

## CHAPTER SEVEN

### FINAL SECTION 4(F) EVALUATION

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This *Final Section 4(f)* evaluation is an update and refinement of the *Draft Section 4(f) Evaluation* that was circulated for public and agency comment as part of the *Draft Environmental Impact Statement/Report* (DEIS/R) in December 2005. After publication and circulation of the DEIS/R, the sponsor agencies:

- conducted two public hearings on this DEIS/R - January 18, 2006 and February 15, 2006;
- provided a public comment period from December 30, 2005 to March 31, 2006 where interested parties submitted written comments on the DEIS/R; and
- identified a Preferred Alternative (Spring 2006).

Following release of the DEIS/R in December 2005, individuals and agency staff provided over 800 comments regarding the environmental analysis and project alternatives. Based on these comments and agency/public workshops, it was determined that Alternative 5: Presidio Parkway, would best meet the purpose and need of the Doyle Drive Project, if certain modifications to the proposed design (as presented in the DEIS/R) were made (discussed in greater detail in Chapter 2 of this document). The Refined Presidio Parkway Alternative, incorporating these modifications, would replace the existing facility with a new six-lane facility and an eastbound auxiliary lane, between the Park Presidio Interchange and the new Presidio access at Girard Road.

#### 7.1 Section 4(f) Regulations

This *Section 4(f) Evaluation* complies with the Federal requirements codified in Federal law at 49 U.S.C. §303, commonly referred to as *Section 4(f)* of the *Department of Transportation Act of 1966*. *Section 4(f)* 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 land, wildlife and waterfowl refuges, and historic sites.”

*Section 4(f)* specifies that “[the] Secretary [of Transportation] may approve a transportation program or project...requiring the use of publicly owned land of a public park, recreation 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, area, refuge, or site) only if:

- 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.”

*Section 4(f)* further requires consultation with the Department of the Interior (DOI) and, as appropriate, the involved offices of the Departments of Agriculture (USDA) and Housing and Urban Development (HUD) in developing transportation projects and programs which use lands protected by *Section 4(f)*. Consultation with the USDA would occur whenever a project uses *Section 4(f)* land from the National Forest System. Consultation with HUD would occur whenever a project uses *Section 4(f)* land for/on which certain HUD funding had been utilized. Since neither of these conditions applies to the proposed project, consultation with the USDA and HUD is not required.

In general, a *Section 4(f)* “use” occurs with a Department of Transportation-approved project or program when:

- 1) *Section 4(f)* land is permanently incorporated into a transportation facility.
- 2) When there is a temporary occupancy of *Section 4(f)* land that is adverse in terms of the *Section 4(f)* preservationist purposes as determined by specified criteria (23 CFR §774.13[d]); or
- 3) When *Section 4(f)* land is not incorporated into the transportation project, but the project’s 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 (constructive use). (23 CFR §774.15).

Since circulation of the DEIS/R in 2005 FHWA has promulgated new *Section 4(f)* regulations, codified at 23 CFR Part 774 (73 Fed. Reg. 13368, March 12, 2008). These new regulations do not substantively change the requirements of the previous 4(f) regulations, which were codified at 23 CFR § 771.135. The new regulations do, however, clarify the factors to be considered and the standards to be applied when determining if an alternative for avoiding the use of *Section 4(f)* property is feasible and prudent, as well as the factors to be considered when selecting a project alternative in situations where all alternatives would use some *Section 4(f)* property. This *Final Section 4(f) Evaluation* has been prepared in compliance with Part 774.