SECTION 1 INTRODUCTION

What are the primary features of the I-405 Tukwila to Renton Project?

WSDOT is proposing to construct the I-405, Tukwila to Renton Improvement Project (I-5 to SR 169 – Phase 2), referred to as the Tukwila to Renton Project, to relieve congestion. The Tukwila to Renton Project extends approximately four miles along I-405, from I-5 to SR 169, and approximately two miles along SR 167, from I-405 to SW 43rd Street. The project would:

- Add capacity to both I-405 and SR 167.
- Replace bridges over the Green River and Cedar River and add one new bridge over the Green River.
- Improve the SR 181 and SR 169 interchanges.
- Reconstruct the SR 167 interchange consisting of new general-purpose direct-connector ramp from I-405 southbound to SR 167 southbound, HOV direct-connector ramps from SR 167 northbound to I-405 northbound and from I-405 southbound to SR 167 southbound, and a split-diamond interchange at Lind Avenue and Talbot Road with connecting frontage roads.
- Reconstruct the two local street accesses to Renton Hill.

What is the purpose of this report?

This Draft Section 4(f) Evaluation identifies and evaluates project effects on public parks and recreation areas, historic sites, and wildlife and waterfowl refuges that are Section 4(f)-protected resources within the study area.

What is Section 4(f)?

Section 4(f) of the Department of Transportation Act (DOT) of 1966 (49 USC 303) prohibits the Federal Highway Administration (FHWA) from approving a transportation project that uses land from a significant public park, recreation area, wildlife or waterfowl refuge, or land of an historic site of national, state, or local significance, unless:

1. There is no feasible and prudent alternative
2. The project includes all possible planning to minimize harm to the property

What is feasible and prudent?

A term that is integral to the Section 4(f) process, feasible and prudent refers to the viability of an alternative that avoids the use of a Section 4(f) resource. The term "feasible" refers to the constructability of a project—whether or not it can be built using current construction methods, technologies, and practices. The term "prudent" refers to how reasonable the alternative is—in essence, whether or not it makes sense.

A feasible and prudent alternative must be selected if it avoids using this land. Measures that minimize the harm to the resource must be identified and incorporated if use of the Section 4(f) resource is unavoidable.

An alternative may be rejected if it is not feasible and prudent. Alternatives will typically be rejected if they create unusual factors or costs or community disruption of an extraordinary magnitude. Examples include unacceptable social, economic, or environmental effects; serious community disruption; highway safety and geometric problems; or excessive construction costs. An accumulation of these problems (as opposed to a single factor) may be a sufficient reason to use a Section 4(f) resource. Excessive cost alone would not necessarily prevent an alternative from being considered prudent.

How do we minimize harm?

During the project's planning phases, we identify measures to reduce the potential effects to a resource. Minimization measures can include alignment shifts, a commitment to off-season construction, replacement of land or facilities; restoration, and/or landscaping.

Identifying measures to reduce the potential effects to a resource is key during the project's planning phases. Minimization measures can include alignment shifts, a commitment to off-season construction, replacement of land or facilities, restoration, and/or landscaping.

A Section 4(f) Evaluation must be prepared if any resources protected by Section 4(f) are proposed for use by a project. The Section 4(f) evaluation:

- Describes the affected properties;
- Identifies the applicability or non-applicability of Section 4(f) to a property;
- Discusses the specific use(s) of the resources;
- Identifies and evaluates alternatives that avoid use of Section 4(f)-protected lands;
- Identifies measures to minimize harm resulting from unavoidable effects to Section 4(f) resources; and
- Includes coordination with officials having jurisdiction over or administering the lands that would be affected.

What are Section 4(f) resources?

The Code of Federal Regulations, 23 CFR 771.135, defines Section 4(f) resources using three categories:

1. Public parks and recreation areas, if they meet the following criteria:

- They must be publicly owned;
- They must be open and available for use by the general public;
- Their major purpose is for public recreation activities; and
- They must be considered significant by the federal, state, or local official having jurisdiction over the facility.

2. Historic sites, if they are identified as properties of local, state, or national significance as determined by the federal, state, or local officials having jurisdiction over the site. Historic sites include properties on or eligible for the National Register of Historic Places (NRHP)[1].
3. Wildlife or waterfowl refuges, if they are publicly-owned lands that have been set aside and designated for the protection of wildlife species and/or migratory birds.

What constitutes a "use" of Section 4(f) resources?

"Use" of Section 4(f) resources, as defined by the Act,[2] occurs when:

1. Land is permanently incorporated into a transportation facility. The physical and permanent procurement of a protected resource for use by a transportation project is known as an actual or direct use.
2. The land is subject to temporary occupancy and adverse changes, such as contour alterations or removal of mature trees and other vegetation as may result during project construction. Temporary occupancy during construction will not always

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[1] *The NRHP is the nation's official list of cultural resources worthy of preservation. Authorized under the National Historic Preservation Act of 1966, the National Register lists historic and archaeological resources such as districts, sites, buildings, structures, and objects that are significant in American history, architecture, archaeology, engineering, and culture.*

[2] *23 CFR 771.135(p) (1) and (2) is where DOT specifically describes Section 4(f) "use."*

constitute a use of Section 4(f) land. Short-term, temporary occupancy or impact (e.g., for a construction easement) does not constitute a use under Section 4(f) as long as all of the following conditions are met:

- Occupancy is temporary (i.e., shorter than the construction period for the entire project) 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
- Documented agreement(s) exist between relevant jurisdictions regarding temporary use of the resource.

3. There is a constructive use of land. A constructive use is a type of indirect use in which a transportation project's proximity effects (as opposed to direct effects) are so severe that the protected activities, features, or attributes that qualify a resource for protection under Section 4(f) are substantially impaired. Examples include excessive noise level increases, diminished aesthetic features, ecological intrusions, and other indirect effects to the resource's environment or utility. In all instances, a “substantial impairment” of the resource is necessary for a constructive use to occur.

   A constructive use occurs when:

   - Noise from the project substantially interferes with the use and enjoyment of the resource, such as enjoyment of a historic site where a quiet setting is a generally recognized feature or attribute of the site’s significance, or enjoyment of any park where serenity and quiet are significant attributes. The noise increase must not only be detectable to the human ear (i.e., an increase greater than 2 to 3 decibels) and exceed the FHWA noise abatement criterion as contained in Table 1 of 23 CFR Part 772,

but it must be severe enough to truly impair enjoyment of the Section 4(f) resource; or

- The proximity of the proposed project substantially impairs aesthetic features or attributes of the resource, where these features or attributes are considered important contributing elements to the value of the resource. An example might be the location of a roadway that obstructs or eliminates a view or substantially detracts from the setting of a park or historic site that derives its value in substantial part due to its setting; or
- The project restricts access and would result in a substantial decrease in the usability of the resource; or
- Vibration emanating from the project substantially impairs the use of the resource.

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