

PART 2, CHAPTER 7

SECTION 4(f) RESOURCES

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PART 2, CHAPTER 7

SECTION 4(f) RESOURCES

7.1 OVERVIEW

7.1.1 Background and Guidance

Pursuant to **23 United States Code (U.S.C.) § 327** and the implementing Memorandum of Understanding (MOU) executed on December 14, 2016, the Florida Department of Transportation (FDOT) has assumed Federal Highway Administration's (FHWA's) responsibilities under the **National Environmental Policy Act (NEPA)** for highway projects on the State Highway System (SHS) and Local Agency Program (LAP) projects off the SHS. In general, FDOT's assumption includes all highway projects in Florida whose source of federal funding comes from FHWA or which constitute a federal action through FHWA. This includes responsibilities for environmental review, interagency consultation and other activities pertaining to the review or approval of **NEPA** actions. Consistent with law and the MOU, FDOT will be the Lead Federal Agency for highway projects with approval authority resting in the Office of Environmental Management (OEM).

Section 4(f) of the **Department of Transportation Act of 1966 (Pub. L. 89-670, 80 Stat. 931)**, now codified at **23 U.S.C. § 138** and **49 U.S.C. § 303**, governs the use of publicly owned parks, recreation areas, wildlife and waterfowl refuges, and public or private historic sites for U.S. Department of Transportation (USDOT) transportation projects. These resources are referred to as **Section 4(f)** protected properties. **Section 4(f)** regulations only apply to the USDOT and its agencies, i.e., FHWA, Federal Aviation Administration (FAA), Federal Transit Administration (FTA), and Federal Railroad Administration (FRA). FHWA and FTA adopted rules under **23 Code of Federal Regulations (CFR) Part 774** to implement the requirements of the federal statutes.

Section 4(f) requires an agency to perform a substantive review as part of the decision-making process which results in a specific finding of whether there is a transportation project-related impact to a **Section 4(f)** protected property which is referred to as a "use." During the planning and development of transportation facilities, FDOT can only approve transportation uses of land from publicly owned public parks, recreation areas, or wildlife and waterfowl refuges of national, state, or local significance, or land of an historic or archeological site of national, state, or local significance when the following conditions are met:

- There are no feasible and prudent avoidance alternatives to the use of 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 proposed use.

OR

The use of the property will have a *de minimis* impact. This chapter focuses on the processes associated with the development of highway projects and potential impacts to **Section 4(f)** property which were developed by USDOT and FTA, and are now implemented by FDOT (See [Figure 7-1](#)). Also, this chapter addresses the conversion of park and recreational properties funded wholly or in part under **Section 6(f)** of the **Land and Water Conservation Fund Act (LWCF)**.

FDOT is the Lead Agency for environmental review of FHWA funded highway projects in Florida. For transportation projects funded by FTA, FRA, or FAA, these agencies will act as the Lead Agency for **Section 4(f)** analysis. In these situations, the District will contact the OEM Project Delivery Coordinator (PDC) for the District and work with the officials of the lead transportation agency. Regardless of which USDOT agency is the Lead Agency, the basic requirements for **Section 4(f)** are the same.

7.1.2 Definitions

Constructive Use Determinations (23 CFR § 774.15) - A constructive use occurs when a transportation project does not incorporate land from a **Section 4(f)** resource, but when the project's proximity impacts are so severe that the protected activities, features, or attributes that qualify a property for protection under **Section 4(f)** are substantially impaired.

***de minimis* Impact (23 CFR § 774.17)** - For parks, recreation areas, and wildlife and waterfowl refuges, a *de minimis* impact is one that is minimal, and the use of the protected property is one that will 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 no historic property is affected by the project or that the project will have "no adverse effect" on the historic property being used within the meaning of **Section 4(f)** in accordance with **36 CFR Part 800**.

Feasible and prudent avoidance alternative (23 CFR § 774.17) - An alternative that avoids using the **Section 4(f)** property and does not cause other severe problems of a magnitude that substantially outweighs the importance of protecting the **Section 4(f)** property. It is appropriate to consider the relative value of the resource to the preservation purpose of the statute.

Officials with Jurisdiction (OWJ) (23 CFR § 774.17) - The entities and individuals who own and/or administer the property are considered the OWJ.

- In the case of historic sites, the OWJ are the State Historic Preservation Officer (SHPO), or, if the property is located on tribal land, the Tribal Historic Preservation Officer (THPO).
 - If the property is located on tribal land but the relevant Indian tribe has not assumed the responsibilities of the SHPO, then a representative designated by the tribe shall be recognized as an OWJ in addition to the SHPO.

- When the Advisory Council on Historic Preservation (ACHP) is involved in consultation concerning a property under **Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. § 470)**, the ACHP is also an OWJ over that resource for the purposes of **Section 4(f)**.
- When the historic property is located on public lands, the public land holder is also an OWJ.
- When the **Section 4(f)** property is a National Historic Landmark (NHL), the designated official of the National Park Service (NPS) is also an OWJ over that resource for the purposes of **Section 4(f)**.
- In the case of public parks, recreation areas, and wildlife and waterfowl refuges, the OWJs are the officials of the agency or agencies that own or administer the property in question and who are empowered to represent the agency on matters related to the property.

Proximity Impacts - Proximity impacts are those impacts which result from the proposed project that affect the functions of a **Section 4(f)** protected property without any direct use of the protected property. Proximity impacts must be evaluated for each project alternative.

Significance - Section 4(f) applies only to those properties determined to be a significant public park, recreation area, or wildlife and waterfowl refuge. Significance means that in comparing the availability and function of the resource, it meets the objectives of the agency, community or authority, the property in question plays an important role in meeting those objectives. Except for certain multiple use land holdings, significance determinations apply to the property as a whole not just to the specific locations required for transportation acquisition. Significance determinations of these types of publicly owned land are made by the OWJ(s) with jurisdiction over the property. In the absence of a determination by the OWJ, the **Section 4(f)** property will be presumed to be significant (see **23 CFR § 774.11** and **FHWA 2012 Policy Paper**, Question 1A).

For historic properties, significance normally means that the historic resource is either listed in or eligible for listing in the National Register of Historic Places (NRHP) in accordance with **36 CFR § 800.4** (regulations implementing **Section 106 of the NHPA** or NRHP) or is otherwise determined significant by the lead federal agency during consultation process required under **36 CFR Part 800** (see **23 CFR § 774.17** and **FHWA Policy Paper**, Question 2A).

Use (23 CFR § 774.17) - The “use” of a **Section 4(f)** resource occurs when the **Section 4(f)** resource is converted to a transportation “use”. A “use” can result when a project permanently incorporates land from a **Section 4(f)** property; when a project requires a temporary occupancy of land within a **Section 4(f)** property; or when a project’s proximity to a **Section 4(f)** property has the potential to substantially impair the protected features of that property without any acquisition of land (i.e., constructive use).

7.2 SECTION 4(F) PROPERTIES AND EVALUATIONS

7.2.1 Substantive Requirements of Section 4(f)

Section 4(f) requires an agency to perform a substantive review as part of the decision making process which includes an obligation to make specific findings or determinations. The intent of **Section 4(f)** is to avoid the use of protected properties. Alternatively, if the **Section 4(f)** resources cannot be avoided, the goal is to reduce the project impacts to a level where the impacts are *de minimis*. If the impacts cannot be reduced to the level of *de minimis* **Section 4(f)** requires an evaluation of prudent and feasible avoidance alternatives and inclusion of all possible measures to minimize harm.

In situations where there are no feasible and prudent avoidance alternatives and there are two or more alternatives requiring the use of **Section 4(f)** property, OEM may select only the alternative which results in the least overall harm.

7.2.2 Applicable Projects

Section 4(f) applies to all FDOT transportation projects that utilize federal aid funds or require the approval of a USDOT agency, and involve the “use” of a **Section 4(f)** property or resource. For the **Section 4(f)** statute to apply, the project must meet the following criteria:

1. Must require an approval from USDOT in order to proceed;
2. Must be a transportation project;
3. Require the use of land from property protected under **Section 4(f)** [see **23 U.S.C. § 138(a)** and **49 U.S.C. § 303(a)**]; and
4. None of the regulatory applicability rules or exceptions applies (see **23 CFR § 774.11 and 13** and [Section 7.4.2](#)).

7.2.3 Section 4(f) Protected Resources

Section 4(f) resources can be divided into two categories: (1) publicly owned parks, recreation areas, and wildlife or waterfowl refuges, and (2) historic and archaeological sites of national, state, or local significance in public or private ownership. **Section 4(f)** only applies to publicly owned parks, recreation areas, and wildlife and waterfowl refuges that have been determined to be significant by the OWJ. **Section 4(f)** does not apply to privately owned parks, recreation areas, and wildlife or waterfowl refuges even if such areas are open to the general public. **Section 4(f)** applies to historic and archeological sites regardless of whether it is publicly or privately owned.

In order to be considered a **Section 4(f)** protected resource, a property must meet the following criteria:

- **Public Parks and Recreation Areas**

- Must be publicly owned which refers to ownership by local, state or federal government
 - Ownership can also include permanent easements and long-term lease agreements
- Must be open to the public during normal hours of operation
- The major purpose must be for park or recreation activities
- Must be designated or function as a significant park or recreational area.
 - Applies to the entire park or recreation area not just a specific feature
- **Wildlife and Waterfowl Refuge**
 - Must be publicly owned which refers to ownership by local, state or federal government
 - Ownership can also include permanent easements and long-term lease agreements
 - Must be open to the public but **refuges are able to restrict access for the protection of refuge habitat and species**
 - The major purpose must be for wildlife and waterfowl refuges
 - Must be designated or function as a significant as a wildlife and waterfowl refuges
 - Applies to the entire wildlife and waterfowl refuges not just a specific feature
- **Historic Sites** - Includes historic buildings, historic transportation facilities, archeological sites, traditional cultural places, historic & archeological districts and historic trails.
 - Must be of national, state or local significance and it must be eligible for listing or is listed on the NRHP; or
 - If a site is determined not to be eligible OEM may determine that the application of **Section 4(f)** is otherwise appropriate when an official (such as the Mayor, president of a local historic society) provides information to support that the historic site is of local importance.

7.2.3.1 Additional Considerations when Identifying Section 4(f) Properties

The **2012 FHWA Section 4(f) Policy Paper** provides guidance regarding the applicability of **Section 4(f)** to a variety of property types. This is not an all-inclusive list. If the practitioner believes there is a property that is also protected under **Section 4(f)** not listed here, please refer to the **FHWA Policy Paper** or contact the OEM PDC.

- **Historic Districts** - When a project uses land from an individually eligible property within a historic district, or a property that is a contributing element to the historic district, **Section 4(f)** is applicable. Consultation with the SHPO/THPO on the historic attributes of the district and potential impacts, should occur to establish whether the property or its elements are contributing or non-contributing to the district and whether its 'use' would substantially impair the historic attributes of the historic district. When a project requires land from a non-historic or non-contributing property lying within a historic district and does not use other land within the historic district that is considered contributing to its historic significance, there is no direct 'use' of the historic district for purposes of **Section 4(f)**.
- **Wild and Scenic Rivers** - Wild and Scenic Rivers and Study Rivers may be protected under **Section 4(f)**. Contact the OEM PDC to discuss **Section 4(f)** applicability. See [Part 2 Chapter 12, Wild and Scenic Rivers](#).
- **School Playgrounds** - Publicly owned school playgrounds, running tracks, ball fields that provide recreational opportunities for the surrounding community during non-school hours may qualify as **Section 4(f)** properties.
- **Trails and Shared Use Paths** - **Section 4(f)** applies to publicly owned, shared use paths or trails (or portions thereof) designated or functioning primarily for recreation, unless the OWJ determines that it is not significant for such purpose (**FHWA 2012 Policy Paper**, Question 15).
- **Golf Courses** - **Section 4(f)** applies to golf courses that are owned, operated or managed by a public agency for the primary purpose of public recreation and determined to be significant by the OWJ. Golf courses that are owned by a public agency but are managed and operated by a private entity may still be subject to **Section 4(f)** requirements depending in the operating agreement. Golf courses listed on the NRHP are treated as other historic sites as described above.
- **Museums, Aquariums, and Zoos** - Publicly owned museums, aquariums and zoos are not subject to **Section 4(f)** unless they are significant historic sites. These facilities will need to be evaluated on a case by case basis to determine if they provide additional park and recreational opportunities and if that is their primary purpose, which would make them subject to **Section 4(f)**.
- **Fairgrounds** - When fairgrounds are open to the public and function primarily for public recreation rather than an annual fair, **Section 4(f)** applies to those portions of the land determined significant for park or recreational purposes (see Multiple

Land Holdings discussion below). A fairground may also qualify as a historic site which would require consideration under **Section 4(f)**.

- **Bodies of Water - Section 4(f)** would also apply to lakes and rivers, or portions thereof, which are contained within the boundaries of a park, recreation area, refuge, historic site or adjacent to publically owned lands to which **Section 4(f)** otherwise applies.
- **Public Multiple Land Holdings** - It is not uncommon for lands such as state and national forests, Bureau of Land Management lands, and the US Army Corps of Engineers (USACE) water impoundment projects to have multiple designated uses, including municipal reservoirs, timber management, mining, or grazing, as well as recreation or historic preservation. When evaluating such properties, only those portions designated as a recreation area, refuge or historic site are eligible for protection under **Section 4(f)**. An examination of the management plan, if one exists, and coordination with the OWJ will be necessary to determine the portion of resource eligible for **Section 4(f)** protection. When a management plan doesn't exist, or is out-of-date, the property's function will be examined to determine **Section 4(f)** applicability.
- **Planned Facilities - Section 4(f)** applies to a planned facility when a public entity owns the property and has formally designated and determined it to be significant for park, recreation area or wildlife and waterfowl refuge purposes. Evidence of formal designation is required and is determined to be the inclusion of the publicly owned land, and its function as a **Section 4(f)** property into a city or county Master Plan.

7.2.3.2 Leases and Easements

A property may be considered 'publicly owned' for **Section 4(f)** purposes if the land is being managed for a significant recreational purpose under a long term lease or easement. The following should be considered when examining the applicability of **Section 4(f)** to a property subject to lease or easement: the purpose, terms, property management, parties involved, termination clauses, and other restrictions.

Additionally, FDOT has easements, such as Right of Way (ROW) easements, for transportation facilities that cross property protected under **Section 4(f)**. If there is an existing ROW easement, the **Section 4(f)** property is already part of the transportation facility due to the easement encumbrance, and is not subject to **Section 4(f)** protection. If a project is proposing a new easement across an existing **Section 4(f)** property, then it could constitute a "use" within the meaning of **Section 4(f)** and require a **Section 4(f)** determination.

Any questions on **Section 4(f)** applicability to a lease or easement should be referred to OEM and the Office of General Counsel (OGC).

7.2.3.3 Tribal Properties and Section 4(f)

Federally recognized Indian Tribes are sovereign nations and the lands owned by them are not considered publicly owned within the meaning of **Section 4(f)**. If a potential **Section 4(f)** resource is identified on tribal lands that serves a public function, the property will need to be evaluated for **Section 4(f)** applicability. In cases involving tribal trust lands, the Bureau of Indian Affairs (BIA) should be contacted to determine if they should participate in any required consultations.

Also, Traditional Cultural Places (TCPs) may be subject to the provisions of **Section 4(f)** if the TCP is eligible for **Section 106** (see [Part 2 Chapter 8, Archaeological and Historical Resources](#)) which requires the TCP to be eligible or listed under the NRHP because of its association with cultural practices or beliefs of a living community (**FHWA 2012 Policy Paper**, Question 6). SHPO will comment on TCP involvement.

Questions regarding whether tribally owned property is protected under **Section 4(f)** and how to proceed should be referred to OEM and the OGC.

7.2.4 Overview of Section 4(f) Analysis

Section 4(f) analysis includes the following:

1. Identification of potential **Section 4(f)** resources
2. Identification of the “use” of **Section 4(f)** resources
3. Documentation of the appropriate level of **Section 4(f)** analysis

FDOT recognizes the following types of documentation for **Section 4(f)** (see [Section 7.3](#)):

- No **Section 4(f)** Involvement - No existing or formally planned **Section 4(f)** property is within or adjacent to the project area.
- No Use - No impacts or use of a **Section 4(f)** property within or adjacent to the project area including Constructive Use or minor proximity impacts.
- Exception/Exemptions - Exceptions and Exemptions to the requirements of **Section 4(f)** are discussed in [Section 7.3.4](#).
- *de minimis* - Minor ‘Use’ of a **Section 4(f)** property that will not have an adverse effect on the attributes, features, or activities of the **Section 4(f)** property.
- Programmatic Evaluation - Allow transportation and resource agency officials in the field to make key determinations on projects having minor impacts on areas protected by **Section 4(f)**. Certain minor ‘Use’ of a **Section 4(f)** property that meets criteria established as defined by FHWA in **23 CFR Part 774**.

- Individual Evaluation - Is a “Use” of a **Section 4(f)** property that does not meet the Programmatic Evaluation criteria and exceeds the definition of a *de minimis* impact.
- Constructive Use - Occurs when the transportation project does not incorporate land from a **Section 4(f)** property, but the project’s proximity impacts are so severe that the protected activities, features, or attributes that qualify the property for protection under **Section 4(f)** are substantially impaired. Pursuant to the **NEPA Assignment MOU**, if a determination of Constructive Use is anticipated on the project then the District will notify OEM to initiate consultation with FHWA. For more detail on Constructive Use, see [Section 7.3.6.4](#).

7.2.5 Coordination with the Officials with Jurisdiction

The **Federal-Aid Highway Act of 1968** requires the recognized OWJ over the **Section 4(f)** property be consulted when project impacts are anticipated and/or more information is needed regarding the purpose and function of a property. The OWJ is the federal, state, or local agency official that owns or administers a **Section 4(f)** property or represents an agency on matters related to the property.

When coordinating with the OWJ(s) regarding a project and its impacts, the department must have a clear understanding of the property, its designated purpose, and its management plan. Coordination with the OWJ(s) will confirm the purpose of the property and its significance to the community, and whether the property is protected under **Section 4(f)**. Coordination with OWJ(s) is done electronically. If the property is determined to meet the criteria for protection under **Section 4(f)**, additional coordination with the OWJ will follow as appropriate.

The coordination letter to the OWJ for Parks, Recreation Areas, Wildlife and Waterfowl Refuges, must include following statement of significance must be included:

Significance means that in comparing the availability and function of the recreation area, park or wildlife and waterfowl refuge area with the recreational, park and refuge objectives of that community, the land in question plays an important role in meeting those objectives.

If no response is received from the OWJ after 30 days then the property will be presumed a significant resource and the District will continue the process. However, the OWJ should still be notified as the project continues through development, if any impacts will be added or changed to the **Section 4(f)** property.

Coordination with the OWJ for historic sites takes place through the Section 106 process. In Florida, the OWJ for historic sites is the SHPO/THPO. No OWJ coordination with SHPO/THPO is required for **Section 4(f)** outside of the **Section 106** process (see [Part 2 Chapter 8, Archaeological and Historical Resources](#)). If no response is received from the SHPO/THPO after the initial 30 day comment, FDOT can presume concurrence on the FDOT eligibility determination for NRHP listing (**36 CFR Part 800**).

Once the “use” of the proposed project is known, the District can work with the OWJ to identify measures to minimize harm. The District will prepare and send a letter (on FDOT letterhead) to the OWJ which includes a description of the property and its recreational significance, anticipated impacts as a result of the project, the **Section 4(f)** determination, and measures to minimize harm to the protected resource. This letter is sent to the OWJ for concurrence. The agreed upon minimization/mitigation measures will be incorporated as environmental commitments in the **NEPA** document (see **Section 7.3.8** and [Part 2, Chapter 22, Commitments](#)). After the OWJ has been notified of the “use”, the District must continue coordination to identify measures to minimize/mitigate harm to the property. OEM is available to review draft OWJ correspondence prepared by the District or LAP agencies. Drafts may be sent to the District’s PDC for review.

7.2.6 Standard Statement and Section 4(f) Documentation

Technical memorandums, reports or other documents prepared for a project in which OEM serves as the Lead Agency under the **NEPA** Assignment Program must include the following statement:

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016 and executed by FHWA and FDOT.

7.3 PROCEDURE

The procedural and documentation requirements outlined below are to be used for **Section 4(f)** analysis and file documentation.

7.3.1 Determination for a No Section 4(f) Involvement

When there are no **Section 4(f)** properties present, within, or adjacent to the project area resulting in a determination of “No **Section 4(f)** Involvement”, the basis for how this determination was made should be noted in the project file and included in the Environmental Document. Prior to making this determination, the evaluation of other issues that could impact the **Section 4(f)** resources should be completed. .

7.3.2 Determination of Applicability Process and Documentation

7.3.2.1 Initial Section 4(f) Review

District environmental staff should gather preliminary information to answer the following questions:

- Will the transportation project require funds or permits from a USDOT agency (FHWA, FRA, FTA or FAA)?

- Are there any **Section 4(f)** properties as defined in **23 CFR § 774.11** within or adjacent to the project area that have been determined to be significant?
- Is it anticipated that the project will require any temporary occupancy or permanent incorporation of a **Section 4(f)** property during the project?
- Is it anticipated that the project's proximity impacts, including Constructive Use impacts as defined in **23 CFR § 774.15**, will substantially impair a **Section 4(f)** property during and/or after construction?

7.3.2.2 ETDM Screening and Section 4(f) Determination of Applicability

Within FDOT's Efficient Transportation Decision Making (ETDM) process, certain projects qualify for screening through the Environmental Screening Tool (EST). For more information on ETDM and qualifying projects for screening, see FDOT's [ETDM Manual, Topic No. 650-000-002](#). For projects not qualifying for screening through EST, FDOT environmental staff has the option to review the project against the geographic information contained in the Area of Interest (AOI) Tool in order to determine if the proposed project may impact potential **Section 4(f)** protected properties.

A **Section 4(f)** Determination of Applicability (DOA) is based on a project's proposed "use" of a property that has been identified as a **Section 4(f)** resource. When determining the **Section 4(f)** applicability, FDOT will complete a **Section 4(f) Determination of Applicability Form, Form No. 650-050-45** (See [Figure 7-2](#)) for every level of **Section 4(f)** evaluation except for a No **Section 4(f)** Involvement. The **Section 4(f) Determination of Applicability Form No. 650-050-45** (See [Figure 7-2](#)) and the required attachments, including coordination with the OWJ, will serve as the formal DOA. The form directs the District to provide information about the relationship of the project to the protected resource, including a description of the property, the characteristics and functions of the property and potential "uses" of the protected resource. The form is signed by the form preparer and the Environmental Manager prior to submission to OEM. OEM will then concur with the finding or request additional information.

7.3.2.3 Resource Mapping for DOA

Separate from the ETDM Screening, the boundaries and attributes particular to a **Section 4(f)** property will be mapped. This is to be completed as part of the **Section 4(f) Determination of Applicability Form No. 650-050-45** (See [Figure 7-2](#)). When preparing a resource map the following items should be shown and clearly labeled.

- Boundaries of any potential **Section 4(f)** properties in or adjacent to the project area (When identifying the historic boundaries, the **Section 4(f)** resource's boundaries, the current ownership boundaries can differ);
- Location of elements contributing to the significance of each potential **Section 4(f)** property; and

- Locations, types of use and the area of the potential **Section 4(f)** property that will be impacted [i.e., proposed ROW lines, removal of **Section 4(f)** protected features], measured and depicted in acres if known.

7.3.3 No Section 4(f) Use Determination

A “No **Section 4(f)** Use” determination is one where a project has no permanent acquisition of land from a **Section 4(f)** property; no temporary occupancies of land that are adverse in terms of the statute’s preservation purpose; and no proximity impacts which significantly impair the protected functions of the property.

The determination required for this level of “use” is documented by:

1. Completing the “**Section 4(f) No Use Determination**”, **Form No. 650-050-49** (See [Figure 7-3](#)) and providing the required documentation listed below:
 - a. **Section 4(f) Determination of Applicability Form No. 650-050-45** (See [Figure 7-2](#)) and supporting documentation
 - b. All related communication with the OWJ

The “**Section 4(f) No Use Determination**”, **Form No. 650-050-49** (See [Figure 7-3](#)) and supporting documentation will be sent to OEM for concurrence. Once complete the “**Section 4(f) No Use Determination**”, **Form No. 650-050-49** (See [Figure 7-3](#)) must be saved in the StateWide Environmental Project Tracker (SWEPT) project file. When completing the **Type 1 Categorical Exclusion Checklist, Form No. 650-050-12** check the “No Use” option for **Section 4(f)** and follow the instructions provided in the form. On the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11** check the appropriate option for **Section 4(f)** and follow the instructions provided in the form. For Environmental Assessments (EAs) and Environmental Impact Statements (EISs) the determination is also included in the **Section 4(f)** section of the Environmental Document.

7.3.4 Exceptions and Exemptions to Section 4(f) Approval

There are multiple exceptions and exemptions to the requirement for **Section 4(f)** approval.

In order for a project and/or resource to be eligible for a **Section 4(f)** Exception, the project and/or resource must meet the criteria defined within the regulation. **Title 23 CFR § 774.13** provides:

1. The Administration [FDOT] has identified various exceptions to the requirement for **Section 4(f)** approval. These exceptions include, but are not limited to:
 - a. Restoration, rehabilitation or maintenance of transportation facilities that are on or eligible for the NRHP when:
 - i. The Administration [FDOT] concludes, as a result of the consultation under **36 CFR § 800.5**, that such work will not adversely affect the

- historic qualities of the facility that caused it to be on or eligible for the NRHP, and
- ii. The SHPO/THPO over the **Section 4(f)** resource have not objected to the Administration's [FDOT] conclusion in paragraph (a)(1) of this section.
- b. Archeological sites that are on or eligible for the NRHP when:
- i. The Administration [FDOT] concludes that the archeological resource is important chiefly because of what can be learned by data recovery and has minimal value for preservation in place. This exception applies both to situations where data recovery is undertaken and where the Administration [FDOT] decides, with agreement of the official(s) with jurisdiction, not to recover the resource; and
 - ii. The SHPO/THPO or appropriate Tribes over the **Section 4(f)** resource have been consulted and have not objected to the Administration [FDOT] finding in paragraph (b)(1) of this section.
- c. Designations of park and recreation lands, wildlife and waterfowl refuges, and historic sites that are made, or determinations of significance that are changed, late in the development of a proposed action. With the exception of the treatment of archeological resources in **23 CFR § 774.9(e)**, the Administration [FDOT] may permit a project to proceed without consideration under **Section 4(f)** if the property interest in the **Section 4(f)** land was acquired for transportation purposes prior to the designation or change in the determination of significance and if an adequate effort was made to identify properties protected by **Section 4(f)** prior to acquisition. However, if it is reasonably foreseeable that a property would qualify as eligible for the NRHP prior to the start of construction, then the property should be treated as a historic site and does not qualify for the **Section 4(f)** exception.
- d. Temporary occupancies of land that are so minimal as to not constitute a use within the meaning of **Section 4(f)**. The following conditions must be satisfied:
- i. Duration must be temporary, i.e., less than the time needed for construction of the project, and there should be no change in ownership of the land;
 - ii. Scope of the work must be minor, i.e., both the nature and the magnitude of the changes to the **Section 4(f)** property are minimal;
 - iii. There are no anticipated permanent adverse physical impacts, nor will there be interference with the protected activities, features, or attributes of the property, on either a temporary or permanent basis;

- iv. The land being used must be fully restored, i.e., the property must be returned to a condition which is at least as good as that which existed prior to the project; and
 - v. There must be documented agreement of the OWJ over the **Section 4(f)** resource regarding the above conditions.
- e. Park road or parkway projects under **23 U.S.C. § 204** which is the Federal Lands Access Program, providing access to transportation facilities located on or adjacent to, or provide access to Federal Lands.
- f. Certain trails, paths, bikeways, and sidewalks, in the following circumstances:
- i. Trail-related projects funded under the Recreational Trails Program, **23 U.S.C. § 206(h)(2)**;
 - ii. National Historic Trails and the Continental Divide National Scenic Trail, designated under the **National Trails System Act, 16 U.S.C. §§ 1241-1251**, with the exception of those trail segments that are historic sites any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in the NRHP. The term includes properties of traditional religious and cultural importance to an Indian tribe that are included in, or are eligible for inclusion in the NRHP (**23 CFR § 774.17**).
 - iii. Trails, paths, bikeways, and sidewalks that occupy a transportation facility ROW without limitation to any specific location within that ROW, so long as the continuity of the trail, path, bikeway, or sidewalk is maintained; and
 - iv. Trails, paths, bikeways, and sidewalks that are part of the local transportation system and which function primarily for transportation.
- g. Transportation enhancement projects and mitigation activities, where:
- i. The use of the **Section 4(f)** property is solely for the purpose of preserving or enhancing an activity, feature, or attribute that qualifies the property for **Section 4(f)** protection; and
 - ii. The OWJ over the **Section 4(f)** resource agrees in writing to paragraph (g)(1) of this section.

Exemptions from **Section 4(f)** approval are identified within **23 CFR § 774.11** and in **Sections 1303 and 11502 of the Fixing America's Surface Transportation (FAST) Act of 2015**.

Exemptions under the regulation and the Florida significant historic interstate highway-related facilities excluded from the exemption are identified below:

1. **23 CFR § 774.11(e)(2)** - The interstate highway system is exempt from being treated as a historic resource under **Section 4(f)**, unless the U.S. Secretary of Transportation determines individual elements possess national or exceptional historic significance and should receive protection.
 - a. Interstate highway-related facilities in Florida determined historically significant by the Secretary of Transportation and therefore not exempt under **Section 4(f)** are:
 - i. I-275 Bob Graham/Sunshine Skyway Bridge
 - ii. I-75 Alligator Alley- Milepost range 19.6-49.3
 - iii. I-75 Snake Wall
 - iv. I-95 Myrtle Avenue Overpass
2. **23 CFR § 774.11(h)** - When a property formally reserved for a future transportation facility temporarily functions for park, recreation, or wildlife and waterfowl refuge purposes in the interim, the interim activity, regardless of duration, will not subject the property to **Section 4(f)**.
3. **23 CFR § 774.11 (i)** - When a property is formally reserved for a future transportation facility before or at the same time a park, recreation area, or wildlife and waterfowl refuge is established and concurrent or joint planning or development of the transportation facility and the **Section 4(f)** resource occurs, then any resulting impacts of the transportation facility will not be considered a use as defined in **§774.17**. Examples of such concurrent or joint planning or development include, but are not limited to:
 - a. Designation or donation of property for the specific purpose of such concurrent development by the entity with jurisdiction or ownership of the property for both the potential transportation facility and the **Section 4(f)** property; or
 - b. Designation, donation, planning, or development of property by two or more governmental agencies with jurisdiction for the potential transportation facility and the **Section 4(f)** property, in consultation with each other.

Exemptions under the **FAST Act** are identified below:

- **Section 1303 of the FAST Act** incorporates the ACHP Program Comment exemption for common post-1945 concrete and steel bridges and culverts into **Section 4(f)**, eliminating review requirements for these structures under **Section 4(f)**. This exemption applies to specific types of bridges and culverts built after

1945, including various forms of reinforced concrete slab bridges, reinforced concrete beam and girder bridges, steel multi-beam bridges or multi-girder bridges, and culverts and reinforced concrete boxes (See Section V Program Comment).

The reviewer needs to be aware of the following exclusions to the exemption:

- The Program Comment does NOT apply to bridges that are already listed in or eligible for the NRHP, or to those located within or adjacent to a historic district (Section IV.A Program Comment).
- The Program Comment does NOT apply to bridges listed by FHWA in the “Bridge Program Comment Excepted Bridges List” (See [Part 2 Chapter 8, Archaeological and Historical Resources](#))
- The Program Comment does NOT apply to arch bridges, truss bridges, movable span bridges, suspension bridges, cable-stayed bridges, or covered bridges (Section IV.B Program Comment).
- The Program Comment does NOT apply to bridges identified as having exceptional significance for association with a person or event, being a very early or particularly important example of its type in a state or the nation, having distinctive engineering or architectural features that depart from standard designs, or displaying other elements that were engineered to respond to a unique environmental context and included in a list to be developed by each state Division of FHWA (Section IV.C Program Comment).

Section 11502 of the FAST Act exempts a “use” of railroad lines, rail transit lines, or elements thereof, that are in use or that were historically used for the transportation of goods or passengers from **Section 4(f)** review. The exemption to **Section 4(f)** applies regardless of whether the railroad or rail transit line, or element thereof, is listed on or is eligible for listing on the NRHP.

The exemption applies to the following resource types which might otherwise be considered abandoned or not in use:

- Railroad and transit lines over which service has been discontinued under the process described in **49 U.S.C. § 10903**;
- Railroad and transit lines that have been railbanked (a voluntary agreement between a railroad company and a trail agency to use an out-of-service rail corridor as a trail until a railroad might need the corridor again for rail service as described in **16 U.S.C. § 1247(d)**); and
- Railroad and transit lines that have been otherwise reserved for the future transportation of goods or passengers.

There are three exceptions to the exemption:

- The exemption does NOT apply to rail stations or transit stations;
- The exemption does NOT apply to bridges or tunnels located on a rail line that has been abandoned under the process described in **49 U.S.C. § 10903** or a transit line that is not in use; and
- The exemption does NOT apply to any project for which federal funding was approved under **Title 49 U.S.C. § 24201(e)** prior to December 4, 2015 [**FAST Act § 11503(a), 49 U.S.C. § 24201(e)**].

7.3.4.1 Documentation and Coordination

An Exception/Exemption determination by the District requires OWJ concurrence or no objection, as appropriate. The District must provide all Exception/Exemption determinations to OEM for concurrence.

If a project is eligible for a **Section 4(f)** Exception/Exemption, the District completes the "**Section 4(f) Exceptions/Exemptions Determination Form No. 650-050-48** (See [Figure 7-4](#)) and must include the following documentation:

1. The **Section 4(f) Determination of Applicability Form No. 650-050-45** (See [Figure 7-2](#)) and documentation completed for the resource; and
2. A concurrence letter from the OWJ.

The complete **Section 4(f) Exceptions/Exemptions Determination Form No. 650-050-48** (See [Figure 7-4](#)) and documentation will be sent to OEM for concurrence. Once complete the **Section 4(f) Exceptions/Exemptions Determination Form No. 650-050-48** (See [Figure 7-4](#)) and documentation must be saved in the SWEPT project file. When completing the **Type 1 Categorical Exclusion Checklist, Form No. 650-050-12** check the Exception/Exemption option for **Section 4(f)** and follow the instructions provided in the form. **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11** check the appropriate option for **Section 4(f)** and follow the instructions provided in the form. For EAs and EISs the determination is also included in the **Section 4(f)** section of the Environmental Document.

7.3.5 "Use" under Section 4(f)

Once the District has determined the resource is protected under **Section 4(f)**, the District in consultation with OEM must determine whether the project will require a transportation "use" of the protected resource.

The following sections describe "uses" within the meaning of Section 4(f).

7.3.5.1 Permanent Incorporation

The most common type of use occurs when land from a **Section 4(f)** protected resource is permanently incorporated into a transportation facility, e.g. fee simple purchase. It can include the acquisition of an easement for the maintenance or operation of a transportation facility or a transportation-related facility.

7.3.5.2 Temporary Occupancy

Temporary occupancy is when there is a temporary occupancy for the purpose of project construction-related activities that is adverse in terms of the statute's preservation purpose. When temporary occupancies meet the conditions listed in **23 CFR § 774.13(d)** the "use" of the resource does not constitute a "use" within the meaning of **Section 4(f)**. If the temporary occupancy does not meet the conditions, there is a **Section 4(f)** use and the appropriate **Section 4(f)** approval process must be followed.

7.3.5.3 Constructive Use

Constructive use occurs when a transportation project does not incorporate land from **Section 4(f)** property but when the project's proximity impacts are so severe that the protected activities, features, attributes that qualify the protected resource are substantially impaired (**23 CFR § 774.15**).

7.3.6 Section 4(f) Approvals

Once the District has completed the DOA and determined **Section 4(f)** applies to a project, the District must prepare a *de minimis* finding or a **Section 4(f)** evaluation for submittal to OEM. When coordinating with the OWJ, external agencies or the public, the Districts should copy their PDCs on outgoing correspondence.

As set forth in **23 CFR § 774.3**, FDOT may not approve the "use" of land from a significant publicly owned public park, recreation area, wildlife or waterfowl refuge, or any significant historic site unless it determines that:

1. There is no feasible and prudent alternative to the use of land from the property; and
2. The action includes all possible planning to minimize harm (as defined in **23 CFR § 774.17**) to the property resulting from such use; or
3. The use of the property, including any measures to minimize harm (such as avoidance, minimization, mitigation or enhancement), will have a *de minimis* impact on the property.

To receive approval, the District needs to submit the following documentation to OEM:

1. A *de minimis* impact determination;
2. A programmatic **Section 4(f)** evaluation; or

3. An individual **Section 4(f)** evaluation.

Analyses of the “no prudent and feasible alternative” and the “all possible planning to minimize harm” standards are only required for approval of the individual and programmatic evaluations; it is not required for a *de minimis*.

7.3.6.1 The *de minimis* Section 4(f) Analysis

A *de minimis* impact is one that, after taking into account any measures to minimize harm (such as avoidance, minimization, mitigation, or enhancement measures), results in either:

1. A determination that the project would not adversely affect the activities, features, or attributes qualifying a park, recreation area, or refuge for protection under **Section 4(f)**; or
2. A finding under **36 CFR § 800**, that no historic property is affected by the project or that the project will have “no adverse effect” on the historic property in question.

The impacts of a transportation project on a park, recreation area, or wildlife or waterfowl refuge that qualifies for **Section 4(f)** protection may be determined to be *de minimis* if:

1. The transportation use of the **Section 4(f)** property, together with any measures to minimize harm, such as impact avoidance, minimization, and mitigation or enhancement measures incorporated into the project, do not adversely affect the activities, features, or attributes that qualify the resource for protection under **Section 4(f)**;
2. The OWJ has been notified of the intent to pursue a *de minimis* and consulted on measures to minimize harm;
3. The public has been afforded an opportunity to review and comment on the effects of the project on the protected activities, features, or attributes of the **Section 4(f)** property (for most projects, this will be completed through the **NEPA** public involvement process); and
4. The OWJ after being informed of the public comments and FDOT's intent to make a *de minimis* impact finding, concurs in writing that the project (including all measures to mitigate and minimize harm) will not adversely affect the activities, features, or attributes that qualify the property for protection under **Section 4(f)** [**23 CFR § 774.5(b)(2)** and **23 CFR § 774.17**].

Note: When completing a *de minimis* evaluation for parks, recreation areas, wildlife and waterfowl refuges, remember that the sequence of activities in **23 CFR § 774.5(b)(2)** must be followed order.

7.3.6.1.1 *de minimis* Consultation

For parks, recreation areas, and wildlife and waterfowl refuges, the District must notify the OWJ that the activities, features, and attributes qualifying the property for **Section 4(f)** protection will be the basis for a *de minimis* impact determination [**23 CFR § 774.5(b)**]. The OWJ must concur that the project meets the criteria of a *de minimis* impact prior to the District seeking OEM concurrence with the *de minimis* finding.

The OWJ concurrence **must be in writing** [**23 CFR § 774.5(b)(2)(ii)**]. This concurrence can be in the form of a signed letter on agency letterhead, signatures in concurrence blocks on transportation agency documents or agreements provided via e-mail, or by other methods deemed acceptable by OEM.

For historic sites, the consulting parties identified in **36 CFR Part 800** must be afforded the opportunity to comment on the effects of the proposed project on historic resources. The OWJ over the historic property (usually the SHPO or THPO) must be informed of the intent to make a *de minimis* impact determination and must concur with a finding of “no adverse effect” or “no historic properties affected” in accordance with **36 CFR Part 800**.

7.3.6.1.2 Public Involvement Requirements

For parks, recreation areas, or wildlife and waterfowl refuges, an opportunity for public review and comment must be provided [**23 CFR § 774.5(b)(2)(i), (ii)**]. For a *de minimis* determination no additional public involvement outside the regular **NEPA** process is required ([Part 1 Chapter 11, Public Involvement](#)). If a proposed action does not normally require public involvement, such as for certain minor projects covered by a Type 1 CE, an opportunity for the public to review and comment on the proposed *de minimis* impact determination must be provided as appropriate to the resource.

Compliance with **36 CFR Part 800** satisfies the public involvement and agency coordination requirements for *de minimis* impact findings for historic and archeological properties. In order to document the public involvement activities for **36 CFR Part 800** the *de minimis* determination will not usually occur until after the public hearing and comment period for Type 2 CEs, EAs and EISs. For lower level Type 1 CEs that involve historic properties contact OEM for further guidance on how to meet the **36 CFR Part 800** requirements and the documentation for **Section 4(f)**.

7.3.6.1.3 Documenting the *de minimis* determination

Once the **Section 4(f) Determination of Applicability Form No. 650-050-45** (See [Figure 7-2](#)) and documentation has been completed and it has been determined that the project is eligible for a **Section 4(f)** *de minimis* finding, the District completes the **Section 4(f) de minimis Determination for Historic Sites Form No. 650-050-46** (See [Figure 7-5](#)) or the **Section 4(f) de minimis Determination for Parks, Recreation Areas and Wildlife or Waterfowl Refuges Form No. 650-050-47** (See [Figure 7-6](#)) and submits it to OEM for concurrence.

If a project has more than one **Section 4(f)** property, then a **Section 4(f) de minimis Determination for Historic Sites Form No. 650-050-46** (See [Figure 7-5](#)) or **Section 4(f) de minimis Determination for Parks, Recreation Areas and Wildlife or Waterfowl Refuges Form No. 650-050-47** (See [Figure 7-6](#)) and documentation needs to be prepared for each protected resource, as applicable.

7.3.6.1.4 Approval and Documentation Process

The District submits the *de minimis* Determination form and documentation to OEM for concurrence. Once OEM concurs and signs the determination, the final **Section 4(f) de minimis Determination for Historic Sites Form No. 650-050-46** (See [Figure 7-5](#)) or **Section 4(f) de minimis Determination for Parks, Recreation Areas and Wildlife or Waterfowl Refuges Form No. 650-050-47** (See [Figure 7-6](#)) and its attachments must be uploaded to the SWEPT project file.

When completing the **Type 1 Categorical Exclusion Checklist, Form No. 650-050-12**, check the *de minimis* option for **Section 4(f)** and follow the instructions provided in the form. When completing the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11** check the appropriate option for **Section 4(f)** and follow the instructions provided in the form. For EAs and EISs, the determination is also included in the **Section 4(f)** portion of the Environmental Document. In addition, any mitigation measures that were relied upon to reach a *de minimis* determination will be documented as commitments in the Environmental Document.

7.3.6.2 Programmatic Section 4(f) Evaluations

Programmatic **Section 4(f)** evaluations are administrative alternatives to completing an Individual **Section 4(f)** evaluation but which still require supporting studies and consultation. Programmatic evaluations are prepared for certain minor uses of **Section 4(f)** property that meet specific criteria and have already received federal legal sufficiency review.

The benefit of using a Programmatic **Section 4(f)** is they do not require coordination with the DOI, Department of Agriculture, or the Department of Housing and Urban Development (HUD), unless a federal agency has a specific action to take, such as DOI approval of a conversion of land as required by **Section 6(f) of the LWCFRA**. The conditions vary among the programmatic types, and generally relate to:

1. the type of project or **Section 4(f)** property,
2. the degree of use and impact to the **Section 4(f)** property,
3. the evaluation of avoidance alternatives,
4. the establishment of a procedure for minimizing harm to the **Section 4(f)** property, and
5. coordination with OWJ.

The Districts should coordinate their preparation of any programmatic evaluation with their PDCs.

The five Nationwide Programmatic **Section 4(f)** Evaluations provided under **23 CFR § 774.3(d)** are only applicable to FHWA-funded projects. The Programmatic **Section 4(f)** Evaluations are:

1. Bikeway or Walkway for Construction Projects; **Section 4(f) Statement of Determination for Independent Walkways or Bikeway Construction Projects; Form No. 650-050-55** (See [Figure 7-7](#))
2. **Programmatic Section 4(f) Evaluation and Approval for FHWA Projects that Necessitate the Use of Historic Bridges, Form No. 650-050-50** (See [Figure 7-8](#))
3. **Final Nationwide Section 4(f) Evaluation and Approval for Federally-Aided Highway Projects Minor Involvements with Historic Sites, Form No. 650-050-51** (See [Figure 7-9](#))
4. **Final Nationwide Section 4(f) Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Parks, Recreation Areas, and Waterfowl and Wildlife Refuges, Form No. 650-050-52** (See [Figure 7-10](#))
5. Nationwide Programmatic **Section 4(f)** Evaluation and Approval for Transportation Projects That Have a Net Benefit to a **Section 4(f)** Property; **Section 4(f) Net Benefit Programmatic for Historic Sites, Form No. 650-050-53** (See [Figure 7-11](#)) and **Section 4(f) Net Benefit Programmatic for Public Parks, Recreation Land and, Wildlife & Waterfowl Refuges, Form No. 650-050-54** (See [Figure 7-12](#))

7.3.6.2.1 Programmatic Evaluation Criteria

Prior to completing the applicable Programmatic Evaluation form, the **Section 4(f) Determination of Applicability Form No. 650-050-45** (See [Figure 7-2](#)) and documentation must be completed. The details regarding each of these programmatic evaluations can be reviewed by accessing the document via the **Federal Register** in the link provided in the references below. Additional information can be found in the **FHWA Environmental Toolkit**.

Section 4(f) Statement and Determination for Independent Bikeway or Walkway Construction Projects

This programmatic evaluation is only applicable for the development of independent bikeway or walkway projects which require the use of recreation and park areas established and maintained primarily for active recreation and similar purposes. It does not apply to a transportation project which has the primary purpose of serving motor vehicle traffic and which includes a pedestrian or bicycle facility as an incidental part of the construction.

The application of this programmatic evaluation is not appropriate for projects which:

- Use land from a significant historic site.
- Impact endangered species critical habitat.
- Use land from publicly owned wildlife or waterfowl refuge.
- Have significant environmental impacts.
- Have public controversy.
- Create adverse social or economic impacts
- Include displacement of homes or businesses, but may include land acquisition in certain circumstances.

The application of this programmatic evaluation is only appropriate for projects which:

- Include all possible planning to minimize harm.
- Have OWJ concurrence.
- Public agency must be responsible for maintenance.

This programmatic evaluation **does not** require an avoidance alternatives analysis. This evaluation may be used on Type 2 CEs, EAs, or EISs.

Programmatic *Section 4(f)* Evaluation and Approval for FHWA Projects that Necessitate the Use of Historic Bridges

Historic bridges covered by this programmatic evaluation must be on or eligible for inclusion on the NRHP and also be a functional part of the highway system.

For the purpose of this programmatic evaluation, a proposed action will "use" a bridge that is on or eligible for listing on the NRHP when the action will impair the historic integrity of the bridge either by rehabilitation or demolition which results in an "adverse effect" determination under ***Section 106 of the NHPA***. A finding of "no adverse effect" or "no historic properties affected" would qualify as an exception to ***Section 4(f)*** approval. See ***Section 4(f)*** Exceptions at ***23 CFR § 774.13(a)***.

Application of this programmatic evaluation requires consideration of the following:

- Whether the bridge rehabilitation or replacement project uses federal funds.
- Whether the historic bridge is on or eligible for the NRHP.
- Whether the bridge is a National Historic Landmark.

- Whether alternatives, findings, & measures to minimize harm in accordance with the programmatic evaluation were conducted.
- Whether analysis of three alternative approaches that avoid any use of the historic bridge were conducted.
- Whether **Section 106** concurrence has been reached, with written concurrence from SHPO/THPO and the ACHP (if participating).
- Whether a **Section 106** “adverse effect” determination has been made.

The alternatives analysis to avoid the use of historic bridges is slightly different from other highway type projects. This analysis must address the alternatives outlined in the **Federal Register** Requirements.

This evaluation may be used on Type 2 CEs, EAs, or EISs.

Final Nationwide Section 4(f) Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges

This programmatic evaluation may be used for projects which improve existing highways and use minor amounts of publicly owned parks, recreation lands or wildlife and waterfowl refuges that are **adjacent to existing highways**. Consult with OEM prior to using this programmatic.

Considerations for application of this programmatic evaluation include the following:

- Project must be designed to improve the operational characteristics, safety, and/or physical condition of existing highway facilities on essentially the same alignment.
- May not be used for construction projects on new location.
- May involve only public parks, recreation areas, and wildlife and waterfowl refuges.
- The use of the protected resource including proximity impacts may not impair use of remaining **Section 4(f)** property in whole or in part for its intended purpose (see [Table 7-1](#))
- Must obtain written concurrence from OWJ(s) for the impacts and the mitigation measures for the **Section 4(f)** lands.
- Requires avoidance alternatives analysis, all possible planning to minimize harm.

This programmatic evaluation can only be used if the total amount of land to be acquired from any **Section 4(f)** property doesn't exceed the values in [Table 7-1](#).

Table 7-1 Programmatic Acreage Table

Programmatic Acreage Limit Size of <i>Section 4(f)</i> Property	Limit of Acreage Used
< 10 acres	10 percent of site
10-100 acres	1 acre
> 100 acres	1 percent of site

The project file must clearly demonstrate that each of the alternatives was fully evaluated before a conclusion is made that the programmatic ***Section 4(f)*** evaluation applied to the project. If an alternative is identified that is ‘feasible and prudent’ without the use of a ***Section 4(f)*** property, it must be selected as the preferred alternative.

This programmatic evaluation may be used on a Type 2 CE or EA but **NOT** on an EIS.

Final Nationwide *Section 4(f)* Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Historic Sites

This programmatic evaluation may be used when a project has minor impacts to historic sites that are adjacent to existing highways.

Considerations for application of this programmatic evaluation include the following:

- The project must be for operational improvements, essentially on existing location. It cannot involve construction on a new location.
- May only involve historic sites adjacent to the roadway.
- May not involve removal or alteration of historic buildings, structures, or objects on the historic site.
- May not involve disturbance or removal of archeological resources determined to be important for preservation in place as determined by the ***Section 106*** process.
- ***Section 106*** concurrence has been reached, with written concurrence from SHPO/THPO and the ACHP (if participating).
- The ***Section 106*** effect finding must be either a determination of “no effect” or “no adverse effect.”
- Requires avoidance alternatives analysis.

The Programmatic Evaluation must clearly demonstrate that each of the alternatives was fully evaluated and concurred with by OEM and the OWJ before a conclusion is made that the programmatic **Section 4(f)** evaluation applies to the project. If an alternative is identified that is 'feasible and prudent' without the use of a **Section 4(f)** property, it must be selected as the preferred alternative.

This evaluation may be used on a Type 2 CE or EA, but **NOT** an EIS.

Section 4(f) Evaluation and Approval for Transportation Projects That Have a Net Benefit to a Section 4(f) Property

A "net benefit" is achieved when the transportation use, the measures to minimize harm, and the mitigation incorporated into the project result in an overall enhancement of the **Section 4(f)** property. This is achieved when the results of these analyses are compared to both the no build or avoidance alternatives and the present condition of the **Section 4(f)** property. The activities, features, and attributes that qualify the property for **Section 4(f)** protection must also be considered.

This Programmatic Evaluation satisfies the requirements of **Section 4(f)** for projects meeting the applicability criteria listed below:

- The proposed transportation project uses a **Section 4(f)** protected park, recreation area, wildlife or waterfowl refuge, or historic site.
- The project includes all appropriate measures to minimize harm and subsequent mitigation to preserve and enhance the features and values of the property that qualify it for **Section 4(f)** protection.
- For historic sites, the project does not require the major alteration of the characteristics that qualify the property for listing on the NRHP such that the property would no longer retain sufficient integrity to be considered eligible for listing. For archeological properties, the project does not require the disturbance or removal of the archeological resources that have been determined important for preservation in-place rather than for the information that can be obtained through data recovery. The determination of a major alteration or the importance to preserve in-place will be based on consultation consistent with **36 CFR Part 800**.
- For historic sites consistent with the **Section 106** regulations at **36 CFR Part 800**, there must be agreement between SHPO/THPO and FDOT (and ACHP, if participating) on measures to minimize harm when there is a use of **Section 4(f)** property. Such measures must be incorporated into the project.
- The OWJ must concur in writing that the result of the project will be a net benefit on the property based on the assessment of impacts, measures to minimize harm, and mitigation measures necessary to preserve, rehabilitate, and enhance the features and values of the property.

- The agency determines that the project facts match those set forth in the Applicability, Alternatives, Findings, Mitigation and Measures to Minimize Harm, Coordination, and Public Involvement sections of this programmatic evaluation.

The project file must clearly demonstrate that each of the alternatives was fully evaluated before a finding is made that the programmatic **Section 4(f)** evaluation applies to the project.

For this Programmatic Evaluation to be used on a project there must be a finding that given the present condition of the **Section 4(f)** property, the no build and avoidance alternatives are not feasible and prudent. If an alternative is identified that is 'feasible and prudent' without the use of a **Section 4(f)** property, it must be selected as the preferred alternative.

This programmatic evaluation may be used on a Type 2 CE, EA or EIS.

7.3.6.2.2 DOA for Section 4(f) Programmatic Evaluations

Prior to completing the Programmatic Evaluation, the **Section 4(f) Determination of Applicability, Form No. 650-050-45** (See [Figure 7-2](#)) and documentation must be completed.

7.3.6.2.3 OWJ Consultation and Public Involvement

In early stages of project development, each project requires direct coordination with the federal, state, and/or local agency OWJ over the **Section 4(f)** property. For non-federal **Section 4(f)** properties, the District must determine, or request the OWJ to identify, any federal encumbrances that may apply to the protected property. When encumbrances exist, the District is required to coordinate with the federal agency responsible for the encumbrance. Compliance and coordination related to any concurrent requirements should be noted and discussed in the appropriate sections of the **NEPA** document for the project and in the **Section 4(f)** Programmatic Evaluation.

Projects with **Section 4(f)** use must include appropriate public involvement activities that are consistent with the specific requirements of [Part 1, Chapter 11, Public Involvement](#). For a project where public meetings or hearings are held, information on the proposed use of the **Section 4(f)** property must be communicated at the public meeting(s) or hearing(s). In the case of the Net Benefit Programmatic Evaluation, a public involvement opportunity is specifically required for the approval of the document. Therefore, in circumstances where the net benefit use of the **Section 4(f)** property was not addressed during the public involvement process, a separate public involvement opportunity addressing the **Section 4(f)** use of the property must be provided.

7.3.6.2.4 Documentation for Programmatic Section 4(f) Evaluations

When completing the appropriate Programmatic **Section 4(f)** Evaluation form, the following information must be included in the project file. Much of this material will be contained in the programmatic evaluation form and documentation or the DOA. If any of

this material is in separate correspondence or contained in the **NEPA** document, that material should be referenced and cited appropriately.

1. Applicability or No **Section 4(f)** Involvement to the park, recreation, refuge or historic property proposed to be used by the project;
2. Whether there is a transportation “use” or impact of **Section 4(f)** property and the degree of that “use” or impact (including a description);
3. Records of public involvement, if any;
4. Results of coordination with the OWJ; and
5. Documentation of the specific requirements of the programmatic evaluation that are being applied.

7.3.6.2.5 Programmatic Section 4(f) Evaluations Submittals and Coordination

The Programmatic Evaluation Form and documentation are submitted to OEM by the District via the Electronic Review and Comment System (ERC) for concurrence. OEM must review and concur with all **Section 4(f)** Programmatic Evaluations. Once the document has been finalized, the District uploads the evaluation into SWEPT.

The approval of the Programmatic Evaluations are concurrent with the signing and approval of the **NEPA** Environmental Document. Upon approval, the District will send a signed copy of the Programmatic to the OWJ.

When completing the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11** document the Programmatic **Section 4(f)** Evaluation check “No” for significant impacts on the Environmental Analysis checklist for **Section 4(f)** (B.1.), summarize the results of the evaluation in the **Type 2 CE Determination Form**, and attach the Programmatic Evaluation. For EAs and EISs, results of the Programmatic Evaluation is summarized in the **Section 4(f)** section of the document and the Programmatic Evaluation is attached to the Finding of No Significant Impact (FONSI) or Final EIS (FEIS) via SWEPT. In addition, any mitigation measures or commitments are documented in the Environmental Document.

7.3.6.3 Individual Section 4(f) Evaluations

An Individual **Section 4(f)** Evaluation must be completed when a project requires a “use” of **Section 4(f)** property resulting in a greater than a *de minimis* impact and does not meet the conditions of a Programmatic **Section 4(f)** Evaluation (**23 CFR § 774.3**). The Individual **Section 4(f)** Evaluation documents the proposed use of **Section 4(f)** property for all alternatives within a project area.

Based on sufficient analysis, the Individual **Section 4(f)** Evaluation must find:

1. There is no feasible and prudent alternative that completely avoids the use of **Section 4(f)** property; and
2. The project includes all possible planning as defined in **§774.17**, to minimize harm to the **Section 4(f)** property resulting from the transportation use [see **23 CFR § 774.3(a)**].

In order to complete a **Section 4(f)** Individual Evaluation a DOA form and documentation must be completed.

7.3.6.3.1 Outline for Preparing Draft Individual Section 4(f) Evaluations

The **Draft Individual Section 4(f) Evaluation** provides the preliminary analysis of project alternatives and must include identification of avoidance, minimization, and mitigation opportunities. Additionally, the evaluation for the **Section 4(f)** property must include a least overall harm analysis, when there are two or more alternatives that “use” a **Section 4(f)** property.

Draft evaluations provide comparative analysis of the various alternatives under consideration and not include any preferences or recommendations. The draft is used by decision makers to select the preferred alternative.

When completing the draft evaluation document, some of the information can be found in the **Section 4(f) Determination of Applicability, Form No. 650-050-45** (See [Figure 7-2](#)) and documentation prepared at the beginning of the process. The evaluation must include an analysis for each project alternative at each **Section 4(f)** property location.

Formatting for the Individual **Section 4(f)** Evaluation is based on FHWA guidance:

1. Applicability or Non-applicability of **Section 4(f)** to the resource.
2. Whether there is a use of the **Section 4(f)** property
3. Activities, features and attributes of the **Section 4(f)** property
4. Analysis of impacts to the **Section 4(f)** property
5. Records of public involvement activities
6. Results of coordination with the OWJ
7. Alternatives considered to avoid using the **Section 4(f)** property, including the analysis of the impacts caused by avoiding the **Section 4(f)** resource
8. A least overall harm analysis, if appropriate;
9. All measures taken to minimize harm to the resource including mitigation measures;

10. Comments submitted during the coordination procedures as required by **23 CFR § 774.5** and responses to those comments.

7.3.6.3.2 Feasible and Prudent Alternatives Analysis for Individual Section 4(f) Evaluations

The intent of the **Section 4(f)** statute is to avoid and, where avoidance is not feasible and prudent, minimize the harm caused by the use of protected resource by transportation projects. When assessing the importance of protecting a **Section 4(f)** property, it is important to consider the relative value of its resources to the preservation purpose of the statute (**23 CFR § 774.17**). An avoidance “alternative analysis” [**23 CFR § 774.3(a) and (c)**] must be performed to determine if there is a feasible and prudent avoidance alternative.

7.3.6.3.2.1 Identifying a Range of Alternatives

A project alternative that avoids one **Section 4(f)** property by using another is not an avoidance alternative. A feasible and prudent avoidance alternative avoids using **Section 4(f)** property and does not cause other severe problems of a magnitude that substantially outweighs the importance of protecting the **Section 4(f)** property.

The alternative analysis identifies a reasonable range of project alternatives, including those that avoid using **Section 4(f)** property [**2012 FHWA Section 4(f) Policy Paper**]. Depending on the project context, the potential alternatives may include the following:

- Location Alternatives - A location alternative refers to the re-routing of the entire project along a different alignment
- Alternative Actions - An alternative action could be a different mode of transportation, such as rail transit or bus service, or some other action that does not involve construction such as the implementation of transportation management systems or similar measures.
- Alignment Shifts - An alignment shift is the re-routing of a portion of the project to a different alignment to avoid a specific resource.
- Design Changes - a design change is a modification of the proposed design in a manner that would avoid impacts, such as reducing the planned median width, building a retaining wall, or incorporating design exceptions.

For more information on developing and analyzing alternatives see [Part 2 Chapter 3, Engineering Analysis](#).

7.3.6.3.2.2 Feasible and Prudent Avoidance Analysis

The next step is to determine if each of the identified alternatives are feasible and prudent. “A feasible and prudent avoidance alternative avoids using **Section 4(f)** property and does not cause other severe problems of a magnitude that substantially outweighs the

importance of protecting the **Section 4(f)** property” (**23 CFR § 774.17**). If it is determined an avoidance alternative is feasible and prudent and meets the purpose and need of the project, this alternative must be selected by FDOT, and the **Section 4(f)** evaluation process is complete.

Under **23 CFR § 771.17** an avoidance alternative is not considered feasible if it cannot be built as a matter of sound engineering judgement.

Under **23 CFR 771.17** an avoidance alternative is not considered prudent if it results in one of the following situations:

- It compromises the project to a degree that it is unreasonable to proceed with the project in light of its stated purpose and need;
- It results in unacceptable safety or operational problems;
- After reasonable mitigation, it still causes:
 - Severe social, economic, or environmental impacts;
 - Severe disruption to established communities;
 - Severe disproportionate impacts to minority or low income populations or
 - Severe impacts to environmental resources protected under other Federal statutes;
- It results in additional construction, maintenance, or operational costs of an extraordinary magnitude;
- It causes other unique problems or unusual factors; or
- It involves, multiple factors in the above paragraphs, that while individually minor, cumulatively cause unique problems or impacts of extraordinary magnitude.

If there is more than one alternative that uses **Section 4(f)** property then a Least Overall Harm Analysis of those alternatives is required (see [Section 7.3.6.3.2.4](#)).

7.3.6.3.2.3 All Possible Planning to Minimize Harm

“All possible planning”, means all reasonable measures identified in the **Section 4(f)** analysis to minimize harm or mitigate adverse effects to the resource resulting from the “use,” were considered and documented. Impacts to the **Section 4(f)** property should be reduced or eliminated by including mitigation in the analysis. In addition, the mitigation measures are relied upon as part of the comparison of alternatives.

For public parks, recreation areas, and wildlife and waterfowl refuges, the measures to minimize harm may include, but are not limited to: design modifications or design goals; replacement of land or facilities of comparable value and function; or monetary

compensation to enhance the remaining property or to mitigate the adverse impacts of the project in other ways. For historic sites, the measures to minimize harm normally serve to preserve the historic activities, features, or attributes of the site as agreed upon by FDOT and the OWJ for the resource, in accordance with the consultation process under **Section 106 (36 CFR Part 800)**.

In evaluating the reasonableness of measures to minimize harm under **23 CFR § 774.3(a)(2)**, FDOT will consider the preservation purpose of the statute and the following:

- The views of the OWJ
- Whether the cost of the measures is a reasonable public expenditure in light of the adverse impacts of the project on the **Section 4(f)** property and the benefits of the measure to the property, in accordance with **23 CFR § 771.105(d)**
- Any impacts or benefits of the measures to communities or environmental resources outside of the **Section 4(f)** property

7.3.6.3.2.4 Least Overall Harm Analysis

Least overall harm analysis is conducted to determine which of the potential feasible and prudent alternatives that “use” a **Section 4(f)** property have the net impact that results in the “least overall harm” in accordance with **23 CFR § 774.3(c)(1)** and “includes all possible planning to minimize harm to **Section 4(f)** property” [**23 CFR § 774.3(c)(2)**]. Not all uses of **Section 4(f)** property have the same magnitude of impact, and not all **Section 4(f)** properties are of the same quality; therefore, the least overall harm analysis is a qualitative analysis. When preparing and examining the alternatives which impact **Section 4(f)** property it is important to ensure that comparable mitigation measures are taken into account for each alternative. The District is responsible for selecting the alternative that has the least overall harm to a **Section 4(f)** property. If the net harm to the **Section 4(f)** properties in all the feasible and prudent alternatives is equal, the District may select any one of them.

To determine which of the alternatives would cause the least overall harm, FDOT must compare the factors set forth in **23 CFR § 774.3(c)(1)** concerning the alternatives under consideration:

1. The ability to mitigate adverse impacts to each **Section 4(f)** property (including any measures that result in benefits to the property);
2. The relative severity of the remaining harm, after mitigation, to the protected activities, attributes, or features that qualify each **Section 4(f)** property for protection;
3. The relative significance of each **Section 4(f)** property;
4. The views of the OWJ over each **Section 4(f)** property;
5. The degree to which each alternative meets the purpose and need for the project;

6. After reasonable mitigation, the magnitude of any adverse impacts to resources not protected by **Section 4(f)**; and
7. Substantial differences in costs among the alternatives.

7.3.6.3.3 Submission and Coordination of Draft Individual Section 4(f) Evaluations

The District must upload the **Draft Individual Section 4(f) Evaluation** in ERC, assigning their PDC for review and comment. The PDC must add OGC and may add any other relevant reviewers. For Type 2 CEs the Draft Individual Evaluation is uploaded into ERC as a separate document. For EAs and EISs, the Draft Individual Evaluation is incorporated into the EA or DEIS.

Once OEM has completed its review of the **Draft Individual Section 4(f) Evaluation** and the comments have been addressed by the District, OEM approves it for public availability and the District circulates the document to the OWJ and any other appropriate agency for review and comment, including DOI, U.S. HUD. FDOT will use electronic media to distribute the draft to agencies.

The District must wait a minimum of 45 days for receipt of comments. If comments are not received within 15 days after the comment deadline, the District may assume a lack of objection and proceed with the action (**23 CFR § 774.5**).

If any of these agencies raise issues during coordination, the District will work with OEM and the agency to resolve the issues.

7.3.6.3.4 Public Involvement Requirements for Draft Individual Section 4(f) Evaluations

A **Section 4(f)** Individual Evaluation must include the opportunity for public notice and an opportunity for public review and comment on the use of the protected property and the effects on the protected activities, features, or attributes of the resource. This requirement is satisfied in conjunction with the public comment period provided for the **NEPA** document.

For those actions that do not routinely require public review and comment under **NEPA**, such as certain Type 2 CEs and re-evaluations, a separate public notice and an opportunity for review and comment will be necessary for a **Section 4(f)** evaluation.

7.3.6.3.5 Final Section 4(f) Individual Evaluation Outline

When the preferred alternative uses **Section 4(f)** land, the Final Individual **Section 4(f)** Evaluation must contain:

1. Information developed in the draft evaluation.

2. A discussion of the basis for concluding that there are no feasible and prudent alternatives to the use of the **Section 4(f)** land. The supporting information must demonstrate that "there are unique problems or unusual factors involved in the use of alternatives that avoid these properties or that the cost, social, economic, and environmental impacts, or community disruption resulting from such alternatives reach extraordinary magnitudes" (**23 CFR § 774.3**). This language should appear in the document together with the supporting information.
3. A discussion of the basis for concluding that the proposed action includes all possible planning to minimize harm to the **Section 4(f)** property. The Final Individual **Section 4(f)** Evaluation must demonstrate that the preferred alternative is a feasible and prudent alternative with the least harm on the **Section 4(f)** resources after considering mitigation to the **Section 4(f)** resources.
4. When there is more than one alternative which uses **Section 4(f)** resources, a discussion of the reasons for concluding that the selected action is the alternative which results in the least overall harm must be included.
5. A summary of the formal coordination with the OWJs and the Headquarters Office of DOI and other agencies as appropriate. Copies of all formal coordination comments and a summary of other relevant **Section 4(f)** comments received, and an analysis and response to any questions raised should be included.
6. Where **Section 6(f)** land is involved, documentation of the results of the coordination with the NPS must be included.
7. Final approval **Section 4(f)** language must include the following statement: "Based upon the above considerations, there is no feasible and prudent alternative to the use of land from the [identify **Section 4(f)** property] and the proposed action includes all possible planning to minimize harm to the [**Section 4(f)** property] resulting from such use."

7.3.6.3.5.1 Submission of Final Individual Section 4(f) Evaluation and Legal Sufficiency Review [23 CFR § 774.7 (d)]

After completion of the circulation and public comment period, the District submits the Final Individual **Section 4(f)** Evaluation to OEM via SWEPT.

SWEPT also provides a copy of the **Final Section 4(f) Evaluation** to OGC for legal sufficiency review. OGC must certify that the evaluation is legally sufficient before the **Section 4(f)** Evaluation can be approved by the Director of OEM as part of the **NEPA** document.

For FDOT processing purposes, the standard approval statement will be included on the cover page of FEIS or FONSI. The name and description of the project and the name(s) of the **Section 4(f)** properties being used by the project must also be included. Where the **Section 4(f)** approval is documented in the FEIS, the basis for the **Section 4(f)** approval must be summarized in the Record of Decision (ROD).

For Type 2 CE documents, the approval of the separate Final Individual **Section 4(f)** Evaluation report should occur with and be referenced in the approval for the **NEPA** Document.

Once approved, the District will electronically distribute copies of the signed document to the agencies that received the **Draft Individual Section 4(f) Evaluation**.

7.3.6.3.5.2 Project File Documentation

When completing the **Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11** for the Individual **Section 4(f)** Evaluation check “Yes” on the Environmental Analysis for **Section 4(f)** (B.1.), summarize the results of the evaluation in the form, and upload the Final Individual Evaluation form in SWEPT. For EAs and EISs, results of the Final Individual Evaluation are summarized in the **Section 4(f)** section of the document and the Final Individual Evaluation is referenced and uploaded into SWEPT. In addition, any mitigation measures or commitments are documented in the Environmental Document.

7.3.6.4 Constructive Use

A “Constructive Use” occurs when the transportation project does not incorporate land from a **Section 4(f)** property, but the proximity impacts of the project are so severe that the protected activities, features, or attributes qualifying the property for protection under **Section 4(f)** are substantially impaired. Substantial impairment occurs only when the protected activities, features, or attributes of the property are substantially diminished (**23 CFR § 774.15**).

If the District believes a project may involve a Constructive Use, the District contacts the PDC to verify the potential for a Constructive Use and to assess measures to minimize harm to the resource in order to avoid having a Constructive Use. When the District and OEM believe that a Constructive Use determination may be appropriate, OEM will initiate consultation with FHWA-HQ Office of Project Development and Environmental Review in accordance with the **NEPA Assignment MOU**.

Under **23 CFR § 774.15**, when a Constructive Use determination is made, it is based on the following:

1. Identification of the current activities, or attributes of the property which qualify for protection under **Section 4(f)** and which may be sensitive to proximity impacts. (This will be determined by the completed DOA);
2. Analysis of the proximity impacts of the proposed project on the **Section 4(f)** resource. If any of the proximity impacts will be mitigated, only the net impact need be considered in this analysis. The analysis should also describe and consider the impacts which could reasonably be expected if the proposed project were not implemented, since such impacts should be not attributed to the proposed project; and

3. Consultation, on the foregoing identification and analysis, with the OWJ over the **Section 4(f)** property.

Situations describing when a Constructive Use occurs can be found at **23 CFR § 774.15(e)** and situations describing when a Constructive Use does not occur can be found at **23 CFR § 774.15(f)**.

7.4 POST PD&E

7.4.1 Late Designations & Discoveries

After the CE, FONSI, or ROD has been processed, a separate **Section 4(f)** approval will be required, except as provided in **23 CFR § 774.13**, if:

1. A proposed modification of the alignment or design would require the use of **Section 4(f)** property; or
2. The District in consultation with OEM determines that **Section 4(f)** applies to the use of a property; or
3. A proposed modification of the alignment, design, or measures to minimize harm (after the original **Section 4(f)** approval) would result in a substantial increase in the amount of **Section 4(f)** property used, a substantial increase in the adverse impacts to **Section 4(f)** property, or a substantial reduction in the measures to minimize harm [**23 CFR § 774.9(d)**].

A separate **Section 4(f)** approval required for a CE, FONSI, or ROD will not necessarily require the preparation of a new or supplemental NEPA document. Coordinate with OEM when there are changes to a project that results in changes to impacts to a **Section 4(f)** property.

There are times when late discoveries, late designations, or determinations of significance of **Section 4(f)** resources are made after the completion of the Environmental Document. When this involves a **Section 4(f)** resource other than an archaeological site, FDOT may allow the project to proceed without consideration under **Section 4(f)** if the property interest in the lands from the site was acquired prior to the change in the designation or the determination of significance as long as an adequate effort was made to identify properties protected by **Section 4(f)** prior to the acquisition. In cases involving a historic site, if it was reasonably foreseeable that a resource would be determined eligible for the NRHP prior to the start of construction, the resource should be treated as a significant historic site as set forth in **23 CFR § 774.13(c)**.

In judging the adequacy of the effort made to identify properties protected by **Section 4(f)**, FDOT will consider the requirements and standards that existed at the time of the search.

When archeological discoveries occur, FDOT will consult with the appropriate parties in accordance with **Section 106 of the NHPA** to reach resolution regarding the treatment of the site within an expedited time frame. The decision to apply **Section 4(f)** to the site

will be based on the outcome of the **Section 106** process. If the archaeological site proves significant for more than the information it contains, this late discovery will also trigger a request for an expedited **Section 4(f)** evaluation. Because the DOI has a review responsibility for Individual **Section 4(f)** Evaluations but is not usually a party to the Section 106 consultation process, the DOI must be notified and requested to provide any comments within a shortened response period (less than the standard 30 days) in regard to the treatment of the archaeological site. [See **Section 4(f) Policy Paper Section II**, Questions 26(a) and (b) and **23 CFR § 774.9**]

7.4.2 Commitment Compliance

Commitments must be recorded in the Environmental Document and on the **Project Commitment Record, Form No. 700-011-35**. Project commitments are carried forward into design, ROW and construction phases of project delivery. The commitments and required coordination are updated per [Part 2 Chapter 22, Commitments](#) and documented in the Commitment Status section of the **Re-evaluation Form, Form No. 650-050-29**.

Any changes to an existing commitment relating to **Section 4(f)** protected properties require coordination with the District Environment Office. The District Environmental Office will inform the appropriate consulting parties and re-initiate consultation as necessary. District staff must review the commitments made to avoid, minimize and mitigate effects to **Section 4(f)** protected properties and ensure compliance.

7.4.3 Re-evaluations

Prior to a project advancing to the next phase or if there are major design changes, the impacts to **Section 4(f)** resources are re-evaluated per [Part 1, Chapter 13, Re-evaluations](#). In addition, design changes could re-initiate consultation with the OWJ. Commitments and coordination should be contained in the Commitment Status section of the **Re-evaluation Form, Form No. 650-050-29** and tracked through **Procedure No. 700-011-035, Project Commitment Tracking**. Any changes to the original commitments should be documented in both the re-evaluation and **PCR**.

7.5 CONCURRENT REQUIREMENTS

Due to the nature of the resources protected under **Section 4(f)** there are often concurrent laws requiring separate federal and/or state findings such as **Section 106 of the NHPA**, **Section 7 of the Wild and Scenic Rivers Act** and **Section 7 of the Endangered Species Act**, as well as certain federal encumbrances on lands. The majority of these concurrent requirements may/will overlap as part of the **NEPA** Process.

7.5.1 Section 6(f) Concurrent Requirements

State and local governments often obtain grants through the **LWCFA** to acquire or make improvements to parks and recreational areas. **Section 6(f)** of this **Act** prohibits the conversion of property acquired or developed with these grants to a non-recreational purpose without the approval of the DOIs NPS. **Section 6(f)** directs DOI to assure that

replacement lands of equal value, location and usefulness are provided as conditions to such conversions. Consequently, where conversions of **Section 6(f)** lands are proposed for highway projects, replacements will be necessary. **Section 6(f) applies to all projects and not just those that are federally funded.** A project can have **Section 6(f)** impacts but **Section 4(f)** may not apply.

In order to determine whether **LWCFA** funding was involved in the acquisition or improvement of a **Section 4(f)** property, the OWJ should be interviewed. If **LWCFA** funds were used for acquisition or improvement, the following prerequisites must be met:

- All practical alternatives to the proposed conversion must be evaluated;
- The fair market value of the property to be converted must be established by an appraisal meeting the “Uniform Appraisal Standards for Federal Land Acquisitions”;
- The replacement property must be of at least equal value;
- The replacement property must be of reasonably equivalent usefulness and location to that being converted;
- The property proposed for substitution meets the eligibility requirements for **LWCFA** assisted acquisition;
- In the case of assisted sites that are partially rather than wholly converted, the impact of the converted portion on the remainder shall be considered. If such a conversion is approved the unconverted area must remain recreationally viable or be replaced as well;
- The Regional Office of the NPS is assured that all environmental review requirements related to the project have been met;
- The state procedures including those of the Florida Department of Environmental Protection (FDEP) have been adhered to if the project conversion and substitution constitute any changes to the **LWCFA** property;
- The proposed conversion and substitution are in accordance with the recreation plans of the state and the facility.

In order to convert **Section 6(f)** properties to non-recreation uses, the OWJ over the **Section 6(f)** property must agree to the conversion in a letter of transmittal recommending the proposal. The conversion must meet the prerequisites and be approved by the appropriate NPS Regional Director in writing. Through coordination with the FDEP who in turn seeks NPS approval of the conversion and proposed acquisition of replacement property. Regardless of the mitigation proposed, the **Section 4(f)** evaluation and Environmental Document should document the NPS position relative to **Section 6(f)** conversion and analyze how the converted park land and recreational usefulness will be replaced.

If any **Section 6(f)** properties are identified in the project area, the District should contact the OEM PDC for assistance.

7.5.2 Acquisition and Restoration Council- Concurrent Requirement

During the **Section 4(f)** DOA, the use of certain state-owned lands may be identified, that may require approval from Florida's Acquisition and Restoration Council (ARC). Easements from the Division of State Lands of the FDEP may be required to locate a portion of the project across state owned lands. Coordinate with your PDC at the earliest opportunity for further guidance.

7.6 REFERENCES

- American Association of State Highway and Transportation Officials (AASHTO), 2011. Green Book: A Policy on the Geometric Design of Highway and Streets. 6th edition
- FHWA, 1977. Negative Declaration / Section 4(f) Statement for Independent Bikeway or Walkway Construction Projects.
<https://www.environment.fhwa.dot.gov/4f/4fbikeways.asp>
- FHWA, 1986a. Final Nationwide Section 4(f) Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges. December 23, 1986.
<https://www.environment.fhwa.dot.gov/4f/4fmparks.asp>
- FHWA, 1986b. Final Nationwide Section 4(f) Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvement with Historic Sites. December 23, 1986. <https://www.environment.fhwa.dot.gov/4f/4fmhist.asp>
- FHWA, 1994. Interim Guidance on Applying Section 4(f) on Transportation Enhancement Projects and Recreation Trails Projects. September 21, 1994.
http://www.fhwa.dot.gov/environment/transportation_enhancements/guidance/gm_emo_interim.cfm
- FHWA, 2012. Section 4(f) Policy Paper. July 20, 2012.
<https://www.environment.fhwa.dot.gov/4f/4fpolicy.asp>
- FDOT. Section 4(f) References web page. [http://www.dot.state.fl.us/emo/pubs/Section4\(f\)/Section4f.shtm](http://www.dot.state.fl.us/emo/pubs/Section4(f)/Section4f.shtm)
- FDOT. Plans Preparation Manual, Topic 625-000-007
<http://www.dot.state.fl.us/rddesign/PPMManual/2016PPM.shtm>
- FDOT. Efficient Transportation Decision Making Manual, Topic No. 650-000-002,
<http://www.dot.state.fl.us/emo/pubs/etdm/etdmmanual.shtm>

FDOT. Standard Specifications for Road and Bridge Construction,
<http://www.dot.state.fl.us/programmanagement/Implemented/SpecBooks/July2015/Files/715eBook.pdf>

Land and Water Conservation Fund Act (LWCFA) of 1965.
http://www.nps.gov/parkhistory/online_books/anps/anps_6c.htm

Memorandum of Agreement Between FHWA and FDOT Concerning the State of Florida's Participation in the Surface Transportation Project Delivery Program Pursuant to 23 U.S.C. 327, December 14, 2016.
<http://www.fdot.gov/environment/pubs/Executed-FDOT-NEPA-Assignment-MOU-2016-1214.pdf>

National Parks Service- LWCF List. <http://waso-lwcf.ncrc.nps.gov/public/index.cfm>

NEPA of 1969, 42 U.S.C. §§ 4321-4347. <https://www.gpo.gov/fdsys/pkg/USCODE-2014-title42/pdf/USCODE-2014-title42-chap55.pdf>

NHPA of 1966, as amended, 54 U.S.C. § 300101 *et seq.*
<http://www.achp.gov/nhpa.html>

National Industrial Recovery Act (NIRA) of June 16, 1933

Pittman-Robertson Act of 1937 (Federal-Aid in Wildlife Restoration Act).
<https://www.gpo.gov/fdsys/pkg/USCODE-2014-title16/html/USCODE-2014-title16-chap5B.htm>

Title 23 CFR § 774. Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites [Section 4(f)]. <http://www.ecfr.gov/cgi-bin/text-idx?SID=4f91939fd3bdbfac5337b83a3b2bc4f4&mc=true&node=pt23.1.774&rgn=div5>

Title 36 CFR § 59. Land and Water Conservation Fund Program of Assistance to States; Post-Completion Compliance Responsibilities. http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title36/36cfr59_main_02.tpl

Title 36 CFR § 800. Protection of Historic Properties. <http://www.ecfr.gov/cgi-bin/text-idx?SID=73f131392733d51d9fac5541174d6102&mc=true&node=pt36.3.800&rgn=div5>

U.S. DOI, 2013. Environmental Review Memorandum No. ERM 13-2: Electronic Distribution of Environmental Review Assignments.
https://www.doi.gov/sites/doi.opengov.ibmcloud.com/files/uploads/ERM_13-2.pdf

U.S. Supreme Court, 1971. Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402.
<https://supreme.justia.com/cases/federal/us/401/402/case.html>

7.7 FORMS

[Project Commitment Record, Form No. 700-011-35](#)

Programmatic Section 4(f) Evaluation and Approval for FDOT Projects that Necessitate the Use of Historic Bridges, Form No. 650-050-50

Re-evaluation Form, Form No. 650-050-29*

Section 4(f) *de minimis* Determination for Historic Sites, Form No.650-050-46

Section 4(f) *de minimis* Determination for Parks, Recreational Areas and Wildlife or Waterfowl Refuges, Form No. 650-050-47

Section 4(f) Determination of Applicability, Form No. 650-050-45

Section 4(f) Exceptions/Exemptions Determination, Form No. 650-050-48

Section 4(f) Net Benefit Programmatic for Historic Sites, Form No. 650-050-53

Section 4(f) Net Benefit Programmatic for Public Parks, Recreation Lands and, Wildlife and Waterfowl Refuge, Form No. 650-050-54

Section 4(f) No Use Determination, Form No. 650-050-49

Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Historic Sites, Form No. 650-050-51

Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges, Form No. 650-505-52

Section 4(f) Statement of Determination for Independent Bikeway or Walkway for Construction Projects, Form No. 650-050-55

Type 1 Categorical Exclusion Checklist, Form No. 650-050-12*

Type 2 Categorical Exclusion Determination Form, Form No. 650-050-11*

*To be completed in [SWEPT](#)

Note: Hyperlinks are only for those with FDOT Intranet access only. Those without Intranet access may view or download forms at: <http://www.fdot.gov/procedures/>. Sign in is required.

7.8 HISTORY

05/22/1998, 09/01/2016

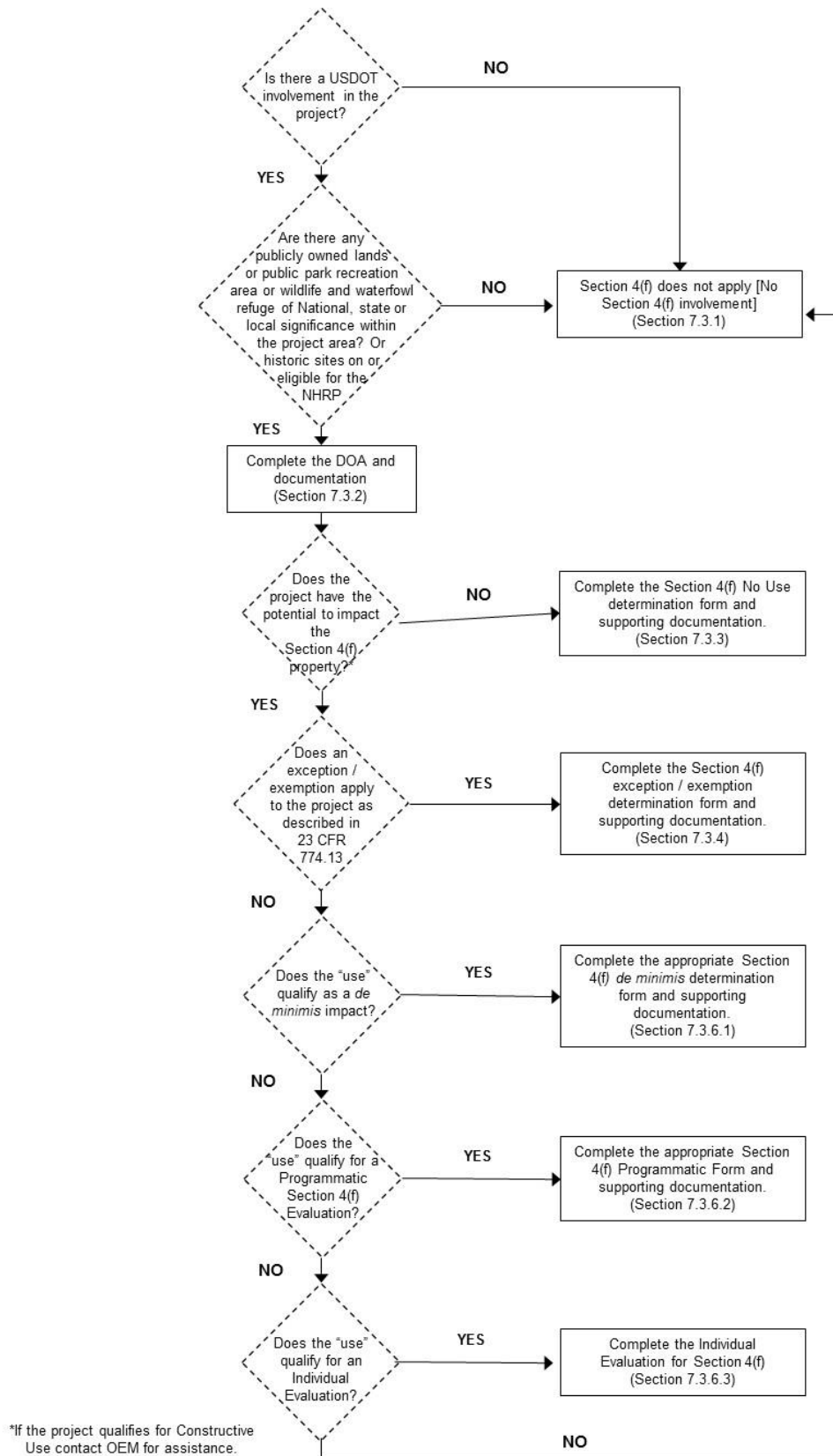


Figure 7-1 Flow Chart

Section 4(f) Determination of Applicability

Project Name: _____
ETDM#: _____ FAP# _____
FM#: _____ : _____
Project Review Date: _____
FDOT District: _____
County(ies): _____

A DOA IS REQUIRED FOR EACH SECTION 4(f) PROPERTY AND PROPOSED

Project Description including Section 4(f) Specific Information:

ALTERNATIVE.

Type of Property

Check all that apply:

- Public Parks and Recreation Areas
- Wildlife and Waterfowl Refuges
- Historic Sites

Description of Property:

Criteria of Selected Property Type(s):

Public Parks and Recreation Areas

- Must be publicly owned which refers to ownership by local, state or federal government
 - Ownership can also include permanent easements and long-term lease agreements

Figure 7-2 Section 4(f) Determination of Applicability

- Must be open to the public during normal hours of operation
- The major purpose must be for park or recreation activities
- Must be designated or function as a significant park or recreational area.
 - Applies to the entire park or recreation area not just a specific feature

Wildlife and Waterfowl Refuge

- Must be publicly owned which refers to ownership by local, state or federal government;
 - Ownership can also include permanent easements and long-term lease agreements;
- Must be open to the public but **refuges are able to restrict access for the protection of refuge habitat and species;**
- The major purpose must be for wildlife and waterfowl refuges;
- Must be designated or function as a significant as a wildlife and waterfowl refuges; -
 - Applies to the entire wildlife and waterfowl refuges not just a specific feature

Historic Sites- includes historic buildings, historic transportation facilities, archeological sites, traditional cultural places, historic & archeological districts and historic trails.

- Must be of national, state or local significance and it must be eligible for listing or is listed on the National Register of Historic Places (NRHP); or
- If a site is determined not to be eligible OEM may determine that the application of Section 4(f) is otherwise appropriate when an official (such as the Mayor, president of a local historic society) provides information to support that the historic site is of local importance.

Does the identified resource meet all of the criteria for the selected property type?

Yes, continue to complete the form

No, STOP Section 4(f) does not apply

Figure 7-2 Section 4(f) Determination of Applicability (Page 2 of 5)

Identify the Official(s) with Jurisdiction (OWJ) contacted:

Date correspondence sent to the OWJ:

Has the Official(s) with Jurisdiction (OWJ) responded?

Yes No

Has the 30 day response period passed since the initial OWJ correspondence was sent?

Yes No

Please answer the questions below about the resource:

Note: A potential source for this information can include the property management plan, resource website and/or communications with the OWJ (be sure to document these communications in writing).

What is the size and location of the property (include a map of the resource)?

Who/what organization owns/manages the property?

What is the primary function (activities, features and attributes) within the meaning of Section 4(f) of the facility or property?

Please describe the location of available appurtenances and facilities (e.g. tennis courts, pools, shelter houses, sports fields, beaches) on the property:

What is the function of/or the available activities on the property?

Figure 7-2 Section 4(f) Determination of Applicability (Page 3 of 5)

Access and Usage of the property by the Public:

Relationship to other similarly used lands/facilities in the vicinity:

Are there any unusual characteristics of the property that either limit or enhance the value of the resource? If so please explain:

Describe project activities that could potentially “use” the resource:

If applicable, give a general description of the history of the Historic Site, Archaeological Site or Historic District:

Based on the above information the recommended level of Section 4(f) evaluation for this property is:

Select the level of Section 4(f) evaluation:

Reason the selected level is appropriate:

Supporting Documentation

The following items **must** be attached to this form:

1. A map of the resource based on the guidelines in the PD&E Manual Part 2, Chapter 7, including the proposed alternative being evaluated.

Figure 7-2 Section 4(f) Determination of Applicability (Page 4 of 5)

2. Statement of Significance from OWJ or FDOT's presumption of significance.
3. Determination of Eligibility or Listing in the National Register of Historic Places, Archaeological Site (include criterion of eligibility) or a Historic District if applicable.

Signatures

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. § 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

Signature: _____ Date: _____
Preparer

Signature: _____ Date: _____
Environmental Manager, or designee

OEM Concurrence:

Signature: _____ Date: _____
Director of OEM, or designee

Figure 7-2 Section 4(f) Determination of Applicability (Page 5 of 5)

Section 4(f) No Use Determination

Project Name:	(fillable field with wrap text)
FM#:	(fillable field with wrap text)
ETDM#:	_____
FAP#:	(fillable field)
Project Review Date:	(fillable field with calendar, date selection)
FDOT District:	(fillable field with selection of 1-7 and Turnpike)
County(ies):	(fillable field with wrap text)

Project Description including Section 4(f) Specific Information: (Fillable Field with wrap text)

Type of 4(f) Property:

- Public Parks and Recreation Areas
- Wildlife and Waterfowl Refuges
- Historic Sites

Description of Property:

Establishing Section 4(f) Use of the Property

Will the property be “used” as defined in **Section 4(f)** Resources chapter of the FDOT PD&E Manual? Examples of a “use” include but are not limited to new right of way, new easements, and temporary occupancy?

- Yes
- No

An explanation of the relationship between the Section 4(f) property and the project:

Documentation

The following items **must** be attached to this form to ensure proper documentation of the No 4(f)

Figure 7-3 Section 4(f) No Use Determination

Use:

1. DOA form and documentation
2. All related communication with the OWJ

Signatures

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

Signature:

Date:

Preparer

Signature:

Date:

Environmental Manager, or designee

OEM Concurrence:

Signature:

Date:

Director of OEM or designee

Figure 7-3 Section 4(f) No Use Determination (Page 2 of 2)

Section 4(f) Exceptions/Exemptions Determination

Project Name:	(fillable field with wrap text)
FM#:	(fillable field with wrap text)
ETDM#:	_____
FAP#:	(fillable field) _____
Project Review Date:	(fillable field with calendar, date selection) _____
FDOT District:	(fillable field with selection of 1-7 and Turnpike)
County(ies):	(fillable field with wrap text)

Project Description including Section 4(f) Specific Information: (Fillable Field with wrap text)

Type of 4(f) Property:

- Public Parks and Recreation Areas
- Wildlife and Waterfowl Refuges
- Historic Sites

Description of Property:

Establishing Section 4(f) Exception Eligibility (from 23 CFR 774.13):

The facts of the case must match the circumstances as described below:

- Restoration, rehabilitation or maintenance of transportation facilities that are on or eligible for the National Register when:
 - (1) The Administration [FDOT] concludes, as a result of the consultation under 36 CFR 800.5, that such work will not adversely affect the historic qualities of the facility that caused it to be on or eligible for the National Register, and
 - (2) The OWJ over the Section 4(f) resource have not objected to the FDOT conclusion.
- Archaeological sites that are on or eligible for the National Register when:
 - (1) The Administration [FDOT] concludes that the archaeological resource is important chiefly because of what can be learned by data recovery and has

Figure 7-4 Section 4(f) Exceptions/Exemptions Determination

- minimal value for preservation in place. This exception applies both to situations where data recovery is undertaken and where the Administration [FDOT] decides, with agreement of the OWJ, not to recover the resource; and
- (2) The OWJ over the Section 4(f) resource have been consulted and have not objected to the Administration [FDOT] finding.

Designations of park and recreation lands, wildlife and waterfowl refuges, and historic sites that are made, or determinations of significance that are changed, late in the development of a proposed action. With the exception of the treatment of archaeological resources in §774.9(e) discovered during construction, the Administration [FDOT] may permit a project to proceed without consideration under Section 4(f) if the property interest in the Section 4(f) land was acquired for transportation purposes prior to the designation or change in the determination of significance, and if an adequate effort was made to identify properties protected by Section 4(f) prior to acquisition. However, if it is reasonably foreseeable that a property would qualify as eligible for the National Register prior to the start of construction, then the property should be treated as a historic site and does not qualify for the Section 4(f) exception.

In applying this exception the analyst must consider whether:

- (1) The property acquisition was completed prior to the designation or the change in the determination of significance.
- (2) The Cultural Resources Assessment Survey (CRAS) report was considered complete and sufficient at the time of its submittal.
- (3) The CRAS report identified the property in question as a resource that would require re-examination or that would become significant prior to construction.
- (4) The property in question is an archaeological site important primarily for the information it contains.

Temporary occupancies of land that are so minimal as to not constitute a use within the meaning of Section 4(f). The following conditions must be satisfied:

- (1) Duration must be temporary, i.e., less than the time needed for construction of the project, and there should be no change in ownership of the land;
- (2) Scope of the work must be minor, i.e., both the nature and the magnitude of the changes to the Section 4(f) property are minimal;
- (3) There are no anticipated permanent adverse physical impacts, nor will there be interference with the protected activities, features, or attributes of the property, on either a temporary or permanent basis;
- (4) The land being used must be fully restored, i.e., the property must be returned to a condition which is at least as good as that which existed prior to the project; and

Figure 7-4 Section 4(f) Exceptions/Exemptions Determination (Page 2 of 6)

(5) There must be documented agreement of the OWJ over the Section 4(f) resource regarding the above conditions.

- Park road or parkway projects under 23 U.S.C. 204 which is the Federal Lands Access Program, providing access to transportation facilities located on or adjacent to, or provide access to Federal Lands.
- Certain trails, paths, bikeways, and sidewalks, in the following circumstances:
 - (1) Trail-related projects funded under the Recreational Trails Program, 23 U.S.C. 206(h)(2);
 - (2) National Historic Trails and the Continental Divide National Scenic Trail, designated under the National Trails System Act, 16 U.S.C. 1241-1251, with the exception of those trail segments that are historic sites as defined in 23 CFR 774.17, such as any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in the NR. The term includes properties of traditional religious and cultural importance to an Indian tribe that are included in, or are eligible for inclusion in the NR.
 - (3) Trails, paths, bikeways, and sidewalks that occupy a transportation facility right-of-way without limitation to any specific location within that right-of-way, so long as the continuity of the trail, path, bikeway, or sidewalk is maintained; and
 - (4) Trails, paths, bikeways, and sidewalks that are part of the local transportation system and which function primarily for transportation unless they are historic.
- Transportation enhancement projects and mitigation activities, where:
 - (1) The use of the Section 4(f) property is solely for the purpose of preserving or enhancing an activity, feature, or attribute that qualifies the property for Section 4(f) protection; and
 - (2) The OWJ over the Section 4(f) resource agrees in writing to the use described in (1) of this section.

Establishing Section 4(f) Exemption Eligibility (Refer to Chapter 7.3.4 for further information and criteria)

- Section 1303 of the FAST Act incorporates the ACHP Program Comment exemption for common post-1945 concrete and steel bridges and culverts into Section 4(f), eliminating review requirements for these structures under Section 4(f). This exemption applies to specific types of bridges and culverts built after 1945, including various forms of reinforced concrete slab bridges, reinforced concrete beam and

Figure 7-4 Section 4(f) Exceptions/Exemptions Determination (Page 3 of 6)

girder bridges, steel multi-beam bridges or multi-girder bridges, and culverts and reinforced concrete boxes (See Section V Program Comment).

□ (Section 11502 (23 U.S.C. 138(f)/49 U.S.C. 303(h)) exempts from Section 4(f) review the use of rail. The exemption to **Section 4(f)** applies regardless of whether the railroad or rail transit line, or element thereof, is listed on or is eligible for listing on the National Register of Historic Places.

The exemption applies to the following resource types which might otherwise be considered abandoned or not in use:

- Railroad and transit lines over which service has been discontinued under the process described in 49 U.S.C. 10903;
- Railroad and transit lines that have been railbanked (a voluntary agreement between a railroad company and a trail agency to use an out-of-service rail corridor as a trail until a railroad might need the corridor again for rail service as described in 16 U.S.C. 1247(d)); and
- Railroad and transit lines that have been otherwise reserved for the future transportation of goods or passengers.

□ 23 CFR 774.11(e)(2). The interstate highway system is exempt from being treated as a historic resource under Section 4(f), unless the U.S. Secretary of Transportation determines individual elements possess national or exceptional historic significance and should receive protection.

Interstate highway-related facilities in Florida determined historically significant by the Secretary of Transportation and therefore not exempt under Section 4(f) are:

- I-275 Bob Graham/Sunshine Skyway Bridge
- I-75 Alligator Alley- Milepost range 19.6-49.3
- I-75 Snake Wall
- I-95 Myrtle Avenue Overpass

□ (23 CFR 774.11(h)) When a property formally reserved for a future transportation facility temporarily functions for park, recreation, or wildlife and waterfowl refuge purposes in the interim, the interim activity, regardless of duration, will not subject the property to Section 4(f).

□ 23 CFR 774.11 (i) When a property is formally reserved for a future transportation facility before or at the same time a park, recreation area, or wildlife and waterfowl refuge is established and concurrent or joint planning or development of the transportation facility and the Section 4(f) resource occurs, then any resulting impacts of the transportation facility will not be considered a use as defined in §774.17. Examples of such concurrent or joint planning or development include, but are not limited to:

- Designation or donation of property for the specific purpose of such concurrent

Figure 7-4 Section 4(f) Exceptions/Exemptions Determination (Page 4 of 6)

development by the entity with jurisdiction or ownership of the property for both the potential transportation facility and the Section 4(f) property; or

- Designation, donation, planning, or development of property by two or more governmental agencies with jurisdiction for the potential transportation facility and the Section 4(f) property, in consultation with each other.

Explanation supporting the Section 4(f) property meets all of the criteria of the Exception or Exemption

Documentation

The following items **must** be attached to this checklist to ensure proper documentation of the Section 4(f) Exception:

3. DOA package (Including the Form and Attachments)
4. Required communications with the OWJ (i.e. concurrence letters) for the Exception/Exemption, as applicable

Signatures:

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

I have reviewed this evaluation and all attached documentation and confirm that the above property and proposed project meet the requirements of 23 CFR 774 for a Section 4(f) Exception or Exemption finding.

Signature: _____ Date: (_____
Preparer

I reviewed this checklist and all attached documentation and confirm that the above property and proposed project meet the requirements of 23 CFR 774 for a Section 4(f) Exception finding.

Figure 7-4 Section 4(f) Exceptions/Exemptions Determination (Page 5 of 6)

Signature: _____ Date: _____
Environmental Manager, or designee

OEM Concurrence:

Signature: _____ Date: _____
Director of OEM or designee

Figure 7-4 Section 4(f) Exceptions/Exemptions Determination (Page 6 of 6)

Section 4(f) *de minimis* Determination for Historic Sites

Project Name:	(fillable field with wrap text)
FM#:	(fillable field with wrap text)
ETDM#:	_____
FAP#:	(fillable field) _____
Project Review Date:	(fillable field with calendar, date selection) _____
FDOT District:	(fillable field with selection of 1-7 and Turnpike)
County(ies):	(fillable field with wrap text)

Project Description including Section 4(f) Specific Information: (Fillable Field with wrap text)

Description of Historic Property:

Section 4(f) Use of the Property

Yes No Will the project involve the “use” of the Section 4(f) resource (e.g., new right of way, intrusions into the historic boundaries, temporary occupancy)?

Explanation of how the Section 4(f) property will be used, including any mitigation or enhancement measures related to activities, features or attributes of the property:

Evaluating Section 4(f) *de minimis* Eligibility

1. Yes No Was there coordination with the OWJ to identify an opportunity for a *de minimis* finding identified?

2. Yes No Was the OWJ informed by the District of FDOT’s intent to pursue a *de minimis* approval option? (Attach the letter to the file)

Yes No Was the Section 106 process, including opportunity for public review and comment, completed?

Figure 7-5 Section 4(f) *de minimis* Determination for Historic Sites

3. Yes No Did the SHPO/THPO concur that the proposed project, including any enhancement, mitigation and minimization of harm measures, will result in no adverse effects to the activities features or attributes of the property?

4. Yes No Identify and describe the avoidance and minimization of harm measures (if any) incorporated into the project in order to obtain a *de minimis* finding:

5. Describe below the basis on which the *de minimis* determination was made for the Project (e.g. consideration on why there is no effects to historic properties or no adverse effects to the property in question under Section 106 of the National Historic Preservation Act).

Documentation

The following items **must** be attached to this form to ensure proper documentation of the Section 4(f) *de minimis*:

1. DOA package (Including the Form and Attachments)
2. SHPO Concurrence Letter on a finding of “no effects” to historic properties or “no adverse effect” to the historic property in question.
3. Any additional communications with the OWJ and Section 106 Consulting Parties (e.g. concurrence letters, and project commitments)

Signatures

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

Figure 7-5 Section 4(f) *de minimis* Determination for Historic Sites (Page 2 of 3)

Signature: _____ Date: _____
Preparer

Signature: _____ Date: _____
Environmental Manager, or designee

OEM Concurrence:

Signature: _____ Date: _____
Director of OEM or designee

Figure 7-5 Section 4(f) *de minimis* Determination for Historic Sites (Page 3 of 3)

Section 4(f) *de minimis* Determination for Parks, Recreational Areas and Wildlife or Waterfowl Refuges

Project Name:	(fillable field with wrap text)
FM#:	(fillable field with wrap text)
ETDM#:	_____
FAP#:	(fillable field)
Project Review Date:	(fillable field with calendar, date selection)
FDOT District:	(fillable field with selection of 1-7 and Turnpike)
County(ies):	(fillable field with wrap text)

Project Description including Section 4(f) Specific Information: (Fillable Field with wrap text)

Type of Property

Type of Property:

Description of Property:

Section 4(f) Use of the Property

Yes No Will the project involve the use of the Section 4(f) resource (e.g., new right of way, new easements, temporary occupancy)?

Explanation of how the Section 4(f) property will be used, including any mitigation or enhancement measures related to activities, features and attributes of the property:

Evaluating Section 4(f) *de minimis* Eligibility

1. Yes No Was there coordination with the Official(s) with Jurisdiction to identify an opportunity for a *de minimis* finding?

Figure 7-6 Section 4(f) *de minimis* Determination for Parks, Recreational Areas and Wildlife or Waterfowl Refuges

2. Yes No Was the OWJ informed by the District of FDOT's intent to pursue a *de minimis* approval option? (attach letter to the document)
3. Yes No Was the public provided notice and an opportunity to review and comment on the effects of the project on the activities, features and attributes of the property?
4. Yes No Was the OWJ informed in writing that their concurrence with a no adverse effect finding to the activities, features or attributes which qualify the property for protection may result in FDOT making a *de minimis* approval under Section 4(f)?
5. Yes No Did the OWJ concur that the proposed project, including any enhancement, mitigation and minimization of harm measures, will result in no adverse effects to the activities features or attributes of the property?
6. Yes No Identify and describe the avoidance and minimization of harm measures (if any) incorporated into the project to support a *de minimis* finding:
7. Describe below the basis on which the *de minimis* determination was made. (e.g., consideration on why there is no adverse effects to the property and its activities, features and attributes)

Documentation

The following items **must** be attached to this form to ensure proper documentation of the Section 4(f) *de minimis*:

Figure 7-6 Section 4(f) *de minimis* Determination for Parks, Recreational Areas and Wildlife or Waterfowl Refuges (Page 2 of 3)

1. DOA package (Including the Form and Attachments)
2. Any additional communications with the OWJ (e.g. concurrence letters)

Signatures

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

Signature: _____ Date: _____
Preparer

Signature: _____ Date: _____
Environmental Manager, or designee

OEM Concurrence:

Signature: _____ Date: _____
Director of OEM or designee

Figure 7-6 Section 4(f) *de minimis* Determination for Parks, Recreational Areas and Wildlife or Waterfowl Refuges (Page 3 of 3)

Section 4(f) Statement of Determination for Independent Bikeway or Walkway for Construction Projects

Project Name:	(fillable field with wrap text)
FM#:	(fillable field with wrap text)
ETDM#:	_____
FAP#:	(fillable field) _____
Project Review Date:	(fillable field with calendar, date selection) _____
FDOT District:	(fillable field with selection of 1-7 and Turnpike)
County(ies):	(fillable field with wrap text)

Project Description including Section 4(f) Specific Information: (Fillable Field with wrap text)

I. Description of Project Scope/ Purpose and Need Statement

Enter the projects Purpose and Need Statement and a brief description of the project scope

II. Detailed explanation of how the Section 4(f) property will be used:

III. Applicability Criteria of the Programmatic

All criteria must be met for this programmatic to apply

- Yes No The bikeway or walkway construction project is an independent construction project which requires the **use of recreation and park areas** established and maintained primarily for active recreation, open space, and similar purposes.
- Yes No The OWJ over the Section 4(f) property has given approval in writing that the project is acceptable and consistent with the designated use of the property and that all possible planning to minimize harm has been accomplished in the location and design of the bikeway or walkway facility.
- Yes No The project does not require the use of critical habitat or endangered species, or land from publicly owned wildlife or waterfowl refuge, or any land from a historic site of national, State or local significance.

Figure 7-7 Section 4(f) Statement of Determination for Independent Bikeway or Walkway for Construction Projects

- Yes No There are no unusual circumstances such as major impacts, adverse effects, or controversy.
- Yes No The bicycle or pedestrian facilities are not incidental items of construction in conjunction with highway improvements serving the primary purpose of serving motor vehicular traffic.
- Yes No The project does not include the displacement of homes or businesses.
- Yes No Public agency is responsible for the maintenance of the bikeway/walkway.
-

IV. Identify additional Section 4(f) properties in the project area

Are there any additional Section 4(f) properties in the project area? Yes No

<List additional Section 4(f) properties here>

Comments: <Enter comments on additional Section 4(f) properties including any "uses">

V. Measures to Minimize Harm

Indicate all that apply, but a minimum of one MUST be selected.

- The proposed action includes all possible planning to minimize harm
- The proposed action includes all possible mitigation measures
-

VI. Documentation

The following MUST be attached to this checklist to ensure proper documentation of the Individual Bikeway and Walkway Programmatic Section 4(f):

1. Brief project description
 2. A detailed map of the Section 4(f) property including:
 - a. Current and proposed ROW
 - b. Property Boundaries
 - c. Access points for pedestrians and vehicles
 - d. Existing and planned facilities
 3. Concurrence letter from OWJ
-

VII. Summary and Approval

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to

Figure 7-7 Section 4(f) Statement of Determination for Independent Bikeway or Walkway for Construction Projects (Page 2 of 3)

23 U.S.C. 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

The proposed project meets all the applicability criteria set forth by the Federal Highway Administration's (FHWA) Guidance for Programmatic Evaluation for **Section 4(f)** Statement and Determination for Independent Bikeway and Walkway Construction Projects; and

The project includes all possible planning to minimize harm. FDOT will include the measures to minimize harm as environmental commitments as part of the NEPA Document for the proposed project.

VIII. Approval Signatures

District: I have reviewed this form and all attached documentation and confirm that the proposed project meets the requirements of 23 CFR 774 for an Independent Bikeway and Walkway Construction Project Programmatic Section 4(f) finding.

Signature: _____ Date: _____
Preparer

Signature: _____ Date: _____
Environmental Manager, or designee

OEM Concurrence: Based upon the above considerations, this Independent Bikeway and Walkway Construction Project Programmatic Section 4(f) satisfies the requirements of 23 CFR 774.

Signature: _____ Date: _____
Director of OEM or designee

Figure 7-7 Section 4(f) Statement of Determination for Independent Bikeway or Walkway for Construction Projects (Page 3 of 3)

Programmatic *Section 4(f)* Evaluation and Approval for FDOT Projects that Necessitate the Use of Historic Bridges

Project Name:	(fillable field with wrap text)
FM#:	(fillable field with wrap text)
ETDM#:	_____
FAP#:	(fillable field) _____
Project Review Date:	(fillable field with calendar, date selection) _____
FDOT District:	(fillable field with selection of 1-7 and Turnpike)
County(ies):	(fillable field with wrap text)

Project Description including Section 4(f) Specific Information: (Fillable Field with wrap text)

I. Description of Project Scope/ Purpose and Need Statement

Enter the projects Purpose and Need Statement and a brief description of the project scope

II. Detailed explanation of how the Section 4(f) property will be used:

III. Applicability Criteria of the Programmatic

All criteria must be met for this programmatic to apply.

- Yes No The bridge will be replaced or rehabilitated with Federal Funds.
- Yes No The project will require the “use” of a historic bridge which is on or eligible for listing on the National Register of Historic Places (NRHP).
- Yes No The bridge is NOT a National Historic Landmark (NHL)

IV. Identify additional Section 4(f) properties in the project area

Are there any additional Section 4(f) properties in the project area? Yes No

<List additional Section 4(f) properties here>

Figure 7-8 Programmatic Section 4(f) Evaluation and Approval for FDOT Projects that Necessitate the Use of Historic Bridges

Comments: <Enter comments on additional Section 4(f) properties>

Yes No Are impacts to other protected Section 4(f) resources greater than *de minimis*?

Explain: <Explain greater than **de minimis** Section 4(f) involvements here>

V. Alternatives Considered/Findings

No Build Alternative *(Check all that apply)*

Structural Deficiencies

The No Build Alternative does not correct the situation that causes the bridge to be considered structurally deficient or significantly deteriorated. These deficiencies can lead to eventual structural failure/collapse. Normal maintenance is not considered adequate to address these deficiencies.

Functional/Geometric Deficiencies

The No Build Alternative does not correct the situation that causes the bridge to be considered functionally/geometrically deficient. These deficiencies can lead to safety hazards to the traveling public or place unacceptable restrictions on transport and travel.

Justification *(Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards)*

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

Alternative: Build on New Location (parallel construction/conversion to one-way pair)

Structural Deficiencies

The New Location alternative does not correct the situation that causes the bridge to be considered structurally deficient or significantly deteriorated. These deficiencies can lead to eventual structural failure/collapse. Normal maintenance is not considered adequate to address these deficiencies.

Functional/Geometric Deficiencies

The New Location alternative does not correct the situation that causes the bridge to be

Figure 7-8 Programmatic Section 4(f) Evaluation and Approval for FDOT Projects that Necessitate the Use of Historic Bridges (Page 2 of 6)

considered functionally/geometrically deficient. These deficiencies can lead to safety hazards to the traveling public or place unacceptable restrictions on transport and travel.

- Justification** (*Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards*)

<Enter Justification Summary here>

- Recommendation (Mandatory)**

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

Alternative: Rehabilitation of Historic Bridge without Affecting the Integrity of the Bridge

- Structural Deficiencies**

The Rehabilitation alternative does not correct the situation that causes the bridge to be considered structurally deficient or significantly deteriorated. These deficiencies can lead to eventual structural failure/collapse. Normal maintenance is not considered adequate to address these deficiencies.

- Functional/Geometric Deficiencies**

The Rehabilitation alternative does not correct the situation that causes the bridge to be considered functionally/geometrically deficient. These deficiencies can lead to safety hazards to the traveling public or place unacceptable restrictions on transport and travel.

- Justification** (*Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards*)

<Enter Justification Summary here>

- Recommendation (Mandatory)**

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

Alternative: Replacement

- Structural Deficiencies**

The Replacement alternative corrects the situation that causes the bridge to be considered

Figure 7-8 Programmatic Section 4(f) Evaluation and Approval for FDOT Projects that Necessitate the Use of Historic Bridges (Page 3 of 6)

structurally deficient or significantly deteriorated.

Functional/Geometric Deficiencies

The Replacement alternative corrects the situation that causes the bridge to be considered functionally/geometrically deficient

- Justification** (*Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards*)

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined to meet the Section 4(f) prudent and feasible standard and **is recommended.**

VI. Measures to Minimize Harm

Verify that the project includes all possible planning to minimize harm.

- For bridges that are to be rehabilitated, the historic integrity of the bridge is preserved, to the greatest extent possible, consistent with unavoidable transportation needs, safety, and load requirements;
- For bridges that are to be rehabilitated to the point that the historic integrity is affected or that are to be moved or demolished, the FDOT ensures that, in accordance with the Historic American Engineering Record (HAER) standards, or other suitable means developed through consultation, fully adequate records are made of the bridge;
- For bridges that are to be replaced, the existing bridge is made available for an alternative use, provided a responsible party agrees to maintain and preserve the bridge; and
- For bridges that are adversely affected, agreement among the SHPO, ACHP (if participating) and FDOT is reached through the Section 106 process of the NHPA on measures to minimize harm and those measures are incorporated into the project. This programmatic Section 4(f) evaluation does not apply to projects where such an agreement cannot be reached.

VII. Mitigation Commitment

Describe and attach the mitigation agreed to in consultation with SHPO and other consulting parties.

<Describe mitigation (see Section 106 Memorandum of Agreement)>

Figure 7-8 Programmatic Section 4(f) Evaluation and Approval for FDOT Projects that Necessitate the Use of Historic Bridges (Page 4 of 6)

VIII. Documentation

The following MUST be attached to this checklist to ensure proper documentation of the Historic Bridge Programmatic Section 4(f):

1. Brief project description
2. Eligibility Determination of Historic Bridge
3. Historic Bridge Report
4. A detailed map of the Section 4(f) property including:
 - a. Current and proposed ROW
 - b. Property Boundaries
5. Photographs of the bridge detailing conditions cited in alternatives analysis
6. Executed Memorandum of Agreement resolving adverse effects or signed concurrence letter from the Florida SHPO
7. Any letters with consulting parties
8. Detour Map (as needed)

IX. Summary and Approval

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

The proposed project meets all the applicable criteria set forth in the Programmatic Section 4(f) Evaluation and Approval requirements for FHWA funded projects which necessitate the use of Historic Bridges (see [Section 4\(f\) Reference Resources Page](#)). All alternatives set forth in the subject programmatic were fully evaluated and the findings made are clearly applicable to this project. There are no feasible and prudent alternatives to the use of the historic bridge; and

The project includes all possible planning to minimize harm to the historic property. FDOT will include the measures to minimize harm as environmental commitments as part of the NEPA Document for the proposed project.

X. Approval Signatures

District: I have reviewed this evaluation and all attached documentation and confirm that the proposed project meets the requirements of 23 CFR 774 for a Historic Bridge Programmatic Section 4(f) finding.

Signature: _____ Date: _____
Preparer

Figure 7-8 Programmatic Section 4(f) Evaluation and Approval for FDOT Projects that Necessitate the Use of Historic Bridges (Page 5 of 6)

Signature: _____ Date: _____
Environmental Manager, or designee

OEM Concurrence: Based upon the above considerations, this a Use of Historic Bridge Programmatic Section 4(f) satisfies the requirements of 23 CFR 774.

Signature: _____ Date: _____
Director of OEM or designee

Figure 7-8 Programmatic Section 4(f) Evaluation and Approval for FDOT Projects that Necessitate the Use of Historic Bridges (Page 6 of 6)

FLORIDA DEPARTMENT OF TRANSPORTATION

Environmental
Management

Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Historic Sites

Project Name:	(fillable field with wrap text)
FM#:	(fillable field with wrap text)
ETDM#:	_____
FAP#:	(fillable field)
Project Review Date:	(fillable field with calendar, date selection)
FDOT District:	(fillable field with selection of 1-7 and Turnpike)
County(ies):	(fillable field with wrap text)

Project Description including Section 4(f) Specific Information: (Fillable Field with wrap text)

I. Description of Project Scope/ Purpose and Need Statement

Enter the projects Purpose and Need Statement and a brief description of the project scope

II. Detailed explanation of how the Section 4(f) property will be used:

III. Applicability Criteria of the Programmatic

All criteria must be met for this programmatic to apply

- Yes No Does the proposed transportation project improve the operational characteristics, safety, and/or physical condition of existing highway facilities on essentially the same alignment.
- Yes No The historic site involved is located adjacent to the existing highway
- Yes No The project does not require the removal or alteration of historic buildings, structures or objects on the historic site.
- Yes No The project does not require the disturbance or removal of archaeological resources that are important to preserve in place rather than to remove the archeological research.

Figure 7-9 Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Historic Sites

- Yes No The impact on the Section 4(f) site resulting from the use of the land must be considered minor (“no effect” or “no adverse effect”) on the qualities which qualify the site for listing or eligibility on the National Register of Historic Places (NHRP).
- Yes No The SHPO agrees in writing with the assessment of impacts of the proposed project on and the proposed mitigation for the historic sites.
- Yes No The proposed class of action for the project is a CE or EA.

IV. Identify additional Section 4(f) properties in the project area

Are there any additional Section 4(f) properties in the project area? Yes No

<List additional Section 4(f) properties here>

Comments: <Enter comments on additional Section 4(f) properties including any “uses”>

V. Alternatives Considered/Findings

No Build: The No Build Alternative is not feasible and prudent because (*Verify that the following applies*):

- It would not correct existing or projected capacity deficiencies
- It would not correct existing safety hazards
- It would not correct existing or deteriorated conditions and maintenance problems
- Not providing such correction would constitute a cost or community impact of extraordinary magnitude, or would result in truly unusual problems when compared with the proposed use of the Section 4(f) lands.

Justification (*Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards*)

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

Figure 7-9 Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Historic Sites (Page 2 of 5)

Improvement without Using Adjacent Section 4(f) Lands: It is not feasible and prudent to avoid Section 4(f) lands by roadway design or transportation system management because implementing such measures would result in *(Indicate all that apply)*:

- Substantial adverse community impacts to adjacent homes, businesses or other improved properties
- Substantially increased engineering, roadway or structure cost
- Unique engineering, traffic, maintenance, or safety problems
- Substantial adverse social, economic, or environmental impacts
- The project not meeting identified transportation needs
- Impacts, costs, or problems would be truly unusual or unique, or of extraordinary magnitude when compared with the proposed use of Section 4(f) lands.

Justification *(Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards)*

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

Alternative on New Location: It is not feasible and prudent to avoid Section 4(f) lands by constructing on new alignment because *(Indicate all that apply)*:

- The new location would not address or correct the problems cited as the NEPA purpose and need, which necessitated the proposed project.
- The new location would result in substantial adverse social, economic, or environmental impacts.
- The new location would substantially increase costs or engineering difficulties.
- Such problems, impacts, costs, or difficulties would be truly unusual or unique, or of extraordinary magnitude when compared with the proposed use of Section 4(f) lands.

Justification *(Summary describing constraints posed by terrain; adverse social, economic*

Figure 7-9 Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Historic Sites (Page 3 of 5)

or environmental effects, engineering and economic considerations, and preservation standards)

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

VI. Measures to Minimize Harm

Indicate all that apply, but a minimum of one MUST be selected.

- The proposed action includes all possible planning to minimize harm
- The proposed action includes all possible mitigation measures

VII. Mitigation Commitment

Describe and attach the mitigation agreed to in consultation with the OWJ (if applicable).

<describe details of mitigation agreement>

VIII. Documentation

The following MUST be attached to this checklist to ensure proper documentation of the Minor Involvement of Historic Sites Programmatic Section 4(f):

1. Brief project description
2. A detailed map of the Section 4(f) property including:
 - a. Current and proposed ROW
 - b. Property Boundaries
3. Concurrence letter from OWJ and other agencies as needed

IX. Summary and Approval

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

The proposed project meets all the applicability criteria set forth by the Federal Highway Administration's (FHWA) Guidance for Minor Involvements to Historic Sites Programmatic Section 4(f) Evaluation. All alternatives set forth in the subject programmatic were fully

Figure 7-9 Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Historic Sites (Page 4 of 5)

evaluated and the findings made clearly applicable to this project. There are **no feasible and prudent alternatives** to the use or take from the historic site; and

The project includes all possible planning to minimize harm to the historic site. FDOT will include the measures to minimize harm as environmental commitments as part of the NEPA Document for the proposed project.

X. Approval Signatures

District: I have reviewed this evaluation and all attached documentation and confirm that the proposed project meets the requirements of 23 CFR 774 for a Minor Involvement with Historic Sites Programmatic Section 4(f) finding.

Signature: _____ Date: _____
Preparer

Signature: _____ Date: _____
Environmental Manager, or designee

OEM Concurrence: Based upon the above considerations, this a Minor Involvement with Historic Sites Programmatic Section 4(f) satisfies the requirements of 23 CFR 774.

Signature: _____ Date: _____
Director of OEM or designee

Figure 7-9 Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Historic Sites (Page 5 of 5)

Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges

Project Name:	(fillable field with wrap text)
FM#:	(fillable field with wrap text)
ETDM#:	_____
FAP#:	(fillable field)
Project Review Date:	(fillable field with calendar, date selection)
FDOT District:	(fillable field with selection of 1-7 and Turnpike)
County(ies):	(fillable field with wrap text)

Project Description including Section 4(f) Specific Information: (Fillable Field with wrap text)

I. Description of Project Scope/ Purpose and Need Statement

Enter the projects Purpose and Need Statement and a brief description of the project scope

II. Detailed explanation of how the Section 4(f) property will be used:

III. Applicability Criteria of the Programmatic

All criteria must be met for this programmatic to apply

- Yes No Does the proposed transportation project improve the operational characteristics, safety, and/or physical condition of existing highway facilities on essentially the same alignment.
- Yes No The Section 4(f) lands are publicly owned public parks, recreation lands, or wildlife and waterfowl refuges located adjacent to the existing highway.
- Yes No The amount and location of the land to be used will not impair the use of the remaining Section 4(f) land, in whole or in part for its intended purpose. *(Is determined by FDOT and concurred with by the OWJ)*

Figure 7-10 Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges

Yes No The total amount of land to be acquired from the resource will not exceed the values below:

Size of Section 4(f) Property	Limit of Acreage Acquired
< 10 acres	10 percent of site
10-100 acres	1 acre
> 100 acres	1 percent of site

Yes No The proximity impacts of the project on the remaining Section 4(f) land shall not impair the use of such land for its intended purpose. *(Is determined by FDOT and concurred with by the OWJ)*

Yes No The OWJ over the Section 4(f) lands has agreed, in writing, with the assessment of the impacts of the proposed project on, and the proposed mitigation for, the Section 4(f) lands.

Yes No Land from a site purchased or improved with funds under the LWCF Act, the Federal Aid in Fish Restoration Act (Dingell-Johnson Act), the Federal Aid in Wildlife Act (Pittman-Robertson Act), or similar laws, or the lands are otherwise encumbered with a Federal interest (e.g., former Federal surplus property), coordination with the appropriate Federal agency has ascertained the agency's position on the land conversion or transfer. *(The programmatic Section 4(f) evaluation does not apply if the agency objects to the land conversion or transfer)*

Yes No The proposed class of action for the project is a CE or EA.

IV. Identify additional Section 4(f) properties in the project area

Are there any additional Section 4(f) properties in the project area? Yes No

<List additional Section 4(f) properties here>

Comments: <Enter comments on additional Section 4(f) properties including any "uses">

V. Alternatives Considered/Findings

No Build: The No Build Alternative is not feasible and prudent because *(Verify that the following applies)*:

- It would not correct existing or projected capacity deficiencies
- It would not correct existing safety hazards
- It would not correct existing or deteriorated conditions and maintenance problems

Figure 7-10 Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges (Page 2 of 6)

Not providing such correction would constitute a cost or community impact of extraordinary magnitude, or would result in truly unusual problems when compared with the proposed use of the Section 4(f) lands.

Justification (*Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards*)

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

Improvement without Using Adjacent Section 4(f) Lands: It is not feasible and prudent to avoid Section 4(f) lands by roadway design or transportation system management because implementing such measures would result in (*Indicate all that apply*):

Substantial adverse community impacts to adjacent homes, businesses or other improved properties

Substantially increased engineering, roadway or structure cost

Unique engineering, traffic, maintenance, or safety problems

Substantial adverse social, economic, or environmental impacts

The project not meeting identified transportation needs

Impacts, costs, or problems would be truly unusual or unique, or of extraordinary magnitude when compared with the proposed use of Section 4(f) lands.

Justification (*Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards*)

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

Figure 7-10 Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges (Page 3 of 6)

Alternative on New Location: It is not feasible and prudent to avoid Section 4(f) lands by constructing on new alignment because *(Indicate all that apply)*:

- The new location would not address or correct the problems cited as the NEPA purpose and need, which necessitated the proposed project
- The new location would result in substantial adverse social, economic, or environmental impacts.
- The new location would substantially increase costs or engineering difficulties
- Such problems, impacts, costs, or difficulties would be truly unusual or unique, or of extraordinary magnitude when compared with the proposed use of Section 4(f) lands.

- Justification** *(Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards)*

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

VI. Measures to Minimize Harm

Indicate all that apply, but a minimum of one MUST be selected.

- Replacement of lands used with lands of reasonably equivalent usefulness and location and of at least comparable value.
- Replacement of facilities impacted by the project including sidewalks, paths, benches, lights, trees, and other facilities.
- Restoration and landscaping of disturbed areas.
- Incorporation of design features (e.g., reduction in right-of-way width, modifications to the roadway section, retaining walls, curb and gutter sections, and minor alignment shifts); and habitat features (e.g., construction of new, or enhancement of existing, wetlands or other special habitat types); where necessary to reduce or minimize impacts to the Section 4(f) property. Such features should be designed in a manner that will not adversely affect the safety of the highway facility.
- Payment of the fair market value of the land and improvements taken or improvements to

Figure 7-10 Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges (Page 4 of 6)

the remaining Section 4(f) site equal to the fair market value of the land and improvements taken.

- Such additional or alternative mitigation measures as may be determined necessary based on consultation with, the officials having jurisdiction over the parkland, recreation area, or wildlife or waterfowl refuge.

VII. Mitigation Commitment

Describe and attach the mitigation agreed to in consultation with the OWJ (if applicable).

<describe details of mitigation agreement>

VIII. Documentation

The following MUST be attached to this checklist to ensure proper documentation of the Net Benefit Programmatic Section 4(f):

1. Brief project description
2. A detailed map of the Section 4(f) property including:
 - a. Current and proposed ROW
 - b. Property Boundaries
 - c. Access points for pedestrians and vehicles
 - d. Existing and planned facilities
3. Concurrence letter from OWJ and other agencies as needed

IX. Summary and Approval

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

The proposed project meets all the applicability criteria set forth by the Federal Highway Administration's (FHWA) Guidance for Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges to a Section 4(f) property. All alternatives set forth in the subject programmatic were fully evaluated and the findings made clearly applicable to this project. There are **no feasible and prudent alternatives** to the use or take from the public park, recreation area or wildlife/waterfowl refuge; and

The project includes all possible planning to minimize harm. FDOT will include the measures to minimize harm as environmental commitments as part of the NEPA Document for the proposed project.

Figure 7-10 Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges (Page 5 of 6)

X. Approval Signatures

District: I reviewed this evaluation and all attached documentation and confirm that the proposed project meets the requirements of 23 CFR 774 for a Minor Involvement with Public Parks, Recreation Areas or Wildlife or Waterfowl Refuges Programmatic Section 4(f) finding.

Signature: _____ Date: _____
Preparer

Signature: _____ Date: _____
Environmental Manager, or designee

OEM Concurrence: Based upon the above considerations, this a Minor Involvement with Public Parks, Recreation Areas or Wildlife or Waterfowl Refuges Programmatic Section 4(f) satisfies the requirements of 23 CFR 774.

Signature: _____ Date: _____
Director of OEM or designee

Figure 7-10 Section 4(f) Programmatic Evaluation and Approval for Federally-Aided Highway Projects with Minor Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges (Page 6 of 6)

Section 4(f) Net Benefit Programmatic for Historic Sites

Project Name:	(fillable field with wrap text)
FM#:	(fillable field with wrap text)
ETDM#:	_____
FAP#:	(fillable field) _____
Project Review Date:	(fillable field with calendar, date selection) _____
FDOT District:	(fillable field with selection of 1-7 and Turnpike)
County(ies):	(fillable field with wrap text)

Project Description including Section 4(f) Specific Information: (Fillable Field with wrap text)

Size of Section 4(f) Property: <Enter # of acres> acres or approximate size if in Historic District

Is the property (Check all that apply):

- Individually Significant
- A Contributing Resource to a Significant Historic District

ROW Required: <Enter # of acres> acres

Easement Required: <Enter # of acres> acres

Incorporation of a Section 4(f) property into a transportation project: <describe>

Describe the Section 4(f) impact: <Describe the impact to the property>

Describe the mitigation and/or enhancement measures which result in an overall benefit to the property: <Describe the mitigation or enhancement measures>

I. Description of Project Scope/ Purpose and Need Statement

Enter the projects Purpose and Need Statement and a brief description of the project scope

Figure 7-11 Section 4(f) Net Benefit Programmatic for Historic Sites

II. Detailed explanation of how the Section 4(f) property will be used:

Applicability Criteria of the Programmatic

All criteria must be met for this programmatic to apply

- Yes No Does the proposed transportation project use a Section 4(f) historic site?
- Yes No Does the proposed project include all appropriate measures to minimize harm and subsequent mitigation necessary to preserve and enhance those features and values of the property that originally qualified the property for Section 4(f) protection?
- Yes No The project does not require major alteration of characteristics that qualify the property for listing under the National Register of Historic Places (NHPR) in consultation consistent with 23 CFR Part 800.
- Yes No Has State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) agreed in writing with the assessment of the impacts; the proposed measures to minimize harm; and the mitigation necessary to preserve, rehabilitate and enhance those features and values of the Section 4(f) property pursuant to Section 106 of the National Historic Preservation Act (NHPA); and that such measures will result in a net benefit to the Section 4(f) property?

III. Identify additional Section 4(f) properties in the project area

Are there any additional Section 4(f) properties in the project area? Yes No

<List additional Section 4(f) properties here>

Comments: <Enter comments on additional Section 4(f) properties including any "uses">

IV. Alternatives Considered/Findings

No Build: The No Build Alternative is not feasible and prudent because *(Verify that the following applies)*:

- The No Build Alternative is not feasible and prudent because it would neither address nor correct the transportation need cited as the NEPA purpose and need, which necessitated the proposed project.
- Justification** *(Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards)*

Figure 7-11 Section 4(f) Net Benefit Programmatic for Historic Sites (Page 2 of 6)

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

Improvement without Using Adjacent Section 4(f) Lands: It is not feasible and prudent to avoid Section 4(f) lands by roadway design or transportation system management because implementing such measures would result in *(Indicate all that apply)*:

- Substantial adverse community impacts to adjacent homes, businesses or other improved properties
- Substantially increased roadway or structure cost
- Unique engineering, traffic, maintenance, or safety problems
- Substantial adverse social, economic, or environmental impacts
- A substantial missed opportunity to benefit a Section 4(f) property
- The project not meeting identified transportation needs
- Impacts, costs, or problems would be truly unusual or unique, or of extraordinary magnitude when compared with the proposed use of Section 4(f) lands.

Justification *(Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards)*

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

Alternative on New Location: It is not feasible and prudent to avoid Section 4(f) lands by constructing on new alignment because *(Indicate all that apply)*:

- The new location would not address or correct the problems cited as the NEPA purpose and need, which necessitated the proposed project
- The new location would result in substantial adverse social, economic, or environmental impacts.

Figure 7-11 Section 4(f) Net Benefit Programmatic for Historic Sites (Page 3 of 6)

- The new location would substantially increase costs or engineering
- Such problems, impacts, costs, or difficulties would be truly unusual or unique, or of extraordinary magnitude when compared with the proposed use of Section 4(f) lands.

Justification (*Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards*)

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

V. Net Benefit Justification

<Enter Justification of Net Benefit finding>

Measures to Minimize Harm

Indicate all that apply, but a minimum of one MUST be selected.

- The proposed action includes all possible planning to minimize harm
- The proposed action includes all possible mitigation measures

VI. Public Involvement

- Public involvement to present the proposed use of the Section 4(f) property has been conducted. Public involvement requirements were fulfilled on: [Click here to enter a date.](#)

VII. Mitigation Commitment

Describe and attach the mitigation agreed to in consultation with the OWJ (if applicable).

<describe details of mitigation>

VIII. Documentation

The following MUST be attached to this checklist to ensure proper documentation of the Net Benefit Programmatic Section 4(f):

1. Brief project description

Figure 7-11 Section 4(f) Net Benefit Programmatic for Historic Sites (Page 4 of 6)

2. Detailed Description of Property Conditions
3. A detailed map of the Section 4(f) property including:
 - a. Current and proposed ROW
 - b. Property Boundaries
4. Concurrence letter from OWJ including Net Benefit

IX. Summary and Approval

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

The proposed project meets all the applicability criteria set forth by the Federal Highway Administration's (FHWA) Guidance for Programmatic Evaluation for Transportation Projects that have a Net Benefit to a Section 4(f) property. All alternatives set forth in the subject programmatic were fully evaluated and the findings made clearly applicable to this project. There are **no feasible and prudent alternatives** to the use or take from the historic site.

The project includes all possible planning to minimize harm. FDOT will include the measures to minimize harm as environmental commitments as part of the NEPA Document for the proposed project.

X. Approval Signatures

District: I have reviewed this evaluation and all attached documentation and confirm that the proposed project meets the requirements of 23 CFR 774 for a Net Benefit Programmatic Section 4(f) finding.

Signature: _____ Date: _____
Preparer

Signature: _____ Date: _____
Environmental Manager, or designee

OEM Concurrence: Based upon the above considerations, this Net Benefit Programmatic Section 4(f) satisfies the requirements of 23 CFR 774.

Figure 7-11 Section 4(f) Net Benefit Programmatic for Historic Sites (Page 5 of 6)

Signature:

Date:

Director of OEM or designee

Figure 7-11 Section 4(f) Net Benefit Programmatic for Historic Sites (Page 6 of 6)

**Section 4(f) Net Benefit Programmatic for Public Parks,
Recreation Lands and, Wildlife & Waterfowl Refuges**

Project Name:	(fillable field with wrap text)
FM#:	(fillable field with wrap text)
ETDM#:	_____
FAP#:	(fillable field) _____
Project Review Date:	(fillable field with calendar, date selection) _____
FDOT District:	(fillable field with selection of 1-7 and Turnpike)
County(ies):	(fillable field with wrap text)

Project Description including Section 4(f) Specific Information: (Fillable Field with wrap text)

Size of Section 4(f) Property: <Enter # of acres> acres

ROW Required: <Enter # of acres> acres

Easement Required: <Enter # of acres> acres

Describe the Section 4(f) impact

<Describe the impact to the property>

I. Description of Project Scope/ Purpose and Need Statement

Enter the projects Purpose and Need Statement and a brief description of the project scope

II. Detailed explanation of how the Section 4(f) property will be used:

III. Applicability Criteria of the Programmatic

All criteria must be met for this programmatic to apply.

Figure 7-12 Section 4(f) Net Benefit Programmatic for Public Parks, Recreation Lands and, Wildlife and Waterfowl Refuge

- Yes No Does the proposed transportation project use a Section 4(f) park, recreation area, wildlife or waterfowl refuge?
- Yes No Does the proposed project include all appropriate measures to minimize harm and subsequent mitigation necessary to preserve and enhance those features and values of the property that originally qualified the property for Section 4(f) protection?
- Yes No Has the official(s) with jurisdiction (OWJ) over the Section 4(f) property agreed in writing
- with the assessment of the impacts; the proposed measures to minimize harm; and the
- mitigation necessary to preserve, rehabilitate and enhance those features and values of
- the Section 4(f) property; and that such measures will result in a net benefit to the Section 4(f) property?

IV. Identify additional Section 4(f) properties in the project area

Are there any additional Section 4(f) properties in the project area? Yes No

<List additional Section 4(f) properties here>

Comments: <Enter comments on additional Section 4(f) properties including any "uses">

V. Alternatives Considered/Findings

No Action or No Build Alternative (*Check all that apply*)

Yes No This alternative is not feasible and prudent because it would neither address nor correct the transportation need cited as the NEPA purpose and need, which necessitated the proposed project.

Justification (*Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards*)

<Enter Justification Summary here>

Figure 7-12 Section 4(f) Net Benefit Programmatic for Public Parks, Recreation Lands and, Wildlife and Waterfowl Refuge (Page 2 of 6)

Recommendation (Mandatory)

This alternative is determined **<to fail/to meet>** the Section 4(f) prudent and feasible standard and **<is/ is not>** recommended.

Improvement without Using Adjacent Section 4(f) Lands: It is not feasible and prudent to avoid Section 4(f) lands by roadway design or transportation system management because implementing such measures would result in *(Indicate all that apply)*:

- Substantial adverse community impacts to adjacent homes, businesses or other improved properties
- Substantially increased roadway or structure cost
- Unique engineering, traffic maintenance, or safety problems
- Substantial adverse social, economic, or environmental impacts
- A substantial missed opportunity to benefit a Section 4(f) property
- The project not meeting identified transportation needs
- Impacts, costs, or problems would be truly unusual or unique, or of extraordinary magnitude when compared with the proposed use of Section 4(f) lands.

Justification *(Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards)*

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined **<to fail/to meet>** the Section 4(f) prudent and feasible standard and **<is/ is not>** recommended.

Alternative on New Location: It is not feasible and prudent to avoid Section 4(f) lands by constructing on new alignment because *(Indicate all that apply)*:

- The new location would not address or correct the problems cited as the NEPA purpose and need, which necessitated the proposed project
- The new location would result in substantial adverse social, economic, or environmental impacts.
- The new location would substantially increase costs or engineering

Figure 7-12 Section 4(f) Net Benefit Programmatic for Public Parks, Recreation Lands and, Wildlife and Waterfowl Refuge (Page 3 of 6)

Such problems, impacts, costs, or difficulties would be truly unusual or unique, or of extraordinary magnitude when compared with the proposed use of Section 4(f) lands.

Justification (*Summary describing constraints posed by terrain; adverse social, economic or environmental effects, engineering and economic considerations, and preservation standards*)

<Enter Justification Summary here>

Recommendation (Mandatory)

This alternative is determined <to fail/to meet> the Section 4(f) prudent and feasible standard and <is/ is not> recommended.

VI. Net Benefit Justification

<Enter Justification for a Net Benefit finding here>

VII. Measures to Minimize Harm

Indicate all that apply, but a minimum of one MUST be selected.

- The proposed action includes all possible planning to minimize harm
- The proposed action includes all possible mitigation measures

VIII. Public Involvement

Public involvement to present the proposed “use” of the Section 4(f) property has been conducted. Public involvement requirements were fulfilled on:

IX. Mitigation Commitment

Describe and attach the mitigation agreed to in consultation with the OWJ (if applicable).

<describe details of mitigation agreement>

X. Documentation

The following MUST be attached to this checklist to ensure proper documentation of the Net Benefit Programmatic Section 4(f):

Figure 7-12 Section 4(f) Net Benefit Programmatic for Public Parks, Recreation Lands and, Wildlife and Waterfowl Refuge (Page 4 of 6)

1. Brief project description
2. A detailed map of the Section 4(f) property including:
 - a. Current and proposed ROW
 - b. Property Boundaries
 - c. Access points for pedestrians and vehicles
 - d. Existing and planned facilities
3. Concurrence letter from OWJ including Net Benefit

XI. Summary and Approval

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

The proposed project meets all the applicability criteria set forth by the Federal Highway Administration's (FHWA) Guidance for Programmatic Evaluation for Transportation Projects that have a Net Benefit to a Section 4(f) property. All alternatives set forth in the subject programmatic were fully evaluated and the findings made clearly applicable to this project. There are **no feasible and prudent alternatives** to the use or take from the <enter the name and/or address of the Section 4(f) resource>.

The project includes all possible planning to minimize harm. FDOT will include the measures to minimize harm as environmental commitments as part of the NEPA Document for the proposed project.

XII. Approval Signatures

District: I have reviewed this evaluation and all attached documentation and confirm that the proposed project meets the requirements of 23 CFR 774 for a Net Benefit Programmatic Section 4(f) finding.

Signature: _____ Date: _____
Preparer

Signature: _____ Date: _____
Environmental Manager, or designee

Figure 7-12 Section 4(f) Net Benefit Programmatic for Public Parks, Recreation Lands and, Wildlife and Waterfowl Refuge (Page 5 of 6)

OEM Concurrence: Based upon the above considerations, this Net Benefit Programmatic Section 4(f) satisfies the requirements of 23 CFR 774.

Signature: _____ Date: _____
Director of OEM or designee

Figure 7-12 Section 4(f) Net Benefit Programmatic for Public Parks, Recreation Lands and, Wildlife and Waterfowl Refuge (Page 6 of 6)