U.S. Department of Transportation
**Federal Highway Administration**

**Texas Division**

300 E. 8th Street, Room 826
Austin, TX 78701
Tel (512)536-5950
Fax (512) 536-5990
Texas.fhwa@dot.gov

January 28, 2011

Finding of No Significant Impact (FONSI)
and Nationwide 4(f) Determinations and
Approvals for Net Benefit to Section 4(f)
Property

DMO 2005 ( )
IH 35E Middle: From President George Bush Turnpike to FM 2181
Dallas and Denton Counties
CSJs: 0196-02-068, 0196-01-096, 0196-
02073, 0196-02-114, 0196-03-245

Ms. Dianna F. Noble, P.E.
Director, Environmental Affairs Division
Texas Department of Transportation
125 E. 11th Street
Austin, TX 78701

Dear Ms. Noble:

We have thoroughly reviewed our records on this project which include, but are not limited to, the Revised Environmental Assessment (EA) that included the Draft Nationwide 4(f) Evaluations for Net Benefit to Section 4(f) Property (Draft Net Benefit Evaluation) dated January 2011, and the revised Public Hearing Summary and Analysis (which includes responses to public comments) prepared by the Texas Department of Transportation (TxDOT) dated January 2011. Based upon our own agency review and consideration of the analysis and evaluation contained in the revised EA and Draft Net Benefit Evaluations, as documented in the enclosed Finding of No Significant Impact (FONSI) document and Final Net Benefit Determinations and Approvals, and after further consideration of all social, economic and environmental factors, including input from the public involvement process, we hereby issue a FONSI with Net Benefit Determinations and Approvals as attachments to the FONSI for Interstate Highway 35 East from President George Bush Turnpike to Farm to Market 2181 in Dallas and Denton Counties.

Based upon our own independent review and analysis we find that the January 2010 Final EA for the IH 35E Middle project analyzed and considered all of the relevant potential environmental impacts, mitigation and issues. FHWA finds that based upon the EA that: (1) the Build

RECOVERY.GOV

Alternative is the selected alternative for the IH 35E Middle project, (2) the Build Alternative best meets the purpose and need of the project with the least amount of impacts to the resource areas, and (3) the project when implemented with all the required mitigation and coordination as detailed above will have no significant impacts on the quality of the human or natural environment under NEPA. In addition, based on this review, we find that an Environmental Impact Statement (EIS) is not required for this project.

Sincerely,

Salvador Deocampo
District Engineer

Enclosures

FEDERAL HIGHWAY ADMINISTRATION

***FINDING OF NO SIGNIFICANT IMPACT (FONSI)***
***And***
***Nationwide/Programmatic Section 4(f) Evaluations and Approvals for Transportation Projects that have***
***Net Beneficial Use to Section 4(f) Properties (Programmatic Section 4(f) Net Benefit)***

For
IH 35E: FROM PRESIDENT GEORGE BUSH TURNPIKE TO FM 2181
DALLAS AND DENTON COUNTIES, TEXAS
TxDOT CSJs: 0196-02-068, 0196-01-096, 0196-02-073,
0196-02-114, 0196-03-245

## INTRODUCTION

The Federal Highway Administration (FHWA) has determined, in accordance with 23 CFR §771.119, §771.121 and §774.3(d), that the proposed project to widen IH 35E from President George Bush Turnpike (PGBT) to Farm-to-Market (FM) 2181, also known as IH 35E Middle, will not have a significant impact on the human or natural environment. This Finding of No Significant Impact (FONSI) for the preferred alternative is based on the January 2011 Final Environmental Assessment (EA). The draft EA was approved by FHWA for public involvement October 14, 2010. The Public Hearing Summary Report (which includes responses to public comments) was prepared by TxDOT in January of 2011 and is on file at the TxDOT – Dallas District office.

The January 2011 Final EA and the January 2011 Public Hearing Summary Report have been independently evaluated by FHWA, and determined to adequately and accurately discuss the need for, the purpose of, alternatives, environmental issues, and impacts of the proposed IH 35E widening project, and appropriate mitigation measures. These documents provide sufficient evidence and analysis for determining that an Environmental Impact Statement is not required. Finally, these documents are incorporated by reference into this decisional document. This decisional document also contains two additional decision documents as attachments A & B: Programmatic Section 4(f) Net Benefit Evaluations for Highland Park and Copperas Branch Park.

## PROJECT BACKGROUND

The Texas Department of Transportation (TxDOT) proposes the reconstruction of approximately 12 miles of Interstate Highway (IH) 35E within the City of Carrollton in Dallas County and the Cities of Lewisville, Highland Village, Lake Dallas, Corinth, and the Town of Hickory Creek in

Denton County, Texas. The project limits extend from President George Bush Turnpike (PGBT) to Farm-to-Market (FM) 2181. The reconstruction will result in:

- eight mainlanes (four in each direction);
- two to four collector distributor lanes (each direction) from south of PGBT to north of State Highway (SH) 121;
- four concurrent tolled High Occupancy Vehicles (HOV)/managed lanes in the center median of IH 35E;
- two, three, and four-lane continuous frontage roads in each direction along the entire project corridor including auxiliary lanes at the cross streets; and
- approximately 179 acres of right-of-way (ROW), including the use of 20.7 acres of U.S. Army Corps of Engineers (USACE) property and approximately 54 acres of easement.

The alignment will generally follow the existing alignment. Portions of the IH 35E alignment will be re-aligned to both the east and west of the existing facility from PGBT to approximately FM 407 to accommodate the reconstruction. At FM 407 the Denton County Transit Authority (DCTA)/Dallas Area Rapid Transit (DART) ROW runs generally parallel to the east side of IH 35E north to Denton Drive South. Due to the DCTA/DART ROW, the IH 35E alignment will re-align to the west of the existing facility from FM 407 to south of FM 2181. ROW for the reconstruction will generally be acquired from the west side of the existing IH 35E facility with portions of the ROW being acquired from the east side between Corporate Drive to Valley Ridge Boulevard in order to minimize impacts.

From Garden Ridge Boulevard to Denton Drive South, IH 35E presently occupies approximately 77.8 acres of USACE Property through a fee simple easement across Lewisville Lake. The project will incorporate continuous pedestrian sidewalks along each side of the Lewisville Lake bridge. The sidewalks will allow for the continuation of public-access to recreational amenities along the Trinity Trail hike and bike facility across Lewisville Lake. This portion of the Trinity Trail is the northward spine, formerly referred to as the Dalhoma Trail, of the regional Trinity Trails System.

In addition to these improvements, a Corridor Aesthetic Master Plan will be developed providing technical illustrative corridor design guidelines that include aesthetic design guidance for architectural and landscape highway design elements. Such elements will include roadway- and community-related elements, roadside elements, and landscape opportunities. The aesthetic design guidelines and Corridor Aesthetic Master Plan will ultimately function as a guiding tool related to context-sensitive design considerations for contractor implementation of the project.

***Existing Facility***

IH 35E Middle is within a primarily urbanized area with a few undeveloped areas adjacent to the ROW. The existing facility consists of six 12-foot (ft) mainlanes and has a posted speed limit of 60 miles per hour (mph). Additionally, there are two-lane frontage roads with a posted speed limit of 45 mph and a 24-ft median from PGBT to north of Lewisville Lake. The mainlanes are divided by a concrete traffic barrier (CTB) throughout the project limits. The existing ROW

varies from approximately 256 to 300 ft along the corridor. The inside shoulders of the mainlanes are 12-ft wide and the outside shoulders are 10-ft wide. The frontage roads consist of 12-ft lanes and are mostly continuous along the corridor with the exception of the Lewisville Lake bridge, where there are no frontage roads. The northbound frontage road merges into the mainlanes just north of FM 407 and resume at the Denton Drive South exit north of the lake. The southbound frontage road merges into the mainlanes just north of the lake and resumes immediately south of the lake.

There are 13 arterial streets and 1 rail line that cross (as an underpass or overpass) the existing facility within the project limits. Currently, 6 miles of parallel off-street bicycle facilities (to the east of IH 35E through Lewisville and Carrollton) exist near the project in the Cities of Lewisville, and Highland Village.

***Traffic Projections***

According to data obtained from the TxDOT's Planning and Programming (TPP) Division, the limits of the IH 35E Middle improvements are located within two traffic analysis sections. These sections, Belt Line Road to Valley Ridge Boulevard and Valley Ridge Boulevard to U.S. 377, include the IH 35E Middle section limits. The 2010 average daily traffic (ADT) from Belt Line Road to Valley Ridge Boulevard would be 200,300 ADT, and is projected to increase to 288,000 ADT in 2030. The 2010 ADT from Valley Ridge Boulevard to U.S. 377 would be 166,000 ADT. This is projected to increase to 242,100 ADT in 2030. The ADT for the two sections include both northbound and southbound mainlanes.

***Need and Purpose***

The project, which traverses Dallas and Denton Counties, is an essential element of the local and regional transportation system. Within the project area, IH 35E serves multiple purposes. It functions as an interstate and also serves as a major arterial serving local trips to and from work, school, shopping, etc. It also serves as an important regional commuter route connecting the Cities of Carrollton, Lewisville, Highland Village, Lake Dallas, Corinth and the Town of Hickory Creek, as well as neighboring developing communities.

The area adjacent to the IH 35E corridor between Dallas and Denton is in a state of rapid growth and continues to need substantial improvements to the existing transportation system. Between 1980 and 2000, the populations of Dallas and Denton Counties increased 42.5 percent and 202.5 percent, respectively. This growth pattern necessitates substantial transportation improvements to accommodate the projected increases in traffic demand to the already insufficient regional transportation system.

The purpose of the project is to address the transportation needs by increasing capacity, managing traffic congestion, improving mobility, and improving roadway deficiencies within the portions of Dallas and Denton counties through which the project traverses. The project will also serve to enhance the regional and national transportation system. The roadway expansion is consistent with local planning efforts.

## REVIEW OF THE EA

***Preferred Alternative***

Considering the projected growth patterns and population projections for the corridor, only one Build Alternative with modifications was evaluated to accommodate the projected traffic demand. There will be limitations associated with improving the capacity of the existing freeways and thoroughfares for additional vehicle trips in the project area. Physical constraints such as the existing DCTA/DART ROW and Lewisville Lake pose considerable physical obstacles. Additionally, existing and planned land use patterns pose challenges to the needed construction of highway improvements. Other factors considered include the presence of adjacent parkland, including USACE property on either side of IH 35E and the cost and number of displacements associated with additional ROW needs. The growth and expansion of the cities adjacent to the corridor are considered as well as how best to accommodate their increased use of IH 35E.

The Build Alternative will involve following the existing alignment and reconstruction of the existing facility. The typical mainlane section for the Build Alternative will consist of eight 12-ft wide lanes (four in each direction) with 10-ft wide inside and outside shoulders and two to four collector distributor lanes (each direction) from south of PGBT to north of SH 121. Frontage roads will mostly consist of two, three, and four 11-ft wide lanes in each direction with 2-ft wide curb offsets (to the inside) for a maximum width of 49 ft. The frontage roads will be continuous throughout the length of the project. The frontage roads along the Lewisville Lake Bridge will consist mostly of two 11-ft wide lanes.

Continuous pedestrian sidewalks are along each side of the entire project. Along the Lewisville Lake Bridge, the northbound sidewalk will be 14-ft wide and approximately 1.4 miles in length. This sidewalk will begin at Highland Village Road and end at Hickory Hills Boulevard. The southbound sidewalk along the Lewisville Lake Bridge will be 8-ft wide and approximately 1.5 miles in length. This sidewalk will begin at Denton Drive South and end at Highland Village Road. Along the rest of the corridor, the sidewalks will be 6-ft wide and be located along the frontage roads. During the final design phase of the project, TxDOT will make every effort to separate the sidewalks from the frontage road as much as possible. In order to accommodate pedestrian travel across IH 35E, the cross roads will also include sidewalks. The sidewalks will meet Americans with Disabilities Act (ADA) design criteria.

In order to accommodate bicycle travel along the IH 35E corridor, the frontage roads will include a 14-ft wide outer lane (excluding gutter) for shared use by bicycles and vehicles. The cross roads within the project limits will also accommodate bicycle travel by including a 14-ft wide outer lane for shared use by bicycles and vehicles.

Four 12-ft wide concurrent HOV/managed lanes with minimum 10-ft wide shoulders (to the outside) will be added from PGBT to FM 2181. The northbound and southbound HOV/managed lanes will be separated by a 10-ft wide median and a CTB. These concurrent HOV/managed lanes will be tolled. CTBs will be used to separate the mainlanes from the HOV/managed lanes. The design speed of the project is 70 mph on the mainlanes, 70 mph on the HOV/managed lanes,

40 mph on the frontage roads, and 40 mph on the ramps. The project will be constructed within a ROW width that varies from approximately 380 to 556 ft. There will be no conversion of existing mainlanes into tolled HOV/managed lanes; 4 of the 12 expressway lanes will be tolled.

The improvements will result in constructing, rebuilding, or upgrading the existing and proposed overpasses, bridges, and interchanges along IH 35E from PGBT to FM 2181. The SH 121 bypass at IH 35E and south bound connectors is a stand-alone project and has been constructed. The bridge across Lewisville Lake will consist of four 12-ft wide mainlanes with 10-ft wide outside shoulders. The bridge will contain four 12-ft HOV/managed lanes with 10-ft wide shoulders.

The cross streets will vary from two lanes without u-turns to eight lanes with u-turns. The ROW width for the cross streets varies from approximately 88 to a maximum width of 668 ft at Turbeville Road/Hundley Road.

Several build options were assessed under the Build Alternative to determine if it would be feasible and prudent to avoid the Section 4(f) properties (USACE Property and Highland Lakes Park) through engineering design or transportation system management techniques. Design and techniques such as double-decking the mainlanes over frontage roads, reducing or eliminating frontage roads, and bridging the managed lanes were considered.

These options would result in a substantial missed opportunity to benefit the Section 4(f) properties and the identified need would not be met. There is no feasible and prudent option under the Build Alternative which avoids the use of the Section 4(f) properties.

***Preferred Alternative Justification***

Because the preferred alternative optimally accommodates the increased capacity, management of traffic congestion, improved mobility, and regionally adopted transportation policy objectives of the project need and purpose in conjunction with the extensive consideration of local stakeholders' needs, goals, and concerns regarding the project's interface with their respective communities and interests, the construction of the preferred alternative will best meet the need and purpose stated in this document.

Extensive stakeholder input solicitation occurred as early as the development of the MIS through the 2008 public meeting to best incorporate the needs and goals of potentially affected property owners, communities, and other local and regional agencies. Between public meetings held in 2003 and 2008 as part of the EA process, the proposed IH 35E reconstruction project underwent design modifications in coordination with municipalities adjacent to the proposed project and other stakeholders. As a result of the public meetings and coordination and in order for the project to best interface with the concerns of the public, affected agencies, municipalities, and property owners, the preferred alternative's design underwent substantial adjustments from what was originally proposed to mitigate for such concerns and to optimally tie into stakeholders' goals. Design modifications were coordinated between local stakeholders and property owners to achieve an optimally balanced and feasible solution to the corridor's transportation needs and goals based upon comments of support received at public meetings and stakeholder work group

meetings. Adjustments consisted of mainlane shifts to avoid displacing or adversely impacting valued community assets and amenities and to minimize the number of displacements. Additionally, adjustments included enhancements to adjacent and nearby properties to improve access and improve safety due to sight distance. Adjustments minimized the amount of overall ROW acquisition and were made to the extent practicable to optimally mitigate and incorporate the goals of all stakeholders involved in the process and to retain the objectives of the project's need and purpose to increase capacity, manage traffic congestion, improve mobility, and incorporate local transportation policy related to the HOV/managed lane concept.

***Anticipated Impacts from the Preferred Alternative***

An Environmental Assessment (EA) was prepared that examines the social, economic, and environmental impacts associated with the project. The following direct impacts are anticipated as a result of the proposed improvements (also Appendix C of the EA):

Waters of the U.S., including Wetlands

Pursuant to Executive Order (EO) 11990 (Protection of Wetlands) and Section 404 of the Clean Water Act (CWA), an investigation was conducted to identify potential jurisdictional waters of the U.S., including wetlands, within the proposed project limits. Areas within the proposed project ROW were identified, characterized, and delineated in order to evaluate the potentially jurisdictional status of the sites. Alternatives were reviewed as required by EO 11990 on wetlands, after avoidance and minimization of impacts were implemented and no other practicable alternatives to wetland impacts were identified.

Eight wetlands are considered potentially jurisdictional and total approximately 10.99 acres. Nineteen water features are considered potentially jurisdictional and total approximately 66.70 acres.

Wetland 1B will be bridged with a retaining wall constructed adjacent to the wetland resulting in an impact of less than 0.01 acre to Wetland 1B.

Wetlands 2, 3, 4, and 8 and Waters 2, 3, 5, 6, 7, 10, 14, and 15 will be bridged and minimal permanent impacts will result from the placement of columns within the delineated boundaries of the permanent features. Waters 4 and 8 will be bridged and no columns will be placed within the delineated boundaries of these features. Wetland 5 will be filled for the construction of the northbound frontage road and a retaining wall will be utilized to reduce impacts to the wetland feature. Temporary impacts may result from the construction activities during the construction of the bridge structures.

Wetland 6 and Water 16 will be filled in their entirety as a result of the project. Water 9 is adjacent to a bridged section and no permanent impacts are anticipated to this water feature. Waters 11, 13, and 17 contain existing culverts which will be extended. Water 12 is within the existing ROW for Grandy's Lane and contains an existing culvert. No modification will occur to this culvert and no impacts are anticipated. Temporary impacts may result from the construction activities during the construction of the extensions of the culverts.

Waters of the U.S. on USACE Property within Proposed Easements

Of the 19 total potentially jurisdictional water features delineated, five water features are within the USACE property boundary totaling approximately 55.83 acres. Of the 8 total potentially jurisdictional wetland features delineated, one wetland feature is located within the USACE property boundary and totals approximately 0.79 acre. Although these areas are located on USACE property beyond the ROW limits needed to construct IH 35E, they are within the temporary easement limits.

Waters 14 and 15 will be bridged and minimal impacts will result from the placement of columns within the delineated boundaries of the features. Waters 1-Park and 2-Park are adjacent to the park access road/bridge and no permanent impacts are anticipated. Water 3-Park will be bridged and minimal impacts will result from the placement of columns within the delineated boundary of this feature. A section of Wetland 1-Park will be bridged and a section filled as a result of the construction of the park access road. Temporary impacts may result from the construction activities during the construction of the bridge structures.

Water Quality

Runoff from the project construction will flow directly into Lewisville Lake (Segment 0823), the Elm Fork Trinity River below Lewisville Lake (Segment 0822), and several creeks that flow into Lewisville Lake and the Elm Fork Trinity River. Runoff from this project will discharge directly into Segment 0822 of the Elm Fork Trinity River which is listed as impaired for bacteria in the 2008 303(d) list. Coordination with the Texas Commission on Environmental Quality (TCEQ) was initiated on January 11, 2010 and TCEQ responded with no comment on January 21, 2010.

Threatened/Endangered Species and Habitat

After reviewing habitat requirements and conducting multiple field visits between 2003 and 2009, it was determined that this project will have no effect on any federally listed threatened or endangered species, its habitat, or designated habitat, nor will it adversely impact any state-listed species within the project limits.

TPWD records indicate that the Texas garter snake has been found within the corporate limits of Hickory Creek on the west side of IH 35E. The confirmed finding indicates that this species is found within the general area of the project, and a pre-construction presence/absence survey will be conducted in order to clear the area of this species prior to construction. The Texas garter snake is currently not a listed species but is considered a rare species or a species of concern by the TPWD.

Coordination with the Texas Parks and Wildlife Department was completed on February 1, 2010.

Vegetation and Wildlife Habitat

Losses to any of the unusual vegetation features or special habitat features will be minimized. The adverse effects to vegetation could be minimized to the extent that only those trees that will be directly impacted by construction will be removed. In areas where impervious cover is not required, TxDOT approved seeding specifications will be followed. Direct loss of vegetation

from the construction of this project will be minor. It is anticipated that this loss of vegetation will contribute cumulatively to the overall loss of wildlife habitat in the general area.

Approximately 233 acres of land will be required for this roadway reconstruction project. Of the total 233 acres of land required, there are approximately 148 acres of herbaceous vegetation and approximately 28 acres of woody vegetation within the existing and proposed ROW. Of the total woody vegetation, approximately 3.2 acres are considered riparian woodlands for which compensatory mitigation is proposed in accordance with Provision (4)(A)(ii) of the 1998 TxDOT-TPWD Memorandum of Agreement (MOA). Additionally, TxDOT will mitigate for the loss of large trees which were identified at 11 woodland sites. The total number of large individual trees and total acreage affected and thus compensated for may change during final design. TxDOT will minimize the loss by preserving as many trees as possible. Trees within the ROW, but not in the construction zone, will not be removed if possible.

Land Use

It is not anticipated that this project will substantially affect current or future land uses; however, the project may affect the rate of development and redevelopment along the IH 35E corridor. The project may delay short and mid-term land development and investment along the IH 35E corridor, but in the long term, land development and redevelopment are anticipated to rebound and continue at an accelerated pace in accordance with the land uses planned and prescribed by cities traversed by the project. The project is consistent with local planning efforts.

Section 4(f) Properties

- Highland Lakes Park (Attachment A)

Highland Lakes Park is publicly-owned and operated by the City of Lewisville Parks and Leisure Services Department. The park is located on the west side of IH 35E, just south of Lewisville Lake in the Highland Lakes Phase II subdivision. The project will require approximately 0.5 acre of the 1.4 acre park.

- Copperas Branch Park (Attachment B)

Copperas Branch Park is publically owned by the USACE and operated under lease by the City of Highland Village. The park is also associated directly with Lewisville Lake. The park is located on both sides of IH 35E beginning just south of Garden Ridge Boulevard to just north of Denton Drive South and Lewisville Lake. The project will impact approximately 20.7 acres of the 74.9 acre park. Approximately 6.4 of Copperas Branch Park will be utilized for the reconstruction of IH 35E.

Two separate Final Programmatic Section 4(f) Net Benefit Evaluations (Attachments A and B) have been prepared for USACE Property, including Copperas Branch Park and Highland Lakes Park (please also see Appendix G of the EA).

Right-of-Way/Easements/Construction License/Displacements

Approximately 179 acres of additional ROW, including the use of 20.7 acres of USACE property and 0.5 acres of Highland Lakes Park, will be required for the preferred alternative resulting in the displacement of 65 single family housing units, 93 business establishments, 19 vacant buildings/suites, and 3 municipal facilities (Hickory Creek Animal Services, Hickory Creek Public Works, and City of Lewisville Water Tower) for a total of 180 displacements. The improvements will require 54 acres of easements. Of this total, 1.0 acre will be required for drainage easements and 53.0 acres for a construction easement at Lewisville Lake. The project will require the use of approximately 20.7 acres of additional ROW on USACE property at Lewisville Lake for the facility. An easement request and construction license will be coordinated and processed with the USACE for the right to construct and use property at Lewisville Lake for the project as it will not be possible to acquire ROW from the USACE for the construction of IH 35E.

Environmental Justice/Socio-Economic Impacts

The project's direct impacts associated with tolling would not be isolated within a limited number of census blocks such as the potential displacement impacts, but will be distributed among all users of the IH 35E facility. Low-income populations who elect or can only on occasional basis afford to pay tolls to access the tolled HOV/managed lanes will be impacted by toll rates, toll collection, and other matters associated with user fees. In addition, the economic impact of tolling the HOV/managed lanes will be higher for low-income users because the cost of paying tolls will represent a higher percentage of household income than for non-low-income users. However, tolled HOV/managed lane users (including environmental justice populations) might decide to reduce their personal economic or travel time impact of tolls by either utilizing the non-toll mainlanes (one non-toll lane in each direction will be added as a result of the project), non-toll frontage roads, or transit options, where tolls will be waived for the transit provider.

Over the long term, the entire corridor and users will benefit from the IH 35E Middle project as a result of increased capacity, managed traffic congestion, and improved mobility in the area. There do not appear to be any disproportionately high and adverse impacts on minority or low-income populations associated with the project because the majority of displacements (approximately 88 percent) will occur in non-environmental justice census blocks. There was one written comment from the Public Hearing that indicated a concern about the alignment shift easterly in regards to the commenter's research of the environmental justice population make up of the Lewisville Independent School District and TxDOT identified sensitive receptors. This particular issue has been satisfactorily addressed in the response to comments report dated January 2011. The O&D analysis indicated the majority of trips anticipated to utilize the Build scenario will not originate from areas identified with high concentrations of environmental justice populations, and non-toll options exist for those who elect or can only on occasional basis afford to pay tolls to access the tolled HOV/managed lanes.

The overall impact of the IH 35E Middle project can be expected to result in both negative and positive impacts to community cohesion. Displacements may result in community members moving some distance from their present community. While a relatively large number of

residential and commercial displacements are anticipated, data regarding available housing within each impacted municipality suggests vacancies exist to accommodate residential relocations within the same communities for the most part, and the City of Lewisville's IH 35E Corridor Development Plan will address the redevelopment and preservation of commercial land use along the IH 35E corridor post-reconstruction. TxDOT will place a pedestrian bridge over IH 35E connecting the UNT campus for the student body and other users in the community.

Air Quality

The project is consistent with the conforming Mobility 2030 – 2009 Amendment and the FY 2008-2011 TIP. A Carbon Monoxide (CO) analysis was conducted for the project. This analysis concluded that local concentrations of CO are not expected to exceed national standards in either the opening year (2020) or the design year (2030). A quantitative Mobile Source Air Toxics (MSAT) analysis was also conducted for this project. This analysis evaluated the mass of MSAT emissions estimated to occur in the 2009 base year and the 2030 build and no-build scenarios. The analysis indicated that MSAT emissions for 2030 are predicted to decrease by 30 percent compared with 2009 levels.

Traffic Noise

Existing and predicted traffic noise levels were modeled at receiver locations that represent the land use activity areas adjacent to the project that might be impacted by traffic noise and potentially benefit from feasible and reasonable noise abatement. Eight noise barriers were determined to be both feasible and reasonable along portions of the IH 35E corridor as means to mitigate for anticipated traffic noise impacts. One hundred and forty-six receivers would benefit from the proposed noise barriers due to a reduction in noise levels by at least 5 dBA. The total cost of the barriers would be $3,579,048, a total of $24,514 per benefited receiver. The final decision to construct the proposed noise barriers would be made upon completion of the project design, utility evaluation and the polling of adjacent property owners.

Traffic Operations

Although it is anticipated that the increased capacity and continuous frontage roads will benefit the local roadway system, a traffic study area was developed to better analyze traffic operations between the Build and No-Build scenarios. The direct impacts analysis entailed the comparison of the number of lane-miles operating under different LOS between Build and No-Build Alternatives in 2030 during the AM peak hour. The LOS comparison indicates that there will be an increase in lane-miles operating under LOS A-B-C along both the mainlanes and HOV/managed lanes under the Build Alternative.

Hazardous Materials

There are 13 High Risk hazardous materials sites that should be considered during final design. Sites considered likely to be contaminated and within the proposed ROW are categorized as "high risk". Eight of the high risk sites (Sites 7, 8, 9, 28, 29, 40, 42 and 57) have a reported LPST. Each of the LPST sites will have a portion or the entire parcel acquired. The visual survey identified two properties (N5 and N6) which are former gas stations. These sites and tank systems will be addressed during the ROW negotiation and acquisition process. Additional ROW will be acquired from one VCP site (Site 25) down-grade of the project which contains soil /groundwater contamination from VOCs, chlorinated solvents, TPH, and lead. One SPILLS site (Site 3) is categorized as high risk due to the vague nature of the "unknown resin" that was spilled.

Forty-one (41) sites are characterized as low risk. Sites are categorized as "low risk" if available information indicates that some potential for contamination exists, but the site is not likely to pose a contamination problem to highway construction. Twenty-four of the total low-risk sites within or adjacent to the project contain registered petroleum storage tanks (PSTs). Sites 16, 30, and 43 also contain an LPST and are at-grade with the project. No additional ROW is needed from these two sites. Sites 4, 11, 12, and 37 have had the PSTs removed from the ground. The tank at Site 48 is not currently in use. The remaining PST sites contain tanks utilized for the storage of gasoline, diesel, or used oil. Because the sites are impacted by or adjacent to the project, they are considered low risk due to the possibility of encountering contamination as a result of unreported leaks. Sites N4 and N8, identified during the visual survey, and do contain above-ground storage tank sites. Site N3 may contain an above-ground storage tank; however, none was observed during the visual survey. The remaining sites were identified as small quantity generators or dry cleaners. Coordination with property owners, tank owners, operators, and TCEQ on these sites will be an ongoing process up to and during construction.

The project requires the demolition of building structures. The buildings may contain asbestos materials. Asbestos inspections, specification, notification, license, accreditation, abatement and disposal, as applicable, will comply with federal and state regulations. Asbestos issues will be addressed during the ROW process prior to construction.

Two natural gas pipelines cross the project area, near the northern project terminus. The Atmos Pipeline is an active gas transmission line. The Goldfield Gathering, Limited line is an active gas gathering line. These natural gas pipelines will be addressed during the utility adjustment phase of the project.

USACE Property

In addition to the 77.8 acres of existing easements on USACE property, the project will also impact approximately 20.7 acres of USACE property. Extensive coordination has occurred with USACE staff throughout the project development process over the past several years. USACE Fort Worth District and Lewisville Lake (Elm Fork Project Office) staff have participated in the project development process. In May 2004, the Federal Highway Administration (FHWA) invited USACE to serve as a cooperating agency and was accepted in July 2006. Through coordination with USACE, the project's preliminary design alternatives and associated impacts

were reviewed and discussed to determine mitigation and measures to minimize harm as well as enhancement opportunities. The USACE plans to adopt the NEPA document (FHWAs January 2011 Final EA) as their own and develop an independent decision for actions under their regulatory authority.

## PUBLIC INVOLVEMENT

Public involvement is an integral and critical component of the NEPA project development process. The public involvement team for the IH 35E Middle project included representatives from TxDOT's Dallas District and Denton County Area Office, and also included extensive consultation with and the participation and involvement of the FHWA and county and local officials.

*Stakeholder Involvement*

Stakeholder work group meetings have been held since August 2008 to facilitate communication between TxDOT and adjacent municipalities as well as other public agencies with interests along the IH 35E corridor. Stakeholders invited to the stakeholder work group meetings are defined as municipal, county, or other public agencies affiliated with the IH 35E proposed improvements, such as the USACE, DART, DCTA, North Central Texas Council of Governments (NCTCOG), and the University of North Texas.

*Elected Official Outreach*

In addition to the public meetings and stakeholder meetings, various meetings and/or presentations have been given to public officials associated with several municipalities along the project corridor.

*Public Meetings and Public Hearing*

Two public meetings were conducted on March 20, 2003 and November 13, 2008 as part of the EA process for the proposed IH 35E reconstruction project. During the time period when the first public meeting was held in 2003 through the second public meeting held in 2008, the proposed IH 35E reconstruction project underwent schematic design modifications by TxDOT (which entailed changing the one HOV lane in each direction to adding two concurrent managed lanes in each direction – which caused delays in project implementation) and coordination with the adjacent municipalities occurred.

An Open House/Public Hearing was held on November 18, 2010 at the Lewisville High School. There were 174 registered attendees, 17 of which were elected officials or municipal officers. A Summary and Analysis document detailing the Public Hearing and the associated comments received was submitted to TxDOT ENV on December 14, 2010.

In order to update those who attended the 2010 Public Hearing and adjacent property owners on the status of the project, TxDOT published a notice in seven area papers during October and November 2010. The notice was published in the following papers:

- *Dallas Morning News* (Metro, Central, and Metro West) on October 17, October 24, October 31, and November 7, 2010;
- *Al Dia* on October 23, October 30, November 6, and November 13, 2010;
- *Denton Record Chronicle* on October 18, October 24, October 31, and November 7, 2010;
- *Lewisville Leader* on October 20, October 27, November 3, and November 10, 2010;
- *Carrollton Leader* on October 20, October 27, November 3, and November 10, 2010;
- *Lake Cities Sun* on October 21, October 28, November 4, and November 11, 2010; and
- *The News Connection* on October 29 and November 12, 2010.

The same notice was mailed to the adjacent property owners, based on Dallas County Appraisal District and Denton County Appraisal District records. The notice was released by the TxDOT Dallas District's Public Information Office to local media on November 15, 2010.

The notice requested that any comments or questions regarding the proposed project be made to the TxDOT Dallas District by November 29, 2010 and 20 comments were received. Of the 20 comments received, 8 expressed concern and/or inquiries relating to the following issues:

- traffic noise;
- project design features affecting access (to frontage road) and limiting driveway space;
- right-of-way acquisition;
- project timeline;
- lack of public input relating to project alignment selection at Main Street in the City of Lewisville (related to Environmental Justice and Air Quality Sensitive Receptors); and/or
- exposure to air toxics.

Twelve of the 20 comments expressed support for the project and/or requested the project not be delayed any longer. Of the 12 comments in support, 1 was from an elected official (Denton County Judge) and 1 was from a public official (Director of Transportation for the City of Denton).

FHWA has completed a review of the required public involvement procedures and documentation and has determined that TxDOT has adequately and appropriately responded to all comments. Responses to all the public hearing comments are available for inspection at the TxDOT Dallas District Office and the Denton Area Office.

*Changes to be Made to the IH 35E Design as a Result of Public Input*
As a result of close coordination with stakeholders, resource agencies and the community, TxDOT was able to identify and address community needs and concerns throughout the project development process. No design changes were made as a result of comments received from the November 2010 public hearing.

## MITIGATION AND MONITORING COMMITMENTS

***Right-of-Way/Easements/Construction License/Displacements***

The IH 35E improvements will require additional ROW, and thus will result in a number of displacements. Approximately 179 acres of proposed ROW (including use of 20.7 acres of USACE property), approximately 54 acres of proposed easement, and approximately 180 displacements will be required. All relocation efforts will be consistent with the requirements of the Civil Rights Act of 1964, the Uniform Relocation Assistance and Real Properties Acquisition Act of 1970 as amended, and the Housing and Urban Development Act of 1974.

Due to the anticipated number of potential job losses in the area as a result of the project TxDOT performed a detailed study called an Employment Opportunities Impact Assessment (found in Appendix I of the EA). The Workforce Solutions for North Central Texas will be proactive in assisting any employees that will be affected as a result of the displacements associated with the reconstruction of IH 35E. Workforce Solutions staff attended the project's Open House/Public Hearing and provided handouts and other information regarding Workforce Solutions services. As presented in Appendix I of the EA, Workforce Solutions for North Central Texas can coordinate with employers identified for relocation by TxDOT via the ROW acquisition phase of project development to engage and provide 1-2 hour "rapid response workshops" if requested by the employers, regardless of the number of employees anticipated to be impacted. The rapid response workshops could be planned and conducted by the Workforce Solutions of North Central Texas to provide information to groups ranging from 5 to 500 employees regarding the programs provided by the Workforce Centers and how to apply for unemployment benefits. Multiple rapid response workshops could be conducted by the Workforce Solutions for North Central Texas to distribute information to all employees potentially impacted by the IH 35E project. Efforts by Workforce Solutions' services are targeted toward assisting the individual employees and can help prepare those employees to work in other occupations if the employee is unable to find work in or chooses to leave their current field of employment.

***Impacts to Section 4(f) and 6(f) Properties***

Draft Programmatic Section 4(f) Net Benefit Evaluations were prepared for impacts to Highland Lakes Park in the City of Lewisville, and USACE Property, including Copperas Branch Park around Lewisville Lake and were summarized (see Appendix G of the EA) and were available for examination at the Public Hearing. Several Build Alternatives were considered to avoid and minimize harm to these properties. Alternatives have been assessed and the findings from each of the Final Programmatic Section 4(f) Net Benefit Evaluations (see attachments A & B) allow FHWA to conclude that the Build Alternative is the only feasible and prudent alternative and results in an overall improvement and enhancement when compared to the No-Build Alternative and the present condition of the each of the park properties.

Highland Lakes Park

The reconstruction of IH 35E will require the use of approximately 0.5 acre of Highland Lakes Park, which totals 1.4 acres. The City of Lewisville, after meeting with property owners, requested that TxDOT acquire six residential parcels to allow for replacement of parkland with property of reasonably equivalent usefulness and location, and of at least comparable value for impacts to Highland Lakes Park. Utilizing the six adjacent residential parcels will allow for the existing park area to be replaced with adjacent property to offer a similar neighborhood park experience. The six residential parcels total approximately 1.3 acres and will allow for the development of a linear park with passive and active recreation activities situated at the north and south ends connected by a new concrete trail. Because the final layout of proposed amenities and enhancements at Highland Lakes Park have not yet been determined, the proposed amenities are listed as to be determined (TBD) below and will be further refined later in the project development process. Portions of the existing park trail, rock landscape features, and park benches will be impacted. The proposed mitigation and enhancements consist of replacing the impacted amenities and enhancing the park remnant (0.9 acre) which consists of:

- Picnic benches (4);
- Trash receptacles (3);
- Parking lot with handicap accessible spaces (5);
- Rock landscape features;
- Light poles/fixtures for parking and new play structure (TBD);
- Drinking fountain near play structure (TBD);
- Park entry sign with stone veneer (TBD);
- Concrete sidewalk connecting the north and south ends of the park with native canopy, understory, shrubs, perennials and buffalo grass; and
- Providing a visual screening wall for aesthetic purposes similar to the existing wall previously built by the developer that will be maintained by the City of Lewisville.

Additionally, the six residential properties adjacent to IH 35E and south of the existing park will be acquired and incorporated as park property. These parcels total approximately 1.3 acres and will be deeded to the City of Lewisville as mitigation for the loss of park property. The total park acreage after the mitigation and enhancements will be 2.2 acres.

USACE Property, including Copperas Branch Park

The preferred Alternative will require approximately 20.7 acres of USACE Property to be converted from parkland to transportation use. Mitigation/enhancements for impacts to USACE property, including Copperas Branch Park have been documented and categorized based on 1) fair market value (FMV), 2) recreation, and 3) natural resources based on coordination and consultation with USACE staff.

1) Although FMV costs were estimated for impacts to USACE Land/Open Water based on an independent appraisal conducted by TxDOT, the FMV costs may be waived by the USACE. The FMV costs may be waived because the pedestrian sidewalks that have been proposed over Lewisville Lake have recreational value that will benefit the general public.

2) The following existing recreation elements at Copperas Branch Park will be impacted by the reconstruction of IH 35E and be replaced. Recreation elements are the existing recreation facilities and activities conducted on USACE property. Recreation mitigation is not identified as a dollar amount but as a commitment of items to be replaced and/or constructed because of a loss of recreational facilities, use, areas, both on land and water.

- Gatehouse Complex (2 buildings)
- Park Roads (approximately 1,000 LF)
- Signage (2)
- Parking (67,500 SF)
- Baseball Backstops with Hood and Baseball Diamond (2)
- Soccer Goals (2)
- Precast Picnic Tables with Grills (6)
- Metal Rail Fencing (1,728 LF), Barrier Posts (100), and Gates (2)
- Landscaping (stand of hardwoods in picnic area)

As part of the mitigation for impacts to recreation elements, the park facilities listed above will be replaced and a parking area under the Lewisville Lake Bridge (68,000 SF/180 spaces) will be constructed by TxDOT. A Multiple Use Agreement is required for the parking under the IH 35E bridge over Lewisville Lake in accordance with 23 CFR 710.405 and FHWA Airspace Guidelines and will be obtained prior to the start of construction. The TxDOT Office of General Counsel will prepare the Multiple Use Agreement between TxDOT, USACE and the City of Highland Village and approved by FHWA.

In addition to the mitigation provided at the existing Copperas Branch Park, facilities are proposed at Copperas Branch East Park to ensure no net loss of recreation classified lands. The following basic amenities will be provided at Copperas Branch East Park as part of the conceptual mitigation plan:

- A new park road providing access to Copperas Branch East Park (requiring grade separation) to be constructed by TxDOT (1,200 LF);
- Railroad crossing and gates to accommodate at grade design for park road access to Copperas Branch East Park;
- Primary trail head to connect Copperas Branch East Park with Copperas Branch;
- Minimum sanitary facilities (drinking fountain pad, restroom);
- Parking access at sanitary facilities and trailhead parking lot (approximately 15-20 spaces);
- New trail approximately 10-ft wide trail and one-mile long; and
- Buoys to be provided and maintained by TxDOT

A maintenance agreement will be finalized in coordination with the USACE for the installation and long-term maintenance of buoys placed in Lewisville Lake adjacent to the IH 35E bridge.

3) The Natural Resources Mitigation has been divided into four areas: 1) existing ROW, 2) additional ROW/easement, 3) construction easement and 4) Copperas Branch East Park. Each area was assessed to determine the flood event frequency, habitat type/condition, mitigation

ratio, total acreage, impacted acres, cost/acre of mitigation, and estimated costs to be paid to the Lewisville Lake Environmental Learning Area (LLELA).

The natural resources mitigation for the existing ROW consists of wooded areas within the existing ROW north of Lewisville Lake on the west side of IH 35E that will be permanently impacted. The natural resources impacted within the existing ROW are approximately 1.9 acres.

The impacts calculated for additional ROW/easement areas directly correlate to the FMV acreage listed previously and account for the areas that will be permanently impacted (10.5 acres) due to the reconstruction of IH 35E.

Impacts were also calculated for the construction easement, although the precise location of construction activity that will occur on USACE property has not yet been identified at this stage of project development. For planning purposes, a 300 ft construction easement has been assumed that would begin at the proposed ROW/easement and extend approximately 300 feet westerly. This would impact approximately 13.3 acres of natural resources vegetation.

Due to the construction of amenities at Copperas Branch East Park, (trail, access road, and parking lot, minimum sanitary facilities), 6.5 acres of natural resources are anticipated to be impacted.

Per coordination with the USACE, mitigation for permanent impacts to natural resources on USACE property consists of a direct payment to the LLELA or onsite mitigation at Copperas Branch East Park to control non-native and or invasive species. Temporary impacts to the mowed/maintained herbaceous vegetation will be mitigated by revegetating the area(s) after construction is complete.

***Waters of the U.S., including Wetlands***

Section 404

The placement of temporary or permanent dredge or fill material into waters of the U.S. (including wetlands) that are determined to be jurisdictional would be authorized by Nationwide Permit (NWP) 14 (Linear Transportation Projects). NWP 14 authorizes temporary structures, fills, and work necessary to construct the linear transportation project. A NWP 14 Preconstruction Notification (PCN) would be required for Areas 1, 3, 6, 8, and 10 because the permanent fill impact exceeds the NWP 14 threshold of 0.10 acre of impacts, but are less than 0.50 acre of impacts, and/or because fill will be placed in a special aquatic site (wetland). It is anticipated that temporary impacts in jurisdictional waters and wetlands will occur during construction. Temporary impacts will be minimized to the maximum extent possible and modified contours will be returned to pre-existing conditions.

If additional jurisdictional impacts (beyond those covered in the proposed Section 404 permit application) are identified due to the construction contractor's elected construction methodologies or activities, the contractor will be responsible for obtaining the appropriate Section 404 permit from the USACE for the additional impacts.

Section 401
The Stormwater Pollution Prevention Plan (SW3P) will include at least one Best Management Practice (BMP) from the 401 Water Quality Certification Conditions for NWPs as published by the TCEQ.

***Water Quality***
Texas Pollution Discharge Elimination System (TPDES)
The project will disturb more than five acres; therefore, a Notice of Intent will be filed to comply with TCEQ stating that TxDOT will have a SW3P in place during construction of project.

***Threatened/Endangered Species and Habitat***
TPWD records indicate that the Texas garter snake has been found within the corporate limits of Hickory Creek on the west side of IH 35E. The confirmed finding indicates that this species is found within the general area of the project, and a pre-construction presence/absence survey will be conducted in order to clear the area of this species prior to construction.

***Migratory Bird Treaty Act (MBTA)***
Between October 1 and February 15, the contractor will remove all old migratory bird nests from any structures that will be affected by the project, and complete any bridge work and/or vegetation clearing. Between February 15 and October 1, the contractor will be prepared to prevent migratory birds from building nests per the Environmental Permits, Issues, and Commitments (EPIC) plans. In the event that migratory birds are encountered on-site during project construction, adverse impacts on protected birds, active nests, eggs, and/or young will be avoided. If species are present, work should cease at that location and TxDOT personnel should be contacted. If any active nests are found, the local U.S. Fish and Wildlife Service (USFWS) biologist should be contacted by TxDOT to determine an appropriate plan of action.

***Vegetation and Wildlife Habitat***
The 1998 MOA between TPWD and TxDOT provides for compensatory mitigation for impacts to certain habitat features, including large and unusual trees that result from the construction of roadway projects. TxDOT proposes to compensate for the loss of approximately 3.2 acres of riparian woodlands and individual trees with a diameter at breast height (dbh) greater than 20 inches. Planting design and species selection will be based on habitat value to wildlife and will simulate native wooded communities naturally occurring in the area.

Per coordination with the USACE, mitigation for permanent impacts to natural resources on USACE property consists of a direct payment to the Lewisville Lake Environmental Learning Area (LLELA) or onsite mitigation at Copperas Branch East Park to control non-native and or invasive species. Temporary impacts to the mowed/maintained herbaceous vegetation will be mitigated by permanently revegetating the area(s) after construction is complete.

***Air Quality***
To minimize air quality impacts due to dust and exhaust gases associated with construction activities, measures to control fugitive dust will be considered and incorporated into the final design and construction specifications.

***Historical and Archeological Sites***
If archeological or historic sites are discovered prior to or during construction, work will cease immediately. A TxDOT staff archeologist will then assess the site pursuant to the Texas Antiquities code and the site will be avoided or mitigated according to Section 106 of the National Historic Preservation Act.

***Traffic Noise Assessment***
Eight noise barriers were determined to be both feasible and reasonable along portions of the IH 35E corridor as means to mitigate for anticipated traffic noise impacts. One hundred and forty-six receivers would benefit from the proposed noise barriers due to a reduction in noise levels by at least 5 dBA. The total cost of the barriers would be $3,579,048, a total of $24,514 per benefited receiver. Any subsequent project design changes may require a reevaluation of this proposal. The final decision to construct the proposed noise barriers will be made upon completion of the project design, utility evaluation and the polling of adjacent property owners.

***Hazardous Materials***
There are 13 High Risk hazardous materials sites that should be considered during final design. Eight of the high risk sites (Sites 7, 8, 9, 28, 29, 40, 42 and 57) have a reported Leaking Underground Storage Tank (LPST). Each of the LPST sites will have a portion or the entire parcel acquired. The visual survey identified two properties (N5 and N6) which are former gas stations. These sites and tank systems will be addressed during the ROW negotiation and acquisition process. Additional ROW will be acquired from one Voluntary Cleanup Program (VCP) site (Site 25) down-grade of the project which contains soil /groundwater contamination from volatile organic compounds (VOCs), chlorinated solvents, total petroleum hydrocarbons (TPH), and lead. One SPILLS site (Site 3) is categorized as high risk due to the vague nature of the "unknown resin" that was spilled. During final design, additional investigation will be required to confirm if contamination would be encountered during construction. If contamination is confirmed, then TxDOT will develop appropriate soils and/or groundwater management plans for activities within these areas.

***USACE Property***
TxDOT has conducted extensive coordination for the project with the USACE and the City of Highland Village through a series of coordination letters, meetings, and development of conceptual plans. TxDOT, in cooperation with the USACE, and City of Highland Village, have formulated solutions that minimize harm to USACE property, including appropriate mitigation measures. The USACE has requested that a design charrette be conducted. TxDOT shall conduct a design charrette as requested to continue refining the mitigation plan and to further develop the conceptual plans identified in Appendix G of the EA.

Other enhancements and commitments for impacts to USACE Property have been proposed that are unrelated to Section 4(f) requirements and consist of:

- Waters of the U.S., including Wetlands: Coordination with the USACE Fort Worth District Regulatory Branch will continue throughout the project development process. Compensatory mitigation for Section 404 impacts will be coordinated with the USACE and performed in accordance with the terms of the approved permit.
- Floodplains: The cut and fill amounts located within the current USACE easement are anticipated to result in an overall positive benefit to flood storage of Lewisville Lake. There will be no net loss of flood storage at Lewisville Lake. The Trinity River ROD and Lewisville Lake PEA floodplain requirements apply to this project. The project will be in accordance with the conditions of the CDC and final design plans will be submitted to CDC constituent agencies before letting.
- Water Quality: BMPs will be designed to ensure that runoff from the first flush of storm water off the Lewisville Lake bridge will be treated properly. Prior to construction, detailed design plans will require USACE approval to ensure storm water runoff meets applicable USACE guidelines. Additionally, outfall velocities will remain within the accepted range set by the USACE and where velocities exceed this range; velocity control measures will be utilized.
- Pedestrian Sidewalks: TxDOT proposes pedestrian sidewalks over Lewisville Lake as part of the reconstruction of IH 35E. Although not part of the Section 4(f) mitigation, the proposed sidewalks are an enhancement that adds recreational value and connectivity to the Trinity Trail system that may offset USACE's FMV requirements. Continuous pedestrian sidewalks are proposed along each side of the Lewisville Lake bridge. The proposed northbound sidewalk will be 14-ft wide and approximately 1.4 miles in length. This sidewalk will begin at Highland Village Road and end at Hickory Hills Boulevard. The proposed southbound sidewalk will be 8-ft wide and approximately 1.5 miles in length. This sidewalk will begin at Denton Drive South and end at Hickory Hills Boulevard. Trail head connection(s) will be provided at Copperas Branch East and Arrowhead Park.
- Right-of-Way/Displacements: No displacements will occur on USACE property. There are impacts to recreational resources and amenities (located within Copperas Branch Park). Additional acreage will be acquired in the form of easements. Additional ROW will not be obtained from the USACE.
- Easements: An easement request will be coordinated and processed with the USACE for the right to construct and use property for the project. This will include the permanent area required for the IH 35E improvements on fee simple property. The easement boundaries and application process will be coordinated further along in the project development process.
- Construction License: A construction license will be required for activity outside of the approved easement required for the IH 35E improvements on USACE fee simple property, exclusive of the flowage easement (537 ft). Any activity occurring outside of the approved easement will be part of the construction license. Because the precise location of construction activity that will occur on USACE property has not yet been

identified at this stage of project development, a 300-ft wide construction easement has been assumed and may be used to stage construction activities. Mitigation has been proposed for impacts to natural resources in this 300-ft wide area as previously described. Per USACE guidelines, noise generating activities associated with the reconstruction of IH 35E are to be coordinated with USACE staff to determine the allowable actions from 10 p.m. to 6 a.m. These items will be documented in the Construction License.

**MONITORING OR ENFORCEMENT**

All commitments and conditions of approval stated in the EA and shown on the EPIC sheet (Attachment C) will be monitored by TxDOT and other appropriate state, federal, and local agencies to ensure compliance.

**FHWA DECISION**

FHWA has reviewed all of the relevant documents and materials and all of the environmental studies and findings. Based upon our own independent review and analysis we find that the January 2011 Final EA for the IH 35E Middle project analyzed and considered all of the relevant potential environmental impacts, mitigation and issues. FHWA finds that based upon the EA that: (1) the Build Alternative is the selected alternative for the IH 35E Middle project, (2) the Build Alternative best meets the purpose and need of the project with the least amount of impacts to the resource areas, and (3) the project when implemented with all the required mitigation and coordination as detailed above will have no significant impacts on the quality of the human or natural environment under NEPA.

Based upon our own agency review and consideration of the analysis and evaluation contained in the EA and Administrative Record for this project, and after further careful consideration of all social, economic, and environmental factors, including input from the public involvement process, FHWA further approves the Build Alternative as the selected alternative for this action. The selected alternative will best fulfill the need and purpose for the project and meet the goals identified for the IH 35E corridor. This project is included in the 2009 Amendment to the *Mobility 2030* Metropolitan Transportation Plan, as revised.

As to project mitigation, TxDOT is hereby required to ensure completion of all mitigation outlined above and set out specifically in the January 2011 Final EA for the IH 35E Middle project and EPIC sheet. TxDOT is also required to ensure that any and all local, state, or federal permit requirements and conditions are met and otherwise complied with.

Salvador Deocampo

Salvador Deocampo
For Federal Highway Administration

1/28/11

Date

**ATTACHMENT A**

**FEDERAL HIGHWAY ADMINISTRATION – TEXAS DIVISION**
**PROGRAMMATIC SECTION 4(f) DETERMINATION AND APPROVAL**

# NATIONWIDE 4(f) EVALUATION FOR NET BENEFIT TO SECTION 4(f) PROPERTY

Highland Lakes Park

**Description/Location of Project:**

TxDOT CSJ: 0196-02-068, 0196-01-096, 0196-02-073, 0196-02-114, 0196-03-245
Federal Project #: DMO 2005 ( ), C 196-1-96, C 196-2-73, C 196-2-114, C 196-3-245
Route: IH 35E Middle
Termini: From President George Bush Turnpike to FM 2181
County: Dallas and Denton Counties
Name of Resource: Highland Lakes Park
Reference: January 2011 Final EA and Public Hearing Documentation for subject project

Consult the Nationwide Section 4(f) Evaluation as it relates to the following items. Complete all items, and mark the box with an X or N/A. Any response in a shaded box requires additional information prior to approval. This determination will be attached to the applicable Environmental Document.

| **Applicability Criteria** | | YES | NO |
|---|---|---|---|
| 1. | The proposed transportation project uses a Section 4(f) park, recreation area, wildlife or waterfowl refuge, or historic site. | X | |
| 2. | The proposed project includes all appropriate measures to minimize harm and subsequent mitigation necessary to preserve and enhance those features and values of the property that originally qualified the property for Section 4(f) protection. | X | |
| 3a. | For historic properties, the project does not require the major alteration of the characteristics that qualify the property for the National Register of Historic Places (NRHP) such that the property would no longer retain sufficient integrity to be considered eligible for listing. (Consultation as in 36 CFR part 800) | N/A | |
| 3b. | For archeological properties, the project does not require disturbance or removal of the archaeological resources that have been determined important for preservation in place rather than for the information that can be obtained through data recovery. (Consultation as in 36 CFR part 800) | N/A | |

| Applicability Criteria | | YES | NO |
|---|---|---|---|
| 4. | For historic properties, an agreement has been reached among the SHPO or THPO, the FHWA, and the TxDOT on measures to minimize harm when there is a use of Section 4(f) property. Mitigation and measures to minimize harm have been incorporated into the project. (See following section on "Mitigation and Measures to Minimize Harm.") | N/A | |
| 5. | The officials with jurisdiction over the Section 4(f) lands agreed in writing with the assessment of impacts; the proposed measures to minimize harm; and the mitigation necessary to preserve, rehabilitate and enhance those features and values of the Section 4(f) property; and that such measures will result in a net benefit to the Section 4(f) property. | X | |
| 6. | If federal funds have been used in the acquisition or improvements of the 4(f) site, the land conversion/transfer has been coordinated with the appropriate Federal agency, and they are in agreement with the land conversion or transfer.<br>Documentation is in Appendix G of January 2011 Final EA. | X | |

| Alternatives Considered | | YES | NO |
|---|---|---|---|
| 1. | The "Do Nothing" alternative has been evaluated and is considered not to be feasible and prudent because it would neither address nor correct the transportation need that necessitated the project. | X | |
| 2. | An alternative has been evaluated to improve the transportation facility in a manner that addresses the project's purpose and need without use of the Section 4(f) property and is considered not to be feasible and prudent. | X | |
| 3. | An alternative has been evaluated to build the transportation facility at a location that does not require use for the Section 4(f) property and is considered not to be feasible and prudent. | X | |

| **Mitigation and Measures to Minimize Harm** | YES | NO |
|---|---|---|
| 1. The proposed action includes all possible planning to minimize harm. | X | |
| 2. Mitigation measures include one or more of the following: (Check applicable mitigation measures.) | | |
| a. Replacement of lands used with lands of reasonably equivalent usefulness and location, and of at least comparable value; | X | |
| b. Replacement of facilities impacted by the project including sidewalks, paths, benches, lights, trees, and other facilities; | X | |
| c. Restoration and landscaping of disturbed areas; | X | |
| d. Special design features; (Briefly Describe.) In addition to replacing impacted amenities and enhancing the remnant park, six properties adjacent to IH 35E and south of the existing park will be incorporated as additional park property. A visual screening wall for aesthetic purposes will be built by TxDOT and maintained by the City of Lewisville. | X | |
| e. Payment of the fair market value of the land and improvements taken; | | X |
| f. Improvements to the remaining 4(f) site equal to the fair market value of the lands and improvements taken; | X | |
| g. Other measures. (Briefly Describe) | N/A | |

| **Coordination** | **YES** | **NO** |
|---|---|---|
| 1. The proposed project has been coordinated with the Federal, State, and/or local officials having jurisdiction over the 4(f) lands. | X | |
| 2. Land is unencumbered by other Federal actions or coordination with the Federal Agency responsible for the encumbrance has been complete. (Land and Water Conservation Fund Act, 16 USC 4601-8(f)(3). | X | |

| | | |
|---|---|---|
| 3. The Applicant (TxDOT) and the official(s) with jurisdiction agree that:<br>a. Use of the property does not result in a substantial diminishment of the function or value that made the property eligible for Section 4(f) protection; and<br>b. The project includes all possible planning to minimize harm, including mitigation; and<br>c. The cumulative result is an overall improvement and enhancement of the Section 4(f) property when compared to both the future do-nothing or avoidance alternative and the present condition of the Section 4(f) property.<br>Documentation is in Appendix G of January 2011 Final EA | X | |
| 4. For bridge projects, coordination with the U.S. Coast Guard has been completed, if applicable. | N/A | |
| 5. Public involvement activities have occurred, consistent with the specific requirements of 23 CFR 771.111, Early Coordination, Public Involvement and Project Development. | X | |
| 6. For a project where one or more public meetings or hearings were held, information on the proposed use of Section 4(f) property was communicated at the public meeting(s) or hearings(s). Documentation is in Appendix G of January 2011 Final EA and Public Hearing Documentation. | X | |

# Determination and Approval

**Description/Location of Project**:

TxDOT CSJ: 0196-02-068, 0196-01-096, 0196-02-073, 0196-02-114, 0196-03-245
Federal Project #: DMO 2005 ( ), C 196-1-96, C 196-2-73, C 196-2-114, C 196-3-245
Route: IH 35E Middle
Termini: From President George Bush Turnpike to FM 2181
County: Dallas and Denton Counties
Name of Resource: Highland Lakes Park
Reference: January 2011 Final EA and Public Hearing Documentation

Based on the environmental documentation, the results of public and agency consultation and coordination as evidenced by the attachments to this document, the FHWA has determined that:

The project meets all applicable criteria in the Nationwide Section 4(f) Evaluation and Determination for the Federal-Aid Transportation Projects That Have a Net Benefit to a Section 4(f) Property approved April 20, 2005.

The alternatives set forth in the Alternatives Considered section of the above Nationwide Section 4(f) Evaluation have been fully evaluated.

The findings in the Alternative Considered Section conclude the recommended alternative is the only feasible and prudent alternative and results in a clear net benefit to the Section 4(f) property.

The project complies with the Mitigation and Measures to Minimize Harm Section of the above Nationwide Section 4(f) Evaluation and there are assurances that the measures to minimize harm will be incorporated in the project.

The coordination and public involvement efforts required in the above Nationwide Section 4(f) Evaluation have been successfully completed and necessary written agreements have been obtained.

Accordingly, the FHWA approves the proposed use of the subject lands under the above Nationwide Section 4(f) Evaluation issued on April 20, 2005.

1/28/11
Date Approved

Salvador Deocampo
Federal Highway Administration

cc: TxDOT Environmental Affairs Division
TxDOT District Office

**ATTACHMENT B**

**FEDERAL HIGHWAY ADMINISTRATION – TEXAS DIVISION**
**PROGRAMMATIC SECTION 4(f) DETERMINATION AND APPROVAL**

# NATIONWIDE 4(f) EVALUATION FOR NET BENEFIT TO SECTION 4(f) PROPERTY

USACE Property, including Copperas Branch Park

**Description/Location of Project**:

TxDOT CSJ: 0196-02-068, 0196-01-096, 0196-02-073, 0196-02-114, 0196-03-245
Federal Project #: DMO 2005 ( ), C 196-1-96, C 196-2-73, C 196-2-114, C 196-3-245
Route: IH 35E Middle
Termini: From President George Bush Turnpike to FM 2181
County: Dallas and Denton Counties
Name of Resource: USACE Property, including Copperas Branch Park
Reference: January 2011 Final EA for subject project, Appendix G and Public Hearing Documentation

Consult the Nationwide Section 4(f) Evaluation as it relates to the following items. Complete all items, and mark the box with an X or N/A. Any response in a shaded box requires additional information prior to approval. This determination will be attached to the applicable Environmental Document.

| **Applicability Criteria** | | YES | NO |
|---|---|---|---|
| 1. | The proposed transportation project uses a Section 4(f) park, recreation area, wildlife or waterfowl refuge, or historic site. | X | |
| 2. | The proposed project includes all appropriate measures to minimize harm and subsequent mitigation necessary to preserve and enhance those features and values of the property that originally qualified the property for Section 4(f) protection. | X | |
| 3a. | For historic properties, the project does not require the major alteration of the characteristics that qualify the property for the National Register of Historic Places (NRHP) such that the property would no longer retain sufficient integrity to be considered eligible for listing. (Consultation as in 36 CFR part 800) | N/A | |
| 3b. | For archeological properties, the project does not require disturbance or removal of the archaeological resources that have been determined important for preservation in place rather than for the information that can be obtained through data recovery. (Consultation as in 36 CFR part 800) | N/A | |

| **Applicability Criteria** | | YES | NO |
|---|---|---|---|
| 4. | For historic properties, an agreement has been reached among the SHPO or THPO, the FHWA, and the TxDOT on measures to minimize harm when there is a use of Section 4(f) property. Mitigation and measures to minimize harm have been incorporated into the project. (See following section on "Mitigation and Measures to Minimize Harm.") | N/A | |
| 5. | The officials with jurisdiction over the Section 4(f) lands agreed in writing with the assessment of impacts; the proposed measures to minimize harm; and the mitigation necessary to preserve, rehabilitate and enhance those features and values of the Section 4(f) property; and that such measures will result in a net benefit to the Section 4(f) property. | X | |
| 6. | If federal funds have been used in the acquisition or improvements of the 4(f) site, the land conversion/transfer has been coordinated with the appropriate Federal agency, and they are in agreement with the land conversion or transfer.<br>Documentation is in Appendix G of January 2011 Final EA | X | |

| **Alternatives Considered** | | YES | NO |
|---|---|---|---|
| 1. | The "Do Nothing" alternative has been evaluated and is considered not to be feasible and prudent because it would neither address nor correct the transportation need that necessitated the project. | X | |
| 2. | An alternative has been evaluated to improve the transportation facility in a manner that addresses the project's purpose and need without use of the Section 4(f) property and is considered not to be feasible and prudent. | X | |
| 3. | An alternative has been evaluated to build the transportation facility at a location that does not require use for the Section 4(f) property and is considered not to be feasible and prudent. | X | |

| Mitigation and Measures to Minimize Harm | YES | NO |
|---|---|---|
| 1. The proposed action includes all possible planning to minimize harm. | X | |
| 2. Mitigation measures include one or more of the following: (Check applicable mitigation measures.) | | |
| a. Replacement of lands used with lands of reasonably equivalent usefulness and location, and of at least comparable value; | | X |
| b. Replacement of facilities impacted by the project including sidewalks, paths, benches, lights, trees, and other facilities; | X | |
| c. Restoration and landscaping of disturbed areas; | X | |
| d. Special design features; (Briefly Describe.) In addition to mitigation provided at the existing Copperas Branch Park, facilities are proposed at Copperas Branch East Park to ensure no net loss of recreation classified lands. A maintenance agreement would be determined in coordination with USACE for the installation and maintenance of buoys placed at Lewisville Lake adjacent to the IH 35E bridge. A Multiple Use Agreement is required for the replacement parking area under the IH 35E bridge over Lewisville Lake. | X | |
| e. Payment of the fair market value of the land and improvements taken; | | X |
| f. Improvements to the remaining 4(f) site equal to the fair market value of the lands and improvements taken; | X | |
| g. Other measures. (Briefly Describe) Per coordination with USACE, mitigation for permanent impacts to natural resources on USACE property consists of a direct payment to the LLELA or onsite mitigation at Copperas Branch East Park to control non-native and/or invasive species. Documentation is in Appendix G of the January 2011 Final EA. | X | |

| Coordination | YES | NO |
|---|---|---|
| 1. The proposed project has been coordinated with the Federal, State, and/or local officials having jurisdiction over the 4(f) lands. | X | |

| | | | |
|---|---|---|---|
| 2. | Land is unencumbered by other Federal actions or coordination with the Federal Agency responsible for the encumbrance has been complete. (Land and Water Conservation Fund Act, 16 USC 4601-8(f)(3). | X | |
| 3. | The Applicant (TxDOT) and the official(s) with jurisdiction agree that:<br>a. Use of the property does not result in a substantial diminishment of the function or value that made the property eligible for Section 4(f) protection; and<br>b. The project includes all possible planning to minimize harm, including mitigation; and<br>c. The cumulative result is an overall improvement and enhancement of the Section 4(f) property when compared to both the future do-nothing or avoidance alternative and the present condition of the Section 4(f) property.<br>Documentation is in Appendix G of January 2011 Final EA | X | |
| 4. | For bridge projects, coordination with the U.S. Coast Guard has been completed, if applicable. | N/A | |
| 5. | Public involvement activities have occurred, consistent with the specific requirements of 23 CFR 771.111, Early Coordination, Public Involvement and Project Development. | X | |
| 6. | For a project where one or more public meetings or hearings were held, information on the proposed use of Section 4(f) property was communicated at the public meeting(s) or hearings(s). Documentation is in Appendix G of January 2011 Final EA and Public Hearing Documentation. | X | |

# Determination and Approval

**Description/Location of Project:**

TxDOT CSJ: 0196-02-068, 0196-01-096, 0196-02-073, 0196-02-114, 0196-03-245
Federal Project #: DMO 2005 ( ), C 196-1-96, C 196-2-73, C 196-2-114, C 196-3-245
Route: IH 35E Middle
Termini: From President George Bush Turnpike to FM 2181
County: Dallas and Denton Counties
Name of Resource: USACE Property, including Copperas Branch Park
Reference: January 2011 Final EA for subject project, Appendix G and Public Hearing Documentation

Based on the environmental documentation, the results of public and agency consultation and coordination as evidenced by the attachments to this document, the FHWA has determined that:

The project meets all applicable criteria in the Nationwide Section 4(f) Evaluation and Determination for the Federal-Aid Transportation Projects That Have a Net Benefit to a Section 4(f) Property approved April 20, 2005.

The alternatives set forth in the Alternatives Considered section of the above Nationwide Section 4(f) Evaluation have been fully evaluated.

The findings in the Alternative Considered Section conclude the recommended alternative is the only feasible and prudent alternative and results in a clear net benefit to the Section 4(f) property.

The project complies with the Mitigation and Measures to Minimize Harm Section of the above Nationwide Section 4(f) Evaluation and there are assurances that the measures to minimize harm will be incorporated in the project.

The coordination and public involvement efforts required in the above Nationwide Section 4(f) Evaluation have been successfully completed and necessary written agreements have been obtained.

Accordingly, the FHWA approves the proposed use of the subject lands under the above Nationwide Section 4(f) Evaluation issued on April 20, 2005.

1/28/11
Date Approved

Salvador Deocampo
Federal Highway Administration

cc: TxDOT Environmental Affairs Division

TxDOT District Office

ATTACHMENT C

Date: 01/28/2011

# ( EPIC )

# ENVIRONMENTAL PERMITS, ISSUES, AND COMMITMENTS SHEET

## Environmental Tracking System

### General Project Information

| | | | | | |
|---|---|---|---|---|---|
| **CSJ:** | 0196-02-068 | **Project Type:** | EA | **Cleared by ENV:** | |
| **Field:** | 2 | **Project #:** | NH ( ) IM | **Priority:** | High |
| **District:** | Dallas | **Source:** | Fed/State | | |
| **County:** | Denton | **Current Letting:** | | | |
| **Highway:** | IH 35E | **Final Letting:** | | | |

**Limits From:** President George Bush Tumpike (PGBT)

**To:** FM 2181 ***Includes CSJs 0196-01-096, -02-073, -02-114, -03-245*** & ROW 0196-02-115

**Description:** Widen existing facility 6-10 lanes w/HOV/Managed lanes and frontage roads.

### Biological Resources Issues

**Permit #:** **Commitment Type:** Pre-Construction **Status:** draft **Party Responsible:** district **Last Updated:** 11/13/2006

**Impact Type:**

Total tree removal is 27.32 acres of which about 5.84 acres can be considered riparian. Mitigation would be In-lieu fee payment.

3.2 acres of riparian woodlands mitigation to be planted, minimize removal of trees within ROW but outside construction zone.

Comments Last Updated: 01/06/2011

### Hazardous Material (PD) Issues

**Permit #:** **Commitment Type:** Pre-Construction **Status:** active **Party Responsible:** district **Last Updated:** 08/30/2007

**Impact Type:**

Hazardous waste site numbers 3, 8, 9, 30, 33, 34, 37 will need further research prior to letting. These particular sites are adjacent or will be acquired for the improvements. The posibility is high that TxDOT will encounter contamination during the construction project from these locations.

After further study, 13 sites determined to be high risk, 8 of these are LPST. Remediation and management measures to be resolved during final design.

Comments Last Updated: 01/06/2011

### Noise Abatement Issues

**Permit #:** **Commitment Type:** Pre-Construction **Status:** draft **Party Responsible:** district **Last Updated:** 01/06/2011

**Impact Type:**

Eight sections of noie barriers determined to be feasible and reasonable. Project design, utility evaluation, and property owner polling needed.

Stationing locations and minimum and maximum heights and lengths have been determined and included in current design plans.

Comments Last Updated: 01/06/2011

### Other Issues

**Permit #:** **Commitment Type:** Construction **Status:** active **Party Responsible:** district **Last Updated:** 01/06/2011

**Impact Type:**

Impacts to public parkland (Section (4f)) properties occur at Copperas Branch Park and Highlands Lakes Park. Mitigation measures such as enhancements, additional parking and some replacement acreage to be acquired.

Comments Last Updated: 01/06/2011

## Water Quality Resources Issues

**Permit #:** 25 **Commitment Type:** Pre-Construction **Status:** active **Party Responsible:** consultant **Last Updated:** 01/06/2011

**Impact Type:**

Concrete bridge columns would be placed in waters of the US (Lake Lewisville). NWP33--Temporary Construction, Access and Dewatering may also be applicable.

Comments Last Updated: 11/13/2006

**Permit #:** 14 **Commitment Type:** Pre-Construction **Status:** active **Party Responsible:** consultant **Last Updated:** 01/06/2011

**Impact Type:** Permanent, Permit Required

Project would impact 0 to 0.27 acres of waters of the US. A NWP 14 with General Condition 13 is anticipated. A PCN is required. A Letter of Permission would be required to cross Lewisville Lake.

Comments Last Updated: 11/13/2006

**Permit #:** 14 **Commitment Type:** Pre-Construction **Status:** active **Party Responsible:** district **Last Updated:** 01/06/2011

**Impact Type:**

After further study, project is covered by NWP #14,
-PCN required for sites 1,3,6,8 and 10, wetland impact total is 10.99 acres.
-no PCN for remaining 11 sites

Comments Last Updated: 01/06/2011

**Permit #:** 404 **Commitment Type:** Pre-Construction **Status:** draft **Party Responsible:** district **Last Updated:** 10/20/2003

**Impact Type:**

EA Page 41: Individual permit required for work at Lewisville Lake.

Comments Last Updated: 10/20/2003

**Permit #:** Tierl401 **Commitment Type:** Pre-Construction **Status:** active **Party Responsible:** district **Last Updatec**

| Impact type | Controls | BMPs |
|---|---|---|
| Tierl401 | Erosion | Temporary Vegetation |
| Tierl401 | Sediment | Silt Fence |
| Tierl401 | Sediment | Rock Berm |
| Tierl401 | Post Construction TSS | Vegetative Filter Strip |