

1983

**AGREEMENT
BETWEEN
THE NATIONAL PARK SERVICE
AND
THE FEDERAL HIGHWAY ADMINISTRATION**

UNITED STATES
DEPARTMENT OF THE INTERIOR
AND
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

Agreement

between

the National Park Service

and

The Federal Highway Administration

1. The agreement as set forth below between the National Park Service, Department of the Interior, and the Federal Highway Administration, Department of Transportation, is published as a matter of public record and shall be effective on the date of the last approving signature.

2. This agreement supercedes the previous agreement between the National Park Service and the Bureau of Public Roads, Department of Commerce, dated August 10, 1964, which was published in the Federal Register on August 15, 1964, 29 Fed. Reg. 11,722 (1964).

INTERAGENCY AGREEMENT
BETWEEN
THE NATIONAL PARK SERVICE
AND
THE FEDERAL HIGHWAY ADMINISTRATION
RELATING TO PARK ROADS AND PARKWAYS

Whereas, the Department of the Interior, acting through the National Park Service, in fulfillment of its statutory responsibilities under the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, including the Acts of April 9, 1924 (43 Stat. 90), January 31, 1931 (46 Stat. 1053), and March 4, 1931 (46 Stat. 1570), as amended, must engage in a continuing program of planning, programming, construction, reconstruction, and improvement of park roads and parkways, including bridges, tunnels and appurtenances, in connection with the administration of the National Park System; and

Whereas, S126 of the Surface Transportation Assistance Act of 1982 Pub. L. No. 97-424, (96 Stat. 2097) amended 23 U.S.C. 204 and repealed 23 U.S.C. 206, 207, 208, 209, and 214 (c), and in lieu thereof established a Federal Lands Highway Program, placing on the Secretary of Transportation the oversight and coordinating.

Whereas, 23 U.S.C. 204 (b), as amended, provides that funds available for park roads and parkways shall be used to pay for the cost of construction and improvement thereof; and

Whereas, 23 U.S.C. 204 (f), as amended, provides that all appropriations for the construction and improvement of park roads and parkways shall be administered in conformity with regulations and agreements jointly approved by the Secretary of Transportation and the Secretary of the Interior:

Now, therefore, the National Park Service (NPS) and the Federal Highway Administration (FHWA) do hereby mutually agree as follows:

I. GENERAL

It is mutually recognized that:

- A. The NPS is responsible for the protection and management of lands and resources under its jurisdiction, and is vitally interested in the development of a public park roads system which will provide access for the protection, use and enjoyment of National Park System areas and which will integrate with other transportation facilities.
- B. The NPS shall develop park road and parkway design, construction, maintenance, and safety standards in accordance with 23 U.S.C. 402 (23 CFR 1230).
- C. The NPS shall carry out a transportation planning process for park roads and parkways to the extent deemed adequate to support the construction and improvement program, similar to those of 23 U.S.C. 307 and 16 U.S.C. 17 (k), and in accordance with applicable NPS guidelines.
- D. The NPS shall develop and submit annually to FHWA a priority program of proposed Federal Lands Highways Program projects for approval and allocation of the sums authorized.
- E. The NPS and FHWA shall jointly determine respective responsibility for execution of the approved program.
- F. All construction activities shall be conducted and executed so as to minimize impact of the project on park operations. Wherever feasible, construction activities shall avoid peak visitation periods, and where infeasible, appropriate steps shall be taken to minimize impacts on park operations. The NPS Regional Director and Superintendent shall be informed of the planned construction schedule, the actual schedule, and any changes in the schedule as they become apparent.
- G. To the fullest extent possible, and in the interest of avoiding duplication of services and costs, and in accordance with the provisions of S601 of the Act of June 30, 1932 (47 Stat. 417), and Section I of the Act

of August 27, 1958 (72 Stat. 14), and unless otherwise provided: It is understood and agreed that the FHWA shall be available to perform planning assistance, research, engineering studies, traffic engineering services, project development, and construction contract administration. The FHWA shall ensure that the performance of such work shall be generally in conformance with similar established policies of 23 U.S.C. The NPS shall be responsible for providing architectural and landscape architectural services to ensure that the highest standards of aesthetics and resource protection are followed in the placement of road prisms and the design of structures appurtenant to park roads and parkways.

II. ROLES AND RESPONSIBILITIES

- A. Based upon the NPS's approved program of projects, NPS and FHWA shall jointly agree on a division of program responsibility and will provide the supervision for carrying out the project execution as herein defined.
- B. For those activities and projects NPS requests FHWA to undertake, the FHWA will:
1. Perform planning and engineering studies, inventories, investigations, reconnaissance surveys, or other studies with the participation of the NPS and shall submit same to NPS for review and concurrence.
 2. Undertake the preparation of plans, specifications, and detailed costs estimates, which shall be submitted for approval to the NPS, who shall retain basic responsibility for all projects, including preliminary and final design approval. FHWA and NPS shall collaborate and cooperate to assure that the plans and specifications conform to park management plans and accommodate NPS aesthetic and environmental and cultural resource protection considerations for the particular park or proposal. The NPS will be the lead agency responsible for the preparation of environmental documents for the proposed project, including the public notification and involvement process, with FHWA participating as a cooperating agency.

As determined appropriate on a project-by-project basis, NEPA documents will be subject to coordination and review by FHWA.

3. Advertise, award, and administer the contract for the construction of the project in conformity with the approved plans and specifications.
4. Ensure that proposed changes to contract plans or specifications shall have the concurrence of the NPS Regional Director before adoption, and that all proposed changes affecting program priorities shall have the approval of the NPS Director and FHWA Headquarters.
5. Furnish project status reports to the NPS Regional Director and NPS Headquarters as may be required and afford NPS the opportunity to participate in project inspections, including final inspection. The NPS shall furnish written recommendations to FHWA for project acceptance. The FHWA shall have the concurrence of the NPS Regional Director prior to FHWA's acceptance and final payment to the contractor.
6. Upon completion and acceptance of each contract, furnish to NPS a final construction report, including final cost data and as-constructed plans.
7. Be responsible for all payments to contractors, and for any services of a State or civil subdivision thereof which are performed under the responsibility of FHWA, as outlined in this section.

C. For those activities and projects undertaken by NPS, the NPS will:

1. Perform the required planning, environmental, public notification process, engineering, architectural, and landscape architectural services needed for each project.

2. Advertise, award and administer the contracts in conformance with the approved plans and specifications.
3. Furnish appropriate project status reports and technical documents to the FHWA as may be required.
4. Ensure that proposed changes to contract plans or specifications shall have the concurrence of the NPS Regional Director before adoption, and that all proposed changes affecting program priorities shall have the approval of the NPS Director and, for the Federal Lands Highways Program, FHWA Headquarters.
5. Be responsible for all payments to contractors, and for any services of a Stated or civil subdivision thereof which are undertaken for the NPS.

D. Funding and reporting:

1. For funding the projects of the Federal Lands Highway Program being undertaken by the NPS:
 - (a) FHWA shall transfer obligational (contract) authority to NPS by means of an allocation letter;
 - (b) NPS requests for cash shall be in writing and addressed to the Chief, Finance Division, FHWA;
 - (c) FHWA will transfer liquidating cash to NPS to meet current expenditure needs; and
 - (d) direct or indirect overhead charges shall be jointly agreed upon.
2. NPS shall furnish reports for the portion of the Federal Lands Highway Program undertaken by NPS including:
 - (a) monthly SF-133, Report on Budget Execution, reflecting specific financial and budget data for each different type of allocation and overall summary by Treasury symbol;
 - (b) annual TFS-2108, Year-End Closing Statement;
 - (c) monthly report of total obligation and expenditures for each project;
 - (d) annual obligation and expenditures for each project including planning and research, engineering and special studies, preparation of plans-specifications and

estimates, construction contract administration and inspection costs, contract payments, and any direct or indirect overhead charges; and (e) other reports as may be required.

3. For non-Federal-Lands-Highways-Program road and bridge projects funded directly under NPS authorities through Department of the Interior appropriations: (a) NPS and FHWA shall determine program responsibility on a project-by-project basis; (b) funds shall be transferred by NPS to FHWA shall determine program responsibility; and (c) for projects to be contracted for by NPS and administered by FHWA, cash shall be transferred to FHWA to provide for payment.

4. FHWA shall furnish reports for the portion of NPS funded projects undertaken by FHWA including: (a) monthly SF-133, Report on Budget Execution, reflecting specific financial and budget data for each different type of allocation and overall summary by Treasury symbol; (b) annual TFS-2108, Year-End Closing Statement; (c) monthly report of total obligation and expenditures for each project; (d) annual obligation and expenditures for each project including planning and research, engineering and special studies, preparation of plans-specifications and estimates, construction administration and inspection costs, contract payments, and any direct or indirect overhead charges; and (e) other reports as may be required.

E. General responsibilities are as follows:

1. The NPS and the FHWA shall exchange information in connection with any claims or litigation arising as the result of or in connection with a project. When the NPS is the Contracting Officer, the Department of the Interior Board of Contract Appeals shall have jurisdiction. When FHWA is the Contracting Officer, the Department of Transportation Contract Appeals Board shall have jurisdiction.

2. All requests for FHWA technical assistance on projects being developed by NPS shall be in writing from the appropriate NPS Regional Director to the appropriate FHWA Direct Federal Division Engineer.
3. The design and construction of projects will be in accord with applicable provisions of 23 U.S.C.; applicable FHWA and NPS statues, regulations and agency procedures; NPS design standards for park roads and parkways; and applicable portions of the latest edition of the Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects.
4. Right-of-way, railroad agreement, and utility adjustment matters will be the responsibility of the NPS, unless otherwise agreed upon with respect to a particular projects.
5. The NPS will maintain and operate park roads and parkways in accordance with adopted NPS standards pursuant to 23 U.S.C.
6. Inter-agency program and policy review conferences shall be conducted as necessary. Information for such conferences will include the following:
 - a. The NPS will provide:
 - 1) A priority list of proposed Federal Lands Highways Program projects (with supporting data) that will best meet its management and transportation needs based on short-term and long-range objectives.
 - 2) Status reports on transportation planning activities related to park management plans.
 - 3) Recommendations for long-range transportation needs and procedural changes.
 - 4) Identification of special needs for planning, engineering studies, research, and design necessary to undertake the program.

- b. The FHWA will provide:
 - 1) The latest information on available financing and its effects on the proposed program.
 - 2) The status of existing projects, activities, and supporting information required in analyzing and reviewing future programs.

- 7. Following the program and policy review conference, and upon written request from NPS, the FHWA will approve the program of Federal Lands Highways Program projects or changes thereto and allocate the funds authorized. Necessary program changes and modifications in the Federal Lands Highway Program as proposed by NPS shall be submitted to FHWA for reprogram approval.

- 8. The FHWA shall be responsible for presenting budget and program information regarding the Federal Lands Highways Program to the Congress as required. The NPS and FHWA will cooperate in collecting information and preparing reports as may be required.

III. SUMMARY

- A. This agreement is not intended to fix procedures to be followed so rigidly as to prevent logical and practical actions by the agencies, but rather to formulate a general, uniform procedure, as required by 23 U.S.C. 204, applicable to the implementation of the park roads and parkways program.

- B. FHWA and NPS personnel are encouraged to consult with each other during the various phases of program development and implementation and to agree on such matters as appropriate which fall within their respective jurisdictions and responsibilities. Matters which require consideration at higher levels should be referred to appropriate office within each agency.

- C. Respective FHWA Direct Federal Divisions and NPS Regional Offices may enter into such supplementary or ancillary regional agreements as may be appropriate and mutually agreed to regarding details of planning procedures and implementation of the approved program; provided, however, that any such regional documents shall be deemed valid only if and to the extent they are in conformity with this agreement and applicable laws and regulations, and no such regional agreement shall be deemed to supercede this agreement in any manner whatsoever.
- D. This agreement shall become effective on the date of the last approving signature. Renegotiation of this agreement or any part thereof shall be by mutual concurrence in writing.

APPROVED:

May Lou Grier

(acting)
Director, National Park Service

May 3, 1983

Date

Ray Barnhart

Federal Highway Administrator

May 19, 1983

Date