process. Absent that approval, all coordination with the tribes will be through the I-405 Environmental Manager.

The CRM CONSULTANT may be asked to participate in Section 106 consultation meetings, which will be considered extra work unless the meetings are already included within the scope of work.

Pedestrian Survey
Survey of the entire APE should be completed using adjacent transects spaced at 10 meter intervals (maximum). When reporting the results of pedestrian survey, the transect interval description should reflect where transects were actually walked, and transects should be shown on project maps. All areas not subjected to pedestrian reconnaissance due to artificial surface coverage (pavement or imported fill) should be identified.

Subsurface Exploration
The intensity of planned shovel probing should maximize the chances of detecting any buried or obscured resource. This protocol is intended to minimize the chances of encountering a buried cultural resource during construction.

Probes should each be 40 centimeters in diameter and should be excavated to a depth slightly into glacial sediments, anticipated in the I-405 area to be firmly compacted pale light brown to yellow to olive to gray silts with broad variation in rounded clasts.

Shovel depth may be 80 to 120 centimeters below the surface; those requiring deeper excavation should be completed using a 10-centimeter (4-inch) bucket auger. All excavated sediments should be sifted through ¼-inch mesh screen.

Artifacts should be placed in polyethylene bags and returned to shovel probes, not collected, during the discovery phase, so that the site's entire artifact assemblage remains in place. Bagged artifacts should be placed in shovel probes deeply enough to remain non-observable from the surface but also not too deeply to be relocated. Should the site be subjected to NRHP-eligibility testing and/or data recovery, artifacts reburied in shovel probes shall be excavated and collected for analysis and permanent curation.

In some project areas, ground disturbance will be planned, but shovel probe excavation is not indicated because the area is currently paved or geomorphological study (discussed below) has shown the area to be covered with modern fill.

<u>Geomorphology and Modern Landscape Development</u>
Because the corridor traverses a highly modified landscape, many places in the APE may be covered in modern artificial fill, or the Holocene sediments may have been removed. If this can be clearly demonstrated using geomorphological techniques or other documentation, those areas need not be investigated but should be pedestrian surveyed. On the other hand, placing a few probes to determine the actual subsurface conditions is important to verify or falsify assumptions about previous ground disturbance. The CRM CONSULTANT must consult with the PEM and the Urban Corridors Office CRS prior to fieldwork and following

the first phase of subsurface investigations to discuss areas to be excluded or sampled at a lower intensity due to indications of previous ground disturbance.

Shovel Probe Frequency Based on Probability

The CRM CONSULTANT will excavate shovel probes in areas of proposed roadway widening, conveyances, ecology embankments, noise barriers, and retaining walls at 10 meter intervals in high probability areas, at 20 meter intervals in moderate probability areas and at 30 meter intervals in low probability areas. It is expected that probability will fluctuate along roadway alignments and shovel probe density should fluctuate according to in-the-field terrain conditions actually experienced.

Probes will be excavated at 10 meter intervals in areas proposed for new or expanded water detention facilities (ponds) or wetland creation or enhancement, regardless of defined probability area, because 100 % of substrate will be removed and hauled away to another location. The WSDOT wants finer sampling in these areas to obtain greater assurance that these materials are devoid of cultural materials or human remains prior to their removal. However, this work may be phased, as described in the following section.

Phased Investigation Protocols for Specific Project Elements (Optional as Conditions Allow)

As a cost-saving measure to WSDOT, shovel probe work may be phased in selected areas suspected to have a high probability of being previously disturbed (i.e., medians, intersection gores and margins). With the phased approach, the CRM CONSULTANT first will provide the PEM and CRS with a table that displays the requisite number of shovel probes (based on expected probability independent of possible disturbance) per project area element or feature - right-of-way widening strips, pond number, and wetland location – for review prior to fieldwork, then will excavate 33% of the indicated shovel probes for each element/feature. Probes should be placed in a spatial distribution that provides a representative sample of the entire project element. The CRM CONSULTANT then will provide the PEM with a representative sediment/soil profile description(s) [Holocene soil horizons, other horizons, and glacial sedimentary unit(s)], a sketch map set of stratigraphic profiles for all excavated probes, a representative number of digital photographs, and a brief statement of stratigraphic interpretation for each work area. The WSDOT PEM and CRS will use this information to determine if the area(s) is, previously disturbed or all culture-bearing stratigraphic layers have been destroyed, or if the area(s) is relatively intact and an additional work phase is needed. WSDOT either will determine that no historic properties could be present at the location, or request another 33% of the indicated shovel probes be completed. After excavating the additional 33%, the CRM CONSULTANT will again provide shovel probe results and stratigraphic information to the PEM. WSDOT will either determine that no historic properties could be present, or request that the remaining shovel probes be excavated.

Deep Investigation

In areas with high deposition rates, archaeological materials can be deeply buried. Deep investigation, defined as probing deeper than the effective limit of a shovel and auger, may be necessary to sample the entire vertical APE. Deep investigation may include backhoe trenches, backhoe pits, augured bores, and solid core samples retrieved using rotasonic

coring. Project areas that likely will require deep investigation procedures include bridge crossings over rivers, the locations of elevated structure pillars/supports in floodplains, and some detention ponds.

The PEM and the WSDOT CRS should be consulted prior to the initiation of deep investigation to assess which project elements will require deep testing. If necessary, the CRM CONSULTANT may also consult with the PEM and WSDOT CRS during creation of the scope of work.

Recording Archaeological Sites
The CRM CONSULTANT should use the following archaeological definitions: an "isolate" is a single artifact; a "site" is two or more artifacts or a single cultural feature or a combination of artifacts and feature.

All newly identified resources should be investigated with shovel probes (if artifact observed on surface) or additional shovel probes (if an artifact found in a shovel probe) during the initial or discovery phase of fieldwork to obtain a general understanding of character and complexity. The CRM CONSULTANT does not need to establish a reliable site boundary or representative characterization of artifact assemblage or feature association during the initial fieldwork phase; such tasks are considered extra work to be completed during the site evaluation phase.

Recording Historic Structures
The CRM CONSULTANT should record and evaluate all historic structures within the APE and prepare Historic Property Inventory Forms for each. Historic structures are defined as being 50 years or older when highway construction is anticipated to begin.

The CRM CONSULTANT will record all historic structures within the adjacent tax parcel to each side of the WSDOT right-of-way or associated urban intersections and streets improved by projects. Based on the circumstances of each project, WSDOT may determine that it is sufficient to record and evaluate historic structures whenever they are within the adjacent tax parcel or within 200 ft. of I-405 right-of-way or urban intersections scheduled for improvements, whichever is the shorter distance.

Project Specific Issues
Each of the individual projects within the I-405 corridor improvement project may have project-specific testing issues. The CRM CONSULTANT will work with the WSDOT CRS to produce an appropriate testing protocol for each project.

Technical Report Requirements
Technical Memoranda must include reporting of all methods and results presented in this guide, and also must meet all requirements for survey reports as provided by the Department of Archaeology and Historic Preservation (DAHP) (available on-line). The CRM CONSULTANT should ensure reports submitted to WSDOT meet all the DAHP requirements, which do change periodically.

I-405 CORRIDOR UNANTICIPATED ARCHAEOLOGICAL DISCOVERY PLAN

A Plan and Procedure for Dealing with the Unanticipated Discovery of Human Remains or Cultural Resources

Last Update: January 15, 2008

1.0 INTRODUCTION

The Interstate 405 (I-405) Corridor Program refers to numerous multi-modal improvements along the I-405 Corridor between Tukwila in the south and Bothell in the north. It will add up to two lanes in each direction, improve key arterials and make many safety improvements.

The Washington State Department of Transportation (WSDOT) has analyzed the impacts of this project under the National Environmental Policy Act (NEPA). In addition, the agency has applied for, and received, various local, State and Federal permits required for the construction. When projects require Federal funding, permits or approval, they must adhere to provisions of the National Historic Preservation Act of 1966, as amended (NHPA). Because this project is on the US Interstate System, the Federal Highway Administration (FHWA) is the Federal lead agency for further consultation under the NHPA. Potentially concerned parties include: the Department of Archaeology and Historic Preservation (DAHP), WSDOT, and the following Indian Tribes: Snoqualmie Tribe, Muckleshoot Indian Tribe, Tulalip Tribes of Washington, Confederated Tribes and Bands of the Yakama Nation. The non-federally recognized Duwamish Tribal Organization has been consulted as an interested party. During the course of the design, document preparation, and construction, WSDOT consulted with these groups and will continue to do so in accordance with 36 CFR 800.2(a)(4).

WSDOT conducted a cultural resources study for each project within the I-405 Corridor, which included background research, an archaeological survey and subsurface testing supervised by an archaeologist who meets Secretary of Interior standards. Documentation of this effort is available in the project-specific NEPA documentation.

This document serves as the plan for dealing with any unanticipated discoveries of human skeletal remains, artifacts, sites, or any other cultural resources eligible for listing in the National Register of Historic Places (NRHP). This plan is intended to provide guidance to WSDOT personnel and the construction team so they can:

- Comply with applicable Federal and State laws and regulations, particularly 36 CFR 800 (as amended January 11, 2001), the regulations that implement Section 106 of the National Historic Preservation Act of 1966; and the following sections of the Revised Code of Washington: 27.44 Indian Graves and Records, 27.53 Archaeological Sites and Resources, and 68.60.050 Protection of historic graves;
- Describe to regulatory and review agencies the procedures the construction team and WSDOT will follow to prepare for and deal with unanticipated discoveries; and
- Provide direction and guidance to project personnel on the proper procedures to be followed should an unanticipated discovery occur.

This document also includes Attachment A: Contact Information and Attachment B: Acronyms and Abbreviations.

2.0 PROCEDURES FOR THE DISCOVERY OF HUMAN SKELETAL REMAINS

Any human skeletal remains that are discovered during this project will at all times be treated with dignity and respect. The notification contacts provided in Attachment A are to be called immediately. The other required actions are as follow:

A. If any member of the construction team, contractors or subcontractors believes that he or she has encountered skeletal remains of any kind, all work at and adjacent to the discovery shall immediately cease. The area of work stoppage will be adequate to provide for the security, protection, and integrity of the skeletal remains, in accordance with Washington State law. He or she will immediately inform the WSDOT Project Engineer and the I-405 Environmental Manager.

B. Representatives of WSDOT will be responsible for taking appropriate steps to protect the discovery. At a minimum, the immediate area will be secured to a distance of thirty (30) feet from the discovery. Vehicles, equipment, and unauthorized personnel will not be permitted to traverse the discovery site.

C. The I-405 Environmental Manager will contact the WSDOT Urban Corridors Office (UCO) Cultural Resources Specialist (CRS) Ken Juell. The UCO CRS will visit the site of the discovery, make an identification of the remains, and notify the I-405 Environmental Manager of his findings and the basis for the identification. If the I-405 Environmental Manager is unable to reach the UCO CRS, the I-405 Environmental

D. Manager will contact another CRS or the Cultural Resources Program Manager listed on Attachment A, starting with Barbara Bundy and continuing down the list until personal contact is made. The I-405 Environmental Manager will also notify the UCO Environmental Services Director and the UCO Deputy Environmental Services Director that WSDOT Headquarters' CRS or Cultural Resources Program Manager has been contacted.

E. If the remains are nonhuman bone, but appear to be associated with historic human activity, the procedures described in Section 3.0 will be followed. If the remains are determined to be human, the I-405 Environmental Manager will follow step E, below.

F. Following specific guidance in Appendix 1, the WSDOT Project Engineer will immediately call the King County Sheriff's Office and the WSDOT cultural resource staff. WSDOT acknowledges that any find of human skeletal remains may be a burial of Native American ancestry. It is further acknowledged that the concerned Indian Tribes are extremely sensitive about ancestral burials, and that the find must be treated confidentially. The Sheriff's Office will arrange for a representative of the King County Medical Examiner's Office to examine the discovery. The Medical Examiner, or his or her representative, will determine whether the discovery should be treated as a crime scene, a historic grave of a person or persons of nonnative ancestry, or as a human burial of Native American ancestry in accordance with State law. The remains will be protected from further disturbance until WSDOT, FHWA, DAHP, and concerned Native American Tribes have determined appropriate treatments and ultimate disposition of the remains. No additional excavation will be undertaken prior to tribal consultation, and no exposed human remains will be left unattended during work hours. Concerned Native American Tribes will be given the opportunity to visit and name the site, and conduct ceremonies they deem necessary.

G. WSDOT will notify the DAHP, FHWA, and the concerned Native American Tribes of the unanticipated discovery of human remains. If the remains are not determined to be associated with a crime scene, WSDOT will initiate consultation with appropriate parties to develop a treatment plan. If remains are historic non-Native American in origin, the Tribes may choose to exit consultations.

H. If disinterment of Native American remains becomes necessary, the consulting parties, which will include the DAHP, FHWA, concerned Indian Tribes, and WSDOT, will jointly determine the final disposition of the human skeletal remains for re-interment.

3.0 PROCEDURES FOR THE DISCOVERY OF ARCHAEOLOGICAL RESOURCES

A. If any member of the construction team, contractors or subcontractors, believes he or she has inadvertently uncovered any cultural resource, all work at or adjacent to the discovery shall immediately cease. He or she will inform the I-405 Environmental Manager who will notify the WSDOT UCO CRS (Juell). The area of work stoppage will be adequate to provide for the security, protection, and integrity of the archaeological discovery. A cultural resource discovery could be prehistoric-period or historic-period in age and consist of (but not limited to):

- areas of charcoal or charcoal-stained soil and stones;
- stone tools or waste flakes (i.e., an arrowhead or stone chips);
- bone, burned rock, or mollusk shell, whether or not seen in association with stone tools or chips; and
- clusters of tin cans, ceramics, flat glass, or bottles, concentrations of brick, or logging or agricultural equipment.

B. The WSDOT CRS will visit the work site and determine if the resource is potentially eligible for listing on the NHRP. Any newly discovered archaeological resource will be considered eligible for the NRHP until determined otherwise by WSDOT, DAHP, and FHWA. The I-405 Environmental Manager will notify the UCO Environmental Services Director and the Deputy Environmental Services Director, affected Tribe(s), DAHP, and the FHWA of any unanticipated discovery. If the discovery is determined to be historic or archaeological in nature, or consists of Native American human remains, DAHP, FHWA, and Tribe(s) will be consulted as appropriate to determine the course of action.

C. Construction will be halted within the immediate area of the discovery and the scene will be protected until the WSDOT Project Engineer has arranged for the discovery to be identified by the WSDOT CRS and the WSDOT Cultural Resource Staff, as necessary. Steps will be taken to protect the discovery site. At a minimum, subsurface disturbances will stop and the area adjacent to the discovery will be secured. Vehicles, equipment, and unauthorized personnel will not be permitted to traverse the discovery site. Work in the immediate area will not resume until treatment of the discovery has been completed following the provisions of this section.

D. A WSDOT archaeologist will ensure proper documentation and assessment of any discovered cultural resources. All prehistoric and historic cultural material discovered during project construction will be recorded by the professional archaeologist using standard techniques and in the format requested by DAHP. Site overviews, features, and artifacts will be photographed; stratigraphic profiles and soil/sediment descriptions will be prepared for subsurface exposure. Discovery locations will be documented on scaled site plans and site location maps.

E. Sites discovered during construction will be assumed eligible under Criterion D (a property or resource that has yielded, or may be likely to yield, information important for the understanding of history or prehistory) for inclusion in the National Register of Historic Places (NRHP) for the purposes of Section 106 compliance, in accordance with 36 CFR 800.13(c).

F. If the federal and state agency representatives determine that the discovery is an eligible cultural resource, they and the concerned Indian Tribe(s), as appropriate, will consult to determine appropriate treatment to be presented and agreed upon in a Memorandum of Agreement (MOA) or other appropriate documentation. Mitigation measures will be developed in consultation with DAHP, FHWA, and the affected Tribes (where appropriate), which could include avoidance through redesign, conducting data recovery and/or relocating materials or remains. Treatment measures performed by WSDOT may include protecting in place or data recovery such as mapping, photography, limited probing, and sample collection, or other activity deemed appropriate through a MOA or other appropriate documentation.

G. Where complex or extensive cultural remains are encountered, WSDOT, FHWA, DAHP, and representatives of the identified concerned Tribes (if they choose to participate) will consult to determine the appropriate level of documentation and treatment of the resources.

H. WSDOT, DAHP, and FHWA will decide when construction may continue at the discovery location. Where cultural resources are encountered during construction, but additional project effects to the resources are not anticipated, project construction may continue while documentation and assessment of the cultural resources proceed. If continued construction is likely to cause additional impacts to such resources, project activities within a radius of 30 feet of the discovery will cease until the archaeological monitor has documented the site, evaluated its significance, and assessed potential effects to the site.

I. Cultural features, horizons, and artifacts detected in buried sediments may require further evaluation using hand-dug excavation units to clarify aspects of integrity, stratigraphic context, or feature function. Units may be dug in controlled fashion to expose features, collect radiocarbon or animal/plant macrofossil samples from undisturbed contexts, or interpret complex stratigraphy. A test excavation unit or small trench might also be used to cross-section a feature to determine if an intact occupation surface is present. Test units will be used only when necessary to gather information on the nature, extent, and integrity of subsurface cultural deposits to evaluate the site's potential to address significant research domains. Excavations will be conducted using state-of-the-art techniques for controlling provenience of recovered remains.

J. Sediments excavated for purposes of cultural resources investigations will be screened through 1/8-inch mesh. Spatial information, depth of excavation levels, natural and cultural stratigraphy, presence or absence of cultural material and depth of sterile soil, regolith, or bedrock will be recorded for each probe on a standard form. Test excavation units will be recorded on unit-level forms, which

include plan maps for each excavated level, and material type, number and vertical provenience (depth below surface and stratum association where applicable) for all artifacts recovered from the level. Radiocarbon and macrofossil samples will be taken from intact subsurface features exposed by shovel/auger probes or test units. A stratigraphic profile will be drawn for at least one wall of each test excavation unit.

K. All prehistoric and historic artifacts collected from the surface and from probes and excavation units will be analyzed, catalogued, and temporarily curated. Ultimate disposition of cultural materials will be determined in consultation with DAHP, FHWA, and concerned Tribes.

L. Within 90 days of conclusion of fieldwork, a management summary describing any and all monitoring activities and resultant archaeological excavations will be provided to the UCO Environmental Services Director, who will forward the report to the WSDOT Cultural Resource Office for review and delivery to DAHP, FHWA, and concerned Tribes.

M. If construction activity exposes human remains (burials, or isolated teeth or bones), construction in the immediate vicinity of the find will be halted. See Section 2.0 Procedures for the Discovery of Human Skeletal Remains.

ATTACHMENT A
Contact Information

1. Primary WSDOT Contacts

WSDOT I-405 Environmental Manager Bill Jordan
425.456.8647
425.457.0642 (cell)

UCO Environmental Services Director Sasha Visconty
206.464.1227
206.713-9406 (cell)

UCO Deputy Environmental Services Director Allison Hanson
206.716.1136
206.714.1548 (cell)

2. WSDOT Cultural Resources Contacts

UCO Cultural Resource Specialist Ken Juell
206.464.1236
206.498.0508 (cell)

WSDOT Cultural Resource Specialist Barbara Bundy
206.716.1122
206.389.8552
360.915.3429 (cell)

WSDOT Cultural Resources Program Craig Holstine
Manager 360.570.6637
360.701.5955 (cell)

WSDOT Cultural Resource Specialist Michael Chidley
206.440.4525
206.947.0919(cell)

WSDOT Tribal Liaison Colleen Jollie
360.705.7025

3. Agencies to be notified by WSDOT only.

Federal Highway Administration
Steve Boch
206.382.6360

Department of Archaeology and Historic Preservation
Matthew Sterner
360.586.3082
360.480.9654 (cell)

King County Sheriff's Office
206.296.4155
(Non-emergency)

King County Medical Examiner
206.731.3232

4. Appropriate Tribal Staff to be notified by WSDOT only.

Muckleshoot Indian Tribe
Laura Murphy
253.876.3272

Warren KingGeorge (human remains)
253.876.3269

Snoqualmie Tribe
Andrea Rodgers
425.888.6551

Tulalip Tribes
Hank Gobin
360.651.3310

Yakama Nation
Johnson Meninick
509.856.5121 (ext. 4737)

5. Interested Party Staff to be notified by WSDOT only

Duwamish Tribal Organization
Honorable Cecile Hansen
206.431.7582

ATTACHMENT B
Acronyms & Abbreviations

CRS Cultural Resource Specialist

DAHP Department of Archaeology and Historic Preservation

FHWA Federal Highway Administration

MOA Memorandum of Agreement

NEPA National Environmental Policy Act

NHPA National Historic Preservation Act

NRHP National Register of Historic Places

UCO Urban Corridors Office

WSDOT Washington State Department of Transportation

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

May 8, 2008

Reply to
Attn of: OEA-095

Jason McKinney
Project Environmental Manager
I-405 Project Team
600-108th AVE NE, STE 405
Bellevue, WA 98004

RE: I-405 Tukwila to Renton project approval

Dear Mr. McKinney;

I received information on the roadway improvement project along the I-405 segment from Tukwila to Renton, which is located over the Cedar Valley Sole Source Aquifer. This project is similar in scope and design to the previously approved I-405 Renton to Bellevue project (EPA approval letter dated March 8, 2007). The Tukwila to Renton Project extends approximately four and one-half miles along I-405 from I-5 to SR 169, and approximately two miles along SR 167, from I-405 to SW 43rd St. Per our phone conversation, we understand that the City of Renton is being consulted in all aspects of the project, assuring that their wellhead area will be protected from potential contamination. The City of Renton currently approves of the project.

As currently planned, we do not expect the project to be a significant risk to the Cedar Valley Aquifer, and therefore approve the expenditure of federal funds for the project.

Please feel free to call if you have any questions. We appreciate receiving notification of such projects, and will continue to provide timely reviews when they are received.

Sincerely,

Martha Lentz

Martha Lentz
Hydrogeologist

)

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CITY OF RENTON

Denis Law, Mayor

Office of the City Attorney
Lawrence J. Warren

Senior Assistant City Attorneys
Mark Barber
Zanetta L. Fontes
Assistant City Attorneys
Ann S. Nielsen
Garmon Newsom II
Shawn E. Arthur

July 14, 2008

William Jordan, I-405 Environmental Manager
Washington State Department of Transportation
I-405 Project Office
600 – 108th Avenue NE, Suite 405
Bellevue, WA 98004

Subject: I-405, Tukwila to Renton Improvement Project (I-5 to SR 169 – Phase 2) Clarifying Comments for the Draft Section 4(f) Evaluation

Dear Mr. Jordan:

This letter is in regards to comments the City provided the Washington State Department of Transportation (WSDOT) on the Tukwila to Renton Improvement Project Environmental Assessment (EA) in a letter dated May 22, 2008. The City would like to clarify its position regarding the Panther Creek Wetland Open Space area and the Cedar River Natural Area.

Upon further discussion with WSDOT, the City has determined that the Panther Creek Wetland Open Space would likely only be developed with a multiuse trail if construction occurs for a regional detention within the complex as stated in our 2003 Parks, Trail, and Open Space plan. At this time, we do not consider the Panther Creek Wetland Open Space Area to meet the criteria for a Section 4(f) Resource.

We have also discussed with WSDOT additional details regarding the Cedar River Natural Area. There are two parcels of land acquired by the City from Puget Sound Energy through a quit claim deed. These parcels are encumbered by utility easements and are not part of the Cedar River Natural Area. The effects on the Narco property and associated mitigation as described in WSDOT's Draft Section 4(f) Evaluation are accurate. No additional effects on the Cedar River Natural Area are expected.

Sincerely,

Lawrence J. Warren
City of Renton Attorney

Cc: Gregg Zimmerman, Administrator, Planning/Building/Public Works
Peter Hahn, Deputy Public Works Administrator – Transportation
Terry Higashiyama, Community Services Administrator
Leslie Betlach, Parks Director

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Attachment 7: Final Section 4(f) Evaluation

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I-405, Tukwila to Renton Improvement Project
(I-5 to SR 169 – Phase 2)

INTERSTATE 405 Corridor Program

Congestion Relief & Bus Rapid Transit Projects

FINAL SECTION 4(f) EVALUATION TECHNICAL MEMORANDUM

July 2008

Washington State Department of Transportation

U.S. Department of Transportation
Federal Highway Administration

Title VI

WSDOT ensures full compliance with Title VI of the Civil Rights Act of 1964 by prohibiting discrimination against any person on the basis of race, color, national origin or sex in the provision of benefits and services resulting from its federally assisted programs and activities. For questions regarding WSDOT's Title VI Program, you may contact the Department's Title VI Coordinator at (360) 705-7098.

Americans with Disabilities Act (ADA) Information

If you would like copies of this document in an alternative format -- large print, Braille, cassette tape, or on computer disk, please call (360) 705-7097. Persons who are deaf or hard of hearing, please call the Washington State Telecommunications Relay Service, or Tele-Braille at 7-1-1, Voice (800) 833-6384, and ask to be connected to (360) 705-7097.

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APPENDICES

Appendix A: Department of the Interior Letter Dated May 19, 2008

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Appendix C: City of Renton Letter Dated July 14, 2008

Introduction

This document is the Final Section 4(f) Evaluation for the I-405, Tukwila to Renton Improvement Project (I-5 to SR 169 – Phase 2), referred to as the Tukwila to Renton Project. This evaluation is being circulated as part of the Tukwila to Renton Project Finding of No Significant Impact (FONSI) to satisfy the requirements of Section 4(f) of the U.S. Department of Transportation (USDOT) Act of 1966.

The Final Section 4(f) Evaluation represents the culmination of analysis initiated during the preparation of the *I-405, Tukwila to Renton Improvement Project (I-5 to SR 169 – Phase 2) Environmental Assessment and Draft Section 4(f) Evaluation*, which are incorporated herein by reference. This Final Section 4(f) Evaluation presents:

- An overview of the Draft Section 4(f) Evaluation[1], including a description of the basis for concluding that there are no prudent and feasible alternatives to the use of Section 4(f) property;
- A description of the basis for concluding that the proposed action includes all possible planning to minimize harm; and
- A summary of appropriate formal coordination with the U.S. Department of the Interior (DOI).

[1] WSDOT, *I-405 Tukwila to Renton Improvement Project, Draft Section 4(f) Evaluation*, April 4, 2008.

Applicability of Section 4(f)

Section 4(f) of the USDOT Act of 1966, codified in federal law as 49 USC Section 303, declares that "[i]t 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 recreation lands, wildlife and waterfowl refuges, and historic sites."

Section 4(f) prohibits the Secretary of Transportation from approving any program or project that:

> . . . [requires] the use of any publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, state or local significance or land of a historic site of national, state or local significance (as determined by the Federal, State or local officials having jurisdiction over the park, area, refuge, or site) [unless] (1) there is no prudent and feasible alternative to using that land, and (2) the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use . . .

The FHWA regulations interpreting Section 4(f) state, "any use of lands from a Section 4(f) property shall be evaluated early in the development of the action when alternatives to the proposed action are under study" (23 CFR 774.9(a)). A project "uses" a Section 4(f) resource when: (1) it permanently incorporates land from the resource into a transportation facility; (2) it temporarily but adversely occupies land that is part of the resource; or (3) it "constructively" uses the resource. A "constructive" use occurs "when the transportation project does not incorporate land from a Section 4(f) resource, but the proximity impacts are so severe that the protected activities, features, or attributes that qualify a resource for protection under Section 4(f) are substantially impaired." (23 CFR 774.15(a)).

Section 4(f) further requires consultation with the DOI and, as appropriate, the involved offices of the U.S. Departments of Agriculture and Housing and Urban Development in developing transportation projects and programs that use land protected by Section 4(f) (49 USC 303(b); 23 CFR 774.5(a)).

Section 4(f) is also applicable to historic properties and archaeological resources when the resource is included in, or eligible for listing in, the National Register of Historic Places (23 CFR 774.11 (e)(1)).

A Final Section 4(f) Evaluation is prepared after public and agency comment on the Draft Section 4(f) Evaluation is received. The Final Section 4(f) Evaluation must contain the conclusions of the Section 4(f) Evaluation, encompassing:

1. A description of the basis for concluding that there are no prudent and feasible alternatives to the use of Section 4(f) property, including a demonstration that there are unique problems or unusual factors involved in the use of alternatives that avoid these properties, or that the cost, social, economic, and environmental impacts or community disruption resulting from the alternatives reach extraordinary magnitudes;

2. A description of the basis for concluding that the proposed action includes all possible planning to minimize harm; and
3. A summary of formal coordination with the DOI.

Formal comments regarding Section 4(f) issues were received on the EA and Draft Section 4(f) Evaluation from the DOI and the City of Renton.

Draft Section 4(f) Evaluation

Section 4(f) Use

The Draft Section 4(f) Evaluation stated that the proposed Tukwila to Renton Project would require the "use" of five Section 4(f) resources.[2] These five resources include:

- Duwamish-Green River Trail Trailhead
- Cedar River Park
- Liberty Park
- Cedar River Trail
- Narco Property

Duwamish-Green River Trail Trailhead

Approximately 4,500 square feet or 0.1 acres of land from the trailhead would be permanently incorporated into the transportation facility as a result of the construction of the Tukwila Parkway extension. The property that would be affected includes passive recreation uses, landscaping, trail access, and 13 parking stalls.

Cedar River Park, Liberty Park, Cedar River Trail, and the Narco Property

A concept to integrate Liberty Park, Cedar River Park, and the Narco property into one large complex emerged from a collaborative process between the City of Renton and WSDOT. WSDOT and the City of Renton undertook a design charrette process as described in the Tukwila to Renton Draft Section 4(f) Evaluation. The conclusion to the charrette process was used by the City of Renton to develop a Tri-Park Master Plan. The resulting Tri-Park Master Plan, formally adopted by the Renton City Council on September 25, 2006, would redevelop the existing Cedar River Park and Liberty Park, develop the Narco site with sports fields, and acquire an additional property to develop baseball fields. The City and WSDOT explored opportunities to avoid or minimize effects to the resources, arrived at a consensus on necessary and desirable park improvements, and determined which of these improvements would be considered mitigation for unavoidable effects as a result of the I-405 project and which would be City-desired recreation improvements. A letter of concurrence dated January 9, 2008 between WSDOT and the City of Renton documents these agreements between the two parties. This letter is contained in Appendix A of the Draft Section 4(f) Evaluation for the Tukwila to Renton Project.

Also as part of the Tri-Park Master Plan, a portion of a small City owned parcel, which is bounded by the Cedar River to the north, the Cedar River Trail to the south, and I-405 to the west, will be converted to park use as part of the Cedar River Trail realignment. The charrette

[2] WSDOT, *I-405 Tukwila to Renton Improvement Project, Draft Section 4(f) Evaluation*, (April 4, 2008) 5:1-18

process resulted in a design for I-405 that will acquire a portion of the parcel referenced above to expand I-405 to the east and accommodate a new off-ramp to SR 169. The remainder of this parcel has been evaluated as a Section 4(f) resource because it will be converted to park use. It will accommodate a new trail alignment for the Cedar River Trail and associated pedestrian bridge over the Cedar River as described in the Tri-Park Master Plan.

As a result of the avoidance and minimization of effects accomplished by WSDOT and the City of Renton, no land would be permanently acquired from Liberty Park, Cedar River Trail, and the Narco property. Permanent acquisition of Section 4(f) protected resources at Cedar River Park would include 35,752 square feet or 0.82 acres.

Cedar River Natural Area

Based on additional analysis and evaluation following the issuance of the EA and Draft Section 4(f) Evaluation on April 4, 2008, the Cedar River Natural Area has been determined eligible for protection under Section 4(f).

The Cedar River Natural Area is approximately 270 acres. Parcels within this area have been acquired over time by the City of Renton as open space. Some privately owned parcels remain within the Natural Area boundaries. See Exhibit 1. The Natural Area encompasses the Narco property. Therefore the Natural Area, while not specifically called out, is a component of the Tri-Park Master Plan adopted by the City of Renton and shown in Exhibit 5-7 in the Draft Section 4(f) Evaluation. The City of Renton considers the Cedar River Natural Area a significant passive recreation area that is open to the public, is substantially publicly owned, and is planned for park use within the Tri-Park Master Plan.

The analysis contained in the Draft Section 4(f) Evaluation for the redeveloped Cedar River Park, Liberty Park, Cedar River Trail, and the Narco property applies to the Cedar River Natural Area. There will be no direct use of the Natural Area. Any adverse uses to the recreation environments at Cedar River Park, Liberty Park, Cedar River Trail, and the Narco property that apply to the Natural Area have been addressed by WSDOT and the City of Renton to identify what would be considered mitigation for effects as a result of the I-405 project and what would be City-desired recreation improvements.

Exhibit 1: Cedar River Park, Narco Property, Cedar River Natural Area, and Liberty Park

Note: The Cedar River Natural Area encompasses approximately 270 acres, including the Narco Property, and extends for several miles along the Cedar River outside of the study area

Section 4(f) Temporary Occupancy

The Draft Section 4(f) Evaluation stated that there would be a temporary occupancy at two Section 4(f) resources:

- Duwamish-Green River Trail/Christensen Greenbelt
- Interurban Trail

Duwamish-Green River Trail/Christensen Greenbelt

The Duwamish-Green River Trail/Christensen Greenbelt was constructed by the City of Tukwila and is 8.4 miles of 12-foot-wide paved trail with soft shoulders for jogging. Based on coordination with the State of Washington Recreation and Conservation Office (RCO) and the National Park Service (NPS), it was determined that the protected Section 4(f) and Section 6(f)[3] trail comprises a width of 14 feet.

Many construction activities proposed by the Build Alternative would occur in the vicinity of the Duwamish-Green River Trail/Christensen Greenbelt. While no land would be permanently incorporated into the transportation facility, the trail's slope would be modified to ensure adequate clearance for the trail beneath the bridges over the Green River. The trail would be lowered by up to eight feet to maintain a minimum 10-foot vertical clearance between the proposed Tukwila Parkway bridge and the trail. There would be no direct use under Section 4(f) because the proposed new bridge and reconstructed bridges would span the trail and the piers for the bridges would not be located within the 14-foot-wide trail property. Constructive uses would not occur. Currently, five existing bridges cross over the trail within the study area. Conditions experienced by the trail user would remain relatively unchanged with respect to noise, air quality, and visual quality. FHWA and WSDOT determined the proposed construction would result in a temporary occupancy of the protected Section 4(f) resource. Short-term, temporary occupancy or impact does not constitute a use under Section 4(f) as long as all of the conditions in 23 CFR 774.13(d) (1), (2), (3), (4), and (5) are met. These conditions include:

- Occupancy is temporary and ownership does not change;
- Changes are minimal;
- No permanent adverse physical effects result and there is no interference with the activities or purposes of the resource on either a temporary or permanent basis;
- The land being used is restored to a condition which is at least as good as that prior to the project; and

[3] Section 6(f) of the Land Water Conservation Fund Act (LWCFA) directs the Department of the Interior, National Park Service to assure that replacement lands of equal value, location, and usefulness are provided as conditions to approve conversions of lands that were acquired with LWCFA funding.

- Documented agreement(s) exist between relevant jurisdictions regarding temporary use of the resource.

All conditions will be met.

Interurban Trail

In the vicinity of the Interurban Trail, WSDOT proposes to add one lane in each direction, build new bridges over SR 181 and the railroads, and reconstruct a section of I-405. WSDOT coordinated with the City of Tukwila Parks Department during the development of the Build Alternative. This coordination resulted in a design that proposes to realign the trail and create a smoother-flowing route that would cross under I-405 parallel to the Union Pacific Railroad. The segment being realigned is currently constructed within the WSDOT right-of-way.

No land would be permanently acquired from this trail. There would be temporary occupancy during construction; however, the occupancy would not rise to a use under Section 4(f).

Avoidance Alternatives and Alternatives Considered and Withdrawn

The EA and Draft Section 4(f) Evaluation contain detailed descriptions of proposed project alternatives that would avoid "use" or would have less impact to the resource.

Duwamish-Green River Trail/Christensen Greenbelt, Duwamish-Green River Trail Trailhead, and Interurban Trail

To meet project objectives for improved operations consistent with the project purpose, WSDOT identified the need to improve access from Tukwila Parkway to northbound I-405 and improve the interchange at SR 181. These two improvements are integral because of their very close proximity to each other. I-405 currently crosses over the Green River and the Duwamish-Green River Trail/Christensen Greenbelt, Trailhead, and Interurban Trail. WSDOT studied eleven avoidance and minimization alternatives for improving access from Tukwila Parkway to northbound I-405 and for improving the interchange at SR 181. No feasible and prudent alternatives exist to connect Tukwila Parkway to northbound I-405 without extending Tukwila Parkway east across the Green River. Because the Duwamish-Green River Trail/Christensen Greenbelt, Trailhead, and Interurban Trail roughly parallel the Green River, none of the alternatives studied can avoid these three Section 4(f) properties. The effects on the Section 4(f) resources are fairly similar across the alternatives. Given the fact that the impacts of the preferred alternative are no worse than any of the other alternatives, it was selected because it is the alternative that best meets the WSDOT project objectives.

Veterans Memorial Park

Two design options were developed for the Veterans Memorial Park vicinity to accommodate local traffic access following removal of the Houser Way bridge. These options, Mill Avenue (the preferred option) and Main Avenue, are discussed in the EA and the Draft Section 4(f) Evaluation. The Mill Avenue design option would avoid use of Veterans Memorial Park. The results of the alternatives analysis demonstrate the Mill Avenue design option would be both feasible and prudent and would avoid permanent direct use of Veterans Memorial Park. The Main Avenue design option was withdrawn.

Cedar River Park, Liberty Park, Cedar River Trail, and the Narco Property

The City of Renton proposes to integrate Cedar River Park, Liberty Park, and the Narco Property into one large integrated park complex. These three properties plus the Cedar River Trail share common borders, and their close proximity to each other and to I-405 enabled FHWA, WSDOT, and the City to analyze project alternatives collectively for these resources. The City of Renton and WSDOT undertook a design charrette to identify how the City of Renton recreational facilities at Liberty and Cedar River Parks, Cedar River Trail, and the Narco property and an improved (widened) I-405 could co-exist in a physically constrained area. This

charette examined alternatives for improving the SR 169 interchange, access routes to and from Renton Hill, and access to the park complex. The resulting design scheme would redevelop the existing Liberty Park and Cedar River Park facilities, realign the Cedar River Trail, develop recreation facilities at the Narco site, and acquire an additional property for recreation use. This integrated park system would be functionally improved and would accommodate the proposed I-405 improvements with less effect than would result under other reasonable alternatives.

Mitigation and Measures to Minimize Harm

The Tukwila to Renton Project includes the following mitigation and measures to reduce and minimize harm to Section 4(f) properties.

Duwamish-Green River Trail/Christensen Greenbelt

- During construction, a segment of the Duwamish-Green River Trail/Christensen Greenbelt would be closed for public safety where it crosses beneath the Southcenter Boulevard bridge, the I-405 bridges, and the Tukwila Parkway bridge.
- A signed detour would be provided during the closure.
- The trail and disturbed trail edges would be restored following construction pursuant to the *I-405 Context-Sensitive Solutions Master Plan.*[4]

Duwamish-Green River Trail Trailhead

- During construction, the trailhead would be closed for public safety. The trail would be accessed from other points.
- Notices would be posted to keep the public informed about alternative trail access points and about the construction.
- The trailhead would be restored by replacing existing picnic tables, signs, trash receptacles, and landscaping.
- Displaced parking would be replaced adjacent to the proposed stormwater detention site immediately west of the existing parking.

Interurban Trail

- The trail would remain open during construction except when safe travel may be compromised. A trail detour would be in place to accommodate trail users during short-term closures.
- As needed, trail traffic would be controlled by a flagger.

Cedar River Park, Liberty Park, Cedar River Trail, Cedar River Natural Area, and the Narco Property

WSDOT and the City of Renton arrived at a consensus on necessary and desirable park improvements and further concurred on whether each park improvement would be considered mitigation for impacts as a result of the I-405 project or would be City-desired recreation improvements. Exhibit 2 summarizes the key decisions concerning avoidance and

[4] WSDOT, *I-405 Context-Sensitive Solutions Master Plan*, 2006.

minimization of impacts, proposed mitigation for I-405 effects, and the City-proposed master plan improvements for park and recreation development at each Section 4(f) resource.

Exhibit 2: Key Decisions Regarding Cedar River Park, Cedar River Trail, Liberty Park, and Stoneway and Narco Properties

Design Feature	Avoidance & Minimization	Mitigation for I-405 Impacts	City Master Plan Improvements
Cedar River Park and Cedar River Trail			
Reconstruct pedestrian bridge and trail over Cedar River		X	
Acquire right-of-way from park for construction of northbound off-ramp			
• Affects baseball/soccer multi-use field. WSDOT will replace with comparable baseball/soccer multi-use field.		X	
• Acquire air-rights for ramp		X	
Replace park access from north (under I-405 near the Cedar River) with new secondary access to park (over Cedar River from Narco property)		X	
Reconfigure service access and parking to west side of community center. Replacement parking may be located under new ramp.		X	
Avoid effect to Carco Theater	X		
Avoid effect to community center	X		
Provide activity meadow		X	
Provide shelter near activity meadow			X
Expand pool and water activity area			X
Provide visual screening landscape at northwest corner of park		X	
Landscape the north bank of the Cedar River			X
Relocate the park entrance off of SR 169 about 250 feet east		2/3	1/3
Shift flyover alignment to SR 169 median			
• Avoid impact to park property footprint	X		
• Reduce visual encroachment to park (aquatic facilities)		X	
Determine and address potential noise and aesthetic effects through the environmental process		X	
Liberty Park			
Create new park access off of Bronson Way with the elimination of the Houser Way/Bronson Way intersection			
• Replaces access from the south to Liberty Park		X	
• Relocates access to teen center		X	
• Eliminates ball park stadium		X	
• Converts abandoned Houser Way parking to recreation use		X	
Upgrade trail system to accommodate maintenance and emergency vehicles		X	
Convert abandoned Houser Way to service access road		X	
Relocate tennis courts		½	½

Exhibit 2 (continued)

Design Feature	Avoidance & Minimization	Mitigation for I-405 Impacts	City Master Plan Improvements
Liberty Park (continued)			
Relocate skate park			
• Provides area for maintenance access to wells 1, 2, and 3		X	
• Replaces drive-by security lost with closure of Houser Way		X	
Reconfigure picnic/tot-play area			X
Relocate "small" ball field			X
Expand teen center			X
Relocate basketball courts			X
Create "meadow" area to replace stadium and skate park		X	
Create "meadow" area to replace "mini" ball field			X
Extend railroad structure span north to reduce embankment and provide connectivity to adjacent parks			X
Stoneway Property[5]			
Acquire Stoneway property to support:			
• Two athletic fields - to replace "Big Liberty" ball field and Cedar River combination (soccer/baseball) field		X	
• One athletic field - to replace "Small Liberty" ball field			X
Construct two athletic fields to replace the "Big Liberty" ball field and Cedar River combination (soccer/baseball) field, along with restrooms, concessions, and parking sufficient to support these two fields		X	
Construct one athletic field to replace the "Little Liberty" ball field, along with restrooms and parking facilities incremental to those facilities needed to support the athletic field replacements for the "Big Liberty" ball field and Cedar River combination field noted in the above item.			X
Narco Property (and Cedar River Natural Area)			
Construct soccer fields			X
Construct parking for fields			X
Construct pedestrian access from Renton Hill		X	
Improve existing access road under I-405 to the Narco property. It will also serve as secondary emergency access to Renton Hill.		X	
Extend new structure over Cedar River to grade-separate trail/ pedestrian crossing from vehicles.		X	

[5] Because the Stoneway property is in private ownership, it is not a Section 4(f) resource. It is included here because it is part of the "Tri-Park Master Plan."

Coordination

The DOI provided the following comments regarding the Draft Section 4(f) Evaluation for the Tukwila to Renton Project in a letter from William R. Taylor, Director, Office of Environmental Policy and Compliance, Office of the Secretary, DOI, to William Jordan, Environmental Manager, I-405 Project Team. (The DOI letter dated May 19, 2008 is contained in Appendix A.) The responses to the DOI comments on Section 4(f) issues are provided in Exhibit 3.

Exhibit 3: Response to the Department of the Interior Comments on Section 4(f) Issues

	Department of the Interior Comment	Response to Comment
1a.	*Duwamish-Green River Trail/Christensen Greenbelt* *The NPS cannot concur that there is no "use" of Duwamish-Green River Trail/Christensen Greenbelt, particularly in this case where the bridge will be low enough so that the trail will have to be lowered by approximately 8 feet to provide adequate clearance for trail users. The NPS considers the new bridge to be a "use" under Section 4(f).*	FHWA believes a use does not exist, because the trail will not be incorporated into the transportation facility. The construction of the new bridge does not substantially impair the continued use of the property as a trail in the future. While the trail will be lowered, the experience will not change for the trail user. Even if this was deemed a use under 4(f), there are no feasible and prudent avoidance alternatives and the project currently incorporates all possible planning to minimize harm.
1b.	*It is also a conversion under Section 6(f)(3) of the LWCF Act.*	Please see response to Comment No. 3 for Section 6(f) resources.
2.	*Cedar River Natural Area* *On page 4-2 and 4-3, Exhibits 4-1 and 4-2, respectively, Cedar River Natural Area is not considered a 4(f) resource, because it is not considered significant as a park. It appears that the City of Renton Parks Department concluded it was not significant as a park, because it was not included in the 2003 Park, Recreation, and Open Space Implementation Plan. We are perplexed that this area is not considered significant, since the open space appears to be contiguous to the Narco Site and the Cedar River Trail, and part of the larger complex of parks (i.e., Liberty Park, Cedar River Park, and the Narco Site). We believe that these sites should be viewed jointly and that this larger area seems to represent an excellent opportunity to preserve contiguous park land and open space in an increasingly urbanized area.*	After additional coordination with the City of Renton, FHWA has determined that the entire Cedar River Natural Area is considered a Section 4(f) resource. However, the Draft Section 4(f) Evaluation is still accurate with regard to how effects and mitigation are characterized. Please also see letter from the City of Renton dated July 14, 2008 in Appendix C.
3.	*Duwamish-Green River Trail/Christensen Greenbelt* *Construction of the new Tukwila Parkway bridge and the I-405 northbound on-ramp from State Route 181 will result in a 6(f) conversion.*	The Draft Section 4(f) Evaluation is not intended to discuss Section 6(f) resources. Please see Chapter 5 and Chapter 6 of the EA for more discussion on Section 6(f) resources. WSDOT will ensure compliance with requirements from both the National Park Service and the State Recreation and Conservation Office prior to project construction, which may affect Section 6(f) resources.

Exhibit 3: Response to the Department of the Interior Comments on Section 4(f) Issues

	Department of the Interior Comment	Response to Comment
4.	*Duwamish-Green River Trail Trailhead* *The project will result in a conversion of the Duwamish-Green River Trail Trailhead under Section 6(f).* *In summary, the conclusion in the Draft Section 4(f) Evaluation that 6(f) conversion issues have been avoided is in error. There are two conversions that will result from the project: one for the new bridge over Duwamish-Green River Trail/Christensen Greenbelt, and one for the highway expansion where it impacts Duwamish-Green River Trail Trailhead.*	WSDOT will ensure compliance with requirements from both the National Park Service and the State Recreation and Conservation Office prior to project construction, which may affect Section 6(f) resources.

The City of Renton provided the following comments regarding the Draft Section 4(f) Evaluation for the Tukwila to Renton Project in a letter from Keith Woolley, I-405 Project Coordinator for the City of Renton Department of Public Works Transportation Division to William Jordan, Environmental Manager, I-405 Project Team. (The City's letter dated May 22, 2008 is contained in Appendix B.) The responses to the City's comments on Section 4(f) issues are provided in Exhibit 4.

Exhibit 4: Response to the City of Renton Comments on Section 4(f) Issues

	City of Renton Comment	Response to Comment
1.	*The Panther Creek Wetlands Open Space, as identified in the City of Renton 2003 Long-Range Park, Recreation, and Open Space Plan, shows this area to be developed in the future to include a boardwalk with interpretive materials, viewpoints and trails systems. In addition, the City's adopted Trails Master Plan designates this area as a trail location connecting west to the Springbrook Trail and east to the Cascade Trail. While not currently open to the public, this will be a major connection to trails to the east and west. The City requests the EA identify this connection under SR 167. This should be designated as a 4(f) property.*	The 2003 Park, Recreation, and Open Space Plan indicates the City's Public Works Department has plans to develop this site as a water retention area. The plan further states this development "…creates several opportunities for passive recreation. Proposed facilities at the site could include: • Boardwalk/interpretive trails • Viewpoint areas/vistas • Trail systems" After additional coordination with the City of Renton, FHWA has determined that due to the lack of public access and a lack of a specific development plan for this property, this site is currently not a Section 4(f) resource. The City of Renton has agreed with this determination in its July 14, 2008 letter in Appendix C.
2.	*The Cedar River Natural Area was acquired with WWRP (Washington Wildlife and Conservation Program) funding administered by the RCO along with the NARCO property. This was completed as one acquisition. $500,000 was granted by the RCO. This property should be listed as a 4(f) parcel throughout the EA.*	After additional coordination with the City of Renton, FHWA has determined that the entire Cedar River Natural Area is considered a Section 4(f) resource. However, the Draft Section 4(f) Evaluation is still accurate with regard to how effects and mitigation are characterized. Please also see City of Renton letter dated July 14, 2008 in Appendix C.

Exhibit 4: Response to the City of Renton Comments on Section 4(f) Issues

	City of Renton Comment	Response to Comment
3.	*The EA defines a "constructive use," and on page 5-48 indicates that noise, visual quality, and air quality studies were completed for the Tukwila to Renton Project EA and the studies found that the project would not have constructive uses at any of the recreational properties. The City disagrees with this conclusion. The City requests noise barriers to be constructed to reduce the increased impacts and noise to the City's Tri-Park complex, museum, and library.*	The project's noise analysis demonstrates that while these resources are currently above the FHWA noise abatement criteria, noise barriers are either not feasible or are not reasonable. The museum and the library receive most of their noise from local surface streets and are at a distance away from I-405 that makes noise reduction techniques less effective. The Tri-Park area does receive noise from I-405. However, as referenced in the Noise Discipline Report included in the EA as Appendix N, a noise barrier is not reasonable under WSDOT's feasible and reasonable criteria as defined by WSDOT's *Traffic Noise Analysis and Abatement Policy and Procedures,* which is consistent with FHWA noise policy.

Conclusion

In accordance with 23 CFR 774.3, the following is a summary of the findings of the Final Section 4(f) Evaluation:

- The purpose of the Tukwila to Renton Project is to improve safety, reduce congestion, and add travel capacity.
- Despite an extensive alternatives process, no prudent and feasible avoidance alternatives have been identified by the agencies or the public that would achieve the project's purpose and need while avoiding use of five Section 4(f) resources: Duwamish-Green River Trail Trailhead, Cedar River Park, Cedar River Trail, Liberty Park, and the Narco property.
- Two project design alternatives were identified in the vicinity of Veterans Memorial Park. The Mill Avenue design option was advanced as a feasible and prudent avoidance alternative. This alternative avoided the direct use of Veterans Memorial Park.
- Mitigation and minimization measures have been identified that reduce the effects on the recreation qualities to an acceptable level.

Based on the above considerations, FHWA has concluded that there are no prudent and feasible avoidance alternatives to the use of Duwamish-Green River Trail Trailhead, Cedar River Park, Cedar River Trail, Liberty Park, and the Narco property, and the proposed action includes all possible planning to minimize harm resulting from such use of these Section 4(f) resources.

Acronyms and Abbreviations

ADA	Americans with Disabilities Act
CFR	Code of Federal Regulations
dBA	Decibels in the A-weighted scale
DOI	U.S. Department of the Interior
EA	Environmental Assessment
FHWA	Federal Highway Administration
FONSI	Finding of No Significant Impact
I	Interstate (as in I-405)
LWCF	Land and Water Conservation Fund
LWFCA	Land and Water Conservation Fund Act
NAC	Noise-abatement criteria
NPS	National Park Service
RCO	Washington State Recreation and Conservation Office
SR	State Route
USC	U.S. Code
USDOT	U.S. Department of Transportation
WSDOT	Washington State Department of Transportation
WWRP	Washington Wildlife and Recreation Program

Appendix A: Department of the Interior Letter Dated May 19, 2008

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United States Department of the Interior
OFFICE OF THE SECRETARY
Washington, DC 20240

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MAY 19 2008

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PEP/NRM

ER 08/392

Mr. William Jordan
I-405 Project Office
Washington State Department of Transportation
600 – 108th Avenue NE, Suite 405
Bellevue, WA 98004

Dear Mr. Jordan:

The U.S. Department of the Interior (Department) has reviewed the Draft Environmental Assessment (DEA) and the Draft Section 4(f) Evaluation for the **I-405, Tukwila to Renton Improvement Project (I-5 to SR 169 – Phase 2), King County, Washington.** The Department offers the following comments:

Section 4(f) Comments

The Draft Section 4(f) Evaluation was very well-written and contained helpful maps and aerials. The document illustrated proposed impacts very clearly. The consultant who worked on this document did an excellent job of clearly incorporating 6(f) issues. To make the Final Section 4(f) Evaluation even more helpful than the draft, we recommend showing the existing right-of-way and any proposed new right-of-way on most of the map exhibits.

Duwamish-Green River Trail/Christensen Greenbelt

Part of the proposed project involves constructing a new bridge over the Duwamish-Green River Trail/Christensen Greenbelt, which is adjacent to the Green River. The Draft Section 4(f) Evaluation does not consider this a "use," because no land will be permanently incorporated into the transportation facility. *See* Page 5-5.

This statement is consistent with Federal Highway Administration's (FHWA's) position of not recognizing "air rights" to be a "use," unless it substantially impairs the protected attributes of the 4(f) resource. *See* FHWA's Section 4(f) Policy Paper, available *at* http://www.environment.fhwa.dot.gov/projdev/4fpolicy.asp#1.

However, the National Park Service (NPS) disagrees with FHWA's position insofar as "air rights" include occupancy of areas above land that require an easement. We believe FHWA's treatment of Section 4(f) regarding air rights is inconsistent with its statement in the Section 4(f) Policy Paper that "[l]and will be considered permanently incorporated into a transportation project when it has been purchased as right-of-way or sufficient property interests have been otherwise acquired for the purpose of project implementation." Furthermore, this represents a conversion of use under Section 6(f)(3) of the Land and Water Conservation Fund (LWCF) Act.

The NPS cannot concur that there is no "use" of Duwamish-Green River Trail/Christensen Greenbelt, particularly in this case where the bridge will be low enough so that the trail will have to be lowered by approximately 8 feet to provide adequate clearance for trail users. The NPS considers the new bridge to be a "use" under Section 4(f). It is also a conversion under Section 6(f)(3) of the LWCF Act.

Cedar River Natural Area

On page 4-2 and 4-3, Exhibits 4-1 and 4-2, respectively, Cedar River Natural Area is not considered a 4(f) resource, because it is not considered significant as a park. It appears that the City of Renton Parks Department concluded it was not significant as a park, because it was not included in the *2003 Park, Recreation, and Open Space Implementation Plan*. We are perplexed that this area is not considered significant, since the open space appears to be contiguous to the Narco Site and the Cedar River Trail, and part of the larger complex of parks (i.e., Liberty Park, Cedar River Park, and the Narco Site). We believe that these sites should be viewed jointly and that this larger area seems to represent an excellent opportunity to preserve contiguous park land and open space in an increasingly urbanized area.

<u>Section 6(f) of the LWCF Act</u>

Duwamish-Green River Trail/Christensen Greenbelt

The Draft Section 4(f) Evaluation does a good job of discussing 6(f) issues. However, some of the discussion should be clarified. Construction of the new Tukwila Parkway bridge and the I-405 northbound on-ramp from State Route 181 will result in a 6(f) conversion. This should be clearly stated throughout (see pages x to xi, 2-6, 4-7 to 4-8, and 5-4 to 5-5) and addressed.

Duwamish-Green River Trail Trailhead

The project will result in a conversion of the Duwamish-Green River Trail Trailhead under Section 6(f).

In summary, the conclusion in the Draft Section 4(f) Evaluation that 6(f) conversion issues have been avoided is in error. There are two conversions that will result from the project: one for the new bridge over Duwamish-Green River Trail/Christensen Greenbelt, and one for the highway expansion where it impacts Duwamish-Green River Trail Trailhead.

Please continue to coordinate with the Washington Recreation and Conservation Office and NPS on 6(f) conversion issues.

Section 7 of the Endangered Species Act (ESA)

The proposed action was the subject of a formal ESA Section 7 consultation conducted over the period June 2007 – March 2008 (FWS Ref. No. 13410-2007-F-0416). On March 3, 2008, the U.S. Fish and Wildlife Service (Western Washington Fish and Wildlife Office - Lacey) and National Marine Fisheries Service (Washington State Habitat Office - Lacey) (Services) signed a joint Biological Opinion (BO) concluding Section 7 consultation with the FHWA.

The proposed action's unavoidable impacts to instream habitat and habitat connectivity, and potential direct and indirect effects to watershed functions and surface water quality, and their effects on bull trout and Puget Sound Chinook salmon were the focus of the section 7 consultation. During the course of consultation, the FHWA and Washington State Department of Transportation (WSDOT) committed to implementation of measures described in the Services' joint BO. We offer the following comments as they relate to the Section 7 ESA consultation:

- The FHWA/WSDOT committed to capturing and treating stormwater runoff from an area equivalent to the net-new impervious surface associated with the highway and related improvements, plus stormwater runoff originating from approximately 64 acres of existing, currently untreated impervious surface. The DEA and supporting documentation accurately reflect these agreed-upon measures.

- The FHWA/WSDOT committed to instream habitat and watershed functional enhancements associated with a related activity; the proposed Panther Creek Watershed Rehabilitation Plan. The proponent also committed to in-kind mitigation for unavoidable impacts to the Green and Cedar Rivers. The DEA accurately reflects these measures.

- The FHWA/WSDOT committed to enhancing fish passage at culverts replaced or modified by the project in compliance with the current Memorandum of Agreement between WSDOT and the Washington State Department of Fish and Wildlife. They also agreed to construct other,

concurrent, instream habitat enhancements "in lieu of replacing a fish passage barrier(s)". While content from the DEA accurately reflects the commitment to further assess and prioritize fish passage enhancements, it does not identify whether and how the proponent will replace lost or impaired functions in the event one or more fish passage corrections are deemed impracticable.

In comments offered previously for the I-405, Renton Nickel Improvement Project (Letter Correspondence with Ms. Allison Ray, WSDOT/ I-405 Corridor Program; dated 11/9/06), U.S. Fish and Wildlife Service (USFWS) expressed similar concerns related to the prioritization of fish passage enhancements:

> The EA and supporting documentation should include more information to explain which structures were assessed, what is their current fish passage status and reason(s) for deficiency, and what criteria were used to examine the costs, benefits and feasibility of retrofit for improved passage. Where the project will modify but not correct existing deficient structures, the decision and supporting rationale should be explained in clear and transparent terms.

The U.S. Fish and Wildlife Service remains concerned the WSDOT and FHWA lack a strategy for identifying, prioritizing, and reaching consensus on the necessary and appropriate fish passage corrections, or "in lieu" habitat enhancements, to be undertaken as part of the proposed action (and/or the related "nickel improvements"). We also note the proponent's plans for correcting (or not correcting) fish passage barriers within the project limits remains a significant issue for the Muckleshoot Tribe tribal interests.

Contact Information

If we can be of further assistance, please contact us.

For Section 4(f) questions:

Ms. Kelly Powell
Realty Specialist & Regional Environmental Coordinator
National Park Service
168 S. Jackson St.
Seattle, WA 98104-2853
(206) 220-4106
kelly_powell@nps.gov

For Section 6(f) questions:

Ms. Heather Ramsay
LWCF & UPARR Project Manager
National Park Service
Pacific West Region, Partnership Programs
909 First Avenue, Floor 5
Seattle, WA 98104-1060
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heather_ramsay@nps.gov

For Section 7 questions:

Mr. Ryan McReynolds
Transportation Liaison
United States Fish and Wildlife Service
510 Desmond Dr. SE, Suite 102
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ryan_mcreynolds@fws.gov

Ms. Emily Teachout
Fish and Wildlife Biologist
United States Fish and Wildlife Service
510 Desmond Dr. SE, Suite 102
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(360) 753-9583
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Thank you for the opportunity to provide these comments.

Sincerely,

Willie R. Taylor
Director, Office of Environmental
Policy and Compliance

cc: (next page)

cc:
Ms. Leslie Betlach
Director
Renton Parks
Renton City Hall
1055 S. Grady Way
Renton, WA 98057

Mr. Bruce Fletcher
Parks Director
City of Tukwila
6300 Southcenter Blvd.
Tukwila, WA 98188

Appendix B: City of Renton Letter Dated May 22, 2008

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CITY OF RENTON

Public Works Department
Gregg Zimmerman P.E., Administrator

Denis Law, Mayor

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MAY 27 2008

URBAN CORRIDORS OFFICE

May 22, 2008

Mr. William Jordan
I-405 Environmental Manager
Washington State Department of Transportation
I-405 Project Office
600 108th Avenue NE, Suite 405
Bellevue, WA 98004

Subject: I-405, Tukwila to Renton Improvement Project (I-5 to SR 169 - Phase 2) Environmental Assessment (EA) Comments

Dear Mr. Jordan:

Previously, the City of Renton provided scoping comments, dated June 2006, for consideration when preparing the subject Environmental Assessment (EA). As noted in our scoping comments, the City of Renton and WSDOT have signed several letters of concurrence regarding the I-405 Master Plan for the segment between I-5 and SR 169.

Continuing in our collaborative efforts on the planning and design of improvements to the I-405 corridor, the City of Renton submits the following comments for consideration with regard to the I-405, Tukwila to Renton Improvement Project (Phase 2) Environmental Assessment.

APPENDICES

We recommend that the letters of concurrence noted above be included or referenced in Appendix B – Agency and Tribal Correspondence.

CHAPTER 3 – DEVELOPING THE ALTERNATIVES

The EA notes the cantilever of I-405 over Main Avenue South. The City would like the EA to note what, if any, unique impacts this may cause to the ownership, operations, and maintenance of different rights-of-way stacked in airspace. It is expected that during future project development, the City and WSDOT will need to develop ownership, operations, and maintenance agreements.

CHAPTER 5.2 – NOISE

The City recommends that noise walls be included to mitigate impacts to the City's Tri-Parks complex, the City's historical museum, and the City's main library. The EA identifies that these parks, the museum, and library already exceed the noise level, and in the case of Cedar River Park, the noise level will increase.

Development of the Cedar River Vicinity Charette was based on the understanding that in order for the northbound I-405 to SR 169 off-ramp to be moved significantly closer to the Renton Community Center, this ramp would include a noise wall.

CHAPTER 5.3 – COMMUNITIES, BUSINESSES, AND PUBLIC SERVICES

The EA should address impacts to private houses on Mill Avenue South where the proposed stacked Mill Avenue is proposed, such as subterranean impacts.

CHAPTER 5.4 – RECREATIONAL AND CULTURAL RESOURCES

The Cultural Resources discipline report should have an additional description regarding the protection of the Renton Coal Mine Hoist Foundation, located between Benson Road and the I-405 southbound off-ramp to SR 515. The text should not indicate that the mine hoist foundation will be removed.

The City requests the Cultural Resources discipline report evaluate the Longacres horsetrack monuments located underneath I-405 just east of the BNSF railroad tracks. Regardless of the results of this analysis, the City would like WSDOT to commit to cooordinating with the City in the future regarding the protection or relocation of these monuments.

The Panther Creek Wetlands Open Space, as identified in the City of Renton 2003 Long-Range Park, Recreation, and Open Space Plan, shows this area to be developed in the future to include a boardwalk with interpretive materials, viewpoints and trails systems. In addition, the City's adopted Trails Master Plan designates this area as a trail location connecting west to the Springbrook Trail and east to the Cascade Trail. While not currently open to the public, this will be a major connection to trails to the east and west. The City requests the EA identify this connection under SR 167. This should be designated as a 4(f) property.

The Cedar River Natural Area was acquired with Washington Wildlife and Recreation Program (WWRP) funding administered by the Resource and Conservation Office (RCO) along with the NARCO property. This was completed as one acquisition; $500,000 was granted by the RCO. This property should be listed as a 4(f) parcel throughout the EA.

The EA defines a "constructive use," and on page 5-48 indicates that noise, visual quality, and air quality studies were completed for the Tukwila to Renton Project EA and the studies found that the project would not have constructive uses at any of the recreational properties. The City

disagrees with this conclusion. The City requests noise barriers to be constructed to reduce the increased impacts and noise to the City's Tri-Park complex, museum, and library.

CHAPTER 5.5 – VISUAL QUALITY

The EA should also include text regarding the significant effect on visual quality caused by the cantilever of I-405 over Main Avenue South.

CHAPTER 5.6 – WATER RESOURCES

WSDOT needs to work out a schedule to provide the City with the requested information and relevant studies depending on project funding.

The City's existing underground utilities in the Tri-Parks vicinity will be severely impacted by the project, especially by the new ramp and support structures. The EA should identify these impacts and WSDOT's commitment to relocate the City's existing utilities, including but not limited to: water mains, sanitary and storm sewer mains, chemical lines for water treatment, telemetry and power conduits, and vaults. The EA should identify that WSDOT will commit to relocation of these utilities prior to any condemnation and/or conversion of acquired City-owned property to limited access right-of-way. As part of the EA, WSDOT should identify the need for the acquisition of a new utility corridor for the relocation of the existing City utilities impacted by the project.

Should you have any questions or concerns, please contact Keith Woolley, the City's I-405 coordinator, at (425) 430-7318.

Sincerely,

Gregg Zimmerman

Gregg Zimmerman, P.E.
Administrator

cc: Peter Hahn, Deputy Public Works Administrator – Transportation
Terry Higashiyama, Community Services Administrator
Lys Hornsby, Utility Systems Director
Leslie Betlach, Parks Director
Jim Seitz, Transportation Planning and Programming Supervisor
Abdoul Gafour, Utility Engineering Supervisor
File

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Appendix C: City of Renton Letter Dated July 14, 2008

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CITY OF RENTON

Denis Law, Mayor

Office of the City Attorney
Lawrence J. Warren

Senior Assistant City Attorneys
Mark Barber
Zanetta L. Fontes
Assistant City Attorneys
Ann S. Nielsen
Garmon Newsom II
Shawn E. Arthur

July 14, 2008

William Jordan, I-405 Environmental Manager
Washington State Department of Transportation
I-405 Project Office
600 – 108th Avenue NE, Suite 405
Bellevue, WA 98004

Subject: I-405, Tukwila to Renton Improvement Project (I-5 to SR 169 – Phase 2) Clarifying Comments for the Draft Section 4(f) Evaluation

Dear Mr. Jordan:

This letter is in regards to comments the City provided the Washington State Department of Transportation (WSDOT) on the Tukwila to Renton Improvement Project Environmental Assessment (EA) in a letter dated May 22, 2008. The City would like to clarify its position regarding the Panther Creek Wetland Open Space area and the Cedar River Natural Area.

Upon further discussion with WSDOT, the City has determined that the Panther Creek Wetland Open Space would likely only be developed with a multiuse trail if construction occurs for a regional detention within the complex as stated in our 2003 Parks, Trail, and Open Space plan. At this time, we do not consider the Panther Creek Wetland Open Space Area to meet the criteria for a Section 4(f) Resource.

We have also discussed with WSDOT additional details regarding the Cedar River Natural Area. There are two parcels of land acquired by the City from Puget Sound Energy through a quit claim deed. These parcels are encumbered by utility easements and are not part of the Cedar River Natural Area. The effects on the Narco property and associated mitigation as described in WSDOT's Draft Section 4(f) Evaluation are accurate. No additional effects on the Cedar River Natural Area are expected.

Sincerely,

Lawrence J. Warren
City of Renton Attorney

Cc: Gregg Zimmerman, Administrator, Planning/Building/Public Works
Peter Hahn, Deputy Public Works Administrator – Transportation
Terry Higashiyama, Community Services Administrator
Leslie Betlach, Parks Director