CUY-90-14.90

PID 77332/85531

APPENDIX ED-01

Record of Decision
(Reference Document)

State of Ohio
Department of Transportation
Jolene M. Molitoris, Director

Innerbelt Bridge
Construction Contract Group 1 (CCG1)

Revision Date: September 18, 2009

U.S. Department
of Transportation
Federal Highway Administration

Ohio Division

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September 18, 2009

In Reply Refer To:
HEO-OH

Director Jolene M. Molitoris
Ohio Department of Transportation
1980 West Broad Street
Columbus, OH 43223

Subject: Record of Decision
Cleveland Innerbelt Project
CUY – 71/90 – 16.79/14.90, PID 77510

Dear Director Molitoris:

Enclosed per your request of September 11, 2009 is the Record of Decision dated September 18, 2009 for the Cleveland Innerbelt Project, CUY – 71/90 – 16.79/14.90, PID 77510. Alternative A (Northern Alignment Alternative), as identified within the FEIS/Section 4(f) Evaluation and the incorporated supporting documents/documentation, is approved for further development and implementation in compliance with the FHWA September 18, 2009 Record of Decision.

Please be aware that within the Record of Decision, the Federal Highway Administration (FHWA) has provided the *Project's* Section 4(f) approval, and the final acceptance/approval of the *Project's* March 2009 *Interchange Justification Study.*

Should the Ohio Department of Transportation have any questions or comments in regards to the FHWA decisions and approvals as documented in the Record of Decision please do not hesitate to contact me or my staff. Mr. Herman Rodrigo and Mr. Michael B. Armstrong will remain as the primary FHWA contacts for the Project. They may be contacted by calling (614) 280-6896 or by e-mail at the following address: ohio.fhwa@dot.gov

Sincerely,

For: Patrick A. Bauer
Acting Division Administrator

Enclosure (1)

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CUY – 71/90 – 16.79/14.90, PID 77510

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United States Department of Transportation
Federal Highway Administration
Ohio Division

Record of Decision,
Section 4(f) Approval, and
Interchange Justification Study Approval

For the

Cleveland Innerbelt Project, CUY – IR 71/IR90 -16.79/14.90, PID: 77510, City of Cleveland, Cuyahoga County, Ohio

Issued Pursuant to 42 U.S.C. 4332(2)(c), 23 U.S.C. 138, 49 U.S.C. 303 and 23 U.S.C. 128(a)

(This action complies with the National Historic Preservation Act)

Introduction:

The Record of Decision (ROD) complies with NEPA, regulations implementing NEPA (40 CFR 1505.2), and FHWA requirements (23 CFR 771). It is a statement of the decisions made as a result of environmental, social, economic, and engineering analyses, and consideration of input from the public and other agencies. The Final Environmental Impact Statement (FEIS) (FHWA-OH-EIS-09-01-F) released for public comment in July 2009 summarizes the analyses and input.

The Federal Highway Administration (FHWA) and the Ohio Department of Transportation (ODOT) as joint lead agencies are proposing the major rehabilitation and reconstruction of the Cleveland Innerbelt Freeway system infrastructure to address operational, design, safety, and access shortcomings that severely impact the Freeway's ability to function in an acceptable manner. The Cleveland Innerbelt Project is approximately 3.24 miles long. Its termini are located near the merge/diverge point of State Route 176, (the Jennings Freeway) and Interstate 71 southwest of downtown, south of the existing Interstate 90/Interstate 77 Central Interchange on Interstate 77 south to the Pershing Avenue local partial interchange south of downtown, and east of the Interstate 90/State Route 2 system interchange east of downtown along the shore of Lake Erie and adjacent to the Burke Lakefront Airport. Within the project limits Interstate 90 crosses the expansive Cuyahoga River Valley. The Central Viaduct major deck truss bridge, as constructed in 1959, facilitates the Interstate 90 crossing of the Valley with connections to Interstate 71 and Interstate 90 within the historic Tremont area on the west side, and with connections to the Interstate 90/Interstate 77 Central Interchange adjacent to the Cleveland Indians' Major League Baseball sporting facility to the east.

The Selected Alternative for the project is Alternative A, which includes the Northern Alignment Alternative in the Central Viaduct/Central Interchange area. The basis for the selection of the alternative is discussed in "Comparison of Feasible Alternatives" below.

Purpose and Need:

The purpose of the Innerbelt Freeway system is to collect and distribute traffic between the radial freeway system (I-71, I-90, I-77, SR 2, I-490, and SR 176) and the local street system, and to move traffic between each of the radial freeways, within the Cleveland CBD area. The purpose of the Cleveland Innerbelt action is to rehabilitate and reconstruct the Innerbelt Freeway system, and to address operational, design, safety, and access shortcomings that severely impact the ability of the Innerbelt Freeway system to function acceptably. Several circumstances prevent the Innerbelt Freeway from

performing these functions at an acceptable level. These include deteriorating physical conditions of bridges and pavements, poor operational performance (congestion), design features that do not meet current standards, and accident rates exceeding the statewide average for similar facilities. Because the fundamental function described above includes the critical role of the freeway-to-local street connections, the Purpose and Need also includes a discussion of the issues related to local access.

Downtown Cleveland depends on the Innerbelt Freeway's ability to collect and distribute traffic between the radial freeway and interstate system and the local street system. During the morning peak period, the Innerbelt Freeway functions to collect traffic from the system of radial freeways and distribute that traffic to the local street system. During the evening peak period, the Innerbelt Freeway functions to collect traffic from the local street system and distribute that traffic to the system of radial freeways and interstates. Approximately 85 percent of the traffic using the Innerbelt Freeway has a destination within the study area during the AM peak period or an origin within the study area during the PM peak period. Because of this unique travel pattern, the interrelationship and connection between the city street grid and the Innerbelt Freeway becomes even more crucial. The Innerbelt Freeway also moves traffic between each of the radial freeways, thus allowing through traffic to bypass the local street system.

The Cleveland Innerbelt Project initially resulted from the need to address deteriorating bridges and pavements on the Innerbelt Freeway. The bridges and roadway pavements of the Innerbelt Freeway are approaching the end of their useful lives. Therefore, there is a need to replace or rehabilitate the bridges and roadway pavements.

- *Innerbelt Freeway Infrastructure Bridge Decks* – All the Innerbelt Freeway bridge decks are of similar age, construction and condition, and are in need of replacement prior to the project's design year 2035. Of particular concern is that 24 of the Innerbelt Freeway's 25 bridges are concentrated within the three-mile section of freeway that extends from the I-71 interchange with SR 176 to the I-90 interchange with I-77 (Central Interchange).
- *Innerbelt Freeway Infrastructure Roadway Pavements* – All the Innerbelt Freeway roadway pavements are of similar age, construction and condition, and need rehabilitation prior to the project's design year 2035.

As part of the comprehensive planning study conducted to address the physical conditions of the Innerbelt Freeway, ODOT also identified other transportation needs within the corridor that impacted the ability of the Innerbelt Freeway to function acceptably. These other transportation needs include:

- *Innerbelt Freeway Operational Performance* – During the AM and PM peak periods, the travel demand exceeds the capacity on multiple portions of the Innerbelt Freeway. This results in a reduction in running speed, the queuing of traffic on the mainline and the diversion of traffic from the freeway to the local street system.
- *Innerbelt Freeway Design Deficiencies* – The existing Innerbelt Freeway predates the development of modern standards for the design of freeways. In particular, four types of design deficiencies have the most direct and adverse impacts on the operational performance and safety of the Innerbelt Freeway: (1) improper reduction in the basic number of lanes, (2) inadequate ramp configuration and spacing, (3) inadequate curve radii, and (4) inadequate shoulder width.
- *Innerbelt Freeway Safety* – ODOT analysis and ODPS crash data document that the Innerbelt Freeway is a congested freeway with a history of high crash frequency. Twenty-one of 30 half-mile sections that comprise the Innerbelt Freeway have crash rates above the statewide average. Furthermore, six locations have been, or currently are, ranked in the top 250 high crash locations in the State of Ohio. One portion of I-90 from the east end of the Central Viaduct Bridge to the Innerbelt Curve has been ranked #1 Safety Hot Spot for the past two years (2004/2005).
- *Innerbelt Freeway Access* – There is a need to preserve the local roadway connectivity function of the Innerbelt Freeway and provide continued access and mobility to the CBD, adjacent neighborhoods, and commercial/industrial areas. Expressed another way, there is a need to preserve the local and interstate traffic functions throughout the Innerbelt Freeway to improve safety and operations on each element of the roadway system.

Additional details regarding the Purpose and Need are provided in DEIS Chapter 2, which is included within Appendix G of the FEIS/Section 4(f) Evaluation.

Alternatives Considered:

Under ODOT's Project Development Process (see Section 1.2 of the DEIS), the alternatives for the Cleveland Innerbelt Project were developed through a series of steps. When limited design and environmental information was available early in the process, broad conceptual solutions were evaluated in the *Strategic Plan*, completed in 2004. Through each step, as more technical information was collected and public involvement was considered, the range of alternatives was narrowed until a small number of Feasible Alternatives were identified in the *Conceptual Alternatives Study*, published in August 2006.

The *Conceptual Alternatives Study* (CAS) concluded by identifying Feasible Alternatives, by section of the Innerbelt project, for further development. For all but two of the sections of the Innerbelt, a single Feasible Alternative was identified. The two sections with more than one alternative were the Innerbelt Trench and the Central Interchange/Central Viaduct Bridge sections. Further refinements following the CAS yielded a compromise alternative for the Innerbelt Trench (discussed in detail in DEIS Section 3.4.2.2.) Therefore, the only area with more than one remaining alternative is the Central Interchange/Central Viaduct Bridge section. The alternatives for each section were combined to yield two Feasible Alternatives, Alternative A and Alternative B for the entire length of the project.

Alternative A spans the entire project length using the Northern Alignment Alternative within the Central Viaduct/Central Interchange area. Alternative A is shown on DEIS Exhibit A overview maps A-G, and in detail on DEIS Exhibits A-1 through A-44.

Alternative A includes full depth pavement replacement/reconstruction, widening where necessary to address capacity or lane continuity, 35 new mainline, ramp, and overhead bridges, and 16 mainline and ramp deck replacements. It will provide 3 through lanes in each direction in the Trench and I-77 sections (same as existing) and 5 lanes in each direction (one more than existing) across the Central Viaduct Bridge.

It includes construction of a new bridge north of the existing Central Viaduct to carry westbound traffic and replacement of the existing Viaduct on essentially existing alignment to carry eastbound traffic. The new westbound bridge over the Cuyahoga Valley would have a main span of 800 feet, with 1,028 feet of structure on the west approach and 3,371 feet on the east approach. The eastbound bridge will have a main span of 800 feet, with 1,226 feet of structure on the west approach and 3,053 feet on the east approach.

Alternative B spans the entire project length using the Southern Alignment Alternative within the Central Viaduct/Central Interchange area. Where Alternative B differs from Alternative A, it is shown on DEIS Exhibit B overview maps B-C, and in detail on DEIS Exhibits B-9 through B-22. Outside of the limits of these figures, Alternative B is identical to Alternative A.

Alternative B is generally identical to Alternative A, except it includes construction of a new bridge south of the existing Central Viaduct to carry eastbound traffic and replacement of the existing Viaduct on essentially existing alignment to carry westbound traffic. The new eastbound bridge over the Cuyahoga Valley would have a main span of 900 feet, with 1,043 feet of structure on the west approach and 3,061 feet on the east approach. The westbound bridge would have a main span of 800 feet, with 1,226 feet of structure on the west approach and 3,053 feet on the east approach.

Access changes as a result of each alternative are listed in FEIS Table 7.

Sidewalk widths for affected city streets have been determined in coordination with the City of Cleveland. Sidewalks will meet ADA standards and will generally match existing. A new sidewalk will be provided adjacent to the new Midtown Connector between Chester Avenue and Euclid Avenue, where a six-foot sidewalk is proposed per City guidelines.

Construction limits shown on the exhibits are preliminary. Where the project involves a local intersection, the work may also encompass necessary intersection work (re-striping, signal improvements, etc.) that is within the existing right-of-way.

Alternative A and Alternative B reduce the number of design deficiencies from 131 in the No Build condition to just 6 in the build condition. Deviations from design standards typically require a Design Exception approval from the Federal Highway Administration (FHWA). No formal submission or approval has yet occurred. Formal review and approval of design exceptions will occur during detailed design.

The March 2009 *Interchange Justification Study* for the *Cleveland Innerbelt Project*, CUY – 71/90 – 16.79/14.90, PID 77510, identifies the above noted geometric design deviations. In addition, and more importantly, the Study has been found by the FHWA to have been developed in compliance with FHWA's February 11, 1998 Interstate Access Policy: *Additional Interchanges to the Interstate System.* FHWA has also determined that the proposed access modifications to be implemented with the *Cleveland Innerbelt Project* Alternative A, the preferred alternative, are acceptable from a geometric and operational standpoint. The *Study* analysis validate that Alternative A will provide for the effective collection and distribution of traffic between the radial freeway system (I-71, I-90, I-77, SR 2, I-490, and SR 176) and the local street system, and that Alternative A will effectively facilitate the movement of traffic between each of the radial freeways. The design and operational deficiencies that are retained within Alternative A, on the Interstate and on the local street system, are minor, localized in nature, and in all cases provide for a build condition that is substantially better than that of the existing/no build condition.

The March 2009 *Interchange Justification Study* for the *Cleveland Innerbelt Project*, CUY – 71/90 – 16.79/14.90, PID 77510, has been incorporated in full into the FEIS/Section 4(f) Evaluation document, Appendix G. The *Study* and the FEIS/Section 4(f) Evaluation documents for the Project are directly linked with each other purposefully. Any changes to the geometric design and layout of Alternative A during detailed design and during overall Project implementation will require such changes to be operationally reassessed in sufficient manner so as to determine the acceptability of the change in compliance with FHWA's Interstate Policy and in order to determine the continued acceptability/validity of the *Study.* The enumerated geometric criteria, Interstate system mainline and ramp layouts, local street system layouts and intersection layouts, lane and turn lane dimensions and assessed operational characteristics as documented within the Study and the FEIS/Section 4(f) evaluation are considered those determined to be minimally acceptable by the FHWA for project implementation. Through detailed design the FHWA expects operational performance and geometric design aspects to be optimized resulting in further project improvements.

Provided below is an outline of the *Interchange Justification Study* and linked to DEIS documentation used by FHWA to determine the geometric and operational acceptability of the Alternative A. The *Study* document itself, contains the highway operational analysis and the DIES document itself contains the purpose and need for action and the balanced analysis of alternatives. Both the Study and DEIS are incorporated into the FEIS/Section 4(f) Evaluation in Appendix G. They together along with the additional traffic operational analysis within FEIS/Section 4(f) Evaluation Section 2.5.2 provide for the FHWA's comprehensive quantified engineering assessment of the Project and its acceptability in meeting or exceeding documented and quantified purposes and needs for action.

Comparison of Feasible Alternatives:

Impacts of the Feasible Alternatives are summarized in FEIS Table 7. Noteworthy differences between the two alternatives are highlighted in the table and discussed below. Several issues results in impact differences in more than one category. They are grouped by issue below.

Historic Properties Alternative A impacts three stand-alone historic buildings that were recently determined to be eligible for the National Register: Broadway Mills, Marathon Gas, and the Distribution Terminal Warehouse. These buildings will be removed with the alternative. The Distribution Terminal Warehouse has been vacant for more than five years, it has been in foreclosure, and the owners have petitioned ODOT to request that it be purchased from them. (See DEIS Section 4.2.5 Property Impacts and Relocations.)

In comparison, Alternative B would also require the removal of the Broadway Mills building and Marathon Gas building. But in exchange for avoiding the Distribution Terminal Warehouse, this alternative has an adverse effect on the Tremont National Register Historic District, resulting in removal of two residences

that are contributing elements and one non-contributing building, plus adverse access and proximity impacts to the Annunciation Greek Orthodox Church. (See DEIS Section 4.2.11 Cultural Resources and FEIS Chapter 5 Final Section 4(f) Evaluation.)

Religious Facilities. Alternative A is projected to have no impacts on religious facilities. Alternative B would have impacts on the Annunciation Greek Orthodox Church that also fall under the Visual, Access, and Historic Properties categories. Alternative B would introduce proximity impacts to the church, affect its access, block views to and from, and impact the attributes that make it a contributing element to the Tremont National Register Historic District. (See DEIS Section 4.2.1 Visual Resources, DEIS Section 4.2.3 Neighborhood and Community Access, DEIS Section 4.2.11 Cultural Resources, and FEIS Chapter 5 Final Section 4(f) Evaluation.)

Maintenance of Traffic. Alternative A and Alternative B have one important difference with regard to maintenance of traffic. The Northern Alignment (Alternative A) for the Central Viaduct/Central Interchange, which runs continuously north of the existing alignment until its tie-in point, can be constructed almost entirety off-line, permitting traffic to use the existing alignment while the Northern Alignment is constructed. During a Maintenance of Traffic Alternatives Analysis (MOTAA), only one conflict area was found just north of East 22nd Street.

The Southern Alignment (Alternative B) also contains this conflict point at East 22nd Street. In addition, it crosses the existing alignment near 9th Street, which restricts traffic from being maintained on the existing alignment at this point and continuing to the north. Maintaining traffic while the Southern Alignment is being constructed will require a crossover to be constructed to the north and west of existing I-90 to permit the contractor to work while traffic is being maintained. The only way to avoid the need for the cross-over would be to shift the Southern Alignment into the Cuyahoga County Juvenile Justice Center, a property eligible for the National Register of Historic Places.

The Southern Alignment (Alternative B) would also require the concurrent construction of the westbound alignment to 22nd Street to maintain traffic in both the eastbound and westbound directions. The Northern alignment allows the westbound lanes to be constructed under a separate contract, which provides for better cash flow management for implementing the project. In addition, substantial additional costs would be required, not only to construct wider structures associated with the crossover, but for the additional fills, structures, and pavement. The specific cost cannot be estimated without detailed cross sections, but is expected to be in the millions of dollars based upon ODOT's experience with similar projects.

Relocations. Alternatives A and B would impact businesses and residences. Alternative A would have fewer impacts, with 25 commercial buildings (57 businesses) and 10 residential buildings (19 households) compared to 27 buildings (57 businesses) and 12 residential buildings (22 households) on Alternative B. (See Property Impacts and Relocations, DEIS Section 4.2.5.)

Access and Neighborhood Street Impacts. Alternative B requires the elimination of 14th Street between Fairfield Avenue and Abbey Avenue, requiring vehicles to go around the block to gain access. Alternative A retains 14th Street in its current location. In addition, Alternative A would provide for a relocated access from I-90 eastbound to Broadway Avenue southbound, while Alternative B would not provide this access. The Broadway ramp provides access to the main post office. Without this connection, vehicles would be routed via East 22nd Street, past St. Vincent Hospital, and through Cuyahoga Community College. (See Neighborhood and Community Access, DEIS Section 4.2.3.)

Based upon information presented in the Draft and Final Environmental Impact Statements and summarized in FEIS Table 7, Alternative A satisfies the project's purpose and need and best minimizes impacts to the natural and human environment. Based upon the comparison of Feasible Alternatives above, Alternative A is the environmentally preferred alternative and is the Selected Alternative for the following reasons:

- Fewer Adverse Effects under Section 106 and least net harm under Section 4(f),
- Ability to incorporate off-ramp to Broadway Avenue to maintain direct access to Quadrangle area, including main post office
- Ability to maintain 14th Street between Fairfield and Abbey Avenues to avoid impacting access the Annunciation Greek Orthodox Church

- Fewer relocations of residences and businesses
- More straightforward maintenance of traffic, which permits smaller construction segments and improves cash flow

In addition FHWA and ODOT have determined that the No Build alternative would not fully address the project's needs and does not enable the Innerbelt Freeway system to function acceptably. Compared to the No Build and other alternatives considered, Alternative A best provides for the balanced consideration of the purpose and need for the action and justifies the impacts and costs. For future actions, the project's analyses provide reasonable assurance that all other requirements can be met.

Section 4(f):

The analysis presented in the Final Section 4(f) Evaluation (FEIS Chapter 5) documents that there is no feasible and prudent alternative that entirely avoids impacts to Section 4(f) properties. (See FEIS Table 10.) The No Build alternative would not satisfy the project's needs and would not allow the Innerbelt Freeway system to function acceptably. Therefore, the Feasible Alternatives were compared to determine which causes the least overall harm to Section 4(f) properties in accordance with 23 CFR 774.3. The individual Section 4(f) impacts of the Feasible Alternatives are summarized in FEIS Table 9 and described below. As discussed above, Alternative A and Alternative B are the same and have the same impacts, except for the Central Viaduct/Central Interchange section of the project. This section has two alignments, the Northern Alignment (Alternative A) and the Southern Alignment (Alternative B).

The Northern Alignment (Alternative A) would require the removal of three stand-alone historic buildings that were recently determined to be eligible for the National Register: Broadway Mills, Marathon Gas, and the Distribution Terminal Warehouse. The Distribution Terminal Warehouse has been vacant for more than five years, it has been in foreclosure, and the owners have petitioned ODOT to request that it be purchased from them.

In comparison, the Southern Alignment (Alternative B) would also require the removal of the Broadway Mills building and access impacts to the Marathon Gas building, but in exchange for avoiding the Distribution Terminal Warehouse, this alternative has an adverse effect on the Tremont National Register Historic District, resulting in removal of two residences that are contributing elements and one non-contributing building, plus adverse access and proximity impacts to the Annunciation Greek Orthodox Church.

FEIS Table 9: Impacts to Section 4(f) Properties in Central Interchange/Central Viaduct

Property	Impacts of Alternatives	
	Northern Alignment	Southern Alignment
Broadway Mills	Building removal (adverse)	Building removal (adverse)
Marathon Gas Station	Building removal (adverse)	Access impact (adverse)
Distribution Terminal Warehouse	Building removal (adverse)	Minor property (no adverse)
Tremont National Register Historic District	Minor Right-of-Way Impacts (no adverse)	Property impacts, Access changes (adverse)
Byzantine Greek Orthodox Church of the Annunciation	None	Right-of-way impact, Access impact (adverse)
Residential House at 1103 University Road (contributing to Tremont Historic District)	None	Building removal (adverse)
Residential House at 1107 University Road (contributing to Tremont Historic District)	None	Building removal (adverse)

Considering the relative severity of the impacts and significance of the impacted properties, Alternative A (Northern Alignment) has the least overall harm to resources protected under Section 4(f).

In addition, a comparison of the Alternative A (Northern Alignment) and Alternative B (Southern Alignment) on the basis of all impacts, not just Section 4(f), reveals that Alternative A (Northern Alignment) is preferable. (See FEIS Chapter 4 and FEIS Table 8 for full comparison of the Feasible Alternatives.)

In its review of the Draft Section 4(f) Evaluation, the U.S. Department of Interior, National Park Service (NPS) concurred that there are no feasible or (sic and) prudent alternatives to the proposed alternatives resulting in impacts to Section 4(f) properties (letter dated May 18, 2009, FEIS Appendix C). Because the measures to mitigate for adverse effects to the impacted historic properties needed to be negotiated with the Ohio Historic Preservation Office (OHPO) (resulting in a programmatic agreement (PA) to address the adverse effect determinations), NPS did not concur that all measures to minimize harm have been employed at the time of review of the DEIS. NPS advised that it would provide its final determination based upon the finalized PA. The FHWA provided the PA in its submission of the FEIS/Section 4(f) Evaluation document to the NPS and the Department of the Interior (DOI) on July 27, 2009. Per the executed Programmatic Agreement among FHWA, ODOT, and OHPO the project includes all reasonable measures to minimize harm to the impacted historic properties. On September 14, 2009 the FHWA consulted by telephone as documented herein with Nick Chevance of the NPS and E. Smith of the DOI to determine if the NPS or DOI had any further comment on the Project and its FEIS/Section 4(f) Evaluation with specific inquiry regarding the acceptability of the documented measures to minimize harm. The NPS and DOI advised that they had no further comment to offer on the project and specifically that the measures to minimize harm were acceptable and that they would follow-up with correspondence for the record indicating no additional comment.

Based on the above information and as discussed in the Final Section 4(f) Evaluation (FEIS Chapter 5 and FEIS Table 10), there are no feasible and prudent avoidance alternatives to the use of the following three properties: Broadway Mills, Marathon Gas Station, and Distribution Terminal Warehouse. The Final Section 4(f) Evaluation demonstrates that there are unique problems or unusual factors involved in the use of alternatives that avoid these properties or that the cost, social, economic, and environmental impacts, or community disruption resulting from such alternatives reach extraordinary magnitudes in accordance with 23 CFR 774.3.

In addition, Alternative A, the Selected Alternative, causes the least overall harm, based upon a balancing of the following factors:

- The ability to mitigate adverse impacts to each Section 4(f) property;
- The relative severity of the remaining harm, after mitigation, to the protected activities, attributes, or features that qualify each Section 4(f) property for protection;
- The relative significance of each Section 4(f) property;
- The views of the officials with jurisdiction over each Section 4(f) property;
- The degree to which each alternative meets the purpose and need for the project;
- After reasonable mitigation, the magnitude of any adverse impacts to resources not protected by Section 4(f); and
- Substantial differences in costs among the alternatives.

Alternative A includes all measures to minimize harm, as documented in a Programmatic Agreement under 36 CFR Part 800. The Project shall be implemented in compliance with the "*Programmatic Agreement Among the Federal Highway Administration, the Ohio State Historic Preservation Office, and the Ohio Department of Transportation Regarding the Federal-Aid Highway Improvement of Interstate Routes 71, 77, and 90 in the City of Cleveland, Cuyahoga County, Ohio CUY-90 Innerbelt; PID 77510 Agreement Number 15498*" as signed by the FHWA, ODOT, and SHPO.

In summary, it is the FHWA determination that based upon the above considerations, there is no feasible and prudent alternative to the use of land from the identified Section 4(f) properties and the proposed action includes all possible planning to minimize harm to the Section 4(f) properties resulting from such use.

In addition, in accordance with 23 CFR 774.3, FHWA is making the following determinations regarding the Selected Alternative A:

The use of property from the Infield of the Loop Ramp on Chester Avenue, a recreation area, will have a *de minimis* impact as defined in 23 CFR 774.17, in that it will not adversely affect the features, attributes, or activities qualifying the property for protection under Section 4(f). Coordination has been conducted with Cleveland State University regarding the *de minimis* finding.

The use of property from the following historic properties will have a *de minimis* impact. Coordination has been conducted with the Ohio Historic Preservation Office and Consulting Parties. Concurrence has been received from the OHPO that the project will have "no adverse effect" in accordance with 36 CFR Part 800.

- Loft Building
- Samuel Mather Mansion*
- Ohio Boxboard Company
- Cuyahoga County Juvenile Justice Center
- Tactical Rescue Station
- Tremont National Register Historic District

In its review of the Draft Section 4(f) Evaluation, the U.S. Department of Interior, National Park Service (NPS) reviewed the temporary and de minimis use descriptions in the evaluation and concurred with those determinations.

[* NOTE: On 8/26/09, SHPO and ODOT staff, (while conducting a field review for another local yet separate and independent project) observed construction activities that modified the Mather Mansion property. The project file contains photo- documentation that clearly shows construction activities and equipment situated on the grounds of the Mather Mansion in the area of the de minimis impact. ODOT and the SHPO will continue to monitor and if necessary determined whether the property has been so altered to seek that the property boundary been redefined. If so, the Section 4(f) impacts would likely be reduced or completely eliminated.]

Measures to Minimize Harm:

Following is a summary of the environmental commitments for the project.

Geology: Soil and Bedrock
The ODOT will ensure that Contractors are required to follow best management practices for temporary sediment and erosion control during construction in accordance with 2005 ODOT Construction and Material Specifications (CMS) Section 107.19 and Supplemental Specification (SS) 832. Plan notes and estimated quantities in accordance with Supplemental Note 832 will be included in the plans to handle erosion control. In addition to the current CMS, SS, plan notes, and Stormwater Pollution Prevention Plan (SWPPP) stipulations, all the regulations and conditions associated with the required National Pollution Discharge Elimination System (NPDES) permit will require the Contractor's full compliance.

Aquatic Resources
A US Coast Guard Section 9 permit and an Ohio Department of Natural Resources (ODNR) Coastal Consistency Determination will be required for the project. If during the waterway permit application process it is determined that a Section 404 permit and/or a Section 401 Water Quality Certification is required, stream mitigation will be provided in accordance with the US Army Corps of Engineers (USACE) and Ohio Environmental Protection Agency (OEPA) applicable stream mitigation rules and guidelines. If in-stream work is required, time of year restrictions will be adhered to in accordance with permit conditions to reduce impacts to aquatic species and their habitat.

Storm Water
This project will require an OEPA NPDES Phase 2 General Construction Permit. Plan notes, along with a Storm Water Pollution Prevention Plan (SWPPP), will be needed to address project soil erosion control measures. It is anticipated that the project will install appropriate best management practices.

ODOT will continue to comply with current and future OEPA NPDES regulations. ODOT has documented policies and procedures to address both sediment and erosion control and long term storm water quality on construction projects. ODOT will continue to update its policies and procedures as needed to stay in compliance with current and future NPDES regulations. This project will utilize the most current ODOT policies and procedures at time of final design.

ODOT will continue its coordination with Northeast Ohio Regional Sewer District (NEORSD) and Cleveland Water Pollution Control (WPC) during detail design of each project section. Particular attention will be given to areas of the project that will remain connected to the combined sewer system. Additionally, if NEORSD creates a regional storm water management program, ODOT will coordinate, as necessary, with this newly formed regional entity. ODOT will continue to coordinate with Northeast Ohio Area Coordinating Agency (NOACA) Transportation/Water Quality Advisory Council (TRANSWAC), as appropriate, during detail design of each project section.

ODOT will consider, during the detail design of each project section, installing water quality Best Management Practices (BMPs) that exceed the required treatment area percentage of the NPDES permit. (Currently redevelopment projects only require treating 20% of the existing pavement area.)

Threatened and Endangered Species
The ODOT will conduct additional coordination with ODNR regarding the Peregrine Falcon prior to demolition activities for the existing Central Viaduct Bridge. ODNR has obtained a permit from the US Fish and Wildlife Service to relocate the falcon to safe habitat in advance of construction.

Floodplain Impacts
Coordination will be conducted with the local community floodplain administrator during design of Alternative A. A description and mapping of the alternative, including available details on any fill material to be placed in the floodplain, will be provided to the local community Floodplain Administrator for review and comment. This coordination will determine if a Flood Hazard Development Permit will be required prior to construction activities.

Parks and Other Green Spaces
Impacts to the infield of the loop ramp on Chester Avenue will continue to be coordinated with Cleveland State University. The walking trail will be restored and the area will be revegetated to retain the current recreational use of the right-of-way. In addition, the path adjacent to the North Marginal Road will be realigned along with the roadway to provide continuity of the path.

Hazardous Waste
Phase II Environmental Site Assessments will be conducted for recommended properties. For any property determined to be contaminated with regulated substances, environmental plan notes will be developed and incorporated into the construction contracts to ensure that regulated substances are properly managed and disposed during construction.

Air Quality
Given that air pollutants are not predicted to exceed the National Ambient Air Quality Standards (NAAQS) in the future as a result of implementing the Build Alternative, mitigation measures for air quality are not necessary for the project. Standard emission minimization measures for construction activities will be incorporated into the project plans.

Noise Analysis
Three noise barrier locations are recommended. These locations are within the Central Viaduct and I-77 Access locations. A public meeting will be held in these areas during the design phase to determine if the residents wish to have a noise wall. Although not a noise abatement measure, vegetative screening will be offered to residences along the east side of I-90 between Superior Avenue and St. Clair Avenue, if feasible to install, in accordance with ODOT noise policy.

Barrier optimization will be performed during the detailed design phase of the project after final profiles are established. A final check of elevation consistency between those used in barrier design model and those in the stage three roadway plans will be completed. A table will be provided showing barrier segments, distance from centerline or baseline, barrier height, and top elevation for the project design consultant as stated in the ODOT-OES IOC dated February 2, 2007 found in Appendix D of the DEIS.

Vibration Analysis
No long-term vibration impacts have been identified for the Cleveland Innerbelt project and therefore no mitigation measures are required with regard to ground-borne traffic vibration. During the construction period, however, there is the potential for short-term vibration impact from impact pile driving and the use of vibratory rollers adjacent to the Annunciation Greek Orthodox Church and the Samuel Mather Mansion. In addition to minimizing the use of such equipment near the vibration-sensitive buildings, potential mitigation measures include use of alternative construction methods, such as the use of drilled piles or pressed piles in place of impact piling. The feasibility of such measures will be investigated during project design to avoid vibration impact during construction.

Historic Architecture Sites/ Section 4(f)/Section 106 Consultation
Based upon coordination with the Ohio Historic Preservation Office, the following commitments are known for properties where there is "no adverse effect":

- Cuyahoga County Juvenile Justice Center – Relocate approximately 200' of sidewalk and stone wall; maintain vehicular access to courtyard; construct adjacent retaining wall in manner that will not impact the historic resource
- Samuel Mather Mansion – Alternative construction methods will be evaluated during design to minimize vibration during construction.

In accordance with the Programmatic Agreement, FHWA and ODOT will use the following treatment plans to resolve the adverse effect on the three impacted historic properties:

- Broadway Mills - Level II documentation as specified by the Historic American Building Survey (HABS) will be prepared. A commemorative display will be located at or near the existing mill site.
- Marathon Gas Station – Level II documentation as specified by the Historic American Building Survey (HABS)
- Distribution Terminal Warehouse – A historic context will be prepared documenting the significance of the resource in relation to the City of Cleveland's food distribution industrial history.

Details for implementing these proposals are specified in the June 5, 2009 letter from ODOT to OHPO, as accepted by OHPO on July 7, 2009. Additional mitigative measures will be identified and considered through the consultation process to further mitigate for adverse effects, as specified in the Programmatic Agreement.

Traffic Maintenance
As part of the detailed design, a maintenance of traffic plan will be prepared in accordance with the then most current ODOT standard specifications and policies. Public involvement will be conducted during the construction phase according to ODOT District 12's communication plan for major projects.

Public Notifications
To ensure that the public is notified of construction activities, lane closures, and/or road closures, the following plan note will be added to the project plans: The Contractor will advise the Project Engineer a minimum of fourteen (14) days prior to the following: the start of construction activities, lane closures, and road closures. As appropriate, the PIO will, in turn, notify the public, the local emergency services, affected schools and businesses, and/or any other impacted local public agency of any of the above mentioned items via media sources.

Residential/Business Relocations and Property Impacts
The acquisition and relocation for all residences displaced for right-of-way will be conducted in accordance with all applicable state and federal laws.

Utility Relocations
All utility relocations will be coordinated between the Contractor and the utility owners in such a way as to avoid and/or minimize any inconvenience to potentially affected customers. All utility relocations not included in the construction contract will be performed by the affected utility owner or its contractor and will be compliant with ODOT roadway design standards. Utility work will be ongoing throughout

construction of the project. Upon the contract award, the coordination of all necessary relocations with the utilities becomes the responsibility of the Contractor. A list of all utility owners located within the project work limits will be included in the General Notes section of the project plans.

Remaining Design Commitments from Public Involvement

- Directional signing will be considered for indicating local street destinations at redesigned and redirected ramp locations.
- Input from the Innerbelt Bridge and Urban Design Aesthetics Sub-committees will be considered prior to the selection of aesthetic treatments and urban design details, including way finding, gateway, overpass and underpass treatments.
- Designing the retaining walls between E 22nd St and Carnegie Ave to support a freeway cap or deck will be considered during detail design. This commitment does not include the funding for the design and construction of the freeway cap or deck.
- ODOT will coordinate with the Cuyahoga County Engineer and the City of Cleveland to accommodate the proposed Cleveland Towpath Trail multi-purpose trail as it crosses beneath I-90.
- Upper Commercial Road will be reconfigured to accommodate fire trucks and buses serving Cleveland Fire Department Station No. 28 and the Western Reserve Fire Museum.
- Ontario entrance ramp structure will be designed to provide the vertical clearance necessary to accommodate fire trucks serving Cleveland Fire Department Station No. 28.
- Adjusting the alignment of the East 30th Street extension slightly toward the west will be considered during detail design in an effort to further minimize impacts.
- The City of Cleveland Office of Harbormaster reviews proposed dock wall construction in the river. ODOT will coordinate with the Harbormaster at the time of permit application to the U.S. Army Corps of Engineers.

State/Regional Transportation Planning:

On July 21, 2009 FHWA agreed with ODOT that the Project cost/schedule information contained within the FEIS/Section 4(f) Evaluation, Table 7, Page 31, met the criteria for administrative modifications and a request was made to have the MPO, the Northeast Ohio Area Coordinating Agency (NOACA), amend their TIP and to update their Long Range Plan.

NOACA's Regional Transportation Investment Policy (RTIP) defines a technical Transportation Improvement Program (TIP) amendment as follows: "the TIP may be amended at any time without Board approval for clerical errors, bookkeeping, line-item project descriptions and other non-policy reasons that do not impact policy implementation or funding balances. The board will be informed of any clerical TIP amendments." Technical TIP amendments are submitted, as needed, to the ODOT's Office of System Planning and Program Management to be incorporated into the Statewide Transportation Improvement Program (STIP) where appropriate.

NOACA informed ODOT of its August 13, 2009 technical amendment to the SFY 2008 – 2011 Transportation Improvement Program (TIP), dated May 11, 2007, on August 13, 2009. The technical amendment included several projects for detail design, Right of Way (R/W) acquisition and construction of the Innerbelt project. NOACA also provided ODOT the technical amendment sheets portraying the projects in their respective years and requested that ODOT incorporate the technical amendment into the next STIP amendment as well as Ellis (ODOT's project management database) as appropriate to enable the access funding information as needed.

On September 9, 2009 the ODOT advised FHWA that it had processed the NOACA technical amendments and advised that most of the NOACA listed projects are funded outside of the time frame of the current STIP FY 2008-2011. NOACA's formal Technical Amendment lists most of the projects in its

Transportation Plan approved May 2009, which means they are committed but outside of the current TIP. However, two of the projects were included in the STIP by modification, as follows:

1) CCG1 Design (PID 77332) was included in the original STIP as approved 6/30/07 for Design and R/W. The increase in R/W costs are covered by the STIP Administrative Modification dated 9/9/09 under Mod#8.

2) CUY-IR90 15.24L New Bridge (PID 85531) was incorporated into the STIP under Mod#6. This Administrative Modification combined PIDs 82375, 82376, 82378 from the originally approved STIP into PID 85531.

Approval, Distribution, Publication, and Availability of FEIS/Section 4(f) Evaluation:

The Final Environmental Impact Statement/Section 4(f) Evaluation, for the Cleveland Innerbelt Project, CUY – 71/90 – 16.79/14.90, PID 77510 was signed by the ODOT Director on July 10, 2009 and approved by FHWA on July 22, 2009. On behalf of the FHWA, and in accordance with 23 CFR 771.125(g), the ODOT transmitted a copy of the FEIS/Section 4(f) Evaluation to persons, organizations, and agencies who were identified as making substantive comments on the March 3, 2009 Draft EIS/Section 4(f) Evaluation and to State, Federal and local agencies with jurisdiction or interest.

In addition, ODOT submitted the FEIS/Section 4(f) Evaluation to the US Environmental Protection Agency for filling on July 22, 2009. The Notice of Availability of the FEIS was published in Federal Register Volume 74, Number 146, on Friday, July 31, 2009.

The ODOT also published a notice of availability of the FEIS/Section 4(f) Evaluation in a local newspaper (The Plain Dealer) and on-line at www.innerbelt.org, in compliance with 23 CFR 771.125(g). Additionally, ODOT made the FEIS/Section 4(f) Evaluation document available for review at twelve locations (local government offices, libraries and institutions) throughout the project area. In addition, the ODOT made the FEIS available for public review on-line at the following address:

http://www.dot.state.oh.us/projects/ClevelandUrbanCoreProjects/Innerbelt/Pages/FinalEnvironmentalImpactStatement.aspx

Summary of Comments Submitted on the FEIS/Section 4(f) Evaluation and FHWA Response:

Agency Comments:

1. The Environmental Protection Agency provided the following comments by letter Dated August 18, 2009:

   a. We commend Ohio Department of Transportation (ODOT) for specifying ODOT will follow its best management practices (BMP) in creating "green pretreatment" trenches, swales and detention sites for all segments of the project. Treated runoff from these constructs will be directed to the Cuyahoga River or Lake Erie or to local combined sewer systems.

      Response: Noted

   b. EPA encourages ODOT to continue negotiations with local agencies responsible for stormwater management (NEORSD and TRANSWAC) and determine the best direction to channel effluent from the pretreatment constructs to reduce combined sewer overflows.

      Response: During the implementation of the Cleveland Innerbelt Project the FHWA will assure that the mitigative measures for Storm Water discussed in the Measures to Minimize Harm

section above are complied with in the management of Project stormwater as "encouraged" by the EPA.

c. We recommend the Record of Decision (ROD) commit to pretreating all project stormwater runoff plus maintain and monitor this system to sustain its ecological standard of function.

Response: During the implementation of the Cleveland Innerbelt project FHWA and ODOT will work with local stakeholders to determine feasible project locations to separate project generated storm waters from the local combined sewer system in order to improve water quality in the region by reducing the volume of waters that may contribute to Combined Storm sewer Overflows (CSO). In the areas where separation is feasible (based on design, right of way and construction costs) project waters will be treated via BMPs before being discharged into the Cuyahoga River or Lake Erie. The BMPs will satisfy current regulatory requirements and thus will include an acceptable level to maintain the ecological standard of function or the agency will not permit the action. For project locations where separating the storm water runoff from the combined sewer is not feasible, no pretreatment is expected to occur. This is in compliance with the current applicable regulations of the OEPA and NEORSD.

d. The FEIS discusses some concepts of climate change and the related impacts of greenhouse gases. EPA recommends consideration be given in the ROD for how the project will accommodate climate change, including the impacts of higher temperatures on bridge and road surface structural integrity. We also recommend discussion be included regarding planning adaptations for handling the impacts of increased rain and snowfall intensity to runoff design and sewer system capacities.

Response: The NEPA process is meant to concentrate on the analyses of issues that can be truly meaningful to the consideration of project alternatives, rather than simply "amassing" data. In the absence of a regional or national framework for considering the implications of a project-level GHG analysis, we feel that such an analysis would not inform project decision-making, while adding administrative burden.

Regarding the effects of global climate change on the project, it should be noted that no comprehensive inventory exists of U.S. transportation infrastructure vulnerable to climate change impacts, the potential extent of that exposure, or the potential damage costs. However, FHWA can surmise that there will be some impacts from climate change on transportation infrastructure within Ohio. The potential impacts of global climate change to Ohio's entire existing and planned surface transportation infrastructure are not unique to the Cleveland Innerbelt Project, nor are the potential global climate change impacts unique to certain alternatives of this Project. Thus while the EPA recommends further discussion of the global climatic issues, it is the FHWA position that such additional discussion is not appropriate at the project level and that the amassing of more information and data would not meaningfully change and or impact the project NEPA decision.

e. Specific Transportation System Management techniques (TSM) are listed in the FEIS for both construction and operation phases. We commend these steps and encourage the ROD to commit to adding other methods as technologies and funds become available.

Response: Noted. The Ohio Department of Transportation (ODOT) has developed the Cleveland Freeway Management System Project for a regional freeway management system in the Cleveland metropolitan area. The system will perform the following functions:

- Remotely monitor freeway traffic flow;
- Receive notification of freeway crashes from 911 calls;
- Distribute information in real-time to multiple, local, public safety agencies;
- Manage traffic, via the operation of permanent highway dynamic message signs and highway advisory radio;

- Provide web-based traveler information services.

ODOT's approach to transportation system management is to provide traffic surveillance and monitoring on limited access roadways (Interstates and freeways) in major metropolitan areas in Ohio. Over half of all congestion on these roadways is caused by incidents (typically vehicle crashes). Rapid notification and identification of these incidents can help save lives through quick deployment of emergency response personnel. We also provide real-time information to motorists to inform them about an incident so they can potentially avoid the roadway with the crash scene. This accomplishes two things – first, it helps minimize additional delays to the travelling public, and second, by minimizing the queuing or stopped traffic at the scene, secondary crashes can be avoided. In some instances the secondary crash can be more severe than the original incident.

With other major construction projects in Ohio's major urban areas, the freeway management systems are also used to manage regional traffic for major roadway construction. In the Cleveland area the Innerbelt/Viaduct bridge construction will have a significant impact to traffic movement and circulation. The Cleveland FMS project includes an early operations phase to coincide with the beginning of the Viaduct project. Specific FMS devices will be in place and operational within one year of the start of the FMS project to provide work zone traffic control.

2. The Environmental Protection Agency also provided the following comment within Federal Register Volume 74, Number 171, on Friday, September 4, 2009:

Summary: EPA continues to have environmental concerns about stormwater impacts and requested the pretreatment of all stormwater.

Response: See above reply to USEPA comments dated August 18, 2009.

3. The Ohio Environmental Protection Agency provided the following comments by letter Dated September 10, 2009:

a. Comment: Based on an analysis of the proposed project alternatives, we understand Alternative A (Northern Alignment Alternative) has been selected as the Preferred Alternative. We do not have any major issues with Alternative A and its selection as the Preferred Alternative. As a matter of fact, in our April 22, 2009 comments we recommended that ODOT use Alternative A based on its lower reported impacts than Alternative B (Southern Alignment Alternative). We understand Alternative B is essentially the same as Alternative A with exception that it includes the construction of a new bridge to the south of the existing Central Viaduct and will carry traffic eastbound and replace the existing Viaduct on essentially the same Ohio Department of Transportation Cleveland Innerbelt (Viaduct) alignment to direct traffic westbound. The "No-Build" Alternative was eliminated during the review process because ODOT stated it did not satisfy the "Purpose and Need" criterion.

Response: Noted

b. Comment: In our July 30, 2009 meeting, we discussed several issues regarding the Cleveland Innerbelt (Viaduct) Project. This included whether the project was eligible for authorization by one or more nationwide permits (NWPs). Before we make a decision on this issue we need to know how the project will be authorized by the Army Corps of Engineers (ACOE) and the U.S. Coast Guard, relative to Section 9 permit requirements. These issues are currently being discussed with the respective agencies. ODOT will inform us of the ACOE's decision.

Response: During implementation of the Project coordination with all appropriate resource and permitting agencies will continue. The project will be advanced in compliance with all applicable requirements.

c. Comment: Stormwater -- We understand a separate stormwater plan has been proposed by ODOT including the use of detention basins, constructed wetlands, and the installation of up to five outfall structures on the Cuyahoga River, two of which would be on the east bank and one on the west bank near the proposed bridge.

Response: Noted. See project measures to minimize harm/environmental commitments.

d. Comment: Bulkheads -- Existing defective bulkheads will be replaced or rehabilitated on the east and west banks of the Cuyahoga River. "Green" bulkhead structures or aquatic habitat conducive to the establishment of vegetation and fish communities will be installed on the east bulkheads. We encourage the use of measures to improve water quality and habitat improvements in the Cuyahoga River.

Response: Noted. See project measures to minimize harm/environmental commitments.

e. Comment: Geotechnical Issues -- In regards to the geotechnical issues and associated erosion on the west bank of the Cuyahoga River, we would like to be periodically informed of the status of the problem and final plans to restore the site.

Response: Noted. Coordination of Project implementing detailed contract plans with the resource agencies will be ongoing and continuous and compliant with all regulatory and permitting requirements.

4. The Ohio Department of Natural Resources advised on August 28, 2009 that they had no additional comments on the Project based upon their review of the FEIS/Section 4(f) Evaluation.

Response: Noted.

5. The Federal Aviation Administration advised on August 10, 2009 that they have no comments to offer as a result of their review of the FEIS/Section 4(f) Evaluation.

Response: Noted.

6. On September 14, 2009 the FHWA consulted by telephone as documented herein with Nick Chevance of the NPS and E. Smith of the DOI to determine if the NPS or DOI had any further comment on the Project and its FEIS/Section 4(f) Evaluation with specific inquiry regarding the acceptability of the documented measures to minimize harm. The NPS and DOI advised that they had no further comment to offer on the project and specifically that the measures to minimize harm were acceptable and that they would follow-up with correspondence for the record indicating no additional comment.

Public Comments:

1. Commensurate with the development, approval, distribution, publication, and availability of the FEIS/Section 4(f) Evaluation a community group "Save Our Access" initiated a grassroots effort in opposition to proposed modifications to the Cleveland Innerbelt Freeway system in association with the *Cleveland Innerbelt Project*. Comments were provided regarding the Project alternative concepts considered within the Trench section of the overall Project. In particular, the community group has indicated their strong desire for the maintenance of the Carnegie and Prospect Avenue access points to and from the Interstate 90 to remain in the exact same locations as they exist today. Moreover the community group has voiced concerns regarding how the proposed modifications in access will impact them and the surrounding community. The community group established a internet site www.saveouraccess.com for the public to review the group's position on the Project and afford the public with the opportunity to electronically submit their comments and views associated with the

Project's alternatives and impacts to: Senator Sherrod Brown, Representative Dennis Kucinich, Representative Marcia Fudge, Representative Steven LaTourette, U.S. DOT Secretary Ray LaHood, FHWA Ohio Division Staff, Governor Ted Strickland, Lt. Governor Lee Fisher, Secretary of State Jennifer Brunner, Senator Shirley Smith, and ODOT Central Office and District 12 Staff.

Response: The ODOT and FHWA considered comments submitted by the "Save Our Access" community group prior to approving the FEIS/Section 4(f) Evaluation. Comments from "Save Our Access" were identified and accounted for in "Table 1c: Summary of Public Comments – Received After Comment Period" (of the DEIS), on page 13 of the FEIS/Section 4(f) Evaluation document. The ODOT and FHWA considered the "Save Our Access" comments and addressed them within the discussion of access in the Trench, see FEIS Section 2.5.2.

In addition, prior to the approval of the FEIS and its public availability ODOT notified local public officials and organizations on July 8, 2009 of the "Save Our Access" group's efforts, thanked the group for its support of replacing the I-90 Innerbelt Bridge and flattening the Innerbelt Curve, however, the new bridge and flattened curve would not entirely address safety and congestion concerns along the interstates in Downtown Cleveland. ODOT provided the following information regarding proposed changes in the Trench section of the project and referred the recipients to ODOT's web site on the Innerbelt for additional information:

As ODOT's many years of study and community outreach have detailed, however, the new bridge and flattened curve do not entirely address safety and congestion concerns along the interstates in Downtown Cleveland. Below is an update on ODOT's Innerbelt Modernization Plan:

The Innerbelt Modernization Plan: What Is It?
ODOT's Innerbelt Modernization Plan is focused on improving safety, reducing congestion and traffic delays, and modernizing interstate travel along I-71, I-77 and I-90 through Downtown Cleveland. This investment by the State of Ohio will rehabilitate and reconstruct the Innerbelt Freeway system and address operational, design, safety and access shortcomings that severely impact the ability of the Innerbelt Freeway system to meet the 21st Century transportation needs of Northeast Ohio.

Addressing Safety Concerns
Safety is, and will always remain, the number one priority of the Ohio Department of Transportation. In fact, 21 of the 30 sections that comprise the Innerbelt Freeway have crash rates above the statewide average. The area between the Innerbelt Bridge and Curve has been ranked as the #1 Safety Hot Spot since 2004/05, and the number of rear-end crashes are nearly one-and-a-half to three times higher than the statewide average. Addressing these safety concerns as well as modernizing the roadway to meet modern design standards will certainly have a positive impact on Cleveland.

Addressing Cleveland's Congestion
Nationwide, congestion has continued to grow over the past 15 years. According to a national mobility study release this month, the average traffic delay for a motorist in Cleveland is 12 hours per year, double the six hour delay experienced in 1992. This time stuck in traffic equates to lost money. Nationally, congestion costs the average metropolitan driver $757 each year. In Cleveland, it's estimated that the cost of congestion to the region's motorists totals $203 million in wasted fuel and time.

"Save Our Access" Takes Aim at the Prospect & Carnegie Avenue Ramps
Under ODOT's Innerbelt Modernization Plan, Prospect Avenue traffic would be redirected via neighboring ramps including Chester Avenue - a short drive on Cleveland's city streets. ODOT's plan to consolidate traffic from Carnegie Avenue and E. 22nd Street into a single access point at E. 22nd Street and Central Avenue would add only 465 feet to the already existing route – or the distance of a Victor Martinez homerun to the back of the Tribe's bullpen at Progressive Field.

Possible Solutions?
In its campaign material, the supporters of "Save Our Access" suggest that Opportunity Corridor - the proposed link between I-490 and University Circle - is a "possible solution...which would remove an estimated 40 percent of the vehicles now using the Innerbelt Carnegie and Prospect ramps." In combination with the safety upgrades of the Innerbelt Modernization Plan, the Opportunity Corridor would provide additional congestion relief - as well as promote major economic development in the area. In support of this effort, ODOT has committed up to $20 million in new funding to advance the planning of the Opportunity Corridor.

Similarly, FHWA received several hundred e-mails from the "Save Our Access" group noting the same concerns as described above. On August 4, 5 and 9, 2009 FHWA responded to each of the e-mails received reiterating the extensive public involvement process that was used to develop the Alternatives, the comprehensive consideration given to safety, congestion and access needs and concerns during the development of the Alternatives, the various options that were considered to ensure an acceptable level of access to and from the Interstate systems and the local arterials and streets, and the balancing of impacts and cost as various options were considered and modified.

In summary, the FHWA and the Ohio Department of Transportation (ODOT) have developed the Cleveland Innerbelt Project in compliance with the National Environmental Policy Act (NEPA). A range of alternatives were considered during the development of the Project to address the purpose and need for action that took into consideration the extensive input provided by the public over a number of years. Alternative concepts considered within the Trench section, of the overall Project, have been extensively commented upon by the public. However, during the development of Project alternatives and alternative concepts within the Trench Section, FHWA and ODOT were unable to develop a feasible and prudent alternative that would preserve the Carnegie and Prospect Avenue access, as desired by the public, without resultant substantial adverse environmental effects and impacts that are not anticipated with Project Alternatives A or B. With Project Alternatives A and B the functional access within the Trench Section was redesigned and redirected and the functions of the Innerbelt Freeway System within the area were preserved. FHWA and the ODOT have identified Cleveland Innerbelt Project FEIS Alternative A for further advancement because it: satisfies the project's purpose and need; causes the least impact to the natural and human environment in comparison to the alternatives considered; and includes all possible planning to avoid, minimize, or mitigate resultant impacts, effects, and the use of Section 4(f) property.

Despite receipt of continued public comment from the "Save Our Access" community no new substantive information, relevant circumstances, or environmental concerns have been brought forth or been identified as a result of FHWA's review of the submitted comments, that have not already been appropriately considered and addressed, in compliance with the NEPA decision making process. It is FHWA's position that there is no substantive reason for the FHWA and the ODOT to reconsider the access provided in the Trench section of the Cleveland Innerbelt and there is no justifiable reason to delay the further advancement of the Project.

2. MidTown Cleveland, Inc., the Cleveland Clinic, and Taft Stettinius & Hollister LLP, Attorneys for Midtown Cleveland, Inc. provided the following comments by letter Dated August 31, 2009:

   a. MidTown Cleveland, Inc. ("MidTown") and the Cleveland Clinic oppose the removal of highway interchanges from the Innerbelt Trench as proposed in the Final Environmental Impact Statement (the "FEIS").

      Response: Opposition is noted. The primary purpose of the Cleveland Innerbelt Project is to rehabilitate and reconstruct the Innerbelt Freeway system and to address operational, design, safety, and access deficiencies that severely impact the Freeway's ability to function acceptably. The Innerbelt Freeway System provides for the collection and distribution of traffic between the radial freeway system (I-71, I-90, I-77, SR 2, I-490, and SR 176) and the local street system, and

it also moves traffic between each of the radial freeways, within the City of Cleveland Central Business District (CBD) area.

Within the Trench section of the Project the existing Innerbelt Freeway System provides the following traffic functions: through traffic, local-street to interstate, interstate to local-street, and local-to-local movements (where traffic uses the interstate to go a distance of only one interchange). Safety and operation in the Trench section is affected by the numerous, closely spaced interchanges and the large number of weaving maneuvers within this section. The FEIS establishes that the redesign of the ramps in the Trench will address safety, design deficiencies, and performance issues that currently exist in that area. Furthermore, the documentation establishes that each of the functions in the Trench is addressed. Through traffic will experience improved travel times and safety due to reduced congestion and fewer conflicts. Traffic accessing local streets from the freeway, and vice versa, will experience the same improvements as the through traffic and will use ramps that meet current design standards, which have a safer merging distance. In addition, local-to-local movements, which are presently using the freeway to go from one interchange to the next, will be able to use the new Midtown connector to access several east-west corridors in the Trench area. Furthermore, the Midtown connector will serve to distribute traffic from the Innerbelt Freeway system to the local street system. In the build condition, the local street system in the Trench area will function as good or better than existing conditions in all but one location.

Public comment has been considered and addressed throughout the development of project and its alternatives including those of MidTown Cleveland, Inc., the Cleveland Clinic, and their Attorneys. However, within the Trench Section, an alternative that would preserve the Carnegie and Prospect Avenue access points to and from the Interstate could not be achieved in the exact same locations as they exist today. Instead, the functional access was redesigned and redirected and the functions of the Innerbelt Freeway System within the Trench Section were preserved. With the selected alternative, Alternative A, traffic to and from the Prospect and Carnegie Avenue ramps will be redirected to ramps at Chester Avenue and East 22nd Street, utilizing city streets and the new Midtown Connector. In most cases, the additional travel distance is two to three city blocks on new or improved roadways that incorporate new or improved traffic intersection layouts/designs/signals that optimize traffic operations resulting in minimum travel delay. Directional signing will be used to provide motorists with information on which city streets are best accessed from which ramps.

b. MidTown Cleveland, Inc. ("MidTown") and the Cleveland Clinic oppose the issuance of a Record of Decision approving the FEIS.

Response: Opposition is noted. The FHWA and the Ohio Department of Transportation (ODOT) have developed the Cleveland Innerbelt Project in compliance with the National Environmental Policy Act (NEPA). A range of alternatives were considered during the development of the Project to address the purpose and need for action which took into consideration the extensive input provided by the public, including comment by MidTown Cleveland, Inc., the Cleveland Clinic, and their Attorneys. The FEIS/Section 4(f) Evaluation document including all of the incorporated support documents, document's the extensive public involvement efforts and project analysis that were carried out during the development of the Project. It is FHWA's position that all relevant and substantive social, economic, and environmental effects, impacts, and consequences of the Project and it's alternatives' have been assessed in sufficient detail to enable the quantified disclosure of said effects, impacts, and consequences including the context and intensity of their relative magnitude. While FHWA and the ODOT remain in receipt of continued public comment, no new substantive information, relevant circumstances, or environmental concerns have been identified or been brought forth that would have a bearing on the Project or the magnitude of its impacts, that have not already been appropriately addressed in compliance with the NEPA decision making process. It is FHWA's position that there is no substantive reason for the FHWA and the ODOT to reconsider the access provided in the Trench

section of the Cleveland Innerbelt and there is no justifiable reason to delay the further advancement of the Project.

c. MidTown is a community development corporation that represents over 650 businesses that employ roughly 18,000 citizens of Northeast Ohio, and the Cleveland Clinic is the largest employer in Northeast Ohio, with over 39,000 employees. Both of these entities and a significant number of citizens they employ and/or represent rely on direct access from the Carnegie and Prospect Avenue interchanges of the Innerbelt for their success and livelihood.

Response: Informational statement of business and employment estimations is noted. The FHWA does not agree with the comment regarding reliance of MidTown and the Cleveland Clinic on direct access from the Carnegie and Prospect Avenue interchanges as the access exist today. FHWA's reply to comment 2(a) above establishes that the traffic functions within the Trench section are preserved. Furthermore, the FEIS documents that the redirected access will have minimal impact on traffic, and traffic operations within the Trench area. Local streets proximate to the freeway and redirected access points are expected to have individual volume changes; however, the overall traffic volumes within the Trench area will remain essentially the same. In addition, the overall origin and destinations of trips into and out of the area will remain essentially the same, with small changes in travel patterns based upon the proposed access changes. The travel on local streets will increase by two to three blocks, a distance of about 400-500 feet, which is not substantial for most trips. For example, the Trench/Midtown stakeholders generally occupy the area between Central Avenue and St. Clair Avenue and between East 22nd Street to East 55th Street and beyond. Thus, a trip from the I-90 to a point within the Trench/Midtown area could include as many as 33 blocks of travel on the local street system. A trip from I-90 to the University Circle area could include as many as 3 miles of travel on the local street system. Comparatively the trip travel pattern change of 2 to 3 blocks, necessitated by the redesigned and redirected access of the project, is not substantial in comparison to the potential of travel on the local street system of 33 blocks and 3 miles, which is in addition to the overall travel tip on the Innerbelt Freeway System and from points beyond. Furthermore, the potential minor increase in local street travel time will be more than offset by the overall travel timesaving's on the Innerbelt Freeway System through reduction of congestion, geometric and operational improvements.

The FEIS analysis demonstrate that the local street system within the Trench section will operate as good as or better than existing conditions with only a single exception. The Chester Avenue and East 30th Street intersection is the one exception within the Trench area, and only during the PM peak travel period. To meet the operational capacity need a southbound right turn lane from Chester Avenue to eastbound East 30th Street is needed. However, such improvement would require demolishing two buildings located in the northwest quadrant of the intersection. The minor southbound operational capacity problem at this intersection during the PM peak period, will not adversely affect the remaining traffic movements managed by the intersection or the adjacent I-90 interchange. ODOT and FHWA have determined that it would be better to accept this minor future capacity deficiency than to remove the two buildings. Considered in context, this minor operational capacity issue does not represent any substantial degradation of local street system conditions compared to the No Build.

Potential economic effects associated with the Cleveland Innerbelt Project particularly localized economic effects within the Trench Section/Midtown stakeholder area have also been analyzed and documented within the FEIS. The local economic effects of the Project were assessed by focusing on analyzing the fundamental elements that were the basis for the local economic concerns cited by the public: congestion on local streets, changes in traffic volumes, loss of direct access, and lack of need for the project. The identified elements sufficiently support the NEPA decision-making process and they cover the range of issues determined to be the basis for the expressed public concern regarding the potential local economic effects of the project. In summary, the FEIS documents and the following regarding each of the fundamental elements:

- Congestion will be improved in the build condition. The Access Modification Study (AMS) as incorporated in full into the FEIS demonstrates that the local street system will operate as good as or better than existing conditions. Within the Trench area, there is only one exception located at the intersection of East 30th Street and Chester Avenue, which has been determined to be minor and does not represent a substantial degradation of local street conditions.
- Redirected access will have minimal impact on the overall traffic volumes in the Trench area. The comparison of build and no build traffic volumes illustrate that traffic volumes will go up on Chester Avenue and down on Prospect and Carnegie Avenues in close proximity to I-90. However, the overall traffic within the Trench will not change appreciably.
- The loss of direct access results in additional travel distances of two to three blocks on city streets, approximately 400-500 feet, which is minor compared to the overall size of the Trench area. The additional travel time on local streets will be more than offset by the overall travel timesaving's on the freeway through reduction of congestion, geometric and operational improvements.
- There is a demonstrated purpose and need for the project as a whole, and within the Trench area. The project will meet the needs for freeway through traffic, freeway-to-local, local-to-freeway, and local-to-local movements through improved mainline capacity, ramps that meet current standards, and local connectivity provided by city streets and the Midtown connector.

In considering the above elements individually and cumulatively, the FEIS documents that with the implementation of the Project no substantial economic effects are anticipated to be realized.

In summary, it is FHWA's assessment that the local streets proximate to the freeway and redirected access points are expected to have individual volume changes; however, the overall traffic volumes within the Trench area will remain essentially the same. In addition, it is FHWA's assessment that the overall origin and destinations of trips into and out of the area will remain essentially the same, with small changes in travel patterns based upon the proposed access changes. It is FHWA's assessment that the trip travel pattern change of 2 to 3 blocks, necessitated by the redesigned and redirected access of the project, is not substantial in comparison to the potential of travel on the local street system of 33 blocks and 3 miles, which is in addition to the overall travel tip on the Innerbelt Freeway System and from points beyond. Furthermore, it is FHWA's assessment that the potential minor increase in local street travel time will be more than offset by the overall travel timesaving's on the Innerbelt Freeway System through reduction of congestion, geometric and operational improvements. The FEIS analyses demonstrate in a quantifiable manner that the local street system within the Trench section will operate as good as or better than existing conditions with only a single exception. Considered in context, the minor operational capacity issue at the intersection of Chester Avenue and E 30th Street does not represent any substantial degradation of local street system conditions compared to the No Build. Finally, it is FHWA's view that no substantial economic effects are anticipated to be realized with the implementation of the Project. It is thus FHWA's position that the Project's transportation improvement will provide for all of the functional transportation and defined Project needs within the Trench Section, that the 2 to 3 block travel route modification, that will be experienced with implementation of the Project, is not significant, and that the redesigned and redirected access will preserve the relationship between the traveling /commuting public and their travel needs to and from businesses and employment destinations within the Trench/Midtown areas and beyond, and that the travel needs of businesses and employers into, out of, and within the area will be preserved as well without the realization of any substantial adverse impacts, other than the impacts that will be born by individual properties identified for acquisition/relocation as part of the Project.

d. MidTown and the Cleveland Clinic oppose the FEIS because it fails to adequately address the issues raised in the comment on the Draft Environmental Impact Statement ("DEIS") submitted by MidTown and the Cleveland Clinic on May 21, 2009 (the "Comment").

1. First, no comprehensive or completed economic impact study has been provided as promised, and yet the FEIS reiterates the unsubstantiated assertions that no substantial negative economic effects will result from the loss of direct highway access within the Trench. However, there is nothing in the record that justifies making economic impact conclusions based solely on traffic mitigation models.

Response: It is acknowledged that the draft study, *Economic Effects of the Cleveland Innerbelt Plan Access Changes (Draft - March 2006)*, was not finalized. While initially conceived and coordinated with the public as a means to facilitate the assessment of local economic effects of the project within the Trench area, it was met with strong opposition by the public while in draft form. As discussed below, ODOT and FHWA determined that bringing the study to final form would be difficult given the challenges to methodology. Therefore, ODOT and FHWA pursued an alternative methodology to assess the economic effects of the proposed transportation improvements by focusing on the fundamental elements that were the basis for the economic concerns cited by the public. Based upon the use of an alternative methodology as described below, finalizing the draft local economic study is not necessary to support the NEPA decision-making process. The scope of the methodology employed within the FEIS covers the range of issues determined as the basis for economic concerns through extensive public involvement documented in Tables 5a and 5b of the FEIS. Continuing comments regarding this issue have not presented any additional substantive factors relevant to the analysis.

The FHWA disagrees with the comment that no substantiated economic analysis was completed to support FHWA's assessment of the economic effects of the Project. Provided below are experts from the FEIS that disclose the quantified analysis of the Project's potential economic effects which the FHWA used to reach its conclusion.

Based upon the fundamental elements that were the basis for the economic concerns cited by Midtown representatives and in public comments throughout project development:

- congestion on local streets,
- changes in traffic volumes,
- loss of direct access, and
- lack of need for the project.

And based upon the conclusions reached for each fundamental economic element/issue they "neither individually nor cumulatively" are anticipated to result in substantial impacts within the Trench area. As the FEIS and incorporated DEIS regional economic analysis indicates that the project is likely to result in an overall economic benefit to the area, it has been determined that there will be no substantial economic effects within the Trench area.

Economic Impacts

A study of the statewide and regional economic effects of the project, *Regional Economic Impacts of Cleveland Innerbelt Reconstruction (July 15, 2004)*, discussed in DEIS Section 4.2.7, indicated overall benefits in employment and income as result of the project, both for Ohio as a whole and for the greater Cleveland area. While not disputing these findings, representatives of Midtown contend that the access changes in the Trench area will have negative localized economic effects on Midtown.

As a result of these comments, a localized study was conducted and discussed in the report entitled *Economic Effects of the Cleveland Innerbelt Plan Access Changes (Draft - March 2006)*. The study area boundaries coincide, for the most part, with the three local community development corporations (CDCs): Midtown Cleveland, St. Clair-Superior Development Corporation (excluding the area east of East 55th Street), and the Quadrangle. The scope of the study was proposed by the economic subconsultant and reviewed by ODOT and representatives of Midtown. The study was designed to include an analysis of likely impacts on employment and sales at firms in the MidTown area and an estimation of changes in transportation costs for firms and workers in the area.

The results of the draft study did show small increases and decreases in employment and income for particular streets, generally based upon changes in pass-by traffic. However, the draft study indicated that any negatives would be offset by positive gains elsewhere within the Trench area and there would be no substantial negative economic impacts on the MidTown area as a result of the project. MidTown stakeholders did not accept this conclusion and provided public comments on the issue (see DEIS Chapter 5), including comments on the methodology.

Economic analyses, and a specific methodology to conduct them, are not specified in any FHWA or ODOT guidance. As a result, disputes concerning the most effective or "best" methodology to assess economic impacts do not necessarily call into question the results and would be difficult to resolve through public involvement. There are a high number of variables related to potential job creation in a downtown business district. Similarly, the valuation of travel cost savings is inherently subjective and subject to numerous interpretations. With this in mind, ODOT and FHWA decided not to finalize the disputed study. ODOT and FHWA pursued an alternative methodology to assess the economic effects of the proposed transportation improvements by focusing on the fundamental elements that were the basis for the economic concerns cited by Midtown representatives and in public comments throughout project development:

- congestion on local streets,
- changes in traffic volumes,
- loss of direct access, and
- lack of need for the project.

These factors were determined from public involvement throughout numerous meetings, as listed in Tables 5a and 5b of the FEIS. The following quantified discussions were provided for within the FEIS for each of the fundamental elements that were identified as the basis for economic concern within the Midtown and surrounding areas:

Access in the Trench Section

A third of the 89 written comments received on the DEIS, as well as half the 19 verbal comments at the public hearing, expressed concerns with the potential impacts resulting from Project changes to freeway access. Cited concerns include the following, which are also discussed in more detail below:

- Failure to meet Purpose and Need regarding local access
- No consideration of alternatives
- Validity of traffic models
- Congestion on local roadways
- Economic impacts on businesses from loss of direct access or changes in travel patterns
- Desire to delay NEPA decision concerning project elements in the Trench, by segmenting that portion of the road from the remainder of project

Purpose and Need

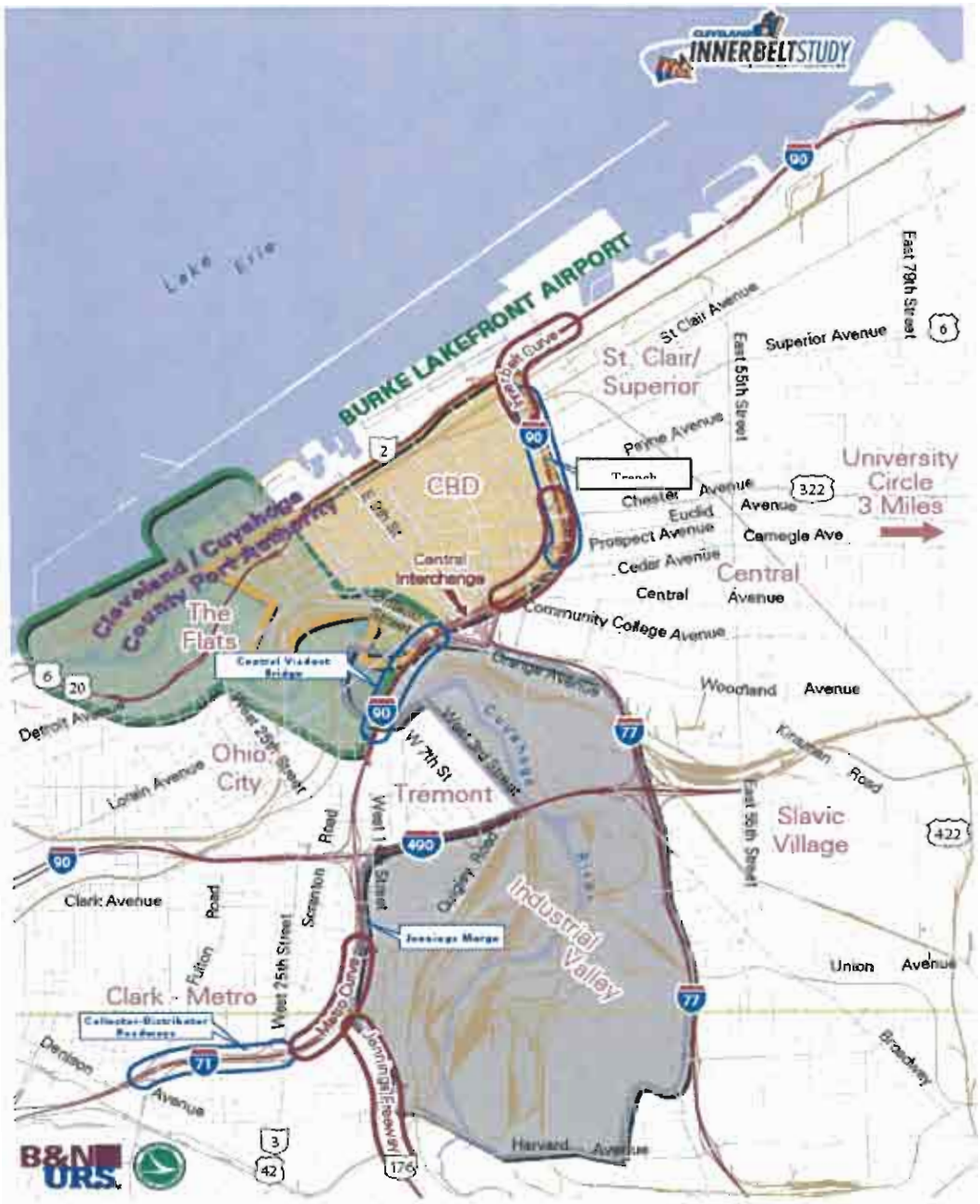
Certain comments suggested that proposed project elements in the Trench portion of the study area would not meet the stated Purpose and Need. These comments improperly segregate individual project elements and ignore the overall balancing of operational performance, safety, design improvement and freeway access that must be conducted to evaluate the project as a whole and key to the function of the Innerbelt freeway system.

The purpose of the Innerbelt Freeway system is to collect and distribute traffic between the radial freeway system (I-71, I-90, I-77, SR 2, I-490, and SR 176) and the local street system, and to move traffic between each of the radial freeways, within the Cleveland CBD area. Within the Trench section, the existing Innerbelt Freeway System provides the following traffic functions: through traffic, local street to interstate, interstate to local street, and local-to-local movements (where traffic uses the interstate to go a distance of only one interchange). Safety and operation in the Trench section is affected by the numerous, closely spaced interchanges and the large number of weaving maneuvers within this section.

With respect to the Trench area, evidence in the DEIS demonstrates that redesign of the ramps in the Trench will in fact address safety, design deficiencies and performance issues that currently exist in that area. (See Purpose and Need element summarized in FEIS Table 8 for proposed conditions compared to No Build.) Each of the functions in the Trench is addressed. Through traffic will experience improved travel times and safety due to reduced congestion and fewer conflicts. Traffic accessing local streets from the freeway, and vice versa, will experience the same improvements on the freeway as through traffic and will use ramps that meet current design standards, which have a safer merging distance.

Local-to-local movements, which are presently using the freeway to go from one interchange to the next, will be able to use the new Midtown connector to access several east-west corridors in the Trench area. In addition, the Midtown connector will serve to distribute traffic from the Innerbelt Freeway system to the local street system. In the build condition, the local streets in the vicinity of the project will function as good as or better than existing conditions. Therefore, the project meets the access need from the Purpose and Need.

Figure 1-1: Innerbelt Study Area Points of Interest



Consideration of Alternatives

As discussed above, the alternatives developed for the Trench section focused on maintaining all of the Innerbelt Freeway system functions while addressing the safety and operational shortcomings that cause the system not to function acceptably. The alternatives within the Trench area focused on consolidating some of the interchanges within this section, reconfiguring the remaining interchanges such that access to the CBD and Midtown were equally accessible, and minimizing the number of weaving locations through use of a frontage road system, braided ramps, improving weaving distances or a combination of these approaches. Ten different conceptual alternatives (Trench 1 through Trench 10) were developed to address freeway through traffic and freeway-to-local movements. At the conclusion of the conceptual alternatives phase, two feasible alternatives remained for the Trench: one option which provided for an interchange at Chester Avenue and a second option that provided for a split interchange at Chester and Payne Avenues. The primary difference between these alternatives is how access is provided to the Payne Avenue corridor. As such, these alternatives were referred to as the "With Payne" and "No Payne" alternatives. (See CAS Chapter 5).

The "With Payne" alternative provided direct freeway access to Payne Avenue via a modified split diamond interchange with Payne Avenue and Chester Avenue. Operational analyses showed that this alternative improved operation for Chester Avenue. However, there was strong public opposition to the provision of direct freeway access to Payne Avenue. Key stakeholders, including the City of Cleveland, were concerned that this change in access would change the character of this arterial. The "No Payne" Alternative removes freeway access from Payne Avenue and consolidates access at the Chester Avenue interchange, a modified diamond interchange. While this design better addressed access concerns raised by stakeholders, it raised other concerns regarding the operation of the Chester Avenue arterial corridor in the interchange area and access patterns to Payne Avenue. After working extensively with stakeholders in this area, the "No Payne" alternative was modified in the DEIS to include refined versions of the existing cut-off ramps that provide indirect access to Payne Avenue. Therefore, an alternative was considered that would have provided for more of the direct access desired by the public at an additional location in the Trench, but this option was eliminated from further consideration as a result of public comment which strongly expressed the desire to not change the character of the Payne Avenue corridor.

Eighteen conceptual alternatives (Midtown 1 through Midtown 18) were developed to address local-to-local movements in the CAS. At the conclusion of the CAS, the Midtown Connector remained the feasible solution; however, the exact configuration of the connector was left open for additional consideration.

The *Conceptual Alternatives Study* (located in Appendix C of the DEIS, included as Appendix G of this FEIS) details the development of the Innerbelt Trench conceptual alternatives through the identification of Feasible Alternatives. Figures 3-3a, 3-3b, 3-3c, 5-3a, and 5-3b of the CAS illustrate the progression of these alternatives in relation to the numerous meetings held with area stakeholders, including Midtown Cleveland, in order to identify Feasible Alternatives for the Trench. Extensive coordination, including approximately two dozen meetings (as documented in Table 5a), occurred during development of conceptual alternatives for the Trench area.

During development of the DEIS, Coordination with the City of Cleveland and area stakeholders resulted in a modification to the Midtown connector to create one-way pairs on either side of I-90 and to extend the connector to Cedar Avenue. Coordination during development of the DEIS is listed in Table 5b. Various concerns of stakeholders were considered and addressed through the development of alternatives, leaving one remaining concern: the strong local desire to provide direct access at Carnegie and Prospect Avenues could not be achieved.

Table 5a: Coordination with Local Stakeholders Regarding Trench Access during Development of CAS

January 20, 2004	Meeting with MidTown Cleveland
March 15, 2004	Meeting with University Circle, Inc.
May 11, 2004	Meeting with MidTown Cleveland
June 4, 2004	Meeting with MidTown Cleveland
November 3, 2004	Meeting with MidTown Cleveland
January 11, 2005	Meeting with MidTown Cleveland, Quadrangle, St. Clair/Superior, Tremont and City of Cleveland
February 24, 2005	Public Involvement Meeting
May 12, 2005	Meeting with MidTown, St. Clair/Superior, City of Cleveland
June 14, 2005	Public Involvement Meeting
July 21, 2005	Meeting with MidTown, St. Clair/Superior
October 13, 2005	Meeting with Congresswoman Tubbs-Jones, MidTown, Cuyahoga County Planning Commission
October 18, 2005	Meeting with MidTown
October 19, 2005	Meeting with MidTown
October 27, 2005	Meeting with MidTown
November 2, 2005	Meeting with MidTown, St. Clair/Superior
November 15, 2005	Asian Community Meeting at Asia Plaza
November 17, 2005	Public Involvement Meeting
November 18, 2005	Meeting with MidTown, Greek Orthodox Church, Cuyahoga County Planning Commission, Tremont West, Quadrangle, Cleveland State University, St. Clair/Superior
January 23, 2006	Meeting with Mayor Jackson, Congressional Representatives Tubbs-Jones and Kucinich, Senator Voinovich, Councilman Cimperman
January 25, 2006	Meeting with Midtown

February 21, 2006	Midtown public meeting (locally sponsored)
February 24, 2006	Meeting with Midtown, Quadrangle, St. Clair/Superior, Tremont, City of Cleveland
March 14, 2006	Meeting with Midtown, Quadrangle, St. Clair/Superior, City of Cleveland, Congressional Representatives
April 13, 2006	Meeting with Midtown, Quadrangle, St. Clair/Superior, Tremont, City of Cleveland
April 21, 2006	City of Cleveland Press Release indicating "no safe way to reestablish ramps at Carnegie Avenue and Prospect Avenue." Committing to work closely with ODOT during design.

Table 5b: Coordination with Local Stakeholders during Preparation of DEIS

August 13, 2007	GCP e-mail indicating "lack of consensus" regarding Carnegie ramp among stakeholders
August 31, 2007	Meeting with Liet. Governor Fisher, Mayor Jackson, GCP, Quadrangle, Midtown, and City of Cleveland
October 17, 2007	GCP Meeting, Draft Letter to ODOT/FHWA
November 6, 2007	Meeting with GCP, CSU, and NOACA. GCP indicated desire to revisit travel demands based upon growth in University Circle. NOACA presented travel demand model. ODOT discussed certified traffic process. GCP/CSU discussed data collection. GCP to provide updated data to modeling advisory committee (MAC).
November 7, 2007	GCP letter to FHWA and ODOT, with signatures of additional stakeholders, indicating desire to include direct ramp to Carnegie Avenue
January 8, 2008	Meeting with GCP and CSU. GCP secured support of local stakeholders, Lt. Governor Fisher and Senator Voinovich for GCP/CSU to study access issues, impacts, and alternatives. ODOT provided information on travel demand model and on Section 4(f) procedures.
August 14, 2008	Meeting with GCP, CSU, City of Cleveland, and NOACA regarding GCP/CSU's presentation of revised employment projections for MidTown and University Circle
August 20, 2008	ODOT e-mail to GCP transmitting summary from 8/14/08 meeting, along with population and employment projections from the NOACA travel demand model
December 5, 2008	ODOT e-mail to GCP and CSU regarding certified traffic and travel demand modeling
February 4, 2009	GCP e-mail to ODOT transmitting outpatient information
March 3, 2009	Publication of DEIS
March 12, 2009	NOACA response to GCP regarding travel demand modeling
March 13, 2009	Meeting with GCP, City of Cleveland, NOACA, Cleveland Clinic, and CSU

The Feasible Alternatives within the Innerbelt Trench require traffic to and from the existing ramps at Carnegie and Prospect Avenues to be redirected, as shown in DEIS Tables 4-11 and 4-12. Alternatives to these changes were considered early in the conceptual design phase, but no options could be found that could maintain these ramps and meet operational needs without substantial impacts. Design concepts for the Trench area face several constraints. On the north side of the trench is the Walker Weeks Building. On the south side is the Cuyahoga County Juvenile Justice Center. Both are historic properties subject to protection under Section 4(f). The space between these buildings is limited. Based upon I-90 traffic volumes, ten travel lanes are needed to serve the traffic. With ten travel lanes and shoulders, there is no room to develop a ramp in this area even with the use of retaining walls.

As part of project development, and as a result of stakeholder concerns, two options were developed to examine preserving the existing direct freeway access to Carnegie Avenue. Exhibits of these options are included in DEIS Appendix G. While these options would function operationally, neither is constructible without impacts to the Juvenile Justice Center building.

The options developed in response to comments put the agency in the unusual position of further evaluating an alternative that would clearly use an historic or cultural resource eligible for listing on the National Register of Historic Place, as opposed to considering options that would avoid such a use under Section 4(f) of the Transportation Act. Under the accepted standard for Section 4(f), the agency would have to find that alternatives without the ramp were not "feasible and prudent avoidance alternatives," as that phrase is defined at 23 C.F.R. 774.17.

First, it is the agency's recommendation that the avoidance alternatives included as part of the proposed Preferred Alternative are clearly feasible from an engineering standpoint. Comments received to date do not appear to question that recommendation. The alternatives discussed in the DEIS can be built as a matter of sound engineering judgment and would require an additional travel distance of two to three blocks.

Second, and most pertinent to the comments raised proposing use of the Juvenile Justice Center building, the agency recommends that the proposed options in the Preferred Alternative are, in fact, prudent. Under current

FHWA regulations, a feasible and prudent alternative "does not cause other severe problems of a magnitude that substantially outweighs the importance of protecting the Section 4(f) property." In addition, the regulations set out several factors that could contribute to a finding that an alternative is not prudent. The agency could find that one of those factors exist in such a magnitude as to warrant a finding of no prudence, or the option could involve multiple factors "that while individually minor, cumulatively cause unique problems or impacts of extraordinary magnitude."

Among these factors, comments suggested that the proposed Preferred Alternative would result in "severe economic impacts" and "disruption to established communities." However, analyses n the DEIS contradicts such a finding. (See Regional Economic Analysis in DEIS Section 4.2.7 and Neighborhood and Community Access DEIS Section 4.2.3). As presented in the supplemental discussion of local economics below, none of the impacts identified are so severe or of such an extraordinary magnitude that would render the proposed Preferred Alternative imprudent. Therefore, under Section 4(f), the alternative that impacts the Juvenile Justice Center cannot be selected since another feasible and prudent alternative exists (the Preferred Alternative) that avoids the building.

Comments recommending demolition of all or some of the Juvenile Justice Center further indicate the nature of the analysis of the "relative value of the resource to the preservation purpose" of Section 4(f). Yet, none of the comments question the fact that the Center is eligible for listing on the National Register. Under accepted criteria created to evaluate the significance of historic or cultural resources, the Center has been identified as deserving projection. Section 4(f) mandates protection in circumstances when a prudent and feasible alternative exists. Those circumstances are present here.

As shown in Tables 4-11 and 4-12 from the DEIS (repeated below), traffic to and from the Prospect and Carnegie Avenue ramps will be redirected to ramps at Chester Avenue and East 22nd Street, utilizing city streets and the new Midtown Connector. In most cases, the additional travel distance is two to three city blocks. Directional signing will be used to provide motorists with information on which city streets are best accessed from which ramps. The Midtown connector will serve as a frontage road to provide connectivity between the east-west roadways, to allow the Chester Avenue Interchange to provide access to multiple cross-streets.

DEIS Table 4-11: Disposition of I-90 Westbound Local Access Points

Type	Street	Secondary	Proposed	Comments
Exit to	SR 2		Redesigned	
Entrance from	SR 2		Redesigned	
Entrance from	E 26th St	Lakeside	Redirected	Via E 26th St to Superior Ave Entrance Ramp
Exit to	Superior	E 26th St	Redesigned	
Entrance from	Superior		Redesigned	
Exit to	Chester	E 24th St	Redesigned	
Entrance from	Chester		Redesigned	
Exit to	Prospect		Redirected	Via new frontage road from Chester Exit Ramp
Entrance from	Prospect		Redirected	Via Carnegie Ave to E 14th St Entrance Ramp
Entrance from	E 14th St		Redesigned	
Entrance from	E 9th St		Redesigned	
Entrance from	Ontario		Redesigned	

DEIS Table 4-12: Disposition of I-90 Eastbound Local Access Points

Type	Street	Secondary	Proposed	Comments
Exit to	Broadway		Relocated or Eliminated	Relocated to new E 9th St southbound exit ramp for Northern Alignment Alternative. Not provided on Southern Alignment Alternative.
Exit to	Ontario		Redesigned	
Exit to	E 9th St		Redesigned	
Exit to	E 22nd St		Redesigned	
Exit to	Carnegie		Redirected	Via E 22nd St Exit Ramp
Entrance from	Prospect		Redirected	Via new frontage road to Chester Entrance Ramp
Exit to	Chester		Redesigned	
Entrance from	Chester		Redesigned	
Exit to	Superior	E 30th St	Redesigned	
Entrance from	Superior		Redesigned	

Exit to	E 33rd St	Lakeside	Redirected	Via E 26th or E 30th extension from Superior Exit Ramp

Travel Demand Modeling

Traffic volumes used to analyze the operation of the Innerbelt freeway, ramps, and local street systems were developed according to ODOT's prescribed practice used for projects throughout the state. The process to develop traffic, which is then "certified" by ODOT's Office of Technical Services for use in project design, consists of two main inputs: traffic counts and the Northeast Ohio Areawide Coordination Agency (NOACA) travel demand model. The model is used to grow the traffic volumes for a design year, in this case 2035.

NOACA develops its model by, in part, including conservative land use assumptions. In their process, neighborhood planning subcommittees provide input on the growth numbers being used. ODOT and the project team apply the NOACA model to create traffic impacts analysis. Reasonable projected growth in University Circle based on consultation with neighborhood planning subcommittees is reflected in the NOACA model.

The project team developed the traffic volumes following the prescribed process. ODOT's Technical Services independently reviewed the results and certified that the required procedure had been followed. The NOACA model was used and the same process was followed as is required for all projects. The resulting traffic volumes are included as an appendix to the Access Modification Study (AMS), which may be found on DVD in Appendix G of this FEIS. These certified traffic volumes are required for project analyses.

Public comments expressed concerns about the ability of the proposed Innerbelt design to handle increasing traffic volumes due to growth in University Circle. In response to similar questions, NOACA provided a "Fact Sheet" to the Greater Cleveland Partnership (GCP) on March 12, 2009, responding to concerns about traffic modeling. This Fact Sheet has been included in Appendix F. NOACA indicates that the proposed Innerbelt design can accommodate anticipated trips from expansion of hospital facilities, stating: *"A review of available travel demand model (TDM) data for the corridor suggests that expected outpatient growth will not overburden the Innerbelt design proposed by ODOT. The Innerbelt was designed using the highest possible number of work trips (the 1990 compact model)."*

Table 6a presents a comparison of the build and no build peak hour traffic volumes on east-west corridors in the Trench. This summary illustrates that overall traffic volumes accessing the area on the main east-west routes are projected to remain essentially the same. As would be expected based upon the access patterns as shown in Tables 4-11 and 4-12, traffic volumes are projected to decrease on Prospect and Carnegie Avenues, increase on Chester Avenue, and remain nearly the same on Superior, Payne and Euclid Avenues. The overall east-west traffic volumes show a difference of only -1% to +2% for build compared to no build. The function of the Innerbelt Freeway is to collect and distribute traffic from the local street system to the radial freeways and vice versa. These projected volumes illustrate that the project will achieve this function.

Table 6a: Comparison of Build and No Build Peak Hour Traffic Volumes in the Trench	**East-West Routes**					
	AM No Build	**AM Build**	**Increase (Decrease)**	**PM No Build**	**PM Build**	**Increase (Decrease)**
Superior						
West of East 30th	1780	1600	(180)	1920	1890	(30)
East of East 30th	1470	1540	70	1540	1550	10
Payne						
West of East 30th	780	790	10	1000	1070	70
East of East 30th	830	820	(10)	980	1080	100
Chester						
West of East 30th	3380	4070	690	3190	4100	910
East of East 30th	3200	3780	580	3100	3910	810
Euclid						
West of East 30th	860	970	110	700	890	190
East of East 30th	900	1030	130	660	750	90
Prospect						
West of East 30th	1000	620	(380)	1600	1010	(590)
East of East 30th	920	670	(250)	1350	900	(450)

Carnegie								
West of East 30th	2770	2410	(360)		2430	1850	(580)	
East of East 30th	2660	2360	(300)		2360	1900	(460)	
Total for East-West Routes								
West of East 30th	10570	10460	(110)	-1%	10840	10810	(30)	0%
East of East 30th	9980	10200	220	2%	9990	10090	100	1%

Table 6b presents a comparison of the build and no build peak hour traffic volumes on north-south routes adjacent to the Trench. North-south routes, East 22nd and East 30th Streets, are projected to show a decrease between Euclid and Carnegie Avenues, as the new Midtown Connector will provide an additional option for motorists. The Midtown Connector also provides for local trips that use the Innerbelt Freeway under existing conditions, so the overall volume is higher than just the redirected volumes from existing north-south streets. It should be noted that the volume changes on local streets are proximate to the freeway and access points, but are similar to existing conditions a short distance away. For example, volumes on East 30th Street are shown to remaining essentially the same between Superior and Chester Avenues.

Table 6b: Comparison of Build and No Build Peak Hour Traffic Volumes in the Trench	North-South Routes							
	AM No Build	AM Build	Increase (Decrease)		PM No Build	PM Build	Increase (Decrease)	
East 22nd								
Euclid to Prospect	680	650	(30)		570	530	(40)	
Prospect to Carnegie	1400	1350	(50)		930	760	(170)	
East 30th								
Superior to Payne	920	990	70		1010	970	(40)	
Payne to Chester	890	960	70		1090	1120	30	
Chester to Euclid	980	900	(80)		870	820	(50)	
Euclid to Prospect	880	740	(140)		870	720	(150)	
Prospect to Carnegie	1070	860	(210)		1010	970	(40)	
Midtown Connector								
Euclid to Chester	n/a	2250	2250		n/a	1270	1270	
Prospect to Euclid	n/a	820	820		n/a	870	870	
Carnegie to Prospect	n/a	860	860		n/a	990	990	
Total for North-South Routes (excluding Midtown Connector)								
Euclid to Prospect	1560	1390	(170)	-11%	1440	1250	(190)	-13%
Prospect to Carnegie	2470	2210	(260)	-11%	1940	1730	(210)	-11%

The above data in Tables 6a and 6b validates the model results. The origin and destinations remain the same, with small changes in travel patterns based upon access changes. In the overall picture, trips to the majority of destinations in the Trench area will not change appreciably. In the build condition, the travel on local streets will increase by two to three blocks, a distance of about 400-500 feet. The additional travel time on local streets will be more than offset by the overall travel time savings on the Innerbelt Freeway system through reduction of congestion, geometric and operational improvements.

The Midtown stakeholders occupy the area between Central Avenue and St. Clair Avenue, from I-90 at approximately East 22nd Street to East 55th Street and beyond, a distance of about 33 blocks or more. (Figure 3-2 of the CAS shows specific boundaries of the Community Development Corporations.) Within this area, 2-3 blocks added to a trip is not substantial for most trips. For example, for longer trips along city streets, such as those to the University Circle area (often cited in public comments), the addition of 400-500 feet of travel on city streets is even less noticeable, as these trips currently travel about 3 miles from I-90 on city streets in addition to the length of their trip on the Innerbelt Freeway system and beyond.

Operation of Local Roads
Local roads that are affected by the project have been evaluated based upon the projected 2035 traffic volumes, as discussed above. Improvements to local streets required to achieve acceptable intersection operations are included as project elements, such as the proposed Midtown connector and improvements to the intersections of freeway ramps with local streets. A summary of intersection operations is included on Page 3-13 of the DEIS. (Details regarding the operational analyses are included in the Access Modification Study, included in Appendix G on DVD.) From this table, it is clear that the proposed design will operate as good as or better than existing conditions at local street intersections.

The Chester Avenue and East 30th Street intersection is the one exception within the Trench area. This intersection operates at LOS E during the PM peak. The high volumes on southbound East 30th Street coupled with the lane use of a pocket left and shared thru/right, overload this approach. To improve operation at this intersection, a southbound right turn lane would need to be added to East 30th Street. Adding this lane would require demolishing two buildings located in the northwest quadrant of the intersection that are currently occupied and designated for warehouse/light industrial uses. The minor problems at this intersection, occurring primarily on one approach and only during the PM peak period, will not impact the operation of the freeway or interchange. ODOT and FHWA have determined that it would be better to accept this minor capacity problem than to impact two buildings. Considered in context, this minor issue does not represent any substantial degradation of local street conditions compared to the No Build.

Thus again, it is FHWA's assessment based upon the above analysis of the Project's potential economic effects as founded in the identified fundamental elements that:

- Congestion will be improved in the build condition. The AMS (included on DVD in Appendix G) demonstrates that the local street system will operate as good as or better than existing conditions. Within the Trench area, there is only one exception located at the intersection of East 30th Street and Chester Avenue, which has been determined to be minor and does not represent a substantial degradation of local street conditions.
- Redirected access will have minimal impact on the overall traffic volumes in the Trench area. The build and no build traffic volumes, summarized in Table 6a and 6b above, illustrate that traffic volumes will go up on Chester Avenue and down on Prospect and Carnegie Avenues in close proximity to I-90. However, the overall traffic within the Trench will not change appreciably.
- The loss of direct access results in additional travel distances of two to three blocks on city streets, approximately 400-500 feet, which is minor compared to the overall size of the Trench area. The additional travel time on local streets will be more than offset by the overall travel time savings on the freeway through reduction of congestion, geometric and operational improvements.
- There is a demonstrated purpose and need for the project as a whole, and within the Trench area. The project will meet the needs for freeway through traffic, freeway-to-local, local-to-freeway, and local-to-local movements through improved mainline capacity, ramps that meet current standards, and local connectivity provided by city streets and the Midtown connector.

These issues, upon which economic concerns are fundamentally based, neither individually nor cumulatively, are anticipated to result in substantial impacts within the Trench area. Therefore, the fundamental issues leading to the concern regarding economic impacts have been determined to be insubstantial. As the FEIS and incorporated DEIS regional economic analysis indicates an overall economic benefit to the area, it has been determined that there will be no substantial economic effects within the Trench area. Continuing comments regarding this issue have not presented any new information to contradict these findings including continued comment from Midtown Cleveland, In. and the Cleveland Clinic as disclosed herein.

2. Second, the FEIS rejects the alternative proposed in the Comment by arguing that under Section 4(f) regulations, the project cannot maintain the existing highway access point at Carnegie Avenue because avoidance of the Juvenile Justice Center (the "Center") remains feasible and prudent. In fact, in view of Cuyahoga County's position that the Center will soon be empty and may be torn down, removing highway access to save the Center is imprudent.

Response: In the development of Federal Aid Highway project's the FHWA is required to comply with Section 106 of the National Historic Preservation Act of 1966 (NHPA) and Section 4(f) of The Department of Transportation Act (DOT Act) of 1966.

Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires FHWA to take into account the effects of its undertakings, (The Cleveland Innerbelt Project) on historic properties, and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment. The historic preservation review process mandated by Section 106 is outlined in regulations issued by ACHP, "Protection of Historic Properties" (36 CFR Part 800).

Section 4(f) of The Department of Transportation Act (DOT Act) of 1966 stipulates that the FHWA and other DOT agencies cannot approve the use of land from publicly owned parks, recreational areas, wildlife and waterfowl refuges, or public and private historical sites unless the following conditions apply:

- There is no feasible and prudent alternative to the use of land.
- The action includes all possible planning to minimize harm to the property resulting from use.

The FHWA implements the Section 4(f) requirements in accordance with regulations issued by FHWA, "Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites (Section 4(f))" (23 CFR 774). During the development of the Cleveland Innerbelt Project, properties that were to be potentially impacted by the Project and its alternatives were assessed in accordance with FHWA's Section 106 and Section 4(f) obligations. The assessment of the Cuyahoga County Juvenile Justice Center, 2163 E. 22nd Street revealed that it is a large complex that is composed of several wings surrounding a courtyard. The original portions of the building have a series of gabled roofs, limestone trim, and brick walls. The exterior of the building has not had any major additions other than the completion of a new rear addition in 1965–1966. This addition was used for offices in 1969. The addition is attached to the original building by only a small connector, and it is situated at the back of the building; it therefore does not significantly diminish the integrity of the original structure. The original portion of the building did undergo some alterations. A 1976 photograph of the property indicates that by that date, the original multi-pane windows had been replaced by inappropriate single-pane tinted aluminum-frame windows. In addition, the south and north wings of the building, which were once residential in nature, were converted to office use; the original finishes were demolished and replaced by offices with gypsum board walls, metal doors, and drop acoustical ceilings.

After study by the Cleveland Foundation, a decision was made in 1929 by the City of Cleveland to separate the juvenile court from the main adult court system. A bond issue was passed in 1929 to fund the construction of a new juvenile court facility. Construction began in 1931, and the building was dedicated in 1932. The architect was Frank W. Bail. The building served as a national and international model for court facilities for juveniles, and it continues to be used as a juvenile court facility.

In accordance with Section 106 process, the Cuyahoga County Juvenile Justice Center at 2163 E. 22nd Street was found to be eligible for inclusion in the National Register by consensus determination of eligibility by the Ohio Department of Transportation, on behalf of the FHWA, with concurrence by the Ohio Historic Preservation Office on November 8, 2005. The building was found to be eligible under Criterion A (social history) for its role as a significant social institution at the national, state, and local levels, and under Criterion C (architecture) as a prototype for the juvenile center property type. The eligible boundary for the property was determined to be the low stone retaining wall running along the property edge on the west, north, and south sides of the building. The east boundary is the western edge of an alley at the rear of the building. The parking lot at the rear of the building is

considered a non-contributing element. The entire Juvenile Justice Center property is also listed as a local landmark by the Cleveland Landmarks Commission.

With the finding of eligibility for the National Register, the FHWA was obligated to develop the Cleveland Innerbelt Project in accordance with the Section 106 and Section 4(f) provisions which required the FHWA to strive for the identification and development of project alternatives that would result in no Section 106 effects and no Section 4(f) property uses. The FHWA was unable to meet the no effect and no use objectives of Section 106 and Section 4(f) in the development of the Project alternatives and their attributes proximate to the Cuyahoga County Juvenile Justice Center. However, FHWA was able to develop feasible and prudent alternatives that would result in no more than a Section 4(f) de minimis impact and use of the property based upon their Section 106 assessment of effect determination of "no adverse effect".

The Juvenile Justice Center "building" will not be impacted by Project Alternatives. However, the Feasible Project Alternatives, Alternatives A and B (as discussed in the FEIS/Section 4(f) Evaluation), require that a strip take of property be acquired from the Juvenile Justice Center property that is within the defined National Register eligible property boundary. The take which results in a defined Section 4 (f) use is located along the northern side of the property and is required order to widen I-90 in the Carnegie Curve area to address the purpose and needs of the overall Project and to reestablish the existing retaining wall and sidewalk proximate the Juvenile Justice Center property. This impact is necessary in order to avoid acquisition of the NRHP-listed Walker Weeks Building on the opposite side of the freeway which would result in a Section 106 adverse effect determination. Approximately 200 feet of the low stone wall and sidewalk on the northern side of the property will be impacted. These features will be reestablished by the Project, utilizing as much of the existing stone wall material as practical. Any new stone required for the reestablishment of the properties encircling low stone wall be matched as closely as possible to the existing material.

Construction of the retaining wall between I-90 and the northern boundary of the Juvenile Justice Center property will require the use of tie-backs in order to perform its intended purpose and to be structurally sound. The tie-backs are expected to extend underneath the existing foundation of the Juvenile Justice Center "building" and they will be designed and constructed in a manner that will not impact the foundation and the structural integrity of the "building". Furthermore vehicular access will be maintained to the property's courtyard entrance off of Cedar Avenue and in addition no substantial noise, vibration, or visual impacts are anticipated. Coordination was conducted with consulting parties and the OHPO and it has been determined that the Project's Alternative effect on the Juvenile Justice Center property would result in "No Adverse Effect" Therefore, the FHWA was able to determine, in consultation with OHPO, that the Section 4(f) use of Juvenile Justice Center property was *de minimis* as defined within 23 CFR 774.

In addition to FHWA's development of the Cleveland Innerbelt Project in compliance with Section 4(f) and Section 106 and in order to address comments regarding the future status of the Juvenile Justice Center property, the FHWA consulted, by telephone as documented herein, with the Cuyahoga County Department of Central Services Director Jay Ross on September 10, 2009. The Department of Central Services provides and maintains all county facilities and life safety functions to support all county agencies, employees, and the general public resulting in consistent, quality, timely service and a desirable workplace through the design, planning, and efficient management of manpower and technology. Director Ross reported that a new Courthouse and Detention Center was under construction at East 93rd Street and Quincy Avenues and that the juvenile courtroom, detention center, offices and etc. where expected to relocate from the Cuyahoga County Juvenile Justice Center at 2163 E. 22nd Street to the new facilities in early 2011. Director Ross also reported that the County had not taken any action, nor did the County have any plans as of this time regarding the future use of the County owned Juvenile Justice Center property. Director Ross

acknowledged that he was aware of the historic significance of the property and indicated that any future use of the property would require coordination to fulfill applicable public and governmental interest in the property.

The Feasible Alternatives within the Innerbelt Trench require traffic to and from the existing ramps at Carnegie and Prospect Avenues to be redirected. Alternatives to these changes were considered early in the conceptual design phase, but no options could be found that could maintain these ramps and meet operational needs without substantial impacts to either the Walker Weeks Building or the Cuyahoga County Juvenile Justice Center. As part of project development, and as a result of stakeholder concerns, two options were developed to examine preserving the existing direct freeway access to Carnegie Avenue. Exhibits of these options are included in DEIS Appendix G. While these options could potentially function operationally, neither is constructible without substantial adverse impact to the Juvenile Justice Center building or the Walker Weeks Building.

The options developed in response to comments put FHWA in the unusual position of further evaluating alternatives that would clearly use an historic resource on or eligible for listing on the National Register of Historic Place, as opposed to considering options that would avoid such a use under Section 4(f) of the DOT Act. Under the accepted standard for Section 4(f), the FHWA would have to find that alternatives without the Carnegie Avenue direct exit ramp as not "feasible and prudent avoidance alternatives," as that phrase is defined within 23 CFR 774.17.

It is FHWA's position that the Project alternatives as described in the FEIS/Section 4(f) Evaluation are clearly feasible and prudent, that the Cuyahoga County Juvenile Justice Center Complex is historically significant, and that the Project Selected Alternative A "use" of Juvenile Justice Center property is *de minimis*. Comments received to date do not appear to question these points. Comments instead speculate upon the future use of the Juvenile Justice Center property and the relative value of the resource. Yet, none of the comments question the fact that the Center is eligible for listing on the National Register. Furthermore, comment regarding public perception of relative diminished value of the Juvenile Justice Center based upon speculated future use is unsubstantiated. FHWA has confirmed that the County had not taken any action, nor does the County have any plans as of this time regarding the future use of the County owned Juvenile Justice Center property. Comments also argue the prudency of the Project alternatives in light of expressed views regarding the magnitude of resultant environmental impacts that might be realized with the implementation of the FEIS/Section 4(f) Evaluation Project alternatives.

In summary it is the FHWA's position that there are no impacts of such severity or of such extraordinary magnitude that would render the Project Alternatives not "feasible and prudent". Therefore, under Section 4(f), Project alternative concepts desired by the public, that would adversely impact either the Juvenile Justice Center property or the Walker Weeks Building cannot be selected since feasible and prudent alternatives exists (Project Alternatives A and B) that avoid the use of historic property and do not result in adverse effects to the property. Furthermore FHWA has confirmed that the County had not taken any action, nor does the County have any plans as of this time regarding the future use of the County owned Juvenile Justice Center property. Thus the relative value of the Juvenile Justice Center property remains in tact as documented within the project record and the property remains deserving of protection in accordance with FHWA Section 4(f) obligations.

3. Third, the assertions in the Fact Sheet submitted by the Northeast Ohio Areawide Coordinating Agency ("NOACA") do not adequately address ODOT's failure to achieve the Purpose and Need of the Innerbelt Project with regard to traffic congestion that will, as demonstrated in an expert report submitted by MidTown and the Cleveland Clinic, result from the removal of numerous highway interchanges within the Trench. This document was never

provided for the public record previously and it contains no concrete data related to the connectivity/congestion issue raised in the Comment.

Response: The FHWA has comprehensively evaluated the traffic operations of the Project and documented and disclosed its findings within the FEIS/Section 4(f) Evaluation, Appendix G, Access Modification Study (DVD). The March 2009 *Interchange Justification Study* for the *Cleveland Innerbelt Project*, CUY – 71/90 – 16.79/14.90, PID 77510, was developed in accordance with and is compliant with FHWA's February 11, 1998 Interstate Access Policy: *Additional Interchanges to the Interstate System.* Based on the *Study*, the FHWA has determined the proposed access modifications to be implemented with the *Cleveland Innerbelt Project* Alternative A, the preferred alternative, to be acceptable from a geometric and operational standpoint. The *Study* in conjunction with the analysis contained within the FEIS/Section 4(F) Evaluation document validate that Alternative A will provide for the effective collection and distribution of traffic between the radial freeway system (I-71, I-90, I-77, SR 2, I-490, and SR 176) and the local street system, and that Alternative A will effectively facilitate the movement of traffic between each of the radial freeways. The design and operational deficiencies that are retained within Alternative A, on the Interstate and on the local street system, are minor, localized in nature, and in all cases provide for a build condition that is substantially better than that of the existing/no build condition.

It is FHWA's position that the operational analysis conducted for the Project more than adequately, in a quantitative manner, document that the Project will achieve the quantified purposes and needs of the project. The NOACA "Fact Sheet: Trips in the Midtown Corridor," March 12, 2009 was disclosed to the public within the FEIS/Section 4(F) Evaluation document, Appendix F. The NOACA prepared Fact Sheet speaks to the planning model traffic projections used in support of the Certified traffic estimates that were used by the FHWA to assess the operational performance of the Innerbelt Freeway System within the March 2009 *Interchange Justification Study* for the *Cleveland Innerbelt Project*, CUY – 71/90 – 16.79/14.90, PID 77510. The NOACA Fact Sheet clearly indicates that the Project "was designed using the highest possible number of work trips (the 1990 compact model)." Finally the report referenced in the above comment was disclosed to the public within the FEIS/Section 4(F) Evaluation document, Appendix B, Pages 175 to 232, Exhibit D. The FHWA is not obligated to review, assess, determine validity of, and accept for, decision making purposes, independent reports as scoped and independently prepared by the public. Again the FHWA has assessed the operational performance of the Innerbelt Freeway System within the March 2009 *Interchange Justification Study* for the *Cleveland Innerbelt Project*, CUY – 71/90 – 16.79/14.90, PID 77510 and within the FEIS/Section 4(f) Evaluation document. The issues of public comment raised within the report sanctioned by the public have been considered and analyzed by the FHWA in accordance with agency policies and procedures. The disclosed Project record as embodied within the FEIS/Section 4(f) Evaluation document clearly establishes that FHWA has quantitatively assessed the "connectivity/Congestion issue raised in the Comment". Finally the FHWA specifically notes that public comment has specifically avoided the debating of the disclosed quantified facts, figures, analysis, methodologies, assessments, and etc.. contained within agency decision making documentation and instead simply states contrary conclusions based upon broad overarching un-quantified generalizations and points of view. The FHWA has with diligence taken all necessary action to document and disclose all factors considered during the development of the Project in support of the NEPA decision making process.

4. Fourth, failure of the federal and state agencies' to follow their published Project Development Process ("PDP") demonstrates that decisions regarding the FEIS were made without the required systematic, progressive analysis and public feedback thereon required by the National Environmental Policy Act ("NEPA").

   Response: The FEIS/Section 4(f) evaluation discloses that for purposes of guiding projects through the NEPA process, ODOT created a Project Development Process (PDP), published

in November 2004. The PDP is not a formal regulation and it does not supplant existing FHWA or Council on Environmental Quality NEPA regulations. Instead, the PDP includes recommended steps for ODOT to collect data, develop analyses, and manage environmental reviews, public participation, and inter-agency coordination. In short, the PDP is not prescriptive. It is a framework for decision-making.

For the Cleveland Innerbelt Project, ODOT deviated from its published PDP. Specifically, ODOT decided to forego preparation of an Assessment of Feasible Alternatives (AFA) document in favor of directly proceeding to preparation of a Draft Environmental Impact Statement. Several comments, in addition to the comment provided above, questioned the validity of the process and whether this change prevented the public from commenting on the alternatives and identification of the preferred alternative.

The Cleveland Innerbelt Study began in August of 2000, prior to the adoption of the current ODOT PDP. However, it utilized ODOT's Planning Study Process which is very similar to the first four steps of the PDP. This constituted the planning phase for the project and resulted in a Strategic Plan at the conclusion of Step 4 in the summer of 2004. Step 5 was completed with the approval of the Conceptual Alternatives Study in August 2006, which was released for public review and comment. During the progression of Step 6 in 2006, ODOT and FHWA decided not to produce an Assessment of Feasible Alternatives document, but to instead begin preparation of the Draft Environmental Impact Statement. (See letters in Appendix F of the FEIS/Section 4(f) Evaluation document.)

Because of the urgent need to respond to the deteriorating condition of the Central Viaduct Bridge, ODOT decided to proceed with a DEIS. An updated Notice of Intent to prepare an EIS was published in the Federal Register on September 7, 2006.

The decision to proceed to the DEIS, rather than the interim step of publication of an AFA, did not compromise public participation required by NEPA and FHWA regulations. Specifically, project alternatives were discussed in detail in the Conceptual Alternatives Study, published in August 2006 and made available for public review. No preferred alternative was specifically identified; however, all but two segments of the project had but a single alternative carried forward from the CAS. Two sections had multiple alternatives remaining, the Central Viaduct/Central Interchange and the Trench.

The Central Viaduct/Central Interchange area had two options – the Northern Alignment alternative and the Southern Alignment alternative. The CAS disclosed that the Northern Alignment was assumed to be superior based upon available information as of that date. (See CAS Page 7-10.)

The Trench section had one main option with two potential interchange configurations – either all access at Chester Avenue or access split between Chester and Payne Avenues. In addition, the details of the Midtown Connector were still under study. The CAS noted that changes in access were a concern that would continue to be studied to resolve any issues on the local street system. (See CAS Page 5-15.) Additional discussion of Trench issues was included in FEIS Section 2.5.2.

Public comments on the CAS are summarized in the DEIS Chapter 5 and included in DEIS Appendix F, which was included in FEIS/Section 4(f) Evaluation Appendix G. Based on this accepted process for public review and comment, it was determined that preparation of an AFA would offer no additional benefit that had not already been obtained from the CAS and DEIS public review processes.

ODOT's public involvement procedures are documented in the ODOT Public Involvement Handbook, which was approved by FHWA on December 23, 2002. In accordance with these procedures, a specific public involvement program was developed and implemented for the

Cleveland Innerbelt Project. The program as implemented is described in the Strategic Plan Section 3.5.3, the Conceptual Alternatives Study Section 3.4, and the DEIS Chapter 5. Major project issues were the subject of extensive public involvement and interaction over a five-year period. Public involvement on stormwater issues are summarized in FEIS Table 4. For Trench Access issues, public coordination is summarized in FEIS Tables 5a and 5b.

In addition, ODOT and FHWA chose to apply the Section 6002 of SAFETEA-LU provisions to the project. Compliance with Section 6002 is described in DEIS Section 1.2, along with a table of federal agencies who were contacted. In addition, ODOT invited several state and local agencies to become participating agencies per Section 6002. By letter dated August 3, 2007, ODOT contacted:

- City of Cleveland
    - Mayor
    - Division of Engineering and Construction
    - Division of Traffic Engineering
    - Landmarks Commission
    - Planning Commission
- Cuyahoga County Engineer
- Northeast Ohio Areawide Coordinating Agency (NOACA)
- Ohio Environmental Protection Agency (OEPA)
- Ohio Department of Natural Resources (ODNR)

OEPA and the Cleveland Landmarks Commission responded with agreement to become a participating agency. The Mayor's office responded to indicate that the invitation was forwarded to the Director of City Planning. No other responses were received. Copies of correspondence are included in Appendix A of the FEIS/Section 4(f) Evaluation

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In April 2007, prior to the project-specific correspondence, ODOT also initiated coordination per Section 6002 regarding proposed project methodologies on a program-wide basis with numerous federal and state review agencies, including US Army Corps of Engineers, Bureau of Underground Storage Tank Regulation (BUSTR), US Coast Guard, National Park Service, ODNR, and the U.S. Fish and Wildlife Service. This correspondence also is included for reference in Appendix A. of the FEIS/Section 4(f) Evaluation.

FHWA and ODOT, as joint leads for the project, used the DEIS to formally announce the Preferred Alternative per Section 6002 of SAFETEA-LU. The DEIS for the project was approved on March 3, 2009. The Notice of Availability appeared in the Federal Register on March 20, 2009. Copies were circulated to federal and state agencies. Public hearing notifications were made through local media, e-mail to stakeholders, and announcement on the project website. A public hearing was held on April 21, 2009. The public comment period ended May 21, 2009. Written comments, as well as verbal comments provided in the hearing transcript, are summarized and addressed in this FEIS/Section 4(f) Evaluation.

The Final Environmental Impact Statement/Section 4(f) Evaluation, for the Cleveland Innerbelt Project, CUY – 71/90 – 16.79/14.90, PID 77510 was signed by the ODOT Director on July 10, 2009 and approved by FHWA on July 22, 2009. On behalf of the FHWA, and in accordance with 23 CFR 771.125(g), the ODOT transmitted a copy of the FEIS/Section 4(f) Evaluation to stakeholders who made substantive comments on the March 3, 2009 Draft EIS/Section 4(f) Evaluation. In addition the ODOT submitted the FEIS/Section 4(f) Evaluation to the US Environmental Protection Agency for filling on July 22, 2009. The Notice of Availability of the FEIS was published in Federal Register Volume 74, Number 146, on Friday, July 31, 2009. The ODOT also published a notice of availability of the FEIS/Section 4(f) Evaluation within newspapers and public media in compliance with 23 CFR 771.125(g). Finally the FEIS/Section 4(f) Evaluation was made available for public review at several public locations and it was also made available for public review on-line at the following address:

http://www.dot.state.oh.us/projects/ClevelandUrbanCoreProjects/Innerbelt/Pages/FinalEnvironmentalImpactStatement.aspx

Based on the forgoing, it is the FHWA's position that the public involvement and agency review process as required by the National Environmental Policy Act ("NEPA") have been met. Furthermore the Project has been developed in accordance with FHWA's NEPA implementing regulations at 23 CFR 771. All major decision making documents developed for the Project that have been incorporated into the FEIS/Section 4(f) Evaluation have been independently reviewed by the FHWA to determine their acceptability. Additionally, FHWA has independently reviewed all public and agency comments received on the CAS, DEIS, and FEIS documents and assured that all Project issues brought forth by the public have been adequately addressed. It is FHWA's position that ODOT PDP deviations noted by the public and disclosed within the NEPA documentation (inclusive) have not adversely affected the development, public coordination, agency review and agency decision making responsibilities and obligations of the FHWA pursuant to NEPA and FHWA regulations.

5. Finally, the FEIS fails to substantiate the assertion that segmentation now of the EIS, or other postponement of a decision regarding the "Trench" area, is not possible to allow continued consideration of developing options, such as Opportunity Corridor.

Response: The FHWA is not obligated pursuant to NEPA to delay the systematic advancement of a project due to pubic disagreements with agency disclosed NEPA decision making documents and decisions. Public comment and request to "segment" and "postpone" the decision making process for the consideration and development of alternative options within the "Trench" area of the overall Project were addressed within the FEIS/Section 4(f) Evaluation. Even with the consideration of continued comment requesting Project segmentation and the postponement of the Record of Decision, it continues to be the FHWA's position not to do so for several reasons.

First, the project has been planned and considered as a whole. Bridge replacement and improvement design elements, for example, have a direct relationship to other project elements. Similarly, the number of planned lanes impact ramp alignments and the planned methodology to improve circulation into the project area from radial highways affects design in the Trench. It is inadvisable and inappropriate from an engineering standpoint to segment project elements after the fact. Moreover, the public participation process has been conducted with the understanding that decisions regarding the Innerbelt project would be made on all elements of the project as disclosed within the NEPA documents (DEIS and FEIS).

Second, the legal authority cited in comments concerning segmentation is inapplicable to a project at this stage of the NEPA process. Agencies are discouraged from dividing the environmental review for portions of a transportation proposed action because of the tendency to underestimate impacts to sensitive resources. The decision to establish appropriate project limits for environmental review and, by extension, whether certain project elements have "logical termini" and "independent utility," is made before the earliest stage of the NEPA process –i.e. during public scoping. Not one of the cases raised in the public comments involve a project, like this one, that progressed up to the penultimate NEPA stage, publication of a FEIS. In this case, the agency's consideration of important traffic performance data, as well as related socio-economic impacts, was conducted based on the entire project area. The project's Purpose and Need is discussed in detail in Chapter 2 of the DEIS. The project's termini are based upon this purpose and need.

Even if FHWA could at this point segment out just Trench elements, it remains inappropriate and unnecessary to do so in order to address continued public comment. As of the date of this ROD no new substantive information, relevant circumstances, or environmental concerns have been brought forth or been identified that have not already been appropriately

addressed and considered in compliance with the NEPA decision making process. Thus there are no substantive reasons for FHWA and the ODOT to reconsider or reassess the Cleveland Innerbelt Project in compliance with NEPA and there is no demonstrated need to delay the further advancement of the Project. The development of a Supplement to the FEIS/Section 4(f) Evaluation document, to address continued public comment is not necessary.

Conclusions and Decision:

The environmental record for Cleveland Innerbelt Project, CUY – IR 71/IR90 -16.79/14.90, PID: 77510, City of Cleveland, Cuyahoga County, Ohio includes the referenced DEIS/Section 4(f) Evaluation and FEIS/Section 4(f) Evaluation (March 2009 and July 2009, respectively). These documents, incorporated here by reference, and the documents specifically incorporated into the NEPA documents, constitute the statements required by the NEPA, Title 23 of the United States Code (USC), and implementing regulations.

Having carefully considered the environmental record, the mitigation measures as required herein, the written and oral comments offered by other agencies and the public on this record, and the written responses to comments, the FHWA has determined that (1) adequate opportunity was offered for the presentation of views by all parties with a significant economic, social, or environmental interest; (2) fair consideration has been given to the preservation and enhancement of the environment and to the interests of the communities in which the project is located; (3) all reasonable steps have been taken to minimize adverse environmental effects of the proposed project; and (4) where adverse effects remain, additional efforts will be undertaken during detailed design to further reduce and/or mitigate such effects.

The environmental record quantifiably substantiates that Alternative A satisfies the project's purpose and need and best minimizes impacts to the natural and human environment. Based upon the comparison of Feasible Alternatives, Alternative A is Selected for implementation because of:

- Fewer Adverse Effects under Section 106 and least net harm under Section 4(f)
- Ability to incorporate off-ramp to Broadway Avenue to maintain direct access to Quadrangle area, including main post office
- Ability to maintain 14th Street between Fairfield and Abbey Avenues to avoid impacting access the Annunciation Greek Orthodox Church
- Fewer relocations of residences and businesses
- More straightforward maintenance of traffic, which permits smaller construction segments and improves cash flow

In addition, FHWA and ODOT have determined that the No Build alternative would not address the project's needs and does not enable the Innerbelt Freeway system to function acceptably. Compared to the No Build and other alternatives considered, Alternative A best provides for the balanced consideration of the purpose and need for the action and justifies the impacts and costs. All substantive comments on the DEIS and FEIS/Section 4(f) Evaluation have been adequately addressed and considered. Appropriate mitigation measures are included in the project, as are commitments for future coordination and implementation. The project complies with all applicable laws, including Section 4(f) and Section 106. For future actions, the project's analyses provide reasonable assurance that all other requirements can be met.

In accordance with 23 CFR 774.3, FHWA determines that based upon the documented Section 4(f) considerations, that there is no feasible and prudent alternative to the use of land from the identified Section 4(f) properties and the proposed action, implementation of Alternative A, includes all possible planning to minimize harm to the Section 4(f) properties resulting from such use.

It is the FHWA's determination based upon the final NEPA decision contained herein that the March 2009 *Interchange Justification Study* for the *Cleveland Innerbelt Project*, CUY – 71/90 – 16.79/14.90, PID 77510 is acceptable and that no further analysis are required in order to comply with FHWA's February 11, 1998 Interstate Access Policy: *Additional Interchanges to the Interstate System,* provided that: 1) There are no substantive changes made to Alternative A during the further development of the *Project* in compliance with NEPA, and; 2) Compliance with all other applicable Federal-aid requirements.

Any changes to the geometric design and layout of Alternative A during detailed design and during overall Project implementation will require such changes to be operationally reassessed in sufficient manner so as to determine the acceptability of the change in compliance with FHWA's Interstate Policy and in order to determine the continued acceptability/validity of the *Study*. The enumerated geometric criteria, Interstate system mainline and ramp layouts, local street system layouts and intersection layouts, lane and turn lane dimensions and assessed operational characteristics as documented within the Study and the FEIS/Section 4(f) Evaluation shall be considered those determined to be minimally acceptable by the FHWA for project implementation. Through detailed design the FHWA expects operational performance and geometric design aspects to be optimized resulting in further overall project improvements.

It is the decision of FHWA to approve Alternative A (Northern Alignment Alternative), which is the environmentally preferred alternative, for the Cleveland Innerbelt Project and in so doing concludes that the project complies with all applicable provisions of the National Environmental Policy Act, specifically 42 U.S.C. 4332 (2) and implementing regulations.

The Record of Decision for the Cleveland Innerbelt Project is hereby approved. The measures to minimize harm/environmental commitments associated with the Decision made herein shall be implemented and complied with. Furthermore the strategies employed to avoid, minimize and mitigate resultant Project Alternative A social, economic, and environmental impacts, as disclosed in the environmental record shall be adhered to during the implementation of the Project. If during further project development, it is determined that there is a substantial change in the impacts of, or the scope of, the action, the environmental document will need to be reevaluated, as appropriate. Prior to requesting any major approvals, the environmental document must be reevaluated in accordance with 23 CFR 771.129(c) to establish whether or not this Record of Decision remains valid for the requested Administration action. These consultations will be documented when determined necessary by the FHWA.

Patrick A. Bauer, Acting Division Administrator

9-18-09

Date