



Oregon

Kate Brown, Governor

Department of Transportation

Region 1

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FILE CODE:

May 31, 2019

Adena Long
Bureau Director
Portland Parks and Recreation
City of Portland
111 SW Columbia Street, Suite 660
Portland, OR 97201

**Subject: Section 4(f) No Use of 4(f) Resources—Temporary Occupancy
Vera Katz Eastbank Esplanade and the
Willamette River Greenway Trail
Interstate 5 Rose Quarter Improvement Project
Portland, Multnomah County, Oregon
ODOT Key No. 19071
Federal-Aid No. S001(483)PE**

Dear Ms. Long:

The Federal Highway Administration (FHWA) is the federal approval authority for proposed improvements to Interstate 5 at the Rose Quarter. The Oregon Department of Transportation (ODOT), on behalf of FHWA, will ensure that the project complies with relevant federal regulations. These include Section 4(f) of the Department of Transportation Act of 1966. Therefore, ODOT is seeking written concurrence from Portland Parks and Recreation, the "official with jurisdiction," to confirm that a Section 4(f) use will not occur on the Vera Katz Eastbank Esplanade and the Willamette River Greenway Trail, based on the project satisfying all temporary occupation exception conditions contained in 23 CFR 774.13(d). The following information provides the justification for this assertion.

Section 4(f) of the United States Department of Transportation Act (DOT Act) of 1966 (49 U.S.C. 303(c)) requires that the proposed use of any land from significant historic sites, significant publicly owned public parks or recreation areas, or significant publicly owned wildlife and waterfowl refuges be given particular attention. The City of Portland manages the Vera Katz Eastbank Esplanade and the Willamette River Greenway Trail in the project area. Both resources, which are on identical alignments through the project area, are considered significant publicly owned parks for the purposes of Section 4(f). "Use" of a Section 4(f) resource, defined in 23 CFR 774.17(p), occurs in the following circumstances:

1. When land is permanently incorporated into a transportation facility;
2. When there is a temporary occupancy of Section 4(f) property that is adverse in terms of the statute's preservationist purpose; or
3. When there is a constructive use of land, which occurs when the transportation project does not incorporate land, but its proximity substantially impairs the activities, features, or attributes that qualify a resource for protection under Section 4(f). A determination of constructive use is based on the criteria in 23 CFR 774.15.

Interstate highway structures are adjacent to or over the Vera Katz Eastbank Esplanade and the Willamette River Greenway Trail. The proposed project will not require the incorporation of any property from the Vera Katz Eastbank Esplanade or the Willamette River Greenway Trail into a transportation facility, nor result in any permanent impacts to the parks. However, the project will require periodic temporary occupancy of a portion of the parks to construct bent legs for a widened Interstate 5 structure and for setting longitudinal beams for the structure from bent to bent.

The Section 4(f) legislation states that if the five conditions in 23 CFR 774.13(d), commonly known as the "temporary occupation exception criteria," are met, then the temporary occupancy is not adverse in terms of the Section 4(f) statute's preservationist purpose and therefore it does not constitute a "use" as defined under Section 4(f).

This letter provides findings with respect to the five "temporary occupation exception criteria" and concludes that all conditions are met, thereby resulting in a determination that there will be no Section 4(f) use of the Vera Katz Eastbank Esplanade or the Willamette River Greenway Trail. ODOT requests your concurrence with these findings.

**VERA KATZ EASTBANK ESPLANADE
FINDINGS—TEMPORARY OCCUPATION EXCEPTION CRITERIA
(23 CFR 774.13(d)(1) through (5))**

The Vera Katz Eastbank Esplanade is a bicycle and pedestrian path along the east shore of the Willamette River in downtown Portland. It runs 1.5 miles from the Hawthorne Bridge to the Steel Bridge. The esplanade replaced the Interstate 5 bicycle bypass path that the Willamette River flood washed out in February 1996. Construction began in October 1998, and the Vera Katz Eastbank Esplanade opened in May 2001. The south end of the Vera Katz Eastbank Esplanade, near the Hawthorne Bridge, connects with the Springwater Corridor.

(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;

Finding: The construction period for the Interstate 5 Rose Quarter Improvement Project will last five years. The project will require periodic temporary occupation and closure of a segment of the Vera Katz Eastbank Esplanade during its construction phase. The segment is between the

Steel Bridge and the overwater portion of the Vera Katz Eastbank Esplanade that is north of the Burnside Bridge. In sum, the closures will be less than the duration of the project. They will ensure public safety for park visitors and to accommodate equipment staging and/or access. There will 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) resource are minimal;

Finding: The Vera Katz Eastbank Esplanade is 1.5 miles long. The Interstate 5 Rose Quarter Improvement Project will temporarily occupy the portion of the Vera Katz Eastbank Esplanade between the Steel Bridge and the overwater segment north of the Burnside Bridge. Interstate 5 Rose Quarter Improvement Project will make no changes to the Section 4(f) resource. Once completed, the widened Interstate 5 structure will be overhead of the Vera Katz Eastbank Esplanade in the proposed detour segment. However, there will be no changes to the Section 4(f) resource. Attachment 1 illustrates the proposed temporary occupancy of the Vera Katz Eastbank Esplanade.

(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;

Finding: The Interstate 5 Rose Quarter Improvement Project will not have adverse impacts to the Vera Katz Eastbank Esplanade and will not interfere with the activities or purposes for the park on either a temporary or permanent basis. The project has identified several temporary detour routes between the Steel Bridge and the overwater portion of the Vera Katz Eastbank Esplanade that would provide connectivity for users of the Vera Katz Eastbank Esplanade from the Hawthorne Bridge to the Steel Bridge. They included a detour route east of the occupied section, under Interstate 5; a detour route west of the occupied section between it and the Willamette River; and a detour route on the west side of the Willamette River, along Naito Parkway as part of "Better Naito," whereby the Portland Bureau of Transportation and Portland Parks and Recreation seasonally close the northbound outside travel lane of Naito Parkway to motor vehicles and make it a contraflow bikeway. All three detour options maintain connectivity between the Hawthorne Bridge and the Steel Bridge during construction, thereby meeting the Section 4(f) statute's temporary occupation exception. (See Attachments 1 and 2.)

(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

Finding: Following construction, the project will restore the occupied segment of the Vera Katz Eastbank Esplanade to preconstruction conditions or better.

(5) There must be documented agreement of the appropriate Federal, State, or local officials having jurisdiction over the resource regarding the above conditions.

Finding: This letter serves as documented agreement that the above conditions have been met.

**WILLAMETTE RIVER GREENWAY TRAIL
FINDINGS—TEMPORARY OCCUPATION EXCEPTION CRITERIA
(23 CFR 774.13(d)(1) through (5))**

In 1967, the Oregon legislature established the Willamette River Greenway Program as a cooperative state and local government effort to maintain and enhance the scenic, recreational, historic, natural and agricultural qualities of the Willamette River and its adjacent lands. Many trail segments exist along the greenway as part of the program, but there still are significant gaps.

The Willamette River Greenway Trail in downtown Portland is along the east bank of the Willamette River. For 1.5 miles, from the Hawthorne Bridge to the Steel Bridge, it follows the alignment of the Vera Katz Eastbank Esplanade.

(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;

Finding: The construction period for the Interstate 5 Rose Quarter Improvement Project will last five years. The project will require periodic temporary occupation and closure of a segment of the Willamette River Greenway Trail during its construction phase. The segment is between the Steel Bridge and the overwater portion of the Willamette River Greenway Trail that is north of the Burnside Bridge. In sum, the closures will be less than the duration of the project. They will ensure public safety for park visitors and to accommodate equipment staging and/or access. There will 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) resource are minimal;

Finding: The Willamette River Greenway Trail segment along the east side of the Willamette River in downtown Portland is 1.5 miles long. The Interstate 5 Rose Quarter Improvement Project will temporarily occupy the portion of the Willamette River Greenway Trail between the Steel Bridge and the overwater segment north of the Burnside Bridge. The Interstate 5 Rose Quarter Improvement Project will make no changes to the Section 4(f) resource. Once completed, the widened Interstate 5 structure will be overhead of the Willamette River Greenway Trail in the proposed detour segment. However, there will be no changes to the Section 4(f) resource. Attachment 1 illustrates the proposed temporary occupancy of the Willamette River Greenway Trail.

(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;

Finding: The Interstate 5 Rose Quarter Improvement Project will not have adverse impacts to the Willamette River Greenway Trail and will not interfere with the activities or purposes for the

park on either a temporary or permanent basis. The project has identified several temporary detour routes between the Steel Bridge and the overwater portion of the Willamette River Greenway Trail that would provide connectivity for users of the Willamette River Greenway Trail from the Hawthorne Bridge to the Steel Bridge. They included a detour route east of the occupied section, under Interstate 5; a detour route west of the occupied section between it and the Willamette River; and a detour route on the west side of the Willamette River, along Naito Parkway as part of "Better Naito," whereby the Portland Bureau of Transportation and Portland Parks and Recreation seasonally close the northbound outside travel lane of Naito Parkway to motor vehicles and make it a contraflow bikeway. All three detour options maintain connectivity between the Hawthorne Bridge and the Steel Bridge during construction, thereby meeting the Section 4(f) statute's temporary occupation exception. (See Attachments 1 and 2.)

(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

Finding: Following construction, the project will restore the occupied segment of the Willamette River Greenway Traveled to preconstruction conditions or better.

(5) There must be documented agreement of the appropriate Federal, State, or local officials having jurisdiction over the resource regarding the above conditions.

Finding: This letter serves as documented agreement that the above conditions have been met.

Please respond to this request for concurrence in writing at your earliest convenience and return the concurrence to me at the address listed in the letterhead, or send a copy by email to me at Megan.Channel@odot.state.or.us.

Please contact me at (503) 731-3087 or Robert W. Hadlow, Ph.D., senior historian, at (503) 731-8239 if you need additional information or if you have any concerns. Thank you for your consideration of this proposal.

Sincerely,

Megan Channell
Rose Quarter Project Director

The City of Portland, as the “official with jurisdiction” over the **Vera Katz Eastbank Esplanade** concurs with the assessment that the **Interstate 5 Rose Quarter Project** will not have Section 4(f) use of the **Vera Katz Eastbank Esplanade**, based on the project satisfying all temporary occupation exception conditions contained in Section 23 Code of Federal Regulations (CFR) 774.13(d).

Kia Selley

Interim Bureau Director, Portland Parks and Recreation
City of Oregon City

Date

The City of Portland, as the “official with jurisdiction” over the **Willamette River Greenway Trail** segments in Portland, concurs with the assessment that the **Interstate 5 Rose Quarter Project** will not have Section 4(f) use of the **Willamette River Greenway Trail**, based on the project satisfying all temporary occupation exception conditions contained in Section 23 Code of Federal Regulations (CFR) 774.13(d).

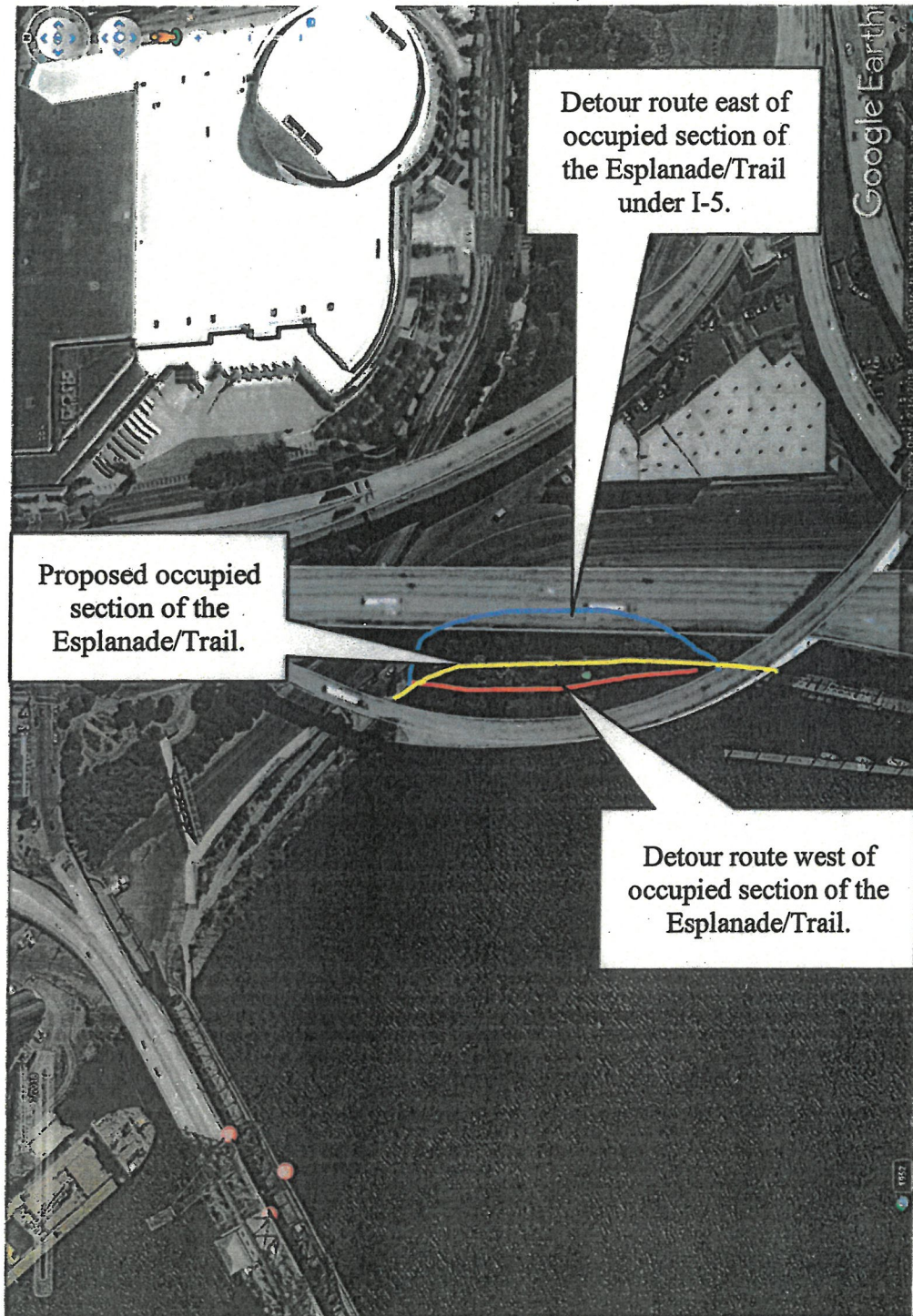
Kia Selley

Interim Bureau Director, Portland Parks and Recreation
City of Portland

Date

Copies to:

Emily Cline, Acting Environmental Program Manager, FHWA—Oregon Division, Salem
Robert W. Hadlow, Senior Historian, ODOT Region 1, Portland
Jeff Buckland, Environmental Project Manager, ODOT Region 1, Portland
Denis A. Reich, Environmental Manager, ODOT Region 1, Portland
Chris Bell, Cultural Resources Program Coordinator, ODOT Geo-Env. Sec., Salem
ODOT Key No. 19071, File Type E



Attachment 1. Map showing the segment of the Vera Katz Eastbank Esplanade/Willamette River Greenway Trail that the project will periodically temporarily close during the project for construction work on the Interstate 5 Rose Quarter Improvement Project.



Attachment 2. “Better Naito” detour route alternative used during periodic temporary closures of the Vera Katz Eastbank Esplanade/Willamette River Greenway Trail during project construction.