

**FEDERAL HIGHWAY ADMINISTRATION**

**FINDING OF NO SIGNIFICANT IMPACT**

**FOR**

**PROJECT:** Interstate 395 Express Lanes  
Northern Extension

**LOCATION:** City of Alexandria, Arlington  
County, and Fairfax County

**FEDERAL PROJECT:** NHPP-395-4(189)

The Federal Highway Administration (FHWA) has determined that this project, as described in the attached Revised Environmental Assessment, will have no significant impact on the human environment. This Finding of No Significant Impact is based on the Environmental Assessment, the Revised Environmental Assessment, and the Virginia Department of Transportation's letter requesting a Finding of No Significant Impact. These documents have been independently evaluated by FHWA and determined to adequately and accurately discuss the purpose and need, environmental issues, and impacts of the proposed project. They provide sufficient evidence and analysis for determining that an Environmental Impact Statement is not required. FHWA takes full responsibility for the accuracy, content, and scope of the Revised Environmental Assessment.

A Federal agency may publish a notice in the Federal Register, pursuant to 23 U.S.C 139(I), indicating that one or more Federal agencies have taken final action on permits, licenses, or approvals for a transportation project. If such notice is published, claims seeking judicial review of those Federal agency actions will be barred unless such claims are filed within 150 days after the date of publication of the notice, or within such shorter time period as is specified in the Federal laws pursuant to which judicial review of the Federal agency action is allowed. If no notice is published, then the periods of time that otherwise are provided by the Federal laws governing such claims will apply.

2/28/17

Date

John Arnkins

Federal Highway Administration

The Federal Highway Administration (FHWA) has reviewed the Virginia Department of Transportation's (VDOT) February 17, 2016 letter requesting a Finding of No Significant Impact, the Revised Environmental Assessment (Revised EA), the comments from the public hearings, and other supporting documentation.<sup>1</sup> In accordance with 40 CFR 1508.13, this Finding of No Significant Impact briefly presents the reasons why the project will not have a significant impact on the human environment.

### **Background**

As described in chapter 4 of the Revised EA, VDOT initiated the study with a scoping process that included soliciting comments from numerous federal and state agencies as well as local governments. VDOT then conducted extensive outreach in order to inform the Environmental Assessment (EA). Such outreach efforts included Civic Association meetings, Stakeholder Technical Advisory Group meetings, and two public information meetings.

FHWA approved the EA on September 8, 2016 for public and agency review and comment. VDOT then held public hearings on October 24, October 26, and November 30, 2016 in order to solicit public input on the EA and the project itself. The Revised EA addresses substantive comments received on the EA. VDOT submitted the Revised EA along with a request for a Finding of No Significant Impact on February 17, 2016.

### **FHWA Decisions**

There are two related but distinct decisions before FHWA with regard to the project. One decision is whether to agree with the Commonwealth of Virginia to approve the Build Alternative as presented in chapter 2 of the Revised EA. The other decision is determining whether the Build Alternative would cause significant environmental impacts. Each of these decisions is addressed below.

### **Alternative Selection**

Chapter 2 of the Revised EA as well as the Alternatives Analysis Technical Report describes the alternatives development process. VDOT evaluated the No-Build Alternative and one Build Alternative in detail, which is allowable in accordance with FHWA's Technical Advisory T 6640.8A - Guidance For Preparing and Processing Environmental and Section 4(f) Documents. It is noted that the EA evaluated multiple options for the Eads Street interchange.

No-Build Alternative. As discussed in the Traffic and Transportation Technical Report, traffic volumes are forecasted to increase in the future, which will lead to more severe, and a longer duration, of congestion along Interstate 395 (I-395) in both the general purpose and the high occupancy vehicle (HOV) lanes during both the AM and PM peak periods. Likewise, increased congestion will further deteriorate travel reliability along I-395. In addition, travel choice will continue to remain limited for vehicles with less than three occupants that want to continue north along the I-95/I-395 Express Lanes facility north of the Turkeycock Run Interchange where

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<sup>1</sup> VDOT's letter and the Revised EA are hereby incorporated by reference into this Finding of No Significant Impact.

these vehicles are required to exit the HOT lanes and enter the general purpose lanes. Similarly, vehicles with less than three occupants traveling southbound along I-395 within the project limits would continue to not have the option of accessing the Express Lanes system until south of Turkeycock Run. Under the No Build conditions with anticipated increases in travel demand, congestion in the peak periods will increase, thereby increasing the potential for congestion-related crashes. The No Build Alternative would not meet the purpose and need for the project and FHWA does not select the No-Build Alternative.

Build Alternative. The Build Alternative would meet the purpose and need of the project. In addition to reducing congestion and overall travel times, the extension of the I-395 Express Lanes would increase roadway safety, provide additional travel choices, and improve travel reliability. The congestion reduction also would reduce the potential for congestion-related rear end crashes. The Build Alternative would offer reliable travel times for all roadway users including HOV motorists and transit buses, and provide an additional travel choice for vehicles with less than three occupants that want to continue north along the I-95 / I-395 Express Lanes facility north of the Turkeycock Run Interchange, or access the southbound Express Lanes facility exiting Washington, D.C. Although congestion would still exist during peak hours in the general purpose lanes as well as the I-395 Express Lanes approaching Washington, D.C., overall travel speeds would increase and travel times would decrease compared to the No Build Alternative. FHWA selects the Build Alternative as described in chapter 2 of the Revised EA.

### **Environmental Impacts and Evaluation of Significance**

VDOT analyzed the project's environmental impacts and, by recommending a FONSI, has concluded that the project would not have a significant impact on the environment. FHWA has independently evaluated the environmental impacts and likewise has determined that they are not significant. The following sections summarize the analysis of impact significance.

#### **Demographics and Property Impacts**

In addition to reducing congestion and overall travel times during peak periods, the extension of the I-395 Express Lanes would increase roadway safety, provide additional travel choices, and improve travel reliability. The improvements would not likely cause people to relocate into or out of the area and, therefore, would not materially affect the population characteristics of the study area. Construction of the Build Alternative would provide temporary local employment opportunities and support existing local businesses near the corridor (e.g., gas stations and restaurants). The Build Alternative would be built largely within VDOT's existing right of way and would not result in any residential or business displacements. Minor right of way and/or easements may be necessary for the construction of noise barriers. Based upon preliminary design, approximately 5.06 acres of right-of-way may be required for the barriers. Additionally, approximately 0.24 acres would be required for power, signal, and signage requirements. The Build Alternative would not significantly impact population or housing characteristics, or cause residential or business displacements or relocations.

FHWA finds that the demographics and property impacts are not significant.

## Environmental Justice

The Build Alternative would reduce congestion and overall travel times during peak periods. The extension of the I-395 Express Lanes would also increase roadway safety, provide additional travel choices, and improve travel reliability, thereby providing benefits to all populations, including minority populations. The Build Alternative would cause noise impacts to both non-minority and minority populations. Consideration of mitigation for noise impacts (e.g., noise barriers) is on-going and noise barriers would be provided when warranted and determined to be feasible and reasonable.

The Build Alternative would convert HOV lanes to high occupancy toll (HOT) lanes, requiring that single occupancy vehicles and double occupancy vehicles pay a toll to use the express lanes. Other options to avoid the tolls associated with the HOT lanes are available and offer flexibility for all income levels, including: the use of the general purpose lanes, the use of an E-ZPass Flex that would provide free access to the HOT lanes for vehicles with three or more people in the vehicle, and transit.

Maintaining the general purpose lanes along with the HOT lanes allows each individual traveler to choose between the free lanes or the tolled facility based on the value that individual has placed on their time or the need for a reliable trip time. With the new cash-based system created by E-ZPass, families that previously could not obtain an E-ZPass transponder due to the lack of a credit card can now purchase an E-ZPass Reload Card at local convenience stores, such as CVS and 7-11 (see <http://www.ezpassva.com/reloadcard> for more details). These additional options help ensure that low income drivers are not precluded from using the facility. The impacts associated with the Build Alternative would not disproportionately impact minority or low-income populations.

FHWA finds that the Build Alternative would not have disproportionately high and adverse effects on minority and low income populations, and finds that the impacts to such populations would not be significant.

## Land Use and Planned Development

A commonly stated need for development within each locality is more efficient travel in either the form of better public transportation or improved highway corridors. The Build Alternative would reduce congestion and overall travel times during peak periods. The extension of the I-395 Express Lanes would increase roadway safety, provide additional travel choices, and improve travel reliability. These traffic improvements have the potential to aid each locality in future development goals by helping to provide faster and more reliable commute times along with improved travel times for emergency vehicles. The Build Alternative would have no substantial impacts to land use.

FHWA finds that the impacts to land use and planned development are not significant.

## Recreational Resources

No recreational resources would be physically impacted. Noise impacts are predicted to occur at portions of five recreational resources under the Build Alternative; however, none of these impacts would be considered a constructive use under Section 4(f). Potential noise mitigation in the form of noise barriers is under consideration. The extension of the I-395 Express Lanes would increase roadway safety, provide additional travel choices, and improve travel reliability, which may contribute to an increased usage of recreational facilities as some members of the community may find that traveling to the facilities is easier.

FHWA finds that the impacts to recreational resources are not significant.

## Cultural Resources

The Build Alternative would not affect any archaeological sites that are eligible for the National Register of Historic Places. Based upon preliminary design, the Build Alternative could impact up to approximately 5.91 acres (approximately 2.41 acres outside of VDOT right of way and 3.5 acres within VDOT right of way) of historic resource property for the construction of noise barriers. This acreage estimate is based on a conservative estimate of the right of way width required to construct and maintain the barriers (approximately 30 feet). VDOT anticipates that during the final design noise analysis, barrier locations would be refined and may be shifted to be fully located within the right of way.

The Virginia and Washington, D.C. State Historic Preservation Officers (SHPOs) have reviewed the project within VDOT right of way in accordance with Section 106 of the National Historic Preservation Act and concurred that the project would not adversely affect historic properties. Additional coordination with the Virginia and Washington, D.C. SHPOs will be conducted based on further design details. If the additional design results in a change to the effect determination from “no adverse effect” to “adverse effect,” VDOT would need to resolve the adverse effects by developing mitigation or minimization measures. These measures would need to be identified in a Reevaluation for FHWA’s consideration prior to construction in the area to be affected.

FHWA finds that the impacts to cultural resources are not significant.

## Air Quality

### *Transportation Conformity*

The project has been included in the 2016 Constrained Long Range Plan Amendment and the FY2017-2022 Transportation Improvement Program and has been found to conform to all requirements of the Clean Air Act Amendments of 1990 by the National Capital Region Transportation Planning Board (TPB). The Amendment was adopted by the TPB at its regular meeting on November 16, 2016, and FHWA and the Federal Transit Administration issued the Federal conformity approval on February 27, 2017.

### *Particulate Matter Analysis*

For PM<sub>2.5</sub>, the screening criteria presented in Appendix L of the VDOT Project-Level Air Quality Resource Document (Resource Document), which were established based on U.S.

Environmental Protection Agency (EPA) guidance and subjected to interagency consultation for conformity, were applied to determine if this project represents one of local air quality concern. Traffic forecasts developed for this project showed that increases in average daily diesel truck traffic associated with the Build Alternative would not exceed 2,000 trucks per day, the criterion established in the Resource Document for highway capacity expansion. Additional factors that support the conclusion that this project is not one of local air quality concern for PM<sub>2.5</sub> include:

- mainline capacity increases usable by trucks are not part of the proposed action;
- the area has already achieved the 1997, 2006 and 2012 PM<sub>2.5</sub> National Ambient Air Quality Standard (NAAQS);
- background concentrations are well below the 1997 NAAQS (8.8 – 9.4 ppb); and
- on August 24, 2016, EPA issued a final rule (81 FR 58010), effective October 24, 2016, on “*Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements*” that revoked the 1997 primary annual PM<sub>2.5</sub> standard for areas designated as attainment for that 2012 PM<sub>2.5</sub> standard. As a result, conformity requirements pertaining to PM<sub>2.5</sub> no longer apply to the project area.

Based on the above, it was determined that the proposed project is not one of air quality concern for PM<sub>2.5</sub> and therefore a detailed quantitative assessment of potential impacts was not required.

### *Carbon Monoxide Analysis*

A quantitative carbon monoxide (CO) hot spot worst-case screening analysis was performed for the project for purposes of both conformity and the National Environmental Policy Act (NEPA), using inputs and procedures specified in the Resource Document and consistent with applicable EPA and FHWA requirements and guidance. The analysis was conducted as follows:

- modeling was completed for existing (2015), the project opening (2020), and design (2040) years;
- the modeling was conducted with EPA models for emissions and dispersion;
- the analysis was conducted for three highly congested major intersections (Little River Turnpike and Beauregard Street, Seminary Road and Beauregard Street eastbound, S. Glebe Road and northbound I-395 off-ramp) and the interchange of I-395 & Route 27;
- based on the FHWA-VDOT 2016 Programmatic Agreement, only Seminary Road and Beauregard Street eastbound required detailed modeling; and
- modeling in all cases was conducted using worst-case assumptions for traffic and facility configurations. For example, at the interchange of I-395 and Route 27, worst-case traffic volumes were applied, traffic and emissions were concentrated into a single grade separation rather than modeled over broadly dispersed ramps, and receptors were located at twenty feet from the edge of the travelled roadways rather than outside the right of way limits.

The results of the analyses (i.e., the intersections and the interchange) show that CO concentrations for the Build Alternative are expected to remain well below the CO NAAQS for all locations modeled throughout the corridor for each year modeled. Based on the modeling

results, implementation of the project is not expected to cause or contribute to a violation of the CO NAAQS.

#### *Mobile Source Air Toxics Analysis*

Based on FHWA guidance and the forecasted total traffic volumes for I-395, this project is categorized as one with high potential effects for Mobile Source Air Toxics (MSAT). Therefore, a detailed quantitative assessment following FHWA guidance was conducted for the project to assess the potential impacts from MSAT. The assessment shows that there would be no long-term adverse impacts associated with the Build Alternative and that future MSAT emissions across the entire study corridor would be substantially below today's levels, even after accounting for projected growth in vehicle miles traveled.

More specifically, the results indicate that MSAT emissions are expected to increase slightly from the No Build to the Build Alternative in 2020 and 2040, although these increases are not substantial. However, when compared to existing conditions, emissions of all MSAT pollutants under the Build Alternative are projected to be substantially lower than exist today. EPA's stringent vehicle emission and fuel regulations, combined with fleet turnover, are expected to substantially lower fleet-average emission rates for MSATs in the future relative to today.

Overall, best available information indicates that regional levels of MSATs are expected to decrease in the future due to fleet turnover and the continued implementation of more stringent emission and fuel quality regulations. Nevertheless, it is possible that some localized areas will show an increase in emissions and ambient levels of these pollutants due to locally increased traffic levels associated with the project.

#### *Construction Emissions*

The temporary air quality impacts from construction are not expected to be substantial. Emissions will be produced during the construction of this project by heavy equipment and vehicle travel to and from the site. Earthmoving and ground-disturbing operations will generate airborne dust. Construction emissions are short term or temporary in nature. In order to reduce these emissions, all construction activities are to be performed in accordance with VDOT's current Road and Bridge Specifications. These specifications require compliance with all applicable local, state, and federal regulations.

FHWA finds that the air quality impacts are not significant.

#### Noise

Predicted 2040 Build Alternative exterior noise levels are slightly higher than the existing and No Build levels, and range from 45 to 80 dBA. On average for all receptors, noise levels are predicted to increase from existing to Build conditions by approximately one dBA. This increase is due primarily to the roadway improvements allowing slightly higher traffic volumes in the loudest-hour periods.

A noise impact occurs wherever project noise levels are expected to approach within one dBA or exceed the Noise Abatement Criteria (NAC) or when project noise levels cause a substantial

increase over existing year noise levels – an increase of 10 dBA or more is considered substantial by VDOT. There are no impacts predicted due to substantial increases in noise levels for the I-395 Express Lanes project.

*Mitigation.* FHWA and VDOT require that noise barriers be both feasible and reasonable to be recommended for construction. To be feasible, a barrier must reduce noise levels at noise sensitive locations by at least five dBA, thereby benefiting the property. VDOT requires that at least 50 percent of the impacted receptors receive five dBA or more of noise reduction from the proposed barrier. Additionally, constructability issues must be assessed, such as safety, barrier height, topography, drainage, utilities, maintenance of the barrier, and access to adjacent properties. In addition to any potential engineering conflicts, VDOT's noise policy states that noise barrier panels cannot exceed the maximum allowable panel height of 30 feet.

Barrier reasonableness is based on three factors: cost-effectiveness, ability to achieve VDOT's noise reduction design goal, and voting results of the benefited receptors. To be cost-effective, a barrier's surface area cannot exceed 1,600 square feet per benefited receptor. All receptors located above the barrier maximum height of 30 feet are not assessed or included in the determination of a barrier's feasibility or reasonableness. The second reasonableness criterion is the ability to achieve VDOT's noise reduction design goal of seven dBA for at least one of the impacted receptors. The third reasonableness criterion requires that a majority of the benefited receptors (owners and residents of the potentially benefited properties) vote in favor of the barrier. In order to assess community views, a survey of benefited receptors would be conducted during the final design phase.

Noise barriers were evaluated for all areas where noise impacts were predicted. Table 3-3 of the Revised EA summarizes the total length, estimated cost, and benefits that would be provided by the barriers that were found to be preliminarily feasible and reasonable. The barriers that were found to be preliminarily feasible and reasonable are shown in Figure 3-7 of the Revised EA. A total of 8.1 miles of noise barriers have preliminarily been identified as being feasible and reasonable. These noise barriers would benefit 2,027 of the impacted receptors, as well as 2,626 receptors that are not impacted, at an estimated cost of \$28 million. Table 3-4 of the Revised EA summarizes the details of all the barriers that were evaluated. A final decision on the feasibility and reasonableness of noise barriers would be made during the final design noise analysis phase of the project when finalized project design is developed. FHWA will ensure that feasible and reasonable noise barriers are incorporated into the project.

*Construction noise.* Construction activity may cause intermittent fluctuations in noise levels, but substantial construction noise impacts are not anticipated. Existing noise levels along I-395 are relatively high with considerable influence from heavy trucks and high traffic volumes; therefore, temporary construction noise should be minimal in comparison. Regardless, during the construction phase of the project, all reasonable measures will be taken to minimize noise impacts from these construction-related activities. VDOT's Road and Bridge Specifications establish construction noise limits and the contractor will be required to conform to this specification to reduce any impacts of construction noise.

FHWA finds that the noise impacts are not significant.

### Wetlands and Streams

While the roadway would not impact any streams or wetlands, the potential noise barrier located on the east side of I-395 just north of Route 7 is anticipated to impact approximately 0.004 acres of wetland. The location of the noise barrier would be refined as much as practicable to lessen impacts to wetlands while meeting noise attenuation goals. The use of retaining walls and side slopes would be considered to avoid impacts from lateral encroachment. Compensation for any unavoidable impacts to wetlands would be provided through mitigation banking credits based on the approval of permitting agencies.

FHWA finds that the impacts to wetlands and streams are not significant.

### Water Quality

Temporary impacts to water quality may occur during roadway construction activities through increased sedimentation from land disturbing activities and occurrences of fuel spills or hydraulic spills from construction equipment. During construction, the contractor would adhere to standard erosion and sediment control measures. Since this project was approved by Virginia Department of Environmental Quality for stormwater grandfathering under the Part C II technical criteria of 9VAC25-870-93, the contractor would adhere to stormwater criteria prescribed in the regulations preceding July 2014.

Stormwater management for the majority of the project would be accounted for through the purchase of nutrient credits. However, the portion of the project on the Pentagon Reservation will be required to comply with the Washington Headquarters Services Municipal Separate Storm Sewer System (MS4) permit. The total phosphorous removal requirement per VDOT Method IIC Performance Based calculations is less than ten pounds per year. Therefore, in accordance with Virginia Department of Conservation and Recreation requirements, the project is eligible for the purchase of the entire amount of nutrient credits in lieu of constructing best management practice (BMP) stormwater management facilities.

FHWA finds that the impacts to water quality are not significant.

### Floodplains

While the roadway would not encroach into floodplains or floodways, noise barriers have the potential to impact 0.09 acres of 100-year floodplains and 0.01 acres of 500-year floodplains. As the noise barriers advance to more detailed design, continued focus would be on avoiding and minimizing floodplain encroachment to ensure that the Build Alternative meets the goals of Executive Order 11998, as amended, Executive Order 13690, and FHWA policy as set forth in 23 CFR §650. During final design, a hydrologic and hydraulic analysis would be conducted to evaluate the effect of the proposed roadway improvements on stormwater discharge. The results of the study would be used to provide adequate design of the hydraulic opening and proper conveyance of floodwaters to minimize impacts to the floodplain.

FHWA finds that the impacts to floodplains are not significant.

## Terrestrial Wildlife and Habitat

Although there are three wildlife corridors that travel through the study area, none of them would be modified by the Build Alternative. In addition, the Build Alternative would not add impediments to their utilization by wildlife. Noise barriers may be placed adjacent to the road and wildlife corridors, but would not impede wildlife movement any more so than the existing highway and culverts.

FHWA finds that the impacts to terrestrial wildlife and habitat are not significant.

## Threatened, Endangered, and Special Status Species

There are two endangered or threatened species with the study area: the dwarf wedgemussel and the northern long-eared bat. The Build Alternative would not impact any streams; therefore, no impact would occur to the dwarf wedgemussel. No known or documented hibernacula or maternity roosts used by the northern long-eared bat occur in the study area, and the northern long-eared bat is not likely to be adversely affected by the project. No critical habitat would be impacted.

Although no impacts to anadromous fish use areas are currently proposed, because anadromous fish use areas are mapped downstream of the study area, any impacts to streams may be subject to time-of-year-restrictions, and, therefore, may require additional resource agency coordination. Further coordination with agencies and final effect determinations for listed species would be conducted as a part of the Section 401/Section 404 permit process.

## Hazardous Materials

Prior to acquisition of right of way and construction, thorough site investigations would be conducted to determine whether any sites are actually contaminated. Sites that are identified to include potential contamination would be characterized by conducting thorough site investigations (e.g., Phase I Environmental Site Assessments (ESAs) and, if necessary, Phase II ESAs) to determine the presence of and/or the extent of contamination. Undocumented hazardous materials that are encountered during construction efforts will be managed, handled, and disposed of in accordance with federal, state and local regulations.

## Indirect Effects

As described in the Indirect and Cumulative Effects Technical Memorandum, indirect effects from the Build Alternative are expected to be minimal since the proposed improvements are to an existing facility largely within existing right of way in an environment that is highly developed and influenced by highway-related pressures. The Build Alternative is expected to improve travel times, provide better access for public transit, and reduce congestion, thereby encouraging businesses to remain in place. Additionally, as part of the Development Framework Agreement, 95 Express would fund an annual transit payment.

Potential indirect impacts to wetlands, streams, water quality, floodplains, wildlife habitat, and threatened, endangered, or special status species could result from increased stormwater runoff due to increases in impervious surfaces. However, indirect effects associated with sediment transport should be minor during construction through the proper use of stormwater control measures. During construction, the contractor would adhere to standard erosion and sediment control and stormwater measures and the associated required monitoring protocols.

Proximity effects associated with the existing facility, including noise, air quality, and visual intrusions would continue to impact historic resources. However, based on the Virginia and Washington, D.C. SHPO coordination, the Build Alternative would not adversely affect historic properties. As indicated above, additional coordination with the Virginia and Washington, D.C. SHPOs will be conducted based on further design details.

No induced growth is to be expected as a result of the Build Alternative. The study area and surrounding localities are already highly developed and any planned growth would continue regardless of whether the project is constructed.

FHWA finds that the indirect effects are not significant.

#### Cumulative Effects

The Build Alternative would alleviate congestion, thus contributing to minor beneficial cumulative effects to socioeconomics, land use, and community facilities. The short-term impact of more jobs and associated expenditures resulting from the Build Alternative is expected to benefit the local communities. Once complete, this project is not anticipated to create induced growth or infill development beyond what was anticipated without the project.

The Build Alternative's impacts to wetlands and water quality would contribute to the cumulative effects that have occurred in the past to natural resources within the study area. However, mitigation measures would compensate for impacts to wetlands and water quality. In addition, potential minimization strategies such as shifting potential noise barriers away from historic resources would be considered. Additional information on the cumulative effects analysis can be found in the Indirect and Cumulative Effects Technical Memorandum.

FHWA finds that the cumulative effects are not significant.

#### Section 4(f)

As discussed in section 3.6 of the Revised EA, 15 recreational resources are located within the study area. While none of these resources would be directly impacted by the Build Alternative, the resources could experience indirect effects, such as increased noise or traffic during construction and once the facility is operational. However, none of these impacts would constitute a use of Section 4(f) property.

As discussed in section 3.7 of the Revised EA, five known historic resources are located within close proximity to the proposed improvements. Currently, 5.91 acres of potential impact to

historic property is estimated for the construction of noise barriers, with 2.41 acres outside of VDOT right of way and within historic districts, and 3.5 acres within VDOT right of way. The 2.41 acres of impact would be considered a Section 4(f) use. This value is based on a conservative estimate of the right of way width required to construct and maintain the barriers (approximately 30 feet). VDOT anticipates that during the final design noise analysis, barrier locations would be refined and may be shifted to be fully located within VDOT right of way. Additional coordination with the Virginia and Washington, D.C. SHPOs will be conducted based on further design details. The 2.41 acres of impact would likely be a *de minimis* impact pursuant to the Section 4(f) regulations at 23 CFR 774. Compliance with Section 4(f) will need to be documented in a Reevaluation for FHWA's consideration prior to the use of any Section 4(f) property.

FHWA finds that an impact of 2.41 acres of Section 4(f) property as a result of environmental mitigation measures (i.e., noise barriers) would not be significant.

### **Council on Environmental Quality's Regulations**

The Council on Environmental Quality's regulations implementing the National Environmental Policy Act require consideration of a project's context and intensity in determining whether the project would have a significant impact (40 C.F.R. 1508.27).

#### **Context**

The regulations state, "Context means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant." Since the construction of the project is a site-specific action, significance depends upon the effects on the project area. A description of the context of the I-395 corridor can be found in chapter 3 of the Revised EA.

#### **Intensity**

The regulations identify factors that should be considered in determining whether the intensity of a project's impacts is such that they result in a significant impact on the environment (40 C.F.R. 1508.27(b)(1-10)). FHWA has considered these factors as described below.

1. *Impacts that may be both beneficial and adverse.* Construction of the project would have beneficial effects, including reduced congestion, improved travel reliability, and improved safety. In addition, mitigation measures such as noise barriers are under consideration for communities that currently are not protected from existing noise levels along the corridor.

2. *The degree to which the project affects public health or safety.*

### Public Health

*Air Quality.* It is not anticipated that the project would adversely affect public health with respect to air quality. The national ambient air quality standards (NAAQS) were established by EPA with public health in mind. The air quality analyses discussed above demonstrate that there would be no exceedances of the NAAQS that apply to the project area and, therefore, the project would not adversely affect public health as it relates to particulate matter, ozone, and carbon monoxide. A detailed analysis of Mobile Source Air Toxics demonstrates that there would no long-term adverse impacts associated with the Build Alternative and that future MSAT emissions across the entire study corridor would be substantially below today's levels, even after accounting for projected growth in vehicle miles traveled. Finally, the temporary air quality impacts from construction are not expected to be substantial. All construction activities are to be performed in accordance with VDOT's current Road and Bridge Specifications. These specifications require compliance with all applicable local, state, and federal regulations.

*Drinking Water.* Comments from the Virginia Department of Health indicated that that there are no apparent impacts to public drinking water sources.

### Safety

The construction of the project is not anticipated to adversely affect safety. On the contrary, I-395 would be an inherently safer roadway as a result of the project. The congestion reduction benefits of the project would reduce the potential for congestion-related rear end crashes in both the general purpose and HOV lanes, which account for more than half of all reported crashes.

FHWA finds that the degree to which the project would affect public health or safety does not represent a significant impact.

3. *Unique characteristics of the geographical area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas.* The Virginia State Historic Preservation Officer has concurred that the project would have no adverse effect on historic properties. There would be no physical impacts to park lands, and the project would have no impacts to prime farmlands, wild and scenic rivers, or ecologically critical areas. The construction of a noise barrier may result in approximately 0.004 acres of wetland impact. Compensation for any unavoidable impacts to wetlands would be provided through mitigation banking credits based on the approval of permitting agencies. All applicable permits will be acquired prior to the start of construction in wetland areas and all appropriate mitigation, to be determined in coordination with the permitting agencies, will be implemented for unavoidable impacts.

FHWA finds that the project would not have a significant impact on historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

4. *The degree to which the effects on the environment are expected to be highly controversial.* The term “controversial” refers to cases where substantial dispute exists as to the size, nature, or effect of the action rather than to the existence of opposition to a use, the effect of which is relatively undisputed. There has been no substantial dispute regarding the size, nature, or effect of the project from the environmental resource agencies. No environmental resource agency has expressed opposition to the construction of the project, and EPA did not find that the project would be unsatisfactory from the standpoint of public health or welfare or environmental quality.

FHWA finds that the degree to which the effects on the environment are highly controversial does not require an Environmental Impact Statement.

5. *The degree to which the effects on the quality of human environment are highly uncertain or involve unique or unknown risks.* There are no known effects on the quality of the human environment that can be considered highly uncertain or involve unique or unknown risks. Roadways such as I-395 have been constructed around the country as well as within the Commonwealth of Virginia. The potential environmental impact areas from roadways are described in FHWA’s NEPA guidance documents. The potential impacts from the construction of this project have been identified using standard and accepted methods and approaches for assessing environmental impacts.

FHWA finds that the degree to which the effects on the quality of the human environment are highly uncertain or involve unique or unknown risks does not require the preparation of an Environmental Impact Statement.

6. *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.* This action will not set a precedent for future roadway projects with significant effects or represent a decision in principle about a future project. The impacts associated with the construction of the project are not unique, and any future changes that are proposed to I-395 will be considered on their own merits and in accordance with environmental regulations. FHWA’s regulations at 23 CFR 771.115(a) list the types of actions that normally have a significant effect on the environment thereby requiring the preparation of an Environmental Impact Statement. This project is not the type of action that is on that list.

7. *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.* As explained in VDOT’s response to comment 35.1 in the Revised EA, this project has logical termini and independent utility and does not force additional transportation improvements to be made to the transportation system. The EA and Revised EA contain discussions of cumulative impacts. As stated previously, FHWA finds that the cumulative impacts are not significant.

8. *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss of significant scientific, cultural, or historic resources.* The construction of the project would have no adverse effect on districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places.
9. *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act.* No critical habitat would be impacted. There are two endangered or threatened species with the study area: the dwarf wedgemussel and the northern long-eared bat. The Build Alternative would not impact any streams; therefore, no impact would occur to the dwarf wedgemussel. No known or documented hibernacula or maternity roosts used by the northern long-eared bat occur in the study area, and the northern long-eared bat is not likely to be adversely affected.
10. *Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.* The project does not threaten a violation of any Federal, State, or local law for the protection of the environment. The construction of the project will comply with all applicable Federal, State, or local laws, and all applicable permits will be acquired prior to construction.

#### **FHWA Finding**

Based on the foregoing information as well as the EA, Revised EA, public hearing comments, and other project documentation, FHWA finds that the project will not have a significant environmental impact. Therefore, an Environmental Impact Statement is not warranted, and this Finding of No Significant Impact is being issued accordingly. The Finding of No Significant Impact will be reevaluated pursuant to 23 CFR 771.129(c) prior to FHWA granting any major approvals, and the reevaluation will take into account the conditions at that time.