

## **APPENDIX B**

### **Section 4(f)**



# Resources Evaluated Relative to the Requirements of Section 4(f)

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Section 4(f) of the Department of Transportation Act of 1966, codified in federal law at 49 United States Code (USC) 303, declares that “it is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, 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:

- there is no prudent and feasible alternative to using that land; and
- 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 and, as appropriate, the involved offices of the Department of Agriculture and the Department of Housing and Urban Development in developing transportation projects and programs that use lands protected by Section 4(f). If historic sites are involved, then coordination with the State Historic Preservation Officer (SHPO) is also needed.

This section of the document discusses parks, recreational facilities, wildlife refuges and historic properties found within or next to the Build Alternative project limits that do not trigger Section 4(f) protection because either: 1) they are not publicly owned, 2) they are not open to the public, 3) they are not eligible historic properties, 4) the project does not permanently use the property and does not hinder the preservation of the property, or 5) the proximity impacts do not result in constructive use.

## SUMMARY OF 4(F) PROPERTIES

### Parks and Recreation Properties

There are 26 parks and recreational facilities within a half-mile from the proposed project improvements (see **Figure B-1** and **Table 1**). The Jose Higuera Adobe Park, Sunol Valley Golf Club, Bay Area Ridge Trail, and Sabercat Creek Trail are the only parks and recreational facilities adjacent to the I-680 freeway corridor, within the project limits. The Jose Higuera Adobe Park and the Sunol Valley Golf Club are located approximately 150 feet to the south and north of the proposed Build Alternative improvements, respectively. The Bay Area Ridge Trail between Mission Peak and Vargas Plateau crosses under I-680 within the Build Alternative at

Vargas Road in Fremont. The Sabercat Creek trails are located east of I-680 between Washington Boulevard and Durham Road, approximately 250 feet east of the project limits.<sup>1</sup>

Table 1 Parks and Recreational Facilities

#	Name	Address	4(f) Determination
1	Thomas Russell Middle School Playfields	1331 East Calaveras Boulevard, Milpitas	No permanent, temporary, or constructive use would occur
2	Jose Higuera Adobe Park	N. Park Victoria Dr. & Wessex Pl. Milpitas	Implementation of avoidance measures would ensure no proximity impacts would occur
3	Milpitas Sports Center & Teen Center	1325 East Calaveras Boulevard, Milpitas	No permanent, temporary, or constructive use would occur
4	Cardoza Park	Park Victoria and Kennedy, Milpitas	No permanent, temporary, or constructive use would occur
5	Creighton Park	Olympic west of South Park Victoria, Milpitas	No permanent, temporary, or constructive use would occur
6	Augustine Memorial Park	Cortez and Coelho, Milpitas	No permanent, temporary, or constructive use would occur
7	Calle Oriente Mini-Park	Calle Oriente & N. Park Victoria Dr Milpitas	No permanent, temporary, or constructive use would occur
8	Murphy Park	Yellowstone Ave. & S. Park Victoria Dr. Milpitas	No permanent, temporary, or constructive use would occur
9	Sandalwood Park	Escuela Pkwy & Russell Ln. Milpitas	No permanent, temporary, or constructive use would occur
10	Selwyn Park	Selwyn Dr. & Dempsey Rd. Milpitas	No permanent, temporary, or constructive use would occur
11	Jones Memorial Park	Jacklin Rd. & N. Hillview Dr. Milpitas	No permanent, temporary, or constructive use would occur
12	Pecot Park	Dixon Rd. & Vegas Ave. Milpitas	No permanent, temporary, or constructive use would occur
13	Booster Park	Gable Dr. and Hoyt St., Fremont	No permanent, temporary, or constructive use would occur
14	Lone Tree Creek	500 Starlite Way, Fremont	No permanent, temporary, or constructive use would occur
15	Mission San Jose <sup>1</sup>	Mission Blvd. and St. Anthony Dr., Fremont	No permanent, temporary, or constructive use would occur
16	Plomosa Park	Wilaneta Ave. at Plomosa Rd., Fremont	No permanent, temporary, or constructive use would occur
17	Sabercat Trail <sup>1</sup>	Sabercat Creek, east of I-680 between Washington Blvd. and Durham Rd.	Implementation of avoidance measures would ensure no proximity impacts would occur

<sup>1</sup> City of Fremont, Public Works, Sabercat Restoration, accessed from <http://www.fremont.gov/index.aspx?NID=1211>, October 8, 2013.

#	Name	Address	4(f) Determination
18	Sunol Valley Golf Course <sup>1</sup>	6900 Mission Road, Sunol	Implementation of avoidance measures would ensure no proximity impacts would occur
19	Sunol Community Park <sup>1</sup>	Main St. at Kilkare, Sunol	No permanent, temporary, or constructive use would occur
20	Sinnott Park	Tahoe Dr. and Butano Dr., Milpitas	No permanent, temporary, or constructive use would occur
21	Foothill Park	Roswell Dr. at Edsel Dr., Milpitas	No permanent, temporary, or constructive use would occur
22	Peter T. Gill Park	Santa Rita Rd., Milpitas	No permanent, temporary, or constructive use would occur
23	Warm Springs Park	47300 Fernald St., Fremont	No permanent, temporary, or constructive use would occur
24	Bay Area Ridge Trail - Juan Bautista de Anza National Historic Trail	Mission Peak to Vargas Plateau at Vargas Road, Fremont	Implementation of avoidance measures would ensure no proximity impacts would occur
25	Arroyo Agua Caliente Park <sup>1</sup>	Gardenia Way, Fremont	No permanent, temporary, or constructive use would occur
26	Mission San Jose Bicentennial <sup>1</sup>	Mission Blvd. and Mission Tierra Pl., Fremont	No permanent, temporary, or constructive use would occur

Note:

1. Within 0.5-mile of Phase 1 of the Build Alternative

Sources: City of Milpitas General Plan, 2010; City of Fremont General Plan, 2011, Google Maps

Property of the nearby parks and recreational facilities identified in **Table 1** would not be acquired as part of the proposed project, thereby avoiding direct effects. The proposed project improvements would be far enough away from these parks and recreational facilities that no permanent effects would occur.

The Bay Area Ridge Trail that crosses under I-680 at Vargas Road would remain open during construction and would not be impacted as part of the proposed project. Additionally, access to park and recreation facilities in the area would be improved with the construction of on-street bicycle lanes and sidewalk enhancements, as discussed in **Section 2.1.7, Traffic and Transportation**. There is a bike path "vision network" in Alameda County that would travel along Mission Road, parallel to I-680 corridor.<sup>2</sup> The striped bike lanes that would be constructed on Sheridan Road and Athenour Way under the Build Alternative are not part of the "vision network" alignment, but would not preclude the construction of future bike paths in this area.

Since the proposed project would not substantially alter the location of I-680, the distance between the parks and recreational facilities and the freeway corridor will not change when compared to existing conditions. Potential increases in ambient noise levels for the areas

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<sup>2</sup> The Alameda Countywide Bicycle Plan (2012) establishes countywide capital projects, programs and plans that are intended to implement the plan's vision and goals. The Plan includes a 762-mile "vision network" of countywide bicycle facilities that provide connections between communities, access to transit, and inter-jurisdictional trail networks. Of the total mileage, approximately 48 percent is yet to be constructed, including the Mission Road segment closest to the project limits.

immediately adjacent to I-680 are discussed in **Section 2.2.7, Noise**, which concludes that the proposed project would not result in noise impacts in the areas where the Jose Higuera Adobe Park, Sunol Valley Golf Club, Bay Area Ridge Trail, and Sabercat Creek Trail are located. Based on the results of the modeled noise levels in these areas, the predicted increase in traffic noise under the Build Alternative will be too small to be perceived by the human ear. In addition, the Build Alternative would not result in an increase in population in the areas surrounding the I-680 corridor (see **Section 2.1.3, Growth**); therefore, additional demand on the parks and recreational facilities is not anticipated. Potential air quality impacts are discussed in **Section 2.2.6, Air Quality**, which concludes that diesel exhaust from construction equipment poses both a health and nuisance impact to nearby receptors. Implementation of construction period minimization measures will reduce any air quality impacts resulting from construction activities, thus no constructive use would occur. No substantial long-term air quality effects would result from the proposed project.

The project would not result in permanent, temporary, or constructive use of any park or recreation facilities requiring protection under Section 4(f). Therefore, the provisions of Section 4(f) are not triggered.

## Archaeological Resources

An analysis of potential for buried sites, based on landform age and environmental characteristics, was conducted for the Area of Potential Effects (APE), which encompasses all areas that fall within the physical footprint of the proposed improvements (i.e., the Build Alternative) and areas that may either be directly or indirectly affected by project-related construction activities.. The results of this analysis show that just over 90 percent of the APE is categorized as having Extremely Low to Low potential for buried sites; 8.2 percent has Moderate potential and less than 1 percent has a High or Very High potential for buried sites. The most likely locations for buried sites are those in the High or Very High category.

An archival records search and an archaeological field survey for the APE were conducted as part of the Archaeological Survey Report. One site, which is considered eligible for the National Register of Historic Places (NRHP) with the State Historic Preservation Officer (SHPO) consensus, is within the APE. No surface archaeological material was observed at this site or elsewhere within the APE during the field survey.

Because the Build Alternative would include construction around, and shallow excavations in fill soil above the site, an Environmentally Sensitive Area (ESA) and Archaeological Monitoring Area Action Plan (AMA) were developed to protect the site against inadvertent adverse effects. The ESA and AMA Plan identifies protocol for establishing, installing, and monitoring an ESA to protect the site, and an AMA around each project element in close proximity to the site, which will be monitored by a qualified archaeologist to ensure that excavation does not exceed 2 feet into the native soils.

The ESA and AMA Action Plan were filed with the State Historic Preservation Officer (SHPO) for concurrence. On January 13, 2014, SHPO issued a letter of concurrence for the *Finding of No Adverse Effect with Standard Conditions/ESA and AMA Action Plan* under Section 106 of

the National Historic Preservation Act.<sup>3</sup> The proposed project would not cause a constructive use of the archaeological site eligible for the NHRP because the proximity impacts will not substantially impair the protected activities, features, or attributes of the archaeological site.

## Historic Sites

Properties that are on or eligible for the NRHP, including historic districts, buildings, structures, objects, and certain archaeological sites qualify for Section 4(f) protection. A records search, review of historic and current maps, and field surveys were conducted to determine whether historical architectural resources were present within the APE. One historic-era property within the architectural APE, at 7587 Athenour Way, was previously evaluated. On March 19, 2003, and again on January 13, 2014, SHPO concurred with Caltrans' determination that this property is not eligible for listing in the NRHP.

Buildings and structures within the APE were recorded during fieldwork on February 11, 2013. Subsequent to the Section 106 Programmatic Agreement (PA) application, four historic-era resources required full inventory and evaluation and are recorded on the Department of Parks and Recreation (DPR) 523 forms located in Attachment A of the Historic Resources Evaluation Report (HRER), and Appendix B of the Historic Property Survey Report (HPSR). These resources were two rural-residential properties developed in the 1930s and 1960s, one circa 1966 electrical substation, and one electrical transmission line dating from 1908 to 1910. Seven bridges in the APE are 45 years or older, six of which were previously determined ineligible for the NRHP. One bridge is exempt from evaluation per the Section 106 PA.

Besides the property at 7587 Athenour Way, noted above, none of the built environment resources in the APE have been previously evaluated (until now), and none are listed in or determined eligible for listing in the NRHP or the California Register. SHPO concurred on January 13, 2014 that none of the four properties evaluated for this project are eligible for listing in the NRHP or the California Register. Furthermore, the HPSR determined no substantial adverse change to these resources would result from the proposed project. Therefore, the provisions of Section 4(f) are not triggered.

## Wildlife and Waterfowl Refuges

There are no wildlife or waterfowl refuges within the APE. The closest federal wildlife refuge is the Don Edwards San Francisco Bay National Wildlife Refuge, located over five miles west of the project limits. The closest state wildlife area is the Point Edith Wildlife Area in the marshlands approximately 2.5 miles east of Martinez in Contra Costa County. This area is over 30 miles north of the project limits.

Owing to the substantial distance from the project limits to the closest wildlife/waterfowl refuge (Don Edwards San Francisco Bay National Wildlife Refuge, over five miles away), the proposed

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<sup>3</sup> The National Historic Preservation Act (NHPA) of 1966, as amended, sets forth national policy and procedures for historic properties, defined as districts, sites, buildings, structures, and objects included in or eligible for the National Register of Historic Places. Section 106 of the NHPA requires federal agencies to take into account the effects of their undertakings on such properties and to allow the Advisory Council on Historic Preservation the opportunity to comment on those undertakings, following regulations issued by the Advisory Council on Historic Preservation (36 Code of Federal Regulations [CFR] 800).

project would not have any reasonably foreseeable direct, temporary, or constructive use of any wildlife or waterfowl refuge area. Therefore, the provisions of Section 4(f) are not triggered.

## Phase 1 – Initial Construction Phase

As with the Build Alternative, Phase 1 would not impact any park facilities requiring protection under Section 4(f). Section 4(f) resources include publicly-owned parks, recreational areas, and wildlife refuges. **Table 1** identifies the few parks that are within 0.5-mile of Phase 1 of the Build Alternative, and qualify for consideration under Section 4(f). The project would not result in permanent, temporary, or constructive use of any park or recreation facilities requiring protection under Section 4(f). Therefore, the provisions of Section 4(f) for parks and recreation facilities are not triggered for Phase 1.

No historic or archaeological sites on or eligible for the National Register of Historic Places surface would be affected by Phase 1 project activities. As currently planned, Phase 1 would not impact any potential buried archaeological deposits. No additional identification efforts are considered necessary (see **Section 2.1.9, Cultural Resources**). Therefore, the provisions of Section 4(f) for cultural resources are not triggered for Phase 1.

There are no wildlife refuges on or near the project corridor. Therefore, the proposed Build Alternative, including Phase 1, would have no impact on these resources. Therefore, the provisions of Section 4(f) for wildlife refuges are not triggered for Phase 1.



- 1 Thomas Russell Middle School Playfields
- 2 Jose Higuera Adobe Park
- 3 Milpitas Sports Center & Teen Center
- 4 Cardoza Park
- 5 Creighton Park
- 6 Augustine Memorial Park
- 7 Calle Oriente Mini-Park
- 8 Murphy Park
- 9 Sandalwood Park
- 10 Selwyn Park
- 11 Jones Memorial Park
- 12 Pecot Park
- 13 Booster Park
- 14 Lone Tree Creek
- 15 Mission San Jose
- 16 Plomosa Park
- 17 Sabercat Trail
- 18 Sunol Valley Golf Course
- 19 Sunol Community Park
- 20 Sinnott Park
- 21 Foothill Park
- 22 Peter T. Gill Park
- 23 Warm Springs Park
- 24 Bay Area Ridge Trail - Juan Bautista de Anza National Historic Trail
- 25 Arroyo Agua Caliente Park
- 26 Mission San Jose Bicentennial Park



Parks and Recreational Facilities

Figure B-1

Source: Circlepoint, 2014

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