

Appendix D

Final Section 4(f) Evaluation

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Acronyms and Abbreviations

EIS.....	Environmental Impact Statement
FTA	Federal Transit Administration
GBNRTC	Greater Buffalo Niagara Regional Transportation Council
Metro	Niagara Frontier Transit Metro Systems, Inc.
NEPA	National Environmental Policy Act
NOI	Notice of Intent
Project	Buffalo-Amherst-Tonawanda Corridor Transit Expansion
SEQR	State Environmental Quality Review Act
TAC	Technical Advisory Committee
TOD	transit-oriented development
UB	University at Buffalo

Appendix D. Final Section 4(f) Evaluation

This Final Section 4(f) Evaluation has been prepared to comply with the United States Department of Transportation (USDOT) Act of 1966 (23 U.S.C. 138 and 49 U.S.C.303), hereinafter referred to as “Section 4(f),” and its implementing regulations codified at 23 CFR Part 774. Additional guidance was obtained from the Federal Transit Administration’s (FTA’s) Standard Operating Procedures No. 18 (FTA, 2016) and the Section 4(f) Policy Paper (Federal Highway Administration, 2012). Section 4(f) protects significant publicly owned parks, recreation areas, wildlife or waterfowl refuges, and publicly or privately owned historic sites (referred to as Section 4(f) properties). This Final Section 4(f) Evaluation identifies properties in the Project study area protected by Section 4(f), evaluates the use of these properties by the Light Rail Transit (LRT) Build Alternative and Bus Rapid Transit (BRT) Build Alternative, and presents documentation required for FTA to approve the use of Section 4(f) properties.

D.1 REGULATORY CONTEXT AND METHODOLOGY

23 U.S.C. 138 and 49 U.S.C. 303, which were originally enacted as Section 4(f) of the USDOT Act of 1966, protect publicly owned parks, recreation areas, wildlife and/or waterfowl refuges, as well as significant historic sites and historic archaeological sites, whether publicly or privately owned. Section 4(f) requirements apply to all transportation projects that require funding or other approvals by the USDOT. As a USDOT agency, FTA cannot approve a transportation project that uses a Section 4(f) property, as defined in 23 C.F.R. 774.17, unless FTA determines that:

- There is no feasible and prudent alternative that would avoid the use of the Section 4(f) property; and
- The Project includes all possible planning to minimize harm to that property resulting from such use (23 CFR 774.3(a)); or
- The use of the Section 4(f) property, including any measures(s) to minimize harm (such as any avoidance, minimization, mitigation, or enhancement measures) will have a de minimis impact, as defined in 23 CFR 774.17, on the property.

The following describes the types of use defined by 23 CFR 774, and the applicability of these regulations to the Proposed Project.

D.1.1 Types Of Section 4(f) Use

Pursuant to 23 CFR 774.17, and except as set forth in 23 CFR 774.11 and 23 CFR 774.13, a project uses a Section 4(f) property when:

- Land from the Section 4(f) property is permanently incorporated into a transportation facility.

- There is a temporary occupancy of land that is adverse in terms of the statute's preservation purpose, as determined by the criteria in 23 CFR 774.13(d) (e.g., when all or part of the Section 4(f) property is required for a project's construction-related activities); or
- There is a "constructive" use of a Section 4(f) property, as determined by the criteria defined in 23 CFR 774.15.

D.1.2 Section 4(f) "Use" Determinations

To determine whether Section 4(f) applies to the Proposed Project as defined in 23 CFR 774.17, the protected Section 4(f) properties must be assessed to determine whether there would be a "use" of the property as defined in the statute. Per the regulation, use of a protected Section 4(f) property occurs when any of the following conditions are met:

1. **Permanent Incorporation/Direct Use** - A permanent incorporation or direct use of a Section 4(f) property occurs when land is permanently incorporated into a transportation facility. "Permanent incorporation" of a Section 4(f) property would include purchasing part or all of the property for use as right-of-way for transportation facilities or purchasing a permanent easement for construction or operations.
2. **Temporary Use** - A temporary use of a Section 4(f) property occurs when there is a short-term use of the property that is considered adverse in terms of the preservation purpose of the Section 4(f) statute. Under 23 CFR 774.13, a temporary occupancy of a property does not constitute a "use" of a Section 4(f) property when all the following conditions are satisfied:
 - The duration is temporary (i.e., less than the time needed to construct the project), and there is no change in ownership of land.
 - The scope of work is minor (i.e., both the nature and magnitude of the changes to the property are minimal).
 - There are no anticipated permanent adverse physical impacts, nor is there interference with the protected activities, features, or attributes of the property, on either a temporary or permanent basis.
 - The land being used is fully restored to a condition that is at least as good as that which existed before the project.
 - There is documented agreement among appropriate federal, state, and local official(s) with jurisdiction over the property regarding the above conditions.
3. **Constructive Use** - A constructive use of a Section 4(f) property occurs when a transportation project would not incorporate land from the property, but the proximity of the project would result in impacts so severe that the protected activities, features, or attributes that qualify the property for protection under Section 4(f) would be substantially impaired (23 CFR 774.15).

D.1.3 “De Minimis” Impact

The requirements of Section 4(f) are satisfied if FTA determines that a transportation project would have a “de minimis” impact on the Section 4(f) property. A de minimis impact is defined in 23 CFR 774.17 as follows:

- For parks, recreation areas, and wildlife/waterfowl refuges, a de minimis impact would not adversely affect the features, attributes, or activities qualifying the property for protection under Section 4(f), and the official with jurisdiction has concurred with this determination after the public review and comment period.
- For historic sites, a de minimis impact means that FTA has determined, in accordance with 36 CFR 800, that either no historic property would be affected by the project, or the project would have “no adverse effect” on the property. The official with jurisdiction must be notified that FTA intends to make a de minimis finding based on their concurrence with the “no adverse effect” determination under 36 CFR 800. This notification is usually included in the effect determination letter.

If a transportation project is found to use Section 4(f) properties, a de minimis finding can be made for direct uses or temporary uses that do not adversely affect the activities, features, or attributes that make the property eligible for Section 4(f) protection. The provision allows avoidance, minimization, mitigation, and enhancement measures to be considered in making the de minimis determination.

Projects determined to have de minimis impacts on Section 4(f) properties may proceed without needing to determine that no feasible and prudent avoidance alternatives exist. The officials with jurisdiction must concur, in writing, with a *de minimis* finding. For parks, recreational areas or wildlife or waterfowl refuge properties, concurrence from the officials having jurisdiction over the properties is required. For historic sites, concurrence from the State Historic Preservation Office (SHPO) on FTA’s “No Adverse Effect” determination is required.

D.2 PROJECT DESCRIPTION AND SUPPORTING INFORMATION

Metro proposes to extend high-capacity transit service 7 miles north from the existing University Station to the towns of Amherst and Tonawanda, connecting the University at Buffalo (UB) South Campus and UB North Campus. The project would address the following needs:

- Serve existing and future travel demand generated by recent and future regional development
- Provide high-quality regional transit service
- Improve service for transit-dependent populations

Two Build Alternatives were analyzed in the Environmental Impact Statement (EIS): a LRT Alternative and a BRT Alternative. Chapter 2, “Alternatives Considered,” of the DEIS provides

further details on process leading to the identification of Alternatives evaluated within this EIS and a detailed description of the two Build Alternatives and the No Build Alternative.

D.3 SECTION 4(F) PROPERTIES

Section D.3.1 identifies cultural resources within the Project area of potential effect (APE) that meet the criteria for protection as Section 4(f) properties and that may be affected by the Project alternatives. Section D.3.2 identifies those park, recreation, open space, and wildlife and waterfowl refuge properties within 0.25-miles on either side of the alignment of the LRT Build Alternative and the BRT Build Alternative and a 0.5-mile radius around the proposed station locations were analyzed for further evaluation of potential Section 4(f) use. The following text provides information about the attributes of each of the properties that have the potential to incur a Section 4(f) use or are located in close enough proximity to the Project alternatives that discussion of proximity impacts is warranted.

D.3.1 Historic Resources

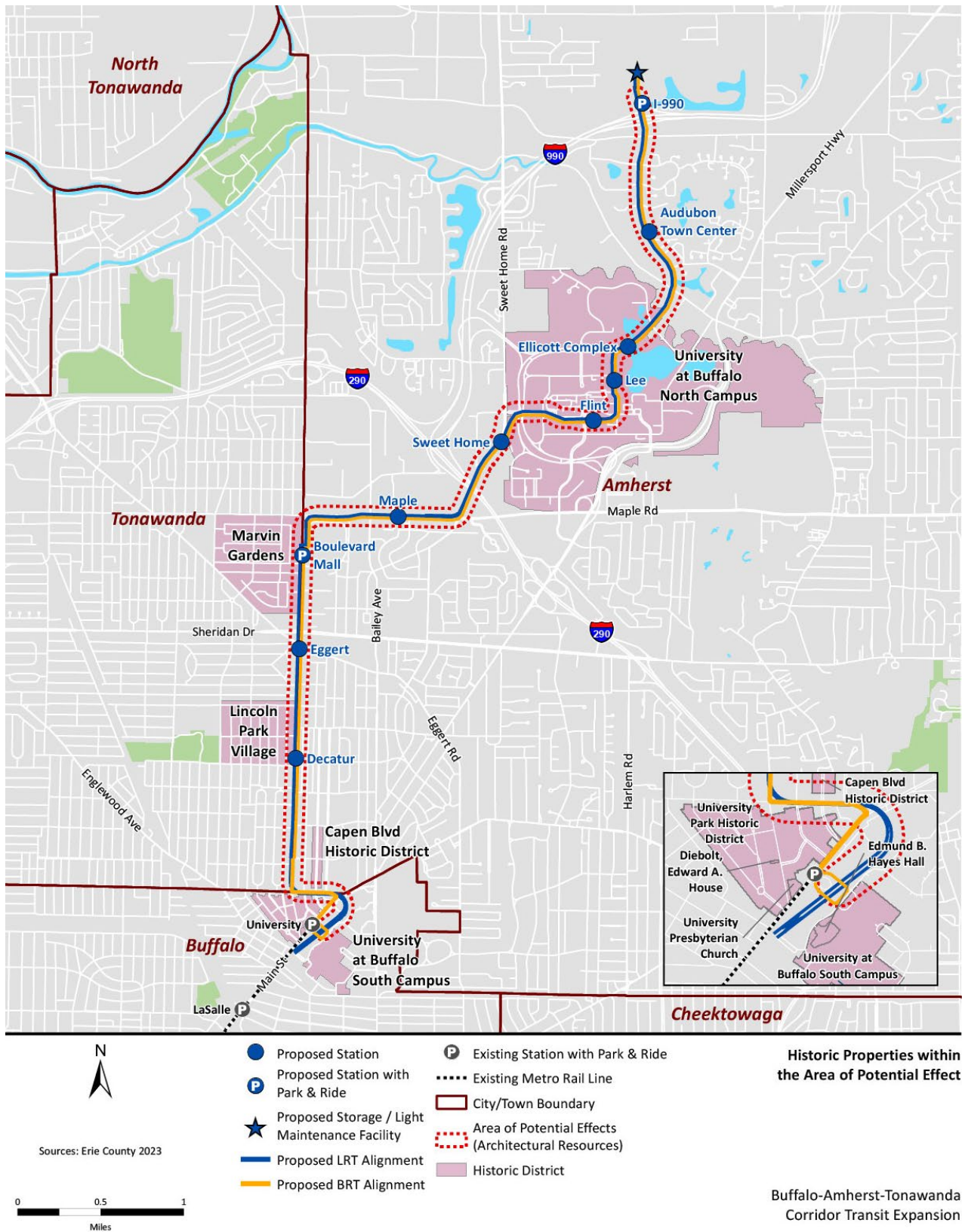
As a result of the field investigations, ten built resources were identified within the Project APE. Table D-1 lists the historic properties and summarizes determinations of Section 4(f) use for each Build Alternative. Figure D-1 shows the locations of these historic properties.

Table D-1. Historic Properties Evaluated for Section 4(f) Use

Property Name	NRHP Status	Period of Significance	LRT Build Alternative	BRT Build Alternative
University at Buffalo South Campus	Eligible	1865 to 1963	<i>De minimis</i>	<i>De minimis</i>
Edmund B. Hayes Hall	Listed	1925 to 1962	No use	No use
University Park Historic District	Listed	1913 to 1941	No use	No use
University Presbyterian Church	Listed	1928 to 1956	No use	No use
Charles and Rose Waldow House (3404 Main St.)	Eligible	—	No use	No use
University Court Apartments (3442 Main St.)	Eligible	—	No use	No use
Capen Boulevard Historic District	Eligible	—	No use	No use
Lincoln Park Village	Eligible	—	<i>De minimis</i>	<i>De minimis</i>
Marvin Gardens	Eligible*	—	<i>De minimis</i>	<i>De minimis</i>
University at Buffalo North Campus	Eligible*	—	<i>De minimis</i>	<i>De minimis</i>

Sources: NFTA-Metro, Metro Rail Expansion Project: Historic Resources Report (2020); Cultural Resource Information System, New York State, <https://cris.parks.ny.gov>; Jennifer Walkowski, Historic Preservation Program Analyst, Survey and National Register Unit – Western NY Region to Rachel Maloney Joyner, “Re: FTA Metro Rail Expansion Construction Project Amherst, Tonawanda and Buffalo, Erie County, NY, 19PR01900,” April 29, 2020. Information included in the table reflects known available information. Properties with an eligibility status marked by a (*) are those treated as NRHP-eligible for purposes of the Project.

Figure D-1. Historic Properties within the Area of Potential Effect



As described in Section 4.6, “Historic and Cultural Resources” of the DEIS, no adverse effects on historic resources would occur because of the Project; no mitigation measures would be required. In correspondence with the SHPO dated January 25, 2024, FTA made the determination that the Project (LRT Build Alternative and BRT Build Alternative) would result in no adverse effects to Built Historic Properties. The Project would permanently incorporate land from four historic properties and result in a *de minimis* use of Section 4(f) properties.

In a letter dated September 2022, SHPO recommended that a Phase 1A Literature Search and Archaeological Sensitivity Assessment survey be conducted. The Phase 1A Study identified four general areas of archaeological potential along the Project alignment that are sensitive for the presence of precontact and/or historic period resources: each of the UB Campuses, Niagara Falls Boulevard, and John James Audubon Parkway and recommended supplemental background research and fieldwork for these areas. The supplemental research concluded with a recommendation for Phase 1B testing. No cultural artifacts were recovered through the Phase 1B archaeological investigation.

University at Buffalo South Campus

DESCRIPTION AND SIGNIFICANCE OF PROPERTY

The UB South Campus (USN 02940.027690), also known as the Main Street campus, is located on 154 acres of the former Erie County Almshouse grounds, acquired in 1909 to establish and construct the current campus. Four buildings remain from the sanatorium: Edmund B. Hayes Hall, Hayes Annex D, Wende Hall, Beck Hall, and Townsend Hall.

Architect E. B. Green designed the first campus buildings in 1910 to resemble Trinity College in Dublin. The campus expanded through the twentieth century, and in 1962 the former private institution was incorporated into the SUNY system and became known as SUNY Buffalo; then-governor of New York, Nelson Rockefeller, spearheaded the effort to absorb the university into the State system and to begin building a second campus in the nearby town of Amherst. UB South Campus includes 53 buildings, two residence halls, and is served by the Metro Rail system at its University Station.

UB South Campus occupies a triangular site bounded by Winspear Avenue to the south, Bailey Avenue (US 62) to the east and Main Street (NY 5) to the west. Its period of significance is 1865-1963. The campus contains one NRHP-listed historic property, Edmund B. Hayes Hall (NRHP No. 160000394), which is within the Project APE. A portion of UB South Campus was previously determined to be a NRHP-eligible historic district in 2018 and significant under Criterion C in the area of architecture due to its axial plan by E.B. Green and Albert Hopkins and its Georgian Revival and Neoclassical style campus architecture.

SECTION 4(F) USE ASSESSMENT (LRT BUILD ALTERNATIVE)

The LRT Build Alternative would occur outside the UB South Campus historic property boundary and at depths that would not be discernible to those within the historic property

boundary. The LRT Build Alternative would use the existing University Station's underground 16-foot double-track tunnels and existing tail track and tunnel segments to continue the line northeast before turning west. The LRT Build Alternative would occur outside the UB South Campus historic property boundary and at depths that would not be discernible to those within the historic property boundary. Temporary visual and noise effects during tunnel construction are anticipated, and when completed, existing conditions would be restored, and Project elements would not be visible.

UB South Campus is categorized as FTA Land Use Category 3 and is considered a noise-sensitive use under Section 4(f) regulations. The LRT Build Alternative would be underground at UB South Campus and not contribute to increased noise. The projected total operational noise levels with implementation of the BRT Build Alternative would be 56 dBA at UB South Campus, which is equal to the No Build Alternative. The Project would not result in an exceedance of FTA noise impact criteria, and the change in operational noise levels would be 0 dBA. Furthermore, the construction activities associated with the Project would not exceed FTA's most conservative noise impact criteria (i.e., for residential uses) at UB South Campus.

The vibration and ground-borne noise impact assessment for the Project included one receptor within the UB South Campus historic boundary: the Department of Oral Biology located in Foster Hall, which is contributing to the UB South Campus. No adverse vibration impacts were predicted at this receptor. See Section 4.12, "Vibration" and Appendix D7, "Noise and Vibration Supplemental Information" of the Draft Environmental Impact Statement (DEIS).

SECTION 4(F) USE ASSESSMENT (BRT BUILD ALTERNATIVE)

The BRT Build Alternative would include a new BRT station platform on Hayes Road, opposite the Metro Rail station upper-level entrance within Main Circle and on the UB South Campus historic property boundary. Though just within the historic property boundary, Foster Hall and Crosby Hall are located more than 200 feet away from proposed improvements; Edmund B. Hayes Hall is located nearly 350 feet away. The BRT station platform and alignment would be located in an area currently used for transit, including rail and buses. The BRT Build Alternative would be consistent with existing conditions on campus at this location. Thus, the BRT Build Alternative's effects on UB South Campus' integrity of design and materials are not adverse, and the BRT Build Alternative would have no adverse effect on the UB South Campus' integrity of setting, since there is currently a bus shelter at Main Circle, the Metro Rail station upper-level entrance, and UB Stampede buses connecting the North and South campuses run along Hayes Road directly behind the proposed BRT platform. General vibration analysis for the BRT Build Alternative found no adverse vibration impacts at receptor locations. See Section 4.12, "Vibration" and Appendix D7, "Noise and Vibration Supplemental Information" of the DEIS.

The LRT Build Alternative or BRT Build Alternative would not alter any of the characteristics that qualify the UB South Campus for listing in the NRHP in a manner that would diminish its integrity of location, design, materials, workmanship, setting, feeling, and association. As a

result, the LRT Build Alternative and BRT Build Alternative would have no adverse effect on the UB South Campus. SHPO concurred with the Project's no adverse effect finding for built historic properties. Therefore, no mitigation for built historic properties is required and a *de minimis* finding is proposed for this Section 4(f) use.

Lincoln Park Village

DESCRIPTION AND SIGNIFICANCE OF PROPERTY

Lincoln Park Village (USN 02923.000220) is a residential subdivision in the Town of Tonawanda bound by Decatur Road to the south, Niagara Falls Boulevard on the east, Highland Avenue to the north, and Parkhurst Boulevard to the west, which also defines its historic property boundary. Only a section of the subdivision bound by Highland Avenue, Niagara Falls Boulevard, Decatur Road, and Kettering Drive is located within the Project APE. This section contains 62 residential buildings, all of which are single-family homes built in a relatively short period between 1945 and 1951; the entire Lincoln Park Village subdivision was completed by 1951. Residences facing Niagara Falls Boulevard appear with little or no ornamentation or have been altered using replacement materials and additions, while residences in the historic district's interior feature decorative door surrounds, broken pediments, half-timbering, and gambrel roofs. Lincoln Park Village is eligible for listing on the NRHP under Criterion A in the area of community development. The subdivision was developed during a period of rapid growth in suburban Buffalo following World War II and reflects nationwide housing trends during that time when lending programs made homeownership affordable and attainable for many Americans. It is also eligible under Criterion C in architecture as a post-World War II suburban development project.

SECTION 4(F) USE ASSESSMENT

The LRT Build Alternative and BRT Build Alternative would require right-of-way acquisition on parcels near the Decatur Road-Niagara Falls Boulevard intersection. This acquisition represents a small fraction of the overall historic district and occurs on parcels identified as having resources with diminished integrity due to unsympathetic alterations. Landscaping and sidewalks would be restored following Project implementation. This change to Lincoln Park Village's integrity of design and materials is not adverse. No other changes would occur to Lincoln Park Village's aspects of integrity as a result of Project implementation. The Project would not alter any of the characteristics that qualify Lincoln Park Village for inclusion in the NRHP in a manner that would diminish its integrity of location, design, materials, workmanship, setting, feeling, and association.

While noise is not anticipated to exceed current levels, the Project would introduce new sounds related to the LRT Build Alternative's operations. In a highly trafficked area, these new sounds are unlikely to be differentiated by nearby residences. The vibration and ground-borne noise impact assessment of the LRT Build Alternative included one receptor in the vicinity of Lincoln Park Village: The Trinity United Methodist Church. No adverse vibration or ground-borne noise

impacts were predicted at this location. See Section 4.12, “Vibration” and Appendix D7, “Noise and Vibration Supplemental Information” of the DEIS.

As a result, the LRT Build Alternative and BRT Build Alternative would have no adverse effect on Lincoln Park Village. SHPO concurred with the Project’s no adverse effect finding for built historic properties. Therefore, no mitigation for built historic properties is required and a *de minimis* finding is proposed for this Section 4(f) use.

Marvin Gardens

DESCRIPTION AND SIGNIFICANCE OF PROPERTY

Marvin Gardens (USN 02923.000222) is a residential subdivision in the Town of Tonawanda with historic property boundaries including Niagara Falls Boulevard on the east, Brighton Road to the north (which becomes Maple Road when crossing Niagara Falls Boulevard), Fries Road to the west, and Eggert Road to the southwest. Only a small section of the subdivision comprising the east sides of Wrexham Court North, Rochelle Park, Briarhurst Drive, and Treadwell Road, as well as small portions of parcels near the Brighton Road-Niagara Falls Boulevard Intersection, are located within the APE. Research indicates the entire subdivision was completed between 1950 and 1957. Constructed in response to pent-up housing demand following World War II, residences are modest, uniform, and lack ornamentation, reflecting post-war, mass-produced housing. Although Marvin Gardens remains Undetermined by the SHPO as indicated in the NYS Cultural Resource Information System (CRIS), it is being conservatively treated as a historic property for the purposes of this Project.

SECTION 4(F) USE ASSESSMENT

While the LRT Build Alternative and BRT Build Alternative would be located outside the Marvin Gardens historic property boundary, minor changes to Marvin Gardens’ integrity of materials would occur through the acquisition of less than 0.01 acres along Brighton Road to facilitate right turns onto Niagara Falls Boulevard. No resources within Marvin Gardens would face Project Build Alternative elements. Near Marvin Gardens, Niagara Falls Boulevard is lined with large commercial buildings and parking lots, creating a buffer between the neighborhood and roadway where buses currently travel. As a result, no changes would occur to Marvin Gardens’ integrity of setting as a result of Project implementation. These changes are consistent with existing roadway infrastructure in this area. The Project would not alter any of the characteristics that may qualify Marvin Gardens for inclusion in the NRHP in a manner that would diminish its integrity of location, design, materials, workmanship, setting, feeling, and association. As a result, the LRT Build Alternative and BRT Build Alternative would have no adverse effect on Marvin Gardens. SHPO concurred with the Project’s no adverse effect finding for built historic properties. Therefore, no mitigation for built historic properties is required and a *de minimis* finding is proposed for this Section 4(f) use.

University at Buffalo North Campus

DESCRIPTION AND SIGNIFICANCE OF PROPERTY

The collection of buildings that comprise the UB North Campus date primarily from the last 35 years of the twentieth century. The earliest buildings date to circa 1972, with construction continuing through the present day. Residential buildings are generally on the outlying areas of the campus' perimeter and academic buildings are in the central core with supporting services and dining opportunities interspersed throughout. The campus is contained within an amoebic oval oriented on an east-west axis generally within Millersport Highway, John James Audubon Parkway, and North Forest Road. Sidewalks are present throughout the campus connecting buildings to facilitate pedestrian circulation and minimize walking distance. A review of campus planning documents from the 1970s indicates that the UB North Campus master plan anticipated construction of an "NFTA Line" that extended through campus in the approximate location of the proposed Project alignment.

Within this collection of buildings, 1970s and 1980s brick towers of varying heights prevail; some building exteriors incorporated concrete while others feature varying shades of red or brown brick. Several buildings on the campus are designed by recognized Modern master architects. The Governors' Residence Complex, comprising Clinton, Dewey, Lehman, and Roosevelt Halls and outside of the APE, was designed by I.M. Pei and built in 1972. Similarly, Ketter Hall (1981), also not in the APE, and Bell Hall (1977), which is within the APE, were designed by Marcel Breuer & Associates in 1981 (the year of Breuer's death). Each display some of the master architect's signature Brutalist designs with Expressionist features, such as canted concrete panels and concrete screens that rely on negative space for design impact, which Breuer used in multiple designs throughout his career.

For the purposes of this Project, the UB North Campus is treated as eligible for listing on the NRHP, though only three buildings within the APE were completed by 1977. Campus buildings within the APE include Cooke Hall (1977); Lockwood Library (1978); Furnas Hall (1977); Bell Hall (1974); Slee Hall (1981); Jacobs Management Center (1985); Park Hall (1986); and Hadley Village (1999).

SECTION 4(F) USE ASSESSMENT

The LRT Build Alternative would occur within the historic property boundary of the UB North Campus and would introduce new visual elements including Metro Rail vehicles and trackway, stations and related support elements, and an overhead catenary system and substations. These changes to the setting would introduce new transit-related infrastructure in an area currently served by a university bus system. However, original plans for the campus from the 1970s included an anticipated NFTA transit corridor, and Project elements that would be installed, including an overhead catenary system, would reflect Metro Rail design aesthetics that date from the 1980s. While noise is not anticipated to exceed current levels, the Project would introduce new sounds related to the LRT functionality and movement that would have been anticipated by

NFTA expansion through the campus as part of early campus plans. As a result, changes to the UB North Campus' integrity of setting are not adverse. UB North Campus' integrity of design and materials would similarly change as a result of Project implementation; however, these changes were anticipated in the original campus plan. The introduction of transit-related infrastructure would not adversely affect the UB North Campus' integrity of design or materials for a campus-built beginning in the 1970s that anticipated an integrated transit system. UB North Campus's integrity of location, workmanship, feeling, and association would be unchanged following Project implementation.

The vibration and ground-borne noise impact assessment for the Project included ten receptors in the UB North Campus. No adverse vibration impacts were predicted. The predicted temporary ground-borne noise levels at the Baird Hall receptor during construction would constitute the potential for a noise impact, due to Baird Hall's multiuse rehearsal halls and music performance hall that are especially sensitive to ground-borne noise. However, this potential for noise impacts is temporary and would not diminish the individual property's aspects of integrity.

Metro incorporated trackwork and vehicle construction and preventative maintenance measures into the vibration analysis assumptions about the location and magnitude of potential impacts during Project construction and operations. Newly installed track associated with the LRT Build Alternative would use resilient fasteners and resiliently supported rail ties to help dissipate vibration energy from the rail system before it enters the ground. This would minimize vibration and eliminate discontinuities in main rail sections (e.g., rail sections without crossovers, changes, etc.). In addition, the LRT Build Alternative would utilize all-new vehicles with wheels that are as close to perfectly round as is practical. A program of preventative maintenance, including rail grinding, rail head grinding, and wheel truing, would be implemented on the rail vehicles and tracks.

In addition, Metro identified UB North Campus buildings containing specialized vibration-sensitive research or equipment (Bonner Hall, Davis Hall, and Bonner Hal). Further study of potential vibration effects would be undertaken during the final design to determine which environmental mitigation measures would be necessary to avoid impacts at especially vibration-sensitive uses at UB North Campus. Project construction or operations would not diminish the aspects of integrity for individual buildings within the UB North Campus.

The BRT Build Alternative would also occur within the historic property boundary of the UB North Campus and would introduce new visual elements including new transit-related infrastructure in an area currently served by a university bus system. Original plans for the campus from the 1970s included an anticipated NFTA transit corridor, and Project elements that would be installed would consist of additional bus-related infrastructure. While noise is not anticipated to exceed current levels, the Project would introduce new sounds related to the BRT functionality and movement that would have been anticipated by NFTA expansion through the

campus as part of early campus plans. General vibration analysis for the BRT Build Alternative found no adverse vibration impacts at receptor sites. As a result, changes to the UB North Campus' integrity of setting are not adverse.

The Project would not alter any of the characteristics that may qualify UB North Campus for inclusion in the NRHP in a manner that would diminish its integrity of location, design, materials, workmanship, setting, feeling, and association. As a result, the LRT Build Alternative and BRT Build Alternative would have no adverse effect on UB North Campus. SHPO concurred with the Project's no adverse effect finding for built historic properties. Therefore, no mitigation for built historic properties is required and a *de minimis* finding is proposed for this Section 4(f) use.

D.3.2 Parks, Recreational, and Wildlife/Waterfowl Refuge Resources

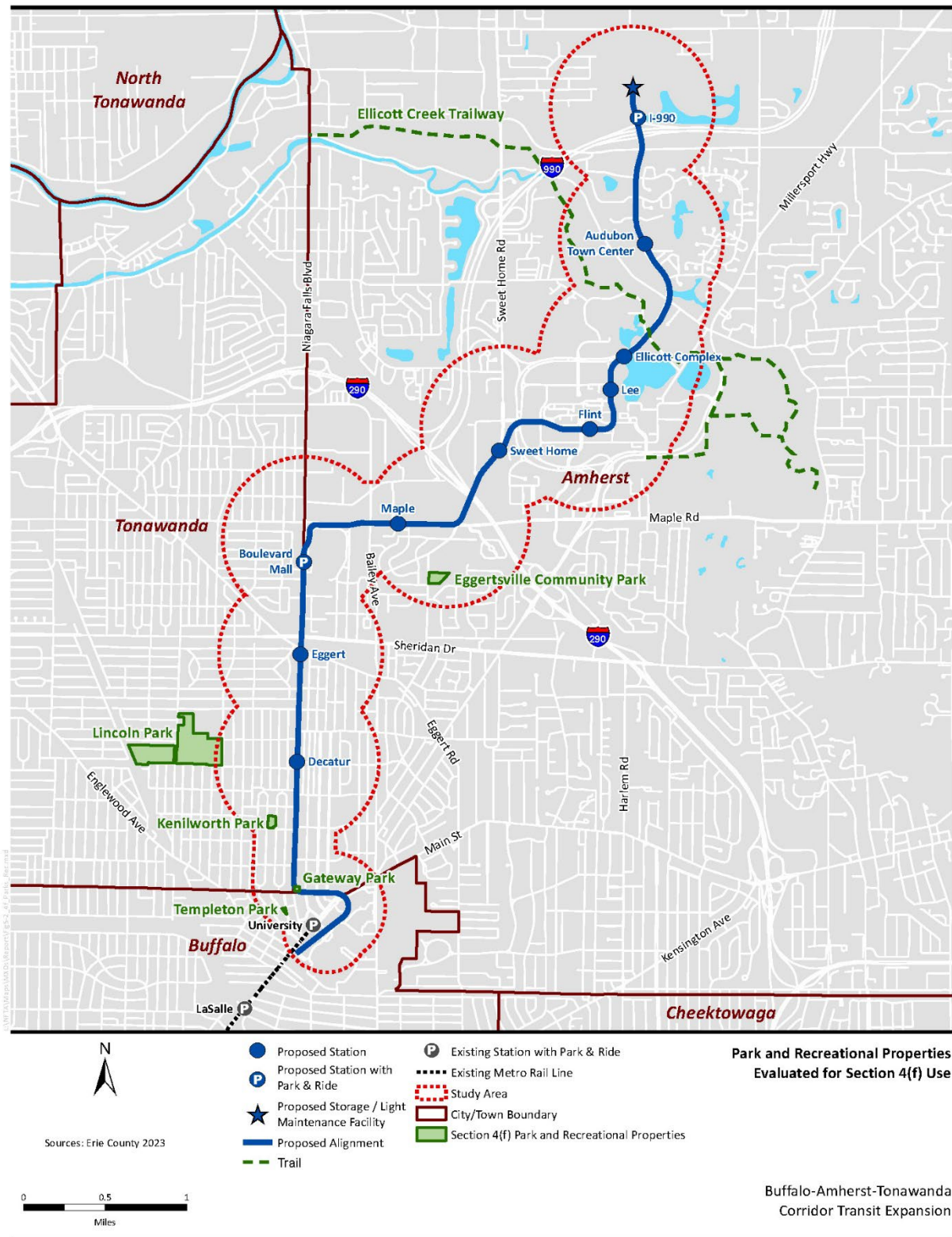
No wildlife or waterfowl refuges were identified within the study area. There would be no permanent incorporation, temporary use, or a constructive use of any wildlife/waterfowl resources under either the LRT Build Alternative or BRT Build Alternative; therefore, neither Build Alternative would result in the use of any wildlife/waterfowl refuges protected under Section 4(f).

All public parks and recreational properties within 0.25-miles on either side of the alignment of the LRT Build Alternative and the BRT Build Alternative and a 0.5-mile radius around the proposed station locations were analyzed for further evaluation of potential Section 4(f) use. Table D-2 lists the parks adjacent to the Project alignment and determinations of Section 4(f) use for each Build Alternative. Figure D-2 shows the locations of these parks. Parks and recreational properties subject to further evaluation under Section 4(f) include Gateway Park and Ellicott Creek Trailway. The Project would result in a *de minimis* use of these two Section 4(f) properties.

Table D-2. Park and Recreational Properties Evaluated for Section 4(f) Use

Name	Address	Section 4(f) Use	
		LRT Build Alternative	BRT Build Alternative
Templeton Park	Bellevue Avenue, Buffalo, NY	No Use	No Use
Gateway Park	159 Niagara Falls Boulevard, Amherst, NY	<i>De minimis</i>	No Use
Kenilworth Park	Tonawanda, NY	No Use	No Use
Lincoln Park	299 Decatur Road, Amherst, NY	No Use	No Use
Eggertsville Community Park	845 Sweet Home Road, Amherst, NY	No Use	No Use
Ellicott Creek Trailway	Amherst, NY	<i>De minimis</i>	<i>De minimis</i>

Figure D-2. Park and Recreational Properties Evaluated for Section 4(f) Use



Source: Erie County, 2019, Town of Amherst Bike & Exercise Paths, 2001

Gateway Park

DESCRIPTION AND SIGNIFICANCE OF PROPERTY

Gateway Park is defined as a neighborhood park by the Town of Amherst located on the corner of Niagara Falls Boulevard and Kenmore Avenue. The Town of Amherst created the park using grant funds received from the Dormitory Authority of the State of New York (DASNY). The site was a former gas station and commercial property. In 2019, the Town demolished the commercial building on 143 Kenmore Avenue and obtained ownership of 159 Niagara Falls Boulevard.

With the DASNY grant funding, the Town created a focal point, serving as a gateway into the Town of Amherst from the surrounding neighborhoods of Buffalo, Tonawanda, and nearby Kenmore. The park provides eight parking spaces, a large lawn area with a shade structure, various benches and landscaping throughout the site, and an area of open space/grass pavers on the eastern section for stormwater filtration. The park is designed as a passive greenspace but could be used for smaller town events. There are additional features to enhance the nearby Metro bus stop such as a seating wall, trash receptacle, and bike rack. The closest Project station would be the proposed Decatur Station.

SIGNIFICANCE OF GATEWAY PARK AS A SECTION 4(F) PROPERTY

At the time of the publication of the DEIS, the determination of Gateway Park's significance had not been made. The process of deciding the significance requires coordination with the owner of Gateway Park, which is the Town of Amherst and includes comparing the availability and function of Gateway Park to the Town of Amherst's objectives and definition of the function of Gateway Park. The final decision of Section 4(f) applicability of a property belongs to the federal agency, but the federal agency relies upon the Town of Amherst to identify if the property is significant. Following the publication of the DEIS, FTA determined that Gateway Park is significant; and therefore, considered a Section 4(f) resource.

SECTION 4(F) USE ASSESSMENT DURING CONSTRUCTION

During construction of the LRT Build Alternative, there would be a Temporary Use of Gateway Park. As described in Section 4.17, "Construction Effects," of the DEIS, Gateway Park would be closed to construct the LRT Build Alternative cut-and-cover tunnel section and has been identified as a potential staging area for tunnel construction. The staging area would also be used for storage and preparation of precast type segments, ventilation lines, shaft support (air, water, electricity), workshops, mixing and processing slurry for excavation, and post-excavation slurry treatment. It is anticipated that LRT Build Alternative tunnel construction would last for 12 months, and during this time the Gateway Park would not be open to the public. Metro will minimize impacts on the park by restoring the surface of the park to its pre-construction condition following construction. Once completed, no LRT infrastructure would reach the surface of the park as it will be approximately thirty (30) feet below the park surface. The Town of Amherst will retain ownership of the park minus the subsurface easement. The proposed temporary activities including mitigation would not significantly affect the activities, features, or

attributes of the affected park properties and therefore qualifies for Section 4(f) *de minimis* impact finding.

SECTION 4(F) USE ASSESSMENT AFTER CONSTRUCTION

Following the construction of the LRT Build Alternative, an underground permanent easement will be required to operate the LRT Build Alternative which constitutes a Direct Project Use of Gateway Park. Following construction, there will be no surface infrastructure present at Gateway Park that is required to operate the LRT Build Alternative. Following construction, the park will be restored to the condition in which it was originally found, and ownership will remain with the Town of Amherst. As a result, this Direct Use of Gateway Park is *de minimis* because the Project would not adversely affect the features, attributes, or activities qualifying the property for protection under Section 4(f).

Ellicott Creek Trailway

DESCRIPTION AND SIGNIFICANCE OF PROPERTY

Ellicott Creek Trailway is a multiuse path that travels along Ellicott Creek for 7.2 miles from Niagara Falls Boulevard and Irwin Place to North Forest Road and Maple Road. The Town of Amherst's Comprehensive Plan notes the Ellicott Creek Trailway as an active recreational facility that is regularly maintained and patrolled by public safety officials. The asphalt path is used for biking, walking, running, and rollerblading. The trailway intersects the Project study area at John James Audubon Parkway and Frontier Road. The trailway currently crosses Frontier Road and Lee Road just south of their intersections with John James Audubon Parkway. The trailway parallels the southbound side of John James Audubon Parkway between Frontier Road and Lee Road and crosses Ellicott Creek using the existing piers remaining from a former section of the John James Audubon Parkway northbound vehicular lanes. A portion of the trailway also passes under the John James Audubon Parkway bridge over Ellicott Creek.

SECTION 4(F) USE ASSESSMENT

During construction of the LRT Build Alternative and BRT Build Alternative, there would be a Temporary Use of the Ellicott Creek Trailway. The existing pedestrian bridge, that crosses Ellicott Creek, would be relocated slightly southeast to accommodate a new bridge deck for the LRT Build Alternative and BRT Build Alternative. The Project will reposition the pedestrian bridge deck using the existing piers remaining from a former section of the John James Audubon Parkway northbound lanes. The Project will also reconstruct the trailway connection under the bridge.

The relocation of the Ellicott Creek Trailway pedestrian bridge would constitute a Temporary Use, and construction activities associated with moving the pedestrian bridge deck are anticipated to take approximately one to two weeks. Following these construction activities, the trailway will be restored to its original condition. During this short repositioning of the trailway bridge, the Project will coordinate with the Town of Amherst to notify the community and define reasonable detour routes. As a result, the Temporary Use of the Ellicott Creek Trailway is

considered *de minimis*, because the short duration of the closure will not meaningfully or substantially deprive the public of access to the bridge.

D.4 AGENCY COORDINATION AND PUBLIC ENGAGEMENT

D.4.1 Coordination with Officials with Jurisdiction

As required by the Section 4(f) regulations (23 CFR 774.5), the Draft Section 4(f) Evaluation for the Project was provided for coordination and comment to the officials with jurisdiction over the Section 4(f) resources that would be potentially used by the Project. For historic properties, the official with jurisdiction is SHPO. FTA made Section 106 effects findings for the historic resources, and SHPO provided concurrence with the findings as shown through correspondence provided in Appendix B2, “Section 106 Correspondence” of this FEIS.

FTA afforded an opportunity for SHPO and Cooperating and Participatory agencies to review a Draft Section 4(f) Evaluation prior to public release of the DEIS and during the public review of the DEIS. During public review of the DEIS, FTA received substantive comments from two agencies on the Draft Section 4(f) Evaluation – the United States Department of the Interior (DOI) and the Town of Amherst (see “Section 4(f) Correspondence” for a copy of the letter). In response, FTA made Section 106 effects findings for the historic resources, and SHPO provided concurrence with the findings.

During public review of the DEIS, FTA received substantive comments from two agencies on the Draft Section 4(f) Evaluation. The following summarizes the comments received specific to the Section 4(f) Evaluation.

In a letter dated September 5, 2025, (see “Section 4(f) Agency Correspondence” of this appendix for a copy of the letter), the U.S. Department of the Interior stated that:

- At this time, there are still several outstanding issues for the Department to concur with FTA’s determination that Build Alternatives would result in a *de minimis* impact or no use under Section 4(f) on the 16 identified Section 4(f) resources in the Project area.
- FTA has determined that there will be no adverse effect to historic properties in the area under Section 106. In correspondence with the New York State Historic Preservation Office (NY SHPO) dated January 25, 2024, FTA made the determination that the Project (LRT Build Alternative and BRT Build Alternative) would result in no adverse effects to Built Historic Properties; however, the Project would permanently incorporate land from four historic properties and result in a *de minimis* use of Section 4(f) properties.
- In that response letter, NY SHPO requested a Phase 1B archaeological testing plan. We understand that a Phase 1B archaeological investigation and its findings will be included within the Final EIS. As documented in Appendix F5, “Archaeological Testing Work Plan” of the DEIS a Phase 1B testing plan was submitted to NY SHPO for review and comment on

February 16, 2024. The findings of the Phase 1B Field Investigation will determine the presence or absence of archaeological resources in this area; FTA will enter into a Project-specific Memorandum of Agreement to provide stipulations for future investigations and ways to avoid, minimize, or resolve any adverse effects to archaeological resources as a result of the construction of the Project. FTA will continue to consult with the NY SHPO and other consulting parties to develop the Memorandum of Agreement and identify additional measures and responsibilities to avoid, minimize, and mitigate potential adverse effects to archaeological resources protected under Section 4(f).

- FTA is coordinating the potential temporary occupancy of Gateway Park and Ellicott Creek Trailway Bridge with the Town of Amherst, the Officials with Jurisdiction (OWJ), over the Section 4(f) resources. Prior to making Section 4(f) approvals, FTA must coordinate with these officials and provide the Section 4(f) evaluation for comment, and the officials having jurisdiction over the Section 4(f) lands must agree in writing with the assessment of impacts the Project would have on Section 4(f) resources and any proposed mitigation.
- Since there are several outstanding issues (Section 106 and OWJ concurrence), the Department cannot concur at this time that all possible planning was done to minimize harm to and mitigate adverse effects to Section 4(f) resources. The Department encourages FTA to continue to work with the OWJ and NY SHPO to resolve the outstanding issues, and once they are resolved, the Department can provide its concurrence at that time.

In a letter dated September 8, 2025, (see “Section 4(f) Agency Correspondence” of this appendix for a copy of the letter), the Town of Amherst stated that:

- The Town has considered how the construction and operation of the transit extension will affect Gateway Park and offers the following with regard to its significance as a Section 4(f) resource. The Town understands that for a portion of the construction period, Gateway Park will be unavailable for use. During construction and as Gateway Park is re-established, the Town desires that the following be explored and implemented through an agreement between the NFTA and the Town:
 - The NFTA will make every effort to reduce the impact of construction on the current bus routes and riders at this intersection.
 - Any remaining hazardous materials located at or within the public rights-of-way near the park site must be remediated during construction
 - Properties located directly adjacent to Gateway Park that are determined to be full acquisitions by the NFTA during the construction process will be added to the overall park space and ownership of these parcels will be transferred to the Town
 - The NFTA will work with the Town to explore ways to incorporate a variety of additional active and passive recreational opportunities at the park site
 - The substation at Gateway Park will be located underground

- The design and location of any necessary above ground infrastructure related to the light rail will be coordinated and agreed upon by the Town and NFTA

As a follow up to the comments submitted on September 8, 2025, the Town of Amherst submitted clarifying information regarding the evaluation of Gateway Park as a potentially protected resource under Section 4(f) of the U.S. Department of Transportation Act, as codified in Title 23, Code of Federal Regulations (CFR), Part 774. In a letter dated September 24, 2025, (see “Section 4(f) Agency Correspondence” of this appendix for a copy of the letter), the Town of Amherst stated that:

- As a stated goal within the Town of Amherst’s Bicentennial Comprehensive Plan and Recreation and Parks Master Plan, the Town is committed to establishing and maintaining a network of park and recreational spaces to enhance the quality of life for Town residents and visitors alike. This includes providing high-quality amenities and facilities throughout our system of parks to create better user experiences, increase functionality, and elevate levels of community satisfaction.
- Gateway Park is a newer addition to the Town’s Park system with its opening in 2023. Located on the corner of Niagara Falls Boulevard and Kenmore Avenue, Gateway Park currently functions as a passive park that includes eight parking spaces, a small lawn area with a shade structure, bench seating and landscaping, and an area of open space/grass pavers for stormwater filtration. The park currently lacks active recreational amenities such as a playground; has limited programming; and its limited parking constrains its capacity to host large events.
- In light of the current conditions and functionality of Gateway Park the Town has determined that it does not meet the criteria of a “significant” public park resource as defined under Section 4(f) regulations. As noted in the September 8, 2025 letter, the Town has considered how the construction and operation of the transit extension will affect Gateway Park. The Town understands that for a portion of the transit construction period Gateway Park will be unavailable for use and will be restored to a condition that is the same or better than today upon Project completion. As the letter states, the Town requests the NFTA to identify opportunities following Project construction to implement enhancements to the park that align with the Town’s long-range park planning goals. This may include identifying opportunities to incorporate additional active and passive recreational resources to the site, improving the park’s accessibility, and expanding the site’s footprint to accommodate additional users and amenities.

As stipulated in 23 CFR, Part 774.5(b)(2)(ii), and after considering the Town’s comments included in the September 8, 2025 and September 24, 2025 letters as they relate to the evaluation of Gateway Park as a potentially protected resource as defined under Section 4(f) regulations, Metro submitted a letter dated November 25, 2025, informing the Town of FTA’s intent to make a *de minimis* impact finding for both Gateway Park and the Ellicott Creek Trailway. The letter

also requested the Town's concurrence that the Project will not adversely affect the activities, features, or attributes that make the properties eligible for Section 4(f) protection (see "Section 4(f) Correspondence" in this appendix for a copy of the letter.)

In a letter dated January 16, 2026, the Town of Amherst indicated their concurrence with FTA's *de minimis* impact finding (see "Section 4(f) Correspondence" in this appendix for a copy of the letter.) In a letter dated January 29, 2026, the DOI indicated their concurrence with FTA's *de minimis* impact finding (see "Section 4(f) Correspondence" in this appendix for a copy of the letter.)

Metro has committed to considering the proposed mitigation measures outlined by the Town in their September 8, 2025 and September 24, 2025 letters. Metro will minimize impacts on the park by restoring the surface of the park to its pre-construction condition following construction. Once completed, no LRT infrastructure would reach the surface of the park as it will be 30 feet deep. The Town of Amherst will retain ownership of the park minus the subsurface easement. FTA has determined that the proposed permanent and temporary activities including mitigations described above would not significantly affect the activities, features, or attributes of the affected park properties and therefore qualify for Section 4(f) *de minimis* impact finding.

D.4.2 Public Involvement

The Draft Section 4(f) Evaluation was made available for public review and comment during the public review period for the DEIS. Written comments (mail and email) and oral submissions at the public hearing were accepted through the public comment period. During the public comment period, copies of the DEIS and Draft Section 4(f) Evaluation were made available for review on the Project's website (www.nftametrotransitexpansion.com) and at a number of publicly accessible repositories. In addition, a public hearing was held by FTA and Metro.

FTA did not receive substantive comments on the Section 4(f) Evaluation during the public review of the DEIS except for the letters from DOI and the Town of Amherst described in section D.4.1 and in Appendix C, Summary of Comments and Responses.

On December 11, 2025, FTA published their intent to make a final Section 4(f) *de minimis* finding in the *Amherst Bee*, initiating a 15-day comment period. Additional notices were posted at Gateway Park and the Ellicott Creek Trailway Bridge to solicit public comments. No comments related to Section 4(f) were received during the comment period.

D.5 SECTION 4(F) DETERMINATION

As described in Section D.3, the Project would result in use of the following Section 4(f) properties:

- University at Buffalo South Campus
- Lincoln Park Village

- Marvin Gardens
- University at Buffalo North Campus
- Gateway Park
- Ellicott Creek Trailway

However, impacts associated with the Project would not adversely affect the activities, features, and attributes that qualify these properties for protection under Section 4(f). Therefore, after considering measures to minimize harm (such as any avoidance, minimization, mitigation, or enhancement measures), the FTA has determined that, pursuant to 23 CFR 774(b), the impacts associated with uses of each of these Section 4(f) properties would be *de minimis*. As a result, a discussion of avoidance alternatives is not required. Letters of concurrence from the agencies with jurisdiction over these Section 4(f) properties are included in this appendix.

Section 4(f) Correspondence



United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
5 Post Office Square, Room 18011
Boston, MA 02109

September 5, 2025

4111

IN REPLY REFER TO:
ER 25/0383

Jeffery Amplement
Project Manager
Niagara Frontier Transportation Authority
181 Ellicott Street
Buffalo, NY 14203

Subject: Buffalo-Amherst-Tonawanda Transportation Corridor Transit Expansion – Draft
Section 4(f) Evaluation

Dear Mr. Amplement:

The Department of the Interior (Department) reviewed the draft Section 4(f) evaluation for the Buffalo-Amherst-Tonawanda Corridor Transit Expansion Project being proposed by the Niagara Frontier Transit Metro System, Inc. (Metro) and the Federal Transit Administration (FTA), the lead Federal agency. The proposed project would expand the public transportation system that connects downtown Buffalo with the State University of New York at Buffalo North Campus. The project would expand the present service to include transit service from the current terminus at the Metro Rail University Station to existing and emerging activity centers in Amherst and Tonawanda.

We offer the following comments on this project:

Section 4(f) Evaluation Comments

At this time, there are still several outstanding issues for the Department to concur with FTA's determination that build alternatives would result in a *de minimis* impact or no use under Section 4(f) on the 16 identified Section 4(f) resources in the project area.

FTA has determined that there will be no adverse effect to historic properties in the area under Section 106. In correspondence with the New York State Historic Preservation Office (NY SHPO) dated January 25, 2024, FTA made the determination that the Project (LRT Build Alternative and BRT Build Alternative) would result in no adverse effects to Built Historic Properties; however, the project would permanently incorporate land from four historic properties and result in a *de minimis* use of Section 4(f) properties.

In that response letter, NY SHPO requested a Phase IB archaeological testing plan. We

understand that a Phase IB archaeological investigation and its findings will be included within the Final EIS. As documented in Appendix F5, “Archaeological Testing Work Plan,” a Phase IB testing plan was submitted to NY SHPO for review and comment on February 16, 2024. The findings of the Phase 1B Field Investigation will determine the presence or absence of archaeological resources in this area; FTA will enter into a project-specific Memorandum of Agreement to provide stipulations for future investigations and ways to avoid, minimize, or resolve any adverse effects to archaeological resources as a result of the construction of the project. FTA will continue to consult with the NY SHPO and other consulting parties to develop the Memorandum of Agreement and identify additional measures and responsibilities to avoid, minimize, and mitigate potential adverse effects to archaeological resources protected under Section 4(f).

FTA is coordinating the potential temporary occupancy of Gateway Park and Ellicott Creek Trailway Bridge with the Town of Amherst, the Officials with Jurisdiction (OWJ), over the Section 4(f) resources. Prior to making Section 4(f) approvals, FTA must coordinate with these officials and provide the Section 4(f) evaluation for comment, and the officials having jurisdiction over the Section 4(f) lands must agree in writing with the assessment of impacts the proposed project will have on Section 4(f) resources and any proposed mitigation.

Since there are several outstanding issues (Section 106 and OWJ concurrence), the Department cannot concur at this time that all possible planning was done to minimize harm to and mitigate adverse effects to Section 4(f) resources. The Department encourages FTA to continue to work with the Officials with Jurisdictions and NY SHPO to resolve the outstanding issues, and once they are resolved, the Department can provide its concurrence at that time.

We appreciate the opportunity to provide these comments. If you have any questions, please contact Mark Eberle, NPS, at mark_eberle@nps.gov. Please feel free to reach out to me at andrew_raddant@ios.doi.gov if I can be of further assistance.

Sincerely,

**ANDREW
RADDANT**

Digitally signed by
ANDREW RADDANT
Date: 2025.09.05
14:09:17 -04'00'

Andrew L. Raddant
Regional Environmental Officer

Electronic distribution: Jeffery Amplement, NFTA, transitexpansion@nfta.com

cc: SHPO-NY (Daniel.Mackay@parks.ny.gov)
Mark Eberle, NPS (Mark_Eberle@nps.gov)

September 8, 2025

Mr. Jeffery Amplement, Project Manager
Metro Transit Expansion Project
Niagara Frontier Transportation Authority
181 Ellicott Street
Buffalo, NY 14203

Dear Mr. Amplement,

The Town appreciates the opportunity to review the Niagara Frontier Transportation Authority's (NFTA) Draft Environmental Impact Statement (DEIS) and Draft Section 4(f) Evaluation for the Buffalo-Amherst-Tonawanda Corridor Transit Expansion project into Amherst. Town review comments for both issues are discussed below.

The Town of Amherst supports the expansion of mobility options, including enhanced transit, to provide accessible, reliable and more frequent transportation for residents and visitors. The Town also recognizes that enhanced transit will also spur transit-oriented development (TOD) that provides great potential for economic vitality, encourages additional housing options, and reduces traffic.

After reviewing the DEIS this past spring during a preliminary agency review and again during this National Environmental Policy Act (NEPA) and State Environmental Quality Review (SEQR) stage the Town continues to have the following concerns:

- **Boulevard Mall Property:** The alignment of the proposed light rail line along the Niagara Falls Boulevard and Maple Road frontages of the Boulevard Mall property disconnects it from these important roadways and a major multi-jurisdictional intersection. The Town desires that the alignment avoid this location to preserve the connection and visibility of the property to these streets and to be better integrated with potential future redevelopment of the site.
- **Noise and Vibration in Residential Neighborhoods:** The addition of the proposed light rail service along the southern portion of Niagara Falls Boulevard and into the Audubon Community along John James Audubon Parkway represents a major change to the current character of these areas. Noise impacts should be minimized by using any means necessary. Options to be explored should include reduced speeds, reduction in bell chimes and horns from trains, buffer elements such as landscaping, berms or walls / sound barriers where appropriate, noise dampening wheel skirts, and other noise reducing measures. The Town would like assurances that maintenance will occur regularly and replacement of obsolete track and/or train equipment will occur at the earliest opportunity. Should advancing technologies produce new noise reducing measures, these should be explored and implemented into the transit system. The effects of vibration on surrounding properties should be minimized during construction and normal train operations through identified appropriate mitigation measures and by full property acquisitions if impacts cannot be addressed.
- **Traffic and Pedestrian Patterns:** The introduction of light rail service that is center-running along Niagara Falls Boulevard and Maple Road will disrupt vehicular traffic patterns and cause trips to be diverted into surrounding neighborhood streets. Non-signalized intersections will be less accessible, employees and residents will face challenges making alternative movements to access their homes or businesses, making full evaluation of access management measures along the corridor a necessity. The Town also has concerns regarding pedestrian and bicycle movements, such as those trying to access the light rail in the middle of the roadway and/or those trying to cross the street; proper safety measures that reduce potential conflicts must be employed to ensure safety.

The Town has considered how the construction and operation of the transit extension will affect Gateway Park and offers the following with regard to its significance as a Section 4(f) resource. The Town understands that for a portion of the construction period, Gateway Park will be unavailable for use. During construction and as Gateway Park is re-established, the Town desires that the following be explored and implemented through an agreement between the NFTA and the Town:

- The NFTA will make every effort to reduce the impact of construction on the current bus routes and riders at this intersection.
- Any remaining hazardous materials located at or within the public rights-of-way near the park site must be remediated during construction
- Properties located directly adjacent to Gateway Park that are determined to be full acquisitions by the NFTA during the construction process will be added to the overall park space and ownership of these parcels will be transferred to the Town
- The NFTA will work with the Town to explore ways to incorporate a variety of additional active and passive recreational opportunities at the park site
- The substation at Gateway Park will be located underground
- The design and location of any necessary above ground infrastructure related to the light rail will be coordinated and agreed upon by the Town and NFTA

Please contact myself or Daniel Howard (dhoward@amherst.ny.us) at (716) 631-7051 with any questions or necessary clarification of the Town's comments. We look forward to the NFTA's responses to our comments in the Final Environmental Impact Statement (FEIS). We are happy to have continued cooperation on this important project.

Best Regards,



Brian Kulpa
Supervisor
Town of Amherst

DH/KA/ac

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Town of Amherst

September 24, 2025

Mr. Jeffery Amplement
Planning Project Manager
Metro Transit Expansion Project
Niagara Frontier Transportation Authority
181 Ellicott Street
Buffalo, NY 14203

Re: NFTA-Metro Buffalo-Amherst-Tonawanda Corridor Transit Expansion – Section 4(f) Evaluation for Gateway Park

Dear Mr. Amplement:

As a follow up to our previous comments on the Niagara Frontier Transportation Authority's (NFTA) Draft Environmental Impact Statement and Draft Section 4(f) Evaluation for the Buffalo-Amherst-Tonawanda Corridor Transit Expansion Project (the Project) submitted on September 8, 2025, the Town of Amherst (the Town) respectfully submits the following clarifying information regarding the evaluation of Gateway Park as a potentially protected resource under Section 4(f) of the U.S. Department of Transportation Act, as codified in Title 23, Code of Federal Regulations (CFR), Part 774.

As a stated goal within the Town of Amherst's Bicentennial Comprehensive Plan and Recreation and Parks Master Plan, the Town is committed to establishing and maintaining a network of park and recreational spaces to enhance the quality of life for Town residents and visitors alike. This includes providing high-quality amenities and facilities throughout our system of parks to create better user experiences, increase functionality, and elevate levels of community satisfaction.

Gateway Park is a newer addition to the Town's Park system with its opening in 2023. Located on the corner of Niagara Falls Boulevard and Kenmore Avenue, Gateway Park currently functions as a passive park that includes eight parking spaces, a small lawn area with a shade structure, bench seating and landscaping, and an area of open space/grass pavers for stormwater filtration. The park currently lacks active recreational amenities such as a playground; has limited programming; and its limited parking constrains its capacity to host large events.

In light of the current conditions and functionality of Gateway Park the Town has determined that it does not meet the criteria of a "significant" public park resource as defined under Section 4(f) regulations. As noted in our letter of September 8, 2025 providing comment on the Project's DEIS, the Town has considered how the construction and operation of the transit extension will affect Gateway Park. The Town understands that for a portion of the transit construction period Gateway Park will be unavailable for use and will be restored to a condition that is the same or better than today upon Project completion. As the letter states, the Town requests the NFTA to identify opportunities following Project construction to implement enhancements to the park that align with the Town's long-range park planning goals. This may include identifying opportunities to incorporate additional active and passive recreational resources to the site, improving the park's accessibility, and expanding the site's footprint to accommodate additional users and amenities.

Please contact Daniel Howard (dhoward@amherst.ny.us) at 716-631-7051 with any questions on this determination. We look forward to working with the NFTA throughout the Project to re-envision a future for Gateway Park that best meets the needs of our community.

Sincerely,

Brian Kulpa
Supervisor
Town of Amherst



181 Ellicott Street
Buffalo, New York 14203
716-855-7300
Fax: 716-855-7657
TDD: 855-7650
www.nfta.com

November 25, 2025

Mr. Dan Howard, Planning Director
Town of Amherst Planning Department
5583 Main Street
Williamsville, NY 14221

Re: NFTA-Metro Buffalo-Amherst-Tonawanda Corridor Transit Expansion Project – Notification of Proposed Temporary Use of Gateway Park and Ellicott Creek Trailway and Request for Concurrence with Section 4(f) De minimis Impact Finding

Dear Mr. Howard:

The Federal Transit Administration (FTA) must comply with Section 4(f) of the U.S. Department of Transportation (U.S. DOT) Act of 1966 (Section 4(f)), now codified in 49 U.S.C. §303(c), and its enabling regulations in 23 CFR §774. Section 4(f) stipulates that U.S. DOT agencies (including FTA) cannot approve a federally-funded undertaking requiring use of land from publicly owned parks, recreational areas, wildlife and waterfowl refuges unless there is no feasible and prudent alternative to the use of property or if the official(s) with jurisdiction over the property concur that the federally-funded undertaking would have only a de minimis impact on the affected property. The Niagara Frontier Transportation Authority (NFTA) is seeking FTA funds for construction of the proposed Buffalo-Amherst-Tonawanda Corridor Transit Expansion Project (the Project). Consequently, FTA and NFTA are requesting written Town of Amherst (the Town) concurrence with FTA's proposed Section 4(f) de minimis impact finding as defined in 23 CFR §774.17, conditioned on activities and measures to avoid, minimize and mitigate impacts described below.

FTA and NFTA issued the Draft Environmental Impact Statement (DEIS) for the Project on July 25, 2025. As presented in the DEIS both the Light Rail Transit Build Alternative (LRT Build Alternative) and the Bus Rapid Transit Build Alternative (BRT Build Alternative) would require temporary use of a mapped park (Gateway Park) and trailway (Ellicott Creek Trail) in connection with the construction of the Project. The details of the Project's proposed temporary use, including NFTA's proposed actions to avoid, minimize and mitigate impacts include:

Gateway Park

Should the LRT Build Alternative be selected and implemented, the planned work at Gateway Park would close the park for approximately **12** months during construction. The undertaking would require excavation in the park for cut-and-cover tunnel construction and use of the rest of the park for construction staging activities including equipment and materials storage; preparation of precast structural segments; rail utilities (air, water, electricity); and mixing and processing slurry for excavation and post-excavation slurry treatment. Following construction, the LRT Build Alternative will require a permanent underground easement below the park, which also constitutes a Section 4(f) use.

NFTA will minimize impacts on the park by restoring the surface of the park to its pre-construction condition following construction. Once completed, no LRT infrastructure would reach the surface of the park. The Town will retain ownership of the park minus the subsurface easement.

Ellicott Creek Trail

During construction of either the LRT Build Alternative or the BRT Build Alternative, NFTA would require temporary use of the Ellicott Creek Trailway. To facilitate construction of a new transit bridge deck for either the LRT or BRT Build Alternative, NFTA would relocate the existing pedestrian bridge across Ellicott Creek to the existing piers remaining from a former section of the John James Audubon Parkway northbound lanes bridge slightly to the southeast of the current location. NFTA would also reconstruct the trailway connection under the bridge. The relocation of the Ellicott Creek Trailway pedestrian bridge would take approximately one to two weeks. During the relocation, the trailway river crossing will not be open for use.

Prior to repositioning the trailway bridge, NFTA will coordinate with the Town to notify the community and define reasonable detour routes. Following relocation, the trailway bridge will remain at the new location for public use.

Section 4(f) De minimis Impact Requirements

23 CFR §774.17 defines a de minimis impact on park and recreation properties as one that will not adversely affect the activities, features, or attributes qualifying the property for protection under Section 4(f).

Pursuant to 23 CFR §774.5, FTA is required to provide an evaluation of impacts for coordination and comment to the official(s) with jurisdiction over the Section 4(f) resource before making a de minimis impact finding pursuant to 23 CFR §774.3(b). Said coordination consists of the following:

- 23 CFR §774.5(b)(2)(i) stipulates that NFTA and FTA must provide public notice and an opportunity for public review and comment concerning the effects on the protected activities, features, and attributes of the Section 4(f) properties. To solicit public feedback on the proposed Project activities and impacts, NFTA will post a public notice of the Project work description at both proposed work sites, on the Project website and in a local newspaper seeking public comments. The public comment period will be **30 days**.
- 23 CFR §774.5(b)(2)(ii) stipulates that FTA shall inform the Town of its intent to make a de minimis impact finding. Following the opportunity for public review and comment, the Town must concur in writing that the Project will not adversely affect the activities, features, or attributes that make the property eligible for Section 4(f) protection. This letter constitutes FTA's request for the Town's concurrence with a Section 4(f) de minimis finding.

NFTA and FTA believe that the proposed permanent and temporary activities including mitigations described above would not significantly affect the activities, features, or attributes of the affected park properties and therefore qualify for a Section 4(f) de minimis impact finding.

If the Town concurs with FTA's and NFTA's proposed finding, we request your concurrence via signature on the signature line provided below. This Section 4(f) concurrence letter is not intended to be a final legally binding contract and is intended primarily to fulfill FTA's legal requirement under Section 4(f). FTA anticipates that it will serve as the basis for subsequent formal agreement(s) between NFTA and the Town guaranteeing the details of the park acquisitions and mitigation conditions described above.

If you have any questions about the Project or the proposed Section 4(f) determination, or if the Town requires additional conditions for your concurrence, please feel free to reach out to James Goveia at 212-668-2325 or james.goveia@dot.gov.

Sincerely,



Jeffery Amplement
Planning Project Manager, NFTA-Metro

Concurred by:

Shawn Levin, Supervisor 16 Jan 26'
Print Name, Title Date

SS
Signature



United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
Washington, DC 20240

4111

January 29, 2026

IN REPLY REFER TO:
ER 25/0383

Jeffery Amplement
Project Manager
Niagara Frontier Transportation Authority
181 Ellicott Street
Buffalo, NY 14203

RE: Buffalo-Amherst-Tonawanda Transportation Corridor Transit Expansion – Section 4(f)
Evaluation

Dear Mr. Amplement:

The Department of the Interior (Department) reviewed the Section 4(f) evaluation for the Buffalo-Amherst-Tonawanda Corridor Transit Expansion Project proposed by the Niagara Frontier Transit Metro System, Inc. (Metro) and the Federal Transit Administration (FTA), the lead Federal agency. The proposed project would expand the public transportation system that connects downtown Buffalo with the State University of New York at Buffalo North Campus.

We offer the following comments on this project:

Section 4(f) Evaluation Comments

On September 5, 2025, the Department provided a comment letter on the draft Section 4(f) evaluation. At the time, the Department did not concur that all possible planning was done to minimize harm to and mitigate adverse effects to Section 4(f) resources because of outstanding issues with the Section 106 process and coordination with the proper Officials with Jurisdiction (OWJ). In January 2026, the Department received additional information from FTA. This included notice of FTA's determination that the build alternatives would result in a *de minimis* impact or no use under Section 4(f) on the 16 identified Section 4(f) resources in the project area.

We understand that FTA determined that there will be no adverse effect under Section 106 to historic properties found in the project area, and the New York State Historic Preservation Office (NY SHPO) concurred with that determination in a correspondence dated November 25, 2025. We also understand that FTA coordinated the potential temporary occupancy of Gateway Park and Ellicott Creek Trailway Bridge with the Town of Amherst, the OWJ, over the Section 4(f) resources. FTA received concurrence on the *de minimis* determination from the town on January 16, 2026. The Department now concurs that all possible planning was done to minimize harm to and mitigate adverse effects to Section 4(f) resources.

TRANSMITTED ELECTRONICALLY – NO HARDCOPY TO FOLLOW

We appreciate the opportunity to provide these comments. If you have any questions regarding these comments, please contact Mark Eberle, the National Park Service, at mark_eberle@nps.gov.

Sincerely,

STEPHEN TRYON

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Date: 2026.01.29 13:07:04 -05'00'

Stephen G. Tryon
Director, Office of Environmental Policy and Compliance

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