>	<p>CDOT will relocate, improve and/or replace all existing trail/bike path facilities and sidewalks impacted by the Preferred Alternative.</p> <p>(Approximately 10,000 linear feet of trails have been reconstructed, relocated and/or extended by CDOT since the 1998 ROD.)</p> <p>Apply same measures as outlined in ROD to mitigate impacts to Bergman Trail – relocation, improvement, and/or replacement of this trail will be done by CDOT.</p> <p>Use of narrowest feasible cross- sections where possible across open space lands.</p> <p>Use of cut-and-cover tunnel to preserve the continuity of the Marolt-Thomas Open Space.</p> <p>Return of the abandoned portions of existing roadways to open space where possible.</p> <p>(Conveyance from CDOT to City and County of approximately 31 acres of Brush Creek open space property has occurred.)</p>

Topic	ROD Impact	Reevaluation Impact	Measures to Minimize Harm (ROD and Reevaluation)
<b>Historic Properties</b>	<p>Historic properties identified as Section 4(f) resources with potential impacts in the FEIS/ROD:</p> <ul style="list-style-type: none"> <li>• Maroon Creek Bridge</li> <li>• Holden Smelting and Milling Complex</li> </ul>	<ul style="list-style-type: none"> <li>• No change</li> <li>• No change</li> </ul>	<p>SHPO review of architectural compatibility of new bridge (completed); plans, drawings, photo record if new bridge altered for transit use</p> <p>SHPO and HPC review and approve landscaping, berm and LRT overhead wire design</p> <p>Survey and monitor during construction to avoid encroaching into historic site boundary</p>
	<ul style="list-style-type: none"> <li>• Colorado Midland Railroad</li> <li>• Berger Cabin</li> </ul> <p>Section 4(f) Properties within Historic Districts on Main Street</p> <ul style="list-style-type: none"> <li>• Smith/Elisha House</li> <li>• Hynes House</li> </ul>	<ul style="list-style-type: none"> <li>• No change</li> <li>• No change</li> <li>• No change</li> </ul> <p>Additional historic properties now eligible and having Section 4(f) status since FEIS (no Section 4(f) use):</p> <ul style="list-style-type: none"> <li>• Finley Residence</li> <li>• Taylor House</li> <li>• Brunton House</li> <li>• Sardy House</li> </ul>	<p>Design highway with least possible width ROW</p> <p>Avoid rail ROW where possible</p> <p>Relocate cabin to back of property if feasible</p> <p>SHPO to approve landscaping</p> <p>SHPO and Aspen HPC review and approval of street design and wiring near properties</p> <p>Same measures outlined in ROD for all properties on Main Street within the Main Street HD and the Commercial Core HD (to achieve no adverse effect):</p> <p>SHPO and Aspen HPC review and approval of street design and wiring near property</p>

## 8.0 Least Harm Analysis

The intent of the Section 4(f) requirements is to avoid impacts to public parks, recreation areas, wildlife refuges, and historic properties unless there is no “feasible and prudent” alternative. As stated in Section



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6.0 of this report, and in the FEIS, only the No-Action Alternative avoids all Section 4(f) resource impacts, and that alternative does not meet the purpose and need and is not considered feasible or prudent.

Where no feasible and prudent alternatives are identified that completely avoid use of Section 4(f) resources, then a least-harm analysis must be performed to determine how to minimize overall harm to the resources. In performing this analysis, the net harm to the resources (after mitigation) is the governing factor. The feasible and prudent alternative which does the least harm to Section 4(f) resources must be selected for construction. Where there is little or no difference between alternatives in the overall harm to resources, any of the alternatives may be selected.

The ROD states that CDOT and FHWA proposed an alternative (the ROD Preferred Alternative) that meets the project purpose, need and objectives and that minimizes harm to Section 4(f) resources after considering mitigation and the relative impacts to the affected resources (ROD, page 26 of 37).

The ROD goes on to state that the quality and relative importance of Section 4(f) resources had to be considered in determining the alternative that met the purpose and need with the least harm to Section 4(f) resources. The key issues and findings, based on all environmental impacts identified in the FEIS, are described in the ROD on pages 26 through 29 of 37.

The 1998 ROD then states, “Although the [ROD] Preferred Alternative did not have the fewest quantifiable impacts of all alternatives that were evaluated in the Section 4(f) Evaluation, this alternative imposed the least harm of all alternatives that also met the purpose and need, and objectives for the Entrance to Aspen project identified in the FEIS.” (ROD, page 20 of 37). It also states that the ROD Preferred Alternative balances meeting the purpose and need, and objectives of the project with the effort to minimize harm to Section 4(f) resources. The reasons for selecting the ROD Preferred Alternative are summarized below:

- Minimizes visual impacts to Marolt-Thomas Property when viewed from Aspen near Castle Creek, Aspen Golf Course, Buggy Barnard Park, and remaining portion of SH 82 near Cemetery Lane
- Returns a portion of SH 82 ROW to open space
- Includes a cut-and-cover tunnel across Marolt-Thomas Open Space
- Minimizes Moore Property impacts from the required LRT/transit station by eliminating parking
- Limits future vehicle trips to existing levels while providing for future capacity requirements
- Eliminates the high-accident-rate S-curves from the existing SH 82 alignment
- Exceeds the requirements of the Clean Air Act Amendments
- Improves emergency access

These findings from the ROD remain valid, based on the findings of the reevaluation. As shown on Table 6-2, the ROD Preferred Alternative has slightly more quantifiable use of Section 4(f) properties than the

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FEIS Preferred Alternative, because its design assumed a wider cross-section to accommodate a parkway median and the phased approach to transit (exclusive bus lanes implemented first, followed by LRT if funding and public approval is obtained.) Based on the current lack of funding for transportation projects, coupled with the increasing congestion for longer durations along SH 82, an alternative with transit phasing is considered the most prudent means of achieving increased capacity in the reasonably foreseeable future. (See the Purpose and Need and Project Objectives Technical Report, State Highway 82/Entrance to Aspen Environmental Reevaluation, February, 2007 for more information.) Therefore, it is concluded that the Preferred Alternative selected in the ROD is the build alternative that does the least overall harm to Section 4(f) resources *and* that best meets the purpose, need and objectives of the project. The ROD Preferred Alternative includes all possible planning to minimize harm. As stated previously, many of the impacts to Section 4(f) resources have occurred with construction to date, and all have been mitigated in compliance with agreements and commitments made in the ROD. Measures to minimize are summarized in Section 7.0 above.

## 9.0 Agency Consultation

A review of the files at the office of Archaeology and Historic Preservation was conducted on August 11, 2006.

The following contacts were made in the course of the historic property reevaluation:

- On August 3, 2006, the consultant met with CDOT historian Lisa Schoch to discuss the project and conduct a file search
- Amy Guthrie, City of Aspen Historical Preservation Officer was contacted and interviewed on July 11, 2006.

The City of Aspen was contacted for maps and information about the Aspen Trail System, and potential impacts to the Bergman Trail.

The City of Aspen, Pitkin County, the Town of Snowmass Village, RFTA, CDOT and FHWA reviewed and confirmed the 1998 project purpose and need and community objectives.

FHWA and CDOT consulted with the City of Aspen regarding a potential temporary occupancy and detour of the Bergman Trail during construction near the east end of the cut-and-cover tunnel. The City agreed that the detour of the trail was acceptable, and that the conditions for temporary occupancy would be met. The letter of agreement is provided in Appendix A of this report.

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## 10.0 References

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- Colorado Historical Society, Office of Archaeology and Historic Preservation, Numerical Site Listing, August, 11, 2006.
- D'Autrechy, Barb. 2006. Email data from Barb D'Autrechy, Pitkin County Open Space & Trails to Laura Lutz-Zimmerman on July 25, 2006 regarding Owl Creek Trail.
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- Federal Highway Administration. 2005a. Guidance for Determining De Minimis Impacts to Section 4(f) Resources. Accessed on July 22, 2006 at <http://www.fhwa.dot.gov/hep/guidedeminimis.htm>
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- Hartman, James, State Historic Preservation Officer. Personal contact, August 9, 1996, between Dawn Bunyak and James Hartmann.
- Pitkin County. No date specified. Pitkin County Open Space & Trails. Accessed at <http://www.aspenpitkin.com/depts/21/> on July 25, 2006.
- Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, Section 6009
- Schoch, Lisa, CDOT historian. Personal contact. August 3, 2006, Meeting between Dawn Bunyak and Lisa Schoch.
- Weiss, Austin, 2006a. Austin Weiss, Trails Coordinator, City of Aspen Parks and Recreation, personal communication, telephone call from Terri Morrell, August 1, 2006.
- Weiss, Austin, 2006b. Austin Weiss, Trails Coordinator, City of Aspen Parks and Recreation, personal communication, telephone call from Kristine MacKinnon, September 12, 2006.

## 11.0 List of Preparers

Laura Lutz-Zimmerman, Environmental Scientist, HDR Engineering, Inc.

Lucy Bowen, Project Manager, HDR Engineering, Inc.

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**APPENDIX A**

**AGREEMENT FOR TEMPORARY OCCUPANCY OF BERGMAN TRAIL**

March 7, 2007.

Mr. Pete Mertes  
Resident Engineer  
State Of Colorado  
Department Of Transportation  
Region 3 – Engineering  
202 Centennial Street  
Glenwood Springs, Colorado 81601-2845



THE CITY OF ASPEN

RE: Temporary detour for Bergman Trail

Dear Pete,

We understand that the Colorado Department of Transportation (CDOT) is currently planning a project on SH 82 that will require the temporary closure and detour of the Bergman Trail where it crosses SH 82.

Several discussions and consultations regarding the Bergman Trail have been held involving Randy Ready and John Krueger of the City of Aspen, and Pete Mertes and Joe Elsen of CDOT Region 3 during the reevaluation of the Entrance to Aspen. These consultations took place between September 2006 and March 2007, primarily at the Technical Working Group meetings for the Reevaluation effort.

The Bergman Trail was constructed across SH82 (via underpass) in 2005, and crosses just east of the cut-and-cover tunnel area designated as the Preferred Alternative in the 1998 Record of Decision for the project. Construction of the roadway in this area would require the closure of the trail across SH82 while construction is in the vicinity. This closure would be for duration substantially shorter than the entire construction period for the project, but its duration cannot be estimated with accuracy until final design is completed.

On February 26, 2007, CDOT and City of Aspen representatives met in Glenwood Springs and delineated a feasible detour of the trail. The detour shown on the attached map was determined to be acceptable, and would allow continued interconnection of area trails and uninterrupted public use of the trail system during the temporary occupancy of the Bergman Trail.

As a result of consultation with the project team, we understand the following to be true:

1. The duration of the closure and detour will be temporary, and that before the project is finished and closed, the trail will be returned to at least its current condition and the detour will be removed.

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2. That there will not change in ownership of the land or the trail as a result of this project. In other words, no new permanent easements or other transfers of land ownership will occur that would affect the trail or our responsibilities for trail management and ownership.
3. The temporary closure of the trail and the proposed detour would add distance to some specific destinations along the trail system, but this additional distance would be minimal. The existing trail underneath SH82 could be damaged during construction of the roadway above, but such damage is not expected to be extensive and would be repaired immediately as part of the construction effort. Therefore, we believe that the project, temporary closure and detour will not result in any permanent adverse physical impacts.
4. The detour will be constructed prior to the closure, to the same condition as the existing trail (width, surfacing, etc.) and will provide interconnectivity during construction to the broader trail system in the area. The trail detour will be posted on the project web sites, and will be noticed in the local newspaper and/or with flyers and announced in appropriate public forums so that the public can plan accordingly. The trail will be restored to its existing condition or better as soon as public safety allows. As a result of these mitigation activities, we believe that there will not be interference with the activities and purpose of the Bergman Trail on either a temporary or permanent basis.
5. We reiterate our understanding that before this project is closed, the trail and associated properties will be restored to at least the condition that they existed before the project was initiated.

Therefore, we find that as outlined by the project team in our consultations, the closure and detour of the Bergman trail does not present temporary or permanent adverse impacts to the trail, its function, or the activities associated with the trail.

We Believe that these actions show compliance with the definition for temporary occupancy as set forth in 23 CFR135(p)(7)(v).

Sincerely,



Randy Ready  
Assistant City Manager  
City Of Aspen

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**MAP OF BERGMAN TRAIL DETOUR DURING TEMPORARY OCCUPANCY TO BE  
INSERTED HERE**