

Appendix A: Resources Evaluated Relative to the Requirements of Section 4(f): No Use Determination

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Appendix A: Resources Evaluated Relative to the Requirements of Section 4(f): No-Use Determination

This section of the document discusses de minimis impact determinations under Section 4(f). Section 6009(a) of SAFETEA-LU amended Section 4(f) legislation at 23 USC 138 and 49 USC 303 to simplify the processing and approval of projects that have only de minimis impacts on lands protected by Section 4(f). This amendment provides that once the U.S. Department of Transportation (USDOT) determines that a transportation use of Section 4(f) property, after consideration of any impact avoidance, minimization, and mitigation or enhancement measures, results in a de minimis impact on that property, an analysis of avoidance alternatives is not required and the Section 4(f) evaluation process is complete. The FHWA's final rule on Section 4(f) de minimis findings is codified in 23 CFR 774.3 and CFR 774.17.

Responsibility for compliance with Section 4(f) has been assigned to the Department pursuant to 23 USC 326 and 327, including de minimis impact determinations, as well as coordination with those agencies that have jurisdiction over a Section 4(f) resource that may be affected by a project action.

A.1 Introduction

Section 4(f) of the USDOT Act of 1966, codified in federal law at 49 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.”

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

Section 4(f) specifies that the Secretary of Transportation may approve a transportation program or project requiring use of the publicly owned land of a public park, recreation area, or wildlife or 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), 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 or 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 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.

Responsibility for compliance with Section 4(f) has been assigned to the Department pursuant to 23 USC 326 and 327, including determinations and approval of Section 4(f) evaluations, as well as coordination with those agencies that have jurisdiction over a Section 4(f) resource that may be affected by a project action.

The proposed project is a transportation project that may receive federal funding and/or discretionary approvals through USDOT]; therefore, documentation of compliance with Section 4(f) is required.

The FHWA Section 4(f) Checklist, Attachment B, Park, Recreational Facilities, Wildlife Refuges, and Historic Properties Evaluated Relative to the Requirements of Section 4(f), revised September 2003, represents recommended “best practices” for compliance with Section 4(f) requirements. Attachment B of the Section 4(f) Checklist indicates that all archaeological and historical sites within the Section 106 Area of Potential Effects (APE) within approximately 0.5 mile of any of the Build Alternative should be included in the evaluation.

This Section 4(f) analysis provides an overview of parks, recreational facilities, wildlife refuges, and historic properties found within 0.5 mile of the proposed project, in accordance with the requirements of Section 4(f).

The environmental review, consultation, and any other actions required by applicable federal environmental laws for this project are being, or have been, carried out by Caltrans pursuant to 23 USC 327 and the Memorandum of Understanding dated December 23, 2016, and executed by FHWA and Caltrans.

A.1.1 Description of Proposed Project

The California Department of Transportation (Caltrans) District 12, in cooperation with the OCTA, proposes to increase capacity on SR 55 between I-5 and SR 22 and provide operational improvement between SR 22 and SR 91 PM 10.4 and R17.9, traversing the cities of Tustin, Santa Ana, Orange, and Anaheim in Orange County, California. Caltrans is the Lead Agency for compliance under CEQA and NEPA.

A.1.1.1 Build Alternative

The “Build Alternative” includes the following (see Figure 1.3-1):

- One northbound general purpose lane between I-5 and SR 22
- One southbound general purpose lane between I-5 and SR 22
- Additional capacity on the southbound SR 55 Katella Avenue off- and on-ramps
- The southbound SR 55 Lincoln Avenue off-ramp relocated approximately 1,300 feet to the south

One northbound general purpose lane between I-5 and SR 22:

A fifth general purpose lane would be extended on northbound SR 55 between 4th Street and Fairhaven Avenue, eliminating the existing lane drop at 4th Street. To accommodate the additional general purpose lane, the existing auxiliary lane from northbound 4th Street on-ramp to 17th Street, the existing northbound 17th Street loop on-ramp and the existing auxiliary lane from northbound 17th Street direct on-ramp would be realigned to the east to provide room for the fifth general purpose lane. One additional right-turn lane would also be added to the northbound 4th Street off ramp from SR 55. The fifth general purpose lane would become one of two lanes obligated to the westbound SR 22 connector. After the SR 22 connector, the northbound SR 55 will join the existing four general purpose lanes and one HOV lane.

One southbound general purpose lane between I-5 and SR 22:

A fourth general purpose lane would be extended on southbound SR 55 from SR 22 to 4th Street, where it would become one of two obligated lanes to the I-5 southbound connector from SR 55. The existing two-lane eastbound SR 22 to southbound SR 55 connector would join the widened southbound SR 55 mainline as an auxiliary lane and additional general purpose lane. As a result, five general purpose lanes and one auxiliary lane would be present between Fairhaven Avenue and 4th Street. The auxiliary lane from the SR 22 connector would extend to the 17th Street loop off-ramp. The auxiliary lane from the 17th Street off-ramp continues to the 4th Street off-ramp, and the additional general purpose lane is an optional exit to 4th Street. The additional general purpose lane continues to become the second obligated lane to the southbound I-5 connector. The southbound 4th Street off-ramp from SR 55 would be widened with an extra right-turn lane to improve traffic flow.

Provide additional capacity on the southbound SR 55 Katella Avenue off- and on-ramps:

An additional lane would be added to the southbound SR 55 Katella Avenue off- and on-ramps.

Relocate the southbound SR 55 Lincoln Avenue off-ramp approximately 1,300 feet to the south:

The existing Lincoln Avenue southbound off-ramp will be relocated to south of Lincoln Avenue (next to the existing southbound hook on-ramp). This ramp relocation will provide operational improvements by increasing the weave length between the westbound SR 91 to southbound SR 55 connector and the Lincoln Avenue off-ramp. The Park and Ride lot would be relocated in-kind within Caltrans right-of-way to the existing southbound Lincoln Avenue off-ramp location.

A.1.1.2 No Build Alternative

The No Build Alternative would not result in the construction of any improvements to the project segment of SR 55 other than routine maintenance. As a result, the No Build Alternative would not result in adverse effects related to existing and planned land uses.

A.2 Regulatory Setting

This evaluation identifies the Section 4(f) resources in the study area, describes the nature and extent of the potential effects on these properties, evaluates the Build Alternative with respect to the use of Section 4(f) resources, and describes measures to minimize harm to the affected resources.

A.2.1 Determining Section 4(f) Resources

Five steps are involved in Section 4(f) analysis:

1. Determine if Section 4(f) applies to the project.
2. Determine if Section 4(f) properties are within the project vicinity.
3. Determine if there is a “use” of the Section 4(f) property.
4. Determine if there is an exception to the “use” of the Section 4(f) property.
5. Determine the level of approval required for the “use.”

Protected resources include:

- Public parks and schools with publicly accessible recreational areas
- Recreational areas of national, State, or local significance
- Wildlife or waterfowl refuges
- Historic sites of national, State, or local significance

A.2.2 Section 4(f) Use

As defined in 23 CFR 774.17, a “use” of a protected resource occurs when any of the following conditions are met:

- Direct Use: Land is permanently incorporated into a transportation facility.
- Temporary Use: There is a temporary occupancy of land that is adverse in terms of the statute’s preservation purpose, as determined by the criteria in 23 CFR 774.13(d).
- Constructive Use: There is a constructive use of a Section 4(f) property, as determined by the criteria in 23 CFR 774.15.

A.2.2.1 Direct Use

A direct use of a Section 4(f) resource takes place when part or all of the property designated for protection under Section 4(f) is permanently incorporated into a transportation project (23 CFR Section 774.17). This may occur as a result of partial or full acquisition of a fee simple interest, permanent easements, or temporary easements that exceed the regulatory limits noted below (23 CFR Section 771.135).

A.2.2.2 Temporary Use

A temporary use of a Section 4(f) property occurs when temporary occupancy of a protected property occurs for construction-related activities and when that temporary occupancy is considered adverse in terms of the preservationist purposes of the Section 4(f) statute. If the following five conditions set forth in 23 CFR Section 774.13(d) can be satisfied, Section 4(f) does not apply:

1. The duration of the occupancy must be temporary (i.e., shorter than the period of construction) and not involve a change in ownership of the property.
2. The scope of the work must be minor, with only minimal changes to the protected resource.
3. There are no anticipated permanent adverse physical impacts on the protected resource and no temporary or permanent interference with the activities or purpose of the resource.
4. The land being used must be fully restored to a condition that at least equals the condition that existed prior to the proposed project.
5. Agreement by the appropriate officials having jurisdiction over the Section 4(f) resource regarding the above conditions must be documented.

A.2.2.3 Constructive Use

A constructive use of a Section 4(f) resource happens when a transportation project does not permanently incorporate land from the resource in the transportation facility, but the proximity of the project to the Section 4(f) property results in adverse proximity impacts (i.e., noise, vibration, visual, access, ecological impacts) so severe that the protected activities, features, or attributes that qualify the property for protection under Section 4(f) are substantially impaired (23 CFR Section 774.15). Substantial impairment occurs only if the protected activities, features, or attributes of the Section 4(f) property are substantially diminished by the indirect adverse impacts of the project (23 CFR Section 774.15(a)). This determination is made through the following process:

- Identification of the current activities, features, or attributes of the resource that may be sensitive to proximity impacts
- Analysis of the potential proximity impacts of the project on the resource
- Consultation with the appropriate officials having jurisdiction over the resource (23 CFR Section 774.15(d))

A.3 Section 6(f) Resource Evaluation and Public Park Preservation Act

A.3.1 Section 6(f)

In addition to resources protected under Section 4(f), this project is also required to analyze potential impacts on properties protected or enhanced with Land and Water Conservation Fund (LWCF) grants. Section 6(f)(3) of the LWCF Act (16 USC Section 4601-4) contains provisions to protect federal investments in park and recreational resources and the quality of those resources. State and local governments often obtain grants through the LWCF Act to acquire or make improvements to parks and recreational areas. Section 6(f) of the LWCF Act prohibits the conversion of property acquired or developed with LWCF grants to a non-recreational purpose without the approval of the DOI's National Park Service. Section 6(f) further directs DOI to ensure that replacement lands of equal value, location, and usefulness are provided as conditions to such conversions. Consequently, where conversion of Section 6(f) lands is proposed for roadway and highway projects, replacements will be necessary.

To determine whether LWCF funds were involved in the acquisition or improvement of Section 4(f) resources, California Department of Parks and Recreation database records of all LWCF-funded parks within Orange County were consulted. Two resources in which Section 6(f) funds were used within 0.5 mile of the Build Alternative include Santa Ana Zoo at Prentice Park (ID 2 on Figure A-1) and the Santiago Creek Bike Trail (ID 11 on Figure A-1). Santa Ana Zoo at Prentice Park is approximately 0.4 mile west of the proposed improvements on SR 55. The Santiago Creek Trail crosses beneath SR 55 0.25 mile south of East Chapman Avenue. The nearest proposed project improvements to Santiago Creek are approximately 1.0 mile south near the eastbound SR 22 to northbound SR 55 connector and approximately 3.0 miles north at Katella Avenue SR 55 southbound on-ramp. The proposed project would not result in the conversion of Section 6(f) lands. The properties are Section 4(f) properties, but no "use" will occur. Therefore, the provisions of Section 4(f) do not apply.

A.3.2 Public Park Preservation Act of 1971

In addition to the requirements of Sections 4(f) and 6(f), the Public Park Preservation Act of 1971 (PRC Section 5400 et seq.), which applies to any park operated by a public agency, provides in part that:

"No city, city and county, county, public district, or agency of the state, including any division, department or agency of the state government, or public utility, shall acquire (by purchase, exchange, condemnation, or otherwise) any real property, which property is in use as a public park at the time of such acquisition, for the purpose of utilizing the property for any nonpark purpose, unless the acquiring entity pays or transfers to the legislative body of the entity operating the park sufficient compensation or land, or both, as required by the provisions of this chapter to enable the operating entity to replace the parkland and the facilities thereon."

As described later in Table A-1, the proposed alternative would not result in temporary or permanent use of any park and, therefore, would also not result in the need for any compensation to park owners/operators under the Public Park Preservation Act of 1971.

A.4 Section 4(f) Resource Evaluation

As noted above, resources that are subject to Section 4(f) consideration include publicly owned lands, such as public parks; recreational areas of national, state, or local significance; wildlife and waterfowl refuges; and historic sites of national, state, or local significance. Resources in the project study area were identified if they were:

- Existing publicly owned recreational and park resources, including local, regional, and state resources
- Publicly owned wildlife and waterfowl refuges or conservation areas
- Existing public bicycle, pedestrian, or equestrian trails
- Listed or eligible National Register of Historic Places (NRHP) historic sites

Research was conducted to identify publicly owned parks, recreational areas, wildlife and waterfowl refuges, and land from a historic site within 0.5 mile of the Build Alternative. Locations evaluated are included on Figure A-1. An evaluation of use for each location is provided in Table A-1.

Table A-1: Section 4(f) Eligible Resources

Park/ Recreational Resource	Location	Owner	Resource Feature	Subject to Section 4(F) Protection	Build Alternative Use Status	Nearest Location Relative to SR 55/Proposed Improvements
Schools						
Handy Elementary	860 N. Handy St., Orange CA	Orange Unified School District	Outdoor use areas and playground.	Yes	No use ^a	0.06/0.50 mi
La Veta Elementary	2800 E. La Veta Ave., Orange CA	Orange Unified School District	Outdoor use areas and playground.	Yes	No use ^a	0.30/0.35 mi
Nohl Canyon Elementary	4100 Nohl Ranch Rd. Anaheim CA	Orange Unified School District	Outdoor use areas and playground	Yes	No use ^a	0.35/0.40 mi
Palmyra Elementary	1325 E Paimyra Ave., Oranges CA	Orange Unified School District	Outdoor use areas and playground.	Yes	No use ^a	0.40/0.70 mi
Helen Estock Elementary	14741 N B Street, Tustin CA	Tustin Unified School District	Outdoor use areas and playground.	Yes	No use ^a	0.20/0.20 mi
Robert Heideman Elementary	15571 Williams St, Tustin CA	Tustin Unified School District	Outdoor use areas and playground.	Yes	No use ^a	0.30/0.75 mi
Parks						
McFadden-Pasadena Parkette	17092 Medallion Ave, Tustin CA	City of Tustin	This 0.4-ac park includes green space, a playground, and picnic tables.	Yes	No use ^a	0.08/0.80
Prentice Park/Santa Ana Zoo	1801 E Chestnut Ave, Santa Ana, 92701	City of Santa Ana	The 19-ac zoo/park features over 80 species of animals, a children's farm, a train ride, and a carousel. There is on-site parking at the zoo/park.	Yes	No use ^a	0.40/0.50 mi
Cabrillo Park	1820 E Fruit St, Santa Ana, CA 92701	City of Santa Ana	This 10.4-acre park includes baseball and multi-purpose fields, greenspace, picnic tables, and restrooms	Yes	No use ^a	Adjacent/1.0 mi
Pepper Tree Park	230 W First St, Tustin, CA 92780	City of Tustin	3.3-acre park featuring picnic areas with BBQs, a horseshoe pit, and youth softball diamond.	Yes	No use ^a	0.40/0.40 mi
Yorba Park and Dog Park	190 S. Yorba St, Orange, CA 92867	City of Orange	Features green space with walking trail, dog park with separate areas for large and small dogs, and access to Santiago Creek Bike Path	Yes	No use ^a	0.08/0.70 mi

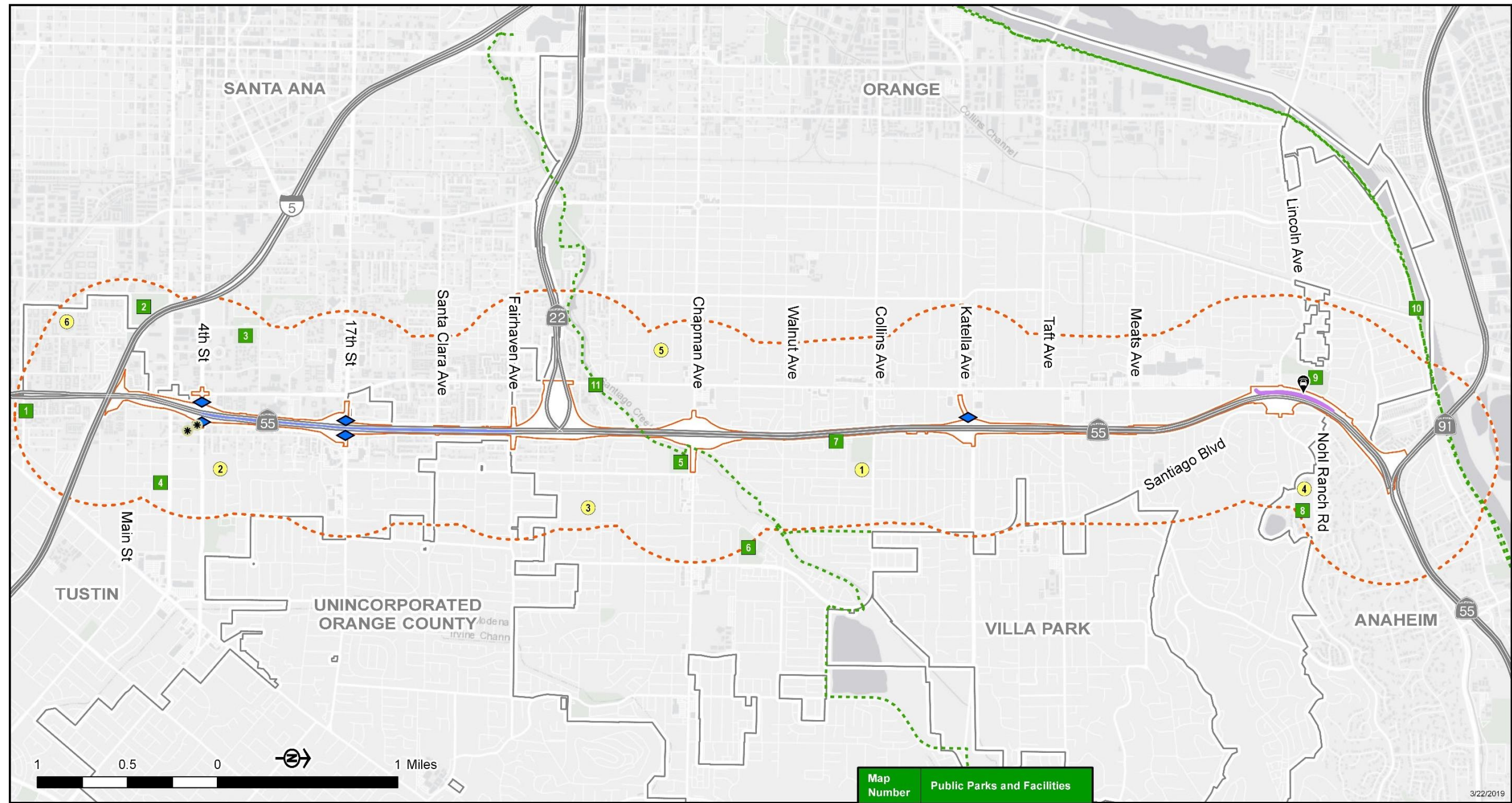
Park/ Recreational Resource	Location	Owner	Resource Feature	Subject to Section 4(F) Protection	Build Alternative Use Status	Nearest Location Relative to SR 55/Proposed Improvements
Grijalva Park at Santiago Creek	368 N Prospect St, Orange, CA 92866	City of Orange	26.5-acre park featuring lighted multipurpose fields, playground, two picnic pavilions and green space, 26,200-square-foot facility that features a dance room with a wood floor, ballet barres and mirror walls, a large multipurpose room, and a spacious gymnasium with basketball and volleyball courts	Yes	No use ^a	0.42/1.1 mi
Handy Park	2143 E Oakmont Ave, Orange, CA 92867	City of Orange	7.31-acre park features barbeques, picnic area, tot-lot baseball and soccer fields, and volleyball court	Yes	No use ^a	Adjacent/0.50 mi
Olive Hills Park	700 S Nohl Canyon Road, Anaheim, CA 92807	City of Anaheim	A 4.8-acre park that features six public tennis courts. Includes a 1-acre dog park with a perimeter walking path, patches of artificial turf, agility equipment, benches, and native plants.	Yes	No use ^a	0.50/0.50 mi
Eisenhower Park	2864 N Tustin Street, Orange, CA 92865	City of Orange	A 20-acre park that features walking paths, picnic tables, a tot lot, sitting benches, barbecue stations, bicycle racks, and restrooms.	Yes	No use ^a	0.05/Adjacent
Santa Ana River Trail	The regional portion extends 29 miles from Green River golf course to Yorba Regional Park to Huntington Beach.	Orange County Parks	Santa Ana River Trail is a multi-use trail/bike path complex that runs alongside the Santa Ana River for 30 miles from the Pacific Ocean at Huntington Beach along the Santa Ana River to the Orange–Riverside County line	Yes	No use ^a	0.45/0.60 mi
Santiago Creek Bike Trail	Adjacent to Santiago Creek	City of Orange	The Santiago Creek Bike Trail (SCBT) consists of a paved trail alongside the Santiago Creek that spans 6 miles from Hart Park to Cannon Street, with one branch that continues north in a City-owned right-of-way from Walnut Ave to Collins Ave where it connects to the City of Villa Park. Bicyclists	Yes	No use ^a	Adjacent/0.50

Notes: Ave: Avenue; CA: California; E: East; mi: mile(s); N: North; S: South; SR: State Route; St: Street; W: West

^a The property is a Section 4(f) property, but no use will occur. Therefore, the provisions of Section 4(f) do not apply.

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Figure A-1: Section 4(f) Eligible Resources



- Project Area
- Half-Mile Study Area
- * National Register Eligible Properties
- Public Parks and Facilities
- Public Schools
- City Boundaries
- Improvement Type**
- 🚶 New Park and ride
- ♦ Ramp Improvements
- Mainline Improvement
- Relocated Ramp

Map Number	School Name
1	Handy Elementary
2	Helen Estock Elementary
3	La Veta Elementary
4	Nohl Canyon Elementary
5	Palmyra Elementary
6	Robert Heideman Elementary

Map Number	Public Parks and Facilities
1	McFadden-Pasadena Parkette
2	Prentice Park/Santa Ana Zoo
3	Cabrillo Park
4	Pepper Tree Park
5	Yorba Park
6	Grijalva Park at Santiago Creek
7	Handy Park
8	Olive Hills Park
9	Eisenhower Park
10	Santa Ana River Trail
11	Santiago Creek Bike Trail

SR-55 Improvement Project: I-5 to SR-91

Publicly Owned Parks and Schools

EA 0K7200
 Federal Project Number:
 1213000149
 Project Limits:
 12-ORA-55 PM 10.4 – R17.9

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A total of 19 properties were identified within 0.5 mile of the project corridor that would qualify as Section 4(f) resources, which includes six school outdoor use/playgrounds, nine parks, two trails, and two properties eligible for inclusion on the NRHP (see Figure A-1). There are no archaeological sites or wildlife or waterfowl refuges within 0.5 miles of the project corridor.

A.4.1 Schools

Schools within the 0.5-mile study area are listed below. These properties all contain outdoor use areas and playgrounds.

- Helen Estock Elementary
- La Veta Elementary
- Nohl Canyon Elementary
- Palmyra Elementary
- Robert Heideman Elementary

These facilities could support significant walk-on public recreational opportunities and would be eligible for protection under Section 4(f). However, as shown in Table A-1, Helen Estock Elementary School is the nearest location (0.20 mile) to the proposed improvements. The Build Alternative would not involve permanent, temporary, or constructive use of any of school outdoor use or playground facilities. The properties are Section 4(f) properties, but no use will occur. Therefore, the provisions of Section 4(f) do not apply.

A.4.2 Public Parks and Recreation Facilities

Eleven publicly owned parks and recreational areas are within 0.5 mile of the project corridor, as shown in Figure A-1. Of these 11 properties, 9 properties are outdoor parks, and two are trails. Table A-1 provides a summary of all 11 properties, including information on location, ownership, and the facilities available at each property. As shown in Table A-1, the Build Alternative would not involve permanent or temporary use of any of these properties. The properties are Section 4(f) properties, but no use will occur. Therefore, the provisions of Section 4(f) do not apply.

Of the 11 properties, only Eisenhower Park would be close enough to proposed construction activities to potentially be affected indirectly due to proximity impacts.

Eisenhower Park, owned by the City of Orange, is located within 1,500 feet of the proposed Build Alternative improvements associated with relocation of the southbound Lincoln Avenue off-ramp. Eisenhower Park is located across North Tustin Street and approximately 20 feet below grade from the existing southbound Lincoln Avenue off-ramp. The project would relocate Lincoln Avenue southbound off-ramp to south of Lincoln Avenue (next to the existing southbound hook on-ramp). The Park and Ride lot would be relocated in-kind within Caltrans right-of-way to the location of the existing southbound Lincoln Avenue off-ramp location (see Figure 1.3-1).

Potential proximity impacts to Eisenhower Park during construction would be associated with construction noise and dust. These would be minimized through Project Features described in Sections 2.13, Air Quality, and 2.14, Noise. The project has no potential to result in adverse proximity impacts so severe that the use of or access to Eisenhower Park would be substantially impaired. The project has no potential to result in a constructive use at Eisenhower Park or any of the other Section 4(f) eligible properties.

A.4.3 National Register Eligible Properties

As discussed in Section 2.7, Cultural Resources, two properties were found eligible for listing in the NRHP:

- 14841 Yorba Street
- 14891 Yorba Street (Chamber House)

As discussed in the Historic Property Survey Report (HPSR) (March 2019), construction and operation of the Build Alternative would not result in a take or easement of these properties. Additionally, the properties have been adjacent to an existing freeway that was constructed more than 50 years ago. Therefore, the project would not result in a direct or indirect impact to historic properties and would not result in a Section 4(f) use. The properties are Section 4(f) properties, but no use will occur. Therefore, the provisions of Section 4(f) do not apply.