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## CHAPTER

# Section 4(f) Evaluation

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This chapter provides documentation necessary to support determinations required to comply with the provisions of Section 4(f) of the U.S. Department of Transportation Act of 1966 (commonly referred to as Section 4(f)).

## 5.1 Introduction

The Project, as described in Chapter 2, Alternatives Considered, is a transit project that may receive Federal funding and/or discretionary approvals through the U.S. Department of Transportation (USDOT) Federal Transit Administration (FTA); therefore, documentation of compliance with Section 4(f) is required. Section 4(f), as amended, of the USDOT Act of 1966 (49 USC 303) protects public parklands and recreational lands, wildlife refuges, and historic sites of National, State, or Local significance. Federal regulations that implement Section 4(f) may be found in 23 CFR 774.3.

Section 4(f) specifies that the FTA may not approve the use, as defined in 23 CFR 774.17, of a Section 4(f) property unless the FTA determines the following:

- There is no prudent and feasible alternative, as defined in Section 774.17, to the use of land from the property; and
- The program or project includes all possible planning, as defined in Section 774.17, to minimize harm to the property resulting from such use.

Section 4(f) regulations further require consultation with the Department of the Interior and, as appropriate, the involved offices of the Department of Agriculture (USDA) and the Department of Housing and Urban Development (HUD), as well as relevant State and Local officials, in developing transportation projects and programs that 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 used. Since neither of these conditions apply to the Project, consultation with the USDA and HUD is not required.

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For historic sites, consultation with the State Historic Preservation Officer is required. For recreational resources, consultation with the agency responsible for the resources is also required.

This Section 4(f) evaluation has been prepared in accordance with the joint Federal Highway Administration (FHWA)/FTA regulations for Section 4(f) compliance codified as 23 CFR 774 and the *Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users* (SAFETEA-LU) (PL 2005). Although not directly applicable to FTA programs and activities, additional guidance has been obtained from the FHWA Technical Advisory T6640.8A (FHWA 1987b) and the revised FHWA Section 4(f) Policy Paper (FHWA 2005).

### 5.1.1 Section 4(f) “Use” Definitions

As defined in 23 CFR 774.17, the “use” of a protected Section 4(f) property occurs when any of the following conditions are met.

#### **Direct Use**

A direct use of a Section 4(f) resource occurs when property is permanently incorporated into a proposed transportation project. This may occur as a result of partial or full acquisition of a fee simple interest, permanent easements, or temporary easements that exceed regulatory limits noted below.

#### **Temporary Use**

A temporary use of a Section 4(f) resource occurs when there is a temporary occupancy of property that is considered adverse in terms of the preservationist purpose of the Section 4(f) statute. Under the FHWA/FTA regulations (23 CFR 774.13), a temporary occupancy of property does not constitute a use of a Section 4(f) resource when all the following conditions are satisfied:

- Duration is temporary (i.e., less than the time needed for construction of the project), and there is no change in ownership of the land

- Scope of work is minor (i.e., both the nature and magnitude of the changes to the Section 4(f) property are minimal)
- There are no anticipated permanent adverse physical impacts, nor is there interference with the protected activities, features, or attributes of the property, on either a temporary or permanent basis
- The land being used will be fully restored (i.e., the property must be returned to a condition that is at least as good as that which existed prior to the project)
- There is a documented agreement of the official(s) having jurisdiction over the Section 4(f) resource regarding the above conditions

#### **Constructive Use**

A constructive use of a Section 4(f) resource occurs when a transportation project does not permanently incorporate land from the resource, but the proximity of the project results in impacts (e.g., noise, vibration, visual, and property access) so severe that the protected activities, features, or attributes that qualify the resource for protection under Section 4(f) are substantially impaired. Substantial impairment occurs only if the protected activities, features, or attributes of the resource are substantially diminished (23 CFR 774.15).

#### **De minimis Impacts**

The requirements of Section 4(f) would be considered satisfied with respect to a Section 4(f) resource if it is determined that a transportation project would have only a “*de minimis* impact” on the Section 4(f) resource. The provision allows avoidance, minimization, mitigation, and enhancement measures to be considered in making the *de minimis* determination. The agencies with jurisdiction must concur in writing with the determination. *De minimis* impact is defined in 23 CFR 774.17 as follows:

- For parks, recreation areas, and wildlife and waterfowl refuges, a *de minimis* impact is one that would not adversely affect the features, attributes, or activities qualifying the property for protection under Section 4(f).
- For historic sites, *de minimis* impact means that the FTA has determined, in accordance with 36 CFR 800, that no historic property is affected by the project or the project would have “no adverse effect” on the property in question. The State Historic Preservation Division (SHPD) must be notified that the FTA intends to enter a *de minimis* finding for properties where the project results in “no adverse effect.”

## 5.2 Description of the Project

The Build Alternatives would include the construction and operation of a grade-separated fixed guideway transit system between East Kapolei and Ala Moana Center. The alternatives are described in Chapter 2, and conceptual plans of the alignment are included in Appendix A, Conceptual Alignment Plans and Profiles. The system would use steel-wheel-on-steel-rail technology and could be either automated or employ drivers.

The guideway would follow the same alignment for all Build Alternatives through most of the project alignment, except between Aloha Stadium and Kalihi.

Beginning at the East Kapolei end of the corridor, the alignment would follow Farrington Highway Koko Head on an elevated structure and continue along Kamehameha Highway to near Aloha Stadium.

Between Aloha Stadium and Kalihi, the alignment differs for each of the Build Alternatives, as detailed in Chapter 2. The Salt Lake Alternative would follow Salt Lake Boulevard until it crosses Pu'uloa Road and then follow Pūkōloa Street across

Nimitz Highway to Middle Street. The Airport Alternative would follow Kamchamcha Highway and North Nimitz Highway to Aolele Street and Middle Street.

Koko Head of Middle Street, both alternatives would follow Dillingham Boulevard to the vicinity of Ka'aahi Street and then turn Koko Head to connect to Nimitz Highway near Iwilei Road. The alignment would follow Nimitz Highway Koko Head to Halekauwila Street, then along Halekauwila Street past Ward Avenue where it would transition to Queen Street and Kona Street. The alignment would cross from Waimanu Street to Kona Street near Pensacola Street. The guideway would run above Kona Street to Ala Moana Center.

In addition to the guideway, the Project would require the construction of stations and supporting facilities. Supporting facilities include a vehicle maintenance and storage facility, transit centers, park-and-ride lots, and traction power substations.

## 5.3 Description of Section 4(f) Properties

Properties subject to Section 4(f) consideration include publicly owned parks, recreation areas, wildlife refuges of National or Local significance, and historic properties of National, State, or Local significance, whether privately or publicly owned. As described in Section 4.4, Community Services and Facilities, 13 parks and recreational resources are adjacent to the project alignment. Only 9 of these are publicly owned (Table 5-1), which under Section 4(f) definition qualifies them as Section 4(f) resources.

The Section 106 consultation and evaluation of historic properties along the alignment is ongoing. Table 4-32 in Section 4.15, Archaeological, Cultural, and Historic Resources, presents affected historic properties, as established by current

**Table 5-1 Publicly Owned Parks and Recreation Areas Adjacent to Project Alignment**

Property	Description	Section 4(f) Use Determination
West Loch Golf Course	West Loch Golf Course is located off Fort Weaver Road. The parcel is a 94-acre municipal golf course owned by the City and County of Honolulu. It extends across Fort Weaver Road and is adjacent to Honouliuli (Village) and the St. Francis West Medical Center. The golf course is generally a quiet setting, but bounded on end by Farrington Highway, a major transportation corridor.	All alternatives—no use
Neal S. Blaisdell Park	The park is approximately 26 acres and is owned by the City and County of Honolulu. The park consists primarily of open space, but also supports some amenities, such as trails and exercise areas. It is located immediately makai of Kamehameha Highway, a major transportation corridor. All views are makai, towards the harbor.	All alternatives—no use
ʻAiea Bay State Recreation Area	ʻAiea Bay State Recreation Area encompasses approximately 7.75 acres. The recreation area is owned by the State and is under the jurisdiction of the Hawaiʻi Department of Land and Natural Resources. The area is used for general recreation and picnicking. It is located immediately makai of Kamehameha Highway, a major transportation corridor. All views are makai, towards the harbor.	All alternatives—no use
Āliamanu Neighborhood Park	The park is approximately 4 acres and is owned by the City. Park amenities include a baseball field playground, basketball court, tennis courts, and picnic areas. This public facility would not be affected by the project footprint. The park is located makau of Salt Lake Boulevard, surrounded by residential and commercial development.	All alternatives—no use
Walker Park	This small urban park provides shade in a busy downtown area. It is primarily used by pedestrians walking through downtown. It does not provide any benches, picnic tables or other amenities.	All alternatives—no use
Irwin Memorial Park	Irwin Memorial Park is at the ʻEwa-makai corner of the Bishop Street and Nimitz Highway intersection. The park is approximately 2 acres and can be accessed from Aloha Tower Drive. Irwin Memorial Park is primarily used as a parking lot for surrounding office buildings. Amenities include sitting areas and tables near the corner of Bishop Street and Nimitz Highway. The property is owned by the State Department of Transportation Harbors Division and is part of the Aloha Tower Project administered by the Aloha Tower Development Corporation. All scenic views are makai, towards the harbor.	All alternatives—no use
Mother Waldron Park	This neighborhood park is mauka of Ala Moana Boulevard and makai of Kapiʻolani Boulevard at 525 Coral Street in the redeveloped area of Downtown Kakaʻako. The park is approximately 1 acre and supports a children’s play structure and unlit basketball courts. The park also hosts the People’s Open Market Program, which offers local agriculture and aquaculture products. The park is owned by the State. The park is located in a predominantly commercial/industrial area.	All alternatives—no use
Aloha Stadium	This 50,000-seat stadium is on an 89-acre property owned by the State under the jurisdiction of the Stadium Authority. Aloha Stadium is primarily used for athletic competitions, such as the Hula Bowl, the Aloha Bowl, the Pro Bowl, and University of Hawaiʻi football games. Other recreational uses include hosting various concerts and family-oriented fairs; the stadium parking lot is used for a weekly flea market.	All alternatives—direct use ( <i>de minimis</i> )
Keʻehi Lagoon Beach Park	Keʻehi Lagoon Beach Park is an approximately 72-acre community park at Lagoon Drive and Aolele Street. Recreational amenities include canoeing and boating, 12 tennis courts, 1 baseball field, restroom facilities, walking trails, and picnic areas. The park is operated and maintained by the City of Honolulu on State-owned land.	Airport and Airport & Salt Lake Alternatives—direct use Salt Lake Alternative—no use

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consultation. Each historic property is listed in Table 5-2 with a Section 4(f) use determination.

The following sections describe use of Section 4(f) resources. An assessment has been made as to whether any permanent or temporary occupancy of a property would occur and whether the proximity of the Project would cause any access disruption, noise, vibration, or aesthetic effects that would substantially impair the features or attributes that qualify the resource for protection under Section 4(f) and, therefore, constitute a use.

## **5.4 Direct Use of Section 4(f) Properties**

Chapter 2 provides a history of the systematic process by which alternatives were developed, evaluated, and refined to become the alternatives remaining under consideration in this Draft EIS. During the Alternatives Analysis, several other alternative corridors and multimodal alternatives were considered to determine if the Project's Purpose and Need could be achieved. No such alternative was identified that would completely avoid Section 4(f) resources while meeting the Project's Purpose and Need. Only the No Build Alternative would not use any Section 4(f) resources. However, the No Build Alternative would not meet the Project's Purpose and Need; therefore, it would not be prudent and feasible.

The avoidance of Section 4(f) properties was an important consideration in developing and screening the alternatives; thus, the majority of public parks, recreational resources, and historic properties identified within the study corridor were avoided in designing the Build Alternatives.

As the design phase evolved, each alignment was further refined, with site-specific shifts occurring in the alignment or placement of individual stations to avoid, where feasible, Section 4(f) resources. Through this iterative process, the

number of Section 4(f) properties that would be affected by the Build Alternatives was reduced to six direct uses and four (Salt Lake Alternative) or five (Airport Alternative and Airport & Salt Lake Alternative) *de minimis* impacts identified in Sections 5.4.1, Park and Recreational Resources, and 5.4.2, Historic Sites, and shown in Table 5-3.

### **5.4.1 Park and Recreational Resources**

As described in Section 4.4, there are 13 parks and recreational resources adjacent to the project alignment. Only 9 of these are publicly owned. The Project would require direct property acquisition only at Aloha Stadium and Ke'ehi Lagoon Beach Park, which would result in a Section 4(f) use. The use of Aloha Stadium would be *de minimis*, as described below. The existing environment includes major highways and thoroughfares. Since significant elements of urban development already exist, the Project would not impair or diminish the activities, features, or attributes that qualify these properties for protection under Section 4(f). Table 5-1 lists the publicly owned parks and their Section 4(f) use. Potential constructive uses are discussed in Section 5.5, Constructive Use of Section 4(f) Properties.

#### ***Aloha Stadium***

##### ***Description and Significance of Property***

Aloha Stadium is bordered by Salt Lake Boulevard, H-1 Freeway, Kamehameha Highway, and Moanalua Road (Figure 5-1). The 50,000-seat stadium is on an 89-acre property, most of which is used for event parking, and is under the jurisdiction of the Stadium Authority. Aloha Stadium is designated as a General Preservation District (P2).

The stadium property was originally owned by the U.S. Department of the Interior and was transferred to the City in 1967. The Quitclaim Deed of that transfer, dated June 30, 1967, requires the land be used and maintained for public recreational purposes. In October 1970, with the approval of the Department of the Interior, the property was