Section 4(f) de minimis Finding

SR-71 Freeway Upgrade / Mission Boulevard Interchange Improvement Projects

City of Pomona, Los Angeles County
District 07 – LA – 71 – PM R0.5/R4.7
District 08 – SBD – 71 – PM 0.0/0.2
Project EFIS: 0700020800
Project EA: 21060

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The environmental review, consultation, and any other actions required by applicable Federal Environmental laws for this project are being, or have been, carried out by Caltrans pursuant to 23 U.S.C. 327 and the Memorandum of Understanding dated December 23, 2016 and executed by FHWA and Caltrans.
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## Acronyms and Abbreviations

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Section 4(f) of the Department of Transportation Act of 1966, codified in federal law at 49 United States Code (U.S.C.) 303, declares that “it is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreational lands, wildlife and waterfowl refuges, and historic sites.”

Section 4(f) specifies that the Secretary [of Transportation] may approve a transportation project requiring the use of publicly owned land of a public park, recreational area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance (as determined by the federal, State, or local officials having jurisdiction over the park, refuge, or site) only if:

- There is no prudent and feasible alternative to using that land
- The project includes all possible planning to minimize harm to the park, recreational area, wildlife and waterfowl refuge, or historic site resulting from the use

Section 4(f) requires consultation with the United States Department of the Interior (DOI) and, as appropriate, the United States Department of Agriculture, and the Department of Housing and Urban Development in developing transportation projects that use lands protected by Section 4(f).

The proposed project is a transportation project that may receive federal funding and/or discretionary approvals through the U.S. Department of Transportation (USDOT) (i.e., Federal Highway Administration [FHWA]); therefore, documentation of compliance with Section 4(f) is required.

This Section 4(f) analysis provides an overview of parks, recreational facilities, wildlife refuges, and historic properties found within 0.5 mile of the proposed project in accordance with the requirements of Section 4(f).

To determine whether Section 4(f) applies to a federal transportation project, two prerequisites are considered:

- The project must involve a resource that is protected under the provisions of Section 4(f)
- There must be a use of that resource

1.1 Project Description

State Route 71 (SR-71) is a major regional highway transportation facility traversing parts of Los Angeles, San Bernardino, and Riverside County. It is a connecting link for major east-west corridors passing through the area and serves as an inland passageway for interregional travel between San Diego and the eastern portion of the Los Angeles area. The route also serves heavy commute traffic originating in the cities of Chino, Ontario, and Pomona that is destined for employment centers in Orange and Los Angeles Counties (See Figure 1).

SR-71 experiences congestion while carrying substantial traffic volumes through the study area during peak hours. Travel demands and urban growth projections indicate that unacceptable levels of service will extend for longer periods of time over larger sections during peak periods unless improvements are made.
In 1989 a Final Environmental Impact Statement (FEIS) was prepared by Parsons Brinkerhoff, which covered improvements along SR-71 from Interstate 10 (I-10) to State Route 91 in Los Angeles, San Bernardino, and Riverside Counties. This FEIS outlined the need to upgrade the existing SR-71 facility, however due to funding issues, the improvements from I-10 to State Route 60 (SR-60) were dropped from the original 1989 project.

In 2002 a Negative Declaration / Finding of No Significant Impact (ND/FONSI) was approved by Federal Highway Administration and the California Department of Transportation (Caltrans) to cover the previously dropped segment from I-10 to SR-60. The preferred alternative selected was Alternative 2B: Half depressed freeway, which proposed for the facility to be widened to three mixed flow lanes and one High Occupancy Vehicle lane in each direction. In addition, Mission Boulevard would be improved with a grade-separated partial cloverleaf interchange. Due to funding issues, widening of SR-71 was put off and the improvements to Mission Boulevard commenced.

In 2013 a revalidation of the 2002 ND/FONSI document was issued by Caltrans. The revalidation process evaluates if the existing determination still remains valid and if the project can proceed to the next major federal approval or if additional documentation is needed to maintain the validity of the original determination. With supporting technical studies, and a public outreach effort, the preferred alternative was changed to Alternative 3: At-Grade Freeway to reduce the impacts from Right of Way (ROW) Acquisitions. The number of travel lanes proposed between the 2 alternatives remain the same from I-10 to the County Line.

1.2 Purpose and Need

The purpose of this project is to alleviate traffic congestion by increasing capacity on SR-71 from I-10 to the County Line to handle forecasted traffic volumes. This project will achieve this by doing the following:

- Upgrade SR-71 from an expressway to full freeway standards between I-10 and the County Line.
- Establish High Occupancy Vehicle (HOV) Lanes completing the gap that currently exists in this area.
- Reduce congestion and improve traffic safety on SR-71 between I-10 and the County Line to accommodate forecasted traffic volumes in coming years.

There is a need to eliminate signalized at-grade intersections to reduce accidents and improve safety by implementing the current Caltrans design standards. The following list is a summary of problems related to the SR-71:

- Congestion, existing and future
- Growth and the need for carpool incentives
- Local circulation problems
- Accidents
- Rural designs in urban areas
- Missing gap in freeway HOV system
1.3 Project Build Alternative

In 2013, technical studies were evaluated to determine if a new at-grade alignment could be established within the existing project limits to avoid utility impacts. With the inputs and comments from the community, business owners, politicians, and City Councilmembers, Caltrans selected to change the preferred alternative to alternative 3 as the new preferred alternative to further improve the safety of the freeway, reduce the overall freeway footprint, minimize the environmental impacts, and reduce the construction costs. On January 7, 2013, the City of Pomona also passed a resolution to adopt Alternative 3 as the locally preferred alternative.

The new preferred alternative proposes to widen SR-71 to a standard 8-lane freeway including three mixed flow lanes and one HOV lane in each direction from I-10 to the County Line. The freeway profile will be at-grade with no overcrossings proposed. A pedestrian overcrossing near 9th Street and a frontage road on the west side of the freeway between Philips Drive and Old Pomona Road are also proposed.
Chapter 2 Regulatory Setting

This evaluation identifies the Section 4(f) resources in the proposed project study area, describes the nature and extent of the potential effects on these properties, evaluates alternatives that would avoid the use of Section 4(f) resources, and describes measures to minimize harm to the affected resources.

2.1 Determining Section 4(f) Resources

There are two steps in determining whether Section 4(f) applies to a project:

- The project must involve a resource that is protected by the provisions of Section 4(f)
- There must be a “use” of that resource

Protected resources include:

- Public parks
- Recreational areas of national, state, or local significance
- Wildlife or waterfowl refuges
- Historic sites of national, state, or local significance

2.2 Types of 4(f) Use

As defined in 23 Code of Federal Regulations (CFR) 774.17, a “use” of a protected resource occurs when any of the following conditions are met:

- Direct Use: Land is permanently incorporated into a transportation facility
- Temporary Use: There is a temporary occupancy of land that is adverse in terms of the statute’s preservation purpose as determined by the criteria in 23 CFR 774.13(d)
- Constructive Use: There is a constructive use of a Section 4(f) property as determined by the criteria in 23 CFR 774.15

2.2.1 Direct Use

A direct use of a Section 4(f) resource takes place when part or all of the property designated for protection under Section 4(f) is permanently incorporated into a transportation project (23 CFR Section 774.17). This may occur as a result of partial or full acquisition of a fee simple acquisition, permanent easements, or temporary easements that exceed the regulatory limits (23 CFR Section 771.135).

2.2.2 Temporary Use

A temporary use of a Section 4(f) property occurs when there is temporary occupancy of a protected property for construction-related activities and when that temporary occupancy is considered adverse in terms of the preservationist purposes of the Section 4(f) statute. If the following five conditions set forth in 23 CFR Section 774.13(d) can be satisfied, Section 4(f) does not apply.
• The duration of the occupancy must be temporary (i.e., shorter than the period of construction) and does not involve a change in ownership of the property.
• The scope of the work must be minor, with only minimal changes to the protected resource.
• There are no anticipated permanent adverse physical impacts on the protected resource and no temporary or permanent interference with the activities or purpose of the resource.
• The land being used must be fully restored to a condition that at least equals the condition that existed prior to the proposed project.
• There must be documented agreement by the appropriate officials having jurisdiction over the Section 4(f) resource regarding the above conditions.

During construction of a highway project, a temporary use of a Section 4(f) property may be necessary for activities such as providing staging, access areas, or regrading slopes. Once the easement(s) is/are no longer needed, the Section 4(f) property must be restored to the conditions in which it was originally found.

2.2.3 Constructive Use

A constructive use of a Section 4(f) resource happens when a transportation project does not permanently incorporate land from the resource in the transportation facility, but the proximity of the project to the Section 4(f) property results in adverse proximity impacts (i.e., noise, vibration, visual, access, and/or ecological impacts) so severe that the protected activities, features, or attributes that qualify the property for protection under Section 4(f) are substantially impaired (23 CFR Section 774.15). Substantial impairment occurs only if the protected activities, features, or attributes of the Section 4(f) property are substantially diminished by the indirect adverse impacts of the project (23 CFR Section 774.15(a)). This determination is made through the following process:

• Identification of the current activities, features, or attributes of the resource that may be sensitive to proximity impacts
• Analysis of the potential proximity impacts of the project on the resource
• Consultation with the appropriate officials having jurisdiction over the resource (23 CFR Section 774.15(d))

2.3 Determining de minimis Impacts to Section 4(f) Resources

A de minimis impact to a Section 4(f) resource is a nominal impact that would not be adverse to the activities, features, or attributes of the Section 4(f) resource. A de minimis impact finding can be made for some direct uses and temporary uses; however, a de minimis impact finding cannot be made for constructive uses.

Under FHWA regulations (23 CFR Section 774.13(d)), temporary occupancy, including TCEs, and other temporary project activities are typically considered de minimis impacts if they do not exceed the five thresholds discussed above in Section 2.2.2.

Under Section 4(f), de minimis impacts to historic resources would be either no impact to the property or a finding of “no adverse effect” under 36 CFR Part 800. For other Section 4(f) protected resources, including publicly owned parks, recreational areas, and wildlife and waterfowl refuges, de minimis impacts
would be defined as those impacts that do not adversely affect the activities, features, or attributes of the Section 4(f) resource.

The *de minimis* impact finding is based on the level of impact, including any avoidance, minimization, and mitigation or enhancement measures that are included in the project to address the Section 4(f) use. *De minimis* impact findings are expressly conditioned upon the implementation of measures that are relied on to reduce the impact to a *de minimis* level.

To reach a *de minimis* impact finding for properties where a use would occur, the official(s) with jurisdiction over the Section 4(f) resource must provide written concurrence to Caltrans that the project would not adversely affect the activities, features, or attributes that qualify the property for protection under Section 4(f). In addition, the public must be afforded the opportunity to review and comment on the effects of the project on the identified Section 4(f) resource(s).

### 2.4 Public Comment Period

This Draft Section 4(f) *de minimis* Finding was prepared for the project and is being circulated for public review and comment during this period between April 24, 2019 and May 24, 2019.

### 2.5 Caltrans Proposes *de minimis* Finding for the Proposed Project

Since the City of Pomona is the responsible official with jurisdiction over Veterans Park, this Draft Section 4(f) *de minimis* Finding was circulated to the City of Pomona for commenting on the proposed *de minimis* finding. The Deputy City Manager was mailed a copy on April 24, 2019. More information can be found in chapter 4 of this Section 4(f) document.
Chapter 3  List of Section 4(f) Properties within 0.5 mile of the SR-71 project

3.1 List of Section 4(f) Properties

Properties in the project study area were identified if they were:

- Existing publicly owned recreational and park resources, including local, regional, and State resources
- Publicly owned wildlife and water fowl refuges and conservation areas
- Historic sites of national, state, or local significance

Research was conducted to identify publicly owned parks, recreational areas, wildlife and waterfowl refuges, and land from a historic site within 0.5 mile of the project alternatives.

3.1.1 Historic Site Properties

Based on this research, there was one historic site within the project study area (See Figure 2).

Phillips Mansion – The Phillips Mansion, completed in 1875, was the first brick house built in the Pomona Valley; and the 5th oldest building in the Pomona Valley. The 12-bedroom Second Empire style mansion was built for Louis Phillips, the leader in the development of the Pomona Valley. Phillips founded the town of Spadra, the social and trade center for the area, which was later incorporated by Pomona. Phillips owned a portion of Rancho San Jose and was a highly successful rancher. He was also known for his many real estate investments in Pomona as well as owning and entire city block in downtown Los Angeles. The Phillips Mansion is listed in the NRHP under Criteria B for its association with Louis Phillips, and under Criteria C for its architecture as rare brick example of a Second Empire house in Southern California. The proposed project does not use this section 4(f) property.
3.1.2 Public Park and Recreational Area Properties

Based on this research, there were eleven public parks/recreational areas within the project study area (See Figure 3).

**Frank G. Bonelli Regional Park** – This park is owned by the County of Los Angeles and is designated critical habitat for federally threatened coastal California gnatcatcher within Frank G. Bonelli Regional Park, but the critical habitat is located entirely outside of the project limits and will not be impacted. All work in areas near the park would be minor and limited to lane restriping within the prism of the roadway. Proximity impacts does not rise a level of substantial impairment and the project does not use this section 4(f) property.

**John F. Kennedy Park** – This park is owned by the City of Pomona and consists of a basketball court, a big toy, a gazebo, and a baseball field. Proximity impacts does not rise a level of substantial impairment and the project does not use this section 4(f) property.

**Veterans Park Soccer Complex** – A City of Pomona owned public park with 4 functioning soccer fields. A dirt road surrounds 2 sides of the fields, which is utilized by Tractor/All-terrain vehicle to help relocate the soccer goals, when there is a need to store them off-field. Access to Veterans Park is on the west side of the parcel, where the public parking lot is located.

**Westmont Park** – This park is also owned by the City of Pomona and consists of a tennis court, a basketball court, a baseball field, a big toy, and a community center. Proximity impacts does not rise a level of substantial impairment and the project does not use this section 4(f) property.

**Welch Park** – A City of Pomona owned park that comprises of three baseball fields, a big toy, and a basketball court. Proximity impacts does not rise a level of substantial impairment and the project does not use this section 4(f) property.

**Palm Lake Golf Course** – A publicly owned golf course with a 9-hole golf course. This golf course closed in 2017. Proximity impacts does not rise a level of substantial impairment and the project does not use this section 4(f) property.

**Phillips Ranch Park** – This City of Pomona owned Park consists of a large field, a big toy, and a gazebo. Proximity impacts does not rise a level of substantial impairment and the project does not use this section 4(f) property.

**Martin Luther King Jr Memorial Park** – Another City of Pomona owned public park which is made up of picnic benches, a big toy, and a basketball court. Proximity impacts does not rise a level of substantial impairment and the project does not use this section 4(f) property.

**Powers Park** – A small Pomona owned public park which has a few picnic tables, some grills, and a big toy. Proximity impacts does not rise a level of substantial impairment and the project does not use this section 4(f) property.

**Philadelphia Park** – This park is owned by the City of Pomona and consists of 3 soccer fields, 2 basketball courts, a big toy, and a gazebo. Proximity impacts does not rise a level of substantial impairment and the project does not use this section 4(f) property.
Renacimiento Community Center - Proximity impacts do not rise a level of substantial impairment and the project does not use this section 4(f) property.
Figure 3: Public Parks/Recreational Areas Adjacent to SR-71
Chapter 4   Impacts on Section 4(f) Properties

This section describes which Section 4(f) resources will be affected if the proposed project is implemented.

Of the eleven parks and recreational areas and one historic site, only Veterans Park would have a direct and temporary impact under the Build Alternative.

The Veterans Park, located at 1945 W. Mission Boulevard, is owned by the City of Pomona and is considered a significant recreational resource. Veterans Park is comprised of 4 full-size artificial turf fields and a concession stand, picnic tables, public restrooms, and drinking fountains.

Figure 4: Veterans Park

4.1 Direct Use

The Build Alternative would require direct use of the Section 4(f) resource. The direct use would require acquisition of 207 square feet of Veteran’s Park depicted in brown (See Figure 4). This take would be utilized in the project for the bridge widening. This constitutes a small portion of the park and the existing use and access of the parkway would not be affected. No activities, features, or attributes of the park will be adversely affected. Access to the park is anticipated to be maintained at all times during project construction and operation.
4.2 Temporary Use

The Build Alternative would require temporary use of the Section 4(f) resource. A temporary footing easement and temporary construction easement (See Figure 4), would require approximately 3,025 square feet of park space during construction. Once construction has completed, the space will be restored to its original condition. Measures would be implemented to avoid and minimize impacts to the soccer fields. The Temporary Construction Easement has been tapered by an additional 5 feet to accommodate corner kicks on the eastern soccer field. The project’s temporary occupancy of this 4(f) land satisfies all five conditions set forth in 23 CFR Section 774.13(d) so section 4(f) does not apply.

- The duration of the occupancy must be temporary (i.e., shorter than the period of construction) and does not involve a change in ownership of the property. The construction of the bridge widening at Veterans Park should take no more than 30 days.
- The scope of the work must be minor, with only minimal changes to the protected resource. Once construction has complete, the space used for the temporary construction easement will be restored to its original condition.
- There are no anticipated permanent adverse physical impacts on the protected resource and no temporary or permanent interference with the activities or purpose of the resource. All soccer fields will remain open for play during construction.
- The land being used must be fully restored to a condition that at least equals the condition that existed prior to the proposed project. Once construction has complete, the space used for the temporary construction easement will be restored to its original condition.
- There must be documented agreement by the appropriate officials having jurisdiction over the Section 4(f) resource regarding the above conditions. See coordination section with the City of Pomona.

4.3 Constructive Use

The Build Alternative would not require constructive use of the Section 4(f) resource.

4.4 Determination of Use

According to FHWA guidance provided in the Environmental Review Toolkit for Section 4(f) Evaluations, to be considered a de minimis impact, the amount of land to be acquired from any Section 4(f) site must not exceed 1 acre. Given that this direct use is below the threshold set forth in the statute, the proposed 207 square feet of partial acquisition of Veterans Park is eligible to be considered as a de minimis impact. This acquisition would not adversely affect the activities, features, or attributes of Veterans Park.

In addition, the Build Alternative would result in temporary use of 3,025 square feet of Veterans Park, however, the work is temporary and minor in scope, and there are no anticipated permanent adverse physical effects or other inference with the activities of the soccer complex. Temporarily disturbed areas would be fully restored to pre-construction conditions once construction is complete. Access to the park will not be impaired during operation of the project.

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Any minor effects on the resource would be minimized, mitigated, and avoided, resulting in a *de minimis* determination of the resource. In summary, the Build Alternative would affect one Section 4(f) property; however, all impacts are considered *de minimis*. Therefore, no avoidance alternatives are required.

The direct use on Veterans Park land is affecting less than 1% of Park’s total land acreage. The temporary use is being considered temporary occupancy status, given that the five conditions set forth in 23 CFR Section 774.13(d) are satisfied and temporary use proposed would not adversely affect the activities, features, or attributes of Veterans Park.
Chapter 5 Avoidance, Minimization, Mitigation, and Enhancement Measures

Avoidance alternatives should consider minor alignment shifts, reduced cross-sections, retaining structures, modifications to the project and so forth.

Figure 5: Partial Take

Specific measures were implemented to minimize impacts to the soccer fields of Veterans Park. The temporary construction easement fence was tapered 5 feet adjacent to the corner of the soccer field to avoid disruption from the soccer activities of Veterans Park. Players will still be able to execute a corner kick with the temporary construction easements.