Month XX, XXXX

Official with Jurisdiction

Attn: OWJ Title

Address

Subject: PROJECT NO. XX-X-XXX(XXX)XXX, PCN XXXXX –Project Name- Project Location

Dear XXXXX:

The North Dakota Department of Transportation, in cooperation with the Federal Highway Administration (FHWA), is proposing a roadway improvement on (HWY XX) from (project start and end points), approximately XX miles. (*Add brief description of proposed project*). See enclosed exhibits (project location map/exhibit). *(Identify 4(f) protected property in location map and/or an exhibit where proposed project would occupy property, append multiple exhibits if needed)*

*(Update with applicable work description giving OWJ adequate details describing proposed work as well as emphasizing the temporary nature of occupancy)*

The project consists of re-paving the existing roadway and grading to construct wider shoulders throughout the project length. Incidental work will include approach upgrades, placement of permanent signing and stripes, and erosion control seeding within the established right of way.

The (protected property) is protected under Section 4(f) of the Department of Transportation Act of 1966 as assumed due to the recreational nature of the facility. Section 4(f) of the Transportation Act prohibits FHWA from authorizing actions that result in a use of Section 4(f) properties, including public parks, recreation areas, wildlife refuges or lands of historic significance, unless there are no prudent and feasible avoidance alternatives and the action includes all possible planning to minimize harm. However, under 23 CFR 774.13, FHWA has identified various exceptions to the requirements for Section 4(f) authorization. One exception, identified in 23 CFR 774.13(d), *temporary occupancies of land that are so minimal as to not constitute a use*. The temporary occupancy of the land during construction will be so minimal that it will not constitute a use within the meaning of Section 4(f) per the following criteria:

1. *Duration (of the occupancy) 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.*

*(Generally describe construction plans, easements, access points and timelines, protected property must be occupied less than 180 days)*

(Protected Property) will be occupied for approximately XX days during the construction of the project. (*Delete the following if not applicable or update)* XX temporary construction easement(*s*) will be required from the (Protected Property) *(describe why the easement is necessary)* therefore no changes in ownership of the land will be realized as a result of the construction of the proposed project.

1. *Scope of the work must be minor, i.e., both the nature and magnitude of the changes to the Section 4(f) resource are minimal.*

Temporary impacts will occur with the construction of the *(describe temporary impacts)*. The expected temporary impacts will occur in the existing right of way or temporary construction easement and will not change the intended use of the 4(f) resources.

1. *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*

No permanent impacts to (Protected Property) will be observed as a result of this project. Nor shall there be any interference with (Protected Property) or its use. Access to (Protected Property) will be maintained during construction by (*Add brief description how access will be maintained*).

1. *The land being used must be fully restored, i.e., the resource must be returned to a condition which is at least as good as that which existed prior to the project.*

(Protected Property) property will not be permanently impacted due to (work type) work on (roadway). (*Add brief description how project area will be restored i.e. seed mixes or remediation plans)*

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

As requested, with this letter, NDDOT is requesting concurrence from the (OWJ) regarding the outlined conditions.

It is our opinion that due to the (work type)and temporary nature of the project, there will be minimal temporary impacts and no permanent impacts. Therefore, the proposed project is excluded from the requirements of Section 4(f) authorization.

Request of Concurrence

NDDOT requests concurrence from (OWJ) that the proposed project meets conditions 1 through 5, will not have an “adverse effect” on the (protected property), nor will there be interference with the intended activities, features or attributes of the property on a temporary or permanent basis. The above stated condition 5 is required for FHWA to exclude this project from the requirements of Section 4(f) authorization, allowing the proposed project to proceed as planned.

This project is currently scheduled for the 2019 construction season. Please provide your written concurrence by *(Approximately 2-3 weeks,* **Month XX, XXXX***)*. We would greatly appreciate your immediate attention and response on such short notice. If you require any additional information, or have any questions, feel free to call me at 701-328-4818.

A concurrence response can be sent to [colawson@nd.gov](mailto:colawson@nd.gov) or mailed to:

Cory Lawson

NDDOT Environmental and Transportation Services

608 E. Boulevard Avenue

Bismarck, ND 58505-0770

Sincerely,

Cory Lawson

Environmental Services 1 Section Leader, Environmental Planner

cl/XX

**Concurrence**

The (OWJ) has consulted with NDDOT to the impacts to the (protected property) and hereby concurs that the proposed project, as described and shown in appended exhibits, would not adversely affect the activities, features and attributes that qualify the property for protection under Section 4(f) of the Transportation Act on either a temporary or permanent basis.

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OWJ Date

Enclosure(s): (Project Location Map)

(Additional Appended exhibits)