

APPENDIX

E

MEMORANDUM OF UNDERSTANDING

MEMORANDUM OF AGREEMENT
BETWEEN
THE FEDERAL HIGHWAY ADMINISTRATION,
AND
THE UTAH STATE HISTORIC PRESERVATION OFFICE
REGARDING
**Project No. STP-LC05(12): 100 East from 300 South to Providence Lane
(1200) South, Logan, Cache County, Utah.**

WHEREAS, the Federal Highway Administration (FHWA) has determined that **Project No. STP-LC05(12): 100 East from 300 South to Providence Lane (1200) South, Logan, Cache County, Utah**, will have and an adverse effect on one historic property. This historic property is located at 96 East 500 South, Logan, and is eligible for inclusion in the National Register of Historic Places. FHWA has consulted with the Utah State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

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

WHEREAS, Utah Department of Transportation (UDOT) has participated in the consultation, and been invited to concur;

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

STIPULATIONS

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

- I. **DOCUMENTATION OF HISTORIC PROPERTIES:** UDOT shall record the historic property located at 96 East 500 South, Logan, to the Utah State Intensive Level Survey (ILS) Standards in advance of construction activity.
- II. **REPORTING:** The FHWA shall ensure that any/all reports on activities carried out pursuant to this agreement are provided to the SHPO, the Council, the signatories to this MOA, and upon request, to any other interested parties.
- III. **PERSONNEL QUALIFICATIONS:** The FHWA shall ensure that all historic work carried out pursuant to this agreement is completed by or under the direct supervision of a person or persons meeting or exceeding the Secretary of the Interior's Historic Preservation Professional Qualification Standards for History (36 CFR 61 Appendix A).
- IV. **DURATION:** This agreement will be null and void if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, the FHWA may consult with the other signatories to reconsider the terms of the agreement and amend it in accordance with Stipulation VII below.
- V. **DISCOVERY:** In accordance with 36 CFR 800.13(b), the UDOT and the FHWA are providing for the protection, evaluation, and treatment of any historic property discovered prior to or during construction. UDOT Standard Specifications Section 01355, Part 1.10, Discovery of Historical, Archaeological or Paleontological Objects, will be enforced during this project. This specification stipulates procedures to be followed should any archaeological, historic, or paleontological resources be discovered during construction of the project. These procedures are as follows:
 - A. Immediately suspend construction operations in the vicinity of the discovery if a suspected historic, archeological or paleontological item, feature, prehistoric dwelling sites or artifacts of historic or archeological significance are encountered.

- B. Notify the ENGINEER verbally of the nature and exact location of the findings.
- C. The ENGINEER will contact the State archeological authorities who will determine their disposition.
- D. Protect the discovered objects and provide written confirmation of the discovery to the ENGINEER within two (2) calendar days.
- E. The ENGINEER will keep the CONTRACTOR informed concerning the status of the restriction.
 1. The time necessary for the DEPARTMENT to handle the discovered item, feature, or site is variable and dependent on the nature and condition of the discovered item.
 2. Expect a two (2) week or more delay in the vicinity of the discovery.
 3. Written confirmation will be given by the ENGINEER when the restriction is terminated.
- F. If a changed condition is approved, it will be controlled in accordance with Section 00725, paragraph: Differing Site Conditions.

Should a discovery occur, the FHWA will consult with the SHPO and the Council in accordance with 36 CFR 800.13(b)(3) toward developing and implementing an appropriate treatment plan prior to resuming construction.

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

- A. Forward all documentation relevant to the dispute to the Council in accordance with 36 CFR 800.2(b)(2). Upon receipt of adequate documentation, the Council shall review and advise the FHWA on the resolution of the objection within 30 days. Any comment provided by the Council, and all comments from the parties to the MOA, will be taken into account by the FHWA in reaching a final decision regarding the dispute.
- B. If the Council does not provide comments regarding the dispute within 30 days after receipt of adequate documentation, the FHWA may render a decision regarding the dispute. In reaching its decision, the FHWA will take into account all comments regarding the dispute from the parties to the MOA.
- C. The FHWA's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged. The FHWA will notify all parties of its decision in writing before implementing that portion of the undertaking subject to dispute under this stipulation. The FHWA's decision will be final.

Further, at any time during implementation of the measures stipulated in this agreement should an objection to any such measure be raised by a member of the public, the FHWA shall take the objections into account and consult as needed with the objecting party, the SHPO, or the Council to resolve the objection.

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

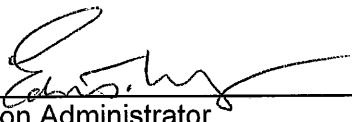
VIV. **TERMINATION:** If an MOA is not amended following the consultation set out in Stipulation VII, it may be terminated by any signatory or invited signatory. Within 30 days following

termination, the FHWA shall notify the signatories if it will initiate consultation to execute an MOA with the signatories under 36 CFR 800.6(c)(1) or request the comments of the Council under 36 CFR 800.7(a) and proceed accordingly.

Execution of this Memorandum of Agreement by the FHWA, the Utah SHPO, and the UDOT, and the submission of documentation and filing of this Memorandum of Agreement with the Council pursuant to 36 CFR 800.6(b)(1)(iv) prior to FHWA's approval of this undertaking, and implementation of its terms, serves as evidence that the FHWA has taken into account the effects of this undertaking on historic properties, and has afforded the Council an opportunity to comment on **Project No. STP-LC05(12): 100 East from 300 South to Providence Lane (1200) South, Logan, Cache County, Utah.**

SIGNATORIES:

THE FEDERAL HIGHWAY ADMINISTRATION

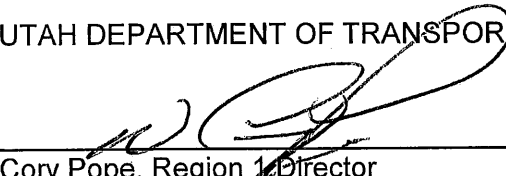
Jan  2-9-07
Division Administrator Date

UTAH STATE HISTORIC PRESERVATION OFFICE

CS  3-7-07
Wilson G. Martin, Utah SHPO Date

INVITED SIGNATORIES:

UTAH DEPARTMENT OF TRANSPORTATION

 2/26/07
Cory Pope, Region 1 Director Date



State of Utah

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

DEPARTMENT OF TRANSPORTATION

JOHN R. NJORD, P.E.
Executive Director

CARLOS M. BRACERAS, P.E.
Deputy Director

July 25, 2007

Cory Jensen
Architectural Historian/National Register & Survey Coordinator
Division of State History
300 Rio Grande
Salt Lake City, UT 84101-1182

RE: Case # 04-0860
UDOT Project #: STP-LC05(12): 100 East from 300 South to Providence Lane (1200) South,
Logan, Cache County, Utah.
Notice of Completion of Memorandum of Agreement.

Dear Mr. Jensen,

Pursuant to 36 CFR 800.6(c), a memorandum of agreement between the FHWA and the Utah State Historic Preservation Officer was executed March 7, 2007 for the subject federal aid project. This letter serves as notification of completion of the stipulations specified in the memorandum of agreement. Enclosed please find a copy of the Intensive Level Survey form completed for the eligible historic property located at 96 East 500 South, Logan, Cache County, Utah. Thus, the FHWA has fulfilled its requirements under Section 106 of the National Historic Preservation Act.

Further, this letter also serves as notification that the eligible historic property located at 96 East 500 South, Logan, has recently been destroyed by fire.

Should you have any questions or need additional information, please feel free to contact me at (801) 620-1635 or jelsken@utah.gov.

Sincerely,

Jennifer Elsken
NEPA/NHPA Specialist
UDOT Region 1

Enclosure

Cc: Brad Humphreys, UDOT Project Manager
Chris Lizotte, UDOT Environmental Manager

