

## 4.0 SECTION 4(f)

### 4.1 INTRODUCTION

Section 4(f) of the Department of Transportation Act of 1966 was set forth in Title 49 United States Code (USC) Section 303 and Title 23 USC Section 138, which states “The Secretary [of Transportation] shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, state, or local significance as determined by the federal, state, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials unless 1) there is no feasible and prudent alternative to the use of such land, and 2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use.” Section 4(f) applies to this project because the project involves the use of multiple properties that qualify for protection under Section 4(f).

A final Section 4(f) Evaluation was included in the *Chapter 4 – Section 4(f) Evaluation* of the FEIS. The final Section 4(f) Evaluation evaluated the project to determine whether there were any feasible or prudent alternatives to the use of Section 4(f) properties and concluded that no feasible and prudent alternatives exist to the use of land from 39 Section 4(f) properties, including 4 historic districts (78 contributing properties), 30 individual historic properties, and 5 park and recreational resources. The FEIS identified the Preferred Alternative as the alternative with the least overall harm to Section 4(f) properties per 23 CFR 774.3(c)(1) based primarily on the ability to mitigate adverse impacts, the relative severity of the remaining harm to the property after mitigation, the views of the officials with jurisdiction, and the degree to which the alternative meets the purpose and need for the project. The Preferred Alternative is described in **Section 2.1.1 – Final Detailed Alternatives** of this document and shown in **Exhibit 2-3**. As described in **Section 3 – Phase 1 of the Preferred Alternative** of this document, the Preferred Alternative will be implemented in multiple phases because of funding limitations. Phase 1 consists of improvements planned from approximately the Ilex interchange north to 29th Street and connecting the I-25 mainline improvements to those previously completed just north of 29th Street (see **Exhibit 3-1**). Phase 1 is selected as the initial phase of the Preferred Alternative and is the subject of this document. Therefore, only those Section 4(f) properties located within Phase 1 are addressed in this Section.

Following the publication of the FEIS, the I-25 bridge over the Arkansas River (Bridge K-18-AJ) was identified as potentially eligible for the National Register of Historic Places (NRHP). Impacts to this bridge would occur in a future phase under either Build Alternative, but would likely be greater under the Existing I-25 Alternative (where full demolition and reconstruction is required). CDOT commits to completing an environmental evaluation of this bridge as part of the environmental clearance documentation for any future I-25 New Pueblo Freeway ROD that includes this bridge. For any planned impact to the bridge, CDOT has committed to completing a Section 106 analysis and consultation, as well as a Section 4(f) Evaluation. Any effects to this bridge do not impact the decision being made in this ROD, nor does it change the conclusions of the least harm analysis or the overall findings of the Final Section 4(f) Evaluation prepared for the project. Additionally, the decision being made in this Phase 1 ROD does not change the opportunities to minimize or avoid the use of the bridge in the future. Additional discussion regarding the Arkansas River Bridge is included in **Section 5.3 Unresolved Issues from the FEIS** and in **Appendix F** of this document.

### 4.2 SECTION 4(f) PROPERTIES

Phase 1 of the Preferred Alternative will result in the use of 23 Section 4(f) properties, including 2 historic districts, 19 individual historic properties, and 2 park and recreational resources as detailed in **Exhibit 4-1**.

**EXHIBIT 4-1**

## Summary of Section 4(f) Use for Phase 1 of the Preferred Alternative

Site Number	Property Type	Property Name/ Address	Official With Jurisdiction	Phase 1 Section 4(f) Use for the Preferred Alternative
Not Applicable	Recreation	Fountain Creek Park Land	City of Pueblo	<b>Partial Acquisition</b>
5PE586	Park/Historical Site	Mineral Place Park	City of Pueblo/ SHPO	<b>Partial Acquisition</b>
5PE4484	Historical Site	100 W. 23rd Street	SHPO	<b>Total Acquisition/Demolition</b>
5PE4498	Historical Site	1415 N. Santa Fe Avenue	SHPO	<b>Total Acquisition/Demolition</b>
5PE4499	Historical Site	1405 N. Santa Fe Avenue	SHPO	<b>Total Acquisition/Demolition</b>
5PE4504	Historical Site	1300 N. Santa Fe Avenue	SHPO	<b>Total Acquisition/Demolition</b>
5PE4523	Historical Site	125 Hector Garcia Place	SHPO	<b>Total Acquisition/Demolition</b>
5PE4529	Historical Site	115 E. 8th Street	SHPO	<b>Total Acquisition/Demolition</b>
5PE4536	Historical Site	221-23 E. 4th Street	SHPO	<b>Total Acquisition/Demolition</b>
5PE4545	Historical Site	212 and 212½ E. 3rd Street	SHPO	<b>Total Acquisition/Demolition</b>
5PE4547	Historical Site	216 E. 3rd Street	SHPO	<b>Total Acquisition/Demolition</b>
5PE4549	Historical Site	220 E. 3rd Street	SHPO	<b>Total Acquisition/Demolition</b>
5PE4557	Historical Site	219 E. 2nd Street	SHPO	<b>Total Acquisition/Demolition</b>
5PE4562	Historical Site	221 E. 2nd Street	SHPO	<b>Total Acquisition/Demolition</b>
5PE5290	Historical Site	2520 N. Freeway	SHPO	<b>Total Acquisition/Demolition</b>
5PE5291	Historical Site	2516 N. Freeway	SHPO	<b>Total Acquisition/Demolition</b>
5PE5292	Historical Site	2424 N. Freeway	SHPO	<b>Total Acquisition/Demolition</b>
5PE5293	Historical Site	107 E. 24th Street	SHPO	<b>Total Acquisition/Demolition</b>
5PE5294	Historical Site	106 E. 24th Street	SHPO	<b>Total Acquisition/Demolition</b>
5PE5295	Historical Site	2200 N. Freeway	SHPO	<b>Total Acquisition/Demolition</b>
5PE5304	Historical Site	217 E. 2nd Street	SHPO	<b>Total Acquisition/Demolition</b>
5PE5517	Historic District	North Side Historic District	SHPO	<b>Partial Acquisition.</b> The only property that would be directly impacted is Mineral Palace Park (5PE586).
5PE5518	Historic District	Second Ward Historic District	SHPO	<b>Total Acquisition/Demolition.</b> Seven contributing properties.

Source: CH2M HILL, 2010a; 2010b.

SHPO = State Historic Preservation Office

Phase 1 of the Preferred Alternative would result in a temporary use of the Fountain Creek Trail and Thomas Phelps Creek Trail. Segments of both trails would be detoured and/or closed to protect the public when construction is occurring above the trail (typically, when bridge girders are set or bridge decks are poured). As noted in *Chapter 4 – Section 4(f) Evaluation* of the FEIS,

detours will be developed during final design to accommodate trail users to the best extent possible – including the least amount of out-of-direction travel and minimized trail closure periods.

Phase 1 of the Preferred Alternative will also have a *de minimis* impact on one individual historic property (5PE5080). This property is officially eligible for listing on the National Register of Historic Places (NRHP) under Criterion C. Phase 1 of the Preferred Alternative would result in the acquisition of a portion of the property that does not contribute to its historic significance. This historic property was recommended No Adverse Effect in an April 1, 2010 submittal to the State Historic Preservation Office (SHPO), and the SHPO concurred with this determination in correspondence dated May 17, 2010. FHWA notified the SHPO of its intent to make a *de minimis* finding in correspondence dated December 2, 2010, found in *Appendix B – Agency Consultation and Coordination* of the FEIS, and consulting parties were provided multiple opportunities to provide input. With the approval of this ROD, FHWA finds the use associated with this property is *de minimis*.

### 4.3 ALL POSSIBLE PLANNING TO MINIMIZE HARM

When no prudent and feasible avoidance alternative exists, Section 4(f) requires that harm to protected resources be minimized. Avoidance and minimization was evaluated for all of the parks, recreational resources, individual historic properties, historic districts, and contributing properties within Phase 1 of the Preferred Alternative. In many locations, the constrained ROW made avoiding individual properties difficult as the avoidance of one historic property would ultimately result in impacts to one or more other properties.

The FEIS describes in detail the measures that were evaluated as part of the Preferred Alternative to minimize harm to Section 4(f) properties. Mitigation for impacts to the Section 4(f) properties listed in **Exhibit 4-1** has been included in Phase 1 of the Preferred Alternative and is detailed in **Section 8 - Mitigation** of this document. Mitigation for impacts to Mineral Palace Park has been stipulated in a March 2010 MOU between the City and CDOT (found in *Appendix F – Memorandum of Understanding Between the City of Pueblo and Colorado Department of Transportation* of the FEIS). A Programmatic Agreement (**Appendix E** of this document) has been developed by FHWA, CDOT, and SHPO to outline mitigation for adverse effects to historic properties. The Programmatic Agreement reflects efforts by FHWA, CDOT, SHPO, and the consulting parties to identify specific categories of mitigation for further consultation and investigation, including resource re-location, interpretive mitigation, and archival documentation. Specific mitigation measures will be developed per the guidelines outlined in the Section 106 Programmatic Agreement prior to construction of Phase 1 of the Preferred Alternative. The selected mitigation will resolve the adverse effects to historic properties that would result from the project.

### 4.4 CONSULTATION AND COORDINATION

The Section 4(f) Evaluation has involved input and guidance from a variety of governmental agencies and entities. These agencies and entities include:

- ❖ SHPO
- ❖ Colorado Preservation, Inc.
- ❖ National Trust for Historic Preservation
- ❖ Pueblo Historic Preservation Commission
- ❖ City of Pueblo Planning Department
- ❖ Bessemer Historical Society
- ❖ Evraz Rocky Mountain Steel Mills
- ❖ City of Pueblo Parks and Recreation Department
- ❖ CPW
- ❖ USACE
- ❖ United States Department of the Interior (DOI)

Meeting notes and letters documenting these coordination efforts are included in *Appendix B – Agency Consultation and Coordination* of the FEIS.

The final Section 4(f) Evaluation approved by FHWA was published on September 13, 2012. The DOI responded on October 24, 2013 indicating their concurrence with the Section 4(f) Evaluation, the determination that there is no feasible or prudent alternative to the Preferred Alternative, and that all measures have been taken to minimize harm to Section 4(f) properties (see **Appendix D** of this document).