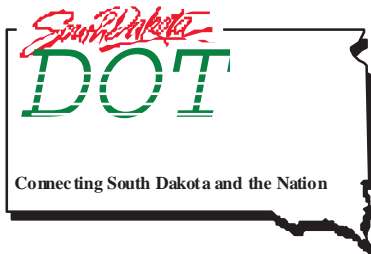


SECTION 4 (f) *De Minimis* IMPACT FINDING



Department of Transportation
Division of Planning/Engineering
Office of Project Development
700 E Broadway Avenue
Pierre, South Dakota 57501-2586 605/773-3721
FAX: 605/773-6608

February 17, 2012

Mr. John Rohlf
FHWA Division Administrator
116 East Dakota Avenue
Pierre, SD 57501

RE: Project Numbers EM-P 0100(101)405, PCN 00T7 and
EM-P 0011(49)68, PCN 00CP
East Side Corridor (SD100)
Section 4(f) *De Minimis* Impact Finding

Dear Mr. Rohlf:

An Environmental Assessment (EA) has been completed for the East Side Corridor (SD100) (Project). The Project is a proposed new limited access regional arterial roadway being planned to address future transportation needs for the City of Sioux Falls. The preliminary impact area of the Project was evaluated for the presence of potential Section 4(f) resources. The preliminary impact area consists of the approximate right-of-way (ROW) needs of the preferred alternative based on the preliminary design completed to date and includes the area where construction activities would occur.

Section 4(f) was considered in the Section 3.20 of the EA. Section 4(f) requires that the USDOT determine whether a proposed highway project would adversely affect a Section 4(f) resource. If a project will affect a Section 4 (f) resource, all feasible and prudent ways of avoiding this impact must be evaluated. The Project has been considered in accordance with Section 4(f). The Section 4(f) resources located within the preliminary ROW of the Revised Build Alternative include Harmodon Park, and two historic railroad crossings. The railroad crossings have been identified in the State Historic Preservation Office (SHPO) inventory:

- The Chicago, Rock Island, and Pacific Railroad, Site 39LN2016, is no longer present due to the rail being removed in 1979.
- The Chicago, Milwaukee, St. Paul, and Pacific Railroad, Site 39LN2007, is currently owned by BNSF.

Two Historic Railroad Crossings

The two historic railroad crossings, Sites 39LN2016, and 39LN2007, are considered potentially eligible for the NRHP due to the potential to yield, or having yielded, information important in history (Criterion D). These sites could also be eligible under Criterion A for its association with events that have made a significant contribution to the broad patterns of our history (i.e. railroad development). Since Sites 39LN2016 and 39LN2007 are considered eligible for the NRHP, they qualify as significant historic property protected under Section 4(f).

Complete avoidance of these sites by the Project is not possible because the rail lines run northwest to southeast or north to south.

The South Dakota State Historic Preservation Office (SHPO) has formally concurred in a letter dated November 7, 2007 with the determination of "no adverse effect" for Sites 39LN2016, and 39LN2007 as

documented in EA Appendix H. Based on the “no adverse effect” concurrence, a *de minimus* impact is applicable under 23 CFR 774.5(b)(1) and satisfies Section 4(f). The SHPO letter of concurrence is attached to this letter.

Harmodon Park

Harmodon Park is a public (city-owned) park within the Study Area and is located southwest of the intersection of 41st Street and future SD100. The use of this public city park land is recreational, and therefore Harmodon Park is considered to be protected as a Section 4(f) resource. Harmodon Park consists of 150 acres with a 15 field baseball and softball sports complex and hosts state, regional, and national tournaments. No federal funding was utilized for Harmodon Park (Gildemaster, 2007) and therefore does not qualify as a Section 6(f) resource.

During the preliminary alignment analysis of SD100, several alignments options were developed with a primary goal of reducing encroachment of the park. Existing and proposed development, including the East Side Baptist Church, along the east side of the corridor eliminated the possibility of avoiding Harmodon Park. Therefore, the alignment was centered along SD Highway 11 to minimize the impacts to both Harmodon Park and development to the east.

The proposed impact area consists of the ROW needs of the Revised Build Alternative based on preliminary design completed to date. The encroachment calculated from preliminary design requires a permanent encroachment of 1.17 acres for the Revised Build Alternative. The impact area also includes the preliminary temporary easement requirements where construction activities would occur. Preliminary design has identified approximately 4.34 acres of temporary construction easement needed.

Also, the SD100 alignment would eliminate the current access road that exists on SD Highway 11 that allows traffic to enter and leave Harmodon Park. Due to safety concerns imposed by its proximity to the proposed 57th Street Interchange, this access road will be eliminated in accordance with the SDDOT SD100 Access and Noise Plan developed in February 2007. To accommodate access to Harmodon Park, the City will be constructing a permanent entrance to Harmodon Park from 57th Street in 2011. If construction of the access roadway from 57th Street is not constructed before SD100, SDDOT agrees to maintain the current access to Harmodon Park until the new park entrance is complete. To accommodate the construction of the park entrance road, the City has recently acquired the ROW necessary to build the park entrance.

Coordination letters were sent sent to the City of Sioux Falls Parks and Recreation requesting their concurrence that the permanent encroachment of 1.17 acres and the temporary easement area of 4.34 acres will not impact the parks functionality or purpose. The City of Sioux Falls Parks and Recreation concurred with the determination with the Section 4(f) *de minimis* finding for the Project and their letters dated May 6, 2010 and October 19, 2010 are attached.

Rohlf
December 15, 2011
Page 3

Public Meeting

The second and final public meeting for the Project was held on November 22, 2011. The proposed *de minimis* impact of the Project on Section 4(f) properties was specifically noted during the meeting. See Appendix M in the EA includes the information presented and comments that were received.

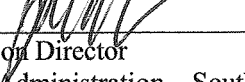
Considering all of the preceding items, SDDOT seeks concurrence from FHWA (via the signature block below) with the proposed *de minimis* impact of the Project on Section 4(f) properties and that therefore the Project is in compliance with the provisions of Section 4(f) of the U.S. Department of Transportation Act of 1966 and as amended in Section 6009(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).

Sincerely,

Terry Keller
Environmental Supervisor

Attachments

Cc: Ron McMahon, FHWA
Mark Leiferman, SDDOT
Tom Lehmkuhl, SDDOT
Steve Hoff, HDR Engineering

Approved:  _____
John Rohlf, Division Director
Federal Highway Administration – South Dakota Division

Date: 3/20/2012

November 6, 2007

Mr. Dave Graves
Department Of Transportation
Office of Project Development-Environmental
700 E Broadway Avenue
Pierre SD 57501-2586

SECTION 106 PROJECT CONSULTATION – EVALUATION/EFFECT

Project: 071009009F – EM 0100(101)405 PCN 00T7 SD 100 IN Sioux Falls

Location: Multiple Counties
(FHWA/DOT)

Dear Mr. Graves:

Thank you for the opportunity to comment on the above referenced project pursuant to Section 106 of the National Historic Preservation Act of 1966 (as amended). The South Dakota Office of the State Historic Preservation Officer (SHPO) concurs with your agency's determination regarding the effect of the proposed undertaking on the non-renewable cultural resources of South Dakota.

On October 9, 2007, the SHPO received your correspondence and the survey report, "A Level III Cultural Resources Evaluation of the Proposed South Dakota Department of Transportation Eastside Highway Corridor (SD100) Realignment Project, Minnehaha and Lincoln Counties, South Dakota," and "A Level III Cultural Resources Evaluation of the Proposed South Dakota Department of Transportation Eastside Highway Corridor (SD100) Realignment Project Alterations, Sioux Falls, Minnehaha and Lincoln Counties, South Dakota" prepared by Archaeology Laboratory, Augustana College. SHPO also received the additional information from Cultural Heritage Consultants and Louis N. Haffermehl regarding the eligibility of structures #MH02000001, MH02000002, MH00001671, LN00000703 on October 9, 2007. Based upon your correspondence, the survey report, and additional information, the SHPO has made the following consensus determination.

The SHPO concurs with your determination of not eligible for the following sites/structures: structure # MH02000001, MH02000002, MH00001671, MH00001672, LN00000703, LN01700008, LN01700001, LN01700002, LN01700003, LN01700004, LN01700005, LN01700006, LN01700007, LN00000026 and Engverson Property Structures A, B, C, D, E; and sites 39LN80, 39LN82, 39LN83, 39LN84, 39LN85, 39MH294, 39MH148. SHPO does not concur with the determination that the affected portions of eligible properties 39MH2000, 39MH2003, 39MH145, 39LN2007 and 39LN2016 are non-contributing. However, we feel that the project will not adversely impact the historical characteristics of these sites. Therefore, the SHPO concurs with your determination of No Adverse Effect for this undertaking. Activities occurring in areas not identified in your request will require the submission of additional documentation pursuant to 36 CFR part 800.4.

If historic properties are discovered or unanticipated effects on historic properties are found after the agency official has completed the Section 106 process, the agency official shall avoid, minimize or mitigate the adverse effects to such properties and notify the SHPO/ THPO and Indian tribes that might attach religious and cultural significance to the affected property within 48 hours of the discovery, pursuant to 36 CFR part 800.13.

Concurrence of the SHPO does not relieve the federal agency official from consulting with other appropriate parties, as described in 36 CFR part 800.2(c).

Should you require additional information, please contact Amy Rubingh at (605) 773-8370. Your concern for the non-renewable cultural heritage of our state is appreciated.

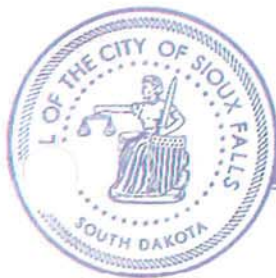
Sincerely,

Jay D. Vogt
State Historic Preservation Officer



Amy Rubingh
Review and Compliance Archaeologist

CC: Jane Watts, Archaeological Research Center



CITY OF SIOUX FALLS
PARKS AND RECREATION

100 East Sixth Street, Sioux Falls, SD 57104-5929
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May 6, 2010

Terry Keller, Environmental Supervisor
Department of Transportation
Division of Planning/Engineering
Environmental Office
700 East Broadway Avenue
Pierre, SD 57501-2586

Dear Terry:

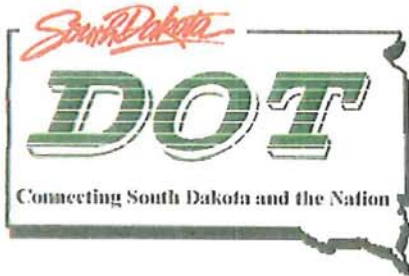
Attached is documentation relating to the *de minimis* finding for SD100. This documentation has been signed by Mayor Munson. Please contact us right away if you need any additional documentation.

Thank you.



Don Kearney
Director of Park and Recreation

CC: Dave Fischer, City of Sioux Falls
Mark Cotter, City of Sioux Falls
Chad Huwe, City of Sioux Falls
Tory Miedema, City of Sioux Falls
Robert Amundson, City of Sioux Falls



Department of Transportation
Division of Planning/Engineering
Environmental Office
700 E Broadway Avenue
Pierre, South Dakota 57501-2586
605/773-3268 Fax: 605/773-6608

February 8, 2010

Mr. Don Kearney, Director
Sioux Falls Parks and Recreation
100 East 6th Street
Sioux Falls, SD 57104-5929

RE: Project No. P 0100(101)405
SD100 Corridor Preservation Project
Section 4(f) *De Minimis* Finding for Harmodon Park

Dear Mr. Kearney:

Thank you for your continued cooperation regarding the draft Supplemental Environmental Assessment (EA) for South Dakota Highway 100 (SD100) from Interstate (I-29) to Interstate (I-90) (Project). SD100 will be a limited access principal arterial roadway that will address future transportation system needs.

Section 4(f) requires that the USDOT determine whether a proposed highway project would adversely affect a Section 4(f) resource. Section 4(f) is considered in Section 3.20 of the Supplemental EA. The Supplemental EA analyzed if any public parks, recreation areas, wildlife or waterfowl refuges, or historic sites were within the SD100 alignment. During this analysis, the South Dakota Department of Transportation (SDDOT) determined that the proposed SD100 alignment would result in an encroachment of one public park, Harmodon Park. See attached Figure 3-6 from the Supplemental EA that displays the SD100 preferred alignment referred to as the Revised Build Alternative. The Supplemental EA also reviewed the SD100 alignment in accordance with Section 6(f). It is our understanding that no Land and Water Conservation Funds have been utilized for Harmodon Park; therefore a Section 6(f) evaluation is not required.

Section 6009(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, amended existing Section 4(f) legislation at Section 138 of Title 23 and Section 303 of Title 49, United States Code, to simplify the processing and approval of projects that have only *de minimis* (trifling or minimal) impacts on lands protected by Section 4(f). If a project will affect a Section 4(f) resource, all feasible and prudent ways of avoiding this impact must be evaluated. During the preliminary alignment analysis of SD100, several alignment options were developed with a primary goal of reducing encroachment of the park. Existing and proposed development, including East Side Baptist Church, along the east side of the corridor eliminated the possibility of avoiding Harmodon Park. Therefore, the

alignment was centered along SD Highway 11 to minimize the impacts to both Harmodon Park and development to the east.

The affect of a Section 4(f) resource requires that coordination with the officials with jurisdiction over the potentially affected resource must occur. Harmodon Park is a public (city-owned) park and is located within the proposed SD100 alignment southwest of the intersection of 41st Street and SD Highway 11 (future SD100). The use of Harmodon Park is recreational, and therefore the park is considered to be protected as a Section 4(f) resource. Harmodon Park is a 15 field baseball and softball sports complex that hosts state, regional, and national tournaments.

The proposed impact area consists of ROW needs of the preferred alternative based on the preliminary design completed to date. Figure 1 (attached) displays the boundary of the Park and the proposed impact area. The encroachment calculated from preliminary design requires a permanent encroachment of 1.17 acres for the SD100 ROW. The impact area also includes the preliminary temporary easement requirements where construction activities such as dirt grading, erosion control, and permanent seeding would occur. Preliminary design has identified approximately 0.90 acres of temporary construction easement needed.

Also, the SD100 alignment would eliminate the current access road that exists on SD Highway 11 that allows traffic to enter and leave Harmodon Park. Due to safety concerns imposed by its proximity to the proposed 57th Street Interchange, this access road will be eliminated in accordance with the SDDOT SD100 Access and Noise Plan developed in February 2007. To accommodate access to Harmodon Park, the City of Sioux Falls (City) will be constructing a permanent park entrance from 57th Street. The proposed construction for the permanent entrance will be in either 2011 or 2012. If construction of the access roadway from 57th Street is not constructed before SD100, the SDDOT agrees to maintain the current access to Harmodon Park until the new park entrance is complete. To accommodate the construction of the park entrance road, the City has recently acquired the right-of-way necessary to build the park entrance road.

The encroachment and elimination of the current access road is a result from the need to widen existing SD Highway 11 to accommodate the SD100 corridor. The proposed SD100 alignment will have a minor impact on Harmodon Park and will not adversely impact the activities, features, attributes, and functions of Harmodon Park that qualify the park for protection under Section 4(f).

As part of the design development process, the necessary right-of-way (ROW) acquisition and temporary easement area required at Harmodon Park has been minimized to the extent practicable without compromising the Project's ability to meet the purpose and need as well as safety standards. SDDOT seeks signed concurrence from you (either via signature block below or a comment letter by the Sioux Falls Parks and Recreation Department) on the Section 4(f) *de minimis* finding.

Kearney
February 8, 2010
Page 3

If there are any questions, please contact me at (605) 773-3721.

Sincerely,



Terry Keller
Environmental Supervisor

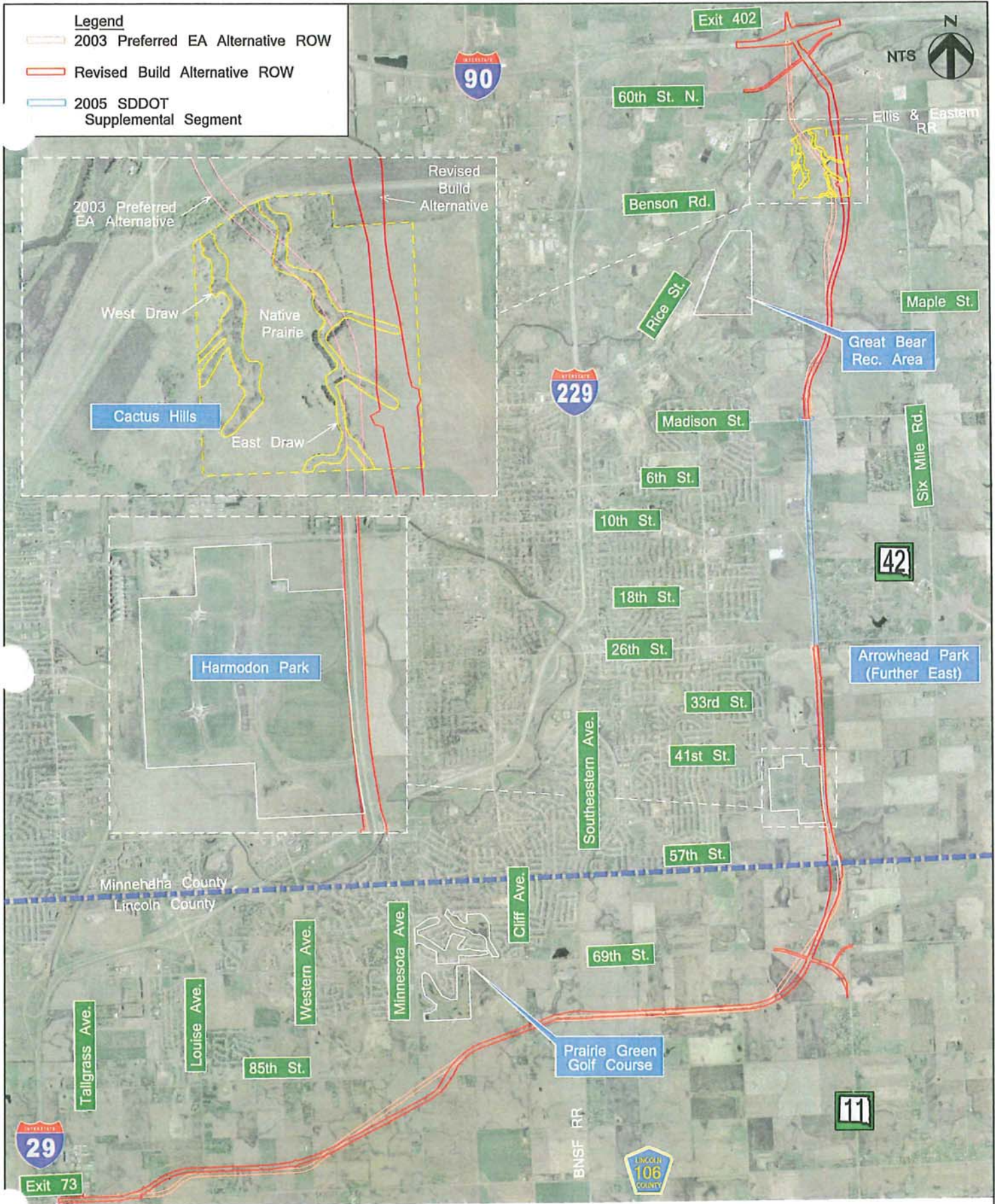
Attachments

Cc: Ginger Massie, FHWA
Mark Leiferman, SDDOT
Shannon Ausen, City of Sioux Falls
Steve Hoff, HDR Engineering

Sioux Falls Parks and Recreation Department
concurs with the Section 4(f) *de minimis*
finding for SD100.



Date: 15-4-10



Prepared by: B. Miller
 Date: 03/08/07
 Checked by: S. Hoff
 Date: 05/30/07
 Revision Date: 06/21/07
 02/03/2010



Parks, Rec. & Cactus Hills Areas
 SD100 Corridor Preservation
 P0100(101)405 PCN 00T7

Figure
 3-6



N

SCALE IN FEET

0 150 300

Legend

- Existing R.O.W.
- Proposed SD100 R.O.W.
- Temporary Easement
- Harmodon Park Boundary

Drawn by: B. Miller
Date: 2/01/2010

Checked by: B. Baker
Date: 2/01/2010

Revision Date:



Harmodon Park
SD100 Corridor Preservation
P0100(101)405 PCN 00T7

Figure
1



CITY OF SIOUX FALLS
PARKS AND RECREATION

100 East Sixth Street, Sioux Falls, SD 57104-5929
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October 19, 2010

Terry Keller, Environmental Supervisor
SDDOT Division of Planning/Engineering
Environmental Office
700 E Broadway Avenue
Pierre, SD 57501-6608

Dear Terry:

Subject: Project No. 0100(101)405; Addendum to Section 4(f) *De Minimus* Finding for Harmodon Park

We are in receipt of your letter dated October 19, 2010 regarding the addendum to the Section 4(f) *de minimus* finding for Harmodon Park. The temporary easement of 4.34 acres for construction of a drainage ditch in the location shown on the provided exhibit will have very minimal impact to the park. The Sioux Falls Parks and Recreation Department concurs with the addendum to Section 4(f) *de minimus* finding.

As stated in your February 8, 2010 letter, current park usage requires that the SDDOT maintain the current access to Harmodon Park off SD Highway 11 until such time as the City of Sioux Falls constructs the new park access road from 57th Street. Two separate points of access into the park are required by emergency services and are needed due to the high volume of usage and in the event the park needs to be evacuated due to severe weather.

Sincerely,

Don Kearney
Director of Park and Recreation